



4 September 2009
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Review of Good Governance The States of Guernsey



Review of Good Governance – The States of Guernsey

I have prepared this report for the States of Guernsey's Public Accounts Committee under a framework agreement.

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Foreword

Good governance is a prerequisite for every public body to deliver sustainable, value-for-money and quality services in a transparent manner. Good governance involves ensuring that the right things are done, in the right way, for the right people, in an open, honest, inclusive and timely manner.

All public bodies should be able to demonstrate that they are applying good standards of governance. In 2005, the Independent Commission for Good Governance in Public Services set out six principles of good governance which have universal applicability to all public bodies, regardless of whether a governmental system is based on consensus politics or party allegiance. The principles as set out in [Appendix 1](#) are:

- a** focusing on the organisation's purpose and on outcomes for [islanders];
- b** performing effectively in clearly defined functions and roles;
- c** promoting values for the whole organisation and demonstrating the values of good governance through behaviour;
- d** taking informed, transparent decisions and managing risk;
- e** developing the capacity and capability of the governing body to be effective; and
- f** engaging stakeholders and making accountability real.

In early 2009, the States of Guernsey's Public Accounts Committee, based on its mandate, asked me to undertake a review of the current governance arrangements within the States of Guernsey using as a benchmark standard the six principles of good governance. In undertaking the review, I sought to answer the question '*Do the current governance arrangements in the States of Guernsey facilitate the delivery of sustainable value-for-money services for islanders?*'

In order to answer this question, I did not confine the review to considering what arrangements are in place. I also sought to determine how well the current arrangements are operating in practice. My review team therefore undertook an extensive exercise which included canvassing the views and opinions of politicians, staff, external stakeholders and islanders. A very substantial evidence base was gathered and the evidence was cross-checked to validate the conclusions reached within this report. [Appendix 2](#) sets out in more detail the work undertaken.

I have concluded that whilst there are examples of good practice, the overall governance arrangements within the States of Guernsey do not facilitate the delivery of sustainable value-for-money services for islanders. Furthermore, the States of Guernsey does not yet fully comply with any of the six principles of good governance.

I found that there are significant weaknesses in the current governance arrangements. These weaknesses do not reflect on the ability or performance of individuals in government. The weaknesses are the product both of inherent, fundamental structural deficiencies in the way Guernsey is governed and individuals being unwilling to accept the discipline needed to make things work.

The remit of my review was limited to considering the effectiveness of the current governance arrangements to facilitate the delivery of value-for-money services. The review did not therefore consider the role or performance of Crown appointees within Guernsey's governmental system. I have not sought to make recommendations on how the States of Deliberation should address the weaknesses identified. This is a matter for Guernsey's elected representatives to determine.

During the review, several States' deputies suggested that concluding there are weaknesses in the States of Guernsey's governance arrangements could undermine the decision of the States of Deliberation in 2004 to reject executive government. This is not the case. In fact, the current system is an executive form of government, albeit not with a single cabinet or presidential style executive, but with 10 departmental executives with an overarching executive in the form of the States of Deliberation. Furthermore, it is possible to have good governance within any democratic system of government. The size of Guernsey gives it the potential to become a model of good governance and a benchmark for delivering flexible, islander-centred local services on a sustainable, value-for-money basis.

Jeremy Colman
Auditor General for Wales



Summary

- 1** Good governance is a prerequisite for every public body to deliver sustainable, value-for-money and quality services in a transparent manner. Good governance involves ensuring that the States of Guernsey is doing the right things, in the right way, for the right people, in an open, honest, inclusive and timely manner.
- 2** The States of Guernsey Public Accounts Committee (PAC) has recognised the importance of good governance. The findings of several PAC reports highlighted concerns regarding governance arrangements within the States of Guernsey. Furthermore, the PAC had previously identified that there was a lack of clarity regarding how the States of Guernsey demonstrates that it is providing value-for-money for islanders. In response, the PAC commissioned the Auditor General for Wales to undertake a review of governance within the States of Guernsey government.
- 3** In undertaking the review, we benchmarked the governance arrangements in the States of Guernsey against six principles of good governance set out by the Independent Commission on Good Governance in Public Services in the Good Governance Standard for Public Services:¹
 - a** focusing on the organisation's purpose and on outcomes for [islanders];
 - b** performing effectively in clearly defined functions and roles;
 - c** promoting values for the whole organisation and demonstrating the values of good governance through behaviour;
 - d** taking informed, transparent decisions and managing risk;
 - e** developing the capacity and capability of the governing body to be effective; and
 - f** engaging stakeholders and making accountability real.²
- 4** The principles are applicable to all public bodies universally. [Appendix 1](#) references the findings in our report to these principles.
- 5** The key question which we sought to answer in undertaking this review was: *'Do the current governance arrangements in the States of Guernsey facilitate the delivery of sustainable value-for-money services for islanders?'*
- 6** We found a number of examples of good practice within and across States' departments. For example, some departments have developed improved ways of communicating and consulting with external stakeholders and there are a number of examples of good cross-departmental working. If these examples were applied consistently across the States' operations it would facilitate improved arrangements and better service delivery across the States.

¹ The Independent Commission for Good Governance in Public Services (the Commission) was established in the UK in 2004. It was supported by the Office for Public Management (OPM®) and the Chartered Institute of Public Finance and Accountancy (CIPFA), in partnership with the Joseph Rowntree Foundation. The Commission was chaired by Sir Alan Langlands. The Commission drew on the views of a wide range of people with experience of governance, and of service users and citizens, to produce the Good Governance Standard for Public Services which presents six principles of good governance that are common to all public service organisations and are intended to help all those with an interest in public governance to assess good governance practice.

² The Independent Commission on Good Governance in Public Services, *the Good Governance Standard for Public Services*, page 4

- 7** However, overall, governance arrangements do not facilitate the delivery of sustainable value-for-money services for islanders. Our review found that the States of Guernsey's arrangements do not fully comply with any of the Independent Commission's principles of good governance and that the States of Guernsey:
- a** does not have a clear strategic direction or agreement on its strategic objectives and desired outcomes;
 - b** lacks the structure for clear corporate leadership;
 - c** lacks clarity regarding States' functions and roles;
 - d** has unclear and protracted decision making processes, with decisions not always being underpinned by good quality information;
 - e** does not have effective systems of accountability and scrutiny in place; and
 - f** lacks appropriate mechanisms to address concerns regarding the conduct of States' deputies and staff.
- 8** We found that the weaknesses identified above are the product both of inherent, fundamental structural deficiencies in the way Guernsey is governed and individuals being unwilling to accept the discipline needed to make things work. These weaknesses and deficiencies if rectified will help the States of Guernsey to achieve improved value for money and to make future efficiency savings.
- 9** The issues are interrelated and will only be addressed effectively if considered in their entirety. This would require the States of Deliberation to consider the following key questions:
- a** Can the current structures and procedures facilitate accountability and effective decision making?
 - b** Can cultures within the States be modified to facilitate corporate ways of working?
- 10** The issues identified in this report need to be addressed if Guernsey is to take advantage of the potential benefits available to a small Island. The size of Guernsey gives it the potential to become a benchmark for delivering flexible, islander-centred local services on a sustainable, value-for-money basis. In view of the current economic climate, unless the States of Guernsey addresses the deficiencies identified in this report, it will prove difficult to continue to deliver quality services for islanders at an affordable cost.
- 11** A summary of the fieldwork undertaken in the course of this review is set out in [Appendix 2](#).



Strategic Context

- 1 Guernsey's current governmental system can trace its origins back to the Assembly of the Royal Court, Clergy and Parish Constables through which the Island was governed. The composition of the Assembly has evolved over the centuries.
- 2 The current governing body is known as the States of Deliberation, which comprises 47 elected representatives (deputies and Alderney representatives). The States of Deliberation makes law, strategic policy and executive decisions as well as undertaking a scrutiny role. The Bailiff, who is appointed by the Crown acts as the Chief Judge of the Royal Court of Guernsey. He also acts under Guernsey law, as non-voting Presiding Officer of the States of Deliberation. HM Procureur and HM Comptroller are the States of Guernsey's senior legal advisors. They are also Crown appointees and, non-voting members of the States of Deliberation. The Bailiff, HM Procureur and HM Comptroller are statutorily accountable to the States of Deliberation.
- 3 In 2004, Guernsey introduced new Machinery of Government. Services are delivered through 10 departments. Departments have a high degree of discretion regarding the nature of their internal governance arrangements, albeit they are subject to direction by the States of Deliberation. A Policy Council comprising 10 departmental ministers and a Chief Minister has the mandate of co-ordinating the work of the States.
- 4 The mandates of States' departments are handed down by resolution of the States of Deliberation, although some departments are governed largely by statutory provisions. Most government work is undertaken by departments without reference to the States of Deliberation.
- 5 Parliamentary committees, (States Assembly and Constitution Committee, Legislation Select Committee, Public Accounts Committee and Scrutiny Committee) deal with matters which are the province of a parliament and report directly to the States of Deliberation.
- 6 The work of government is supported by a body of approximately 1,800 civil servants. Civil servants have responsibility for implementing government policy and informing and guiding members of the States of Deliberation.
- 7 Politics in Guernsey is not organised on a party basis. States' deputies are elected as independent members, unaligned to any defined grouping.

