Corporate Finance – Government and Infrastructure

States of Jersey Owned Utilities Governance Review

Key Findings Report

10 June 2010

Strictly private and confidential

This Key Findings Report has been prepared on the basis of the limitations set out in the Governance Review Scope and Approach on pages 15 and 16 and the matters noted in the Important Notice over the page.

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This document, which has been prepared by Deloitte has been prepared for the sole purpose of providing a discussion document to the Client on the progress of our work in relation to the States' governance and ownership arrangements of the States' owned Utilities.

The information contained in this document has been compiled by Deloitte from information provided by the States and discussions with members of the Boards of the Utilities: Jersey Post International Limited, JT Group Limited, The Jersey New Waterworks Company Limited and The Jersey Electricity Company Limited. This document also contains confidential material proprietary to Deloitte.

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Executive summary

Overview

- The States of Jersey (the "States") is the *sole* shareholder of Jersey Post International Limited ("Jersey Post") and JT Group Limited ("Jersey Telecom") and it is the *majority* shareholder of Jersey New Waterworks Company Limited ("Jersey Water") and The Jersey Electricity Company Limited ("Jersey Electricity") (collectively, the "Utilities"). Jersey Electricity is listed on the London Stock Exchange.
- States of Jersey Investments Limited ("SJIL") holds the majority of the shares in Jersey Telecom and Jersey Post as a nominee for the Treasury and Resources Minister (the "Minister"), whilst the remaining shares are held by individual States' employees with nominee agreements in place, holding them on behalf of the States and the Minister. Shares in Jersey Electricity and Jersey Water are held directly by the Minister.
- The Minister, supported by staff within the Treasury and Resources Department ("the Treasury"), fulfils the shareholder role for the four Utilities. For the purposes of this report, the Treasury is referred to throughout as performing the shareholder function in respect of the Utilities, on behalf of the States.

Approach and methodology

- The Minister is seeking to implement a 'best practice' shareholder model which will enable the Treasury to exercise proper oversight over the States' investments in the four Utilities. Deloitte has been appointed to provide advice in respect of an appropriate shareholder model in the context of Jersey.
- A fundamental principle of good governance is that there should be a clear demarcation of roles and responsibilities whereby:
  - The Boards of the Utilities are responsible and accountable for managing the operations and delivering the strategy, consistent with the shareholders' objectives; and
  - The Treasury is responsible for shareholder governance and oversight over the Boards.
- The effectiveness of the shareholder governance arrangements, irrespective of the specific shareholder model adopted, relies on the Treasury being empowered with *'shareholder levers'*. These would enable the Treasury to engage effectively with the Boards of the Utilities as an active and intelligent shareholder, holding the Boards and management teams to account for delivery of the shareholder's objectives.
- This report identifies the shareholder levers which are appropriate in the context of Jersey based on:
  - A review of the existing governance arrangements through:
    - Discussions with the Minister and the principal Treasury staff responsible for the shareholder governance arrangements;
    - A review of the existing governance documentation – Articles of Association and Memoranda of Understanding ("MOUs"); and
    - Meetings with members of the Boards of each Utility: Chairman, Chief Executive, Finance Director and a Non-Executive Director ("NED"); and
  - Drawing on global best practice in respect of corporate governance, notably the Organisation for Economic Co-operation and Development ("OECD") Guidelines and the experience of exemplar shareholder arrangements in other jurisdictions, including the UK.
- Having identified which shareholder levers are required by the Treasury, it is important to establish a functional model which provides the shareholder with a formal structure through which it can exercises the levers in the context of Jersey. In recommending a preferred model, consideration has been given to the likely resource requirement and the steps to implementation.

Executive summary

Shareholder levers

To successfully fulfil its shareholder function, it is important that the Treasury has the appropriate governance levers, whilst avoiding the risk of usurping the role of the Boards or becoming involved in the management of the Utilities. Recognising the specific context of Jersey and in line with best practice, the following shareholder governance levers are relevant:

1) Ensure adherence to the UK Corporate Governance Code: all four Utilities

– The Boards should adopt the governance standard for UK listed companies, the UK Corporate Governance Code (formerly the Combined Code on Corporate Governance). The Treasury should consider and challenge any non-compliance with the Code through active dialogue with the Utilities.

2) Participation in the appointment of the Chairman and oversight of the composition of the Board

– The Chairman's role is fundamental in setting each Utility's direction and strategy. The Treasury, should have a role in the appointment of the Chairman and in overseeing the composition of the Board, in particular, its size and the skills and experience of the Directors.

Jersey Telecom and Jersey Post: 100% owned by the Treasury

– The Treasury should be consulted by the Utilities on the proposed shortlist and the preferred candidate for Chairman, to ensure that the Minister and the Board are in agreement, *in advance* of the Chairman's appointment.

– The Treasury and the Chairman should agree the composition of the Board of Directors. The Utilities should consult with the Treasury *prior* to appointing the Chief Executive and any other new Directors to the Board and it would be appropriate for the incoming Chairman, Chief Executive, Finance Director and Non-Executive Directors to meet the Treasury before taking up their appointments, to discuss the shareholder's objectives for the Utilities.

Jersey Water and Jersey Electricity: the Treasury is the majority but not 100% shareholder

– The Utilities should consult with the Treasury during the Chairman's appointment process to ensure that the Minister is in agreement with the Board on the preferred candidate, in *advance* of the appointment being formalised.

– The Chairman should consult with the Treasury to ensure the shareholder's views on the composition of the Board are considered. It would be appropriate for the incoming Chairman, Chief Executive and Senior Independent Non-Executive Director to meet the Treasury on being appointed.

3) Participation in setting objectives and agreement of strategy

– One of the key shareholder levers is the participation by the Treasury in setting the objectives and agreeing the strategy of each of the Utilities. The degree of involvement by the Treasury is dependent upon the States' shareholding in each Utility.

Jersey Telecom and Jersey Post: 100% owned by the Treasury

– The Treasury, with the Boards, should set and agree the overall objectives for the Utilities on an annual basis. The shareholder's objectives should be prioritised and potential conflicts (such as social provision requirements and profit maximisation) should be identified and clarified. Examples of social policy objectives which the Utilities have identified as potentially being in conflict with their ability to maximise shareholder value and where they would benefit from clarification, are provided as an appendix to this report.

Executive summary

Shareholder levers *(continued)*

- In advance of the Annual Business Plan and longer term Strategic Plan being drafted, the Treasury should meet with each Utility to discuss and agree the Board's proposed strategy. Thereafter, the Utilities should be responsible for developing and delivering the Plans, subject to review and formal approval by the Treasury.
- The Strategic Plan should set out clearly defined key performance indicators ("KPIs") against which performance can be measured.

Jersey Water and Jersey Electricity: the Treasury is the majority but not 100% shareholder

- The Treasury should engage with Jersey Water and Jersey Electricity to communicate its objectives as shareholder and to understand and challenge the strategies of those Utilities, to the extent they are inconsistent with the Treasury's objectives.
- In accordance with best practice, the Boards would be expected to ensure equal access to corporate information for all shareholders. In addition, Jersey Electricity must avoid any breach of the UK Listing Rules.
- Jersey Water and Jersey Electricity set the tariffs charged to customers. Unlike Jersey Telecom and Jersey Post, these Utilities do not operate under license agreements awarded by the Jersey Competition Regulatory Authority ("JCRA") and the JCRA does not regulate their prices. The Treasury currently performs a dual role of owner and quasi-regulator of those Utilities in the event the prices are challenged. These functions should be clearly de-lineated within the Treasury. The Treasury's ability to determine the Utilities' pricing and tariff arrangements are not shareholder levers.
- Arguably, this dual role of shareholder and quasi-regulator could create conflict within the Treasury and consideration should be given to how this could be resolved.

4) Performance monitoring and intervention

- Good shareholder governance requires the Treasury to monitor the performance of each of the Utilities and intervene to challenge any underperformance. In extremis, where the Treasury is dissatisfied with performance and has lost confidence in the Board's response, this could lead to the shareholder seeking to replace the Chairman or Chief Executive.

Jersey Telecom and Jersey Post: 100% owned by the Treasury

- The Treasury should meet quarterly with the Utilities to review financial performance against their Strategic and Annual Business Plans, holding the Board to account for delivery and meeting the shareholder's objectives.
- In so doing, the Utilities and the Treasury should agree the information to be provided to the shareholder. The shareholder should focus on reviewing the Utilities' performance at a strategic level, based on agreed KPIs and should not usurp the role of the Boards or the Executive teams.

Jersey Water and Jersey Electricity: the Treasury is the majority but not 100% shareholder

- Performance monitoring of these Utilities should be based around quarterly meetings to discuss emerging strategic issues and reported financial performance against earnings guidance. In assessing the performance of Jersey Electricity and Jersey Water, the Treasury should develop and agree appropriate KPIs and benchmark performance measures with the Utilities.

Executive summary

Shareholder levers *(continued)*

5) Consultation on remuneration of the Executive Directors: all four Utilities

- To deliver shareholder value, it is essential that the objectives of the management team are aligned with those of the shareholder. In the context of the States' shareholdings in the Utilities, this is best done by aligning the delivery of the shareholder's objectives with the Directors' remuneration and incentivisation arrangements.
- Whilst the shareholder does not have the power to reject the proposed remuneration packages, on a shareholder vote (the vote being non-binding on the Utilities), the Treasury could make clear its displeasure in the event that a remuneration package was put in place that was outside industry norms or did not properly align the shareholder's and the management team's objectives. Accordingly:
  - The Remuneration Committee of each Utility should consult with the Treasury on their remuneration strategies.
  - The remuneration packages should be clearly linked to delivery of the Strategic Plan and the shareholder's objectives, based on clearly defined KPIs.
  - The Treasury should be consulted on the remuneration packages *prior* to formal Board approval, to ensure the shareholder's views are considered.

6) Consultation in determining an appropriate capital structure and dividend policy: all four Utilities

- Ensuring an appropriate capital structure is a means by which a company delivers shareholder value. Surplus capital which is not required for reinvestment in the business, should be returned to shareholders by way of a share buy-back or dividend.
- The shareholder has a role to play in ensuring that the Utilities adopt an appropriate capital structure, notably in comparison to their peer groups.
- The Treasury should participate in discussions with the Utilities, challenging the Boards to demonstrate that their capital structure (level of financial leverage) is optimal, based on appropriate industry comparators.
- The Treasury should also engage with the Utilities on their annual dividend policies, challenging them to increase the payout where capital is not required for reinvestment in the business, making use of industry benchmarks, as appropriate, to support the debate with the Utilities.

7) Approval of major transactions: all four Utilities

- As owners of a business, shareholders have a role to play in approving major transactions, as it is their capital which is being invested. Accordingly, an important shareholder lever is the requirement for companies to seek shareholder approval for major transactions and those outside the normal course of business.
- The Treasury should approve any significant transactions or transactions outside the ordinary course of business, either as part of its approval of the annual Strategic Plan or by a separate business case for any additional investment opportunities identified during the year.
- In relation to Jersey Electricity, the shareholder approval threshold is set out in the UK Listing Rules, whilst in relation to the other Utilities the approval threshold should be set out in the MOU between the shareholder and the Utilities.
- Proposed investments should demonstrate delivery of shareholder value, identifying the level of investment risk and that the return on capital is appropriate.

Executive summary

Potential shareholder models

- Having identified the appropriate rights, powers and shareholder levers, consideration should be given to which model or organisational structure best enables the Treasury to exercise its levers.
- Cognisant of the Treasury's shareholder governance objectives and drawing on international exemplar shareholder arrangements for state owned entities, three shareholder governance models have been identified which have the potential to enable the Treasury to exercise its shareholder levers:
  - **Nominated Non-Executive Director**: an individual would be nominated by the Minister to serve on the Boards of each of the four Utilities as an independent Non-Executive Director;
  - **Board of Boards**: the Minister would appoint individuals to sit on a 'Supervisory Board' which would undertake some of the key shareholder functions on behalf of the Treasury; and
  - **Enhanced engagement with a dedicated resource within the Treasury**: the resource within the Treasury which currently performs the shareholder role would be developed and enhanced to enable it to engage better with the Utilities as an effective, intelligent shareholder.
- The characteristics of the three models are outlined further within the *Recommended shareholder model* section of this report, together with detailed analysis of the relative merits and drawbacks of each model, focused on their ability to enable the Treasury to exercise its shareholder levers. The key conclusions of the analysis are set out below.
- **Nominated Non-Executive Director**
  - The appointment by the Treasury of a Nominated NED could provide benefits in ensuring that the Boards of the Utilities function properly, but this would be to the extent that they do not already do so. The model would not provide a basis for the Treasury to improve its existing shareholder governance arrangements, merely the Board governance.
  - A Nominated NED would arguably not provide any additional benefit to the Treasury than the current arrangements. A Nominated NED could not report or be accountable to the Minister. The appointee's fiduciary duties as a Director would prevent a nominated NED from promoting the Treasury's views if not believed to be in the best interests of the Utility.
  - A Nominated NED has the potential to undermine and duplicate the role and responsibilities of the Chairmen of the Utilities who meet regularly with the Minister to discuss the Utilities' strategic issues and obtain the Treasury's views.
  - As a member of the Boards of the Utilities, the Nominated NED is unlikely to provide the same degree of independent challenge to the Utilities as could typically be provided by an "outsider" such as the shareholder or equity analysts.
  - The Treasury could not delegate its shareholder governance responsibility to a Nominated NED. Under this model, the Treasury would continue to be reliant on the Boards of the Utilities and the governance they exercise, to manage the businesses in the shareholder's interests to keep it abreast of issues as they arise. To fulfil its shareholder role, the Treasury would still need to enhance its existing resource and expertise to enable the Minister to have informed discussions with the Chairman and the Nominated NED, particularly in respect of strategy and financial performance.

Executive summary

- **Board of Boards**

A Board of Boards would act as a Ministerial Advisory Board, accountable to the Minister. Such a model would be capable of delivering some but not all of the Treasury's requirements as shareholder:

– The Minister would be reliant on the Board of Boards in the same way it is currently reliant on the Boards of the Utilities. The Treasury could not delegate its responsibility to perform the shareholder role to the Board of Boards.

– To be effective and add value, the calibre of the appointees to the Board of Boards would have to be greater than the individual Boards of the Utilities. This is likely to have a high associated cost.

– There is a risk that the Board of Boards is perceived to blur the accountability of the Boards of the Utilities, undermining the role and responsibilities of the individual Boards and in particular the role of the Chairmen of the Utilities. This could lead to the existing Directors resigning or becoming de-motivated and abdicating responsibility to a 'higher authority.'

– To enable the Board of Boards model to work effectively, the Treasury would need to engage in regular dialogue with the Board of Boards. It would need to exercise governance over the Board of Boards to ensure it was operating effectively and remained accountable to the Minister. This would require the Treasury to enhance its existing resource with the appropriate skills and expertise and could result in the duplication of the shareholder's role and additional cost.

- **Enhanced engagement with a dedicated resource within the Treasury**

Establishing a dedicated, professional capability within the Treasury with experience of managing investments would enhance the current level of engagement between the shareholder and the Boards of the Utilities and would meet the Treasury's requirements of:

– Implementing a formal and transparent framework for the Treasury's engagement with the Utilities, with a clear demarcation of respective roles and responsibilities;

– Retaining the accountability and independence of the Boards of the Utilities, ensuring the role of the Chairman is not undermined;

– Enabling the Treasury to be an active and intelligent shareholder, able to effectively exercise its governance levers to hold the Boards of the Utilities to account for the delivery of the Strategic Plan and the shareholder's objectives; and

– Establishing a shareholder function which creates a "buffer" between the Boards of the Utilities and the Minister, distancing the Minister from direct decision-making and reducing the risk of political interference in the day-to-day management of the Utilities.

This model does not have the drawbacks of the other two models.

It is also noteworthy that this is the model preferred by most of the Utilities, albeit they expressed concern that in enhancing the capability of its shareholder function, the Treasury should ensure that it did not seek to involve itself in the management of the Utilities' operations.

Executive summary

Conclusion – the preferred shareholder model

- Establishing a dedicated, professional capability within the Treasury is the model which would deliver the optimal shareholder governance arrangements in the context of Jersey.
- The Nominated NED and the Board of Boards models have inherent limitations in the context of Jersey. Both models would still require the Treasury to enhance its existing shareholder resource to be capable of engaging with the Nominated NED or exercising governance over the Board of Boards respectively. Otherwise there would be risk of the challenge that the Treasury had delegated its shareholder governance arrangements to the Boards.
- In establishing an enhanced shareholder function within Treasury, it should be recognised that the effectiveness of these governance arrangements would be dependent on the Treasury assembling a dedicated resource with the appropriate skills, experience and commercial expertise to be capable of performing the shareholder function and commanding the respect of both the Minister and the Boards of the Utilities.
- Although the cost of the shareholder function would be borne by the Treasury, it would be appropriate for the Treasury to consider the options available for the funding of the shareholder function, including the ability to recover the cost by levying a charge on the Utilities. In the cases of Jersey Water and Jersey Electricity, where the States is not the sole shareholder, the minority shareholders may oppose such a levy if they viewed it as being an additional dividend payable to the States. This is less likely to occur where the minority shareholders are inactive and recognise the benefit to them of the Treasury's enhanced shareholder function.

Implementation of the preferred shareholder model: Enhanced engagement with dedicated resource within the Treasury

A detailed assessment of the resource requirement and the steps to be taken to establish the enhanced shareholder function are provided in the *Implementation of the preferred model* section of this report. The key recommendations are summarised below.

Resource requirement

Enhanced engagement by the Treasury to fulfil the shareholder role would have a resource requirement comprising:

- **Senior individual – initially, near full time**
  - The individual must be capable of commanding the respect of the Minister, the Boards and the Regulator.
  - To be effective, the individual should be empowered to make decisions in relation to the States' holdings in the Utilities, referring to the Minister where appropriate.
  - This individual would require a financial and commercial background, with experience of working in the private sector and managing investments.
  - The time commitment is estimated to be four or five days per week, although once the function is established, the role may reduce to part time of one to two days per week.
- **Supporting resource – full time**
  - The senior individual would require access to a dedicated resource to support him/her, comprising either in-house staff within the Treasury, external advisers or a secondee to the Treasury.
  - The expected time requirement is likely to be full time.

Executive summary

Implementation of the preferred shareholder model: Enhanced engagement with dedicated resource within the Treasury *(continued)*

Cost of resource requirement

- Based on the cost of comparable resource within the Shareholder Executive in the UK, the combined direct salary costs of the enhanced resource is estimated to be in the region of £200,000 to £250,000 per annum. Depending on the level of activity of the Utilities, such as diversification into new products or markets, the shareholder function would expect to be supported by external advisers on an ad hoc basis. The budget requirement for advisers' fees is likely to be similarly in the region of £60,000 to £120,000 per annum (equivalent to £15,000 to £30,000 for each Utility).
- The cost of external advisers may be higher in the early stages of implementing the enhanced shareholder arrangements as the shareholder develops a deeper understanding of each Utility and establishes a core base of data and supporting analysis. The cost is likely to vary by Utility, depending on the Treasury's existing relationship with the Utility, the complexity of each Utility and their current performance.

