



# Education and Home Affairs Scrutiny Panel



## Customs & Immigration

Presented to the States on 3rd December 2008

S.R.14/2008

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## **1. TERMS OF REFERENCE**

1. To identify the existing and impending funding pressures on the Customs and Immigration Service.
  
2. To explore how identified funding pressures impact upon the provision of an effective Customs and Immigration Service.
  
3. To examine any further issues relating to the topic that may arise in the course of the Scrutiny Review and which the Panel considers relevant.

## **2. PANEL MEMBERSHIP**

### **2.1 EDUCATION AND HOME AFFAIRS SCRUTINY PANEL**

2.1.1 Deputy Deidre Mezbourian, Chairman

Deputy Juliette Gallichan, Vice-Chairman

Deputy Shona Pitman

Connétable Graeme Butcher

Officer Support during the review: Mr T A Oldham

### **3. EXECUTIVE SUMMARY**

#### **3.1 Summary**

- 3.1.1 The *Description of Funding Pressures* announced by the Council of Ministers as part of the Annual Business Plan 2009 process highlighted a significant shortfall between the required and actual budget of the Customs and Immigration Service. Whilst this acted as the catalyst for the Panel's review it was evident upon commencement of our work that the funding pressures faced by the Service have been in place for some years.
- 3.1.2 A recent and significant contributing factor to the funding pressure has been the reduction in staff numbers as a result of the States' Fundamental Spending Review (FSR), which occurred in 2005, and resulted in the loss of 5 posts at the Service. Furthermore, in 2006 the Service reallocated 2 officers from the frontiers to manage mandatory requirements of the new Regulation of Investigatory Powers Law (RIPL) and did not replace them as it received no extra funding. Of concern to the Panel was the different approach taken by Home Affairs to the States of Jersey Police, which was also required to find extra officers, but unlike Customs and Immigration it did receive funding for an extra 2 officers.
- 3.1.3 The pressure on the Customs and Immigration Service has been exacerbated by the impact of increased air and shipping movements resulting from successful Economic Development Department initiatives to encourage economic growth in line with the States Strategic Plan objectives. The Panel commends Economic Development for its achievement in this area but it is obvious that this has, in part, been made at a cost to the Customs and Immigration Service. In future, the Panel recommends that the Council of Ministers should ensure that full assessments are made of the cross-cutting impacts of Strategic Plan and Business Plan aims and objectives before those Plans are presented to the States and again emphasises the need for better communication between States Departments on cross-cutting issues.
- 3.1.4 A particular strain on the Service's resources are on-board immigration controls. The Customs and Immigration Service has tried to accommodate the requirements and preferences of the travelling public, ferry companies and the Economic Development Department in offering this 'extraordinary' service. However, they are an added pressure on the Customs and Immigration Service and could be withdrawn, to the inconvenience of the aforementioned parties if the funding pressures at the Service are not resolved.
- 3.1.5 As a result of all the pressures, in 2007 full immigration coverage, including on-board controls, was only achieved by officers working overtime, the irregular use of the officers in the Investigation Unit and dispensing with Customs controls at peak times. This is not

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sustainable in the long term. The only way that the Service manages at present is by abandoning the Customs controls at the harbour and airport for significant amounts of time and, if continued, this will be seriously detrimental to the safety and prosperity of the Island and its position within the Common Travel Area.

3.1.6 In conclusion, the Panel agrees with the Comptroller and Auditor General that the Customs and Immigration Service 'is, if anything, under-funded and that there is little likelihood that significant expenditure reductions could be achieved without major and contentious revisions of the service.' It is not appropriate for 'patch and mend' fixes to continue to be applied and a long term solution must be found, promptly, as the current situation is unsustainable and this vital Service is struggling to operate to an acceptable level.

3.1 The Panel recommends that Customs and Immigration Service's budget should be adequately increased and that a thorough and flexible approach be taken to determine whether this should be achieved through central funds, from within existing Home Affairs resources or by other appropriate means.

## 3.2 Key Findings

Please note: Each key finding (and recommendation) is accompanied by a reference to that part of the report where further explanation may be found.

**3.2.1 In 2007 full immigration coverage, including on-board controls, was only provided by officers working overtime and the irregular use of the officers in the Investigation Unit, and dispensing with Customs controls at peak times. The Service does not deem this to be sustainable in the long term. (5.6.18)**

**3.2.2 At times the Customs controls at the Airport, the Albert Pier and Gorey are unmanned and the Island is temporarily a Customs free area. (5.6.19)**

**3.2.3 In 2006 the Service reallocated 2 officers from the frontiers to manage mandatory requirements of the new Regulation of Investigatory Powers Law (RIPL) and did not replace them as it received no extra funding. The States of Jersey Police had to find extra officers as well but unlike Customs and Immigration it did receive funding for an extra 2 officers. (5.6.20)**

**3.2.4 As far back as March 1998 the Agent of the Impôts wrote to the Treasurer of the**

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States to explain that the proposed cash limits for the Customs and Excise Department were inadequate. The subsequent 'patch and mend' approach is not sustainable. (5.6.29)

- 3.2.5 The Panel agrees with the Comptroller and Auditor General that the Customs and Immigration Service *'is, if anything, under-funded and that there is little likelihood that significant expenditure reductions could be achieved without major and contentious revisions of the service.'* (5.6.32)
- 3.2.6 The only way that the Service manages at present is by abandoning the Customs controls at the harbour and airport for significant amounts of time and, if continued, this will be seriously detrimental to the safety and prosperity of the Island and its position within the Common Travel Area. (5.6.43)
- 3.2.7 The pressure on the Customs and Immigration Service has been exacerbated by the impact of increased air and shipping movements resulting from Economic Development Department policies to encourage economic growth (5.6.44)
- 3.2.8 Insufficient consideration was given during the development of the States' Strategic Plan to the impact that Ministers' objectives might have on other Departments. (5.6.45)
- 3.2.9 The Customs and Immigration Service has tried to accommodate the requirements of the travelling public and the Economic Development Department and its clients. However, although this has stretched resources, as acknowledged by the Minister for Economic Development, those efforts have not been sufficiently reciprocated by his Department. (5.6.54)
- 3.2.10 On-board immigration controls are an 'extraordinary' service. (5.6.55)
- 3.2.11 The impact of the introduction of GST on the Customs and Immigration Service was sufficiently planned and resourced. (5.6.60)
- 3.2.12 Staff morale and service delivery at Customs and Immigration was significantly affected by the Police investigation into aspects of the Service's intelligence work. (5.6.66)
- 3.2.13 The Minister for Home Affairs continues to guarantee the 100% immigration controls, but Customs and Immigration is unable to deliver this service. (5.7.13)

- 3.2.14 On-board immigration controls are an added pressure on the Customs and Immigration Service and could be withdrawn, to the inconvenience of the public, ferry operators and Economic Development policy, if the funding pressures at the Service are not resolved. (5.7.19)**
- 3.2.15 Particular strain is being placed on officers at Customs and Immigration regarding the hours and overtime that they are being required to undertake to keep the Service functioning. Recently however there has been some relief of this pressure and a boost to morale as training and experience begin to show their effect, coupled with the knowledge that three extra officers will be in place in 2009. (5.7.39)**
- 3.2.16 The Panel acknowledges that the Minister for Economic Development has, for a number of years, achieved the Strategic aim to raise the economy by at least 2% per annum. It is obvious however that this achievement has, in part, been made at a cost to the Customs and Immigration Service. (5.8.16)**

### **3.3 Recommendations**

- 3.3.1 The Customs and Immigration Service is under funded and this matter should be addressed as a priority of the new Minister for Home Affairs. (5.6.33)**
- 3.3.2 Greater emphasis must be placed by the Council of Ministers on cross-cutting issues. It should ensure that, in future, full assessments are made of the cross-cutting impacts of Strategic Plan and Business Plan aims and objectives before those Plans are presented to the States. (5.6.46)**
- 3.3.3 The Panel recommends that the Customs and Immigration Service budget should be adequately increased and that a thorough and flexible approach be taken to determine whether this should be achieved through central funds, from within existing Home Affairs resources or by other appropriate means. This should include that:**
- The Home Affairs Department should invite the Comptroller and Auditor General to undertake a full base budget review to ascertain whether adequate funding is available from within the existing Home Affairs budget.**
  - The Minister for Home Affairs should re-examine the suitability of a User Pays policy as a means of securing additional income for the Customs and Immigration Service, with particular regard to on-board controls.**



- **In recognising the additional revenue generated by the policies of Economic Development in relation to increased movements at the harbour and airport, the Minister for Treasury and Resources gives consideration to re-distributing part of this revenue to the Customs and Immigration Service to cover its incurred additional costs. (5.8.17)**

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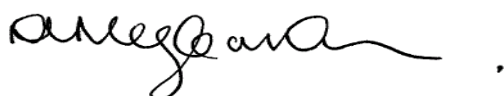
## 4. CHAIRMAN'S INTRODUCTION

- 4.1 The Education and Home Affairs Panel began its review of the Customs and Immigration Service in response to the *Description of Funding Pressures* presented by the Council of Ministers as part of the Annual Business Plan 2009 process, which suggested a significant shortfall in the budget required by the Service to fulfil its duties. In addition to the funding pressure, the Panel was aware of the ongoing disruption being caused to the Service by the States of Jersey Police investigation in late 2007 into aspects of its intelligence work. The Panel decided therefore that it would undertake to review the situation at the Customs and Immigration Service, focusing primarily however on the funding pressure.
- 4.2 The frustration of the Customs and Immigration Service with its financial position was immediately obvious to us upon commencement of the review, and so it is surprising that the only mention of the Customs and Immigration Service on the list of priorities published by the Minister for Home Affairs in June 2007 is to 'contribute to the ongoing work to establish procedures for the collection of the Goods and Services Tax'. If the pressures being faced by the Service were not a priority for the Minister at that time then it cannot be too surprising that we have still to see a solution to the Service's problems.
- 4.3 We acknowledge the openness of the Customs and Immigration Service in its communication and approach to the Panel's work, for which the quality of the information that it gathers is paramount. However, on the theme of communication, while on the surface this review is a relatively straightforward matter of scrutinising claims of an insufficient budget, our work also led us to the issues of 'Corporate Government' and cross-Departmental communication, and to consider how these additional pressurising factors may well be exacerbating an already difficult situation.
- 4.3 Public interest in this issue has been, and continues to be, high. Soon after the commencement of our review, the pressure that the funding shortfall is placing upon the Service's ability to undertake its duties became the subject of numerous media reports, that publicly highlighted the problem and the impact of a weakened Customs and Immigration Service with regard to such important issues as the Island's local and wider immigration obligations and smuggling, most notably drugs.
- 4.4 In presenting this report, the Panel is conscious of the approaching end to the current States and the changes to Panel and Ministerial positions that this will entail. Coupled with this, the recent resignation of Senator Wendy Kinnard as Minister for Home Affairs and the confirmation by her successor Deputy Andrew Lewis that he will not be standing for re-

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election in the up-coming Deputies elections, mean that a new Minister for Home Affairs will be in place from 11th December 2008. The Panel highlights, however, the importance that it attaches to the funding situation at the Customs and Immigration Service and the need for due consideration and process to be applied to the findings and recommendations contained within this report.

- 4.5 The Panel would like to thank all those who contributed to the review and, as Chairman, my thanks go particularly to Deputy Gallichan, Deputy Pitman, Connétable Butcher and the Scrutiny Officers.