Detailed Report

The States of Guernsey does not have a clear strategic direction or agreement on its strategic objectives and desired outcomes

- 1.1** In December 1998, the members of the States of Deliberation commissioned a review of Guernsey's Machinery of Government. An independent Panel was appointed to undertake the review, chaired by Advocate Peter Harwood. The Panel reported its findings in November 2000 (the Harwood Report).
- 1.2** The Harwood Report findings included that there was:
- a** *'a reluctance on the part of many politicians to engage in the establishment of strategic policy'*; and
 - b** *'a lack of co-ordination and cohesion in the administration of policy'*.³
- 1.3** In May 2004, the States of Deliberation introduced new Machinery of Government with the following elements which together form the States of Guernsey:
- a** The States of Deliberation has 47 elected deputies (including two Alderney representatives). It has responsibility for passing legislation, raising taxation and determining expenditure. The States of Deliberation makes law, strategic policy and executive decisions as well as undertaking a scrutiny role.
 - b** Eight service delivery departments (States' departments), a Treasury and Resources Department and a Commerce and Employment Department. Each Department has a Minister, Deputy Minister and three other deputies elected by the States who together form the departmental board. Each departmental board may also nominate for appointment by the States of Deliberation up to two non-States' members who do not have a vote. The departments are responsible for development of service policy and service delivery. States' departments have executive decision-making powers within the scope of their mandates, (subject to review and challenge by the States of Deliberation). An example of a departmental mandate is set out in [Appendix 3](#).
 - c** The Policy Council comprises a Chief Minister and 10 Ministers. It has executive responsibility for a small number of activities but its main functions are to, advise the States on constitutional matters, formulate and implement corporate policies and co-ordinate the work of the States. The Policy Council relies upon the consensus of its members to deliver its mandate. The Policy Council has established a number of sub-committees to support the delivery of its mandate.
 - d** States' Committees, which comprise States' deputies and may include non-States' members elected by the States or appointed by the Committee. These

³ Harwood Panel, *The Machinery of Government in Guernsey* (November 2000), section 8, paragraph 6



committees include a States' Assembly and Constitution Committee, Legislation Select Committee, Public Accounts Committee, Public Sector Remuneration Committee, Scrutiny Committee and various ad hoc committees. The various mandates of these committees are set out in the *Mandates and Membership of the Policy Council, Departments and Committees*.

- 1.4** In implementing the new Machinery of Government, States' deputies sought to retain a form of government which is reliant upon building and achieving consensus. States' deputies participate in executive decision-making both at the departmental board/committee level and within the States. Each of the departmental boards functions in a semi-autonomous manner, determining its own staff establishments, departmental strategies, operational and spending priorities.
- 1.5** During the course of this review, we were told on several occasions that the States of Deliberation rejected executive government when the Machinery of Government was adopted. Technically, this is not the case. The current system is an executive form of government, albeit not with a single cabinet or presidential style executive, but with 10 departmental executives with an overarching executive in the form of the States.
- 1.6** This current system has resulted in the States lacking a clear corporate identity and an overall strategic approach. Many States' deputies appear to have far greater affinity with their departmental/committee responsibilities than with ensuring corporate priorities are set and delivered. During the course of our review, many States' deputies and civil servants referred to a parochial and compartmentalised approach to politics and service provision. Whilst there are excellent examples of where departments are working together, this is on an exception basis, rather than the norm as set out in paragraphs 1.69 to 1.72.
- 1.7** As part of our review, we surveyed States' members (States' deputies and non-States' members) and senior civil servants. Only 11 per cent of States' members who responded said that other States' members were always or usually clear about the outcomes that the States of Guernsey is trying to achieve.
- 1.8** Only 18 per cent of Guernsey senior civil servants who responded to the survey said they thought States' members were always or usually clear regarding the States' desired outcomes.
- 1.9** There is little evidence that States' services are designed around the needs of islanders and delivering cost-effective, improved outcomes. States' departments do not consistently seek to identify the changing needs of islanders or to build service models to reflect these needs. In general, services are planned and delivered on the basis of historic provision. Whilst some States' departments have been proactive in consulting islanders to determine their needs and expectations, this is still not the norm. Furthermore, there are no effective mechanisms in place to determine corporate priorities and to allocate resources accordingly.
- 1.10** In consequence, confidence that the States' operations are delivering the States' desired outcomes at a reasonable cost is undermined. In our survey, both States' members and senior civil servants indicated that they did not consider that achieving desired outcomes was consistently integrated into decision-making, did not know how well the States of Guernsey was achieving its desired outcomes and did not always or usually consider that the States of Guernsey achieves its desired outcomes, as set out in [Exhibit 1](#).

Exhibit 1 – Achieving desired outcomes – Wales Audit Office Survey

The figures in brackets are the averaged comparative figures when the same questions were asked of elected members and senior staff of each local authority in Wales about their own organisations

		Always %	Usually %	Sometimes %	Rarely %	Never %	Don't know %
States' members are clear about the outcomes the States of Guernsey is trying to achieve	States' members	4 (8)	7 (49)	60 (34)	11 (4)	0 (0)	18 (5)
	Senior civil servants	0 (8)	18 (63)	44 (25)	30 (2)	3 (0)	5 (2)
Achieving desired outcomes is well integrated into decision-making	States' members	4 (21)	11 (53)	44 (21)	37 (3)	4 (1)	0 (1)
	Senior civil servants	0 (19)	9 (53)	29 (25)	51 (3)	9 (0)	2 (0)
I know how well the States of Guernsey is achieving its desired outcomes	States' members	4 (22)	15 (51)	40 (22)	37 (4)	0 (1)	4 (0)
	Senior civil servants	0 (15)	7 (58)	59 (24)	17 (3)	2 (0)	15 (0)
The States of Guernsey is achieving its desired outcomes	States' members	0 (9)	7 (55)	63 (29)	26 (3)	4 (0)	0 (1)
	Senior civil servants	0 (6)	7 (62)	58 (29)	17 (2)	3 (0)	15 (1)

Note: The figures in the exhibit above have been rounded to total 100 per cent.

1.11 The key issue is set out in Phase 1 of Tribal Helm's Fundamental Spending Review report, *'the States of Guernsey is neither directed nor controlled as a single corporate entity. Rather, it is a collection of almost autonomous business units that are able to choose if or when they subscribe to 'corporate' policy or initiatives'*.⁴

1.12 The results of our surveys of States' deputies and senior civil servants demonstrate that most respondents consistently felt greater affinity and loyalty to their own departments than to the States of Guernsey as a whole. Only a small number of civil servants are employed within the corporate centre with corporate job descriptions.

⁴ Tribal Helm, *States of Guernsey, Fundamental Spending Review, Phase 1 Summary Report* (28 February 2009), page 17



- 1.13** The development of the States' Strategic Plan should help to articulate a corporate vision for the States as a whole. However, the plan is still in its infancy and it will take substantial commitment and a change in culture to operationalise it. The Strategic Plan is still largely aspirational and the connection between the strategic objectives and the departmental plans is unclear.
- 1.14** The Strategic Plan needs to set the context and focus for all States' activities. It should clearly set out what the States intends to achieve based upon the needs of islanders. Critically, it must be supported by a plan of co-ordinated action that has regard to making the best use of the overall resources available.
- 1.15** Furthermore, to make the Strategic Plan a living document, there may need to be a realignment of resources and it requires willingness for departments to relinquish an element of autonomy for wider corporate benefit. We understand that States' deputies are set to consider the Strategic Plan corporate priorities and seek to link resource allocation to the delivery of these priorities. In order to make this exercise meaningful, it is essential that States' deputies adopt a corporate rather than a departmental mindset.
- 1.16** Our work suggests that the necessary mindset does not currently exist. This is illustrated in the way in which departmental budget under or overspends are dealt with. In the case of underspends, unspent resources are often jealously guarded as departmental monies by the department. There is at present no facility to claw back and reallocate resources even if this is deemed necessary to meet wider corporate objectives. In the case of overspends, there is no corporate mechanism to hold departments or individuals within them accountable. In some departments, there is a lack of rigour in budget management or recognition of the wider impact on States' finances where overspends occur.
- 1.17** Many States' deputies told us that they felt little or no ownership of the Strategic Plan and considered that it was remote from their responsibilities as States' deputies. Lack of clear strategic direction has a cost. There is no effective corporate prioritisation of the use of resources, service delivery is uncoordinated, there is duplication of effort and no certainty that desired outcomes are being delivered. It is more likely that the States will approve financing for a departmental service proposal which has an immediate impact, rather than agreeing to finance a key corporate initiative, necessary for the achievement of the long-term objectives of the States and the future wellbeing of the Island.
- 1.18** If the States continues to operate as though it were several independent entities, it will not be able to benefit from corporate ways of working in order to facilitate the achievement of its strategic objectives. This handicap will compromise the ability of the States to deliver improved value for money and ensure the future sustainability of services. For example, failure to address this issue will severely hamper the ability of the States to realise the potential financial savings set out in the Tribal Helm report which are predicated upon a clear strategic approach and commitment to corporate working.