Steps to implementation

- The key steps required to establish an enhanced shareholder function within the Treasury comprise:
  - Agreement of the mission, remit, accountability and budget of the shareholder function;
  - Appointment of the shareholder function: development of role descriptions, candidate interviews;
  - Consultation with the Chairmen and Boards of the Utilities: ensuring the Boards' support for the enhanced shareholder arrangements;
  - Drafting of the formal framework for engagement: MOU/ Principles of Ownership;
  - Agreement of the timing of meetings and annual information requirements;
  - Implementation of an appraisal process for the shareholder function.
- The effectiveness of the enhanced shareholder function relies on the Boards of the Utilities being appropriately constituted and effective. In the first six months of the new arrangements, the Minister, with the shareholder function, should review and discuss with each of the Chairmen of the Utilities, the strength of the current Board, its composition and its operating effectiveness. Any required enhancements or revisions should be agreed and implemented.

Context

Background

- The States is the sole shareholder in Jersey Post and Jersey Telecom and it is the majority shareholder in Jersey Water and Jersey Electricity. Jersey Electricity is listed on the London Stock Exchange. The Utilities provide services which are essential to life on the Island and its economy.
- States of Jersey Investments Limited ("SJIL") holds the majority of the shares in Jersey Telecom and Jersey Post as a nominee for the Minister, whilst the remaining shares are held by individual States' employees with nominee agreements in place, holding them on behalf of the States and the Minister. Shares in Jersey Electricity and Jersey Water are held directly by the Minister. Whether the States' shareholdings in the Utilities are held by SJIL or the Minister should not affect the shareholder governance arrangements.
- The Minister, supported by staff within the Treasury, is fulfilling the shareholder role for all four of the Utilities. For the purposes of this report, the Treasury is referred to throughout as performing the shareholder function in respect of the Utilities, on behalf of the States.

Treasury's shareholder governance role

- The Minister, Senator Philip Ozouf, stated in his election speech that he wanted to challenge the four Utilities to deliver "better financial and non-financial returns for Islanders" and to see "a better system of accountability and transparency."
- In November 2008, Mr Christopher Swinson, Comptroller and Auditor General, published a report entitled: "States Owned Companies - Accountability" in which he commented on the level of accountability and rights and interests of the States as the major shareholder.
- The Treasury is seeking to implement a best practice shareholder model which will enable it to exercise appropriate oversight over its investments in the four Utilities and to ensure that the objectives of the shareholder and the Board are aligned.
- The Treasury's objective of greater accountability is an integral aspect of good shareholder management. It forms the basis of the Treasury's wider objective to establish a clear ownership model and governance framework for the Utilities. Fundamental to this model is the responsibility and accountability of the Boards of the Utilities for the management and financial performance of the companies and for the delivery of the key services upon which Islanders are reliant.

Context

The Treasury's shareholdings in the Utilities

- The distinction between the Treasury being the majority rather than sole shareholder in two of the Utilities is important and has implications for the means by which the Treasury is able to exercise governance over the Boards of the Utilities. International best practice under the OECD Guidelines of Corporate Governance of State Owned Enterprises has as a fundamental principle that the state and state owned enterprises should recognise the rights of all shareholders and ensure equitable treatment.

Jersey Telecom and Jersey Post

- The Treasury holds 100% of the share capital of Jersey Telecom and Jersey Post and as the sole owner, the Treasury does not have to consider other shareholders in establishing an appropriate framework for exercising governance over the Boards of these Utilities.

Jersey Water

- The States holds 50% of the ordinary shares and 100% of the 'A' ordinary shares. The voting rights attached to the 'A' ordinary shares, whilst in the ownership of the States, are such that they represent twice the votes cast in respect of all other shares, both the ordinary and preference shares. The States effectively controls 83% of the voting rights. The remaining shares in Jersey Water are owned by the Jersey Water Employee Share Scheme, other individuals and companies.
- This shareholding structure means that the Treasury is not able to exercise the same governance arrangements as it can in the case of Jersey Telecom and Jersey Post.
- The governance framework needs to recognise that the States is the majority but not the sole shareholder of Jersey Water and that the Treasury and Jersey Water should ensure equitable treatment and equal access to corporate information for all shareholders.

Jersey Electricity

- The States holds all of the ordinary shares of Jersey Electricity which represents 62% of the equity capital. The remaining 38% of the equity share capital, 'A' ordinary shares, is listed on the London Stock Exchange. The largest shareholder after the States is Utilico Limited ("Utilico") which owns 52.5% of the 'A' ordinary shares, representing 20% of the equity share capital in Jersey Electricity.
- As Jersey Electricity is a listed company, the Treasury's governance framework, alongside recognising the rights of minority shareholders, needs to be cognisant of the UK Listing Rules.

Governance review scope and approach

Scope of work

Deloitte's scope of work is set out in the Project Initiation Document ("PID") dated 4 February 2010 (the "Contract"). Deloitte has been appointed by the States to:

- Review the existing governance arrangements in respect of the States' shareholdings in the Utilities;
- Provide an overview summary of relevant exemplar shareholder models;
- Provide advice in respect of appropriate shareholder models in the context of Jersey, to meet the specific objectives and requirements of the States;
- Consider the resources required to deliver the preferred shareholder model; and
- Provide a high level overview of the steps required to implement the preferred model.

In considering the appropriate shareholder model, this review also considers the scalability of the model to enable it to be applied to other States' owned enterprises, as required, for example the States' shareholding in the proposed States of Jersey Development Company Limited. The review does not consider the Waterfront Enterprise Board ("WEB") which was created purely for the purpose of developing the Waterfront and differs from the other States' owned companies, which provide commercial services beyond the day to day control of the States. The governance arrangements being considered as part of this review may also be relevant to the operation of the States' Trading Departments, however, these are outside the scope of this review.

Approach and methodology

- A fundamental principle of good shareholder governance is that there should be a clear separation of roles and responsibilities whereby:
  - The Boards of the Utilities are responsible and accountable for managing the operations and delivering the strategy, consistent with the shareholders' objectives; and
  - The Treasury is responsible for exercising shareholder governance and oversight over the Boards.
- The effectiveness of the shareholder governance arrangements, irrespective of the specific shareholder model adopted, relies on the Treasury being empowered with '*shareholder levers'*. These would enable the Treasury to engage effectively with the Boards of the Utilities as an active and intelligent shareholder, holding the Boards and management teams to account for delivery of the shareholder's objectives.
- This report identifies the shareholder levers which are appropriate in the context of Jersey based on:
  - A review of the existing shareholder governance arrangements through:
    - Discussions with the Minister and the principal Treasury staff responsible for the shareholder governance arrangements: the Treasurer, the Deputy Treasurer and the Strategic Investment Manager;
    - A review of the governance documentation currently in place between the shareholder and the Utilities, including Articles of Association and the existing MOUs with Jersey Telecom and Jersey Post; and
    - Meetings with members of the Boards of each Utility: Chairman, Chief Executive, Finance Director and a Non-Executive Director; and
  - Drawing on global best practice in respect of corporate governance, notably the OECD Guidelines and the experience of exemplar shareholder arrangements in other jurisdictions, including the UK.

Governance review scope and approach

Approach and methodology *(continued)*

- Having identified the appropriate shareholder levers, it is important to establish a functional model which provides the Treasury with a formal structure through which it can exercise the shareholder levers. This report considers the merits of alternative shareholder models and concludes on which would be most appropriate and effective in the context of Jersey.
- In our discussions, we have considered the likely resource requirements and the steps which the Treasury would be required to take in order to implement a preferred model.
- This document provides a summary of our conclusions and recommendations. A full list of the interviewees is provided as an appendix to this document.
- We have not reviewed the Strategic or Business Plans of the Utilities.
- We have not reviewed the current Board governance arrangements within the Utilities, relying on the commentary in the annual report and accounts as to the compliance of the Utilities with the UK Corporate Governance Code, the UK standard for listed companies.

Challenges of the States' ownership

The Treasury faces a number of inherent challenges in fulfilling its role as shareholder, particularly in supporting the States' broader policy objectives:

- **Balancing shareholder and policy objectives**
  - As both shareholder and policy-maker, the States' objectives for the Utilities are complex. Balancing an objective of maximising shareholder value with the States' wider socio-economic priorities can lead to potentially conflicting requirements. Examples of the social policy objectives which the Utilities have identified to us as potentially being in conflict with their ability to maximise shareholder value are provided as an appendix to this report.
  - To fulfil the shareholder role, the Treasury must be able to prioritise the States' competing objectives and clearly articulate them to the Boards of the Utilities, holding the Boards to account for the delivery of those objectives.
- **JCRA does not regulate prices set by Jersey Water and Jersey Electricity**
  - Jersey Water and Jersey Electricity set the tariffs charged to customers for their services and the JCRA does not regulate the prices. In the absence of an independent body, the Treasury performs a dual role of owner and quasi-regulator of those Utilities in the event the tariffs are subject to challenge. This responsibility is not a shareholder lever and the Treasury must manage the potential conflict between its regulatory function and its shareholder role.
- **Pressure for Ministerial intervention in operational matters**
  - There is a risk that the Minister, in fulfilling the role of shareholder, is perceived to be personally responsible for the performance of the Utilities. The essential nature of the services which the Utilities provide to the Island, creates a socio-economic presumption that the Utilities will provide the Islanders with a high quality of service at reasonable prices. This creates pressure for the Minister to intervene to temper the commercial drivers within the businesses.
  - The political structure in Jersey is not based on "party politics." Members of the States can raise opposition to commercial decisions taken by the Utilities, such as raising prices or reducing headcount, even if these decisions are in the commercial interests of the Utilities.
- **Fulfilling the shareholder role: not a core function of the Treasury**
  - Performing the role of the shareholder of commercial enterprises is not a core function of the Treasury. To fulfil its responsibility to be an effective, intelligent shareholder and exercise an appropriate level of governance, the Treasury needs to assemble the appropriate skills and resource, not necessarily found within government.
  - In the absence of an active shareholder function within the Treasury, the Minister risks being reliant on the Boards of the Utilities and the governance they exercise, to act in the interests of the shareholder and to inform the shareholder of issues as they arise.
- **Perception of support for a failing operation**
  - The pressure and responsibility of the Boards, regulators and other stakeholders of state owned enterprises to deliver appropriate strategies and long term shareholder value is likely to be less keenly felt than by their counterparts operating in the private sector. There being an expectation that a government would support its enterprises in the event of business failure. In extremis, this could result in a Board prioritising a more high risk strategy than may otherwise be the case.

Challenges of the States' ownership

- **The States' long-term ownership of the Utilities**
  - Whilst in principle, the States has the option to sell its shareholdings in the Utilities, it has no current plans to do so. The expectation that the States will retain its investments over the longer term has the potential to reduce the pressure and discipline of the Boards and management teams of the Utilities to generate long term shareholder value, compared to listed companies.
- **The States' fiscal position**
  - The States' fiscal position, such as its need for near term cash generation through dividend receipts, could conflict with the longer term commercial interests of the Utilities, such as investment in business development or capital projects to renew or enhance existing infrastructure. Such a conflict of objectives and priorities is likely, in the long term, to lead to the erosion of shareholder value, the consequences of which would need to be understood by the Treasury in setting the shareholder objectives for the Utilities.
- **Equitable treatment of other shareholders**
  - Whilst the States holds 100% of the shares of two of the Utilities, it is the majority rather than the sole shareholder in the other two. As such, the Treasury needs to recognise the rights of the other shareholders, resisting any pressure to exercise its controlling stakes to prefer the States' interests to the detriment of the other shareholders. This is a cornerstone of good corporate governance, ensuring equitable treatment and equal access to corporate information for all shareholders.

Current arrangements – Utilities' views

The shareholder and the Utilities recognise that the current shareholder governance arrangements require improvement:

- **Lack of clarity as to the Treasury's objectives for the Utilities**
  - The Boards of the Utilities are faced with conflicting objectives of ensuring essential services are provided to the residents of Jersey at reasonable prices, whilst at the same time seeking to maximise profits for the shareholder. There needs to be dialogue between the Treasury and the Utilities to mitigate the risk that the Utilities pursue strategies that erode shareholder value contrary to the Treasury's objectives.
  - The Treasury's shareholder function needs to be clearly de-lineated from the Treasury's role as policy maker and/ or regulator. During discussions as part of this review, members of the Boards identified instances where political interference has challenged or prevented the Utilities' from making the optimal commercial decision. For example, Jersey Telecom's decision to scrap the discounting scheme for OAPs was reversed in response to political pressure and Jersey Electricity underwent an extensive defence of its proposed tariff increases.
  - The Boards of the Utilities are unclear as to the Treasury's objectives for the Utilities and would welcome dialogue with the Treasury to understand its objectives. Without this understanding, there is a risk that the Utilities pursue strategies which do not deliver the shareholder's requirements. A clear understanding will enable the Boards to prioritise the Treasury's objectives between dividend flow and reinvestment to deliver long term shareholder value. The Utilities also wish to better understand the Treasury's risk appetite in respect of capital investment programmes and business development opportunities.
- **Mixed levels of engagement between the Treasury and the Utilities**
  - The level of the Treasury's engagement with the Utilities varies, with no clear, formalised framework being consistently applied and adhered to. The Treasury has more frequent and detailed meetings with Jersey Telecom and Jersey Post (both 100% owned) than it does with Jersey Water and Jersey Electricity.
  - The Treasury does not currently participate in setting the strategies of the Utilities. The Boards of the Utilities would welcome a greater level of dialogue with the shareholder, in particular in discussing the Treasury's requirements for the Utilities.
  - In discussions, members of the Boards emphasised the importance of their engagement with the shareholder being at a strategic level, rather than a detailed review of the management accounts. A number of the Utilities expressed concern that the Treasury is seeking more extensive and detailed information from the Utilities than currently provided to their Boards. Whilst the Boards recognise the need for shareholder governance, there is concern that this should not infringe on the day-to-day management of the business.
  - In line with best practice, Jersey Water and Jersey Electricity should seek to ensure that the information they provide to the Treasury is consistent with the principle of equitable treatment and equal access to corporate information for all shareholders. In addition, Jersey Electricity has to comply with the UK Listing Rules and care needs to be taken not to inadvertently provide the Treasury with price sensitive information.

Current arrangements – Utilities' views

- **"No surprises" policy of communication**
  - The Utilities currently seek to operate a "no surprises" policy, with the aim of ensuring that the Minister is kept adequately informed of emerging issues and events. What constitutes "no surprises" is at the discretion of the Utilities to determine and is not completely clear. Associated with this is a lack of clarity as to the appropriate level of consultation required with the Minister on matters such as the appointment of the Chairman and other Directors, remuneration policy and in setting the Utilities' strategic direction.
- **The Treasury currently has only last resort or "nuclear" levers to exercise governance**
  - The Treasury currently has restricted shareholder levers which it can use to hold the Boards of the Utilities to account. The Utilities recognise that the shareholder is able to replace the Boards but accept that this is a last resort or "nuclear" option. Equipping the Treasury with the levers set out in the *Recommended shareholder levers* section of this report would provide the Treasury with the tools to effectively engage with the Boards of the Utilities on an ongoing basis.
- **Time and resource constraints**
  - To be an effective shareholder, the Treasury needs to be better resourced. An intelligent and effective shareholder function requires the necessary commercial expertise, industry knowledge and financial skills to command the respect of the Boards of the Utilities and be capable of providing a robust and valuable challenge in strategic and other business matters. Whilst there has been a recent improvement in the engagement, the Utilities do not believe that the Treasury is currently appropriately resourced to act as an effective shareholder.

International governance guidelines

Introduction

- Whilst the global financial crisis has focused attention on the role of shareholders in exercising governance over their investments, notably in relation to banks and other financial institutions, the importance of shareholder governance has long been recognised.
- The concept of active share ownership is fundamental to the regulatory framework for the governance of listed companies in the UK and elsewhere. Shareholders are expected to take action where they believe that the directors are not best serving their interests as shareholder. To be effective, engagement by shareholders should be as an "intelligent shareholder", in so doing, not seeking to manage the company but exercising shareholder rights aimed at improving the governance and performance of investee companies.
- In identifying the 'best practice' shareholder governance arrangements which would be appropriate for the States' owned entities in Jersey, it is useful to draw on guidelines issued by bodies such as the OECD and the UK Institutional Shareholders' Committee ("ISC"). The principles and associated shareholder levers set out by bodies such as these are the basis for the shareholder arrangements established for state owned entities. In particular, the bodies created to perform the shareholder role and exercise governance over government owned companies in the UK, the Shareholder Executive and UK Financial Investments Limited ("UKFI"), provide useful exemplar models for the shareholder levers which would be appropriate in the context of Jersey.
- The shareholder levers established and exercised by the shareholders of state owned enterprises vary by country, depending on the mission and ownership objectives of the shareholder. It is important to recognise that it is the shareholder levers that are critical in exercising good shareholder governance. The organisational structure in which the shareholder governance function resides should be determined by how best it enables the shareholder levers to be exercised.

Global 'best practice' and corporate governance guidelines

OECD Guidelines

- The OECD published a survey of OECD Guidelines on Corporate Governance of State Owned Enterprises in 2005. In setting the background of the review and its conclusions, the survey highlighted a number of issues associated with state ownership of companies which are relevant to the review by the Treasury of its holdings in the four Utilities and illustrate the appropriateness of overseas models in determining an appropriate model in the context of Jersey:
  - State owned enterprises represent a significant share of activity and have an important impact on the performance of the economies;
  - Globalisation and sector liberalisation makes the reform of state sectors pressing and raises the need for the proper exercise of shareholder rights;
  - State owned enterprises face specific difficulties in terms of governance that cannot be addressed solely by adopting private sector practices; and
  - Improvements in the governance of state owned assets are expected to lead to growth through better performance and increased productivity.
- The OECD survey concluded that there is a need to clearly separate state ownership from the regulator role and the necessity to put in place more efficient decision making processes and governance arrangements. It also advocated that by actively exercising its ownership rights, through clear and realistic objectives, the state has an important role to play in monitoring corporate performance and establishing good corporate governance practices to the benefit of the companies and the public.

International governance guidelines

Global 'best practice' and corporate governance guidelines *(continued)*

- Three broad ownership models for state owned enterprises were identified in the OECD survey:
  - The 'decentralised' or 'sector industry' model, the traditional model where the companies are owned by the relevant sector government departments;
  - The 'dual' model where responsibility is shared between a central ministry, typically the Treasury, and the relevant sector government department; and
  - The 'centralised' model where ownership rests with a single ministry and shareholding function.
- There has been a move from the decentralised model to the centralised model, but the dual model is often seen. This is exemplified by the reorganisation by the UK Government of its shareholding function, with the creation of the Shareholder Executive in 2003. The drivers for the change being to centralise shareholder governance expertise in a single body, recognising that the advantage and rationale for the decentralised model, sector expertise and the capacity to implement a more active industrial policy, has the potential to blur the state's ownership and industrial policy roles. A further advantage in the centralised model is to identify in the minds of the public, and potentially the boards of the companies, that the board and not the Minister is responsible for running the company. In the decentralised model there is a risk that this role is confused or blurred, particularly when the business is underperforming.