Deputy Deidre Mezbourian

Chairman, Education and Home Affairs Scrutiny Panel

## 5. THE CURRENT SITUATION

### 5.1 Introduction

5.1.1 The Panel initially began its review of the Customs and Immigration Service in response to the *Description of Funding Pressures* announced by the Council of Ministers as part of the Annual Business Plan 2009 process, which highlighted a significant shortfall between the required and actual budget for the Service. This report will display the information and views that we received during the course of our review. After initially highlighting the objectives of the Service and outlining its structure of various sections, the report sets out the current situation of the funding pressures on those sections (Section 5.6). The implications of not increasing the budget to requested levels is explored in Section 5.7, before alternative sources of funding that have been considered are covered in Section 5.8. Please note that references to the 'Minister for Home Affairs' during the report refer to Senator Wendy Kinnard, who resigned from the post in October, shortly before the completion of the Panel's report.

### 5.2 Mission Statement and Key Objectives

5.2.1 The Mission Statement of the Customs and Immigration Service reads:

*"The Customs and Immigration Service is committed to providing a strong and effective border control in order to protect Jersey from the threats of:*

- *Illegal immigration and the movement of prohibited or restricted goods; and*
- *Loss of Government revenue from evasion of the Customs and Excise duties; whilst honouring the island's external Customs, Immigration, Passport and Nationality and, wherever practical, meeting the principles of free movement for people and goods.*<sup>1</sup>

5.2.2 The priorities for the Service are to fairly, efficiently and economically:

- *collect the Customs and Excise duties which represent approximately 10% of States income;*
- *collect goods and Services Tax (GST) on imported goods on behalf of the Comptroller of Income Tax;*

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<sup>1</sup> Customs and Immigration Annual Report 2007

- 
- *prevent illegal immigrants entering the Island or moving to other parts of the Common Travel Area (UK, Ireland, Guernsey and Isle of Man);*
  - *control drug trafficking, especially of class A drugs, by detecting smuggling attempts, bringing to prosecution the organisers and confiscating their criminal profits;*
  - *manage the British nationality functions of passport issuance and naturalisation.*<sup>2</sup>

### 5.3 Strategic and Business Plan

5.3.1 Commitment 3 of the States of Jersey Strategic Plan 2006-2011 includes:

*3.4 Strong protection against threats to the security, social and economic integrity and environment of the Island*

5.3.2 This would be indicated by, amongst other things:

- *Effective immigration controls*
- *Security services at Jersey ports meet recognised standards*
- *Effective interception and deterrence of the illegal importation of prohibited or restricted goods*

5.3.3 The 2009 Annual Business Plan contains the following objective from Home Affairs regarding the Customs and Immigration Service

***Objective 5: Strong frontier protection against threats to the security, social and economic integrity and environment of the Island that balances the need to maintain Jersey as a competitive location in which to do business.***

***Success criteria:***

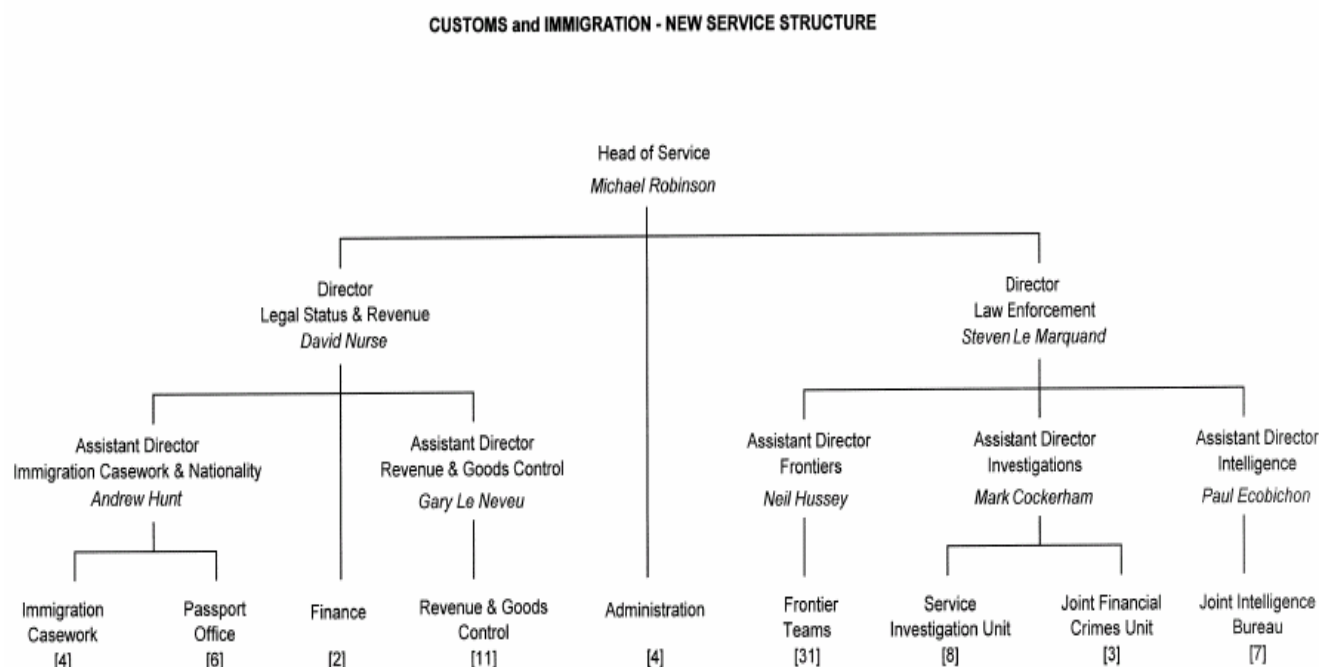
- (i) Effective immigration controls maintained to nationally recognised standards;*
- (ii) Security services at Jersey ports maintained to nationally recognised standards;*
- (iii) Effective enforcement to intercept and deter the illegal importation of prohibited or restricted goods maintained;*

### 5.4 Customs and Immigration Structure

5.4.1 The Customs and Immigration Service is answerable to the Minister for Home Affairs for all of its activities apart from the collection of duties and taxes, which are under the remit of the Minister for Treasury and Resources Minister, and immigration and nationality matters, which are under the remit of the Lieutenant Governor.

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<sup>2</sup> [www.gov.je](http://www.gov.je)

5.4.2 Structural chart:<sup>3</sup>

*Note:* Numbers shown are 'headcount' total of 84. Number of headcount per section may not be exactly as shown due to internal movements, job share and part-time arrangements. The Frontier Teams include the Airport Team and drugs dog team. The Service Investigation Unit includes the Training & Compliance Officer.

5.4.3 To establish the context of the funding pressures, a brief summary of the responsibilities of the various sections of the Service is provided below, the information having been provided by the Customs and Immigration Service. It can be noted that, with the exception of the Passport Office, the Administration staff and certain specialist posts, all officers are multi-functional and expected to be able to undertake the relevant duties in the various sections of the Service.<sup>4</sup>

5.4.4 **Revenue and Goods Control**

5.4.5 The Revenue and Goods Control section consists of 9 officers. The officers have responsibility for controlling the import and export of all freight into and out of the Island and to ensure that both local and European Union legislation is complied with. In

<sup>3</sup> Updated structural chart provided by the Head of Service, Customs and Immigration on 11th November 2008

<sup>4</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

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carrying out these duties the officers must ensure that the appropriate Customs and Excise duties and import GST is collected. In 2007 the Customs and Excise duties collected totalled nearly £53 million.<sup>5</sup>

#### 5.4.6 **Frontiers**

5.4.7 The Frontier section is the largest section in the Service, consisting of 30 officers. Officers in the section are trained to carry out both the Customs and Immigration roles.

5.4.8 There are 3 teams of 9 officers and an airport team consisting of 3 officers, including a dog handler. On a rota basis, these officers work between the hours 06:00 and 22:00. When maternity, paternity, annual and sick leave, as well as training are taken into account there are, on average, 7 officers per team on duty during the course of the day.

5.4.9 These officers have responsibility for meeting all shipping and aircraft movements from an Immigration perspective. From a Customs perspective the main role of the officers is controlling the passengers arriving in the Island, and ensuring that prohibited goods, principally drugs, and goods liable to duty are not smuggled into the Island. Officers carry out intelligence checks prior to the arrival of boats and aircraft and deploy their resources accordingly based on the perceived risk. It is not possible to attend all shipping and aircraft arrivals. These officers also provide cover at the Post Office, where they undertake monitoring of letters and packages as part of the work to counter such issues as illegal drug importation.<sup>6</sup>

#### 5.4.10 **Intelligence Unit**

5.4.11 The Intelligence Unit is comprised of 6 officers. The officers in the unit are responsible for developing intelligence packages for the Service's operational officers at the frontiers and in the Investigation Unit. In particular, the unit looks to develop intelligence operations that relate to the importation of commercial quantities of Class A drugs, though it will work on operations involving large commercial quantities of Class B drugs. The aim of these operations is to arrest and prosecute the organisers behind these drug importations. In developing intelligence operations the unit works very closely with the officers from the Service's Investigation Unit and will task the unit accordingly.

5.4.12 Two of the officers in the unit are deployed in the Source Management Unit and are

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<sup>5</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

<sup>6</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

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responsible for proactively targeting potential human sources of intelligence. One of the officers also undertakes the role of Prison Liaison Officer for the Service.<sup>7</sup>

5.4.13 It should be noted that officers in the Intelligence Unit are not used in an operational role. Operational officers can be called upon to give evidence in court. The Service does not allow a situation to arise where an intelligence officer could find himself in that position as this could lead to the source of the intelligence being seriously compromised.

#### 5.4.14 **Service Investigation Unit**

5.4.15 The Service Investigation Unit is made up of 7 officers. All the officers in the unit must be surveillance trained and their role is as follows:

- To support the intelligence operations adopted by the Intelligence Unit by undertaking surveillance where required.
- To develop their own drug trafficking operations, targeting in the main the importation of commercial quantities of Class A drugs, leading to the arrest and prosecution of the organisers behind these drug importations. The aim will be to develop the operations to a stage where they can be adopted by the Intelligence Unit.
- To support the officers at the frontiers when commercial quantities of drugs are seized.
- To complete drugs trafficking Case Files to a standard acceptable to the Royal Court.<sup>8</sup>

#### 5.4.16 **Joint Financial Crime Unit**

5.4.17 There are 3 officers in the unit and their role is to undertake investigations into the financial affairs of all the individuals charged with drug trafficking offences. These officers work on both Police and Customs cases.

5.4.18 In addition the officers will undertake financial investigations on behalf of Customs authorities outside the Island.<sup>9</sup>

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<sup>7</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

<sup>8</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

<sup>9</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service



#### 5.4.19 Immigration Casework

5.4.20 This section currently comprises of 4 officers. The principal work of the section is:-

- To implement the law, rules and policies of controlling overseas nationals seeking to enter the islands under entry clearance. An entry clearance is a collective term for a visa, entry certificate or family permit. Entry clearances are processed at British Diplomatic posts overseas and are mandatory for certain nationals depending on the purpose and duration for which entry is sought.
- To control any variation or extension of any conditions of stay for overseas nationals who wish to remain for a further period and/or in a different immigration category.
- To authorise the issue of work permits up to agreed time limits in line with the policy of the Minister for Home Affairs.

5.4.21 In 2007 the casework section received 527 entry clearance referrals, 409 work permit applications and granted settlement to 120 persons.

5.4.22 The entry into and stay in Jersey of persons not having the right of abode is regulated in accordance with those 'Directions' given by the Lieutenant-Governor under section 1(4A) of the Immigration Act 1971 of the United Kingdom as extended to Jersey by the Immigration (Jersey) Order 1993. In setting the 'Directions' for immigration, the Lieutenant Governor is effectively the person that the Head of Service answers to for administering this part of the Service's work.<sup>10</sup>

#### 5.4.23 Passport Office

5.4.24 This section comprises 5.5 Passport staff. The Passport Office provides a passport issuing service to British citizens in Jersey and local born British citizens in the United Kingdom. In 2007 a total of 10,671 passports were issued. They advise on all aspects of British nationality and process applications for registration under the provisions of the British Nationality Act 1981.