The States of Guernsey presently lacks the structure for clear corporate leadership

The current structure does not facilitate the exercise of corporate political leadership

- 1.19** Authoritative and decisive leadership is an essential element of good governance within the public services. It is necessary to provide vision and direction and ensure that things get done. Without such leadership the impression can be created that a public body is drifting without direction and purpose and failing to deliver value in its use of public resources.
- 1.20** The Independent Commission for Good Governance in Public Services has described public service leaders as, *'the people responsible for governance – the leadership, direction and control of the organisations they serve. Their responsibility is to ensure that they address the purpose and objectives of these organisations and that they work in the public interest. They have to bring about positive outcomes for the people who use the services, as well as providing good value for the taxpayers who fund these services.'*⁵
- 1.21** In 2002, the Harwood Report concluded that there was a lack of political leadership in evidence within the States which could drive strategic policy at a corporate level. In essence, a leadership vacuum existed between the former States' committees and the States of Deliberation. As a result, the States was unable to develop a strategic approach to cohesive service delivery. States' committees were too numerous and it was considered that there were too many members within the States of Deliberation for effective executive decision making.
- 1.22** Whilst the Machinery of Government changes resulted in the creation of a smaller number of service departments, this has not overcome the weaknesses identified earlier.
- 1.23** The States of Deliberation is in effect a committee of 47 members each with their own individual aims and objectives. Both the size and the predominance of personality and issue politics can impede fully informed debate.
- 1.24** The States of Deliberation meets on average only 25 days per year, during which time it has to make key strategic decisions, scrutinise important departmental proposals and consider proposed legislation. Most decisions of the States of Guernsey are in practice taken by States' departments.
- 1.25** In 2008, 87 pieces of legislation were placed before the States of Deliberation and from May 2008, to date 82 departmental or Policy Council reports have been considered. In view of the time available for the States of Deliberation to consider these matters, it is unsurprising that almost all legislation and reports were passed without amendment. [Appendix 4](#) sets out the number of pieces of legislation and reports laid before the States of Deliberation since 2004.
- 1.26** The States of Deliberation does not have sufficient time and its size and structure means that it would be unlikely to be an effective forum to undertake strategic policy formulation or co-ordinate the work of States' departments.
- 1.27** The introduction of the Policy Council within the new Machinery of Government was intended to help ensure the effective co-ordination of States' activities. Whilst lacking executive powers, the Policy Council was given the remit of co-ordinating the work of the States' departments, thus providing

⁵ The Independent Commission for Good Governance in Public Services, *The Good Governance Standard for Public Services* (January 2005), Foreword page V



strategic focus. The Policy Council comprises the Minister of each of the States' departments and the Chief Minister, elected by the States.

- 1.28** The Policy Council has only had limited success in meeting the remit for which it was created. Whilst some progress has been made, including the sponsorship of the Strategic Plan, it has not provided effective co-ordination of States' activities. Our work suggests that there are a number of reasons for this:
- a** The Policy Council lacks the authority to impose a strategic focus. The departments and the States of Deliberation exercise executive power, the Policy Council cannot. The Policy Council in seeking to fulfil its mandate is therefore reliant on persuasion and attempting to achieve consensus with and between departments. This is impossible to deliver consistently in view of the semi-autonomous nature of States' departments.
 - b** Individual ministers do not have a formal mandate to speak on behalf of their departments. All ministers are 'first amongst equals' on their departmental boards. During the course of our review, we were informed on a number of occasions that the ministerial view sometimes differs from the majority of his or her board members.
 - c** Members of the Policy Council do not accept individual personal responsibility for decisions reached collectively with which they do not agree. Each member can articulate alternative views and perspectives from his or her Policy Council colleagues in public. (This is also the case for departmental boards).
 - d** There is reluctance on the part of members of departmental boards to yield any degree of departmental autonomy to the Policy Council.
- 1.29** Similar issues relate to the role of the Chief Minister. Whilst he is perceived as wielding political power, he has little delegated power. He is the first among equals on the Policy Council but unlike his colleagues, he does not have any executive departmental role.
- 1.30** The Chief Minister is also the Island's senior political ambassador and plays a key role in building the Island's international reputation, representing Guernsey's interests and negotiating on the international stage. The exercise of this role has resulted in successful outcomes for Guernsey. However, as 'first among equals' the Chief Minister has no executive authority arising from his office to act on behalf of the Island. This has the potential to undermine the credibility of the Chief Minister when dealing with international leaders which may have financial and reputational consequences for Guernsey.
- 1.31** The Chief Minister is reliant on having to exercise authority through force of personality. Due to lack of clarity over the role of Chief Minister, incumbents are likely to interpret the role differently. Some may view the role as primarily that of Chairman of the Policy Council, whereas others may see their role as to provide strong political leadership and to represent the Island internationally on the political stage. Where a Chief Minister has to use personal as opposed to delegated authority to provide leadership, it is likely to result in tensions.
- 1.32** Many States' members and senior civil servants stated in our surveys that the roles of key political office holders are not clearly set out. Of those who responded to the survey, only 37 per cent of States' deputies and 26 per cent of senior civil servants said that the roles of key political office-holders are always or usually clearly set out.

1.33 During our review, several States' deputies expressed concern that vesting executive authority in a Chief Minister or in a small number of States' deputies could result in abuse of power. This is certainly an understandable concern in a system which lacks appropriate scrutiny and accountability arrangements, as set out in paragraphs 1.118 to 1.144. It is fundamental to good governance that the exercise of authority is accompanied by clear accountability.

1.34 The States lacks identifiable, corporate political leadership. This is not due to a general unwillingness on the part of States' deputies, the Policy Council or the Chief Minister to exercise leadership but is due to systemic and structural issues which mean that they are not vested with the authority to act decisively. This can result in an inability or delay in being able to take key decisions in an expeditious way.

1.35 This lack of enforceable political leadership is highly detrimental to the effective governance of the States and has resulted in a lack of strategic direction and focus, indecisiveness in decision making and an inability to drive change.

The current structure does not facilitate the exercise of clear leadership at civil service level

1.36 The Guernsey civil service has been organised to reflect the political Machinery of Government. Civil servants are affiliated with States' departments or committees. The departmental chief officers meet as part of the Chief Officers Group which provides the administrative mirror of the Policy Council. The Chief Executive or Deputy Chief Executive chairs the Chief Officers Group essentially mirroring the role of the Chief Minister. The Chief Officers Group provides a forum for agreeing a consensus approach to co-ordinating the activities of departments and implementing consistent policies, procedures and internal controls.

1.37 However, the structure has the same inherent tensions as those that are manifest in the current political structures. The civil service structure varies widely across departments and most civil servants, other than the few civil servants with a defined corporate role, consider their first allegiance to be to their department rather than the States as a whole.

1.38 In common with the Policy Council, the Chief Officers Group is not considered to have the authority to enforce corporate policies, procedures and processes throughout the States' operations. Each department is effectively able to opt out of any corporate proposals. Several chief officers told us that they consider that their primary accountability is to their political board and not to the Chief Officers Group or Chief Executive. In consequence, whilst the Chief Executive is the Head of the Paid Service, he has little authority in respect of the administration of States' departments and he is not empowered to exercise enforceable leadership.

1.39 Our review found that, in the absence of centralised authority, departments operate as semi-autonomous administrations to varying extents. Each department has developed its own human resource and financial policies, financial control mechanisms including budgeting systems, risk management arrangements, complaints, public engagement processes and performance management systems. This is unnecessarily bureaucratic and does not facilitate the provision of value for money. It duplicates effort, leads to inconsistencies and means that it is very difficult for the States to obtain corporate assurance that effective control is being exercised at a departmental level or risk managed.