UK Institutional Shareholders' Committee

- In the UK, the ISC has drawn up a Code in respect of the responsibilities of institutional investors (the "ISC Code"). The forum, whose members are the Association of British Insurers, the Association of Investment Companies, the National Association of Pension Funds and the Investment Management Association, was formed to allow the UK institutional shareholding community to exchange views and where appropriate, coordinate their activities.
- The ISC Code sets out best practice for institutional investors in engaging with companies. Its aim is to improve the quality of dialogue between institutional shareholders and companies, to help improve shareholders' long term returns, reduce the risk of catastrophic consequences of poor strategic decisions and to seek to ensure the efficient exercise of shareholder governance responsibilities.
- The ISC Code applies to institutional investors on a "comply or explain" basis and investors are required to provide a statement on how the Code will be implemented. The Code comprises seven principles, with supporting guidance and requires institutional investors to:
  - Publicly disclose their policy on how they will discharge their stewardship responsibilities;
  - Have a robust policy on managing conflicts of interest in relation to stewardship which should be publicly disclosed;
  - Monitor their investee companies;
  - Establish clear guidance on when and how they will escalate their activities as a method of protecting and enhancing shareholder value;
  - Be willing to act collectively with other investors as appropriate;
  - Have a clear policy on voting and disclosure of voting activity; and
  - Report periodically on their stewardship and voting activities.

International shareholder governance exemplars

Global 'best practice' and corporate governance guidelines (*continued)*

- The 2009 Walker Review of the governance of banks and other financial institutions recommended that the remit of the UK Financial Reporting Council ("FRC") should be extended to cover the development and encouragement of adherence of institutional investors to best practice in the stewardship of UK listed companies. Accepting the UK Government's request that it take on this role, the FRC has recently completed a consultation process in April 2010, seeking views on whether it should accept oversight of the Code in its current form, or an amended form. The FRC is expected to announce the outcome of the consultation in the near future.

International shareholder governance exemplars

- Governments in a number of countries have implemented formal frameworks to set out the manner in which Government will fulfil its shareholder role and exercise governance over state owned enterprises. The shareholder models typically draw on the OECD principles, in particular the concept that the board and the executive directors are responsible for managing the business, whilst the shareholder is responsible for exercising shareholder governance as an effective, intelligent shareholder.
- The shareholder role for shareholdings held by the UK Government is fulfilled by the Shareholder Executive and UK Financial Investments Limited. A summary of the key elements of the engagement framework and the shareholder levers exercised by these shareholder functions is provided below. An overview of the shareholder arrangements operated in respect of state owned enterprises in France, New Zealand , Sweden, Canada and Finland is provided as an appendix.

Shareholder Executive

- The UK Government set up the Shareholder Executive ("ShEx") in 2003 in recognition that the UK Government would benefit from a more professional and transparent approach to the management of its shareholdings. ShEx's mission is to ensure that the UK Government is an effective and intelligent shareholder. It works with the boards and management teams of the Government owned businesses to create long term shareholder value, believing that good governance and active shareholder engagement creates value.
- ShEx works with 29 businesses which are wholly or partly owned by Government, including Royal Mail, Urenco, NDA, Northern Rock, Royal Mint, Forensic Science Service and the UK Hydrographic Office. The combined turnover of the businesses is around £21 billion. Its remit in relation to its portfolio of businesses takes three main forms, reflecting the hybrid of a 'centralised' and 'dual' ownership model in the UK:
  - *Executive:* where it is accountable to Ministers and the Permanent Secretary of the shareholding department;
  - *Advisory:* where departmental teams are directly accountable to Ministers and the respective Permanent Secretary for the shareholding function, with ShEx being accountable to that team for the quality of its advice and input; and
  - *Joint:* where ShEx works alongside the respective departmental teams.
- ShEx ensures Government exercises its key shareholder levers effectively:
  - **Governance frameworks:** where appropriate, ShEx ensures that corporate governance is compliant with the principles of the UK Corporate Governance Code and fits the needs of the shareholder and the business.
  - **Strategy:** ShEx sets the overall objectives for the business and takes responsibility for resolving any conflict between Government's objectives. ShEx agrees a strategic plan with the board for delivering those objectives and the board is then accountable for delivery of the plan.

International shareholder governance exemplars

Shareholder Executive (continued)

- **Appointments:** where appropriate, ShEx appoints the Chair and actively participates in other board appointments.
- **Remuneration and incentivisation:** ShEx sets or agrees remuneration principles so that the interests of management and the shareholder are aligned.
- **Financing and investments:** ShEx works with the businesses to optimise capital structures, agree dividend policy and approve significant investments and realisations.
- **Monitoring and intervention:** ShEx monitors performance to ensure that the strategic plan is on track and that shareholder interventions are timely and well-informed.

- The ShEx team is deliberately senior, reflecting the need to gain the confidence and be able to debate strategy and performance with the Boards of the Government owned businesses and Ministers. In setting up ShEx, the UK Government recognised that it did not possess the appropriate shareholding governance or corporate finance skills and a number of senior bankers, accountants and lawyers were recruited to provide these skills. ShEx has approximately 60 staff and is supported by external advisers as required.

UK Financial Investments Limited

- UKFI was created in 2008 in response to the global financial crisis, as part of a wider Government programme of stabilising the financial system. UKFI manages the UK Government's investments in financial institutions including the Royal Bank of Scotland ("RBS"), Lloyds Banking Group plc ("Lloyds"), Northern Rock and Bradford and Bingley. UK Government has a 70% shareholding in RBS and 43% holding in Lloyds, both of which remain listed on the London Stock Exchange, featuring within the FTSE 100. It holds 100% of the shares in the other two banks.
- The UK Government does not wish to be a permanent investor in UK financial institutions. UKFI's overarching objective is to protect and create value for the taxpayer as shareholder, through a successful investment and exit strategy. In so doing, UKFI has due regard to the maintenance of financial stability and acts in a way that promotes competition.
- UKFI's Framework Document sets out its overarching objective and the key parameters for how it will conduct its business, including:
  - A mandate to manage the investments commercially;
  - A framework for monitoring and engaging with the banks; and
  - Robust institutional arrangements for keeping UKFI at arm's-length from Government.
- UKFI's ownership approach is to:
  - Manage the Government's investments, not to manage the banks. The investee banks are run by their boards and management teams;
  - Take a close interest in the calibre and performance of the banks' boards and management teams. In relation to the boards' incentives, UKFI's aim is to ensure that they are fully aligned with taxpayers' interests as shareholders; and
  - Work closely with the banks as an engaged shareholder to understand the banks' approach to strategy and to hold them rigorously to account for performance, exercising oversight of their approach to risk management.

International shareholder governance exemplars

UK Financial Investments Limited (continued)

- Within this overarching framework, the boards of the banks are responsible for operational and day-to-day management decisions and the banks are managed commercially without interference from the shareholder. The banks retain their own independent boards which manage the banks and determine their strategy and have clear legal obligations to all shareholders, not just UKFI.
- UKFI operates as an active and engaged institutional shareholder to ensure that the banks have sound long term strategies and that they are effectively managed and properly governed. It follows the ISC's Code in full:
  - **Monitoring performance:** UKFI maintains an active and regular dialogue with the banks' boards and senior management. It seeks to satisfy itself that the boards are operating effectively and that the banks' strategies protect and enhance shareholder value;
  - **Intervening where necessary:** Should UKFI have concerns, for instance about strategy, operational performance or acquisitions/ disposals, UKFI will intervene with the board;
  - **Voting:** UKFI votes all its shares wherever practicable to do so; it informs the company in advance of its intentions and rationale and it discloses how it has voted;
  - **Evaluating and reporting:** UKFI provides regular updates to its client, HM Treasury, on the performance of its investments and the effectiveness of its engagement with investee companies.
- In particular, UKFI expects its investee banks to have:
  - Stronger and more robust strategies than prior to the financial crisis;
  - More effective boards;
  - More disciplined approaches to risk;
  - Sustainable balance sheet and funding structures; and
  - Better remuneration structures that ensure that incentives are much more strongly linked to long term value creation.
- UKFI has specific rights to work with the banks' boards on the appointment of new independent non-executive directors and it has exercised those rights. It has engaged with the Chairmen and Nominations Committees of RBS and Lloyds in the appointment of new Chairmen, the departure of non-executive directors and the appointment of new directors. However, under UK company law, directors cannot represent individual shareholder's interests. Accordingly whilst the independent directors are appointed with UKFI's agreement, they are not and cannot be, UKFI's representatives and do not report directly to UKFI.
- UKFI aims not to be an insider in its market investments, although it may do so in certain unusual circumstances. For example, UKFI had the opportunity to discuss RBS's new strategy in advance of its announcement. UKFI has the appropriate compliance measures in place to manage any inside information received.
- UKFI has resourced itself as a small expert body, with approximately 11 employees, expected to expand to 15 *(Annual Report 2008/09)*. UKFI's directors are drawn from senior positions in financial services and related industries with track records at board-level leadership in fund management, retail banking and other corporate or financial disciplines. Similarly its executive team and other employees have directly relevant private sector experience. UKFI makes use of professional external advisers as required.

International shareholder governance exemplars

Summary

- The fundamental concept that the board and the executive directors are responsible for managing the business, whilst the shareholder is responsible for exercising shareholder governance as an effective, intelligent shareholder is common to all of the international exemplars. The specific levers which the state shareholder function chooses to implement varies depending on the government's ownership objectives and the nature of the entities. The proposed enhancements to the existing shareholder arrangements in Jersey need to reflect the specific requirements of the Treasury and the ownership challenges the States faces.
- The following sections of this report set out the recommended shareholder levers and model for engagement between the Treasury and the Boards of the Utilities. The recommendations draw upon the international best practice guidelines and the shareholder arrangements for state owned entities in other countries, in particular the UK.

Recommended shareholder levers

A clear understanding of respective roles

The Treasury's shareholder governance model should be based on a clear demarcation of roles and responsibilities between the Treasury and the Boards of the Utilities. Such a structure would ensure that the Treasury and the Boards of the Utilities are able to play their appropriate roles: the Boards being responsible and accountable for managing the operations of the Utilities and delivering the strategy, consistent with the shareholders' objectives, whilst the role of the Treasury is to exercise good shareholder governance and appropriate oversight over the Utilities' Boards.

The Treasury and the Boards of the Utilities should set out in a single document (such as a Memorandum of Understanding or Principles of Ownership) the shareholder governance arrangements. The document should clearly articulate the respective roles of the Treasury and the Boards of the Utilities, as well as providing a transparent and comprehensive description of what the Treasury expects from its investee companies and how it will act as shareholder.

Shareholder levers

To facilitate good governance, meet the inherent challenges the States faces as shareholder and avoid the risk of the Treasury becoming involved in the management of the Utilities, it is important that the Treasury has appropriate shareholder levers which it can exercise when appropriate. The seven shareholder levers which are appropriate in the context of the Treasury's governance of the Utilities are set out below. The *Recommended shareholder model* section which follows, considers the appropriate framework for the Treasury's engagement with the Utilities and the exercise of its shareholder levers, recognising the specific context of Jersey.

The recommended levers and the proposed model for shareholder engagement are in line with the OECD Guidelines on Corporate Governance of State Owned Enterprises which were developed by a working group comprising representatives from OECD member countries, with observers from the World Bank and the IMF. The recommendations draw upon best practice in the private and public sector, in particular the experiences of the shareholder functions for state owned entities in countries such as the UK, France, New Zealand, Sweden, Canada and Finland.

The Treasury, as an intelligent shareholder, should exercise its ownership rights in line with the legal structure of each of the Utilities in a clear and consistent manner. Its prime responsibilities as shareholder include:

- Being represented at shareholder meetings and voting the States' shares;
- Ensuring a well structured and transparent Board nomination process and participating in this process;
- Ensuring reporting systems that allow regular monitoring and assessment of the Utilities' performance; and
- Ensuring that the remuneration schemes for the Utilities' Boards are aligned to the long term development of the Utilities.

Given the importance of the Utilities to the wellbeing of the Island, the Minister should meet the Chairman of each Utility on a regular basis (at least annually) to discuss the Utilities' performance in delivering the shareholder's objectives for the Utilities and strategic issues arising.

Recommended shareholder levers

The following shareholder levers are considered to be appropriate for the States' shareholdings in the Utilities:

1) Ensure adherence to the UK Corporate Governance Code: all four Utilities

- In line with best practice, the Boards should adopt the governance standard for UK listed companies, the UK Corporate Governance Code (formerly the Combined Code on Corporate Governance). This operates on a "comply or explain" basis, allowing companies the flexibility to deviate from the Code should they consider it appropriate. Such an approach is reliant on the Treasury considering the explanation for any non-compliance with the Code and either accepting or challenging it through active engagement with the Utilities.

2) Participation in the appointment of the Chairman and oversight of the composition of the Board

- The role played by the Chairman is fundamental in ensuring that the Board is effective in the tasks of setting and delivering each Utility's direction and strategy. As part of this, the Chairman has a pivotal role in communicating with shareholders. The Treasury should have a role in the appointment of the Chairman and in overseeing the composition of the Board, in particular, its size and the skills and experience of the Directors.

Jersey Telecom and Jersey Post: 100% owned by the Treasury

- For UK Government owned businesses, the shareholder participates and often oversees the process to appoint the Chairman. In the context of Jersey, the Boards of the Utilities have argued that this responsibility should remain with the Boards' Nominations Committees. Whilst this is not an unreasonable approach, the Treasury should be consulted by the Utilities on the proposed shortlist and on the preferred candidate, to ensure that the Minister and the Board are in agreement, *in advance* of the Chairman's appointment.
- The Treasury and the Chairman should agree the composition of the Board of Directors. The Utilities should consult with the Treasury *prior* to the appointment of the Chief Executive and any other new Directors to the Board, to demonstrate their appropriateness.
- It would be appropriate for the incoming Chairmen, Chief Executive, Finance Director and Non-Executive Directors to meet the Treasury before taking up their appointments, to discuss the shareholder's objectives for the Utilities.
- To the extent the Treasury has concerns regarding the recruitment processes, it may wish to engage the Appointments Commission (in an observer capacity) to assist the Utilities in adopting a best practice approach to recruitment. The appointments made by Ministers in the UK are governed by the rules and processes set out by the Office of the Commissioners for Public Appointments.

Jersey Water and Jersey Electricity: the Treasury is the majority but not 100% shareholder

- The Utilities should consult with the Treasury during the Chairman's appointment process to ensure that the Minister is in agreement with the Board on the preferred candidate, in *advance* of the appointment being formalised.
- The Chairman should consult with the Treasury to ensure that the shareholder's views on the composition of the Board are considered. It would be appropriate for the incoming Chairman, Chief Executive and Senior Independent Non-Executive Director to meet the Treasury on being appointed.

3) Participation in setting objectives and agreement of strategy

- One of the key shareholder levers is the participation by the Treasury in setting the objectives and agreeing the strategy of each of the Utilities. The degree of involvement by the Treasury is dependent upon the States' shareholding in each Utility.

Recommended shareholder levers

3) Participation in setting objectives and agreement of strategy *(continued)*

Jersey Telecom and Jersey Post: 100% owned by the Treasury

– The Treasury, in consultation with the Boards, should set and agree the overall objectives for the Utilities and communicate these to the Boards of the Utilities annually. In so doing, the Treasury's objectives should be prioritised and potential conflicts (such as social provision requirements and profit maximisation) should be identified and clarified to ensure that the Boards develop their strategies to meet the Treasury's requirements and can be held accountable. Examples of social policy objectives which the Utilities have identified as potentially being in conflict with their ability to maximise shareholder value and where they would benefit from clarification are provided as an appendix to this report.

– In advance of the Annual Business Plan and longer term Strategic Plan being drafted, the Treasury should meet both Utilities to discuss and agree the Board's proposed strategy. Thereafter, the Utilities should be responsible for developing and delivering the Plans.

– Once approved by the respective Boards, the Treasury should have an opportunity to review the Strategic Plan and to challenge the Board to demonstrate that it meets the shareholder's objectives and risk appetite. In the UK, the Minister, as shareholder, taking advice from officials, formally approves the Strategic and Annual Business Plans for its 100% owned businesses. It is recommended that the Treasury implements similar formal arrangements in respect of Jersey Telecom and Jersey Post as a shareholder discipline.

– The Strategic Plan should set out clearly defined key performance indicators ("KPIs") against which performance is measured. It should be recognised that the Utilities' performance against certain KPIs may be influenced by factors which are beyond the control of the Board and management teams of the Utilities, such as weather conditions.

– Material changes (based on their quantum or political sensitivity) to the Strategic Plan should be discussed with the Treasury. Consistent with good practice, such proposed changes should be supported by appropriate business case analysis and risk assessments.

– The Treasury's approach to reviewing strategy should be a dialogue between the Board of each Utility and the Treasury. The Treasury's ability to participate effectively in this strategic planning process is dependent on each Utility being able to clearly articulate its strategy and demonstrate the Board's ability to deliver the shareholder's objectives. Equally, the Treasury needs to have the resources and capabilities to engage at a strategic level with the Boards. To assist in this discussion, where necessary, it would be appropriate for the Treasury to use external advisers to provide the necessary industry expertise.

Jersey Water and Jersey Electricity: the Treasury is the majority but not 100% shareholder

– The Treasury should engage with Jersey Water and Jersey Electricity to communicate its objectives as shareholder and to understand and challenge the strategies of those Utilities, to the extent they are inconsistent with the Treasury's objectives.

– The Treasury's engagement with Jersey Water should recognise that in accordance with best practice, the Board would be expected to ensure equal access to corporate information for all shareholders. In addition, discussions with Jersey Electricity must be based on publicly available information, avoiding any breach of the UK Listing Rules.

– Jersey Water and Jersey Electricity set the tariffs charged to customers. Unlike Jersey Telecom and Jersey Post, these Utilities do not operate under license agreements awarded by the JCRA and the JCRA does not regulate the tariffs. The Treasury currently performs a dual role of owner and quasi-regulator of these Utilities in the event they are challenged. These functions should be clearly de-lineated within Treasury. The Treasury's ability to determine the Utilities pricing and tariff arrangements are not shareholder levers. Arguably, this dual role could create conflict within the Treasury and consideration should be given to how this should be resolved.

Recommended shareholder levers

4) Performance monitoring and intervention

- Good shareholder governance requires the Treasury to monitor the performance of each of the Utilities and intervene to challenge any underperformance. In extremis, where the Treasury is dissatisfied with performance and has lost confidence in the Board's response, this could lead to the shareholder seeking to replace the Chairman or Chief Executive.

