

House of Commons Justice Committee – Review of relationships between the UK and the Crown Dependencies

Note prepared by the government of Guernsey in advance of 7th September 2021 session

1. Introduction

- 1.1 This document includes information on each of the five topics identified by the Committee for consideration, whilst Annex 1 sets out some general information about the Bailiwick of Guernsey, the government of Guernsey (known as the ‘States of Guernsey’) and Guernsey’s relationship with the UK.

2. Summary

- 2.1 Engagement with the Ministry of Justice¹, and other UK government departments, has become more frequent and detailed in recent times.
- 2.2 The Bailiwick of Guernsey’s constitutional, political and operational relationships with the UK have been put under strain by the UK’s exit from the EU and the Covid-19 pandemic. However, the governments of the Bailiwick of Guernsey (‘the Bailiwick’) and the UK Government have worked closely to address the challenge in a mature way under pressure, leading to overall gains in the management of the relationship.
- 2.3 The government of Guernsey is of the view that there are still areas for improvement in terms of parts of the UK Government recognising, understanding and respecting the constitutional relationship and ensuring there is early and effective engagement in matters of shared interest.
- 2.4 It is important that working relationships established in recent years continue beyond recent challenges and are used to support the development of the constitutional relationship which the Bailiwick has with the UK and other Crown Dependencies² via the Crown. This will ensure stability in the long-term management and development of the constitutional relationship.

3. Working relationship with the Ministry of Justice

- 3.1 There has been more frequent and detailed engagement at Ministerial level between the Guernsey and UK governments during the UK’s withdrawal from the EU, as well as the response to the Covid-19 pandemic, than there has been for many years; this has been welcome. Meetings have taken place in person and, more recently, virtually due to the introduction of travel restrictions in response to the Covid-19 pandemic. Although necessary, there have been some disadvantages in the move to virtual meetings (as it can

¹ The UK Government is responsible for the defence and international relations of the Bailiwick, on behalf of the Crown. The UK Government department with policy responsibility for managing the relationship with the Islands is the Ministry of Justice.

² The Crown Dependencies is a term first used in the UK to describe the Channel Islands and the Isle of Man. The Channel Islands consist of the Bailiwick of Jersey and the Bailiwick of Guernsey. The Bailiwick of Guernsey comprises the jurisdictions of Guernsey, Alderney and Sark.

sometimes be more difficult to convey certain viewpoints, together with the loss of informal discussions 'in the margins'), but also some advantages, as meetings can be held more frequently and more quickly (compared to travel off-island).

- 3.2 There is a good working relationship at official level with the Ministry of Justice, which provides support to the Bailiwick in a diverse range of policy areas, either directly or through supporting engagement with other UK government departments. It is important that the Ministry of Justice encourages other departments to engage effectively with the Bailiwick, ensuring that the constitutional position of the Bailiwick (and the other Islands) is recognised, understood and respected.
- 3.3 The relationship between the Ministry of Justice and the Islands has been explored in several inquiries into the Islands by the Justice Committee and corresponding government responses from the Ministry of Justice^{3, 4, 5, 6}.
- 3.4 The 2010 report noted the Crown Dependencies team within the Ministry of Justice struggled with a lack of resources. Staff resources were increased in readiness for the UK's withdrawal from the EU. These additional resources have since been stood down, although the volume of work being undertaken by the Crown Dependencies team has not proportionally reduced. Fortunately, there are officials with responsibility for liaison with the Islands in a number of key UK government departments that did not exist before the withdrawal from the EU. This development has helped the Bailiwick develop and nurture its own relationships with these departments. Rapid staff turnover within UK government departments can be detrimental to these relationships as it can lead to a loss of knowledge and understanding of the relationships between the Bailiwick and the UK. It is important to ensure that the team within the Ministry of Justice is adequately resourced to carry out the work within its mandate and seeks to keep staff turnover to a minimum.
- 3.5 It has been helpful to establish direct relationships at both official and Ministerial level on wider policy areas that are of interest to the respective governments of the Bailiwick and the UK. Such relationships have been developed with, amongst others, the Department for Health and Social Care (in particular in relation to the Covid-19 response), the Department for International Trade (in relation to trade negotiations), Cabinet Office (particularly during the UK-EU negotiations phase) and DEFRA (on the implementation of the fisheries part of the UK-EU Trade and Cooperation Agreement ('UK-EU TCA')).
- 3.6 In order to further develop these relationships for mutual benefit, it is vital that the UK government ensures that the Bailiwick's three governments are told at an early stage about any intention to change legislation or government policy, or to enter into any international agreements, which may have a direct or indirect effect on the Bailiwick. This gives the Bailiwick the opportunity to consider properly and fully whether any

³ House of Commons Justice Committee, '[Crown Dependencies](#)', Eighth Report of Session 2009-10, March 2010.