- 1.40** An illustration of this is the introduction of the SAP accounting system within the States of Guernsey. The system has the potential to provide major corporate benefits in relation to budgetary control, consistency of accounting practice and bulk purchasing. However, as set out in the Tribal Helm, Phase 1 Report, the system has been implemented in a piecemeal way, *'there is no centrally applied strategy for the adoption, utilisation and operation of SAP across the States. As a result there is not full coverage in terms of usage by all departments. Where SAP is used interfaces are not robust which has a direct result on the efficiency (and cost) with which departments are able to process transactions and extract data from the corporate system'*.⁶
- 1.41** The semi-autonomous nature of the departments has led to inconsistencies in the exercise of the roles of politicians and civil servants. In some cases, the departmental board has become both the political and administrative master, dealing with the development of policy and engaging in operational management. The lack of an effective mechanism to implement policies and procedure across the States is a significant weakness in the current arrangements. It is critical that an effective separation of political and administrative accountability is realised. This would need a well-defined chain of command being put in place headed up by the Chief Executive who would need the authority to implement corporate imperatives and to hold civil servants accountable for their actions. It is difficult to envisage how this could be achieved without simultaneously addressing issues of autonomy, authority and accountability within the existing political structures.
- 1.42** Leadership and accountability within the civil service was identified as an issue by Dr Graham Robinson in his 'Report of a Review of the Role of the States of Guernsey as an Employer'. Dr Robinson found, *'there is considerable confusion in the minds of the majority as to how the responsibilities of the States as an employer are assigned and exercised and by whom. They are variously seen as accountabilities of the Policy Council, of the Chief Executive of the States, of the Chief Officers of operational departments, of the Policy Council's Human Resource Unit, of the Public Sector Remuneration Committee, of the Treasury and Resources Department or of some combination of all these'*.⁷
- 1.43** The Chief Executive has initiated a programme to modernise the Civil Service, 'Developing the Public Sector'. This programme aims to ensure that departmental staff at all levels work together and adopt consistent approaches to issues such as recruitment and training. The programme has delivered positive outcomes. However, one element of the programme which was designed to improve business processes within departments has been undermined as some departments chose not to participate and others only partially engaged with it.
- 1.44** Lack of clear leadership of and accountability within the Civil Service has a price. Inability to implement States-wide policies and procedures and ensure that there are consistent approaches to the way the States does business is exposing the States to financial and reputational risk. Furthermore, it is perpetuating inefficiencies and duplication, thus providing a barrier to improvement and the introduction of good practice at economic cost.

⁶ Tribal Helm, States of Guernsey, *Fundamental Spending Review, Phase 1 Summary Report* (28 February 2009), page 14

⁷ Dr Graham Robinson, *Report of a Review of the Role of the States of Guernsey as an Employer* (February 2008), page 4

There is a lack of clarity regarding States' functions and roles

1.45 The capacity to operate in an efficient, effective, economic and accountable manner is dependent upon there being clarity over how States' functions are to be carried out, where individual responsibilities lie and how different elements within the States should work together collectively to achieve improved outcomes. Where there is insufficient clarity, there is confusion, uncertainty and a breakdown in accountability. Our review found that:

- a** politicians and staff are often unclear as to how States' functions are carried out;
- b** roles and responsibilities are often unclear resulting in relationship tensions and perceptions of poor behaviour; and
- c** there is poor communication and insufficient joint working across States' departments.

Politicians, staff and the public are often unclear as to how States' functions are carried out

1.46 It is essential that politicians and senior members of staff have a good understanding of how the main functions of the States are carried out. This is crucial to developing:

- a** corporate identity, vision and prioritisation;
- b** common understanding and culture; and
- c** joined-up service models and methodologies which are focused on improved outcomes for islanders.

1.47 In our surveys of States' members and senior civil servants, one third of responding States' members (33 per cent) and just over one third

of senior civil servants (37 per cent) said that the main functions of the States of Guernsey are always or usually clearly set out. The majority of States' members (63 per cent) and senior civil servants (60 per cent) said that they always or usually understood how the main functions of the States of Guernsey were carried out. However, only 15 per cent of States' members said that other States' members understood the arrangements and only 14 per cent of senior civil servants thought that States' members always or usually understood how the main functions of the States of Guernsey were carried out.

1.48 Even at a departmental level, only 15 per cent of States' members and 34 per cent of senior civil servants said that members usually or always understood how the main functions of their departments/committees were carried out.

1.49 In view of this internal uncertainty, it is unsurprising that when we asked members of the public whether they knew how and to whom to communicate their ideas, views or complaints about public services in Guernsey, most respondents told us they were not sure which department was responsible and there appeared to be significant overlaps between their responsibilities. As a consequence, time and resources are expended by States' deputies and civil servants dealing with public queries which could be dealt with more effectively elsewhere.

1.50 The lack of clarity can lead to confusion, misunderstanding and relationship tensions. It is difficult to achieve joined-up service delivery when there is not a consistent understanding of the functions through which services may be delivered efficiently. Furthermore, lack of clarity over States' functions results in considerable uncertainty regarding the roles and responsibilities of States' deputies and individual members of staff.



Roles and responsibilities are often unclear resulting in a lack of accountability

- 1.51** It is a key aspect of good governance that those responsible for commissioning, designing, planning and delivering public services are clear about their own roles and responsibilities and also clear about the roles and responsibilities of others.
- 1.52** We found that there was a lack of clarity of roles throughout government. Deputies are committed to public service and determined to represent the interests of islanders. However, many deputies are unclear what their role is within the States.
- 1.53** This is in part due to the system in which States' deputies operate. Whilst many regard their primary role as being to represent islanders within their parishes, States' deputies strive to reconcile this with their other roles which may include:
- a** executive roles on departmental boards and within the States of Deliberation;
 - b** scrutiny and challenge roles either on Public Accounts and/or Scrutiny committees;
 - c** membership of the Policy Council; and
 - d** collectively determining the strategic direction and corporate priorities of the States.
- 1.54** In our surveys, 30 per cent of responding States' members and 14 per cent of senior civil servants said that they were always or usually clear on the roles and responsibilities of individual States' members. When the same question was asked regarding their departmental/committee roles, 52 per cent of States' members and 38 per cent of senior civil servants said they were always or usually clear.
- 1.55** Some departmental board members are not always clear concerning the distinction between providing a strategic policy framework at departmental level and becoming involved in operational service matters, which should be the responsibility of civil servants. We were told by several senior civil servants that this creates tension between politicians and civil servants and, on occasions, is perceived to constitute political interference in operational matters. Our findings are consistent with the 2002 Harwood Report which stated that there was, '*a tendency on the part of many politicians to become too closely involved in the administration of government*'.⁸
- 1.56** Furthermore, many States' members do not think the States know what skills they need to fulfil their roles effectively. Only 19 per cent of States' members and 14 per cent of senior civil servants who responded to the survey stated that they always or usually considered that the States knew what skills States' members needed to do their job effectively. Of even greater concern was the fact that only 19 per cent of responding States' members and 12 per cent of senior civil servants considered States' members to be always or usually appropriately skilled.
- 1.57** Several States' deputies told us that there is no systematic approach within the States to equip them to perform their roles effectively.
- 1.58** Lack of clear strategic direction has led to States' deputies attempting to create meaningful roles for themselves at the departmental level. However, we have been told by several senior members of staff that in practice this means that States' deputies involve themselves too closely with operational matters, essentially seeking to take on the role of civil servants.

⁸ Harwood Panel, *The Machinery of Government in Guernsey* (November 2000), section 8, paragraph 6

- 1.59** This in turn has led to some confusion regarding the roles and responsibilities of senior civil servants. Only 41 per cent of States' members and 66 per cent of senior civil servants said that there are always or usually clear roles and responsibilities for senior members of staff.
- 1.60** Furthermore, only 44 per cent of responding States' deputies and 25 per cent of senior civil servants stated that the dividing line between the roles and responsibilities of States' members and staff are always or usually clearly defined and up-to-date.
- 1.61** The impact of this blurring of responsibilities is fourfold:
- a** There is a lack of political accountability.
 - b** Tensions are created as States' deputies and senior civil servants are both involved in operational matters. On the part of civil servants this can lead to a perception of political interference. From States' deputies this can lead to a perception of bureaucratic obstructiveness.
 - c** States' deputies are rarely involved effectively in a strategic context.
 - d** Effort is duplicated.
- 1.62** There is also lack of clarity over the roles and responsibilities of those within leadership offices, ie:
- a** the Chief Minister;
 - b** departmental ministers (Policy Council members); and
 - c** the Chief Executive, Deputy Chief Executive and departmental chief officers (Chief Officers Group members).
- 1.63** Whilst those holding these offices have notional status, they lack authority to act and are therefore neither accountable nor capable of holding others to account.
- 1.64** In consequence, the roles and responsibilities of these offices are not generally understood as highlighted in [Exhibit 2](#).

Exhibit 2 – Roles and responsibilities – Wales Audit Office Survey

		Always %	Usually %	Sometimes %	Rarely %	Never %	Don't know %
There are clear roles and responsibilities for the Policy Council	States' members	11	26	27	22	7	7
	Senior civil servants	3	24	31	23	5	14
There are clear roles and responsibilities for the Chief Minister	States' members	8	23	27	34	0	8
	Senior civil servants	3	24	28	25	5	15
There are clear roles and responsibilities for the Chief Executive	States' members	4	15	29	30	0	22
	Senior civil servants	11	30	23	21	3	12

Note: The figures in the exhibit above have been rounded to total 100 per cent.