Jersey Telecom and Jersey Post: 100% owned by the Treasury

- The governance framework set out in the existing MOUs should be amended to clearly set out how the Treasury will monitor the performance of the Utilities.
- The Treasury should meet quarterly with the Utilities to review their financial performance against their Strategic and Annual Business Plans, holding the Board to account for delivery of the shareholder's objectives. As part of the performance monitoring process, the Treasury should expect the Utilities to explain significant variances during the year and the estimated impact on outturn.
- Effective monitoring requires the Treasury to have a thorough understanding of the Utility's operations, its key business drivers and its market position.
- Performance should be reviewed with reference to appropriate performance measures (KPIs) agreed between the Utilities and the shareholder. The KPIs should be sufficiently challenging and focussed on measuring the Utility's performance against Plan. Performance monitoring should identify emerging risks and under-performance at an early stage.
- The Utilities and the Treasury should agree which information it is appropriate to provide to the Treasury to enable it to perform the shareholder role. It is expected that this should be no more than the information provided to the Boards of the Utilities and so should not place a significant time or cost burden on the management teams. The Treasury should focus on reviewing the Utilities' performance in delivering its strategy. The Treasury should not usurp the role of the Boards or the Executive teams by performing a detailed review of the Utilities' management accounts by sub-cost category, for example. However, the information provided to the Utilities should go beyond quarterly financial performance data, to include items such as competitor benchmarking analysis, emerging issues and projected full year outturn.
- The Treasury's monitoring of the Utilities, in terms of the level of dialogue and information requests, should be proportionate to the degree of shareholder concern and the materiality of the issues being considered. Where the Board and management is performing in line with agreed targets, there should be a minimal requirement for intervention by the shareholder. However, if a Utility underperforms or there is a risk of loss of shareholder value, then the frequency and intensity of the monitoring dialogue would be expected to increase. In extremis, the Treasury would seek to persuade the Chairman to replace Board members.

Jersey Water and Jersey Electricity: the Treasury is the majority but not 100% shareholder

- As with Jersey Telecom and Jersey Post, the Treasury should seek to understand the strategies of Jersey Water and Jersey Electricity and should ensure that they are capable of delivering the Treasury's objectives. Jersey Electricity reports performance on an annual, half yearly and quarterly basis, consistent with its obligations under the UK Listing Rules. Jersey Water currently reports its performance on an annual basis in its annual financial statements. In order to exercise appropriate shareholder governance, the Treasury should seek to agree more regular, quarterly, reporting of performance in the case of Jersey Water.
- The Treasury should monitor the ongoing performance of the Utilities, facilitated through quarterly meetings to discuss emerging strategic issues and reported financial performance. In assessing the performance of Jersey Water and Jersey Electricity, the Treasury should develop and agree appropriate KPIs and benchmark performance measures with the Utilities.

Recommended shareholder levers

5) Consultation on remuneration of the Executive Directors: all four Utilities

- To deliver shareholder value, it is essential that the objectives of the management team are aligned with those of the shareholder. In the context of the States' shareholdings in the Utilities, this is best done by aligning the delivery of the shareholder's objectives with the Directors' remuneration and incentivisation arrangements.
- Whilst the shareholder does not have the power to reject the proposed remuneration packages, on a shareholder vote (the vote being non-binding on the Utilities), the Treasury could make clear its displeasure in the event that a remuneration package was put in place that was outside industry norms or did not properly align the shareholder's and the management team's objectives. Accordingly:
  - The Remuneration Committee of each Utility should consult with the Treasury on their remuneration strategies.
  - The remuneration packages should include a clear linkage between the pay and incentive arrangements and the delivery of the Strategic Plan, consistent with the shareholder's objectives. It is expected that the remuneration packages would only be based on the KPIs set out in the Strategic Plan which are directly within the control of the Executive Directors and not those which are primarily driven by external factors, such as weather conditions.
  - In consulting with the Treasury on the remuneration strategy, the Remuneration Committee should demonstrate to the Treasury that it has undertaken appropriate procedures to ensure the remuneration packages are in line with appropriate comparators.
  - The Remuneration Committee should consult with the Treasury on the remuneration packages *prior* to the formal Board approval to ensure the shareholder's views are considered. In so doing, avoiding the potential for public conflict between the shareholder and the Utilities as is sometimes seen with listed companies when investors consider that the remuneration packages are inconsistent with the shareholder value delivered.

6) Consultation in determining an appropriate capital structure and dividend policy: all four Utilities

- Ensuring an appropriate capital structure is a means by which a company delivers shareholder value. Surplus capital which is not required for reinvestment in the business, should be returned to shareholders by way of a share buy-back or dividend.
- The shareholder has a role to play in ensuring that the Utilities adopt an appropriate capital structure, notably in comparison to their peer groups.
- The Treasury should engage in discussions with the Utilities, challenging the Boards to demonstrate that their capital structure (level of financial leverage) is optimal, based on appropriate industry comparators. An efficient capital structure is a key contributor to creating shareholder value, as it minimises the long term cost of capital. It places discipline on companies to manage their cash flow and balance sheet efficiently, assists in the benchmarking of performance and enables the assessment of investment opportunities using the cost of capital.
- The Treasury should engage with the Utilities to understand their dividend strategy. The Utilities should be challenged to release surplus cash balances and maximise the dividend returns to shareholders, where capital its not required for reinvestment in the business. The shareholder should make use of relevant industry benchmarks to support the debate with the Boards of the Utilities.

Recommended shareholder levers

7) Approval of major transactions: all four Utilities

- As owners of a business, shareholders have a role to play in approving major transactions, as it is their capital which is being invested. An important shareholder lever is the requirement for companies to seek shareholder approval for major transactions and those outside the normal course of business.
- The Treasury should approve any significant transactions or transactions outside the ordinary course of business. This would be done either through the Treasury's approval of the annual Strategic Plan or by a separate business case for any additional investment opportunities identified during the year.
- In relation to Jersey Electricity, the shareholder approval threshold is set out in the UK Listing Rules, whilst in relation to the other Utilities the approval threshold should be set out in the MOU between the shareholder and the Utilities.
- The Utilities should demonstrate to the Treasury that any proposed investments will deliver shareholder value, otherwise surplus cash should be returned to shareholders. The listed status of Jersey Electricity and position of the minority shareholders of Jersey Water will limit the disclosure that is appropriate. However, in relation to Jersey Telecom and Jersey Post, the request for approval of proposed transactions should be supported by robust business case analysis, setting out the level of investment and demonstrating that the associated risks and the return on capital are appropriate.

Recommended shareholder model

Introduction

- The *Recommended shareholder levers* section of this document sets out the Treasury's requirements from a shareholder model and the shareholder levers which are appropriate to deliver those:
  - Ensure adherence to the UK Corporate Governance Code;
  - Participation in the appointment of the Chairman and oversight of the composition of the Board;
  - Participation in setting objectives and agreement of strategy;
  - Performance monitoring and intervention;
  - Consultation on remuneration of the Executive Directors;
  - Consultation in determining an appropriate capital structure and dividend policy; and
  - Approval of major transactions.
- The proposed levers reflect our discussions held with members of the Boards of the four Utilities, as well as drawing on global best practice in respect of corporate governance and the experience of exemplar shareholder arrangements for state owned enterprises in other jurisdictions, including the Shareholder Executive and UKFI in the UK.

Potential models

In discussions with the Minister, the Treasury and the Utilities and drawing on international exemplar models, three shareholder governance models have been identified which have the potential to enable the Treasury to exercise its shareholder levers, recognising the context of Jersey. This section of the report sets out the key elements of the three models and assesses their relative merits.

- **Nominated Non-Executive Director**
  - Under this model, an individual would be nominated by the Minister and would serve on the Boards of each of the four Utilities as an independent Non-Executive Director. For the model to be successful, the Treasury's appointee should be an individual who is acceptable to the Boards of the Utilities.
  - The Nominated NED would be bound by his/her fiduciary duties as a Director and could not promote views of the Treasury which he/she did not believe to be in the best interests of the Utilities.
  - The appointee would not report to the Minister or be accountable to the Minister. However, through regular meetings with the Minister, the Nominated NED would be capable of communicating the Treasury's views to the Boards and ensuring that the Minister is kept informed of the key issues facing the Utilities.
  - The Nominated NED would need to have the appropriate commercial, financial and industry expertise to be a Board Director; the role should not be undertaken by a political appointee.

Recommended shareholder model

- **Board of Boards**
  - The Minister would appoint a specified number of individuals to sit on a ‘Supervisory Board’ which would perform certain functions of the shareholder on behalf of the Treasury and would be accountable to the Minister.
  - The Board of Boards would not have a separate legal status or own shares in the Utilities. It would operate as a Ministerial Advisory Board, accountable to the Minister and would report to him (either the Chairman of Board of Boards or collectively as a Board). The role and responsibilities of the Board of Boards would be clearly de-lineated from the role of the Boards of the Utilities and the remit of the Board of Boards would be such that it would not blur the responsibilities and accountability of the individual Boards. The Board of Boards would not and could not direct the Boards of the Utilities. The Utilities’ Boards would continue to be responsible for managing the businesses and would maintain a direct reporting line to the Minister.
  - The members of the Board of Boards would require financial and commercial skills and experience of businesses operating in the private sector and in the relevant industry sectors; the Board would not be expected to include political appointees.
  - The Board of Boards would provide an independent and robust external challenge to the Boards of the Utilities in terms of reviewing strategy and monitoring performance.
- **Enhanced engagement with a dedicated resource within the Treasury**
  - This model would require enhancement of the resource within the Treasury which currently performs the shareholder role. It would entail increased engagement (i.e. both formal meetings and ongoing dialogue) and information flow between the Treasury and the Boards of the Utilities, enabling the Treasury to become a more active and intelligent shareholder.
  - It is expected that the dialogue would focus on the development of the Utilities’ strategies and on the monitoring of the Utilities performance against appropriate KPIs.
  - Establishing this model would require an increase in the Treasury’s existing resource to establish a dedicated, professional capability with experience of managing investments and capable of acting as a robust challenge to the Boards of the Utilities.
  - Key to proper governance under this model would be to ensure that the resource within the Treasury was capable of commanding the respect of the Chairmen and Chief Executives of the Utilities who would welcome and see the benefit of the debate and challenge which the enhanced governance arrangements would deliver.

A review of the relative benefits and drawbacks of each of these three models follows.

Recommended shareholder model

Nominated Non-Executive Director

Treasury's requirement	Benefits	Drawbacks
Provides a formal framework for the Treasury's engagement, with a clear demarcation of roles and responsibilities between the shareholder and the Boards of the Utilities	• The Nominated NED model **preserves the independence and autonomy of the Boards of the Utilities**. The regular meetings and dialogue between the Nominated NED and the Minister would provide a means of increasing the current level of the Treasury's engagement with the Utilities. • A Nominated NED, able to articulate the Treasury's objectives and requirements, would assist in **engendering a common sense of purpose between the Treasury and the Board**. • It would be **possible to apply the Nominated NED model consistently across all of the Utilities**, including Jersey Water and Jersey Electricity, as it is common practice in the private sector for significant shareholders to have seats on the Boards of investee companies, either as a full member or as an observer. • A common Nominated NED across all four of the Utilities would **facilitate the sharing of best practices and "joined up thinking."** • The Nominated NED model is **scalable**. The States could have a policy of having an appointed NED on the Boards of all of the States' owned enterprises (such as the Jersey Development Company Limited). Albeit time constraints are likely to prevent this being a common Nominated NED. • The cost of the Nominated NEDs would be borne by the Utilities rather than the Treasury.	• **A Nominated NED would be bound by his/her fiduciary duties as a Director.** The appointee could not promote views of the Treasury which he/she did not deem to be in the best interests of the Utilities. • Directors do not represent individual shareholders' interests. Whilst the Nominated NED would be appointed by the Treasury, **the Director would not be the Treasury's representative and would not report directly to the Treasury**. • **The Treasury would remain reliant on the Boards of the Utilities and the governance they exercise, to act in the interests of the shareholder** and to keep it abreast of issues as they arise. The Treasury could not delegate its responsibility to perform its shareholder role to the Nominated NED. • The appointment of a Nominated NED potentially **undermines the role and accountability of the Board.** It risks blurring what should be a clear de-lineation of roles and responsibilities between the shareholder function and the management of the Utilities. • The Treasury should **expect the Boards in their current form to work towards the Treasury's shareholder objectives**, without the need for it to appoint a NED. If the appointment of a Nominated NED is perceived as an expression of distrust, dissatisfaction or interference with the existing Boards it could lead to de-motivation and resignations. • A Nominated NED could **undermine the role of the Chairman** and his relationship with the Minister. The Chairmen of the Boards currently hold regular meetings with the Minister and communicate the Treasury's perspective to other members of the Board. The role and responsibilities of a Nominated NED would duplicate those of the Chairman. It also risks confusion of mixed messages and different interpretations of the Minister's views. • There is a risk that the Nominated NED model is seen to **reduce the current independence of the Boards**, with a perceived reversion to the "politicisation" of the Boards (i.e. political appointees to the Boards with inappropriate skills and business expertise). • In the case of Jersey Water and Jersey Electricity, there is a risk that the **other shareholders** (e.g. Utilico) **would expect an equivalent right** to have a representative on the Board.

Recommended shareholder model

Nominated Non-Executive Director

Treasury's requirement	Benefits	Drawbacks
Participation in the appointment of Chairman and oversight of the composition of the Board	• The Nominated NED, through a seat on the Nominations Committee, could **participate in the appointment of the Chairman and the Executive Directors**. Where necessary, the Nominated NED's involvement could extend to senior management and succession planning.	• The role of the Nominated NED would **not provide the Treasury with a greater degree of direct participation** in respect of appointments than it currently has. • The Treasury should expect to participate in the appointment of the Chairman, with consultation in respect of the proposed shortlist and on the preferred candidate in advance of his/her appointment.
Participation in setting objectives and agreement of strategy	• Appointing a Nominated NED provides a means by which **the Treasury can ensure that its objectives and requirements are being represented on the Boards**. Whilst the Nominated NED could not promote views of the Treasury which conflicted with his/her fiduciary duties, it would reduce the risk of a divergence in views between the Board and the Treasury and should expedite decision making. • A Nominated NED, in conjunction with other non-executive members of the Board, would **challenge the Executive Directors** to develop a Strategic Plan which meets the Treasury's objectives, has reasonable but challenging targets and has performance measures that can be used to effectively monitor delivery. • Regular meetings between the Nominated NED and the Minister/ Treasury would **improve the Treasury's understanding of the Utilities' businesses** and would keep the Treasury better informed in respect of emerging issues.	• Due to company Boards' pre-disposition to "group think" a Nominated NED may be **less effective in providing an independent and objective challenge** to the Executive Directors and management team than could be provided by the shareholder as an "outsider." • **The Treasury would remain reliant on the Boards of the Utilities** to set the strategic direction in the interests of the shareholder and to monitor performance. • For the Nominated NED model to be effective, **the Treasury would still require an enhanced shareholder function within the Treasury** to brief the Minister and enable him to engage in informed dialogue with the Chairman/ Nominated NED regarding the Utilities' objectives, strategy and performance. • There is a risk that the Nominated NED does not provide any additional value to the Treasury than it currently receives from the quarterly meetings between the Minister and the Utilities' Chairmen. The role of the **Nominated NED could be duplicative**. • A Nominated NED could create a divide in the dynamic of the Board. A perception of the "the shareholder being in attendance" **could stifle appropriate and frank debate** and result in decisions being made in fragmented groups outside the formal Board meetings. • To be an effective Board member, the Nominated NED would require knowledge of four very different businesses and industry sectors. • If there was a common Nominated NED across all four of the Utilities this could cause a **conflict of interest** in setting the respective objectives and strategies.

Recommended shareholder model

Nominated Non-Executive Director		
Treasury' requirement	**Benefits**	**Drawbacks**
Performance monitoring	• As a member of the Board, the Nominated NED would be able to **hold each Utility to account for delivery of the Strategic Plan**, ensuring that the Executive Directors and the management teams are: – Constructively challenged on strategy; – Performance is properly scrutinised; – Financial information is accurate; and – Financial controls and systems of risk management are robust and defensible. • The Nominated NED would be able to keep the Treasury informed of any strategic or performance issues arising. Although the Nominated NED would not report to the Minister or be accountable to him. • In discussions with the Treasury, the Nominated NED would need to recognise the limitations on disclosure in respect of Jersey Water and Jersey Electricity.	• The Treasury should **expect the current NEDs to be as capable as a Nominated NED** of holding the Executive Directors and the management team to account for delivery of the Utility's Strategic Plan. • The Nominated NED model **would not create the external performance pressure** which companies in the private sector are exposed to, due to the independent scrutiny of shareholders and equity analysts. To achieve this, **the Treasury would still require an enhanced shareholder function** with the skills and expertise to objectively challenge the Utilities to deliver their strategies against appropriate performance measures and industry benchmarks. • Without an enhanced shareholder function, **the Treasury would continue to be reliant on the respective Boards of the Utilities** for performance monitoring, rather than exercising its shareholder responsibility to hold the Board and management team to account.
Consultation on remuneration of the Executive Directors	• A Nominated NED, through a seat on the Remuneration Committee, could **ensure appropriate levels of remuneration** were set for the Executive Directors. • By continuing to let the Boards of the Utilities set the remuneration packages, independently of the Minister, the Utilities are protected from undue political interference.	• The role of the Nominated NED would **not provide** the Treasury with **a greater degree of comfort in respect of Executive remuneration** than currently exists.
Consultation in determining an appropriate capital structure and dividend policy	• As a member of the Board of the Utilities, the Nominated NED would be expected to **challenge the Executive Directors and management team** to demonstrate that each Utility's capital structure and dividend policy are appropriate. • The Nominated NED would be able to **communicate the Treasury's requirements** to the Board, such as dividend expectations.	• It is **questionable whether the Nominated NED would provide any additional value** to the role performed by the existing NEDs. • The Nominated NED would not be able to promote any wishes of the Treasury (such as near term cash generation) which conflicted with his/her view of the best interests of the Utility.

Recommended shareholder model

Nominated Non-Executive Director		
Treasury's requirement	**Benefits**	**Drawbacks**
Approval of major transactions	• As a member of the Board of the Utilities, the Nominated NED would be **involved in all strategic decisions**, including transactions. Albeit the Nominated NED's views will reflect the Utility's perspective and may not be aligned with the views of the shareholder.	• The Nominated NED would **not enhance the Treasury's current level of direct involvement** in strategic decisions. The Treasury would continue to be reliant on the Boards of the Utilities rather than performing its own independent analysis and review.