5.4.25 The Passport Office staff undertake the role of legalising locally originating documents

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<sup>10</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

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for use abroad. This role is filled by the Foreign and Commonwealth Office in the UK and was taken on locally in 1990. The total number of documents legalised in 2007 was 10,197, an increase of 1,227 over 2006.<sup>11</sup>

## 5.5 Internal and External Obligations

### 5.5.1 Customs and Excise Law

The Customs and Excise (Jersey) Law 1999 was adopted by the States on 13th April 1999. The Law came into force on the first day of November 2000, albeit at that time with the exception of Article 19 and those parts of Part I of the Fourth Schedule that relate to the repeal of the Import and Export (Control) (Jersey) Law 1946. With subsequent Amendments having been approved by the States this law stands as the legal framework by which the Customs and Excise responsibilities of the Service are undertaken.

### 5.5.2 Immigration - Common Travel Area

5.5.3 The Common Travel Area (CTA) began as a purely administrative arrangement dating back to the 1920s, allowing free travel between the United Kingdom, Ireland, Channel Islands and the Isle of Man. The CTA was put on a full statutory basis in the UK by the Immigration Act 1971. The 1971 Act has been extended to Jersey, latterly by the Immigration (Jersey) Order 1993 and this duly regulates the control of entry and right of abode in Jersey for as long as the Island is bound by it.<sup>12</sup>

5.5.4 Movement between the participating jurisdictions does not require the presentation of a passport or the imposition of border controls, which would allow persons to be refused entry at the border. Section 1(3) of the 1971 Act, as extended, says:

*"Arrival in and departure from the [Bailiwick of Jersey] on a local journey from or to [the United Kingdom, the Bailiwick of Guernsey, the Isle of Man] or the Republic of Ireland shall not be subject to control under this Act, nor shall a person require leave to enter the [Bailiwick of Jersey] on so arriving, except insofar as any of those places is for any purpose excluded from this subsection under the powers conferred by this Act; and in this Act the [Bailiwick of Jersey] and those places, or such of them as are not so excluded, are collectively referred to as "the common travel area".*

5.5.5 As a result of the Island's participation in the CTA, a person who is not a British citizen, a

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<sup>11</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

<sup>12</sup> HM Revenue and Customs Report, February 2008

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Commonwealth citizen to whom the Act refers or a national of a European Economic Area (EEA) Member State (European Union Member States plus Iceland, Norway and Liechtenstein), is not entitled to enter Jersey unless he or she has been given permission to do so. Immigration Officers are responsible for determining if entry should be granted or refused to an individual. If entry is granted they will also determine for how long and what, if any, conditions should be attached. In addition, Customs and Immigration Officers also have the power of arrest in respect of a number of offences set out in the Act, for example the offence of illegal entry.

5.5.6 Furthermore, all nationals of other EEA Member States do not need leave to enter or remain in Jersey provided that they would be entitled to enter or remain in the United Kingdom. These rules arise as a result of the terms of the Immigration Order coupled with the provisions in Protocol 3 to the Treaty of Rome.

5.5.7 Proposed changes regarding the CTA were announced jointly in July 2008 by the Irish Minister for Justice, Equality and Law Reform, Dermot Ahern TD, and the UK Home Secretary Jacqui Smith. Under the proposals passengers travelling between the UK and Jersey would be required to use their passport as identification by the end of 2010, although this would fall short of full immigration controls. The Report states:

*“Reform of the Common Travel Area (CTA) must be part of the changes we make this year.....Movement without immigration controls for nationals of the CTA has been an important component of the special relationship which exists between the peoples of these islands, and provides long established political, economic and social benefits. However, the CTA was formed many decades ago and the current arrangements are out of date.”<sup>13</sup>*

5.5.8 In response to this report the Minister for Home Affairs advised us that it was her understanding that the UK authorities will not introduce fixed immigration controls on traffic from the Crown Dependencies”. Similarly there is no plan to introduce immigration (passport) controls in the Island for traffic from the UK. However:

*“Having said that there are initiatives to introduce enhanced identity requirements for all travellers. The UK initiative is called ‘e-borders’ and Jersey has indicated that it will participate. The basic principle underpinning e-borders is the ability to identify all persons prior to their arrival in the UK mainland (and vice versa for the Island). This will be done by*

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<sup>13</sup> CTA announcement by Dermot Ahern TD and Jacqui Smith, MP, July 2008

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*compelling the carrying companies to establish the identity of the passenger prior to embarkation. Which documents will be acceptable has yet to be decided although it is possible that the UK will insist on passports.”*

5.5.9 The Minister further added:

*“E-borders is not expected to be implemented for travel between the Island and the UK before the end of 2010. The Service is working closely with the UK authorities on the practical implications. There will be resource issues for IT and law drafting but none are anticipated for staffing numbers.”<sup>14</sup>*

## **5.6 The Funding Pressures**

### **5.6.1 Introduction**

5.6.2 The Panel's initial work on the funding pressures faced by Customs and Immigration began with the inclusion of Customs and Immigration within the *Description of Funding Pressures* announced by the Council of Ministers as part of the Annual Business Plan 2009 process, which highlighted a significant shortfall between the required and actual budget for the Service. At the public hearing with the Assistant Minister and officers on 25<sup>th</sup> April 2008 the broad requirements were confirmed as:

- Maintain existing staffing levels – £280,000
- Increase staffing levels to allow the frontier teams to operate at a minimum level of 7 per team – further £185,000. (£465,000 total)
- Increase staffing levels to allow the frontier teams to operate at a minimum level of 8 per team – further £185,000. (£650,000 total)

5.6.3 The Customs and Immigration Service has suggested that any increase in staff could only start to be considered once the base budget was supplemented to actually avoid carrying vacancies, which, as demonstrated, would require an extra £280,000 from 2009. To this end there has been some recent development to alleviate the immediate situation, with the Council of Ministers having agreed to allocate an extra £250,000 to the staff budget for 2009, sufficient for the Service not to carry vacancies in 2009 and also to recruit three officers, one per

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<sup>14</sup> Written submission, Minister for Home Affairs, September 2008

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Frontier team, at the bottom of the training grade (officers start at grade 7 and progress after three years training to grade 10). However the additional funding will not be sufficient to meet the staff budget beyond 2009 and the Service will find itself with similar funding pressures in forthcoming years.<sup>15</sup>

5.6.4 Funding pressures were identified within the Customs and Immigration Service for 2008, and the only way that the Service could have managed to operate within budget in 2008 would have been to carry vacancies. The Home Affairs Minister and Chief Officer recognised that this was not a viable option and funds were found as a result of slippage in the introduction of major new legislation (Discrimination). Thus the current staffing levels can be maintained during 2008.

5.6.5 An increase of 2 additional officers per frontier team would be a modest increase of 1 officer more than pre-2005 levels (excluding the loss of seasonal officers and reallocation of Regulation of Investigatory Powers officers). This would mean an overall increase in officer numbers of 6 (2 x 3 teams) at an additional cost of £370,000 over and above the aforementioned £280,000.

5.6.6 An increase of 1 additional officer per team would restore pre-2005 staffing (excluding the loss of seasonal officers and reallocation of RIPL officers). This would mean an overall increase of 3 officers (1 x 3 teams) at an additional cost of £185,000 over and above the aforementioned £280,000.<sup>16</sup>

### **5.6.7 Reduced Staff Numbers**

5.6.8 A significant contributing factor to the funding pressure has been the reduction in staff numbers as a result of the States' Fundamental Spending Review (FSR), which occurred in 2005, and resulted in the loss of 5 posts at the Service. The Assistant Minister advised:

*"At the time, we did flag up the risks to that .... we did flag up the risks (implications) of reducing our staff numbers by that number at the time, and those worries are now coming to fruition..."<sup>17</sup>*

5.6.9 A submission from the Head of Service explained the situation to the Panel. The Service has 3 frontier teams working alternate shifts. One team is on duty in the morning, one in the

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<sup>15</sup> Written submission, Minister for Home Affairs, September 2008

<sup>16</sup> Memorandum sent by Head of Service, January 2008

<sup>17</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

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afternoon and one on a day off. The Service judges that the minimum number of officers on duty at any one time in order to provide the basic control should be 8 officers. These 8 officers will perform the following basic duties during their shift:

- Attend passenger arrivals at the Airport, the Elizabeth Terminal, the Albert Pier, Gorey and the Marinas
- Attend the Post Office to control arriving parcels for prohibited or dutiable goods
- Conduct freight examinations for prohibited or dutiable goods
- Investigate any infractions against the Customs or Immigration Laws

5.6.10 At present the Service can only guarantee a minimum number of 6 officers per shift. In order to appreciate the pressure that this low number of officers creates it is useful to look at a real scenario. When the Condor car ferry arrives from St. Malo it should be controlled by the following amount of officers: 2 for the Immigration foot passengers, 2 for the Customs foot passenger control, 2 for the Immigration car passengers and 2 for the Customs car control, a total of 8 officers. It is almost never possible to affect the control in this way.<sup>18</sup>

5.6.11 As stated, the current minimum numbers per team are 6 officers (although this is occasionally supplemented from other sections). This means that even before looking at any other duties and obligations something is required to give, and it is invariably the Customs controls as the Service has an obligation to provide full immigration control via the CTA. Even with 8 officers there would be no scope for on-board in transit controls let alone the movements at the Albert Pier or the Airport. In 2007 the Service managed to provide full immigration coverage, including on-board controls, by officers working overtime and the irregular use of the officers in the Investigation Unit, and dispensing with Customs controls at peak times, which the Service does not deem to be sustainable in the long term.

5.6.12 As an example to put this matter into context, the car arrivals on Condor from St. Malo are known to be used by drug traffickers to import heroin (e.g. in August 2007 two organisers of commercial importations of heroin using this route were sentenced to a total of 18 years imprisonment). Often at the same time the controls at the Airport, the Albert Pier and Gorey are unmanned and the Island is temporarily a Customs free area, a significant issue but one that despite being publicised in the media by the Head of Service remains unresolved.

5.6.13 The shortfall in numbers was exacerbated by the 2005 FSR and efficiency savings. The

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<sup>18</sup> Memorandum sent by Head of Service, July 2006

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Service lost a total of 3 full time and 2 seasonal officers as a result. The consequences of these losses were clearly and forcefully explained at the time but the decision making process still imposed them on the Service.<sup>19</sup> This process entailed the Home Affairs Department asking all Heads of Service (i.e. Customs/Immigration/Fire/Prison/Police) to identify savings in their respective areas, prioritise them and explain the implications. This was undertaken as part of the overall process whereby all Departments had to undertake an exercise to identify where savings could be made, or would be made if they were imposed on them. Customs and Immigration identified savings from general expenditure budgets but in order to reach the appropriate amounts had also to identify staff reduction, given that over 80% of its budget represents staff costs.

5.6.14 These savings, as well as those from the other Services, were considered by the Home Affairs Departmental Management Board and combined into the Home Affairs package. The submissions from all the Departments were then considered by the Presidents of all Committees, who ultimately decided where the cuts should be made.