- 1.65** In the absence of delegated authority, holders of office exercise their leadership role through personal authority in order to make things work. On occasions this leads to tensions.
- 1.66** Whilst office holders within the States recognise their responsibility for governing the Island, many are unclear what this means in practice or how they can fulfil their responsibilities effectively. This lack of clarity does not facilitate effective government or constructive working relationships.
- 1.67** Some States' deputies told us that they were unclear of the basis on which the Bailiff acts as Presiding Officer of the States of Deliberation. In some cases, States' deputies were of the view that the Bailiff undertook the role under the terms of his Crown appointment and this gave rise to potential conflicts of interest.
- 1.68** The Bailiff's role as Presiding Officer is not in fact exercised as part of his Crown appointment but in accordance with Guernsey law.

There is poor communication and insufficient joint working across States' departments

- 1.69** The delivery of value-for-money services necessitates the various functions of the States of Guernsey working together efficiently and effectively to meet the needs of islanders. Services should be designed to improve overall outcomes and achieving this requires cross-departmental working. Service users are not concerned with which department delivers which service but solely that their needs are met in a timely and consistent way.
- 1.70** During our review, we were made aware of several excellent and innovative examples of States' departments developing joint strategies and working effectively together to meet the needs of service users and to deliver improved outcomes. Examples included cross-departmental strategies on issues such as energy, environment, corporate housing and social policy, (including addressing drug and alcohol abuse). In relation to the drug and alcohol strategy, there is commitment to pooling financial resources to achieve the planned objectives of the strategy. Joint working has the potential to optimise the use of resources and achieve more effective outcomes, resulting in improved value for money.
- 1.71** When we asked members of the public for their views on how States' departments work together, most respondents commented that in their view States' departments do not work well together. Whilst the numbers who responded cannot be regarded as representative of the wider population, the reasons given for their views are consistent with the other findings of our review. These included:
- a** a sense that politicians and civil servants lack an understanding of the 'bigger picture';
 - b** perceived lack of leadership from the 'corporate centre';
 - c** culture of working independently; and
 - d** departments operating autonomously.
- 1.72** Despite the examples of good practice highlighted above, departments still mostly work as though they are independent. There is poor communication across the departments and departmental service strategies tend to be based on historic service provision models. This results in services not being joined up, duplication, delays for service users and a failure to take advantage of potential economies of scale. Furthermore, it leads to unnecessary expense and inconsistencies in treatment between departments, eg, in the handling of complaints.

The States of Guernsey's decision-making processes are unclear, protracted and not always underpinned by good quality information

1.73 The Chartered Institute of Public Finance and Accountancy (CIPFA) has defined good governance as: *'Ensuring that an organisation is doing the right things, in the right way, for the right people, in an open, honest, inclusive and timely manner.'*⁹ Taking informed, transparent, timely decisions in order to achieve improved outcomes for the public and service users is at the heart of this definition.

1.74 Within the States, decisions are taken throughout government. For example, day-to-day operational decisions are made by civil servants. Departmental boards take decisions on service strategy including budget setting and spend. The States of Deliberation is the highest decision-making forum for States' business not prescribed by legislation.

1.75 We found that decision-making within the States is often protracted, inefficient, lacks transparency and is not supported by an adequate evidential base.

There is insufficient clarity regarding the level at which decisions should be made

1.76 Efficient decision making is dependent upon ensuring that decisions are made at an appropriate level of government. All concerned therefore need to know who has the authority to make decisions and there must be clear, written delegation arrangements.

1.77 We found that there is not sufficient clarity in this regard. In our survey, only 19 per cent of responding States' members and 9 per cent of senior civil servants stated that the corporate delegation arrangements were appropriate, clear and up to date. There was more clarity regarding departmental delegation arrangements with 33 per cent of States' members and 38 per cent of senior civil servants stating that the departmental delegation arrangements were appropriate, clear and up-to-date. The failure to set out clear delegation arrangements at either corporate or departmental level has resulted in the blurring of political and administrative roles. We were told of several examples of departmental boards debating and deciding issues which would more appropriately have been dealt with by departmental civil servants in accordance with departmental processes.

1.78 We were also told by a number of States' deputies and senior civil servants that there was a lack of clarity over which decisions needed to be placed before the States and which could be taken at a departmental level without going to the States. This has led to inconsistency across the States' operations with some significant decisions being taken by departments, eg, the disposal of capital assets without referral to the States and relatively minor service-related issues being decided within the States.

1.79 The Tribal Helm Fundamental Spending Review Phase 1 Report, found that *'the lack of corporate identity and authority hinders the efficacy of the decision-making process. Where issues are identified that are States wide or multi departmental (rather than specific to a single department) it is often not defined at an operational level who, when or how the required decision is to be made. As a result corporate operational decisions may be*

⁹ Chartered Institute of Public Finance and Accountancy, *Delivering Good Governance in Local Government - Framework* (February 2009), paragraph 1.5, page 2



deferred, or many are escalated to the political forum of the States. The escalation of operational decisions to the political level results in a corresponding shift in the decision-making criteria and as such imposes additional constraints on the decision makers'.¹⁰ We agree with this analysis.

- 1.80** The ability for all States' members to debate any decision of the States can be viewed as evidence of a strong, participative democracy. Nevertheless, in order for the States to exercise an effective strategic role, it is essential that issues are not brought to the States which can be effectively and expeditiously dealt with elsewhere.
- 1.81** Where matters are unnecessarily taken to the States of Deliberation, decisions which were reached at departmental level based on informed debate risk being overturned on the basis of a less informed debate, influenced by personal agendas, local considerations and political 'horse trading'. As a large debating and legislating body, the States of Deliberation is not well-placed to take operational decisions in a consistent or fair manner, particularly as there is inconsistency regarding the matters referred to it for decision.
- 1.82** Inconsistency within the decision-making processes impacts on the ability of the States of Deliberation to operate as a strategically focused decision-making entity. It leads to:
- a** increased costs as a result of unnecessary delays in making operational service decisions;
 - b** an inappropriate balance of debate in the States of Deliberation; and
 - c** operational decisions being made without access to all relevant information.

Decisions are not always underpinned by good quality information

- 1.83** It is difficult to make good decisions without access to good quality information regarding service need, cost, quality, outcomes, user satisfaction and value for money. We were told by many States' deputies and civil servants that decisions are often uninformed.
- 1.84** Information on service cost and quality and value for money is not collected consistently as a matter of routine. In our surveys of States' members and senior civil servants, only 11 per cent of States' members and 5 per cent of senior civil servants said that the States of Guernsey is always or usually good at using information on costs, quality and impact to make decisions about improving value for money. Furthermore, only 7 per cent of States' members and 8 per cent of senior civil servants said that the States of Guernsey is always or usually good at using information on public, service user and other stakeholder satisfaction to improve value for money.
- 1.85** We found that within some service areas systems had been and were being developed to collect and use information to improve the quality of decision making. These examples were isolated.
- 1.86** In order to improve the economy, efficiency and effectiveness of services throughout the States, it is crucial that appropriate systems are established to collect key information and to use that information effectively to inform decision making. This will require investment, corporate commitment and drive to achieve.
- 1.87** Good service decisions are reliant upon establishing and distinguishing between the needs, demands and expectations of potential service users and determining what outcomes are being sought. During our interviews with senior staff, it was apparent that there is a

¹⁰ Tribal Helm, States of Guernsey, *Fundamental Spending Review, Phase 1 Summary Report* (28 February 2009), page 17

general recognition that service models should be underpinned by needs assessment. In some departments, progress has been made to use public consultation processes and demographic data to assess need. However, this has yet to be mainstreamed into service development. The way in which the States of Guernsey engages with the public and stakeholders is considered in more detail in paragraphs 1.112 to 1.117.

- 1.88** It is still the case that in the main, service design is based on historic delivery and not on a comprehensive and current assessment of social; and demographic factors. As a consequence, there is a risk that the current pattern of service delivery does not reflect the changing needs of islanders, therefore resulting in inefficiencies and potential waste of resources.

Decisions are not taken consistently on a timely basis

- 1.89** Delays in decision making can be costly in both financial and reputational terms. Numerous examples were cited of important States' decisions being delayed for years within the States' decision-making processes. For example:

- a** In 2002, the States of Deliberation approved the Board of Administration's proposals in respect of the procurement of an energy from waste facility. At the time of drafting this report the States of Deliberation decided to proceed with the project. In the intervening period, there have been numerous costly reviews, States' debates and a requête.
- b** In 2002-03 the States started to explore the possibility of introducing paid parking in St Peter Port. The last States' administration approved the introduction of paid parking. Over the next few years, proposals and counter proposals were made, plans were shelved and later resurrected. A transport

strategy was drawn up around paid parking. The Environment Department made it clear that it did not support the decision of the members of the previous States of Deliberation and in 2009 the States of Deliberation decided to abandon the introduction of paid parking.

