

STATES OF JERSEY



JERSEY CONSUMER COUNCIL: FUTURE MANDATE

Lodged au Greffe on 17th December 2010
by the Minister for Economic Development

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to refer to their Act of the 25th April 1995 regarding the establishment of the Jersey Consumer Council and agree the following future Mandate for the Council –
 - (i) to seek information, investigate, highlight and publicise anomalies and irregularities in consumer affairs and to encourage good trading practice by local business;
 - (ii) to provide a consumer response to consultations, to advise on consumer priorities and concerns and identify anti-competitive practices in support of the statutory roles and responsibilities of the Jersey Competition Regulatory Authority, the Jersey Financial Services Commission, the Department of Economic Development, other relevant Departments, and in future a financial ombudsman;
 - (iii) to provide consumers with adequate, accurate and timely information so that they are able to make informed decisions and to know their rights in doing so, where this is not already adequately provided for by the activities of relevant statutory agencies of the Economic Development Department, to include the Jersey Competition Regulatory Authority, the Jersey Financial Services Commission, and any future financial Ombudsman;
- (b) to request the Minister for Economic Development to take the necessary steps to provide for the Council's effective operations by –
 - (i) preparing for the establishment of the Council as a separate legal entity able to rent accommodation and enter into employment and research/consultancy contracts in its own right and to bring a proposition to the States for approval by July 2011;
 - (ii) recommending to the States for approval the appointment of a Chairman who should not be limited to being a States member, and should be appointed in accordance with the Jersey Appointment Commission's Code of Good Practice;
 - (iii) appointing the members of the Board of the Council in accordance with the Jersey Appointment Commission's Code of Good Practice, which membership should be fully representative of consumer interests generally, with the opportunity to co-opt individuals with appropriate experience/expertise to assist in the undertaking of research or to form consumer focus groups;

- (iv) requiring the Council to present to the States an annual report and accounts;
- (v) requiring the Council to present an annual business plan to the Minister for Economic Development;
- (vi) seeking to obtain funding for the Council through a States' grant, to be supplemented by private donations and/or members' subscriptions so that it is able to carry out a proper programme of investigations/research in respect of those matters that fall within the remit of the Council;
- (vii) ensuring that there is a clear and specific line of responsibility for consumer affairs to the Minister or Assistant Minister;
- (viii) requesting the Chief Minister to arrange for the States Statistics Unit to advise and agree with the Consumer Council on the best approach to collect prices, make price comparisons, and present price information to the general public; and
- (ix) requesting the Minister for Treasury and Resources to arrange for the States insurance arrangements for indemnifying States' employees to be extended to the Board members and Executive(s) of the Council.

MINISTER FOR ECONOMIC DEVELOPMENT

REPORT

Background

1. The Jersey Consumer Council (“the Council”) was established in 1995. The Report and Proposition to the States (P.37/1995) set out the functions of the Council as follows –

“to seek information, investigate, highlight and publicise anomalies and irregularities in consumer affairs and to encourage good trading practice by local business, with the assistance of the Trading Standards Department and other States departments as appropriate;

to seek to promote –

- (a) good trading practices;
 - (b) the ability to exercise individual rights;
 - (c) value for money;
 - (d) adequate compensation.”
2. The membership of the Council, then agreed, was a Chairman who would be a member of the States, appointed by the States, and 8 other members appointed by the Policy and Resources Committee as follows –
 - a member of the Jersey legal profession;
 - a retail member of the Chamber of Commerce;
 - a member of the Jersey Hotel and Guest House Association;
 - a member of the Transport and General Workers Union;
 - a member of the Standing Conference of Women’s Organisations;
 - a member of the Citizens Advice Bureau; and
 - two members of the public not representing any particular organisation.
 3. Since the Council was established a number of other bodies have been created, or their legal framework developed further, with consumer interests in their role and responsibilities –
 - Jersey Competition Regulatory Authority;
 - Jersey Financial Services Commission;
 - Trading Standards;and the establishment of a financial Ombudsman is under active consideration.
 4. Since its inception the Council under the Chairmanship of Senator Alan Breckon has been active in defending consumer interests. A note on the work of the Council since 1995, produced by the Chairman, is attached in Appendix 1 to this report.

5. In 2008 a UK expert in consumer representation (Pact Consulting Limited) was engaged to review the operation of the Council and a number of recommendations were made. Subsequently in August 2009 the Minister asked Colin Powell CBE to undertake a review with the following terms of reference –

- analyse the conclusions and recommendations contained in the review of the Council by Pact Consulting published in September 2008 and comment accordingly;
- to meet the Council members and discuss with them their views and opinions on the role and future function, effectiveness and representation of a stronger consumer voice for the Council;
- to critique the current economic and regulatory framework and detail how it influences the role and function of the Council;
- if appropriate to provide alternative recommendations for consideration by the Minister for Economic Development;
- to carry out other relevant research and consider matters that may arise during the course of the review.

Mr. Powell's report is attached in Appendix 2. The full Pact report is available on the States web-site.

6. The Minister and the Council are in agreement with Mr. Powell that there is a need now for the States to be asked to give a new mandate to the Consumer Council. To quote from Mr. Powell's report –

“6.28 The Mandate should establish the key roles for the JCC, and should set these against a clear statement of the present statutory roles and responsibilities of Trading Standards, the JCRA and the JFSC, and those expected of an ombudsman when appointed, to ensure that the JCC focuses on its priorities in a complementary and non-conflicting manner.

6.29 The key roles for the JCC should remain those identified at the time of its formation in 1995, adapted to reflect the experience of other countries, the change in commercial environment since that date, and the steps that have been taken to give consumers greater statutory protection than was the case in 1995.

6.30 The Mandate should reflect the fact that a body such as the JCC can be of great importance in serving the interests of consumers, and the interests of the Island, through helping to secure good trading practices at a cost that equates with best value for money. To achieve this, the JCC should be in a position to provide consumers with all the information they need to make informed decisions and to know their rights in doing so. The emphasis should be on good consumer education. This requires good information, good information requires a proper process of investigation/research, and investigation/research can only be undertaken if it is adequately resourced. The Mandate of the JCC should be to inform and educate consumers through an effective programme of research, information collection, and information dissemination for those areas of consumer interest not

covered by the statutory agencies (i.e. Trading Standards, JCRA, JFSC – and in the future possibly an Ombudsman), to be funded by a States grant supplemented by private donations and/or members subscriptions.”

Recommendations

7. It is recommended that the States should be asked to refer to their Act of the 25th April, 1995 regarding the establishment of the Jersey Consumer Council and agree –
 - (i) that there is a continued need for such a Council and that its future Mandate should be –
 - (a) to seek information, investigate, highlight and publicise anomalies and irregularities in consumer affairs and to encourage good trading practice by local business;
 - (b) to provide a consumer response to consultations, to advise on consumer priorities and concerns and identify anti-competitive practices in support of the statutory roles and responsibilities of the Jersey Competition Regulatory Authority, the Jersey Financial Services Commission, the Department of Economic Development, other relevant Departments, and any future financial Ombudsman;
 - (c) to provide consumers with adequate, accurate and timely information so that they are able to make informed decisions and to know their rights in doing so, where this is not already adequately provided for by the activities of relevant statutory agencies of the Economic Development Department, to include the Jersey Competition Regulatory Authority, the Jersey Financial Services Commission, and any future financial Ombudsman;
 - (ii) to request the Minister for Economic Development to take the following steps to provide for the Council’s effective operations by –
 - (a) arranging for the establishment of the Council as a separate legal entity able to rent accommodation and enter into employment and research/consultancy contracts in its own right;
 - (b) recommend to the States for approval the appointment of a Chairman who should not be limited to being a States member, and should be appointed in accordance with the Jersey Appointment Commission’s Code of Good Practice;
 - (c) appoint the members of the Board of the Council in accordance with the Jersey Appointment Commission’s Code of Good Practice, which membership should be fully representative of consumer interests generally, with the

opportunity to co-opt individuals with appropriate experience/expertise to assist in the undertaking of research or to form consumer focus groups;

- (d) the Council being required to present to the States an annual report and accounts;
- (e) the Council being required to present an annual business plan to the Minister for Economic Development;
- (f) the Council to be funded by a States' grant supplemented by private donations and/or members' subscriptions so that it is able to carry out a proper programme of investigations/research in respect of those matters that fall within the remit of the Council;
- (g) providing for a Minister or Assistant Minister to have clear and specific responsibility for consumer affairs;
- (h) the States Statistics Unit being required to advise and agree with the Consumer Council on the best approach to collect prices, make price comparisons, and present price information to the general public;
- (i) the States Treasury being required to arrange for the States insurance arrangements for indemnifying States' employees to be extended to the Board members and Executive(s) of the Council.