5.6.15 Additionally, in 2006 the Service reallocated 2 officers from the frontiers to manage mandatory requirements of the new Regulation of Investigatory Powers Law (RIPL) and did not replace them because it received no extra funding. The States of Jersey Police had to find extra officers as well but unlike Customs and Immigration it did receive funding for an extra 2 officers when it had to divert 2 officers to source management duties.<sup>20</sup>

5.6.16 The total effect has been a removal of 5 full time and 3 seasonal posts from frontiers since 2005. This resource problem has also been recognised in two independent reports in 2007; an audit of the merger of the Customs and Immigration frontier teams by the Chief Internal Auditor and a review of staffing numbers prior to the introduction of GST by Crown Agents.<sup>21</sup>

5.6.17 The Head of the Customs and Immigration Service explained further about the lost posts:

*“...we are asking for ... 6 officers in total, so that is one more than the 5 we lost. The 5 were not all lost through the Fundamental Spending Review: 3 permanent staff and 2 seasonal staff were lost during the Fundamental Spending Review, then by additional legislation that was introduced in 2006, we had to allocate 2 staff to extra duties there,*

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<sup>19</sup> Memorandum sent by Head of Service, January 2008

<sup>20</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

<sup>21</sup> Memorandum sent by Head of Service, July 2006

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*for which we did not receive any extra staff. So in total, we are 5 staff down from where we feel we should be, leaving aside the seasonal staff. We are now asking for 6... That would bring us, in my estimation, and in the estimation of our senior management team, to the minimum acceptable level to provide Customs and Immigration controls.*

**Deputy D.W. Mezbourian:**

*What would be your preferred level of staffing? You talk about a minimum acceptable level.*

**Mr. M. Robinson:**

*Well, I have tried to be realistic in what I have identified as being needed, and 6 - we would operate satisfactorily with 6. It is always easy to say we could do with more, and if we had more, we could find work or employment for them, but at the moment, 6 is what I judge to be necessary.<sup>22</sup>*

5.6.18

**Finding: In 2007 full immigration coverage, including on-board controls, was only provided by officers working overtime and the irregular use of the officers in the Investigation Unit, and dispensing with Customs controls at peak times. The Service does not deem this to be sustainable in the long term.**

5.6.19

**Finding: At times the Customs controls at the Airport, the Albert Pier and Gorey are unmanned and the Island is temporarily a Customs free area.**

5.6.20

**Finding: In 2006 the Service reallocated 2 officers from the frontiers to manage mandatory requirements of the new Regulation of Investigatory Powers Law (RIPL) and did not replace them as it received no extra funding. The States of Jersey Police had to find extra officers as well but unlike Customs and Immigration it did receive funding for an extra 2 officers.**

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<sup>22</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008



**5.6.21 Staff Budget**

5.6.22 A second significant contributing factor to the funding pressure is the matter of officers reaching the top of the grades and the staff budget not being able to cope accordingly. The Panel was told by the Head of Service that this has been a problem on the Customs side of the Service going back many years, although it had not been the case for the Immigration and Nationality Department, which did not suffer from the same pressures.

5.6.23 The history of this problem was outlined to us by the Head of Service. He explained that the budget for the Customs and Excise Department has long been recognised as not being sufficient for the maintenance of the staffing levels required to properly carry out its legal responsibilities. Indeed, as far back as March 1998 the Agent of the Impôts wrote to the Treasurer of the States to explain that the proposed cash limits for the Department were inadequate. He had explained that the principal reason was the effect of officers reaching the tops of their grades, stressing that it had been several years since this had first been raised as a forthcoming problem.

5.6.24 Cash limits were eventually agreed which enabled the Department to operate for the next two years. However they did not resolve the longer term problem of the incremental progression of staff through their grades and the ever increasing costs. Over the next few years a patch and mend approach of one off payments and staff movements meant that the Department was able to operate within its cash limits.<sup>23</sup>

5.6.25 In 2000 the Department's staff budget received a one off cash injection of £143,000. This amount had been given to meet the costs of a reduced retirement age for Customs Officers but the Department was allowed to keep the funds even when the early retirement provisions did not materialise. In 2003 another cash injection of £200,000 was received as recognition of the budgetary shortfall and a prerequisite of the Department moving from the control of the Finance and Economics Committee to the Home Affairs Committee.

5.6.26 In 2005 the Customs and Excise Department and the Immigration and Nationality Department merged. Some savings did result from the merger but these were effectively overtaken by the effect of a Hay Evaluation of officers at the end of 2005. The evaluation was overdue as the jobs were last evaluated in 1987 and since then the scope and responsibilities of officers had significantly increased.

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<sup>23</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

5.6.27 The subsequent re-grading of officers from grade 9 to grade 10 has increased the strain of the staff costs. The full effect of the re-grading on the Service's budget will be felt in 2008 when the officers reach the top of grade 10. To maintain staffing levels the Service will have to find another £250,000.<sup>24</sup>

5.6.28 Referring to the "patch and mend" approach at the Public Hearing on 25<sup>th</sup> April, the Head of Service advised that:

*"... if that keeps happening, then that is all right, but that is not sustainable, I feel, in the long term. There should be a readjustment of the base budget to recognise what our needs are for staffing costs."*<sup>25</sup>

5.6.29

**Finding: As far back as March 1998 the Agent of the Impôts wrote to the Treasurer of the States to explain that the proposed cash limits for the Customs and Excise Department were inadequate. The subsequent 'patch and mend' approach is not sustainable.**

### 5.6.30 Comptroller and Auditor General

5.6.31 The Comptroller and Auditor General observed about Customs and Immigration in his States Spending Review: Emerging Issues 2008 that:

*"this service is, if anything, under-funded and that there is little likelihood that significant expenditure reductions could be achieved without major and contentious revisions of the service provided by the department."*<sup>26</sup>

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<sup>24</sup> Memorandum sent by Head of Service, July 2006

<sup>25</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>26</sup> C&AG, States Spending Review: Emerging Issues 2008

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5.6.32

**Finding: The Panel agrees with the Comptroller and Auditor General that the Customs and Immigration Service 'is, if anything, under-funded and that there is little likelihood that significant expenditure reductions could be achieved without major and contentious revisions of the service.'**

5.6.33

**Recommendation: The Customs and Immigration Service is under funded and this matter should be addressed as a priority of the new Minister for Home Affairs.**

#### **5.6.34 Economic Development Policies**

5.6.35 The pressure on the Service has been further exacerbated by the impact of increased air and shipping movements, as a result of Economic Development Department policies to encourage economic growth, as set out in the 2006-2011 Strategic Plan. The Head of Service advised that Customs and Immigration, which was struggling to provide effective controls in 2006 before any increase in movements, faced an 85% increase in foreign shipping arrivals in 2007. The initiatives to increase this further and to have more foreign aircraft arrivals have placed strains on the Service that are no longer fully manageable. The only way that the Service manages at present is by abandoning the Customs controls at the harbour and airport for significant amounts of time and, if continued, this will be seriously detrimental to the safety and prosperity of the Island. It can only increase the chances of the commercial smuggling of drugs and other prohibited goods and of dutiable goods.<sup>27</sup> With regard to figures relating to passenger arrivals and shipping movements the Panel received additional information from the Economic Development Department shortly before the presentation of its report. Whilst the Panel has been unable to consider the information it is included for reference as Appendix 1.

5.6.36 In a media interview the Director of Law Enforcement summed up the situation:

*"The increased movements and reduced officer numbers meant that we really struggled*

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<sup>27</sup> Memorandum sent by Head of Service, January 2008

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*to keep our heads above water.*<sup>28</sup>

5.6.37 The case for the Department's policy and actions in this matter were explained to the Panel in writing by the Minister for Economic Development, who confirmed that "*Economic Development policies have led to an increase in passenger traffic through our ports*".<sup>29</sup> The Panel heard from the Assistant Minister for Home Affairs at its public hearing that whilst this was good for Jersey and the economy it did have:

*"unintended consequence, an impact on resources..."*<sup>30</sup>

5.6.38 When asked in the States Assembly about the impact that the increase has had on the delivery of services by Customs and Immigration officers, and whether he was addressing them with the Minister for Home Affairs, the Minister for Economic Development replied:

*"We have been, I am pleased to say, spectacularly successful in boosting passenger arrivals in the Island ...Of course I am afraid there is a consequence to Customs and Immigration. My Assistant Minister has been holding some discussions with Immigration on these issues. I have to say that is mainly in the sea figures. They are down. There are some discussions with Customs and Immigration and I am hopeful that we can have some constructive engaging discussions with Customs and Immigration to resolve the issues."*<sup>31</sup>

5.6.39 The Panel learnt that communication between the Department of Economic Development and the Customs and Immigration Service could have been much better at an earlier stage and that a lack of communication had not helped the Service plan for the outcome of these policies. Speaking about the matter the Assistant Minister for Home Affairs told us:

*"We were caught out a little bit last year with this although we had flagged it up with Economic Development at an earlier stage it was not finally discussed until very close to the beginning of the season."*

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<sup>28</sup> JEP interview with Director, Law Enforcement at Customs and Immigration Service, 13 September 2008

<sup>29</sup> Written Submission by Minister for Economic Development

<sup>30</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>31</sup> Official Record of the States of Jersey, 8 September 2008

**Deputy S. Pitman:**

*So what discussion or consultation did you have with Economic Development?*

**The Deputy of St. John:**

*As soon as we were aware of the problem we brought it to the attention of the Harbours Department at operational level.*

**Deputy D.W. Mezbourian:**

*So they did not involve you at initial discussion level when they were aiming to increase boat arrivals?*

**Mr. S. Austin-Vautier:**

*No.*

**Deputy D.W. Mezbourian:**

*When did you become aware of it?*

**Mr. M. Robinson:**

*It was the end of 2006... Yes, I think it was when we saw the schedules.*

**The Deputy of St. John:**

*We were given the schedules later on but by that time they had already been agreed with the Harbours Department. So they had agreed their schedules. We were then given the schedules and they said that this is just to let you know what is going on so you can resource it. We should have been involved at an earlier stage than that and they have acknowledged that. This year it was quite the opposite, we were in discussions with them very early about the schedules.<sup>32</sup>*

5.6.40 The Economic Development Minister further explained in his written submission that:

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<sup>32</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

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*“We understand that a growth in visitor numbers will lead to implications for other Departments such as Home Affairs and Health but our primary concern remains economic growth.”<sup>33</sup>*

5.6.41 Similarly, we were advised by the Director of Law Enforcement that at a meeting involving Senior Management of the Service and the Business Development Director of Jersey Harbours:

*“One particular comment that was of concern to me was when a senior civil servant from EDD stated to Mike Robinson and I that it was not her job to work with the Customs and Immigration Service, but to work with her customers, i.e. HD Ferries and Condor. It was my view that this went totally against one of the core values of the States of Jersey which is “to achieve success in all we do by working together”. Whilst this type of outlook prevails the Customs and Immigration Service’s ability to deliver an effective public service will be compromised.”<sup>34</sup>*

5.6.42 During the course of both its Policing of Events: User Pays and Early Years reviews the Panel raised concerns about the insufficient communication between Departments during strategic and policy development, that was leading to Departments policies negatively impacting upon the work of others. Unfortunately this lack of consideration and communication, with consequential negative impacts, was again in evidence during the course of this latest review, and prompts the Panel to make the same finding and recommendation on this matter as it made in those previous reports (below). The stance of the Economic Development Department in not consulting sufficiently with Customs and Immigration on policies that affected the Service does not fit with the core values of ‘Corporate Government’ in the Ministerial system. It compromises the ability of the Customs and Immigration Service to deliver an effective public service.