- 1.90** In our surveys of States' members and senior civil servants, there was agreement that the States of Guernsey does not take decisions on a timely basis:

- a** 11 per cent of responding States' members and 4 per cent of senior civil servants said that the States of Guernsey always or usually makes decision in a timely way; and
- b** 41 per cent of responding States' members and 54 per cent of senior civil servants said that their department or committee always or usually make decisions in a timely way.

- 1.91** Several States' deputies and senior civil servants gave a number of reasons to explain why decision making is so protracted. Many identified a series of obstacles within decision-making processes. Decisions must be negotiated through the departmental board. This can be problematic. The speed of decision-making is dependent upon the board meeting cycle and the volume of business to be discussed. As set out previously some departmental boards have not achieved an appropriate balance between operational and strategic issues. As a result, important strategic decisions are sometimes delayed whilst operational service issues which could have been dealt with by civil servants are debated.

- 1.92** Furthermore, members of departmental boards do not always reach consensus. In the absence of collective discipline, such lack of consensus can lead to decisions which should have been dealt with at board level being escalated to the States. We were told of board members arguing in the States of Deliberation against decisions or



recommendations made by their board. Whilst we recognise that such behaviour may be theoretically viewed as democratic, it is also very ineffective. It leads to delays, uncertainty and frustration and therefore wasted money.

1.93 When a decision has been reached at board level, there is no certainty that the decision can be implemented. Any States' deputy, with the support of a minimum of six other deputies can use the requête mechanism to force a debate in the States on an alternative proposal. Whilst the requête can be a useful mechanism, it has the potential to derail well developed departmental proposals and delay decision making.

1.94 Where decisions on departmental proposals need to be progressed to the States of Deliberation, there are further potential obstacles. Before proceeding there, the proposals are currently subject to scrutiny by both the Policy Council and the Treasury and Resources Department, which may issue advisory letters regarding the proposals. Whilst, this may lead to departments having to give greater regard to corporate issues and priorities, it has the potential to delay decision making still further. Proposals may be referred back to the States' department to consider potential amendment prior to it being considered within the States of Deliberation. Furthermore, whilst the constitutional mechanism of sursis can be advantageous in forcing a deferment on the debate of proposals which might not be in the best interests of the States, it has the potential to be misused to delay decision making.

1.95 With regards to major capital schemes, there is an additional difficulty. Whilst a scheme may receive the approval of the States of Deliberation to proceed, such approval does not guarantee the funding for that scheme will ultimately be available. The sponsoring States' department has to return the scheme to the States of Deliberation to secure the necessary

finance, potentially at each stage. This leads to major uncertainty both at a departmental level and for potential tenderers for States' contracts. Potential tenderers may either:

- a** be deterred from incurring significant costs preparing detailed tenders when it is likely schemes will either be delayed due to an inefficient decision-making process or aborted altogether; or
- b** increase tender prices to reflect their increased risk.

1.96 Some States' deputies have told us that the current decision-making arrangements ensure accountability, scrutiny and challenge for and of States' decisions. We acknowledge that there are many points of challenge within the decision-making process. However, it is not evident that multiple opportunities for challenge leads to better informed, more transparent or improved decisions. On the contrary, it has led to delayed and inconsistent decisions, resulting in poor value for money.

Decision-making processes are not sufficiently open and transparent

1.97 The States of Guernsey has a duty to spend public money wisely and to be seen to spend public money wisely. Discharging this combined duty requires openness and transparency in decision making and the use of resources.

1.98 We were told by members of staff, the public and stakeholders that they find it difficult to find out:

- a** what decisions have been made;
- b** who makes decisions; and
- c** the reasons for decisions.

1.99 In our survey of senior civil servants, only 20 per cent told us that staff always or usually find it easy to find out what key decisions have been taken within the States of Guernsey

(other departments/committees). In respect of their own departmental/committee decisions, 55 per cent of senior civil servants said that they always or usually find it easy to find out what key decisions have been taken by their own department/committee.

1.100 When senior staff members were asked how easy it was for external stakeholders to find out what key decisions have been taken within the States of Guernsey, only 13 per cent said it was always or usually easy. When asked the same question about key decisions within their own departments, only 23 per cent of responding senior staff said it was always or usually easy.

1.101 In our consultation with members of the public, a perceived lack of transparency over decision-making was one of the main issues raised. Several consultees when asked how the States could improve its performance responded that greater openness in decision-making was essential.

1.102 In many important respects there is transparency in the way the States of Guernsey operates. Meetings of the States of Deliberation are open to the public, broadcast on local radio and Billets d'Etat are published online in advance of the relevant meetings. Furthermore, there is significant media interest in States' business and many issues are played out and scrutinised in public.

1.103 Nevertheless, there is a perception of a lack of openness. In our view, this perception has not arisen due to an unwillingness to share information. On the contrary some States' deputies release information regarding States' business on their own initiative, causing consternation amongst their peers and senior civil servants.

1.104 The perception of lack of transparency is due to a combination of the following factors:

a Lack of clarity regarding how decisions are made and by whom.

b Lack of a States-wide approach to communicating with the public and staff.

c The existence of an insular culture, in which States' decisions are viewed as internal business in which the public should not have an interest.

d The use of the media to further personal agendas. Regular leaks create the impression of a wider unwillingness of the States to share information.

e Where decisions are publicised it is not consistently clear what objective criteria were used to reach them.

f Minutes of key decision-making forums, departmental boards and the Policy Council are not published. (We acknowledge that publication of these minutes may be counter-productive until such time as the level of departmental debate is improved, as set out in paragraph 1.41.)

1.105 The perception of a lack of transparency could cause significant reputational damage to the States. Members of the public and key stakeholders could conclude that decisions are not made on objective bases.

There is not a consistent and effective approach to risk management in place

1.106 Major issues which affect one part of the States have consequences for all other parts of the States. If the budget of one States' department is overspent, this impacts on the finances of the States as a whole. If the reputation of one department is damaged, the reputation of the States as a whole is damaged. It is therefore essential that the States has in place a consistent and effective approach to identifying risks, assessing the likelihood of those risks occurring, quantifying the potential impact and putting in place appropriate arrangements to manage and mitigate the risk.



- 1.107** In 2006, the Public Accounts Committee commissioned the UK's National Audit Office (NAO) to undertake a review of risk management and insurance. This was a follow-up review to one undertaken in 2000 by the States' Audit Commission. The NAO review found that risk management practices had improved since 2000 but that there was still considerable scope for improvement, *'risk management needs to be seen as part and parcel of everyday business, not as something different or separate or to be done as a special exercise. It is also important that risk management is regularly addressed at the highest levels within the States. Risk assessment must not be allowed to slip down the agenda or be left to be dealt with by junior staff within Departments. Only the most senior staff are likely to have the breadth of vision necessary to identify strategic risks and to be able to assess what is important and what is not important'*.¹¹
- 1.108** The States has yet to adopt such an approach. Policy and guidance on risk management and insurance in the States of Guernsey are the responsibility of the Treasury and Resources Department. However, there is no requirement for departments to apply the guidance. As a result, each department has put in place its own risk management arrangements. The robustness of these arrangements is variable. Furthermore, we found that some departmental boards do not consistently consider key risks and how to manage and mitigate them.
- 1.109** In our surveys of States' members and senior civil servants, we asked whether the States of Guernsey uses risk management to inform key corporate decision-making. Only 15 per cent of States' members and 10 per cent of senior civil servants said that this was always or usually the case. When asked whether their department/committee uses risk management to inform key decision-making, 52 per cent of States' members and 41 per cent of senior civil servants said that this was always or usually the case.

- 1.110** Only 17 per cent of responding States' members and 5 per cent of senior civil servants said that the States of Guernsey's approach to risk management is always or usually effective.
- 1.111** Failure to put in place consistent and effective corporate risk management arrangements has the potential to result in significant financial loss and reputational damage to the States, impacting on long-term financial sustainability.

The arrangements to engage and involve others in the decision-making process are limited

- 1.112** The States of Guernsey exists to serve islanders. The States should therefore have the needs of islanders at the heart of its decision-making processes. This involves effective communication and consultation with staff, the public and other stakeholders including the business and charitable sectors.
- 1.113** We invited views from members of the public as to whether they felt that the States consulted them on their service needs. The large majority of those who responded said that they were not properly consulted. Representatives of the business community were less critical of the way the States consulted them. This suggests that efforts within the States to foster and improve relationships with the business community are having an impact.
- 1.114** Several respondents expressed the view that States' consultations were not real and that decisions had already been taken or that they are simply asked to choose between a predetermined list of service options. They were not asked to identify their needs or to suggest options for service delivery.

¹¹ National Audit Office, *Risk Management and Insurance in the States of Guernsey* (March 2006), page 4

1.115 In our interviews with departmental senior civil servants, most interviewees accepted that services tend to be designed and delivered based upon historic service models and that a consistent approach to public consultation has not yet been developed. Some departments have started to improve their approach to public engagement (eg, the Culture and Leisure Department as part of benchmarking/ accreditation arrangements), but there is still considerable work to be done to identify the needs and desired outcomes of islanders, collect information on service impact and progress this information into decision-making processes.