Financial and manpower implications

The Jersey Consumer Council is funded by an annual grant from the Economic Development Department and for 2010 the grant was £130,000. This will continue to be negotiated based on an annual business plan submitted by the Council. There are no manpower implications.

APPENDIX 1

Work of the Jersey Consumer Council since its Formation in 1995 – a Note by the Chairman of the Council

Since the Consumer Council was established by the States by an Act in 1995, it has met regularly and found a niche in the community by getting involved, highlighting and working proactively on many issues of common interest and concern.

Quality of service, consumer rights and regulations, price and value for money are very real daily issues and the charging of Value Added Tax and ferry travel were, and indeed remain, very emotive issues.

The Council first met on 28th June 1995 and since then have met on 135 occasions. Matters raised came from members own experience or that of the related organisation's interest or from contact with the general public, largely generated by the publication and distribution of the Council's Newsletter to around 39,000 residential addresses on a regular basis. Forty-four Newsletters have been produced since the first one in January 1996. The voluntary time given by members during the existence of the Council exceeds 12,000 hours.

Matters of interest are varied and have related to single issues for a few pence, such as an increase in the price of bread or milk, to major items like the Reciprocal Health Agreement with the UK, where millions of pounds are involved and in some cases, elderly people have been unable to travel due to the lack of travel insurance. A more comprehensive list of some of the issues raised by the Council is attached as an addendum to this Appendix.

Since it was established, the Jersey Consumer Council has produced a number of reports and conducted public attitude surveys on –

- Legal charges and practices
- Regulation of Estate Agents
- Consumer Law and Regulation in Jersey
- Sunday Trading
- Jersey Milk
- Free Smoke Detectors for Senior Citizens
- Third Supermarket in Jersey
- Ferry Services
- 10% Service Charges in Restaurants
- Recycling and Waste
- A Financial Ombudsman Service

More recently the Jersey Consumer Council contributed to a number of consultation exercises and encouraged public involvement on –

- The Island Plan
- Long –Term Care
- Postal Services
- Electronic Money and Money Laundering
- Ferry Services

- Personal and General Taxation
- Depositor Protection Scheme

Due to some concern in Jersey about the price and movement of goods under the food element of Jersey's Retail Price Index, the Jersey Consumer Council was requested to establish a Price Watch scheme which has now been in place since January 2005. The scheme's aim is to investigate, monitor and publish a range of prices of goods and services on a regular and ongoing basis and build a robust database for future reference.

The Price Watch scheme involves monthly checks on supermarket and convenience store food and other product prices in Jersey and also compares them with those in the UK (sourced from the independent website mysupermarket.co.uk). The list of items to be price-checked is drawn from a pre-approved list and collated once a month, by staff recruited by an independent consultancy firm. Substitute brands are not used. The data produced is supplied to the Consumer Council by the consultancy firm and stored on a stand-alone computer based in the Jersey Consumer Council offices. This list has gradually developed since January 2005 however, it remains a 'work in progress'.

As well as this an annual Jersey/UK Supermarket price comparison is done separately in October to establish trends within and across those surveyed. Also petrol prices have been monitored monthly since January 2006 and published regularly. More recently central heating oil and marine fuel have been monitored. Pricewatch also includes drink and pub price comparisons as well as occasional price checks on pharmaceuticals, travel and other issues that are brought to the Council's notice from time to time.

Membership

The Council has been fortunate to be well-served by its volunteers from organisations or members of the general public. Worthy of particular mention is the contribution of Advocate Anita Regal who was an original member, attending the first meeting in June 1995 and has made a valuable contribution as both a member of the Jersey legal profession and as a local and well-travelled consumer to this day – an excellent example of sterling public service. Like many other organisations, the Council could not function without the voluntary contribution of members whose total contribution since 1995 exceeds 12,000 hours.

ADDENDUM

Some Subjects covered by Jersey Consumer Council Meetings 1995 to 2010

Sunday Trading	Accommodation agency fees
Fair Trading Law	CAB
Dental, Medical and Optical charges	Private Health Schemes & Health Insurance
Cost of Eye Tests	Reciprocal Health Agreement
VAT, including mail order catalogues	JCRA and Competition Law
10% Service Charge in Restaurants	OFT/OFCOM
Extended warranties on goods	Jersey Airport – services and facilities
Consumer Credit	Oil prices
Pub and drink prices	Marine fuel prices
Jersey Telecom	Ebay/Paypal – security and services
Telephone and internet charges	E-money
Code for Estate Agencies & Regulations	The Jersey Social Survey
Ferries/Condor	Bread Prices
Airlines services and charges	Unsolicited text messages
Freight Charges	Scams
Jersey RPI and Inflation	Jersey Dairy – milk survey
Newsagents/Guiton Monopoly	Jersey Construction Council
Legal fees	Skype
Bank charges	Mortgages and Loans
Supermarket pricing policy	Digital TV Switchover
Petrol pricing and advertising	Code for Lending/Borrowing
Car insurance	Money Laundering
School uniforms	Social Policy Framework
Distance Selling Law	House Pricing Survey
GST	Wheel clamping
Supply of Goods and Services Law	Consumer Council Terms of Reference
Recycling/Environmental issues	Residential Tenancy Law
Free Smoke Alarms for OAPs	Depositors Compensation Scheme
Travel Insurance	Retail Trade Conditions
Utilities	A Third Jersey Supermarket
Credit Unions/ Community Banking	Council Focus Groups
Call Out charges for tradesmen	Long Term Care solutions
Postal services/charges	Airport taxes and charges
Parking charges	Travel/ Bus Users Group
Taxi and cab fares	Waste and energy saving tips
National Lottery	Mobile phone charges & competition
Ombudsman Services	Water, gas, electricity pricing and services
Meat prices	JEP advertising rates
Petty Debts Court	Statistics User Group
Jersey Motor Trades Industry	Genetically modified food products
Law change for the introduction of Ready Readers	OAP discount scheme

“JERSEY CONSUMER COUNCIL – ITS FUTURE ROLE”

**PREPARED BY COLIN POWELL CBE AT THE REQUEST OF THE
ECONOMIC DEVELOPMENT DEPARTMENT**

2nd March 2010

1. Introduction

1.1 The Economic Development Department (EDD) in August 2009 asked me to undertake a review of the role of the Jersey Consumer Council (the ‘JCC’). In 2008 the Economic Development Department had engaged a UK expert in consumer representation (Pact Consulting Limited) to review the operation of the JCC and a number of recommendations were made. However it was felt that there would be benefits in obtaining a local perspective on the recommendations and the JCC and EDD jointly agreed that I should be invited to undertake further work on enhancing the Council.