5.6.43

**Finding: The only way that the Service manages at present is by abandoning the Customs controls at the harbour and airport for significant amounts of time and, if continued, this will be seriously detrimental to the safety and prosperity of the Island and its position with in the Common Travel Area.**

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<sup>33</sup> Written Submission by Minister for Economic Development

<sup>34</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

5.6.44

**Finding: The pressure on the Customs and Immigration Service has been exacerbated by the impact of increased air and shipping movements resulting from Economic Development Department policies to encourage economic growth.**

5.6.45

**Finding: Insufficient consideration was given during the development of the States' Strategic Plan to the impact that Ministers' objectives might have on other Departments.**

5.6.46

**Recommendation: Greater emphasis must be placed by the Council of Ministers on cross-cutting issues. It should ensure that, in future, full assessments are made of the cross-cutting impacts of Strategic Plan and Business Plan aims and objectives before those Plans are presented to the States.**

### **5.6.47 On-board Controls**

5.6.48 The Customs and Immigration Service has for a number of years provided on-board immigration controls, which have become seen as a standard service. In fact, it is not a standard service according to the Assistant Minister for Home Affairs, it is an extraordinary service provided for the benefit of the passengers in Jersey and the shipping companies.<sup>35</sup>

5.6.49 The Head of Service explained:

*"What we do at present is we have an obligation, as I said before, to provide immigration control as the first point of entry to the Common Travel Area, so we put officers on board those vessels to do the immigration controls, and that saves taking the people off and putting them back on. The shipping companies wish us to do this as*

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<sup>35</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

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*quickly as possible, and at the moment we do it at the same time as we are operating the controls on land...<sup>36</sup>*

5.6.50 However this procedure is a major pressure point for the Service as it requires additional officers in order to conduct controls on both land and on-board, particularly on an already stretched Service. Indeed the Head of Service advised us:

*“It is going to be impossible, I think, to continue with that. What we would have to do is do those onboard controls after we had finished the other immigration controls for that vessel, the car controls and the foot controls. That will mean potentially the vessels staying in harbour longer. This will have an impact on the scheduling for the shipping companies and they will have, I think, an adverse reaction to that.”*

***The Deputy of St. John:***

*This was raised with the shipping companies last year while we were looking at the development of the department as one of the means of being able to muddle through with our budget as it stood at that point, but they persuaded us to leave it as it was, but we said we would have to review it again if the resource bid that we have made is not met.<sup>37</sup>*

5.6.51 Although it is clear that extra pressure is placed on Customs and Immigration by offering this service the Panel has learnt that both the shipping companies, with the support of Economic Development acting on their ‘clients’ behalf, have been keen for the procedure to continue. Condor Ferries advised that it would be their wish to see on-board controls continue to occur, adding that:

*“the Service’s diligent execution of their duties is extremely important not only to our customers embarking/disembarking in Jersey, but also to our customers who are transiting Jersey en route to the UK, France or Guernsey..... Our Company is absolutely not an apologist for Jersey’s Customs & Immigration Service. We are however very dependent on its performance in delivering services to our freight customers and*

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<sup>36</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>37</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008



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*passengers.*<sup>38</sup>

5.6.52 With regard to the position of Economic Development we heard from the Assistant Minister, Home Affairs:

*“Well, the shipping companies spoke to Economic Development, they are their clients, and made a strong case to Economic Development that it would be commercially difficult for them to operate like that. That was their view. We did everything we could then to accommodate their requirements last year, and we are doing that again this year. But that really does stretch resources, and just to give you an indication, the increase of movements at the harbour has been significant with the introduction of HD Ferries, despite it - in some people’s minds - replacing Emeraude, the difference being that HD have transit passengers that are going on to Guernsey and Emeraude did not. So immediately you have extra turnarounds that you did not have before, and we also have extra sailings coming from Normandy as well, which is all great for Jersey, and we are not criticising it at all, but if you have an HD ferry coming in and shortly before that, a Condor coming in as well, and some ferries coming in Gorey and some at the Albert Pier all at the same time, then clearly you have a resource issue if you have to put people on board the ships as well as at frontier.”*<sup>39</sup>

5.6.53 It is the case, however, that all sides have indicated that communication lines are now open, and that attempts are being made to address the problems faced by Customs and Immigration. Operators, such as Condor Ferries, have expressed their continued desire to be included in negotiations where relevant, and we have heard from the Departments of Home Affairs and Economic Development that talks between them and with operators are ongoing.

5.6.54

**Finding: The Customs and Immigration Service has tried to accommodate the requirements of the travelling public and the Economic Development Department and its clients. However, although this has stretched resources, as acknowledged by the Minister for Economic Development, those efforts have not been sufficiently reciprocated by his Department.**

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<sup>38</sup> Written submission by Condor Ferries

<sup>39</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

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5.6.55

**Finding: On-board immigration controls are an 'extraordinary' service.**

### 5.6.56 GST

5.6.57 The collection of GST has also involved additional work for the Customs and Immigration Service. The report by Crown Agents highlighted the need for 10 additional staff to undertake the collection of GST, five of whom would be required by Customs and Immigration and five by Income Tax. This was further explained to us at the public hearing, the Head of Service telling us that:

*"The 10 they refer to was the figure that was put forward by Crown agents at the very beginning of the G.S.T. work and that was for Income tax and Customs, 10 staff in total. So, 5 extra each. It goes on to say that 5 is identified for Customs, that is the way it was split. The actual recommendation does come out at 5 but it does carry a rider where they say that the officer felt that 8 would have been the most appropriate number for us for G.S.T. and that would have included an extra 3 staff for the Frontier teams as well as the 5 they have identified -- 3 for revenue collection and 2 for intelligence. But they say that they recognised the political landscape at the time and that this was very unlikely to happen and, therefore, restricted their recommendation to 5 extra officers."<sup>40</sup>*

5.6.58 The Panel understands that, unlike in other areas, sufficient planning has taken place and resources provided so that the Service can take on the extra workload with limited impact on its other duties. At a public hearing the Panel asked about the consultation that had taken place with the Treasury on the implementation of GST and the effect on the Service:

***"The Deputy of St. John:***

*I would say it was very extensive and that it has been planned very, very well and that we have been commended by Treasury to that effect, the way we have communicated with them and the way the teams have worked together to ensure, we hope, a very trouble-free implementation of G.S.T.*

***Deputy D.W. Mezbourian:***

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<sup>40</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

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*So they have commended you; are you able to commend them?*

**Mr. M. Robinson:**

*It is has been an extremely close working relationship as it had to be and I am happy with the way that both sides have integrated.*<sup>41</sup>

5.6.59 The Minister for Treasury and Resources wrote to the Panel and explained that, as far as he was concerned, there had been significant cross-Departmental co-operation that had resulted in two officers being allocated in February 2007 and a further three in January 2008. The funding for these employees had been agreed within the £1 million that had been provided for the costs of staffing for the implementation of GST.<sup>42</sup>

5.6.60

<p><b>Finding: The impact of the introduction of GST on the Customs and Immigration Service was sufficiently planned and resourced.</b></p>
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#### **5.6.61 Additional Pressure – Police Investigation**

5.6.62 In addition to the pressures outlined above the Panel learnt that the Customs and Immigration Service was also significantly affected by the Police investigation into aspects of the intelligence work undertaken by the Service, which led to the removal of five of the Service's staff from the Joint Intelligence Bureau (that operates in conjunction with the Police) whilst the investigation was being undertaken.

5.6.63 The investigation had a very significant impact on the work of the Customs Service, which is heavily intelligence based. Indeed, drug seizures dropped significantly during the period of the investigation which lasted from August 2007 to December 2007, with only £34,000 of the annual total of over £700,000 worth of drug seizures being made during that period. Furthermore, we learnt that it has had negative impact on the relationship between the Police and the Customs and Immigration Service, with the Police maintaining that they had grounds for a criminal investigation but the Service rejecting this as completely unfounded. The Director of Law Enforcement explained:

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<sup>41</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>42</sup> Written submission by Minister for Treasury and Resources

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*“At the conclusion of the investigation, not one officer was found to have breached any internal procedures, let alone acted criminally. I think that shows that the investigation was unfounded.”<sup>43</sup>*

5.6.64 The investigation also had an impact on staff morale, which was itself already being hit by the funding and staff level pressures. The Director of Law Enforcement explained that:

*“Even though there were resource problems, this was the lowest moment...it created massive morale problems within the Service...morale hit rock bottom.”<sup>44</sup>*

5.6.65 The Panel understands that the relationship between Customs and Immigration and the States of Jersey Police is slowly beginning to be pieced back together and the Intelligence Unit is operating once again. And it is clear that the operation of the unit does impact on drug seizures, with over £850,000 of drug seizures having already been made in 2008, in excess of the total amount for 2007 when the Unit was out of action.

5.6.66

**Finding: Staff morale and service delivery at Customs and Immigration was significantly affected by the Police investigation into aspects of the Service’s intelligence work.**

## **5.7 Effects and Implications of not securing funding**

### **5.7.1 Introduction**

5.7.2 The Head of Service broadly outlined some of the impacts of continued under funding and the knock on effects of reduced staff numbers, which are seen by the Service as unacceptable for itself, the Minister, the States and the Island:

- Illegal entry of persons - The controls would still have to be manned but by fewer officers leading to delays at the points of entry and knock-on pressures for after entry work.

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<sup>43</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

<sup>44</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

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- Illegal entry of prohibited goods - Fewer officers would result in more aircraft and shipping arrivals not being controlled by officers, making it far easier to smuggle drugs, weapons, counterfeit goods, etc.
  - Illegal entry of dutiable goods - There is evidence that over 30% of tobacco consumed in the Island comes from duty free sources and whilst most of this is currently from legal duty free allowances more relaxed controls will increase the opportunities for commercial smuggling.
  - Impôts and Customs duties - Fewer staff engaged in collecting and accounting for the duties will lead to delays in the clearance of imported goods, duty assessments and in revenue collection, and will increase the risk of evasion.
  - Passport and Nationality - Reducing staff will mean people waiting much longer to receive their passports and confirmation of nationality decisions.<sup>45</sup>

5.7.3 He also outlined to us the broad operational issues on the Frontier Teams to help illustrate the way that officers on the ground are being affected:

*“When a frontier team is on duty, they have the responsibility for manning the Customs and Immigration controls, wherever they may be. Now, that could be at the Elizabeth Terminal; it could be at the Albert Pier; it could be at Gorey and it could be at the airport, and that is before any other sort of work comes into it, so that is just to man the basic immigration controls. So all of these places, especially in the summer, are busy, and there are constant movements. Very often, the (shipping and airline) movements will clash, and it is when we have these clashes of movements that we are at our most vulnerable. If we only have 8 officers, it is not hard to see how they can easily be taken up with an immigration control at the Albert Pier, for instance; 2 officers at the Elizabeth Terminal; if there is a car freighter coming in, another 2 for that. You are up to 6 officers used already before looking at the airport; Gorey, if anything happens out there, and that is without us arresting anybody or questioning them or investigating them. So it is a very slim and very lean operation. We know from experience last year and the year before what has happened, and that the teams have been stretched to a point where they cannot cover all of the areas that they are meant to cover, and this is the problem. On occasions, we have had to walk away from the Customs controls at certain areas. If there is a car ferry coming, for instance, it will take all the officers on duty at that time to*

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<sup>45</sup> Memorandum sent by Head of Service, July 2006

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*maintain the controls at that car ferry. That means there are no officers available if anybody is arriving at the airport or the other ports. Two officers extra will get us to the point where we can start to avoid walking away from those controls as much as we have. It has always been - on the Customs side anyway - the view that we should take a risk-based assessment to which controls we put the resources, rather than have an officer here, there and everywhere, where they are virtually ineffective; put the officers where they are effective, and if we feel that there is a risk at the airport, then we will get the officers there. So walking away from controls is not something that is not totally new, but we are doing to a point now where I feel it is not acceptable.”<sup>46</sup>*

5.7.4 Noting these and some of the other implications of the under funding that have been touched upon, we will take the opportunity here to clearly outline the current and future outcomes of continued under funding that the Panel was made aware of in the course of evidence gathering.