1.116 Members of staff within the States have a wealth of knowledge and experience which could be invaluable in informing decision-making. More fundamentally, civil servants are islanders with an understanding of the needs and aspirations of their families and neighbours. However, many senior staff do not feel that there are effective arrangements to involve staff in decision-making processes. Only 11 per cent of responding senior civil servants felt that there are always or usually effective arrangements to involve staff in decisions made by the States of Guernsey and 50 per cent felt that there were always or usually effective arrangements to involve staff in departmental decision-making processes. It is critical that members of staff are used more effectively within the decision-making processes as this will help improve the quality of decisions reached.

1.117 The States needs effective, systematic arrangements to engage and involve others in decision-making processes. This will help the States gain wider buy-in to decisions, make objectively better decisions and will help the States to demonstrate that services are being designed around the needs of islanders.

The States of Guernsey does not have effective systems of accountability and scrutiny in place

1.118 Within any governmental system it is essential to have effective accountability and scrutiny arrangements in place. Those in public office are responsible for administering public funds and therefore it is crucial that decision makers are held accountable for their actions and effective systems are put in place to protect public resources.

1.119 There are a number of mechanisms which can be employed to achieve this accountability which include:

- a** formal constitutional mechanisms such as the Public Accounts and Scrutiny committees;
- b** systems of internal control, (including financial policies and procedures);
- c** performance management; and
- d** public scrutiny eg, through the media.

1.120 The effectiveness of these arrangements is considered below. Issues relating to the conduct and behaviour of States' deputies and civil servants are set out in paragraphs 1.145 to 1.154.



The Public Accounts and Scrutiny Committees do not have an appropriate distinction between executive and scrutiny functions and do not have the authority, resources or profile to fulfil effectively their mandates

1.121 The mandate of the Public Accounts Committee includes:

- a** ensuring *‘that proper scrutiny is given to the States’ assets, expenditure and revenues to ensure that States’ bodies operate to the highest standards in the management of their financial affairs’*; and
- b** examining *‘whether public funds have been applied for the purposes intended by the States and that extravagance and waste are eradicated’*.¹²

1.122 The mandate of the Scrutiny Committee includes:

- a** *‘determining the effectiveness of the policies of, and services provided by, departments and committees’*; and

- b** *‘assessing the performance of departments and committees in implementing policies and services’*.¹³

1.123 Both mandates include the requirement to liaise with the other to ensure that there is appropriate co-ordination of the entire scrutiny process.

1.124 In most governmental systems there is a clear division between executive and scrutiny functions. Within the States of Guernsey such a distinction does not exist.

1.125 In our surveys of States’ members and senior civil servants we asked whether the Public Accounts and Scrutiny Committees provide challenge to the effectiveness of services provided to the public. The responses as set out in **Exhibit 3** indicate that many respondents do not think this to be the case.

1.126 The Public Accounts and Scrutiny Committees have both been involved in undertaking and commissioning important pieces of work. Nevertheless, their work and contribution have been hampered by several factors:

Exhibit 3 – Public Accounts and Scrutiny Committees – Wales Audit Office Survey

		Always %	Usually %	Sometimes %	Rarely %	Never %	Don't know %
The States of Guernsey Scrutiny Committee provides challenge to the effectiveness of services delivered to the public	States’ members	4	30	33	22	7	4
	Senior civil servants	1	14	27	28	16	14
The States of Guernsey Public Accounts Committee provides challenge to the effectiveness of services delivered to the public	States’ members	7	30	26	26	4	7
	Senior civil servants	3	14	33	21	14	15

Note: The figures in the exhibit above have been rounded to total 100 per cent.

¹² States of Deliberation, Mandates and Membership of the Policy Council, Departments and Committees (as at 19 September 2008), page 61

¹³ States of Deliberation, Mandates and Membership of the Policy Council, Departments and Committees (as at 19 September 2008), pages 64-65

- a The Public Accounts and Scrutiny Committees are not viewed as fully independent due to the dual executive and scrutiny roles of their members.
- b In contrast to other jurisdictions, no impartial and independent third party has been appointed to support and advise the Public Accounts Committee and to hold those in public office to account.
- c A key element of scrutiny is to hold individuals accountable for their actions. Neither Public Accounts nor Scrutiny Committees are able to call individuals to appear before them to give account of their actions as there is no supporting legislation.
- d There is no corporate mechanism, to hold those in executive roles to account in respect of recommendations made by Public Accounts or Scrutiny Committees. Many recommendations made in Public Accounts or Scrutiny Committee reports over the last few years have neither been implemented nor rejected. There needs to be a mechanism whereby those exercising executive roles are required to say whether recommendations are accepted and, where recommendations are accepted to be held accountable for their implementation.
- e Each States' department operates its own systems, procedures, policies and controls. This creates logistical and resource difficulties in fulfilling the respective Public Accounts and Scrutiny Committee mandates.
- f The work of Public Accounts and Scrutiny Committees is not given the profile it deserves by States' members. Membership of the Scrutiny Committee is often wrongly regarded as a lesser role than that of a departmental board member.

1.127 The Public Accounts and Scrutiny Committees need to be seen to exercise their responsibilities independently and objectively. It is difficult to see how this can be achieved whilst members of the committees have departmental executive responsibilities. Furthermore, it is crucial that they are given the authority to hold to account those charged with governance if they are to fulfil their mandates effectively.

There is no overall system of internal financial control in operation

1.128 Effective systems of internal control ensure that organisations properly record and control their activities. Failure to implement such systems or the breakdown of system controls can result in financial losses and the failure to achieve desired outcomes.

1.129 Internal controls encompass many things including:

- a financial policies and procedures;
- b internal audit;
- c budgetary control mechanisms;
- d financial management arrangements;
- e counter fraud arrangements; and
- f separation of duties.

1.130 With a few exceptions the States has not implemented consistent internal controls across its functions. Whilst the Treasury and Resources Department has issued administrative and accounting guidance, this is currently not mandatory. Delegated arrangements for issues such as the approval of tenders and contracts differ across departments. Each department has developed its own internal control systems and the robustness of these systems is variable and their application largely unmonitored.



1.131 Whilst the States has recently procured an internal audit supplier to undertake specified internal audit reviews, there is no ongoing and routine States-wide internal audit function in operation.

1.132 In our survey of States' members and senior civil servants, we asked whether there were effective corporate and/or departmental arrangements to oversee financial processes. Many States' members and senior civil servants indicated that in their view that was not always or usually the case, as set out in **Exhibit 4**.

1.133 The lack of a comprehensive and corporate approach to internal control represents significant financial and reputational risk to the States.

There is no robust system of performance management across States' operations

1.134 Performance management is a key component of good governance. Performance management provides the ability to challenge and improve the effectiveness of service delivery, to assess whether desired outcomes are being delivered and ultimately to determine whether value for money is being achieved.

1.135 Effective performance management within the public services involves:

- a** consulting users to determine service needs to help identify desired outcomes;
- b** setting cost, quality and outcome measures and targets;
- c** establishing effective systems to collect and analyse service information;
- d** benchmarking performance against other service providers where possible;

Exhibit 4 – Effectiveness of financial processes – Wales Audit Office Survey

		Always %	Usually %	Sometimes %	Rarely %	Never %	Don't know %
There are effective corporate arrangements, including internal audit to oversee financial processes	States' members	4	18	22	19	22	15
	Senior civil servants	5	33	26	20	6	10
There are effective departmental/ committee arrangements, including internal audit to oversee financial processes	States' members	7	30	22	15	19	7
	Senior civil servants	9	44	21	17	3	6

Note: The figures in the exhibit above have been rounded to total 100 per cent.

- e seeking feedback from service users;
 - f reviewing service delivery methodologies and service performance; and
 - g using performance and risk assessment information to inform decision making and improve service delivery.
- 1.136** The States does not routinely collect and use information on the cost, quality and impact of the services it delivers. Some States' departments are committed to reviewing service performance. However, even in these departments, performance management remains underdeveloped.
- 1.137** In our survey of senior civil servants:
- a 24 per cent told us that the States of Guernsey always or usually collects information on the economy, efficiency and effectiveness of its services;
 - b 54 per cent told us that their department always or usually collects information on the economy, efficiency and effectiveness of its services;
 - c 11 per cent told us that States' deputies always or usually receive meaningful information on service cost and performance across the activities of the States of Guernsey;
 - d 54 per cent told us that States' deputies always or usually receive meaningful information on service cost and performance for their own departments/committees;
 - e 10 per cent told us that States' deputies always or usually receive meaningful information on how service cost and performance compares to other organisations; and
- f 7 per cent said that States' deputies always or usually receive information which sets out the outcomes of service delivery for Guernsey residents.
- 1.138** Whilst the majority of States' members (70 per cent) and senior civil servants (59 per cent) said that their department/committee delivers economic, efficient and effective services, lack of comprehensive performance information means that this cannot be demonstrated. Furthermore, when we asked members of the public to respond to the question whether the States of Guernsey delivers value-for-money services, almost all who responded said that they did not think this was the case. We recognise that the 50 responses received may not be representative of the population as a whole. However, the reasons given for this perception as set out below are consistent with the findings of our review:
- a no apparent accountability or questioning of the need for spending;
 - b systemic problems with prioritisation of service needs;
 - c administrative duplication;
 - d lack of cross-departmental working; and
 - e poor project management.
- 1.139** Public perception that Guernsey's services do not represent value for money is not necessarily justified. Nevertheless, the lack of performance management arrangements across the States' operations undermines islanders' confidence that those operations are delivering desired outcomes at a reasonable cost. In view of the current pressure on the States' financial resources, this is a significant weakness.