1.2 The terms of reference given to me were as follows –

1. To analyse the conclusions and recommendations contained in the Review of the JCC by Pact Consulting published in September 2008 and comment accordingly.
2. To meet with Consumer Council members and discuss with them their views and opinions on the role and future function, effectiveness and representation of a stronger consumer voice for the Council.
3. To critique the current economic and regulatory framework and detail how it influences the role and function of the Consumer Council.
4. If appropriate, to provide alternative recommendations for consideration by the Minister for Economic Development.
5. To carry out other relevant research and consider matters that may arise during the course of this Review.

2. Background

2.1 The JCC was established by Act of the States in 1995 and since that time has had the same Chairman – Senator Alan Breckon – who is now in his fifth term of office.

2.2 The JCC receives an annual grant – £120,000 for 2009 – from the EDD based on an annual business plan.

2.3 The current membership of the JCC is as follows –

Mrs. Rozanne Thomas (Vice-Chairman and representative of the Citizens Advice Bureau;

Mrs. Delores Davey (representative for the Transport and General Workers' Union);

Mr. Michael Le Feuvre (representative for the Jersey Chamber of Commerce);

Advocate Anita Regal (representative for the legal profession);

Mrs. Jacqueline Flath (representative for the Jersey Hospitality Association);

Mrs. Christine Mather (member of the public);

Mrs. Mandy Gagnerie (member of the public);

The JCC is supported by an administrator – Amanda Christian.

3. History of the JCC

3.1 In February 1994 the then Policy and Resources Committee presented a Report and Proposition on the appointment of a Jersey Consumer Council (P.17/1994) but this was not adopted by the States when the matters was debated on the 15th March 1994. Some Members of the States expressed concern that the proposed Consumer Council did not have sufficient powers, and that the composition of the Council as proposed was inappropriate.

3.2 Subsequently, on 22nd March 1994 the Committee issued a statement responding to the comments made in the States debate and invited comments from Members of the States and the general public on the value of the Consumer Council and its composition.

3.3 The Committee's response to some of the comments made in the States debate and in the media were as follows –

“what is required are statutory powers”

“As the Committee pointed out in its report on the appointment of a Jersey Consumer Council there is in the pipeline a Fair Trading Law to which a relatively high priority has been accorded in the Law Drafting programme. The purpose of this law is to control unacceptable business practices. Such practices are defined as –

- a false description or unsatisfactory quality of goods supplied;
- unfair terms in a consumer transaction;
- a false, deceptive or misleading representation.

The Fair Trading Law would cover, for example, a situation where a trader stated that the price charged was less than that charged in the United Kingdom by a given percentage when this was in fact not the case. The Law would not apply to those situations where a trader freely sets a price which happens to be the same or higher than the equivalent United Kingdom price when no claim is made that the price is lower than in the United Kingdom.

To suggest that statutory powers could or should be taken to control the latter situation is to suggest that the States, alone among the governments of Western Europe (or elsewhere), should take the power to control prices generally.”

“Nothing can be achieved without statutory powers”

“The Committee remains of the view that there is much that can be achieved without statutory powers in focussing attention on what are considered to be high prices and by using the power of publicity to obtain a response from the trader or traders concerned.

It is the view of the Committee however that if this is to be achieved something more than a consumer watchdog group comprised solely of consumer interests is called for. On the reasonable assumption that the majority of traders who carry on business in the Island do so in a satisfactory manner it appears to the Committee that pressure on those who do not do so would be enhanced considerably if criticism emanates from a body that is representative not only of consumer interest but also of good traders. Hence the proposed involvement of the Chamber of Commerce.

The proposed Jersey Consumer Council can be likened to the United Kingdom National Consumer Council which does not have statutory powers but which few in the United Kingdom would suggest has not had a real impact in protecting consumer interests. It may be of interest that in a letter received after the States’ debate a former legal adviser to the National Consumer Council who has assisted the States in the drafting of the Fair Trading Law – a draft that has been warmly received by experts on consumer affairs in the United Kingdom – wrote “Tony Tagg has just sent me the proposal on a Consumer Council; I think this is an excellent idea and I hope that in time these two initiatives will allow you to develop a sound consumer policy that is consistent with the deregulatory environment on the Island.”

“The composition of the Council is inappropriate”

“The intention to join with the Chamber of Commerce in the formation of a Consumer Council appears to have troubled many States members. The Committee however, as already stated, remains of the view that the Chamber’s involvement is a positive aspect and one that would strengthen rather than weaken the Council.”

“The Council has been set up to massage the RPI”

“There were some during the States debate who suggested that the statement in the Committee’s report that the Consumer Council would have particular regard to the pricing of those goods and services that are included in the calculation of the Jersey Retail Prices Index implied that the Index was to be massaged or manipulated. What in fact the Committee had very much in mind in making reference to the RPI was that the Council should concern itself with those goods and services that figure most prominently in the household budgets of Island residents and which can be expected to be included in the RPI if the latter is to be a representative indicator of price change bearing on the majority of the residents in the Island.

In the Committee’s view it should follow that, if attention is focussed on the goods and services included in the RPI and price reductions can be obtained, this will be of general benefit to the residents of the Island and in particular

those with the lowest incomes for whom price reductions can be expected to be relatively of greatest value.”

3.4 Comments were received from several members of the States and from interested organisations, and a particularly helpful response was received from the then Deputy Breckon who, through his membership of the Trade and Industry Sub-Committee, obtained support for his proposals from that Sub-Committee, and also from the Finance and Economics Committee.

3.5 In August 1994 the Committee sent Deputy Breckon’s proposals to States members and private organisations for their comments. In the light of the comments received the Committee then presented the proposal to form a Jersey Consumer Council to the States once again which proposal was adopted in April 1995.

3.6 In its report and proposition to the States (P.37/1995) the functions of the Council were stated to be –

“To seek information, investigate, highlight and publicise anomalies and irregularities in consumer affairs and to encourage good trading practice by local business, with the assistance of the Trading Standards Department and other States departments as appropriate;

to seek to promote –

- (a) good trading practices;
- (b) the ability to exercise individual rights;
- (c) value for money;
- (d) adequate compensation.”

3.7 Initially the Secretary of the Council was to be provided by the Office of the Chief Adviser which was also to provide research support to the Council which was to meet as required with a minimum of four meetings a year.

3.8 The Committee stated that it did not believe that it was appropriate or necessary for the Consumer Council to be given statutory powers in order to operate as effectively as similar such bodies in other countries which also do not have statutory powers. Further statutory protection of consumer interest was to be provided with the enactment of the proposed Fair Trading Law. In P.17/1994 the Committee had also stated that “The Council will seek and expect the voluntary cooperation of the business community in obtaining the information necessary to carry out its tasks of investigating prices and related matters impinging on consumers generally. However, if this cooperation is not forthcoming, the Council will be able, when appropriate, to approach the Committee with a request that the States be asked to set up a Committee of Inquiry.”

3.9 The Committee’s proposal envisaged a Chairman who would be a member of the States, appointed by the States, and eight other members appointed by the Committee as follows –

- a member of the Jersey legal profession;

- a retail member of the Chamber of Commerce;
- a member of the Jersey Hotel and Guest House Association;
- a member of the Transport and General Workers' Union;
- a member of the Standing Conference of Women's Organisations;
- a member of the Citizen's Advice Bureau; and
- two members of the public not representing any particular organisation.

This remains broadly the membership of the JCC, although currently the Standing Conference of Women's Organisations representation has been discontinued and the JCC has sought to engage four members of the public rather than the two that presently sit.