⁴ [Government Response to the Justice Select Committee's report: Crown Dependencies](#), November 2010.

⁵ House of Commons Justice Committee, '[Crown Dependencies: developments since 2010](#)', Tenth Report of Session 2013-14, January 2014.

⁶ [Government Response to the Justice Select Committee's Report 'Crown Dependencies: developments since 2010'](#), March 2014.

particular action needs to be taken by one or more of the Bailiwick's jurisdictions. This ensures that effective and meaningful engagement can take place.

4. Future of the constitutional relationship between the UK and the Islands

- 4.1 The constitutional relationship with the UK is maintained through the Crown and is not codified in a single constitutional document.
- 4.2 The Bailiwick of Guernsey is neither part of, nor a former colony of, the UK. The UK parliament does not, in line with long-standing constitutional convention, legislate for the Bailiwick in respect of the Bailiwick's domestic affairs without its consent. The UK has responsibility to represent the Bailiwick's interests when conducting international relations on its behalf, even where the Bailiwick's interests differ from those of the UK⁷. Recent UK governments have taken this responsibility very seriously (extracts of some relevant correspondence are in Annex 2).
- 4.3 Enhancing the Bailiwick's constitutional resilience, including asserting the Bailiwick's constitutional position and the continued development of Guernsey's international identity, has been identified as one of Guernsey's governmental priorities (the States of Guernsey's objectives) in the Government Work Plan, Stages 1 and 2⁸.
- 4.4 The constitutional relationship has been tested in recent years, including in relation to the UK's withdrawal from the EU and the subsequent negotiation of a new relationship, but is fundamentally unaltered. Of course, the context in which the ancient relationship operates is transformed, in particular because of the cessation of Protocol 3⁹.
- 4.5 There have been recent troubling examples of UK Parliamentarians seeking to legislate for the Bailiwick without its consent, including in respect of beneficial ownership¹⁰. Separately, but of similar concern, the UK Government included a Permissive Extent Clause (PEC) within the UK Fisheries Act 2020, even though the request to include a PEC was declined by the Bailiwick. The DEFRA Minister explained that the PEC was included as a provision to be used as a last resort in relation to the implementation of certain limited international obligations, which is a matter of Parliamentary record. However, that PEC is wholly unnecessary and the Bailiwick's concern was that any future attempt to use it without the Bailiwick's consent would be contrary to the historic constitutional

⁷ In 2008, the UK formally recognised, through a signed framework agreement, the appropriateness of Guernsey having greater independence with respect to international relations, particularly where those affairs relate to matters within the domestic competence of the government of Guernsey. (Further information is in Annex 1).

⁸ Government Work Plan – Stage 1, [Billet d'État VI, 2021](#) and [Resolutions](#) of 26th March, 2021; and Government Work Plan – Stage 2, [Billet d'État XV, 2021](#) and [Resolutions](#) of 23rd July, 2021.

⁹ During the period when the UK was a Member of the EU, there was a formal relationship between the Channel Islands and the EU which was governed by Protocol 3 to the UK's Act of Accession to the European Economic Community in 1972 ("Protocol 3"). That relationship, amongst other things, allowed for the Bailiwick to be in the EU customs territory and to benefit from free movement of industrial and agricultural goods. It also required the Bailiwick to treat all natural and legal persons of the EU in the same way and to respect the principle of non-discrimination. For all other matters outside Protocol 3, the Bailiwick was treated as a third country by the EU.

¹⁰ Attempts to require the implementation of public registers of beneficial ownership in the Crown Dependencies were made during the passage of the Sanctions and Anti-Money Laundering Bill in 2018 and the Financial Services (Implementation of Legislation) Bill in 2019.

relationship with the Crown in respect of legislating without consent; and implementation of international obligations is also a domestic matter for the Bailiwick. In any event, corresponding domestic Bailiwick legislation replicating aspects of the UK's Fisheries Act 2020 has now been promulgated.