#### **5.7.5 Immigration – Queues**

The Panel was told that the shortage of staff within the Service was already beginning to manifest itself, occasionally, in longer waiting times for passengers to clear Immigration controls. The Assistant Minister for Home Affairs explained, by way of example, that there were a couple of occasions in 2007 whereby boats and planes were both arriving at the same time as other investigations were on-going, which led to long queues at the border. The Service had received complaints about that situation from the public and it was something that the Service would look to try and avoid again.<sup>47</sup>

5.7.6 However, the Head of Service suggested that if the current funding situation was to continue there were likely to be increased incidents of lengthy queues at immigration controls. He told us:

*“...we would not be able to provide Immigration controls in quite the way we do at the moment, where in past it has always been our policy to clear people through Immigration as speedily as possible but, of course, this requires enough officers to do that. What we are going to look at is fewer officers at Immigration Control which will, I*

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<sup>46</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>47</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

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*am sure, create longer queues to go through Immigration.*<sup>48</sup>

### 5.7.7 Immigration - CTA Obligations

The Panel learnt that the only way the Service manages to continue at present is by abandoning the Customs controls at the harbour and airport for significant amounts of time and that, if continued, this would be seriously detrimental to the safety and prosperity of the Island. The Service has, up until now, adopted the attitude that the Island must have 100 per cent immigration controls, but that the pressures make that increasingly difficult. It is something that the Head of Service would be looking at in the short term and reporting on accordingly.<sup>49</sup>

5.7.8 As we have previously demonstrated, as a member of the CTA, Jersey has certain obligations to its fellow members regarding immigration matters. If the current pressures were to force a change to the attitude of maintaining 100% immigration controls there could be consequences to Jersey's membership of the CTA. The Head of Service succinctly explained:

*"I think we run the risk of prejudicing our status within the Common Travel Area, ultimately. I think that is what the real risk is."*<sup>50</sup>

5.7.9 The Assistant Minister for Home Affairs expanded on the issue:

*"...there is always that risk that we might not be able to fully staff the frontiers...That is of great concern to me, because we have an obligation with the C.T.A., and the Lieutenant Governor of course does as well, so we will be watching that very closely...because that is an international obligation to the U.K. government, to make sure we maintain those borders...We run the risk of an incident occurring whereby somebody could accuse us of being a backdoor to the U.K...There is a limit to what you can do. You could throw enormous amounts of extra resource to make sure it did not happen at all, and somebody could still slip through, so you have to take a risk approach."*<sup>51</sup>

5.7.10 When giving evidence to the Scrutiny Panel on 25<sup>th</sup> April 2008, the Assistant Minister for

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<sup>48</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>49</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>50</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>51</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

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Home Affairs explained that because of Jersey's responsibilities to the CTA the Service would attend those arrivals requiring an Immigration control. However, the Director, Law Enforcement advised the Panel that this is now not always possible. He had consulted with the Head of Service at the end of 2007 and proposed that it was not sustainable to continue to ignore the Customs controls on an ongoing basis. This was accepted and agreed, and as a result there have been at least 4 occasions in 2008 to date when the Service has not been able to resource an immigration control and this was likely to continue on an ongoing basis. This potentially has repercussions for Jersey's position in the CTA, but it is the view of the Customs and Immigration management team that they have been placed in a situation where there is no other option.<sup>52</sup>

5.7.11 Further concern was expressed that this may lead to consideration by the UK and other partners of the CTA to impose border controls between themselves and Jersey, as the Head of Service explained:

*"Yes. Well, the risk then is that immigration authorities (in the UK) put in controls, because they cannot be satisfied that we have adequate controls, for people travelling between Jersey and the U.K. Now, that is not something they would wish to do for a number of reasons, resources being an issue for them as well. They just would not want to do it. But...*

***The Deputy of St. John:***

*It would be inconvenient for our passengers as well. They would have to pass through immigration in the U.K.*<sup>53</sup>

5.7.12 The Minister for Home Affairs has confirmed the Department's commitment to maintaining 100% immigration controls. She informed the Panel that when the Service had indicated that it could not guarantee 100% immigration controls and still apply satisfactory Customs controls, His Excellency the Lieutenant Governor "intervened" and informed the Service that he would have no option but to inform the UK authorities of this development. He pointed out that there were potential implications for the Island's status in the Common Travel Area. As a result the Minister considered that there was no option but to continue to guarantee the

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<sup>52</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

<sup>53</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008



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100% immigration controls.<sup>54</sup>

5.7.13

**Finding: The Minister for Home Affairs continues to guarantee the 100% immigration controls, but Customs and Immigration is unable to deliver this service.**

#### 5.7.14 On-board Immigration Controls

5.7.15 It is clear to the Panel having heard from the various stakeholders that the provision of on-board controls by the Service is undertaken to help support Economic Development initiatives and the commercial interests of operators, and therefore in turn the wider economic interests of the Island. However, this support has a cost and it is placing significant pressure on the resources, particularly manpower, of the Service and its ability to undertake its wider duties.

5.7.16 The Head of Service explained the situation regarding on-board controls and the fact that their future had to be given consideration:

*“The other area that we will have to look at is ... onboard immigration controls for vessels that are in transit to the U.K. and what is happening here is that the car ferries that are in transit to the U.K. will have a number of passengers that will disembark in Jersey, and a number of passengers that will be for onward movement to the U.K. What we do at present is we have an obligation, as I said before, to provide immigration control as the first point of entry to the Common Travel Area, so we put officers on board those vessels to do the immigration controls, and that saves taking the people off and putting them back on. The shipping companies wish us to do this as quickly as possible, and the moment we do it at the same time as we are operating the controls on land, so it is again extra officers. It is going to be impossible, I think, to continue with that. What we would have to do is do those onboard controls after we had finished the other immigration controls for that vessel, the car controls and the foot controls. That will mean potentially the vessels staying in harbour longer. This will have an impact on the scheduling for the shipping companies and they will have, I think, an adverse*

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<sup>54</sup> Written Submission by Minister for Home Affairs

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*reaction to that.*<sup>55</sup>

5.7.17 It is notable that the level of on-board immigration controls have now extended to the airport, for example with the Flybe Paris/Jersey/Norwich flight being multi sector. The Customs and Immigration Service has agreed to carry out the on-board control, but only after the land control has been completed, an indication that the Service wants to co-operate where possible. There is a concern within the Service however, that there is a view within the Economic Development Department that the on-board service is regarded as a basic immigration control; it is clear to the Panel that it is not, it is an enhanced control. The UK Border Agency (and UK Immigration before them) do not operate such controls, and the normal procedure would be for all passengers to have to get off the boat/aircraft.<sup>56</sup>

5.7.18 The Panel asked the Minister for Home Affairs about the future of on-board immigration controls in the foreseeable future. The Minister advised that following meetings between the Economic Development Department and Home Affairs a letter was written to the carrying companies inviting them to a further meeting to discuss the issue. The Service has also taken the opportunity to put the carrying companies on notice that the whole principle of on-board controls will need to be examined in the near future to ensure that Immigration controls provided in this way are rigorous and effective.<sup>57</sup>

5.7.19

**Finding: On-board immigration controls are an added pressure on the Customs and Immigration Service and could be withdrawn, to the inconvenience of the public, ferry operators and Economic Development policy, if the funding pressures at the Service are not resolved.**

### 5.7.20 Customs Controls – Smuggling and Drug Seizures

5.7.21 The Assistant Minister for Home Affairs was open with the Panel about the impact of the pressures on the Customs operations within the Service:

*“... I think it has been reported that there are certain elements of the operation that are*

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<sup>55</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>56</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

<sup>57</sup> Written Submission by Minister for Home Affairs

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*not always fully operational, particularly Customs checks, for example.*<sup>58</sup>

5.7.22 As previously stated, the Head of Service told the Panel that the only way the Service manages to continue operating at present is by abandoning the Customs controls at the harbour and airport for significant amounts of time. It can only increase the chances of the commercial smuggling of drugs and other prohibited goods and of dutiable goods. In fact, this was already happening as drugs seizures in 2006 and 2007 (taking into account the impact of the Police investigation of intelligence staff at Customs) were substantially lower than in previous years. The Head of Service explained his reasoning to the Panel:

*“where you see the U.K. planning (to put) resources into the Border Agency, we will be reducing resources, taking resources away from it (our border). The impacts: what we will have to do is fewer again Customs controls, so if we are to retain the priority on immigration controls, it just means walking away from more Customs controls again. That obviously increases the possibilities or increases the ease for people to smuggle, and it is not only prohibited goods, restricted goods such as controlled drugs, but next year we will have G.S.T. coming. That will mean that the chances for revenue fraud will increase. Everything will be liable to tax on import and while there is a de minimis level beyond which we will not tax, if we get people bringing in loads of goods and trying to avoid controls, the officers will not be there.”*<sup>59</sup>

5.7.23 One aspect of the Customs checks issue given as an example to the Panel was that of car checks. The Head of Service explained:

*“...if we have fewer officers at the Immigration Controls it leaves more to spare to put at Customs Control. Often now when the car ferries are coming in we are just not there for a customs purpose and I do not think that is acceptable.*

**Deputy D.W. Mezbourian:**

*Do you have any evidence of the impact that not having officers at those car checks may be having on goods brought into the Island?*

**Mr. M. Robinson:**

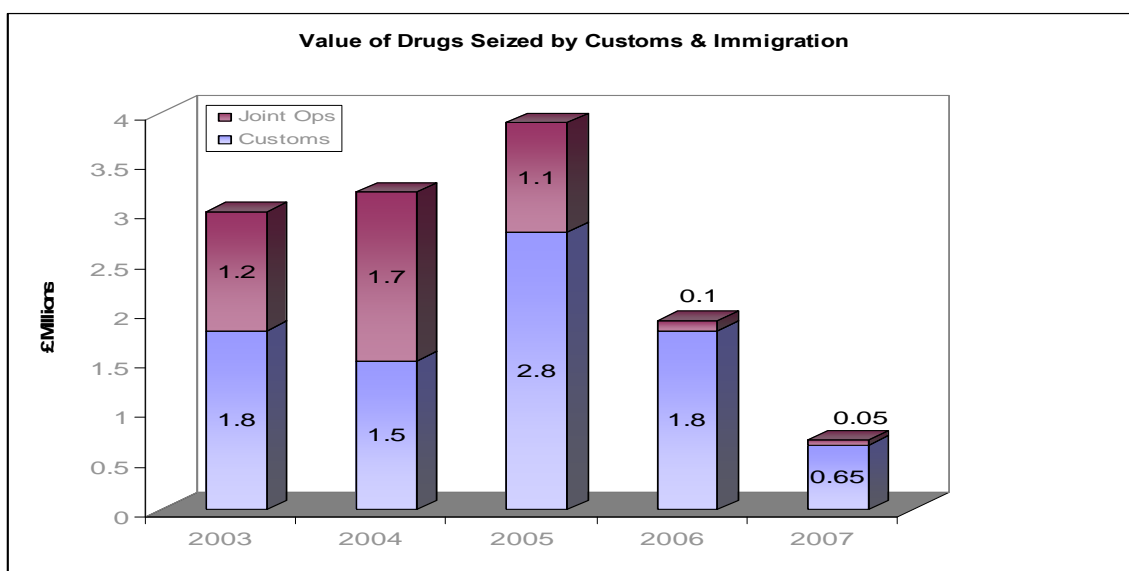
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<sup>58</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>59</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

*There is no evidence and it is impossible to say definitively what the effects will be. In my view if you are not at the controls you increase the chances of smuggling and if you are increasing the chances of smuggling you are probably increasing the eventuality of smuggling and I think that is extremely possible.*<sup>60</sup>

5.7.24 This impact of the funding pressures on the detection of drug smuggling was further backed up by the Director of Law Enforcement. He informed the Panel that evidence from the Police first quarterly report seems to indicate that more drugs are getting through the controls as drug seizures by Police uniformed shifts and the Proactive Investigation Team are significantly higher than for the same period in 2007 and the previous 3 year average. The table below demonstrates the concerns:<sup>61</sup>



5.7.25 More recently there have been some significant drugs seizures made by the Customs and Immigration Service, including for example a seizure of cannabis with a street value of £180,000 in a Customs vehicle check at the harbour. When asked by the Panel if this indicated that the Service could operate successfully at its present capacity the Minister for Home Affairs replied:

*“Customs controls are still under some threat, but that is not to say that they are non-existent and seizures will be made. The fact that these seizures have been made demonstrates the need for effective and robust Customs controls. This is*

<sup>60</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>61</sup> Memorandum sent by Head of Service, January 2008

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*what the Service is seeking to achieve by ensuring that Customs controls do not fall to levels seen in the last couple of years.*<sup>62</sup>

5.7.26 The Minister continued:

*“Although the Service aims to have a Customs presence for all commercial air and sea arrivals it should be noted that this has not been achievable for a number of years. In previous years the number of controls missed have been comparatively low and, in general, only on sporadic occasions when work demands became excessive. The current levels have only been sustained with rostered overtime and the employment of seasonal staff which is the cause of great concern.”*<sup>63</sup>

### **5.7.27 Impact upon Staff**

5.7.28 Through the course of its evidence gathering, including meeting and talking to a number of Customs and Immigration officers on a site visit to the harbour, it has become clear to the Panel that the funding pressures have had a significant, negative impact on staff within the Service. This problem has been further exacerbated by the impact of the Police investigation into intelligence aspects of the Service’s work between August and December 2007.