- 3.10 The JCC also has stated that it has about forty volunteers who wish to get involved in "focus groups", but that this aspect has not been progressed due to a lack of funding.
- 3.11 The JCC met on ten occasions in 2009 which is substantially greater than the minimum number of meetings proposed by the Policy and Resources Committee in 1995.
- 3.12 Currently two of the key activities of the JCC are –
- the publication of a quarterly newsletter, which is distributed to over 37,000 residential addresses;
 - the Price Watch programme, whereby the JCC uses an outside agency to collect prices which are published in the newsletter.
- 3.13 The JCC is required by EDD to produce an annual business plan to support its annual grant application. The business plan for 2010 proposes the following aims and objectives of which a number (shown in bold type below) are elaborated on in the plan –
- to ensure that the agenda of consumer protection and legislation is given a higher priority in 2010;
 - **to continue to promote fair trading based on access to information and education for all members of the community;**
 - to obtain best value for money in everything we do;
 - to encourage public participation, input and opinion and making this known through presentation, where appropriate;
 - to work with others – groups, organisations and individuals as well as the JCRA and JFSC – to highlight and promote consumer issues;
 - to create a trainee post to enable more functions, and greater control, to come in house;

- **to support and actively promote the Code of Practice in Consumer Lending and the new Goods and Services Supply (Jersey) Law;**
- **to continue to provide a pivotal point of contact for public views and opinion;**
- **to proactively review, in consultation with others, the Council's own terms of reference and membership;**
- **to improve the website and web based activities;**
- **to widen its watchdog responsibilities and consider introducing at least five sub-groups which will be under the umbrella of the main body of the Jersey Consumer Council. These five sub-groups are named as –**
 1. **Communications and Media.**
 2. **E-commerce, Retail and Price Watch.**
 3. **Legal and Regulation.**
 4. **Travel and Transport.**
 5. **Utilities.**
 6. **Others as required from time to time.**
- **to strengthen and expand its Price Watch campaign to include better analysis and promotion of data collected and more public access to this data through a website link and to include further prices in a range of other areas and to keep up with the monthly petrol price watch and other prices of public interest. In 2010 the Consumer Council will develop information about domestic heating oil prices from Jersey and the United Kingdom for comparison;**
- **to continue to communicate and consult on a range of issues with the Jersey public through regular newsletters and to closely monitor alternative Island wide distributors to keep newsletter production costs down;**
- **to continue to support and promote issues that promote competition and are anti-inflationary e.g. voting with one's feet and shopping around to get the better deal;**
- **to ensure the Council's funds continue to be managed in an effective and accountable manner;**
- **to consult with States Departments and respond to Consultations and to any reports/amendment or Law that may have an effect on consumer issues and values;**

- **contribute to the debate and discussion about future Air and Ferry operators and to influence future Service Level Agreements and highlight details of public interest;**
- **to continue to support Operation and Regulation of Estate Agents;**
- **to evolve and enhance its positive partnerships with the community and user groups, and to work towards an inclusive policy;**
- to undertake surveys of public attitude/opinions on consumer issues, when necessary or desirable.

These are extremely wide aims and objectives which to be carried out comprehensively would require resources well beyond those presently available to the Council. This is partly recognised by the JCC in its budget for 2010 which at £171,500 is significantly higher than that of previous years, in part because of the proposal to appoint a full time trainee/researcher/administrator and general office assistant, and in part to fund the formation of five sub-groups.

4. Process of Review

4.1 I met with all of the existing Council members individually. I also met with the Director of Consumer Affairs and Trading Standards Officer and his Deputy. I also sought the views of the Jersey Competition Regulatory Authority and the Jersey Financial Services Commission. I also sought the views of the Island community. Disappointingly no member of the public, either as individuals, trading bodies or other organisations, responded to the invitation for views, with the exception of the Chamber of Commerce. I suspect however that if the media had run a story to the effect that the JCC was to be disbanded as part of a programme of public expenditure cuts members of the public would then have been quick to express concern at the disappearance of the JCC as a consumer watchdog.

4.2 From the meetings with the existing Council members the following views emerged –

- the JCC's position would be strengthened if it operated within the framework of more extensive consumer legislation similar to that to be found in the United Kingdom and other EU Member States. [This was clearly in the mind of the Policy and Resources Committee when setting up the Council when great emphasis was placed on the expected parallel enactment of the Fair Trading Law];
- members of the JCC need insurance cover for personal liability claims. Related to this it was felt that the JCC should have a lawyer on the Council who has experience of consumer law;
- the JCC's watchdog role would be strengthened if there was a greater research capacity;

- while there was general support for the work of the JCC on price collection, and in the publication and dissemination of the information obtained, some felt that the public should be asked for its view on how helpful they find the information, what use they make of it and what value they place on its continued availability;
- it was generally felt that the JCC did not need a “shop front” which would encourage individuals to “drop in” with complaints and enquiries. The view was expressed however that the independence of the JCC would be reinforced if it operated from offices separate from those occupied by the Chairman in support of his role as a States member. [The Policy and Resources Committee in its initial proposal (P.17/1994) stated that in its view “the Council would consider matters relevant to consumer interests generally. It would not be a body that would take up and deal with individual consumer queries. Thus, for example, the Council would address the issue of why some goods are priced lower in Jersey than in the United Kingdom, notwithstanding the absence of the value added tax in the Island, and would receive the views of individual consumers on such matters. It would not, however, take up with individual traders the queries or complaints of individual consumers concerning either defects in the services or goods supplied or the prices charged, although information on these matters might well suggest to the Council a more general line of enquiry;”]
- the general view was that having a States member as Chairman was of benefit in that the JCC got more information than would otherwise be the case. At the same time members valued the JCC’s independence. There was general support for the present Chairman who has worked tirelessly for the JCC;
- the general view was that the appointment of Council members should be subject to the Code of Practice of the Jersey Appointments’ Commission;
- there was general support for continuity of Council membership but also for a limit to the term of office;
- there was some frustration at the lack of response, or the time taken to respond, to some of the issues raised by the JCC.

4.3 Views obtained from outside the JCC membership included –

- consideration should be given to whether there would be value in having a Channel Islands Consumer Council;
- whether there is a real commitment to consumer interests on the part of States Members. Do the States Members want the JCC as a consumer watchdog and if so how far are they prepared to go in providing it with the resources necessary for it to undertake research

and thereby be more effective. In this context the question was also raised as to whether there should be a Minister for Consumer Affairs;

- the JCC is faced with the cost of collecting prices from the supermarkets but the supermarkets themselves should be prepared to supply the information directly to the JCC or publish prices independently as is the position in the United Kingdom;
- the value for money of the Price Watch exercise should be looked into by the Comptroller and Auditor General. [There has been some suggestion over the years that the collection and publication of price information might be better left to the States Statistics Unit. However there would appear to be problems with this given the independence of the Unit, and also the need to protect the integrity of the RPI calculation, which place a limit on the extent to which the Unit could be engaged in performing a service for a consumer watchdog;
- the JCC should work to its strengths and not be diverted into areas that are better covered by other agencies such as Trading Standards, the Jersey Competition Regulatory Authority (JCRA) and the Jersey Financial Services Commission (JFSC). The JCC also is not sufficiently well staffed to engage in reviews of States legislation, nor does it have the necessary legal expertise to cover such subjects as advice on consumer rights;
- the States of Jersey liability insurance programme extends to include officials indemnity. Insurers will provide indemnity, if the Insured (States of Jersey) so requests, to “any member or employee of Government or non-Government bodies under the control of the insured.” Officials indemnity provides cover for breach of duty by reason of neglect, error or omission, and libel and slander, committed in good faith. The total limit of indemnity is £20 million for any one claim and in the aggregate. A departmental excess of £10,000 applies to each claim. However, the actual policy excess is £250,000. The difference between the £10,000 and the £250,000 is funded by the States Insurance Deductable Fund managed by the States Shared Services. To-date the States have not requested that the JCC members be covered. The States Treasury view is that the JCC is “independent” and that for this reason it cannot be said that the States exercise any control over the JCC. The JCC is therefore not considered to be a body “under the control of the insured” and therefore currently the States Treasury does not think it appropriate for the States insurance policy to be extended to provide cover for the JCC.