- 4.6 Guernsey has Letters of Entrustment to negotiate directly with the relevant authorities of sovereign states on certain topics and in certain circumstances, particularly where those affairs relate to matters within the domestic competence of the government of Guernsey. These have been used in relation to tax since 2003, but, in 2020, Guernsey agreed a Social Security Agreement directly with Latvia, the first social security agreement negotiated under entrustment. Guernsey continues to seek opportunities where it would be appropriate to negotiate agreements directly.
- 4.7 Guernsey's Constitutional Investigation Committee ('CIC') was established in January 2014¹¹, following earlier decisions of the States of Deliberation¹², in order to investigate proposals on greater autonomy in relation to legislative processes and international affairs.
- 4.8 Work has progressed to implement the recommendations of the CIC, including in regard to the referral of UK Acts of Parliament and Orders in Council to Guernsey's States of Deliberation¹³. Discussions are also ongoing with the UK Government on a new system which will allow certain items to be granted Royal Assent by the Lieutenant-Governor on island, rather than at Privy Council meetings. This will allow greater flexibility on timing and will better reflect how the constitutional relationship works in practice.
- 4.9 Successive UK governments have noted the concept of the 'British family', and Guernsey considers this to be a useful term that acknowledges the centuries-old links the island has with the Crown. In this respect, Guernsey welcomed the decision of the UK Government in January 2021 to amend Regulations to ensure that from 1st August 2021 students from the Islands will be treated the same as UK students with regard to home fee status at higher education institutions in England (as had previously been the case).
- 4.10 There are areas where further work is needed with the UK Government to ensure fair and equal treatment for all members of the British family. However, recent discussions on matters, such as university fees and access to health care, have been welcomed by Guernsey and, it is hoped, demonstrate a positive commitment from this UK Government to working collaboratively with the Bailiwick as a member of the British family in the future on matters of mutual benefit. This is important as the UK moves away from the former requirements under EU Law, which sometimes saw EU/EEA nationals treated with greater preference than the treatment afforded to the Bailiwick and its residents.

¹¹ [Billet d'État I](#), 29th January 2014 (Article V) and [Resolutions](#) of 30th January, 2014.

¹² [Billet d'État XVIII \(Volume 1\)](#), 25th September 2013 (Article II) and [Resolutions](#) of 26th September, 2013.

¹³ [Billet d'État VI](#) of 2019 and [Resolutions](#) of 28th March, 2019. The [legislation](#) was registered on the Records of the Island of Guernsey on 4th November, 2019.

5. UK's withdrawal from the EU - current situation for the Islands

- 5.1 When the UK withdrew from the EU, the relationship between the Bailiwick and the EU changed¹⁴. Certain elements of the relationship did not change: for example, the Bailiwick was, and still is, a third country to the EU for trade in services (including financial services), data protection and data sharing. Nonetheless, the effects of the UK's withdrawal from the EU remain a key external influence for the Bailiwick. The States of Guernsey decided in March and July 2021¹⁵ that dealing with the continuing implications of the UK's exit from the EU is one of its four key strategic priorities.
- 5.2 The three separate parliaments of the Bailiwick of Guernsey¹⁶ each decided in December 2020¹⁷ to participate in the UK-EU TCA, insofar as the UK-EU TCA applies to the Bailiwick, in particular for fisheries and the trade in goods. The Bailiwick's participation in the UK-EU TCA meets the economic needs of the Islands, replacing as far as possible the previous Protocol 3 relationship; and provides the basis for a stable and predictable relationship on fishing for both the Bailiwick's fishing industry and those in neighbouring regions.
- 5.3 The Lord Chancellor wrote to the government of Guernsey on 24th December 2020, in relation to the Bailiwick's participation in the UK-EU TCA¹⁸. The letter noted that the new trading relationship between the UK and EU "does not alter or affect the constitutional relationships, through the Crown, between the UK and each of the Crown Dependencies". The letter also recognised that "it is for the Governments of the Bailiwick of Guernsey to determine, in consultation with the UK Government as may be appropriate, how the Agreement should be implemented and administratively enforced in the Bailiwick". The Islands' parliaments noted the significance of this letter when they agreed to participate in the UK-EU TCA.
- 5.4 The potential effects of the UK's departure from the EU on the Islands are recognised in two reports published in 2017 and the Government responses^{19, 20, 21, 22}. The importance of the UK Government effectively and satisfactorily representing the Islands' interests, even when those interests are different from the UK's, was highlighted in the conclusions of both those reports and continues to be extremely important.