States' deputies do not always use the media in a disciplined manner

- 1.140** Within any democracy the media has an important role to play in challenging the decisions and actions of public officials. In interview, several States' deputies and civil servants stated that in the absence of party politics the media takes on the role of *'the unofficial opposition'*.
- 1.141** During the course of our fieldwork, we were told of numerous examples of members of departmental boards providing informal briefings to the press, sometimes in respect of ongoing sensitive, confidential and even contractual matters. Such behaviour has led to significant relationship issues within the States and unbalanced and uninformed public debate.
- 1.142** We recognise that some States' deputies have felt no option but to raise issues in public. Many States' deputies perceive they have little personal influence to effect change and that there are no effective internal mechanisms to express their views or raise matters of concern.
- 1.143** In this context, it is essential that States' deputies act responsibly and that the States provides clear guidance and protocols for communicating with the media. We acknowledge that in the absence of collective discipline and appropriate sanctions it will be difficult to ensure compliance with this guidance.
- 1.144** Undisciplined use of the media for political debate can be damaging to the States' reputation and can compromise the ability of the States to conduct its business in an objective, timely and responsible manner.

The States of Guernsey lacks appropriate mechanisms to address concerns regarding the conduct of States' deputies and staff

- 1.145** During the course of our fieldwork, concerns were expressed to us regarding what was deemed to be poor behaviour on the part of both States' deputies and civil servants.
- 1.146** Many members of the public expressed the view that poor behaviour is rife within the States. Whilst there are undoubtedly instances of poor and inappropriate conduct, our experience of other organisations suggests that conduct is not worse than elsewhere.
- 1.147** This perception of poor behaviour has been fuelled by substantial media attention relating to a small number of high profile cases, for example disagreements over service provision for wheelchair users and conflict between departments over the issue of housing licences.
- 1.148** The nature of politics in Guernsey often leads to passions running high and can result in misunderstanding, misinterpretation and sometimes words being exchanged unwisely.
- 1.149** Furthermore, the autonomous nature of States' departments gives rise to conflict and a perception of poor behaviour. This was in evidence prior to the new Machinery of Government. The Harwood Report found that *'perhaps the most remarkable feature of the present machinery of government is the near absolute autonomy that each Committee possesses. That autonomy often leads to conflicts between Committees and the perhaps unedifying spectacle of such conflicts being aired in open debate'*.¹⁴

¹⁴ Harwood Panel, *The Machinery of Government in Guernsey* (November 2000), section 1

1.150 The States of Guernsey has recognised the importance of conduct issues and has adopted a Code of Conduct for Members of the States and a Dignity at Work Policy for States' employees.

1.151 However, there is a lack of confidence that arrangements to ensure good standards of conduct are effective. In our surveys, only 52 per cent of States' members and 36 per cent of senior civil servants said that there were always or usually effective arrangements to ensure good standards of conduct of all holders of public office.

1.152 Furthermore, only 41 per cent of States' deputies and 22 per cent of senior civil servants said there were effective arrangements in place to oversee the behaviour of States' members.

1.153 Lack of confidence in mechanisms to address instances of poor behaviour is the consequence of a number of factors. These include:

- a** a lack of clear individual accountabilities as highlighted in this report;
- b** a widespread perception that there is no will to deal with poor conduct;
- c** absence of formal 'whistleblowing' arrangements;
- d** a lack of suitable sanctions when dealing with instances of poor behaviour by States' deputies; and
- e** a piecemeal, departmental approach to dealing with human resource matters.

1.154 The recent appointment of a new Head of Human Resources (HR) and Organisational Development may help address issues around staff behaviour. However, this is dependent upon the central HR function having the authority to apply consistent policies across the States and the ability to investigate and apply appropriate sanctions where policies are breached.



Appendix 1 – Principles of Good Governance – Report references

Principle	Independent Commission for Good Governance in Public Services – Good Governance Standard for Public Services: Principles	Report Paragraph References
1	Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users.	1.1 to 1.18
2	Good governance means performing effectively in clearly defined functions and roles.	1.45 to 1.72
3	Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour.	1.145 to 1.154
4	Good governance means taking informed, transparent decisions and managing risk.	1.73 to 1.111 1.118 to 1.144
5	Good governance means developing the capacity and capability of the governing body to be effective.	1.19 to 1.44 1.56 to 1.57
6	Good governance means engaging stakeholders and making accountability real.	1.112 to 1.117

Appendix 2 – Methodology and fieldwork undertaken

Methodology

The approach employed a combination of activities commonly used as part of audit, inspection and review processes by the Wales Audit Office and other audit and inspection bodies. The activities included: document review; focus groups; structured and semi structured interviews; and quantitative and qualitative information gathered from formal surveys and via open submission. These are detailed in the table below.

The complicated nature of governance is recognised by the Wales Audit Office and requires an approach which collects a wide range of both quantitative and qualitative material which is then subjected to systematic evaluation to ensure evidence leads to the right findings and conclusions. The Issues Analysis Drawing Conclusions (IADC) method used by the Wales Audit Office ensures we ask the right questions, gather the appropriate evidence to answer the questions and arrive at the rigorous and robust conclusions.

Fieldwork undertaken

During the course of this review the following fieldwork was undertaken:

Fieldwork
Focus group with Public Accounts Committee
Three focus groups with States' deputies (30+ attendees)
Four focus groups with operational staff (35 attendees)
Two deputy drop-in sessions (six attendees)
Twenty-five interviews with senior officers, trade unions, business representatives, etc
Survey of deputies/non-States' members (29 respondents 53 per cent response rate)
Survey of senior members of staff (80 respondents 37 per cent response rate)
Public consultation (50 responses)
Documentation review



Appendix 3 – Example departmental mandate

Housing Department

To advise the States on matters relating to:

- 1** The Island's housing strategy and corporate housing programme to meet identified housing needs; and to be responsible for:
 - a** the overall co-ordination and direction of the corporate housing programme;
 - b** specific action areas of the corporate housing programme as lead or joint lead department;
 - c** the provision and management of social housing administered by the States, including administration of State's houses fund;
 - d** facilitating and supporting the development of non-governmental bodies to provide affordable social housing to meet the needs of the intermediate housing market;
 - e** the regulation and funding of housing associations and other non-governmental bodies providing affordable social housing to meet the needs of the intermediate housing market, including administration of the State's housing association fund;
 - f** the administration of the housing development and loans fund to provide financial assistance for house purchase and repair;
 - g** establishing initiatives to improve the affordability and quality of the private rental sector without reducing its size, including administration of the Rent Control Law;
 - h** controls on housing occupation through the administration of the Housing Control and Right to Work Laws; and
 - i** managing Maison Maritaine and Longue Rue House.
- 2** To contribute to the achievement of strategic and corporate objectives, both departmentally and as part of the wider States organisation, by:
 - a** developing and implementing policies and legislation, as approved by the States, for the provision of services in accordance with this mandate; and
 - b** actively supporting and participating in cross-departmental working as part of the Government Business Plan process and ensuring that public resources are used to best advantage, through co-operative and flexible working practices.
- 3** To exercise the powers and duties conferred on it by extant legislation.
- 4** To exercise the powers and duties conferred on it by extant States resolutions, including all those resolutions, or part of resolutions, which relate to matters for the time being within the mandate of the housing department and which conferred functions upon the former:
 - a** Cadastre Committee
 - b** Housing Authority
- 5** To be accountable to the States for the management and safeguarding of public funds and other resources entrusted to the department.

Appendix 4 – Legislation and reports laid before the States of Deliberation

Legislation

Year	Pieces of legislation placed before the States of Deliberation	Pages of legislation	Items withdrawn
2004 (from 6 May 2004)	48	327	1 (26 pages)
2005	47	1,288	0
2006	77	1,012	0
2007	67	1,440	2 (109 pages)
2008	87	2,580	1 (100 pages)
2009 (up to July States' meeting)	38	589	2 (59 pages)
Total	364	7,236	6 (294 pages)

Source: Law Officers Department

Reports

Year	Number of reports brought to the States of Deliberation	Number of reports rejected, postponed (by sursis) or modified to a significant extent	Number of Requête debates carried
From May 2008 to date	82	7	2

Source: HM Greffier