5. Comments on the Recommendations of the Report of Pact Consulting

R1 – The Council should be put on a statutory footing and its remit revised as follows –

- **to identify and represent the interests of consumers to the States, Ministers and regulatory bodies;**
- **to provide advice to Ministers where specifically requested;**

- **to provide consumers on the island with information about their rights and responsibilities;**
- **to consult with consumers and respond to consultation documents issued by government, JCRA, JFSC and other public bodies and work with these organisations to strengthen consumer protection and understanding;**
- **to promote fair trading practices and the provision of effective redress mechanisms for consumers who are disadvantaged by unfair business practice;**
- **to act as a user group for utilities, transport services and such other services provided in the public interest as the Council shall decide; and**
- **to ensure disadvantaged and vulnerable consumers get a fair deal.**

5.1 The Pact report does not provide any clear explanation of why the Council needs to be put on a statutory footing or what is meant by statutory footing. A statutory footing would be required if it is intended that the body concerned should have statutory powers – as is the case with the JFSC and the JCRA. Where statutory powers are not required or considered justified the States have tended to establish bodies without formal statutory powers as advisory bodies, or bodies with a remit to bring together a number of parties to coordinate their activities. There can however be value in such bodies having a status that enables them to lease accommodation, and enter into contractual arrangements. For example, a body that meets these requirements is the Jersey Child Care Trust which is an association incorporated under the “Loi (1862) sur les teneurs en fidéicommiss et l’incorporation d’associations”. This calls for the constitution to be approved both by the Royal Court of Jersey, in accordance with the Law, and also by the Minister for Education, Sport and Culture.

5.2 When the Policy and Resources Committee proposed the setting up of the Jersey Consumer Council in 1995 it stated that statutory power to protect consumer interests would be provided by the then proposed Fair Trading Law. In the event this did not happen. The States however have enacted a number of consumer laws and Trading Standards have a statutory duty to carry out a range of activities under the following laws –

- Price and Charge Indicators (Jersey) Law 2008;
- Weights and Measures (Jersey) Law 1967;
- Consumer Safety (Jersey) Law 2006;
- Merchandise Marks (Jersey) Law 1958;
- Trade Marks (Jersey) Law 2000;
- Video Recordings (Jersey) Law 1990;
- Distance Selling (Jersey) Law 2007;
- Protection of Children (Restriction on Supply of Goods) (Jersey) Law 2009;

- Supply of Goods and Services (Jersey) Law 2009.

Further consumer protection legislation can be expected to be brought forward for consideration in the future. When that further statutory protection is provided, the body responsible for ensuring the implementation of the law is expected to be the Economic Development Department, and specifically Trading Standards. It is not considered necessary or desirable for the Jersey Consumer Council to be given a statutory function in this respect. In addition, any extension of the JCC's remit under the umbrella of a statute would call for a significant increase in the staff resources and funding of the JCC.

5.3 The JCC as a consumer watchdog should focus on those elements of consumer interest that are not covered by other agencies, and to which the highest priority should be given in the use of the JCC's limited resources. The revised remit set out by Pact Consulting is not precise enough in this respect, and incorporates aspects that would seem to duplicate the role of other bodies or call for a level of experience/expertise that cannot be provided with the present resources of the JCC.

5.4 A major problem for the Council members under the present arrangements is the lack of any protection of personal liability if, through proper research, advice or comments made affect or are considered to affect the business of a local trader who then seeks redress. However, even if structured in such a way that professional indemnity insurance could be obtained, it is to be questioned whether for the JCC to obtain such insurance would be the most cost effective way of achieving the protection required. More cost effective would be for the JCC to be covered by the States insurance policy.

R2 – to consider whether a formal memorandum of understanding should be established with the JFSC and JCRA to encourage collaborative working and strengthen non-legislative means of consumer protection.

R19 – ..., we suggest that consideration be given to releasing resources from the Price Watch activity to fund a statutory consumer council, and that Ministers consider whether the JFSC and JCRA should be required to provide additional resources to the Council to fund consumer research and develop policy of relevance to their activities and consultations.

5.5 The JFSC and the JCRA are “independent” bodies in their own right with their own statutory obligations and responsibilities, and it is not considered appropriate that there should be a formal MOU established between the JCC and the JFSC or between the JCC and the JCRA.

5.6 The appropriate course of action is for the JFSC and the JCRA to develop a relationship with the JCC but within the limits of the statutes and the remit and stated aims of each of those bodies. A good example of what can be achieved is the work done in the development of a voluntary code of practice for lending institutions in Jersey.

5.7 The statutory provisions of confidentiality that bind the JFSC and the JCRA place a strict limit on the disclosure of information by those bodies to the JCC. Any relationship between the JCC and the two statutory bodies would

therefore be largely limited to one of the JCC responding to consultations initiated by the other parties.

- 5.8 In the light of the statutory “independence” of the JFSC and the JCRA to which reference has been made above, neither body is prepared to accept R19. If the JFSC and the JCRA should see the need to engage in consumer research then they would do this within the context of their own statutory remit. They also can only act on the results of consumer research to the extent that their statutory powers permit. It is not considered appropriate for either body to be called upon to fund the JCC’s research.

R3 – That the Council must be appointed in a way which secures its independence from government and limits the potential for political interference in its decision-making and operations so as to retain credibility with consumers and their representative bodies on the Island.

- 5.9 It is agreed that the JCC should be seen to be independent and free of political interference. As a protector of consumer interests the Council should be as concerned to carry out its role where the consumer interests relate to the public provision of goods and services as where private provision is involved.
- 5.10 This statement might suggest that the Chairman of the JCC should not be a States member. At the same time a body such as the JCC only functions effectively if it has as a Chairman someone who is committed to the role, has boundless energy and enthusiasm and has the confidence of the public generally. There is no doubt that the present Chairman meets these requirements and the success of the JCC to-date has owed much to the contribution made by the present Chairman.

R4 – The JCC is a public body and its Chairperson has a high profile role which requires the person to be clearly independent of government and with significant public credibility. Future appointments should be subject to States approval, but should involve the JAC and be based on open competition against clear criteria and specified skills for the role.

- 5.11 The current Council members generally hold the view that the JCC benefits from having as Chairman someone who knows the States system, and has access to information on what is going on within the States administration.
- 5.12 It is agreed that the appointment of the Chairman should be subject to States approval, and it should be based on open competition against agreed criteria and specified requirements as required by the JAC Code of Practice for appointments to autonomous and quasi-autonomous public bodies. However, as noted above, the key to success of bodies such as the JCC is that they are chaired by a committed, enthusiastic as well as able person. Therefore, there should be no undue constraints placed in the way of getting the best person for the job. While there should be no requirement that the Chairman must be a States member, neither should there be a rule that says the Chairman should not be a States member. There may be a presumption that the holder of the post should be limited to three terms of three years but at the same time it is not clear that the best interests of consumers would be served by an inability to retain the services of a Chairman beyond that period if this is considered to

be in the best interests of consumers, and there should therefore be no barrier to this per se.

R5 – The Chairperson should be appointed on the basis of 1 or 2 days a week, the amount depending on the level of staff support. We would favour the lower level with the Chairperson’s role being –

- **to ensure that the Council meets its statutory objectives;**
- **to pursue the strategy and policy of the organisation as agreed by the Council;**
- **to appoint and monitor the performance of staff;**
- **to assure effective liaison with major stakeholders and regulatory bodies;**
- **to be the main point of contact for parliamentary matters and;**
- **to be the public face and voice of the Council.**

5.13 There is little in this statement of the Chairperson’s role to disagree with. However, it does not stress sufficiently what is of great importance and this is that with such bodies the Chairperson has to be the “driver”, the ideas person, the promoter and team leader of the body and a person in whom the stakeholders have total confidence, if they are to be successful.