¹⁴ Further information on Guernsey's relationship with the EU is outlined in written evidence provided to the House of Commons Public Administration and Constitutional Affairs Committee for their inquiry 'The Scrutiny of International Treaties and other international agreements in the 21st century' [not yet published].

¹⁵ Government Work Plan – Stage 1, [Billet d'État VI, 2021](#) and [Resolutions](#) of 26th March, 2021; and Government Work Plan – Stage 2, [Billet d'État XV, 2021](#) and [Resolutions](#) of 23rd July, 2021.

¹⁶ The States of Deliberation (for Guernsey); the States of Alderney and the Chief Pleas of Sark.

¹⁷ The Bailiwick's Participation in the UK-EU Trade and Cooperation Agreement, [Billet d'État XXIX](#), 2020 and [Resolutions](#) of 27th December, 2020.

¹⁸ [Letter from the Lord Chancellor to the Chief Minister of Guernsey](#), 24th December 2020.

¹⁹ House of Commons Justice Committee, '[The implications of Brexit for the Crown Dependencies](#)', March 2017.

²⁰ [Government response to the House of Commons Justice Committee report 'The implications of Brexit for the Crown Dependencies'](#), October 2017.

²¹ House of Lords European Union Committee, '[Brexit: the Crown Dependencies](#)', March 2017.

²² [Government response to the House of Lords European Union Committee report 'Brexit: the Crown Dependencies'](#), October 2017.

- 5.5 Close working relationships between Guernsey and the UK were developed during the course of the UK's withdrawal from the EU, in particular with officials and Ministers from the Cabinet Office and Task Force Europe that were involved in the negotiations. Guernsey appreciated the trust that was developed and information-sharing which enabled the Bailiwick to develop and confirm its position during the negotiations. Some issues were encountered during this period, which could have been avoided by earlier and more effective consultation to ensure that the Bailiwick's position was understood, considered and fully represented. However, close working ensured these issues did not fundamentally affect the final outcome of the negotiations.
- 5.6 Work is ongoing to implement a licensing regime for the Bailiwick's territorial waters under the terms of the UK-EU TCA. An interim regime has been in place since 1st January 2021 to enable French vessels to continue to access Bailiwick waters while discussions continue with the EU to resolve the last remaining technical issues before the new regime can be brought into force. While these issues are shared by the UK and the Islands, they are impacted to differing degrees and each jurisdiction is responsible for its own decisions about management of its own territorial waters.
- 5.7 Discussions are ongoing between Guernsey and the UK Government in respect of local implementation of border measures relating to biosecurity, which are required now the Brexit transition period has ended. The Bailiwick takes its role as a southern border to the Common Travel Area seriously, as well as its wider international obligations. However, the character and circumstances (and sometimes the limitations) of the Bailiwick mean that the same solution adopted in the UK is seldom likely to be the right one for the Bailiwick. A far more effective and proportionate approach is to tailor UK solutions to Island conditions. This can sometimes add an additional layer of complication, but the same can often be overcome by effective working relationships at policy and operational level. It is very important that the UK Government continues to recognise that there may be different ways to achieve the same outcomes, while respecting the constitutional relationship and the nuances of small island communities.
- 5.8 As there have been restrictions on movement into and out of the Bailiwick as a result of the Covid-19 pandemic, it is likely that other issues relating to the UK withdrawal and implementation of the UK-EU TCA may emerge as restrictions continue to ease and more travel and/or trade occurs.

6. Response to Covid-19 pandemic

- 6.1 The Bailiwick values the close working relationship developed with the UK Government throughout the response to the Covid-19 pandemic, at official and Ministerial level. There has been regular engagement between the UK, Guernsey (for the Bailiwick), Jersey and the Isle of Man on matters across all aspects of the Covid-19 response.
- 6.2 The Bailiwick held a pandemic flu table-top exercise in November 2019 to review preparedness for responding to an emergency situation through a simulated exercise and to identify any changes to be made should such an emergency arise in the future. This session was attended by representatives from across the Bailiwick as well as officials from the Ministry of Justice and other UK government departments.