5.7.29 The Panel heard that there was frustration amongst officers that the lack of resources meant that the point had been reached where officers feel that they can no longer do their job properly. For example, drug syndicates are extremely inventive when it comes to concealing drugs and if the searches are not conducted in a professional and thorough manner, and all eventualities explored, then the drugs will not be discovered. It is the view of both the management team and the officers on the enforcement side of the Service that this is one of the significant reasons that drug seizures at the frontiers in 2007 were down by 40% on the previous 3 year average. It is frustrating for professional officers to go to work and be forced to operate knowingly to a less than satisfactory level.<sup>64</sup>

5.7.30 Additionally, particular strain is being placed on officers regarding the hours and overtime that they are being required to undertake to keep the Service functioning. A scenario was outlined to the Panel by the Director, Law Enforcement to try to bring some clarity to the

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<sup>62</sup> Written Submission by Minister for Home Affairs

<sup>63</sup> Written Submission by Minister for Home Affairs

<sup>64</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

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resource difficulties faced by officers at the frontiers.

*“If we take Thursday 5 June as an average day it can be seen that there is a boat arrival at Gorey from France at 0755, that the Condor 10 arrives from Weymouth at 0815 hours and that there are 3 boats arriving on the Albert Quay from France between 0900 – 0925 hours. Seven officers are sufficient to carry out pre-arrival intelligence checks, cover these movements and ensure that there is adequate cover at the airport during this period. The difficulties occur at 1000 hours when the HD Ferries vessel arrives from St Malo. Up to this year it has been usual to provide the following Immigration cover for this vessel:*

*HD Foot Passenger Control – 2 officers*

*HD Car Passenger Control – 2 officers*

*HD On Board Control – 2 officers*

*This has left 1 officer available to resource the following Customs controls:*

*Airport Flights*

*HD Car Passenger Arrivals*

*HD Foot Passenger Arrivals*

*In the light of the ongoing resource difficulties we have had to review the immigration cover situation and allocate the cover as follows:*

*Foot Passenger Control – 1 officer*

*Car Passenger Control – 1 Officer*

*On Board Control – 2 Officers*

*As a result there are now 3 officers available to man the Customs controls. This is still insufficient, but on week day mornings these officers can be increased by requesting assistance from officers in other sections, in particular the Immigration Casework section and the Service Investigation Unit. Though these extra officers are welcome on the frontiers it is very disruptive to the individual sections themselves as they have heavy workloads of their own. This results in officers from these units having to work extra hours to keep up with the work in their individual sections. This is not sustainable*

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*in the long term.*<sup>65</sup>

- 5.7.31 Further illustrations of the impact on staff time were given. For example, if there is a customs infraction either at the airport from 1400 hours onwards or on any boat arrivals between 17:20 and 20:05 involving an individual who had concealed drugs internally, this would have a significant impact on the Service's ability to conduct an immigration control on the evening's Condor 20:35 arrival, which also requires an on-board immigration control as well as a foot passenger and car control. It requires a minimum of 3 officers to control an individual who has concealed drugs internally, one for custody and 2 to conduct the investigation. If there was more than one individual to control or a house search required, then the resources required could increase significantly.
- 5.7.32 To help alleviate difficulties at such times the Service has offered voluntary overtime on a daily basis from 17:00. While this helps, as the season progresses and officers get more tired it becomes more difficult to find volunteers for these duties. It is necessary to offer this overtime because from 17:00 onwards there are no officers available to assist from either the Immigration Casework or Investigation sections.
- 5.7.33 The Panel was advised that drug syndicates are extremely inventive when it comes to concealing drugs and, if the searches are not conducted in a professional and thorough manner, then it is quite possible that the drugs will not be discovered. It is the view of both the management team and the officers on the enforcement side of the Service that this is one of the significant reasons that drug seizures at the frontiers in 2007 were down by 40% on the previous 3 year average.
- 5.7.34 Furthermore, the Panel was informed that the situation on Saturday mornings had been even worse with 3 aircraft arrivals requiring an immigration control coinciding with the arrival of the then operating HD Ferries vessel at 10:00 hours. Again support could not be obtained from other sections in the Service as they were not on duty.<sup>66</sup>
- 5.7.35 The Panel was advised by the Head of Service that the exit of HD Ferries had eased the pressure on the service, although perhaps only in the short term should HD or another operator take on the route in 2009. The removal of HD 's sailings had allowed the provision of 100% immigration controls to be more manageable and less of an impedance to providing customs controls at the times freed up by the withdrawal of those sailings.

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<sup>65</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

<sup>66</sup> Written Submission by Director, Law Enforcement at Customs and Immigration Service

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However, looked at in the context of all the frontier work of the Service the overall effect is not significant. HD Ferries arrivals required approximately six officers for a maximum of 2 hours for those days when there were two sailings and 1 hour when there was one sailing, this out of a total working day of 16 hours.

5.7.36 Having lost the equivalent of six officers from the frontier/border controls since 2005 and witnessed a significant increase in workload, of which the introduction of HD Ferries was a minor part, the withdrawal of HD Ferries does not affect the broader requirement for extra resources.

5.7.37 The Panel asked the Minister for Home Affairs whether officers are still under those same pressures. The Minister replied that the situation had improved as the damage caused by the unfounded Police investigation was mitigated and relationships approached normality again. The success of the officers at the frontiers has also helped to bolster confidence and morale.<sup>67</sup>

5.7.38 Nonetheless officers are still working large amounts of overtime and the obligation to ensure 100% immigration controls maintains pressure on the Customs controls. These become more difficult to manage as the summer season continues. Balanced against this are higher levels of expertise as training and experience begin to show their effect; and the knowledge that there will be three extra officers in 2009 which has had another positive effect on officers' morale.<sup>68</sup>

5.7.39

**Finding: Particular strain is being placed on officers at Customs and Immigration regarding the hours and overtime that they are being required to undertake to keep the Service functioning. Recently however there has been some relief of this pressure and a boost to morale as training and experience begin to show their effect, coupled with the knowledge that three extra officers will be in place in 2009.**

## 5.8 Alternative Funding Options

### 5.8.1 Introduction

5.8.2 As we have previously described, the funding pressures faced by the Service are historic, yet ongoing. Despite the injection of £250,000 for 2009, this will essentially see the situation

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<sup>67</sup> Written Submission by Minister for Home Affairs

<sup>68</sup> Written Submission by Minister for Home Affairs



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at the Service 'stand still' rather than decline further for that year. However, many of the pressures will continue in spite of this and the Service will face the same significant problems all over again in 2010. The Panel therefore endeavoured to find out what alternative funding options were being explored to help alleviate the pressure on the Service should it continue to receive an insufficient budget.

### 5.8.3 User Pays

5.8.4 The Panel asked the Minister for Home Affairs about the option of introducing user-pays charges as a means to accessing additional funding. The Minister told the Panel that User pays principles are applied generally to the provision of passports, work permits and legalisation of documents. However, the extension to other areas has been considered in the past as part of corporate efficiency savings exercises but nothing suitable was identified.<sup>69</sup>

5.8.5 The Assistant Minister for Home Affairs confirmed to the Panel that there had been consideration given to introducing charges for the delivery of on-board immigration controls. However, the Head of Service explained the limitations of this approach:

*"We have looked at it, and charging is something that could be explored, but charging would not give us the extra resources we need. We would have some money, but it is people we need, and we could not charge enough and it would not be a guaranteed source of income anyway (that would allow us) to employ extra staff.*

#### ***The Deputy of St. John:***

*At the moment, the Harbour Department charges a fee for using their harbour, which includes navigation, pilotage and other things. What they do not charge for though is services that we provide, so there is nothing built in there for the cost of clearing the passengers through Customs and Immigration. There is an expectation that the Government should provide it (free of charge), and we do provide it, but (it should be based on) standard services to clear people at the border, so nothing was ever constructed to cost into doing (processing) transit passengers on board."*<sup>70</sup>

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<sup>69</sup> Written Submission by Minister for Home Affairs

<sup>70</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

- 5.8.6 When asked specifically about the consideration given to charging the operators for on-board controls, the Minister informed the Panel that this has been considered in the past and is open for consideration again. It would not however provide a long term solution. The Minister advised that the best that it would do is to help meet the costs of overtime, temporary officers and standby.<sup>71</sup>
- 5.8.7 As previously mentioned, the ferry operators have been told by the Service that the issue of on-board immigration controls is to be reviewed and they have been invited to discuss the matter. When they spoke to us, the Assistant Minister for Home Affairs and the Head of Service suggested that previous discussions relating to the introduction of charges had met with a negative response from operators as it would be an extra cost to them and it would therefore be met by being passed on to customers.<sup>72</sup>
- 5.8.8 The Minister for Economic Development advised the Panel that any additional increase in transport costs to the Island could have a detrimental effect on visitor numbers and could be counter productive to the work of the Economic Development Department.<sup>73</sup>

5.8.9

**Recommendation: The Minister for Home Affairs should re-examine the suitability of a User Pays policy as a means of securing additional income for the Customs and Immigration Service, with particular regard to on-board controls.**

#### **5.8.10 Economic Development Department Assistance**

5.8.11 We have previously established that the Customs and Immigration Service has been frustrated at times by lack of communication from the Economic Development Department. They have also been frustrated at times by the Department's attitude to their pressures. Indeed, the Minister for Economic Development informed the Panel that:

*"It is inconceivable to think that Economic Development would contribute financially to*

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<sup>71</sup> Written Submission by Minister for Home Affairs

<sup>72</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>73</sup> Written Submission by Minister for Economic Development

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*the services provided by the Customs and Immigration Service. If we were to go down that road we could end up paying for additional policing costs for events to the States of Jersey Police, for additional garden costs to TT&S, for additional refuse collection costs to the Parish of St Helier and for additional costs for the provision of medical services to the Health Department. I repeat that our mission is to raise the economy by at least 2% per annum, something which we have more than achieved now for a number of years on a very limited budget.”<sup>74</sup>*

5.8.12 However, when the Panel asked the Assistant Minister for Home Affairs about financial assistance from the Economic Development Department the Panel learnt that there was some co-operation between the two parties. Economic Development had contributed £13,000 in 2007 to the overtime costs incurred by Customs and Immigration staff following the increase in movements at the harbours and airports. This was a one off payment however and more discussions are required for a longer term solution.