Conclusion

- **Whilst the appointment by the Treasury of a Nominated NED could provide benefits in ensuring that the Boards of the Utilities function properly, the model would not provide the Treasury with a sound basis for enhanced shareholder governance arrangements, merely the Board governance. Moreover, the requirement for the Treasury to appoint a NED would suggest that the Boards of the Utilities are not working effectively as they currently stand.**
- **The appointment of the Nominated NED would arguably not provide additional benefit to the Treasury than it receives from the existing NEDs. In particular, it undermines and duplicates the role and responsibilities of the Chairmen of the Utilities, who meet regularly with the Minister to discuss the Utilities' strategic issues and obtain the Treasury's views.**
- **The Nominated NED's fiduciary duties would prevent the appointee from promoting the Treasury's views which he/she did not believe were in the best interests of the Utility and could lead to the Nominated NED being conflicted and having to withdraw themselves from the Board debate. The Treasury would remain reliant on the Boards of the Utilities and the governance they exercise, to manage the businesses in the interests of the shareholder and to keep it abreast of issues as they arise.**
- **As a member of the Boards of the Utilities, the Nominated NED is unlikely to provide the same degree of independent and objective challenge to the Utilities as could typically be provided by an "outsider" such as the shareholder or equity analysts.**
- **The appointment of a Nominated NED would not absolve the Treasury of its responsibility to perform its shareholder role. To fulfil its shareholder responsibilities, the Treasury would still need to enhance its existing shareholder resource to ensure it had the appropriate skills and capability to enable the Minister to have informed discussions with the Chairman and the Nominated NED, particularly in respect of strategy and financial performance.**

Recommended shareholder model

Board of Boards

Treasury's requirement	Benefits	Drawbacks
Provides a formal framework for the Treasury's engagement, with a clear demarcation of roles and responsibilities between the shareholder and the Boards of the Utilities	• A Board of Boards, as a Ministerial Advisory Board, would provide a **formal structure for the performance of certain shareholder functions on behalf of the Treasury:** – The specific roles and responsibilities (shareholder functions) of the Board of Boards would be **clearly defined and documented**; – The Board of Boards (or the Chairman of the Board of Boards) would require **regular meetings with the Minister** to ensure it was kept updated on the Treasury's views and requirements and to keep the Minister abreast of key issues facing the Utilities; and – The Board of Boards would be **accountable to the Minister** for the delivery of its responsibilities and would report to the Minister and the Treasury's shareholder function on a regular basis. • The **Boards of the Utilities would remain independent** from the Treasury, with responsibility for managing the Utilities. • The Board of Boards model could be applied to all four of the Utilities. Albeit, the level of engagement and disclosure by Jersey Water and Jersey Electricity would need to recognise the rights of minority shareholders and the requirements of the UK Listing Rules. • The Board of Boards model is **scalable** and could be applied to other States' owned enterprises, as required.	• The Minister would be **reliant on the Boards of Boards**, in the same way it is currently reliant on the individual Boards of the Utilities. The Treasury would not be able to delegate its responsibility to fulfil its shareholder function. • A Board of Boards could **undermine the role and responsibilities of the Boards of the Utilities**. If the creation of a Board of Boards was interpreted as a vote of no-confidence in the existing Boards, it could lead to de-motivation and resignations, with the Directors abdicating responsibility to a "higher authority". • There is a risk of a perceived **blurring of accountability and the reporting lines** to the Minister between the Boards of the Utilities and the Board of Boards. • The relationship between a Board of Boards and the Treasury could be seen to **undermine and duplicate the role of the Chairman** and his relationship with the Minister. • Appointees to the Board of Boards would comprise the "great and the good" and risks **reducing the pool of NEDs available** to sit on the individual Boards of the Utilities. • The Boards of the Utilities expressed concern that there are limited individuals within Jersey that could be recruited to the Board of Boards. If members are "imported" from the UK there is a risk that they do not have a sufficient understanding of Jersey to ensure the proposed approach and solutions would be workable within its unique context. • The **cost** of appointing individuals with the necessary calibre for the Board of Boards to work effectively is expected to be high. The cost of the Board of Boards would be borne by the Treasury. Given the size of the Utilities, it is likely that an effective shareholder function could be performed on a smaller scale arrangement rather than the size and cost of a full Board of Boards.

Recommended shareholder model

Board of Boards		
Treasury's requirement	**Benefits**	**Drawbacks**
Participation in the appointment of Chairman and oversight of the composition of the Board	• The Board of Boards could **approve the appointment of the Chairman** and could advise the Minister on the appropriate composition of the Board. • A member of the Board of Boards could participate in the appointments process (as an observer) if deemed necessary.	• The Board of Boards would not provide the Treasury with a greater degree of direct participation in respect of appointments than currently exists. • The Treasury should expect to participate in the appointment of the Chairman, with consultation in respect of the proposed shortlist and on the preferred candidate in advance of his/her appointment.
Participation in setting objectives and agreement of strategy	• The Board of Boards would be able to **agree the objectives and strategy** for the Utilities with their respective Boards. • To be effective, the model would require the Board of Boards to engage in **regular dialogue** with the Minister/ Treasury to enable it to understand the States' requirements and be capable of representing the Treasury's views in discussions with the Boards of the Utilities. • The Board of Boards would be capable of providing an **intelligent, independent and robust challenge to the Executive Directors** in developing their Strategic Plans.	• To be effective and add value, the calibre of the appointees to the Board of Boards would have to be greater than that of the existing individual Boards of the Utilities. This is likely to have a high cost. The Utilities have argued that **the money spent on the higher calibre individuals for the Board of Boards would be better spent enhancing the quality of the NEDs of the individual Utility Boards**. Although, given the size of the Utilities, they questioned whether the greater cost of these NEDs would be appropriate. • There is a risk that in being an effective challenger to the Boards of the Utilities, the Board of Boards would **inevitably engage in "scope creep"** into agenda setting, strategy setting and decision-making. • The Board of Boards risks creating an **extra layer of bureaucracy**, resulting in slower decision-making and delays in developing and approving the Utilities' Strategic Plans. • For the Board of Boards model to function effectively, the **Treasury would require an enhanced shareholder function** to brief the Minister and enable him to engage in informed discussion with the Board of Boards regarding the Treasury's objectives for the Utilities and the appropriate strategies.

Recommended shareholder model

Board of Boards		
Treasury's requirement	**Benefits**	**Drawbacks**
Performance monitoring	• The Board of Boards would provide an **independent review** of the Board's ability to deliver the Utility's Strategic Plan and therefore increase the performance pressure on the Utilities. • It would be **able to hold the Utilities to account**, ensuring that the Executive Directors and the management teams are constructively challenged on strategy, performance and risk management. • The Board of Boards would be able to keep the Treasury informed of any issues arising. • The Board of Boards discussions with Jersey Water and Jersey Electricity would have to recognise the limitations on disclosure.	• The Treasury should **expect the existing Boards to be capable of holding the Executive Directors and the management team to account** for delivery of the Utility's Strategic Plan. The Chairman has a responsibility to keep the Minister informed on a regular basis and communicate any issues. • Without an enhanced shareholder function within the Treasury, the Minister would be **reliant on the Board of Boards** in the same way that it is currently reliant on the Boards of the Utilities for monitoring the Utilities and keeping the Treasury informed of issues arising.
Consultation on remuneration of the Executive Directors	• The Board of Boards would engage with the Remuneration Committees of the Utilities to **ensure appropriate levels of remuneration and incentive arrangements** were set for the Executive Directors. • By setting the remuneration packages independently of the Minister, the Utilities are protected from undue political interference.	
Consultation in determining an appropriate capital structure and dividend policy	• The Board of Boards would **challenge the Executive Directors and management tea**m to demonstrate that the Utility's capital structure and dividend policy were appropriate. • Through dialogue with the Treasury, the Board of Boards would be able to **represent the shareholder's requirements**, such as dividend expectations.	

Recommended shareholder model

Board of Boards		
Treasury's requirement	**Benefits**	**Drawbacks**
Approval of major transactions	• The Board of Boards would be **capable of understanding and challenging any proposed transactions** by the Utilities. • It would be able to represent the Treasury's views and ensure the expected risk level was appropriate.	

Conclusion

Appointing a Board of Boards would meet some but not all of the Treasury's requirements as shareholder:

- **The Minister would be reliant on the Board of Boards in the same way that it is currently reliant on the Boards of the Utilities. The Treasury cannot delegate its responsibility to perform its shareholder role to the Board of Boards;**
- **To enable the Board of Boards model to work effectively, the Treasury would need to engage in regular dialogue with the Board of Boards. This would require the Treasury to enhance its existing shareholder resource with the appropriate skills and expertise to enable it to engage with the Boards of Boards as an informed and intelligent shareholder;**
- **There is a risk that in being an effective challenger to the Boards of the Utilities, the Board of Boards would inevitably engage in "scope creep" in vision setting, strategy setting and decision-making. Equally, there is a counter risk that the flow of information to the Board of Boards, is not sufficient to enable it to really add value;**
- **There is a risk that the Boards of the Utilities perceive a blurring in accountability between themselves and the Board of Boards, undermining the role and responsibilities of the individual Boards and in particular the role of the Chairmen of the Utilities. This could lead to the existing Directors either resigning or becoming de-motivated and abdicating responsibility to a 'higher authority;' and**
- **The cost of appointing individuals with the necessary calibre for the Board of Boards to work effectively is expected to be high. The cost would be borne by the Treasury. Given the size of the Utilities, it is likely that an effective shareholder function could be performed on a smaller scale arrangement rather than the size and cost of a full Board of Boards.**

Recommended shareholder model

Enhanced engagement with a dedicated resource within the Treasury

Treasury's requirement	Benefits	Drawbacks
Provides a formal framework for the Treasury's engagement with a clear demarcation of roles and responsibilities between the shareholder and the Boards of the Utilities	• The model would provide a **formal framework** for engagement between the Treasury (via a dedicated shareholder function within the Treasury) and the Boards of the Utilities, supported by: – **Clear documentation** of the respective roles and responsibilities of the shareholder and the Boards; and – **Regular dialogue** between the Minister and the shareholder function within the Treasury. • The framework would **protect the independence and autonomy of the Boards**, with a clear de-lineation of responsibilities between the shareholder role and the management of the Utilities. • The model would **not undermine the role of the Chairman**, who would continue to meet with the Minister on a regular basis. However, the enhanced capability within the Treasury would ensure that the Minister was appropriately briefed to enable him to engage in informed discussions with the Utilities' Chairmen. • Establishing individuals in post within the Treasury and formalising the framework for engagement between the Treasury and the Utilities would ensure that the shareholder function could continue to operate effectively over time, irrespective of other changes within the Treasury, such as a new Minister. • A dedicated shareholder function within the Treasury would create a "buffer" between the Boards of the Utilities and the Minister. This would distance the Minister from direct decision-making and **reduce the risk of political interference** or exposure in the day-to-day running of the Utilities. • The enhanced shareholder function provides a **scalable solution**, such that resource could be increased or decreased in response to any adjustments to the current portfolio of the States' owned enterprises over which the Minister takes a more active shareholder role (such as the Jersey Development Company Limited). • The shareholder function would provide the Utilities with a **"champion" within the Treasury** to articulate the Utilities' perspectives. For example, the shareholder function could brief the Minister on any adverse impacts on the Utilities of policy initiatives or could present the case for retention of capital.	• The level of engagement between the Treasury and the Boards of Jersey Water and Jersey Electricity would need to be such that it enables the Boards of those Utilities to ensure equitable treatment of all shareholders. Jersey Electricity also needs to be cognisant of the UK Listing Rules. • There is a risk that enhancing the shareholder function within the Treasury is perceived to increase the 'politicisation' of the Utilities. **The Treasury needs to clearly de-lineate its shareholder function from any policy or regulatory functions** to preserve the independence of the Utilities to operate as commercial entities. • Enhancing the shareholder function to ensure it has the appropriate level of resource and expertise has an **associated cost, so the Treasury would need to satisfy itself that the additional expense was outweighed by the value which the enhanced shareholder function would generate**. • Appropriate resource to perform the shareholder function may not be available within Jersey. Any individuals recruited 'Off-Island' would need to have a good understanding of the nuances of business' operating in the context of Jersey, including the Island's political environment and culture. Recruiting individuals from outside Jersey would also provide independence and objectivity.

Recommended shareholder model

Enhanced engagement with a dedicated resource within the Treasury		
Treasury's requirement	**Benefits**	**Drawbacks**
Participation in the appointment of Chairman and oversight of the composition of the Board	• The Treasury's shareholder function would **participate in the appointment of the Chairman** and agree the composition of the Board. • As appropriate, the shareholder function would also have involvement in the appointment of the Executive Directors and senior management and participate in succession planning.	
Participation in setting objectives and agreement of strategy	• A dedicated shareholder function within the Treasury would **enable it to better understand the Utilities' businesses** and to be an informed and active shareholder. • The Treasury's shareholder function would meet with each Utility to: – Communicate the Treasury's objectives and requirements; – Discuss and agree the Utility's strategy; – Review and challenge the Strategic Plan; and – Agree appropriate performance measures (KPIs). • The Treasury's discussions with Jersey Water and Jersey Electricity, in contrast to discussions with its 100% owned operations, Jersey Telecom and Jersey Post, would recognise their respective limitations on disclosure. • The Treasury's shareholder function would provide an **independent, objective challenge to the Boards** and ensure the Boards were responsive to the Treasury's views. • The shareholder function would ensure the Minister was aware of issues arising, briefed in advance of discussions with the Utilities' Chairmen and able to make informed decisions, on a timely basis.	• The Boards of the Utilities expressed concern that the Treasury's enhanced shareholder function would lead to **increased bureaucracy**, resulting in slower decision-making. However, having a dedicated resource within the Treasury is likely to increase the Minister's understanding of the Utilities and emerging issues, reducing the time required for decisions to be taken. • The effectiveness of the model is **dependent on the appropriate resource**, in terms of skills and commercial expertise being recruited by the Treasury to be capable of performing the shareholder function and commanding the respect of the Minister and the Boards of the Utilities. • The shareholder function would need to have sufficient industry and business expertise to perform the shareholder role. Albeit it could use external advisers where necessary. • The Boards of the Utilities have a role in being able to "educate" the Treasury's shareholder function in respect of its understanding of the Utilities and being able to explain their strategies.

Recommended shareholder model

Enhanced engagement with a dedicated resource within the Treasury		
Treasury's requirement	**Benefits**	**Drawbacks**
Performance monitoring	• The Treasury's shareholder function would provide an **independent review** of the Utility's ability to deliver the Strategic Plan and the Treasury's objectives. Arguably, the Treasury is currently reliant on the Boards to perform this function. • Having a **dedicated capability within the Treasury** would enhance the Treasury's ability to hold the Board to account and increase the shareholder oversight over the Boards and management teams of the Utilities. The shareholder should focus on the Utilities strategy, performance and risk management (i.e. equivalent to the role of an equity analyst in the private sector). • The shareholder function would keep the Minister abreast of emerging issues.	
Consultation on remuneration of the Executive Directors	• The Treasury's shareholder function would engage with the Remuneration Committees of the Utilities to **ensure appropriate levels of remuneration and incentive arrangements** were set for the Executive Directors.	
Consultation in determining an appropriate capital structure and dividend policy	• The shareholder function would **challenge the Executive Directors and management team t**o demonstrate that the Utility's capital structure and dividend policy were appropriate. • The shareholder function would represent the Treasury's requirements, such as dividend expectations. It would mediate in resolving any conflict between the objectives of the Treasury and the long term interests of the Utilities.	
Approval of major transactions	• The shareholder function would be capable of **understanding and assessing the benefits of any proposed transactions** by the Utilities. It would be able to represent the Treasury's views and ensure the expected risk level was appropriate.	

Recommended shareholder model

Enhanced engagement with a dedicated resource within the Treasury

Conclusion

Establishing a dedicated capability within the Treasury and enhancing the current level of engagement between the shareholder and the Boards of the Utilities would meet the Treasury's requirements of:

- **Implementing a formal and transparent framework for the Treasury's engagement with the Utilities, with a clear demarcation of roles and responsibilities;**
- **Retaining the accountability and independence of the Boards of the Utilities, ensuring the role of the Chairman is not undermined;**
- **Enabling the Treasury to be an active and intelligent shareholder, able to effectively exercise the shareholder governance levers it requires to hold the Boards of the Utilities to account for the delivery of Strategic Plan and the shareholder's objectives; and**
- **Establishing a shareholder model which creates a "buffer" between the Boards of the Utilities and the Minister, distancing the Minister from direct decision-making and reducing the risk of political interference in the day-to-day management of the Utilities.**

This model does not have the drawbacks of the Nominated NED or the Board of Boards models.

The effectiveness of this model is dependent on the appropriate, dedicated, professional resource, in terms of skills, experience and commercial expertise being assembled within the Treasury, capable of performing the shareholder function and commanding the respect of both the Minister and the Boards of the Utilities.

The Treasury would bear this cost and would need to satisfy itself that the additional expense was outweighed by the value which an enhanced shareholder function would deliver. It would be appropriate for the Treasury to consider the options available for the funding of the shareholder function, including the ability to recover the cost by levying a charge on the Utilities. In the case of Jersey Water and Jersey Electricity where the States is not the sole shareholder, the minority shareholders may oppose such a levy if they viewed it as being an additional dividend payable to the States. This is less likely to occur where the minority shareholders are inactive and recognise the benefit to them of the Treasury's enhanced shareholder function.

The model is scalable, enabling the Treasury to increase or reduce the resource and time commitment of the shareholder function in response to any changes in its engagement with other States' owned enterprises.

The implementation of the preferred shareholder model is considered in more detail in the following section of this report.

Implementation of the preferred model

Enhanced engagement

To fulfil its role as an effective shareholder, exercising shareholder governance in line with best practice, the Treasury should enhance the level of engagement with each of the Utilities, holding regular meetings with relevant members of the Board and management teams of each Utility.

Whilst the listed status of Jersey Electricity and the fact that Jersey Water has other shareholders will place certain restrictions on the timing of the discussions between the Treasury and those Utilities and to a degree, the level of disclosure permissible, the principle of increased dialogue between the shareholder and the Utilities is similar to those where the States is the sole shareholder.

The shareholder function should focus on communicating the Treasury's shareholder objectives to each of the Utilities and on holding the Utilities to account for the delivery of their strategy, avoiding any tendency to replicate the role of the Executive and the Board in managing the business or reviewing the financial performance in detail.

Under the 'enhanced engagement' model, a series of set piece meetings is envisaged, supported by ad hoc ongoing dialogue between the Treasury and the Executive Directors of the Utilities and the Chairmen of the Remuneration and Nomination Committees, such as:

- **Objective setting meetings to discuss strategy**
  - Communication of the Treasury's[1] objectives for the Utilities and its specific requirements;
  - Discussion of the Utility's strategy, prior to development of the Annual and longer term Strategic Plans by the Utilities; and
  - Review and discussion of the Strategic Plan[1], following approval by the Boards.
- **Quarterly meetings with the Utilities**
  - Discussion of most recent quarterly performance against Plan, with explanation of significant variances; and
  - Review of the outlook and discussion of any material changes to the strategy.
- **Ongoing dialogue, outside of the set-piece meetings**
  - Engagement with the Utilities during the year to discuss ad hoc matters such as: Board appointments, remuneration, proposed major transactions, capital structure and dividend policy.
- **Pre-meeting preparation/ Ministerial briefings**
  - The Treasury's attendee(s) at the meetings with the Utilities would need to allocate additional time for:
    i. Meeting preparation, including a review of the information provided by the Utilities;
    ii. Keeping themselves informed of industry and market developments relevant to each of the Utilities; and
    iii. Regular Ministerial briefings to keep the Minister abreast of the Utilities' performance and any issues arising.