Attendance by UK officials was greatly appreciated by the Bailiwick, as it provided support for the Bailiwick's efforts. The simulated exercise meant that the Bailiwick was better prepared to respond to the Covid-19 pandemic at the start of 2020.

- 6.3 The Bailiwick has had its own response to the Covid-19 pandemic and has been making its own evidence-based decisions throughout this time. The UK Government has respected the Bailiwick's decisions about how to respond to the pandemic, which have taken account of the specific local situation within the Islands. The UK Government has also provided support on evidence and data, the procurement of vaccines and the supply of Personal Protective Equipment ('PPE'). The support provided by the UK Government throughout the pandemic has, and continues to be, hugely appreciated by the Bailiwick.
- 6.4 Following a second lockdown in January 2021, the Bailiwick response has focussed on delivering the vaccination programme, supported by the UK Government, to enable the lifting of restrictions. At the current time, there are no general internal restrictions, but some remain for travellers arriving into the Bailiwick. These are being eased in a measured way as the vaccination programme progresses, which aims to balance the level of risk to public health and welfare with the wider interests of the community.
- 6.5 Various issues have arisen throughout the pandemic that the Bailiwick has raised with the UK Government. At the start of the pandemic, some issues were identified with testing capacity within the UK to process tests from the Bailiwick, as well as conflicting testing policies. Since that time, the Bailiwick has developed its own Covid-19 testing capacity. Access to PPE equipment and vaccines, through the usual NHS supply chains, also caused some difficulties at times during the Bailiwick pandemic response.
- 6.6 Developments in UK Government policy during the pandemic have, on occasion, affected the Bailiwick. Changes to policies relating to travel have an impact on Bailiwick residents travelling within the CTA and beyond due to the majority of available sea and air links being with the UK. One example was the implementation of requirements for international arrivals into the UK to book a travel test package for Covid-19 tests (for use on days 2 and 8) which was applied to Bailiwick residents even when those individuals transited through England and returned to the Bailiwick before the first test would be taken in the UK. Through discussions with the relevant UK government departments, this issue has now been resolved for Bailiwick residents transiting through England for the sole purpose of returning to the Islands²³. It is important that UK government departments continue to engage with the Islands as policies are developed, implemented and amended to ensure that the Islands' interests are taken into account and they do not suffer from any unintended consequences.
- 6.7 It has been critically important for the Bailiwick to maintain travel links into the UK throughout the pandemic given the long-standing relationships between the jurisdictions. For example, this has enabled continued access for Bailiwick residents to

²³ Bailiwick residents arriving from countries on the UK's 'red list' are still required to undertake the relevant mandatory hotel quarantine at the place of arrival in the UK (currently a period of 10 days) and any required tests during that period.

essential specialist medical treatment in the UK, through pre-existing contractual arrangements, where such treatment is not available in the Bailiwick.

- 6.8 The Bailiwick has welcomed the engagement and close working with the UK Government throughout the response to Covid-19 and hopes that these working relationships will continue in the future, as the pandemic response moves from being an emergency phase towards business as usual.

7. Participation in Free Trade Agreements and similar trade arrangements

- 7.1 Guernsey confirmed to the UK Government that the Bailiwick's authorities wish to be involved at the earliest opportunity in discussions about any new Free Trade Agreements (FTAs) negotiated following the UK's exit from the EU.
- 7.2 As stated above, the UK Government has a responsibility to represent the Bailiwick's interests even where the Bailiwick's interests differ from those of the UK. This includes in negotiations on any new FTAs or similar trade arrangements where the Bailiwick may have different interests to the UK.²⁴ It is, therefore, important for the Department for International Trade ('DIT') to understand the Bailiwick's interests and constitutional position and to be able to fully support them in negotiations with new trade partners.
- 7.3 Early consultation and engagement by DIT and all relevant UK government departments on these matters is vital. Regular, meaningful engagement by relevant UK government departments is essential to ensure that all these issues can be discussed, and any issues resolved in good time to enable the Bailiwick to participate in new FTAs or other trade arrangements to the extent that it wishes to be involved.
- 7.4 Guernsey has its own parliamentary and governmental processes to follow when considering whether or not to participate in such agreements. Whilst the Bailiwick authorities will generally act as one when it comes to FTAs and other trade arrangements, there are three jurisdictions involved. Sufficient time enables Guernsey's (and, where applicable, Alderney's and Sark's) government to consider whether provisions of any particular FTA or similar trade arrangement would apply to all or part of the Bailiwick and to take the necessary action to meet any requirements and obligations of an international treaty, including modification or implementation of domestic legislation, regulations or policies.
- 7.5 As the UK negotiates new FTAs with other countries, it is expected that Guernsey/the Bailiwick will seek to be included in the territorial extent for goods by virtue of the customs relationship with the UK post-Brexit, subject to the usual consent processes. Discussions are still ongoing with UK government departments to enable the extension of agreements for areas such as investments, services and intellectual property. These