R6 – The Chairperson should be appropriately remunerated for the role to avoid conflict of interest with commercial or political interests.

5.14 There is no evidence that those that hold voluntary positions with public bodies present issues of conflict of interest with commercial or political interests; or that by remunerating a Chairperson such conflict, if any is thought likely to exist, can be avoided. It is not considered that a Chairperson who is supported by the Council, and most particularly by an able administrator, would need to be remunerated to be attracted to the role. Whether remuneration is required would depend on whether without it individuals well suited to the role would be discouraged from putting their names or allowing their names to be put forward.

R7 – In accordance with the JAC Codes of Practice, the term of office for the Chairperson should not exceed the maximum recommended time of 10 years. The appointment should be for 3 years, renewable once following satisfactory performance appraisal, in line with common practice in other jurisdictions such as the UK. A second reappointment should only take place following open competition, but the ultimate limit should be 3 terms.

5.15 This Recommendation has been largely covered in the preceding comments. There should be sufficient flexibility to ensure that the Council is chaired by the best person available. The JAC Code of Practice accepts that in some circumstances it might be appropriate to exceed 3 terms.

R8 – that the Council should be restructured to reflect better the interests of consumers and population groups highlighted above. It should comprise 12 members (including the Chairperson) representatives from Citizens Advice, the Standing Conference of Women’s Organisations, a

representative of the elderly or pensioner groups, disability Groups, low income households and a representative of younger people such as a youth worker who can liaise with and involve young people outside formal meetings, 4 members of the public to reflect a geographic spread across the Island and 3 appointed individuals with business or professional expertise but who are no longer practising and have no conflict of interest.

- 5.16 It is agreed that the Council membership is in need of review. Of the membership recommended by the Policy and Resources Committee in 1995 there is one gap in the present membership and that is a member of the Standing Conference of Women's Organisations. However, as a consumer body it could be more representative of consumers than as presently constituted. The elderly should be represented, and this could be through a member of Age Concern or through a general public invitation; disability groups and younger people also need to be covered – and both might be selected from a response to a general public invitation.
- 5.17 There is a need for a lawyer with some experience of consumer law. There is also a need for Council members representing the public, to be as representative as possible of the community at large through having regard for gender, income level, family size, marital status etc.

R9 – All new appointments should be subject to the guidance and scrutiny of the JAC. This should apply not only to the public representatives and appointed members but also to those from stakeholder bodies. Appointments should be advertised, for a fixed term of three years, renewable once only. Stakeholder organisations must be reminded before the end of a member's term of appointment that a renewal must be sought or a new candidate proposed. No current members of the JCC should have their membership renewed if they have already been on the Council for 6 years.

R10 – Appointments should be staggered so that there is provision for rotation of members and regular turnover.

- 5.18 The majority of the JCC members are representatives of specified organisations. The JAC recognises that the constitution of some bodies require that they include representatives of other organisations. In these circumstances the JAC recognises that the public body is obliged to accept those who have been recommended by the other organisation without the application of the recruitment and selection processes that are set out in the JAC's Code of Practice. However, the JAC does suggest that the public body concerned seeks to encourage these organisations to identify their representative through some form of objective process in order to ensure that a suitable person for the responsibilities attaching to the role that the representative would play on the public body is chosen.
- 5.19 It is agreed that the appointment to the JCC of those representing the public should be advertised, but in addition Council members should be able to be nominated for consideration. Selection should be in accordance with agreed criteria and the process should be agreed with the JAC.

- 5.20 It is important however that there is continuity. There should be no hard or fast rule that current members should not be able to continue their membership even though they have been on the Council for six years already. Also appointments should be staggered so that all do not come up for renewal at the same time.

R11 – In view of the time commitment, and in line with good practise, it is recommended that members of the Council receive an appropriate level of remuneration at least to cover expenses, loss of earnings and any child care or similar costs.

- 5.21 No evidence has been produced to support the view that Council members need remuneration to attend Council meetings. What members have said is that they want better protection against possible liability claims. They also have indicated that they want more administrative/research support. It is possible that individual members could be in a position to undertake research on behalf of the Council because of their experience and expertise in a relevant field. If this is the case then they might well need to be remunerated for this because of the greater time involvement incurred.

R12 – The States should provide a three-year grant to fund the day-to-day operations of the organisation and enable more effective planning to take place. This should cover employment of staff, remuneration of members, accommodation and research costs. Other specific activities should be funded through time-limited project grants with clear objectives and deliverable outcomes.

- 5.22 It is understood the Treasury and Resources Minister wants to see three year budgeting for the States as a whole. If this is done it should embrace the grant aided bodies such as JCC. Undoubtedly it would be of assistance if JCC had assurance that it is to be funded for three years so that it can plan its programme of work accordingly. Particularly is this so in that a research timescale may well involve more than one year. What level of grant is required for the future should be determined in the light of the outcome of the States debate on a report and proposition concerning the future mandate for the JCC. Consideration also needs to be given to whether there are not opportunities for the JCC to tap private funding to supplement the States grant.

R13 – the output measures should be streamlined and be more precise so that the activity can be clearly identified and the burden of the quarterly reporting arrangements is reduced.

- 5.23 There is a need for a critical approach to the matter of the funding of the Council and the value for money obtained. This includes the setting of a clear mandate, and a reappraisal of the value of some of the existing services. As the JCC produces a regular newsletter, and as any organisation should be expected to maintain a financial statement showing how costs relate to budget, it is questioned why the present quarterly reporting arrangements is to be seen as a burden.

R14 – A suitably qualified Director able to commission and carry out research on consumer issues, develop policy proposals for consideration by the Council, maintain an effective public and stakeholder communication strategy, make recommendations, administer the organisation and account for expenditure in line with public funding rules should be appointed to support the Chairperson; and

R15 – if the JCC is put on a statutory basis, a full-time researcher should be appointed to complement the role of Director and enhance the capabilities of the organisation.

5.24 Of critical importance for the effective functioning of the JCC is the ability to engage in effective research. Some of the criticisms directed at the JCC have emanated from the failure to undertake such research. However, the Council is presently in a catch twenty-two situation. It is criticised for not undertaking sufficient research, but is not provided with the financial resources to enable that research to be undertaken.

5.25 There are two elements in this that need to be addressed. One is whether the present financial support provided by government is being well used or whether some reallocation of the funding could support more research. The other is whether if the States are serious about having a consumer watchdog in the form of the JCC they are providing the JCC with the financial resources necessary for it to carry out that watchdog role effectively.

5.26 The Council should be in a position to engage experts from within the Island community – e.g. people who have experience of the matters being investigated. As a first step in this direction consideration should be given to what savings could be made within the existing budget so that funds could be reallocated to support research. There are two possibilities to consider in this respect. One is to reduce the cost of price collection through obtaining the cooperation of the supermarkets. The other is to reduce the number of newsletters to three a year, and/or obtain sponsorship to cover part of the cost of producing and distributing the newsletter.

R16 – accessible offices with meeting facilities should be funded through the JCC grant.

R20 – We recommend that the JCC reassess its role in relation to personal enquiries and decide whether it has the resources to undertake this time consuming work.

5.27 It is questionable whether the Council needs to be accessible to the public in the form of a “drop in” facility. There is a real danger that if accessibility is provided the Council’s limited resources will be engaged in dealing with one-off complaints by individual consumers rather than engaging in more comprehensive research into matters which have a more general application. There is also the question of whether the Council would become the recipient of complaints which should more properly be directed to the Trading Standards Office.

5.28 However, the success of the JCC as a consumer watchdog depends on its maintaining a high level of visibility and obtaining confidence on the part of

the public. Inevitably if the JCC is seen by the public as acting effectively as a consumer watchdog this will encourage personal enquiries. What is important is that the JCC is not tempted to respond to enquiries that are better dealt with by other agencies to whom the enquiries should be referred and the enquirer informed accordingly.