5.8.13 The Panel heard that a discussion had taken place in 2007, and that Economic Development had provided some funding, which helped mitigate some of the overtime costs at that time. Similar discussions were being held again but it was pointed out to the Panel by the Head of Service that while extra money for the budget is never unwelcome it does not solve the on-going funding problem. The Assistant Minister further elaborated that it was possible to argue that a percentage of the incoming cost per head of passenger should be contributed towards the cost of clearing those passengers through Customs and Immigration, and that this would be discussed with Economic Development.<sup>75</sup>

5.8.14 Regarding the recovery of overtime costs to the Service of handling the extra movements generated by Economic Development policy, the Head of Service and Home Affairs officers explained that this would not solve the funding problem:

*“we are talking about recovery of costs, our costs, we calculate it on the overtime...and you are talking tens of thousands a year, but it is not massive amounts.*

**Ms. L. Middleton:**

*Last year, I think the estimate was round about £39,000 for overtime costs but I am not*

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<sup>74</sup> Written Submission by Minister for Economic Development

<sup>75</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

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*sure how many controls that was for. But that was the cost that was put up with the Economic Development and with the Harbour office and Economic Development did make a contribution towards the costs. But, as Mike said, that is basically overtime, it does not provide any certainty in terms of resource or setting the base budget...Economic Development contributed £13,000.*

**Mr. S. Austin-Vautier:**

*We have asked them to repeat that contribution this year - to get us through this year.*

**Deputy D.W. Mezbourian:**

*Right and 2009?*

**Mr. S. Austin-Vautier:**

*Well, that is the subject of the funding pressure to try and solve it. Because we know it is a recurring problem we are just highlighting what would be needed to solve it once and for all without tackling it year on year.<sup>76</sup>*

5.8.15 The Panel heard from the Economic Development Minister that his Department's officers had been engaged in talks with officers at Home Affairs, particularly at Customs and Immigration. The Department is committed to supporting Customs and Immigration to carry out what the Minister described as a valuable service, in an efficient and rational manner. He continued that if this entails changes to operational procedures that he would ensure that the harbours and Jersey Airport engaged accordingly in discussions.<sup>77</sup>

5.8.16

**Finding: The Panel acknowledges that the Minister for Economic Development has, for a number of years, achieved the Strategic aim to raise the economy by at least 2% per annum. It is obvious however that this achievement has, in part, been made at a cost to the Customs and Immigration Service.**

5.8.17

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<sup>76</sup> Transcript of Public Hearing, 25<sup>th</sup> April 2008

<sup>77</sup> Written Submission by Minister for Economic Development

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**Recommendation:** The Panel recommends that the Customs and Immigration Service budget should be adequately increased and that a thorough and flexible approach be taken to determine whether this should be achieved through central funds, from within existing Home Affairs resources or by other appropriate means. This should include that:

- The Home Affairs Department should invite the Comptroller and Auditor General to undertake a full base budget review to ascertain whether adequate funding is available from within the existing Home Affairs budget.

- The Minister for Home Affairs should re-examine the suitability of a User Pays policy as a means of securing additional income for the Customs and Immigration Service, with particular regard to on-board controls.

- In recognising the additional revenue generated by the policies of Economic Development in relation to increased movements at the harbour and airport, the Minister for Treasury and Resources gives consideration to re-distributing part of this revenue to the Customs and Immigration Service to cover its incurred additional costs.

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## 6. CONCLUSION

- 6.1 It is clear that there is a significant funding pressure at the Customs and Immigration Service. The Panel agrees with the Comptroller and Auditor General that the Customs and Immigration Service *'is, if anything, under-funded and that there is little likelihood that significant expenditure reductions could be achieved without major and contentious revisions of the service.'* The Panel concludes that it is not appropriate for 'patch and mend' fixes to continue to be applied, rather a long term solution must be found, promptly, as the current situation is unsustainable and the Service is struggling to operate to an acceptable level.
- 6.2 The consequences of a funding solution not being found are significant and wide ranging, from continued, unsatisfactory pressures placed on staff to the potential threat to the Island's participation in the Common Travel Area. The only way that the Service manages at present is by abandoning Customs controls at the harbour and airport for significant amounts of time and the Island temporarily becomes a Customs free area. In line with Common Travel Area obligations the Minister for Home Affairs guarantees the 100% immigration controls, but the Panel must conclude that the Customs and Immigration is unable to deliver this service.
- 6.3 The Panel found that a significant contributing factor to the funding pressure was the reduction in staff numbers resulting from the States' Fundamental Spending Review (FSR) 2005, resulting in the loss of 5 posts at the Service. The loss of those posts coincided with Economic Development's laudable and successful policies to increase air sea movements as part of its Strategic objectives on economic growth, but which exacerbated the pressure on the Service.
- 6.4 It has been encouraging to see the moves towards greater co-operation and communication between the Economic Development Department and the Customs and Immigration Service. However, it is inescapable that the initial communication of Economic Development policy development was insufficient and echoes similar concerns that were raised in previous reports by the Panel. It is disappointing to have to repeat the conclusion of our Policing of Events:User Pays report, that, *'In a time when the phrase 'joined-up government' is often quoted, the Panel can only support moves in this regard and trusts that such efforts towards greater engagement are successful'.*

## 7. METHODOLOGY AND EVIDENCE CONSIDERED

### 7.1 Methodology

7.1.1 The Panel used the following methods to gather evidence during our review.

- Research of written sources including relevant legislation and departmental papers and policies
- Requesting advice and information from the Departments of Home Affairs; Economic Development and Treasury and Resources
- Call for Evidence from the Public (placed in the *JEP*)
- Written requests for information from stakeholders
- Public Hearings
- Site Visit with Customs Officers

### 7.2 Evidence Considered

7.2.1 Those documents listed below, to the extent that they are relevant to the Terms of Reference, that were not received on a confidential basis are available to read at [www.scrutiny.gov.je](http://www.scrutiny.gov.je). Those unable to access the Internet are requested to contact the Scrutiny Office (telephone: 441080) about accessing hard copies of documents.

#### 7.2.2 Legislation:

Customs & Excise Law 1999 – Revised Edition, 1st January 2008

Immigration Act, 1971

Immigration (Jersey) Order 1993

#### 7.2.3 Minutes and Official Record of the States Assembly:

Official Record of the States of Jersey Assembly, 8th September 2008

#### 7.2.5 Other Written Material:

Jersey Customs and Immigration Service Annual Report 2006

Jersey Customs and Immigration Service Annual Report 2007

Guernsey Customs and Immigration Service Annual Report 2006

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HM Revenue and Customs, Criminal Justice and Enforcement Standards Branch Report, February 2008

Crown Agents Report, July 2007

States of Jersey Annual Business Plan 2009; Significant Funding Pressures

States of Jersey Internal Audit Report; Merger of Customs and Immigration Frontier Teams, June 2007

UK Border Agency Report and Consultation; 'Strengthening the Common Travel Area'

#### 7.2.6 **Written Submissions:**

Minister for Home Affairs

Minister for Economic Development

Minister for Treasury and Resources

Head of Customs and Immigration Service

Director, Law Enforcement, Customs and Immigration Service

Condor Ferries

#### 7.2.8 **Public Hearings:**

Home Affairs/Customs and Immigration Service, 25th April 2008

#### 7.2.9 **Media Articles:**

##### Jersey Evening Post:

Customs Article, 26th February 2008

'Rift Between Police & Customs', 16th April 2008

'Unedifying Drama', 17th April 2008

'More Deportations', 17th April 2008

'Customs & Police', 22nd April 2008

'Blue Line gets thinner', 24th April 2008

Interview with Director, Law Enforcement, 13th September 2008

##### BBC:

'Threat to Jersey's Customs Cover', 2nd April 2008



7.2.10 **Websites:**

[www.gov.je](http://www.gov.je)

[www.gov.gg](http://www.gov.gg)

[www.gov.im](http://www.gov.im)

[www.bia.homeoffice.gov.uk](http://www.bia.homeoffice.gov.uk)

[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

[www.ukvisas.gov.uk/en/ecg/commontravelarea](http://www.ukvisas.gov.uk/en/ecg/commontravelarea)

**8. APPENDIX**

The following information was received by the Panel from the Economic Development Department on 19th November 2008.

**PASSENGERS**

	<b>2004</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>
Carteret					1,586	2,733	3,941	5,138	3,843	2,070				19,311
Cherbourg														0
Dielette								193						193
Granville		130	518	589	3,445	5,926	5,923	6,230		3,874	830	322	391	28,178
St Malo		4,796	11,736	11,036	51,289	58,094	57,632	64,749	81,397	51,723	23,997	15,076	16,340	447,865
<b>2004</b>		<b>4,926</b>	<b>12,254</b>	<b>11,625</b>	<b>56,320</b>	<b>66,753</b>	<b>67,496</b>	<b>76,310</b>	<b>85,240</b>	<b>57,667</b>	<b>24,827</b>	<b>15,398</b>	<b>16,731</b>	<b>495,547</b>

	<b>2005</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>
Carteret					690	2,097	2,500	4,325	5,157	2,502				17,271
Cherbourg										835				835
Granville		216	370	848	2,539	5,219	7,805	7,001	11,586	6,000	1,636	431	1,051	44,702
St Malo		8,492	15,215	22,151	37,654	56,637	60,464	66,050	85,959	56,165	27,797	13,850	14,236	464,670
<b>2005</b>		<b>8,708</b>	<b>15,585</b>	<b>22,999</b>	<b>40,883</b>	<b>63,953</b>	<b>70,769</b>	<b>77,376</b>	<b>102,702</b>	<b>65,502</b>	<b>29,433</b>	<b>14,281</b>	<b>15,287</b>	<b>527,478</b>

	<b>2006</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>
Carteret					3,190	3,059	4,712	4,749	4,663	3,938				24,311
Dielette					3	269								272
Cherbourg														0
Granville		362	535	634	5,145	7,194	10,353	10,076	11,935	8,088	1,716	1,078	1,285	58,401
St Malo		7,533	11,245	14,104	36,452	41,586	46,873	53,165	64,187	45,182	21,057	12,844	14,679	368,907
<b>2006</b>		<b>7,895</b>	<b>11,780</b>	<b>14,738</b>	<b>44,790</b>	<b>52,108</b>	<b>61,938</b>	<b>67,990</b>	<b>80,785</b>	<b>57,208</b>	<b>22,773</b>	<b>13,922</b>	<b>15,964</b>	<b>451,891</b>

Education and Home Affairs Scrutiny Panel:

Customs and Immigration

**2006 YTD**      7,895    19,675    34,413    79,203    131,311    193,249    261,239    342,024    399,232    422,005    435,927    451,891

	<b>2007</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>
Carteret					2,295	3,484	5,222	4,698	6,756	3,920				26,375
Dielette														0
Cherbourg											20	4		24
Granville		93	827	1,249	4,616	6,152	4,566	7,048	9,305	7,521	1,099	1,077	843	44,396
St Malo		8,715	11,286	20,510	42,147	50,973	52,982	56,436	71,594	48,892	21,691	14,362	12,049	411,637
<b>2007</b>		<b>8,808</b>	<b>12,113</b>	<b>21,759</b>	<b>49,058</b>	<b>60,609</b>	<b>62,770</b>	<b>68,182</b>	<b>87,655</b>	<b>60,333</b>	<b>22,810</b>	<b>15,443</b>	<b>12,892</b>	<b>482,432</b>

**Ship Arrivals**

2004	<b>2125</b>
2005	2258
2006	1711
2007	2356
2008	2132