²⁴ Further information on the role of the Islands in relation to international treaties and arrangements is outlined in written evidence provided to the House of Commons Public Administration and Constitutional Affairs Committee for their inquiry 'The Scrutiny of International Treaties and other international agreements in the 21st century' [not yet published].

elements could be extended at a later date. This baseline level of participation is set out in a report to be considered by Guernsey's parliament in September 2021²⁵.

- 7.6 It is important that the UK and partner countries commit to enabling extension of services chapters of new FTAs to the Bailiwick at the point when the Bailiwick is (if it wishes) ready to take part.
- 7.7 In addition to the consent to be bound by any new FTA, there needs to be consideration as to how termination of the Bailiwick's participation in any FTA can be achieved. This is to maintain the principle that the Islands should only be bound whilst their consent is in place.

Policy & Resources Committee
States of Guernsey (the government of Guernsey)

27th August 2021

²⁵ [The Bailiwick's Participation in UK Free Trade Agreements](#), Policy Letter published 28th June, 2021. The Sark version of the Propositions relating to this Policy Letter were approved by Sark Chief Pleas in July 2021. The Policy Letter (and Alderney version of the Propositions) is due to be considered by the States of Alderney in September 2021.

Annex 1: The Bailiwick of Guernsey

A1.1 The Bailiwick of Guernsey ('the Bailiwick') is made up of the jurisdictions of Guernsey, Alderney and Sark. The Islands are located in the Gulf of St Malo off the north-west coast of France. Although the Islands form part of the British Isles they are not, and never have been, part of the United Kingdom.

A1.2 The Islands have a long history of being self-governing and self-funding. Guernsey has been independent for more than 800 years (since 1204). The Islands are not sovereign states but are dependencies of the British Crown. The Queen is the Head of State for each island, as the latter-day successor to the Duke of Normandy, and the Lieutenant-Governor is Her Majesty's personal representative in the Islands, based in Guernsey.

A1.3 Guernsey is the principal Island of the Bailiwick of Guernsey. It has never been a colony, or a British dependent or Overseas Territory and its status constitutionally is, and always has been, distinctly different from that of the British Overseas Territories. It has its own government, legal system and independent courts of law.

The government of Guernsey

A1.4 Guernsey is not, and never has been, represented in the UK parliament. It has its own directly elected legislative assembly, the States of Deliberation, comprising 38 independent members²⁶, and its own administrative, fiscal and legal systems.

A1.5 The administration of public affairs and exercise of executive authority is undertaken through committees of the States including a senior committee (Policy & Resources Committee) and six Principal Committees. Those committees are each led by a minister²⁷ with four other elected members of the States of Deliberation²⁸. The government of Guernsey is known as the States of Guernsey.

A1.6 Guernsey's right to raise its own taxes is a settled constitutional principle. Guernsey raises its own taxes and pays for its own public services without any funding from any other jurisdiction (including the UK).

Guernsey's international identity

A1.7 The International Identity Framework²⁹ sets out a framework for the further development of Guernsey's international identity and the role of the UK Government in this context, and amongst others included the following statements:

²⁶ Plus two representatives from Alderney's parliament, the States of Alderney.

²⁷ Domestically, they are known as the 'President' of their Committee. The President of the Policy & Resources Committee is in effect the Chief Minister of the Island.

²⁸ The six Principal Committees may also each have up to two non-voting members who shall not be members of the States.