- 5.29 To limit the cost of separate offices it would be helpful if the JCC could be accommodated together with another relevant agency so that overheads (e.g. reception facilities etc) could be shared.

R17 – The JCC should produce a concise annual report for the States describing its activities and plans for the future.

- 5.30 It is agreed that the JCC should produce an annual report for the States as is required of other public bodies (e.g. JCCT).

R18 – We recommend that research is commissioned to understand how consumers use the Price Watch survey data in their purchasing behaviour, what trend analysis could be usefully developed and whether the survey should be retained or developed in a different way across a number of markets to provide a snapshot of the issues facing consumers in different markets.

- 5.31 It is to be questioned whether the JCC should be allocating as much of its funds as it does to the Price Watch survey. The JCC has stated that its work on collecting information on prices from local supermarkets is required because the supermarkets themselves will not provide the data to the JCC or the public directly. Supermarkets in the United Kingdom publish information and it is unclear why local supermarkets should be reluctant to make available information which the JCC is able to go into the stores to collect and publish in their newsletter. If the supermarkets were prepared to provide the relevant information it would seem likely that the cost of the Price Watch survey could be significantly reduced. There is also a need to review generally the extent of the Price Watch survey and to ask consumers what use they make of the information that is presently made available.

R21 – Research should be commissioned to investigate the interest that consumers have in the newsletter, how they use it, and the preferred content.

- 5.32 The JCC presently publishes a newsletter quarterly. As noted above it is for consideration whether the impact of the work of the JCC would be significantly lessened if the newsletter was to be issued three times a year rather than four times, again with the saving in cost being used to support research.

R22 – Resources should be earmarked for maintaining and updating the JCC website.

- 5.33 The visibility of the JCC is assisted by the website and this should be maintained and updated. It is important however that the website is used and for this to be achieved it has to be user friendly and of user interest. An exercise should be mounted to test these aspects.

6. Conclusions and Recommendations

- 6.1 The Policy and Resources Committee in 1994 saw a clear need for a Jersey Consumer Council that would “promote action to further and safeguard the interests of consumers.” The States shared this view in 1995 when they agreed to the setting up of the JCC. Since that time there has been further action taken to protect consumers through the formation of the JCRA, the JFSC, and the passing of legislation relating to consumer safety and the supply of goods and services. However, as the experience of other countries shows, the need for consumers to be given good information to allow them to make informed choices, to know their rights, and to know what action they can take to address grievances is becoming ever more important.
- 6.2 At a time when trading conditions are more difficult against the background of the global financial and economic crisis, and there is more competition for consumers, it might be expected that the value of giving good service would be well recognised by all traders. However, difficult trading conditions can sometimes also lead to trading practices that are not in the best interests of consumers.
- 6.3 There is no evidence that the need for a consumer watchdog is any less in Jersey than elsewhere or that the need for a body such as the JCC is any less now than it was in 1994/95. However, there have been changes in the overall legislative environment and other factors which need to be taken into account. The JCC needs a new mandate from the States. This mandate should reflect the fact that some consumer interests are now being safeguarded by the JCRA, the JFSC or, through the enforcement of consumer protection legislation (of which the Supply of Goods and Services Law is the most recent and most comprehensive) by Trading Standards. The prospect of a financial ombudsman which may well be extended to be a general ombudsman for the Channel Islands also needs to be taken into account.
- 6.4 Regard should also be taken of the experience elsewhere, not because it is something to be replicated in Jersey but because of the evidence it provides of the importance attached to consumer affairs by other governments. The consumer is seen as a key player in the economies of the EU Member States. In March 2007 the European Commission adopted a consumer policy strategy for 2007-2013 which sets out the challenges, role, priorities and actions of EU consumer policy for that period. The overall objectives of the strategy are said to be to empower consumers, to enhance their welfare and to protect them effectively. The Commission’s declared vision is to achieve by 2013 a single, simple set of rules for the benefit of consumers and retailers alike. More broadly, the European Consumer Policy aims at making the European Union a tangible reality for each European citizen through guaranteeing their rights as consumers in their every day life. An important element in the EU Consumer Policy is the European Consumer Centre’s network which was established in January 2005. The network has the following objectives with a view to assisting consumers –

- to provide information so as to enable consumers to purchase goods and services in the internal market with full knowledge of their rights and duties;
- to respond to direct requests for information from consumers or other parties;
- in the event of a complaint, to help and support consumers in their contacts with the business operator;
- where necessary, to help consumers in the event of a dispute.

6.5 The OECD's Committee on Consumer Policy recently issued policy recommendations on consumer education. To quote – "Consumers today operate in increasingly complex markets, challenged by growing amounts of information and an expanding choice of products. Making good choices and protecting their interests require a wide range of skills and knowledge. Consumer education is critical in this regard; it can be defined as a process of developing and enhancing skills and knowledge to make informed and well reasoned choices that take societal values and objectives into account. Consumer education can help develop critical thinking and raise awareness, thereby enabling consumers to become more proactive. It is also an important vehicle for building the confidence of consumers that consumers need to operate in the increasingly complex markets.

Today consumer education covers more diverse areas than it has in the past. It now covers, for example, consumer rights and obligations, personal finance, sustainable consumption, and digital media and technology. Such education should be viewed as a long term and continuous process that develops better decision making and skills throughout consumers' lives."

6.6 The United Kingdom Government formed the Consumer Focus in October 2008 from the merger of Energy Watch, Post Watch and the National Consumer Council. This body was created through the Consumers, Estate Agents and Redress Act 2007. To quote from the Consumer Focus website, the Act also "enables" Consumer Direct to become the single point of contact for all consumers to obtain information, and impartial advice as well as signpost consumers and provide them with help when making a complaint. Consumer Focus is funded from the UK Government, but approximately two thirds of this comes from energy suppliers and the postal industry. The Consumer Focus is also able to raise its own funds. When the Consumer Focus was established it was stated that "this is a dramatic time for consumer advocacy, with food and fuel prices rising, rapid advances in technology and an extraordinary array of goods and services available for those that can afford them. There is a growing body of concern that Britain needs action to ensure that consumers get a fair deal."

6.7 The services provided by Consumer Direct according to its website are –

- provide pre-shopping advice before you buy goods or services;
- explain your consumer rights;
- advise you if you have a problem or disagreement with a trader;
- help you make a complaint about a trader that you believe has done something wrong (although we will not complain on your behalf);

- provide general advice on how to avoid unscrupulous traders or “cowboys”;
- explain consumer related issues such as warranties, buying on credit, internet shopping, refunds and replacements etc;
- provide advice on avoiding trading scams and rip offs;
- direct you to a regulator or other organisation if it is better suited to assist you;
- refer your case to your local authority trading standards services or similar agency if they are better suited to assist you.

6.8 Consumer Direct on its website also states that it “will deal with each caller’s problems or questions individually. We will provide an honest, impartial assessment of the situation and, where possible, we will recommend a clear course of action to follow. We can only provide information and advice. We cannot intervene directly in consumer matters, such as taking action against a trader.”

6.9 In July 2009 the United Kingdom Secretary of State for Business, Innovation and Skills presented a White Paper to Parliament on “A Better Deal for Consumers – Delivering Real Help Now and Change for the Future.”

6.10 The White Paper refers to the need to improve the effectiveness of consumer education and information. The White Paper states that “specific initiatives to raise consumer awareness about rights and what to do when things go wrong are best provided by a range of organisations in response to need. However, there is a need for the government to provide greater coordination of all the different initiatives at both the strategic and national level.” The United Kingdom Government believes that this coordination can be best delivered through the appointment of a new high profile figure: a Consumer Advocate. It is proposed that the latter would be part of the Consumer Focus and will provide a strategic overview of consumer education activities and seek to deliver real benefits by identifying synergies and sharing best practice. The Advocate it is proposed would also engage directly with consumers through the media, and would have a particular responsibility to look after the vulnerable.