Notes:

1 To ensure best practice regarding the equitable treatment of minority shareholders and to avoid Jersey Electricity being in breach of the UK Listing Rules, Jersey Water and Jersey Electricity would not be expected to provide a copy of their Strategic and Annual Business Plans to the Treasury, but would provide sufficient forward looking information to enable the Treasury to be able to understand the strategy of the two businesses and hold the Boards to account for delivery of the strategies.

Implementation of the preferred model

Resource requirement

To enhance the shareholder engagement with the Utilities, the Treasury requires a dedicated shareholder function. To be effective, it would need to be empowered and capable of discussing issues on behalf of the shareholder, commanding the respect of the Chairman, Chief Executive, other Board Directors and the Regulator and able to discuss and challenge the Utilities' strategies and performance. Equally, it would need to be capable of advising and briefing the Minister ahead of the shareholder meetings and providing advice to the Minister on matters such as Board appointments, Directors' remuneration, appropriate capital structures and dividend policy. Where necessary, in the event of underperformance by one of the Utilities, the shareholder function would be responsible for providing advice to the Minister on how the shareholder should intervene.

The Treasury would need sufficient resource to enable it to fulfil this role. On the assumption that the remit of the shareholder function, at least initially, would be limited to exercising governance over the four Utilities, the resource requirement is likely to comprise:

- **Senior individual – initially, near full time**
  - A senior individual, capable of commanding the respect of the Minister and the Boards of the Utilities and the Regulator. The individual would need to be viewed by the Utilities as capable of discussing strategy, performance, Board appointments and other issues on behalf of the Minister.
  - This individual would require a financial background with experience of working in the private sector at Board level.
  - The Minister would need to delegate the appropriate level of authority to this individual to empower him/ her to be effective in the role and be capable of making day-to-day decisions on behalf of the Minister, referring to him where appropriate.
  - The expected time commitment for this individual is likely to be four to five days per week, although once the shareholder function is established, the role may reduce to part time, of one to two days per week. During the 'set up' phase, as the Treasury introduces its enhanced shareholder governance model, the time commitment to secure the Utilities' 'buy-in' to the revised governance arrangements should not be underestimated. The success of the model will be dependent on the Utility Board's acceptance of the arrangements and their willingness to engage with the shareholder function; this is best achieved through the development of mutual respect.
- **Supporting resource – full time**
  - The senior individual would require access to a dedicated resource to support his/her role. This could comprise or be a combination of:
    i. In-house resource within the Treasury; or
    ii. External advisers, such as one of the accounting firms, banks or fund managers; or
    iii. A secondee within the Treasury, such as could be provided by an accounting firm, bank or fund manager.
  - The expected time requirement of this individual is likely to be full time.

This model is scalable in the event that the Treasury wishes to increase the engagement remit of its shareholder function to include other States' owned entities.

Based on the cost of comparable resource within the Shareholder Executive in the UK, the combined direct salary costs of the enhanced resource is estimated to be in the region of £200,000 to £250,000 per annum. Depending on the level of activity of the Utilities, such as diversification into new products and markets, the shareholder function would expect to be supported by external advisers on an ad hoc basis. The budget requirement for advisers' fees is likely to be in the region of £60,000 to £120,000 per annum, equivalent to £15,000 to £30,000 for each Utility.

The cost of external advisers may be higher in the early stages of implementing the enhanced shareholder arrangements as the shareholder develops its understanding of each Utility and establishes a core base of data and supporting analysis. The cost is likely to vary by Utility, depending on the Treasury's existing relationship with the Utility, the complexity of each Utility and their current performance.

Implementation of the preferred model

Steps to implementation

A high level summary of the key steps which the Treasury would need to take to implement the preferred shareholder model is provided below.

- **Agreement of the remit of the enhanced shareholder function**
  - At the outset , it will be important for the Minister and the Treasury to agree the mission, remit, reporting lines and accountability of the shareholder function. In addition, agreement would need to be reached on how the function is funded and the budget for the enhanced shareholder capability. Whilst the Minister would remain the shareholder, the 'senior individual' responsible for leading the shareholder function would be a senior member of the Treasury team with a wide remit to develop the shareholder role and able to speak on behalf of the Minister.
- **Appointment of the enhanced shareholder function**
  - Appointment of the appropriate individual(s) to fulfil the shareholder function within the Treasury which is likely to comprise a senior and a junior individual. This would require the development and documentation of role descriptions, use of recruitment consultants, candidate interviews, etc.
- **Consultation with the Utilities**
  - A consultation process would need to be undertaken between the Treasury and the Boards of the Utilities to explain how shareholder governance will be undertaken in future and to secure the Boards' 'buy in' and support for the new arrangements.
  - Fundamental to the success of the model will be to explain the implications and benefits of the enhanced shareholder function to the Utilities, including an outline of the respective roles of the Treasury and the Boards of the Utilities and the framework for engagement. It is essential that the enhanced dialogue between the shareholder and the Utilities is not seen as an additional layer of bureaucracy.
- **Implementation**
  - The shareholder function would be responsible for putting in place a formalised framework for the Treasury's engagement with the Utilities. This could take the form of an MOU or Principles of Ownership which sets out what the Treasury expects of the Utilities as shareholder and what the Utilities should expect from the Treasury.
  - MOUs already exist to govern the Treasury's relationship with Jersey Telecom and Jersey Post. These documents would need to be updated to reflect the enhanced governance arrangements. MOUs do not currently exist between the Treasury and Jersey Water or Jersey Electricity and would need to be drafted, reflecting the fact that the States is not the sole shareholder of those Utilities.
  - The MOU/ Principles of Ownership would set out the governance arrangements and a clear and comprehensive description of the rights and levers the Treasury would hold and the basis by which they will be exercised. The Treasury should ensure the Utilities' compliance with the MOU/ Principles of Ownership which should be capable of being amended to reflect evolving best practice in corporate governance. A summary of the key components which would be expected to be included in the MOU/ Principles of Ownership is provided as an appendix to this report.

Implementation of the preferred model

- **Implementation *(continued)***
  - The Treasury shareholder function should agree with the Boards:
    i. The timing of the annual strategic and quarterly review meetings between the Treasury and the Utilities. The quarterly performance meetings would be expected to occur immediately following the Board approval of quarterly results in the case of Jersey Telecom and Jersey Post and immediately following publication of the quarterly results in the case of Jersey Water and Jersey Electricity. The annual objective-setting and strategy meetings should be held in advance of the Utilities developing the Strategic and Annual Business Plans; and
    ii. The Treasury's annual information requirements from each Utility – expected to include items such as the annual and longer term Strategic Plans or forward-looking statements and quarterly financial results. Examples of the information requirements which the Treasury is expected to require (to be specified in the MOU/ Principles of Ownership) is provided as an appendix to this report. Typically, the shareholder's information requests should be information and analysis which the Utilities management teams prepare as a matter of course, including benchmarking of its financial performance, KPIs and capital structure.
  - One of the key premises that supports the effective operation of the enhanced shareholder function as a means of exercising good governance over the Utilities, is the assumption that the Board of each of the Utilities is appropriately constituted and effective. Accordingly, in the first six months of the new arrangements, it will be important for the Minister, in conjunction with the Treasury's enhanced shareholder function, to review and discuss with the Chairman of each of the Utilities, the strength of the current Board composition and their operating effectiveness as a means of:
    i. Establishing the vision, mission and values of the Utilities;
    ii. Setting their strategy and organisational structure;
    iii. Delegating authority to the management teams to deliver the strategy; and
    iv. Exercising accountability to shareholders and responsibility to relevant stakeholders.
  - To the extent that there is a need for enhanced or revised arrangements, these should be agreed and an outline timetable for their implementation should be established
  - It would also be appropriate for the Treasury to put in place an appraisal process for assessing the effectiveness of the shareholder function. This need not be elaborate but is likely to provide important feedback to assist in the development of the shareholder function.

List of interviewees

The following individuals were interviewed in connection with this review:

Interviewees	
Treasury and Resources Department	Philip Ozouf – Treasury and Resources Minister Ian Black – Treasurer Jason Turner – Deputy Treasurer Dawn Rabet – Strategic Investments Manager
Jersey Telecom	John Boothman – Chairman Bob Lawrence – Chief Executive Officer Geoff Weir – Chief Financial Officer Daragh McDermott – Company Secretary David Le Quesne Non-Executive Director
Jersey Post	Mike Liston – Chairman Ian Carr – Managing Director (Postal Business) Ian Ridgway – Finance Director Gary Whipp – Managing Director (International Development) Paul Jackson – Non-Executive Director
Jersey Water	Kevin Keen – Chairman Howard Snowden – Managing Director Helier Smith – Finance Director Tony Cooke – Non-Executive Director
Jersey Electricity	Geoffrey Grime – Chairman Chris Ambler – Chief Executive Martin Magee – Finance Director Jeremy Arnold – Non-Executive Director

Overseas models

Introduction

- The *International governance of state owned entities* section in the main body of this report makes reference to the shareholder governance guidelines which have been set out by the OECD and the code of best practice which the ISC has issued for its members, the major institutional shareholding bodies in the UK. This report also outlines the governance framework and shareholder levers which are operated by the Shareholder Executive and UKFI in respect of Government owned enterprises in the UK.
- This appendix sets out the approach to the management of shareholdings in state owned enterprises taken by the governments in France, New Zealand, Sweden, Canada and Finland respectively. These models are viewed as exemplars of international practice in fulfilling the shareholder function in respect of state owned enterprises.
- The information which has been included in this appendix has been extracted from the government websites of the respective countries. It reflects the translation from the national language to English available on the websites:
  - France: Agence des participations de l'Etat – www.ape.minefi.gouv.fr
  - New Zealand: Crown Ownership Monitoring Unit – www.comu.govt.nz
  - Sweden: Ministry of Enterprise, Energy and Communications, Division for State Enterprises – www.sweden.gov.se
  - Canada: Government of Canada – www.tbs-sct.gc.ca/tbs-sct/index-eng.asp
  - Finland : State Ownership Steering Department, Prime Minister's Office – www.valtionomistus.fi/etusivu/en.jsp

Overseas models – France

France – Agence des participations de l'Etat ("APE")

Background

- The French Government Shareholding Agency ("APE") is a national organisation belonging to the Department of Treasury and of Economic Politics, within the Ministry of Economy.
- The APE has been fully operational since early 2004. Its creation was aimed at strengthening the governance of companies wholly or partly owned by Government, with reference to working group recommendations and a parliamentary investigation panel, while respecting best practices, Government constraints and general public interest assignments.
- The APE's mission is to act as a shareholder for the French Government, in order to develop its assets and maximise the value of its stakes. It is the main adviser to the Economy Ministry on all matters concerning the Government's position as a shareholder: strategy, investments and financing, mergers and acquisitions and equity transactions.

Structure

- The APE is structured as a matrix organisation. It has three core areas of expertise: audit/accounting, finance and legal, which support the sector-specific departments which are in charge of overseeing the enterprises in the APE's portfolio: Transport, Energy, Services/Media and Military.
- The APE considers its structure to be a source of strength for performing its role which demands a high degree of responsiveness and in-depth technical expertise.

Portfolio

- The APE has a portfolio of approximately 70 entities and holdings, including SNCF, EDF, GDF Suez, France Telecom, Air France-KLM, La Poste and Renault. The portfolio includes investments in twelve listed companies.

Approach

- The missions of the APE are to be a dedicated, effective, transparent and efficient shareholder. The scope of the APE's activities is strictly defined and covers a wide range of companies and assets, from minority stakes to state controlled large entities. The portfolio includes a total of approximately 70 entities and holdings.
- The APE focuses on three goals:
  - Maintaining smooth and transparent relations with its portfolio of companies, based on a true strategic dialogue;
  - Improving the governance of its companies; and
  - Developing the Government's capacity to act as an effective shareholder, able to anticipate and make adequate proposals.
- The APE has defined general principles for the functioning of its companies' main bodies (Board, General Assembly) and for the relationships between the companies and the APE. These are set out in a 'Working Charter'. The principles are aimed at defining high level standards for the Government's representative and the other shareholders at the Board meetings of state owned companies.
- The principles are implemented on a case-by-case basis, taking into account the status of the company, its capital structure where necessary and the company's specific legal and regulatory arrangements. It is up to the company Chairman and the management team to strictly follow these rules, including the shareholder equality principle, where applicable.
- The APE coordinates with other Ministries to determine the global strategy and guidance for the Government as shareholder. The APE has to be transparent and it presents combined accounts for the main entities controlled by the Government, regardless of their legal structure as long as they are within the scope of the APE.

Overseas models – France

Role

- The APE seeks to ensure that the entities in its portfolio adopt the good governance principles encapsulated in the Charter, focusing on:
  - Strengthening the Board of Directors' powers and setting up Specialised Board Committees: audit, remuneration and strategy;
  - Diversifying the composition of the Boards, to increase the number of independent Directors;
  - Elimination of conflicts of interest, wherever possible;
  - Enhancement of the quality of discussions; and
  - Improving financial disclosure, such as compliance with IFRS standards.
- The APE staff also pay close attention to the condition of the undertakings in the portfolio, maintaining ongoing dialogue with the companies' management teams and continuously monitoring developments in their respective sectors of activity.
- The APE also has a mission to ensure that once the Government has decided on capital transactions, they are successful from the shareholder's standpoint. The APE provides intelligence, analysis and proposals to the Ministry and regularly makes recommendations in respect of capital transactions which it considers to be financially and industrially advisable.
- The Government's portfolio of shareholdings is highly diversified, comprising entities differing greatly in nature and size. It includes listed and unlisted companies, as well as corporations and public establishments. The APE seeks to promote and raise the profile of its portfolio companies among investors, some of which are already stakeholders alongside the Government.
- A central feature of the Government's role as shareholder is its representatives' participation in the Boards of Directors and Specialised Board Committees of the entities within its portfolio. Specifically, this entails:
  - Close oversight of the quality and fairness of the financial statements and accounting disclosure; and
  - Assessing the suitability of major investments, external growth operations and disposals from an industrial and strategic standpoint and optimising them with an eye to the long term interests of the shareholder.
- The APE continually monitors the quality of governance in those entities and has helped raise standards:
  - *APE staff members play an active role in the Boards of Directors or Supervisory Boards of the undertakings in its portfolio*
    - APE members, as representatives of the Government as shareholder, participate in the governing bodies of state owned and semi-public enterprises.
    - APE representatives attend meetings of the Boards of Directors and Supervisory Boards, as well as audit committees. The APE also ensures that strategy, remuneration and other committees are set up where appropriate.
  - *Selection criteria and training of directors representing the Government in governing bodies*
    - Most of the APE members appointed as Directors to the Boards of listed companies are executives, having the rank of Deputy Director or above, ensuring that they are well acquainted with the financial and strategic issues discussed by the Boards and experienced in the workings of the corporate governing bodies.
    - Directors representing the Government (and APE staff in general), must have the necessary core skills and experience to discharge their duties effectively and to ensure good governance of state owned entities. The APE runs a large-scale training programme for the representatives, to cultivate commitment to higher governance standards in publicly-owned firms. The training aims to: lay out the personal and professional obligations of Directors representing the Government; to build up a common body of legal, financial and accounting knowledge for all Directors and those assisting them in their work; and to examine and gain a thorough grasp of specific areas such as strategic analysis, assessment methods, IFRS standards and key human resource issues.

Overseas models – France

Role (continued)

- *Implementation of the Charter which governs relations between the state owned and semi-public enterprises and the Government as shareholder*
  - One of the APE's priorities is to put best practice governance in place for the entities in its portfolio. After the APE was set up, it issued a Charter, setting out the rules of governance necessary to structure relations between the APE and the state owned and semi public enterprises. The Charter enshrines the principles of governance of the companies' governing bodies:
    - Establishment of Specialised Board Committees;
    - The role and mission of the Board Directors or Supervisory Board, and of the Specialised Committees; and
    - Internal guidelines formalising the governing bodies' procedural rules and deadlines for the transmission of preparatory documents to Directors.
  - It also deals with relations between the entities and the APE with respect to reporting, setting up regular meetings to review progress and prepare for major milestones, and measures aimed at enhancing knowledge of the companies' operations.
  - The APE seeks to ensure that these rules and principles are applied within the entities in its portfolio, while adopting a pragmatic approach to the specific issues and challenges they face. Each year since the Charter came into effect in 2004, the 'Government as Shareholder' report reviews its application, based on assessments by Directors from the APE who represent the Government on the Board of Directors and Supervisory Boards of nearly 50 enterprises and public establishments in the APE portfolio.
- *Determination of executive management compensation scheme: a key task in the mission of the Government as shareholder*
  - Executive management compensation schemes for companies in the APE portfolio are scrutinised closely, due to their importance to the mission that the Government, as shareholder, performs in accordance with the relevant legal framework. Executive management performance is naturally of interest to shareholders.
  - As a result, the APE has sought to modernise procedures for determining executive pay in state owned and semi public enterprises, with particular emphasis on the need to set up compensation committees wherever appropriate. One of the primary purposes of these committees is to prepare Board proceedings by formulating opinions and proposals regarding the components of the remuneration of corporate officers (i.e. Chairmen and executive board members):
    - Salaries – fixed/ variable mix;
    - Criteria and targets of the variable component; and
    - Evaluation of the results achieved by executives compared with the targets.
  - The Government, as shareholder, ensures that the executive management pay is directly linked to performance and that the variable component, the bonus, genuinely creates incentive. The criteria and targets on which bonuses are based must be both quantitative (e.g. balance sheet structure, operating earnings and return) and qualitative (e.g. management quality criteria or successful implementation of certain projects).
- *Executive appointments*
  - The Government plays an active role in the appointment of executives in a number of the companies in the APE portfolio, relying on recruitment professionals, where necessary.