²⁹ [Framework for developing the international identity of Guernsey](#) (sometimes referred to as international identity framework).

- The UK will not act internationally on Guernsey's behalf without prior consultation.
- Guernsey has an international identity which is different from that of the UK.
- The UK has a role to play in assisting the development of Guernsey's international identity. The role is one of support not interference.
- The UK will clearly identify its priorities for delivery of its international obligations and agreements so that these are understood, and can be taken into account, by Guernsey in developing its own position.
- The UK when acting in the international arena should, so far as practicable and appropriate, have regard to Guernsey's international relations, policies and responsibilities.

A1.8 At the time that international identity framework was signed with Guernsey, the UK also signed similar agreements with Jersey and the Isle of Man.

Annex 2: Guernsey's international identity – recent correspondence from the UK Government

- A2.1 Successive governments have taken seriously the UK's responsibility to represent the Bailiwick's interests, which exists even where the Bailiwick's interests differ from those of the UK; and have recognised the importance of the Bailiwick's constitutional relationship with the UK, through the Crown, and of the Bailiwick's domestic autonomy. In a letter dated 9th May 2019, the then Prime Minister the Rt Hon Theresa May MP said: "This Government has defended strongly the longstanding constitutional convention that Parliament does not legislate for the Crown Dependencies on their domestic matters without their consent, save in exceptional circumstances and as a last resort. As I noted in my letter to you of 22nd October 2018, the longstanding constitutional relationships between the UK and the Crown Dependencies will not change as a result of the UK's decision to leave the EU."³⁰
- A2.2 This position was reaffirmed by the Prime Minister the Rt Hon Boris Johnson MP, in a letter, dated 9th September 2019, which said: "the UK Government appreciates the special relationship that the UK has with the Crown Dependencies. This is a deep historical relationship in which we work collaboratively together on matters of mutual interest, and where the UK Government does not intervene in the Crown Dependencies' domestic affairs without consent other than in very limited circumstances and as a matter of last resort...I am keen to further strengthen this relationship after the UK has left the European Union, when the UK Government will be negotiating its own free trade agreements on behalf of the entire British family, including the Islands. The UK Government will continue to engage the Crown Dependencies Governments throughout this process as we seek a future relationship with the EU that works for the entire British family."³¹
- A2.3 The Lord Chancellor, in a letter to the Chief Minister of Guernsey dated 24th December 2020, said "As a Crown Dependency, Guernsey is self-governing in respect of its domestic affairs, including in relation to its territorial sea. The UK is responsible for the defence and international relations of the Crown Dependencies. The UK recognises and respect Guernsey's excellent track record of meeting its international obligations through its own domestic policies and legislation"³². In that letter the Lord Chancellor also confirmed the UK Government's support for Guernsey's approach to seeking further Letters of Entrustment: "The UK Government continues to support Guernsey and the other Crown Dependencies seeking Letters of Entrustment in additional policy areas, where appropriate, recognising as it does the value to the Crown Dependencies of representing their own interests on the international stage". Guernsey also received a letter from the Paymaster General, on 12th March, 2020 which confirmed the UK's commitment to respecting the constitutional relationship between the Bailiwick and the

³⁰ [Letters between Deputy Gavin St Pier and the UK Prime Minister April-May 2019.](#)

³¹ [Letter from the Prime Minister to the Chief Minister of Guernsey](#), 9th September 2019.

³² [Letter from the Lord Chancellor to the Chief Minister of Guernsey](#), Guernsey's participation in the agreement between the UK and the EU, 24th December 2020.

UK, through the Crown: “As we emphasised in the UK Public Mandate³³, the UK remains unchanged in its commitment to seek outcomes which support your security and economic interests and also reflect your unique characteristics.”³⁴

³³ The UK published “[The Future Relationship with the EU – the UK’s Approach to Negotiations](#)” on 27th February, 2020. Paragraph 11 states “The Government will act in these negotiations on behalf of all the territories for whose international relations the UK is responsible. In negotiating the future relationship between these territories and the EU, the UK Government will seek outcomes which support the territories’ security and economic interests and which reflect their unique characteristics.”

³⁴ As in The Bailiwick’s Participation in the UK-EU Trade and Cooperation Agreement, [Billet d’État XXIX](#), 2020, page 59.