6.11 Individual European Union Member States also have a raft of bodies to help protect consumer interests. Some are public agencies and others are national consumer independent, non-profit organisations. The public bodies are funded by government; the independent agencies may be funded by government or by members’ subscriptions or general support from charitable bodies. Political responsibility for consumer affairs within the EU Member States for the most part tends to be identified with the ministry responsible for business or industry. An exception within the European Economic Area is the position of Norway which has a Ministry of Children and Equality responsible for consumer policy, consumer protection and consumer affairs.

6.12 Where does the States of Jersey stand in comparison with the experience elsewhere? Consumer policy is a responsibility of the Ministry for Economic Development. Consumer affairs however does not appear to figure as a priority in the States Strategic Plan 2009-2014. In the States Business Plan for 2010 in the section on Departments key objectives and success criteria, the

section for the Economic Development Department shows as an objective the following –

“Objective 7: A regulatory environment in which business can prosper.

Success Criteria:

- (i) a strong consumer voice;
- (ii) competition and consumer choice in all sectors
- (iii) appropriate levels of consumer choice and protection;
- (iv) reduce processing time for the regulatory applications;
- (v) fit for purpose regulatory regimes for postal services and telecommunications in Jersey.”

- 6.13 This objective and success criteria are linked to the Strategic Plan priorities 1. “Support the Island Community through the Economic Downturn” and 2. “Obtain a Strong Environmentally Sustainable and Diverse Economy”, although in neither case does the Strategic Plan refer to consumer interests directly.
- 6.14 The Economic Development Department’s 2010 Business Plan has a section on consumer affairs and trading standards which refers to the Trading Standards service and its responsibility for the enforcement of a broad range of legislation aimed at protecting consumers in regulating the way businesses conduct themselves. Reference is also made to the free, confidential consumer advice and conciliation service which supports the Supply of Goods and Services (Jersey) Law introduced in 2009. Mention is also made of new legislation currently under consideration including, with regard to the EU Unfair Commercial Practices Directive, assessing whether there is a need for consumer protection legislation in Jersey similar to that enacted elsewhere. Reference has been made to the role of the JCC in the context of the States counter-inflationary policies, but there is no reference to a more general role in relation to the safeguarding of consumer interests and in particular the importance of educating consumers through providing them with information and guidance. There is also no explicit recognition of a need for a body to perform the role of user groups which in other jurisdictions are formed to protect consumer interests in relation to the provision of services such as gas, water, electricity and transport.
- 6.15 The States should be given the opportunity to decide on its policy objectives in respect of consumer affairs generally and this should include reconfirmation of the need for a body such as the JCC. The States as part of this process should give the JCC a clear mandate for the future.
- 6.16 There is an ongoing need for a body that is able to provide consumers with good information about what is available to them and how the choices might be made and what action can be taken against grievances. However, this should compliment not duplicate the information provided to consumers by Trading Standards and other bodies such as the Citizens Advice Bureau. For example, the following guidance booklets have been written and published by Trading Standards –

- A Practical Guide to the Price Indicators (Jersey) Regulations;
- A Guide to the Distance Selling (Jersey) Law;
- Shoppers' Rights – A Guide for Consumers;
- A Guide for Businesses on the Supply of Goods and Services (Jersey) Law .

In addition there is information on the Trading Standards website. Notwithstanding this there are, as this report has indicated, aspects of consumer information and guidance which are not covered by the existing bodies which the JCC should be well placed to provide. It must also be appreciated that there are a significant number of Island residents – particularly the elderly – who do not have access to the website and who may therefore not obtain information if that is the sole source.

- 6.17 The present role of the JCC in helping to meet this need through the production of a newsletter should be maintained. Whether it is necessary for that newsletter to be produced four times a year is something that should be tested through an independent public opinion survey.
- 6.18 The JCC should review its Price Watch exercise. Supported by the EDD further pressure should be brought to bear on the supermarkets to persuade them that it is in their and consumer interests for information to be made available about their prices. The States Statistics Unit should be asked to advise the JCC on their approach to price collection.
- 6.19 For a consumer watchdog role to be carried out effectively access to more experience and expertise is required than is presently available to the JCC. In part this can be provided by reviewing membership of the Council but for the JCC to be effective it needs to be able to undertake research. This should be done using as far as possible those within the Island who have experience and expertise in the areas being researched. This could also be assisted by the formation of focus groups. However, the undertaking of research will incur a cost. It would be unfair to criticise the JCC for not undertaking sufficient research into matters on which they report while at the same time not providing the JCC with the funds necessary to enable it to undertake that research.
- 6.20 The future funding of the JCC should be considered in the light of the decision of the States on what should be the future mandate for the JCC.
- 6.21 It is also for consideration whether, if the Island consumers value the role of the JCC, there should be an opportunity for the JCC to supplement its States grant with private funding either through donations or through some form of membership subscription.
- 6.22 To assist the JCC in raising funds, and to provide for it to lease offices the States in adopting a new mandate for the JCC should provide for its incorporation along the lines of the arrangements for the Jersey Child Care Trust, or through some other form of incorporation if this is thought to be more appropriate.

- 6.23 The mandate should also establish a new membership structure to make it more representative of consumer interests than at the present time.
- 6.24 The Chairmanship and the membership of the JCC should be subject to the Code of Practice of the Jersey Appointments Commission but with appropriate flexibility and clear recognition that the key to the success of bodies such as the JCC lies in having a Chairperson who has the degree of commitment, and enthusiasm for the task, shown by the present Chairperson. It is important that there should also be continuity, and as far as the present membership is concerned there should be a process of evolution rather than revolution.
- 6.25 Of particular importance to the membership of the JCC is the question of personal indemnity insurance and it is proposed that the most cost effective way of providing this would be through the extension of the States insurance to embrace the JCC.
- 6.26 The independence of the JCC is important and this should be reinforced by a move to separate offices, preferably a location where it can share reception and other services with another appropriate body to limit the operational costs.
- 6.27 The interests of consumers, and the need to protect those interests through a range of provisions, are recognised internationally and reflected in government policy throughout Europe. The States should ensure that Island consumers are as well served, and the broad approach to consumer affairs including a clear mandate for the future for the JCC should be the subject of early States debate.
- 6.28 The Mandate should establish the key roles for the JCC, and should set these against a clear statement of the present statutory roles and responsibilities of Trading Standards, the JCRA and the JFSC, and those expected of an ombudsman when appointed, to ensure that the JCC focuses on its priorities in a complementary and non-conflicting manner.
- 6.29 The key roles for the JCC should remain those identified at the time of its formation in 1995, adapted to reflect the experience of other countries, the change in commercial environment since that date, and the steps that have been taken to give consumers greater statutory protection than was the case in 1995.
- 6.30 The Mandate should reflect the fact that a body such as the JCC can be of great importance in serving the interests of consumers, and the interests of the Island, through helping to secure good trading practices at a cost that equates with best value for money. To achieve this the JCC should be in a position to provide consumers with all the information they need to make informed decisions and to know their rights in doing so. The emphasis should be on good consumer education. This requires good information, good information requires a proper process of investigation/research, and investigation/research can only be undertaken if it is adequately resourced. The Mandate of the JCC should be to inform and educate consumers through an effective programme of research, information collection, and information dissemination for those areas of consumer interest not covered by the statutory agencies (i.e. Trading Standards, JCRA, JFSC – and in the future possibly an Ombudsman), to be

funded by a States grant supplemented by private donations and/or members subscriptions.