Overseas models - France

The Working Charter

In its role as the interface between the companies and the Government, as shareholder, the APE looks after the following aspects:

- *Monthly reporting implementation*
  - Companies transmit monthly Directors' Reports to the APE, containing the main financial indicators and if necessary, qualitative indicators of the activity, based on the Executive Committee's internal reporting. The choice of indicators is adapted to each company and is revised regularly.
- *Regular financial book meetings and preparation of important milestones*
  - At least annually, company management teams meet the APE to present main transactions and strategic prospects. These meetings are also the preferred time to highlight the relationship between the APE and the companies and to measure compliance with governance rules set out in the Working Charter.
    - During work on annual budgets for Government companies, milestone meetings are organised between the public services concerned and the company, for a detailed discussion if any arbitration is needed.
    - Exceptional investments and external growth operations are subject to detailed upfront presentations before any validation process.
    - Meetings are organised to define accounting methods prior to the Board of Directors' review of the books.
- *Searching for better company operational knowledge*
  - Management teams establish regular correspondence with contact points within the APE. This includes fixed meeting programmes and site visits.
- *Capital operations*
  - Communication on capital operations is subject to the sharing of roles between the shareholder and the company. Communication on the operation opportunity and its main considerations, depend on the shareholder, concerning the Government and generally the Minister.
- *Audit reviews*
  - The Government, as shareholder, can request management or strategy audits of public companies or their subsidiaries. The auditors have access to all necessary people or information within the companies.

Resource

- The APE is led by Bruno Bezard, with a staff of about 55 people.
- APE staff members have wide ranging profiles and the APE can hire contract personnel (a significant share of the personnel), particularly for operational positions and in areas where expertise is indispensable.
- In addition to its internal operating budget, the APE has appropriations to finance intellectual service contracts with investment banks, law firms, audit and consulting firms. Such services generally concern not only the structuring of transactions and their strategic, legal and financial implications but also valuations. Consultants are hired by Government in accordance with the relevant legal framework

Overseas models – New Zealand

New Zealand – Crown Ownership Monitoring Unit

Background

- The Crown Ownership Monitoring Unit ("COMU") was established in November 2009, bringing together the ownership monitoring, appointments and governance functions of the Treasury and the former Crown Company Monitoring and Advisory Unit ("CCMAU"), into an integrated unit within Treasury. It is focused on:
  - Improving the performance of the entities it directly monitors;
  - Supporting other monitoring agencies; and
  - Contributing to better balance sheet management across the Crown's portfolio.
- COMU collaborates closely with other Treasury teams, performance monitoring and assurance agencies in the wider state sector and with the private sector.

Structure

- A key principle under the Crown company model is the separation and maintenance of a clear division between the Government's ownership, purchasing and regulatory interests. Under the model, Crown owned companies (i.e. state owned enterprises ("SOEs")):
  - Operate at arm's length from the Government (unlike departments);
  - Have independent Boards that are accountable for the companies' performance;
  - Are separate legal entities, with Directors who are responsible for overseeing the management of the business and affairs of the companies; and
  - Are subject to the financial reporting and other requirements applying to all companies, together with any relevant sector-specific legislation.
- Each Crown company has two shareholding Ministers, each of whom holds 50% of the company's shares: the responsible Minister and the Minister of Finance. The responsible Minister (normally the Minister for SOEs) generally takes the lead shareholder role and is the formal point of contact with the Boards.
- The Ministry of Finance ensures that the Crown's economic and financial objectives are considered appropriately.

Approach

- Officials at COMU monitor Crown companies on behalf of and provide advice to, the shareholding Ministers.
- COMU has three advisory teams:
  - *Sector Monitoring:* monitors a range of Crown companies and provides advice to shareholding Ministers;
  - *Appointments and Governance:* supports and provides advice to Ministers on appointments and governance of Crown companies;
  - *Sector Performance and Balance Sheet:* provides proactive advice and support to other monitoring departments, assesses the performance of these agencies (monitoring the monitors) and contributes to better balance sheet management across the Crown's portfolio.
- COMU's primary working relationships are with shareholding Ministers and the senior management and Boards of each Crown company. COMU also maintains contact with a number of organisations and government agencies to exchange information and provide ad hoc advice.

Overseas models – New Zealand

Shareholding Minister's role and responsibilities

- In practice, the shareholding Ministers' responsibilities include:
  - Appointing and removing Directors (including Chairs and Deputy Chairs).
  - Commenting on the content of the draft Statement of Corporate Intent ("SCI") (including objectives, the nature and scope of activities and performance targets) and business plans, including any aspects that may be inconsistent with statutory requirements;
  - Supporting the SOEs' medium to long term strategic direction;
  - Tabling final versions of SCIs in the House of Representatives;
  - Developing and communicating the Government's ownership policies;
  - Monitoring Board performance and taking necessary remedial steps should Boards fail to meet the targets in their SCIs and business plans;
  - Consulting with the Boards as issues arise;
  - Tabling annual and half yearly reports in the House of Representatives;
  - Taking decisions as shareholder (for example, approving a major transaction under the Companies Act, or other transactions if such approval is required under a company's SCI); and
  - Passing resolutions at annual meetings (or special meetings) or agreeing to pass written resolutions in lieu of such meetings.

The monitoring function

- As owner of the SOEs, the Government is obliged to manage its investments in the best interests of New Zealanders. The monitoring function is central to ensuring that the relevant legislation, ownership policies and shareholding Ministers' expectations are clearly communicated and the SOE Boards have appropriate regard to them.
- The success of the monitoring regime depends on:
  - A common and clearly understood framework of accountability and governance;
  - The implementation of best-practice corporate governance policies and procedures by SOEs;
  - Clear and focused board accountability; and
  - Independent advisors being familiar with and understanding the SOEs they monitor and the sectors in which they operate, so that shareholding Ministers receive expert advice.

The role of COMU

- Shareholding Ministers receive ownership advice on SOEs from COMU, supplemented by input from other agencies when necessary.
- COMU is required to develop and maintain a detailed knowledge of each SOE's operations and markets to enable them to assess whether individual SOEs are meeting shareholding Ministers' expectations.

Overseas models – New Zealand

The role of COMU (continued)

- COMU focuses on:
  - Board composition and performance – a specialised team within COMU manages the Director selection process and recommends candidates to shareholding Ministers, as well as monitoring the performance of the Board;
  - SOEs' commercial opportunities and risks;
  - The environment in which the SOEs operate;
  - Protecting and enhancing shareholder value;
  - Routinely monitoring performance against financial and non-financial objectives;
  - Issue management, including advice to the shareholding Ministers on ministerial correspondence and parliamentary questions.
  - Establishing ownership objectives for individual SOEs and the SOEs as a whole; and
  - Developing ownership policy advice for shareholding Ministers.
- COMU also contributes advice on general policy that affects SOEs in consultation with other departments, as appropriate. However, final decisions on all SOE issues remain with shareholding Ministers or Cabinet.
- COMU is the daily point of contact with SOEs and is sent all routine reports (quarterly, half yearly and annual) and other process-related documents.
- The Boards of the SOEs, particularly Chairs, are expected to work closely and cooperate with COMU as the conduit of information and advice to shareholding Ministers. It is expected that a good working relationship will develop between COMU and SOE Board members and senior managers.
- Boards may wish to invite officials to be present during parts of Board meetings or annual business planning sessions, if required, to discuss issues or to clarify shareholder expectations. Such invitations are entirely at the discretion of each Board.

SOE reporting and accountability

- *Business planning process:*
  - On an annual basis, the shareholding Ministers notify the Board of each SOE of its information requirements, the timing, and any specific issues the company is expected to address in its business planning. The Board informs the shareholding Ministers of the major strategic issues the company expects to address during its business planning.
  - The Board of each SOE provides the shareholding Ministers with a draft SCI (i.e. strategic plan), supported by the company's business plan. The performance targets and measures in each SCI are expected to be meaningful and related to the drivers of each SOE's performance.
  - COMU, with the shareholding Ministers, engages with the SOEs to understand and comment on the key aspects of each SOE's future strategy.
  - The Boards then deliver a final SCI to shareholding Ministers on, or before the start, of the financial year.
  - SOEs are required to operate as successful businesses and, to this end, to be as profitable and efficient as comparable businesses not owned by the Crown, to be a good employer, and to exhibit a sense of social responsibility. SOEs are expected to benchmark their performance against comparable businesses not owned by the Crown, either in New Zealand or overseas and to demonstrate achievement of the non-financial dimensions of operating as a successful business.
  - SOEs provide benchmarking information in their SCIs and in their quarterly, half yearly, and annual reports, in particular regarding: credit rating, profitability, service performance, social responsibility, commercial value and other indicators that the Board considers relevant, or that shareholding Ministers advise from time to time.

Overseas models – New Zealand

SOE reporting and accountability (continued)

- *Reporting to shareholders*
  - Shareholding Ministers expect the financial information and commentary in each SOE's quarterly report to fully and accurately summarise the company's performance against budget, identify the cause of major variances, signal any potential developing issues, and highlight major achievements for the quarter. This is expected to include:
    - Financial statements including profit and loss statement, statement of financial position and statement of cash flows;
    - Non-financial information, especially key performance indicators for the business; and
    - Any other performance measures in the SCI that are not already covered.
  - Ministers expect Boards to be sensitive to their interests. Under a "no surprises" policy, shareholding Ministers expect to be informed well in advance of any material or significant events, transactions and other issues relating to SOEs that may be contentious or could attract wide public interest, whether positive or negative, such as changes in CEOs, significant company restructuring, large-scale redundancies and industrial disputes.
- *Risk management*
  - Boards are responsible for managing risks and should keep shareholding Ministers informed of risk management strategies through business plans and other reports where necessary.
- *Capital management*
  - Shareholders expect SOEs to minimise the level of surplus capital on their balance sheets and to return surplus capital to the Crown so that it may be used for other Government priorities.
  - Each SOE should have a target optimal capital structure to ensure that all SOEs have appropriate financial disciplines to manage capital efficiently at similar risk levels.
  - The level of estimated dividends is set by the Board after considering shareholding Ministers' comments through the SCI and business plan consultation process. The level of dividend is driven by each SOE's desired capital structure, profitability and the level of future capital expenditure, as outlined in the business plan and SCI. The proposed dividend payout ratio and estimated dividend should be included in the business plan for each year covered by the plan.
- *Major transactions*
  - The Board of each SOE is required to seek the approval of and expected to consult with or inform, shareholding Ministers before certain strategic transactions are entered into.

Overseas models – Sweden

Sweden – Ministry of Enterprise, Energy and Communications, Division for State Enterprises

Background

- The Government's overarching objective is that state owned companies should create value (i.e. a satisfactory return on Government capital) and where applicable, fulfil expressed societal interests.
- Resources and competence for the administration of state owned companies are concentrated in a special unit, the Division for State Enterprises, which sits within the Ministry of Enterprise, Energy and Communications. This enables a uniform ownership policy to be applied, with clear goals and guidelines for the companies.
- The Division for State Enterprises is responsible for the major part of the administration of state owned companies, with a portfolio of 42 companies. Other ministries are responsible for the administration of 13 companies. Four of the 55 companies are listed on the stock exchange. The Minister for Enterprise, Energy and Communications is responsible for all companies administered by the Government Offices with regard to ownership policy.

Approach

- Corporate governance takes place mainly through:
  - Participation in appointing the Board of Directors. Government representatives are appointed to the Boards of certain state owned enterprises;
  - Dialogue with the Chairman of the Board; and
  - The AGM
- The Swedish Code for Corporate Governance is part of the Government's regulatory framework for ownership administration, on a 'comply or explain' basis. Wholly owned state owned companies and all state owned listed companies apply the code. The Government is endeavouring, together with the other owners, to ensure the Code is also applied by partially owned companies.
- The Division of State Enterprises monitors and assesses the companies through financial analyses, industrial analyses and various types of reports it receives from the companies. Other goals, besides the creation of economic value, are monitored and assessed.
- The ownership administration is also responsible for developing and implementing the Government's ownership policy in all state owned companies.
- The Government reports on the administration of state owned companies in its annual report to the Riksdag (Swedish Parliament).

State Ownership Policy

- The Government has formulated a State Ownership Policy which presents the Government's position on certain important principles on the administration of state owned companies, including the view on: the AGM, the Board, the financial reporting, the executive management and their remuneration.
- In consultation with other owners, the Government is working for these principles to be applied in part owned enterprises:
  - *The Annual General Meeting*
    - Members of the Riksdag have the right to attend the AGMs of companies in which the state owns more than 50% of the shares and which have more than 50 employees.
    - The wholly owned state companies should arrange some form of event in connection with the general meeting where the public are given the opportunity to ask questions to the management of the company.

Overseas models – Sweden

State Ownership Policy (continued)

– *The Board Nomination Process*

- The Minister of Enterprise and Energy has delegated special responsibility for uniform state ownership policy for *all* of the companies administered by the Government Offices, with the Board nomination process being co-ordinated by the Division of State Enterprises. This is to ensure the effective provision of competence to the company Boards.
- Uniform and common principles are applied to the Board nomination process in state owned companies, to ensure the quality of the process.
- A working group analyses the required competence on the basis of the company's activities and situation and the composition of the respective Board. Recruitment requirements are then established and recruitment work initiated. Board members are selected from a broad basis for recruitment.
- The state participates in the nomination committee of the companies in which the state has a substantial ownership stake.

– *The composition of the Board*

- The Government has officials employed at the Government Offices on the Boards of certain state owned entities. Participation on the Board means, amongst other things, that the Government's requirement for good insight into the activity is complied with.

– *Assessment of the Board*

- The Government Offices are to be informed about the result of the annual Board assessment. The work of the Government Offices with the Board nomination process also includes ongoing self assessment of all the state owned companies' Boards.

– *Board fees*

- The Board members receive remuneration for the work performed and the responsibility that rests on them. The fees of the Board are determined by the annual general meeting. In advance of decisions at the AGM on Board fees, an analysis is made, where the level of fees is compared with fees in other comparable companies. Fees are to be competitive but not market leading.

Overseas models – Canada

Canada

Background

- Crown corporations are distinct legal entities, wholly owned by the Crown. There are approximately 46 Crown corporations in Canada.
- In 1996, the Canadian Government drew together an Advisory Group on Crown Corporations, comprised of senior executives with a breadth of experience from both the public and private sectors. The work of the Advisory Group resulted in the release of *Guidelines for Corporate Governance in Crown Companies and other Public Enterprises* which aimed to assist those involved in overseeing the direction and management of public sector corporations to better appreciate both the nature and the importance of their corporate governance duties.
- The Guidelines address:
  - How the responsibilities and powers are divided among the Crown, the Board of Directors and management;
  - The Board of Directors stewardship responsibilities;
  - Developing an appropriate and effective working relationship between the Board and management; and
  - Ensuring there are mechanisms in place to achieve accountability.
- The Guidelines are a source of advice and guidance on corporate governance matters, to enable the Chairman and the other Board members to function more effectively in meeting the expectations of the Government of Canada and enhancing accountability.
- Each Crown corporation is required to report on its corporate governance policies and procedures in relation to the Guidelines in its annual report, to enhance the accountability of the Boards.
- Recognising the need to further strengthen the governance of Crown corporations, the Government initiated a public review the governance and accountability framework under which Crown corporations operate in 2004. This identified over 30 measures to strengthen oversight, management and accountability and to increase transparency in Crown corporations, while at the same time respecting the autonomy and arm's length relationship of Crown corporations with Government.

Approach

- Crown corporations operate at arm's length from the Government, as public institutions. However, Crown corporations are ultimately accountable to Parliament for their decisions and actions, through a responsible Minister. The responsible Minister is identified as the Government's representative and the Minister is accountable to Parliament for the discharge of responsibilities related to this role.
- The Board of Directors, through the Chair, is accountable to the responsible Minister for the stewardship of the corporation, providing strategic direction, overseeing the management of the corporation and holding management to account for the company's performance.
- The Canadian Government's core governance principles are transparency and accountability. It believes in taking a proactive approach to its relationship with Crown corporations, particularly with respect to communicating its policy priorities, performance expectations and the corporations expected contribution to Government objectives. The responsible Minister provides the Government's input into the Crown corporation's planning process.

Overseas models – Canada

Role of the responsible Minister

- Functionally, the role of owner is exercised by the responsible Minister on behalf of the Government of the day. The Minister's responsibilities include:
  - Discharge of the Minister's responsibilities under the Financial Administration Act ("FAA") and constituent legislation:
    - Recommending the issuance of directives;
    - Recommending the appointment of Directors, subject to the concurrence of the Government;
    - Recommending corporate plans for approval by the Government and operating and capital budgets for Treasury Board approval;
    - Tabling annual reports and summaries of plans and budgets in Parliament;
    - Reviewing information from a special examination report; and
    - Reviewing reports on material developments that have occurred in a Crown corporation and answering questions in Parliament; and
  - Assessing the ongoing relevance of the corporation's mandate and its effectiveness as a policy instrument; and
  - Providing broad policy direction to the corporation.
- Within the Government, a variety of officials provide support to the Minister as part of the governance regime in respect of Crown corporations, for example, in reviewing corporate plans or developing operational guidelines.

Statement of Priorities and Accountabilities

- To communicate the Government's policy objectives and priorities to Crown corporations, the responsible Minister issues the corporations within his/her portfolio with a *Statement of Priorities and Accountabilities*.
- The Statement will be discussed beforehand with corporate management and the Board but ultimately it will reflect the Government's policy expectations for the corporation. The statement will be subject to an annual review and help form the basis for a periodic review of the corporation's performance.
- The Statement is intended to serve several purposes:
  - Confirm the corporation's mandate and business lines;
  - Inform the corporation of the Government's priorities;
  - Achieve consistency between the Government and the corporation regarding the Government's priorities, policy objectives and performance expectations for a fixed period; and
  - Serve as a key driver in the development of the Crown corporation's corporate and/or strategic plans, annual reports and financial forecasts.
- The Statement is not legally binding and is tailored to the specific circumstances of each corporation.
- To resolve potential conflicts in a corporation's mandate, the Statement will enunciate clearly the public policy goals of the organisation as well as its commercial objectives and if applicable, how they are interrelated.
- Crown corporations have operational autonomy but are not independent of Government. When required, Directors are expected to enter into a process of dialogue with the Minister to arrive at an appropriate understanding of the corporation's activities based on the Government's policy priorities.
- Boards are accountable to the responsible Minister for ensuring that the activities of the Crown corporations are in line with their mandates. They also have ultimate responsibility for the implementation of the policy guidance provided in the Statement of Priorities and Accountabilities.

Overseas models – Canada

Role of the responsible Minister (continued)

Policy objectives

- The responsible Minister has a range of instruments to influence the conduct of Crown corporations, such as:
  - Amendments to the constituent Acts of corporations;
  - The mandate provided in law: this sets out the corporation's goals, responsibilities and authorities and identifies the powers of its Board;
  - Approval of corporate plans on an annual basis: this is the principle instrument used for defining the corporation's objectives;
  - The power to issue a formal directive: the Government has the authority to intervene in the management of a Crown corporation by directing the Board of Directors to follow a particular course of action when the Government believes it is in the public interest to do so (i.e. oblige the corporation to deliver on its public policy mandate). The Minister must consult with the Board of Directors prior to issuing a directive and once issued, the Minister must table the directive with both Houses of Parliament. The power of the directive is not intended to be used extensively and is a tool of last resort;
  - Appointment of individuals to key positions; and
  - Approval and guarantee of the financing of corporations.
- The responsible Minister, as the representative of the owner, is required to provide the Boards of Directors of Crown corporations with a clear statement of the Government's policy priorities and performance expectations for the corporation, which would form the basis of a periodic review of the corporation's performance.

Independence of the Boards of Directors

- The Government believes a critical element of achieving sound governance is choosing qualified directors to sit on Boards. On the basis that the Chairs and the other Board Directors of Crown corporations represent the interests of the owner, Government plays an appropriate role in the appointment of the Board.
- The Government is committed to the principle of ensuring Board independence. It only continues to have public servants on the Board of Crown corporations in a limited number of cases, when it is essential to the best interests of the Government and the Crown corporation.
- As Board members, public servants bring knowledge and expertise, help ensure the protection of public interests and help the Board of Directors to better understand the policy and the machinery of Government. However, it is recognised that there is a risk that public servants can be perceived to reduce the independence of the Board and can give rise to conflicts of interest (i.e. their fiduciary responsibility towards the corporation may conflict with their ability to perform a challenge function vis-a-vis the Minister in areas such as policy direction and approval of corporate plans). In addition, a further risk is acknowledged that other members of the Board might incorrectly perceive that the Directors who are also public servants speak more authoritatively as representatives of Government.
- To assist the work of Board members, the Government issues to every new Director, upon appointment, a guidance letter that makes explicit the expectations of the Government with regard to the role and responsibilities of Directors under law and in practice. This letter also includes provisions related to the values and ethics of public office and disclosure of conflict of interest.

Boards of Directors – appointments process

- The appointment of CEOs, Directors and Chairs of Crown corporations are Governor In Council appointments and therefore the Government makes the final determination on the selection criteria and Board profiles for Crown corporations. The Government recognises the need for the appointments process to be competency-based, professional and transparent.
- Although the appointment of Board members is the prerogative of the shareholder, recommendations by the existing Board influence the selection and approval process. The Board's experience in setting the strategic direction and monitoring the performance of the Crown corporation enables the Board to review the suitability of its composition and the effectiveness of its performance.

Overseas models – Canada

Boards of Directors – appointments process (continued)

- The Boards of Directors will advise the Government on appropriate selection criteria for Chairs. The Chair, on behalf of the Board, advises the appropriate Minister and the Director of Appointments in the Prime Minister's Office, of the desired mix of skills useful for the Board and in particular, those skills that should be sought in filling upcoming vacancies.
- As an officer in the employ of the corporation, the Government believes the Board of Directors should have primary responsibility for the selection of CEOs. Each Board of Directors has a nominating committee to identify candidates for the position of CEO appointed by the Governor in Council. The committee may include outside eminent persons. The Boards nominating committee screens potential candidates and will then submit its preferred candidate to the Government for final approval or veto.

Corporate plan

- The corporate plan is the primary vehicle for communicating with Government.
- Following approval of the corporate plan by the Board, the shareholder considers it for formal approval. The annual submission of the corporate plan is a regular medium for the Board and the responsible Minister to clarify their respective appreciation of the objectives for the Crown corporation.
- Annually, the responsible Minister submits the corporate plan to the Treasury Board and in some cases the Minister of Finance, for its recommendation to the Governor in Council. Approval of the corporate plan by the Board of Directors and the Governor in Council authorises proposed actions and budgets for the upcoming year. The corporate plan must include a dividend proposal. The corporate plan describes the corporation's planned actions over a five-year planning horizon and provides the framework for decisions and evaluation.

Reporting

- In order to facilitate its oversight role, Parliament receives, on an annual basis, summaries of corporate plans, annual reports and a consolidated report on Crown corporations presented by the President of the Treasury Board. Parliament may ask Ministers questions about the activities of the Crown corporations and the chairs and CEOs of the corporations may be invited to appear before parliamentary committees.

Compensation

- The Governor in Council sets the compensation levels for the Directors, the Chair and the full-time CEO of each Crown corporation. The Government seeks advice from a number of sources in setting and revising Directors' fees and CEO salaries. Advice from the Chairs of corporations is often a valuable part of the process.

Overseas models – Finland

Finland – State Ownership Steering Department, Prime Minister's Office

Background

- State ownership steering has been carried out on a centralised basis since 1 May 2007 under a single minister. The cabinet minister responsible for ownership steering at the Prime Minister's Office is the Minister of Defence.
- Functionally, the State Ownership Steering Department established in the Prime Minister's Office ("PMO") for the centralised administration of ownership steering, is directly subordinate to the responsible minister but administratively, it is part of the PMO's organisation.
- The Department administers shareholdings in approximately 29 companies, of which three are listed. From the perspective of the State's role as owner, a combining factor in all these companies is that their activities and the State's shareholdings are primarily evaluated according to financial criteria. These companies operate on market terms and seek to generate added value for the owners.
- Outside the centralised steering system, the State owns approximately 19 companies which perform certain special functions. The ownership steering of these entities is handled by a number of other ministries. However, the State Ownership Steering Department, as an expert organisation serving all branches of Government, is responsible for the overall drafting of and coordination of ownership policy, to ensure consistency and good governance across all of the State's companies.
- The State's actions as an owner are governed by the State Shareholdings and Ownership Steering Act enacted at the beginning of 2008. In addition to legislation, the implementation of ownership policy is governed by the decisions of the Finnish Government and statements issued by the Cabinet Committee on Economic Policy.

Approach

- The State pursues an active and pragmatic ownership policy to achieve its objectives. The State promotes the development of its companies and supports the long-term growth of shareholder value with the means available to an owner.
- As the owner, the State seeks to maximise the overall financial and social benefit in the management of its assets. Performance in this respect is evaluated in terms of profitability and long term growth in shareholder value. The State seeks to act as an open, consistent and predictable owner whose holdings contribute to the long term development of the company involved. The activities of the State as an owner are as transparent as possible.
- The centralisation of ownership steering has facilitated more straight-forward and quicker decision-making. The State's analysis function is now better resourced to produce data of an extremely high standard on which decision-making can be based. It has also diversified reporting on the State's ownership, for example, the annual report now provides an extensive over of the State's activities as a long-term owner and recent developments in the State's corporate ownership.
- Centralisation has ensured that the ownership steering of companies operating in a competitive environment has been separated from regulatory duties in an open and credible way.

Role

- The State Ownership Steering Department's basic functions consist of:
  - The formulation of ownership strategy: this focuses on evaluations and decisions concerning the State's role and actions as owner; and
  - Related analysis and monitoring: this focuses on building up the expertise that is related to specific companies and fields of activity required for the formulation of the strategy.
- In essence, ownership strategy work also consists of external communications. One of the key tasks of the Department is to generate and publish clear and comprehensive information on State corporate shareholdings and related administration on a regular basis. The Department carries out independent analyses of the companies to formulate its own view of their status and performance.

Overseas models – Finland

Role (continued)

- The main elements of ownership steering cover:
  - Open and consistent owner behaviour;
  - The proposition of responsible and skilled members to the companies' Boards of Directors;
  - The owner's input to the companies' management resources and commitment to management; and
  - The taking into account of the owners' and other interest groups' interests.
- In respect of the State's corporations which have a strategic interest, the Ownership Steering Department establishes cooperation arrangements with the Ministries responsible for the interests in question, to ensure these are taken into consideration.
- The State does not intervene in the decision-making of the Boards of Directors and executive management of the companies, other than in Shareholder Meetings.

Ownership tools

- The owner's main tools include:
  - Independent monitoring and preparation of owner strategy, based on which the State makes statements on strategic and economic issues relating to the company, as required;
  - The company's Board of Directors and executive management inquire in advance about the main owner's opinions, at least if the activities planned in the company require the use of company shares as a means of payment or any other company arrangement that is decided at the Shareholders' Meeting;
  - In practice, discussions are also held with the main owners about questions and key restructuring arrangements affecting business strategy, even if power of decision is held by the Board of Directors. In such cases, the representatives of the State hold discussions with the company's management and the Chairman of the Board; and
  - Development of good corporate governance.

Corporate governance

- The general goal when arranging the governance and decision-making of companies is to develop and maintain good corporate governance. The State in its capacity as owner, supports high-quality and open reporting about the company's finances and operations. The companies are expected to be familiar with Finnish and international corporate governance recommendations and to implement them according to best practice.

Representation on the board of directors

- The State has direct representation at least on the Boards of all companies that are solely owned by the State, in which the State is a majority owner or in which the State is a minority owner with actual control. When a State official is proposed as a Board member, the starting point is that a Board member represents the company and all its shareholders and is not allowed to act on the basis of the State's shareholder interests. A State official serving as a Board member works therefore in compliance with the Companies Act and other legislation concerning the company. A State official serving as a Board member does not participate in preparation and decision-making relating to the State's ownership steering of the company or in ownership policy decision-making relating to the company. In the case of a publicly listed company, communication between a Board member and the officials handling ownership steering tasks must be done so that restrictions in respect of insider information are taken into consideration.
- Supervisory Boards are justified only in companies entrusted with special assignments as well as in market-based companies in which there are strategic interests connected with State ownership.

Overseas models – Finland

Remuneration

- One key starting point for ownership steering is to ensure the companies' competitiveness to the extent that the owner can influence it. This also applies to salaries and remuneration schemes. Excessive benefits are unacceptable but the State as an owner is prepared to promote arrangements that guarantee to companies opportunities to compete for expert and committed management and other personnel. Management remuneration schemes shall take into account the ownership policy goals resulting from the long-term nature of the State's ownership and the sufficiently long periods of personal commitment necessary to achieve such goals.

Dividends

- As the State is a long-term owner, the companies' dividend payment and dividend policy is of key importance to it. The State values predictive dividend policies that take into account both the company's financing needs and the shareholder interest and are based as far as possible on a relatively steady flow of dividends comparable with the flow of dividends in the company's field of business. The State's dividend expectations are evaluated on an annual basis, taking into consideration the company's self sufficiency needs and development opportunities.

Resource

- The Department employs approximately 19 civil servants working in the following areas: general management and administration (6), communication and investor relations (2), ownership strategies (4) and analyses and monitoring (7).

Memorandum of Understanding/ Principles of Ownership

In implementing the preferred model, the shareholder function would be responsible for putting in place a formalised framework for the Treasury's engagement with the Utilities. This could take the form of a MOU or Principles of Ownership which sets out what the Treasury expects of the Utilities as shareholder and what the Utilities should expect from the Treasury. The core elements of the governance arrangements which should be incorporated within the MOU/ Principles of Ownership are set out in the table below.

The governance arrangements in respect of Jersey Water and Jersey Electricity will need to recognise that Jersey Water has other shareholders and Jersey Electricity is listed on the London Stock Exchange. This places certain restrictions on the timing of the discussions between the Treasury and those Utilities and to a degree, the level of disclosure permissible. However, the key headings and principles of the governance documentation will be consistent across all four of the Utilities.

Key elements of the MOU/ Principles of Ownership	
Statement on shareholder engagement	The respective roles of the shareholder function within the Treasury and the Boards of the Utilities should be clearly articulated. This would include a description of the manner (i.e. form and style) in which the shareholder expects to engage with the Utility and the Board.
Utility's objectives	The shareholder's objectives for the Utility should be clearly set out. To the extent that these change, for example, to reflect changes in policy, the MOU would be amended accordingly.
Information requirements	The key information which the Treasury would expect to receive from the Utility on a regular basis should be identified. Examples of the information requirements include: • The Strategic Plan and Annual Business Plan; • Quarterly and annual results against the key performance indicators ('KPIs') established in the Strategic Plan and Annual Budget; • In relation to Jersey Telecom and Jersey Post, the monthly financial performance report provided to the Board; and • Board papers/ briefing papers on significant strategic issues or business developments (e.g. transactions).
Meetings between the Minister and the Chairman/ Board Directors	• A regular communication channel should be maintained between the Minister and the Chairman, with formal meetings twice a year. These would provide an opportunity for the Chairman to comment on the Board and the Utility's performance and for the shareholder to discuss operational management and Board performance. • The incoming Chairmen, Chief Executives and NEDs should meet the Minister prior to taking up their appointments, to discuss the Treasury's objectives for the Utilities.
Meetings and interaction between the Treasury's shareholder function and the Utilities	The meetings between the shareholder and the Utility should be described. The timing and attendees from the Utilities for each meeting should be set out. • *Annual strategic review:* The Treasury should expect to engage in annual discussions to review and set the Utility's objectives and to debate and agree strategy, prior to the Utility developing its Strategic Plan. Following the Board's approval of the Strategic Plan, the shareholder would expect to review and challenge the Plan, including the appropriateness of the KPIs. • *Quarterly shareholder review:* Focussed at the strategic level, the Treasury's engagement with the Utilities in a robust and challenging debate of its business performance and prospects, measured against the KPIs set out in the Strategic Plan. • *Ad hoc meetings:* The Treasury should develop an engagement arrangement with the Utilities that engenders ad hoc meetings as necessary with the Chairman, Executive Directors and as appropriate, with the NEDs, to discuss financial performance and business developments.

Memorandum of Understanding/ Principles of Ownership

MOU/ Principles of Ownership – key elements	
Research and analysis	Recognising the limited industry analyst capability of the shareholder function, this identifies the supporting analytical information which the shareholder may expect the Utilities to create or commission from external sources to provide a context and external assessment of the Utility's performance and future outlook. This could comprise: • Market and competitor analysis; • Benchmarking performance against relevant peers; and • Sensitivity of business performance to the States' policies.
Performance of the Board and management team	This sets out the shareholder's right to review and discuss with the Chairman the Board's annual self assessment and the performance of the senior management team.
Governance and UK Corporate Governance Code compliance	This stipulates the form and extent of reporting that the shareholder would expect from the Utility and the key Board sub committees on the performance and discharge of their governance responsibilities. • *Reports:* Report on compliance with the governance framework and the UK Corporate Governance Code, with explanations for any non-compliance; and • *Committees:* Annual report on the performance of the Audit, Remuneration and Nomination Committees, including the activities and processes undertaken in the year.
Board appointments	This sets outs the respective roles of the Board of the Utility and the shareholder in the appointment of the Chairman and the other Directors of the Boards: • The Treasury should participate in the appointment of the Chairman; • The shareholder should agree with the Chairman the composition of the other members of the Board; and • The Treasury should be consulted prior to the appointment of other members of the Board. To the extent it is decided that the shareholder may wish the Appointments Commission to participate on its behalf in the Board appointment process, this should be included in the MOU.
Remuneration of Executive Directors	This describes the arrangements for ensuring the Remuneration Committee of the Utility consults with the shareholder in setting the remuneration of the Executive Directors.

Memorandum of Understanding/ Principles of Ownership

MOU/ Principles of Ownership – key elements	
Approvals and consents	The key approvals and consents that the Board and management will need from the Treasury, prior to committing company resources should include, inter alia: • *Performance management:* Strategic Plan, Annual Business Plan, KPIs; • *External reporting:* Annual Report and Accounts; • *Delegations:* Transactions beyond an agreed materiality or outside the normal course of business, capital expenditure in excess of a defined level or not included in the Strategic Plan, borrowing/ loan facilities; • *Personnel:* Restructuring, redundancy programmes. The Utilities should also keep the shareholder informed, on a “no surprises” basis of proposed of proposed wage settlements outside of the public sector guidance and any proposals to amend the employee retirement benefit schemes; and • *Capital structure and dividend policy.*

Policy considerations

Policy considerations

The Utilities have indicated that they are unclear as to how they should balance the States' broader policy objectives against the Utilities' more narrow commercial objectives. To an extent, the Utilities aim to 'second guess' the States' position as shareholder. An important role of the Treasury, in fulfilling the shareholder function, is to clearly articulate how the States' policy objectives sit alongside and are reflected in, the shareholder objectives, understanding the impact on shareholder value.

Set out below is a non-exhaustive list of areas where the Utilities have indicated they would welcome clarification from the Treasury.

- **Jersey Telecom**
  - Digitalisation of the Island: *What is the States' policy? How is it anticipated that digitalisation would be funded (e.g. States' subsidy, regulatory settlement, retained earnings of Jersey Telecom)?*
  - OAP discounts: *Should the cost of the discount to OAPs be cross-subsidised by other customer tariffs or directly funded by the States (i.e. a subsidy paid to Jersey Telecom)? Is the Regulator (JCRA) expected to recognise the cost incurred by Jersey Telecom in meeting the States' policy requirements?*
  - Infrastructure investment: *What is the States' view on the appropriate level of future infrastructure investment?*
  - Redundancies: *To what extent does the States support Jersey Telecom's objective of increasing efficiency if this results in headcount reductions?*
  - Ownership: *Will the States seek to privatise Jersey Telecom in the short, medium or long term?*
- **Jersey Post**
  - USO scope: *What is the States' policy regarding the future scope of the USO? For example, would it support fewer deliveries?*
  - USO funding: *What is the States' policy regarding the funding of the USO? Does it expect to provide Jersey Post with a States' subsidy or does it expect Jersey Post to cross-subsidise the USO from non USO revenues, including business diversification into new products and markets?*
  - Pricing: *To what extent does the States support postage price increases? For example, would the States support Jersey Post in increasing prices up to the maximum allowable as determined by the JCRA or should Jersey Post seek to minimise the price it charges for its services?*
  - Business diversification: *To what extent does the States support Jersey Post's entry into new (i.e. non-postal) markets such as mobile phones? In particular, does the States support Jersey Post entering into competition with other States' owned businesses, such as Jersey Telecom?*
  - Redundancies: *Is the States supportive of Jersey Post reducing its current headcount if this drives cost and efficiency savings which could reduce postage prices?*

Policy considerations

Policy considerations *(continued)*

- **Jersey Water**
  - Regulation: *Does the States expect to introduce regulation of the water market in Jersey?*
  - Scope of services: *Does the States expect to increase the existing scope of services of Jersey Water, for example to include waste treatment?*
  - Infrastructure investment: *What is the States' view on the appropriate level of future investment in the water industry infrastructure in Jersey, as well as the timing and funding of such investment (e.g. Funding through higher prices charged to customers)?*
  - Redundancies: *Is the States supportive of Jersey Water reducing its current headcount if this drives cost and efficiency savings?*
  - Pricing: *To what extent does the States support increases in water tariffs (i.e. revenue and profit maximisation)? Or does the States expect Jersey Water to minimise prices increases to fulfil a States' social policy requirement?*
  - Ownership: *Will the States seek to divest its ownership of Jersey Water in the short, medium or long term?*
- **Jersey Electricity**
  - Regulation: *Does the States expect the electricity market to be regulated in the future?*
  - Ownership: *Will the States seek to divest its ownership of Jersey Electricity in the short, medium or long term?*
  - Redundancies: *Is the States supportive of Jersey Electricity making headcount reductions to deliver cost savings and potentially lower the price charged to customers?*
  - Pricing: *To what extent does the States support electricity price increases (i.e. revenue and profit maximisation)? Or is Jersey Electricity expected to fulfil a social policy requirement in minimising the price it charges to customers?*