

**Submission to the Shadow Scrutiny Panel Inquiry for the Scrutiny  
Review of the Jersey Harbours Trust Port Proposal.**

My previous reservation in making a personal submission was that official notification of the terms of reference were not received until 6<sup>th</sup> May and as stated in my letter to Senator Vibert of that date, being due to retire within 5 working days, there was neither time nor opportunity to respond. Also, I had reservations as to the objectivity of the terms of reference when compared with those of the other subjects, namely Waste Disposal and the Agri-Environment Scheme. These reservations have however been addressed separately by Jersey Harbours and I would respectfully suggest that the responses to the TOR's contained in Piers Baker's letter of 12<sup>th</sup> May, following the Committee meeting of the same day (which I did not attend) are perused in detail and given due consideration.

In view of the comments made on the TOR's and to be objective, I will concentrate my submission on Point 3: *'For the Panel to Review all of the evidence prepared for the Committee relating to Jersey Harbours becoming a Trust Port.'* I would point out at this stage that other than the information passed to me by Carol le Quesne, Scrutiny Officer, my submission is from memory and therefore unsubstantiated by documentation to which I now do not readily have access. Dates as and when given are therefore indicative only.

To provide the Panel with some background, I re-joined the (then) Harbours Department in April 1996 as Harbourmaster Designate and became Harbourmaster from 1<sup>st</sup> April 1997 on the retirement of my predecessor, Captain (now Jurat) Roy Bullen. I was appointed CEO as of 1<sup>st</sup> April 2002.

It should be recalled that for the previous period (February 1987 – March 1996) I had been employed as Operations Director of Huelin-Renouf Shipping, and during that time, held directorships of other companies within the Huelin Group. Thus I was given to understand that my selection was based on (a) my previous knowledge of the Department and (b) my (then) recent commercial experience from my H-R position, the Harbours Department being a designated 'Trading Committee' as it remains to the present day.

To the best of my recollection, during the period late 1997/early 1998, the Policy & Resources Committee were progressing the funding of strategic reviews of all States Departments.

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I can recall that Deputy Dubras was the H & A Committee representative on the selection panel for the Harbours consultant selection process, which following a presentation by the short-listed candidates to the appointment sub-committee, on which P & R and F & E were represented, Fisher Associates were eventually selected. As established Port Consultants, they were considered collectively, suitably experienced and knowledgeable to carry out the Strategic Review of Jersey Harbours.

Over a period of time, we worked with the Consultants, lead by Chris Fisher and assisted by others, the financial aspects being dealt with by David Lambert, providing them with all available and requested information. This culminated in the outcome of the Review (remembering that the Client was the P & R Committee) being presented in March 1999 to the members of the P & R, F & E, HR and H & A Committees.

The proposed direction for a commercially focused future for JH as proposed by Fisher Associates was Incorporation (rated ahead of Trust Port) but the financial and other projects necessary to demonstrate the long term sustainability were common to all models. To the best of my knowledge, the P & R Act of the meeting directed Harbours to commence the background work necessary - as outlined by Fishers - for commencing the commercially focused future of Jersey Harbours. In essence, Harbours were to commence work, agree a strategy and report back.

The Incorporation model was rejected outright at the presentation made to staff that followed, although the Port Users, at a similar presentation were cautiously optimistic as I recall. It should be remembered that only a few months before, the Airport had rejected outright the proposal of Incorporation for that entity. Thus another option listed by Fishers, which required identical background work to be completed was considered. This was the Trust Port concept, which found favour with the then SMT and also the Committee after due investigation. It was based on the 'heirloom' principle of Harbours assets being held 'in trust' by the appointed Trustees and passed on to their successors in an improved condition fit for the purpose of the port at that time.

Piers Baker was recruited in November 1999 to assist me and the Committee in the progression towards a more commercially focused future and to research the various strategies. This included him attending a Trust Port seminar in Plymouth in (November 2000) with the then President, Deputy Derek Maltwood, and I attended an identical seminar in September of that year in Newcastle.

It needs noting at this point that the UK Department of Transport issued a discussion document in January 2000 named 'Modernising Trust Ports'. There are some 100 of these in the UK, and whilst the previous Chief Officer of P & R, who came to Jersey from Cornwall, was dismissive and chose to equate Trust Ports with Fowey and small Cornish ports, the department was well aware that the oldest Trust Port, Dover, was of immense strategic importance to the UK and to demonstrate this, the Secretary of State is involved with the appointment of the Chairman of the Trustees. Dover is an excellent example of a well run Trust Port, that has for instance, adopted strategic operational divergence since the opening of the Channel Tunnel by constructing a passenger liner terminal which now competes with Southampton. It has also attracted additional freight ferry routes to compensate for the lessening in numbers of passenger ferries.

Of particular interest to Jersey was the Trust Port of Poole, which apart from being Condor's main UK passenger port had a similar turnover (then £11m. approx) and had gone through considerable change in order to remain in business and competitive with the adjacent South coast ports.

Thus Jersey, through its membership of the British Ports Association, which was co-ordinating the membership (some 80 plus ports) response to the Department of Transport of the 'Modernising Trust Ports', was able to take advantage of a co-ordinated, progressive and UK wide strategy for examining the pros and cons of this concept.

At about this time, whilst extolling the virtues of seeking a sustainable future for Jersey Harbours, the then President, Deputy Derek Maltwood uttered what I consider to be the crux of the matter in seeking separation from the States of a designated Trading Committee. His comment was "Who worse to run a commercial harbour operation with a turnover of £11m. than a bunch of politicians that know nothing about ports!"

This was not, as it initially appears, a slur on the ability and business acumen of States members, but his acknowledgement of the theme central to the seminar he had attended, also his experience at the Jersey Electricity Company, that prospective Trustees of Jersey Harbours as a Trust Port (or Board members if an Incorporated body) would be appointed on a 'fit for purpose' basis, in accordance with Cadbury /Greenbury rules and accepted Nolan principles.

Deputy Maltwood's leadership, proven business background, including his accountancy training, would have in my view, allowed the Trust Port proposal to have reached the States debate stage, had not in October 2002, the TGWU members of Harbours personnel raised objections to being involved with **any** change. Thus with this uncertainty unresolved, despite the best efforts by the Department, in conjunction with the HR Department, to agree a staff progression strategy, the Report and Proposition, originally lodged in July 2002 was eventually withdrawn as a result of a joint meeting with P&R HR & F&E in October of that year.

In tandem with attempting to obtain by consultation and negotiation, agreement with staff unions/associations for the progression of the Trust Port concept, the financial and other projects (20 year port master plan, valuation of assets, as examples) were drawing to a close and this comprehensive documentation was presented to F & E via Harbours Treasury contacts during 2001, 2002 and 2003. Accepting that Harbours had effectively completed the job in hand, F & E took the view that the passage of time demanded a Review, to be carried out by selected consultants but for the account of Harbours, of the financial and other information presented, to identify the best progression route for Jersey Harbours for a sustainable future. All possible options from complete privatisation to being a fully-integrated States department were to be measured against agreed criteria.

This important task was eventually awarded to Deloitte by an agreed selection process, but at Harbours expense. Deloitte received the full cooperation of Harbours SMT in compiling, within a given time frame, the additional information as requested by the lead consultant. The report of their findings was presented to a joint meeting of the P & R, F & E, EDC and H & A Committees during early February 2004. Harbours management, all personnel and Port Users received identical presentations very shortly after.

The preferred role proposed by Deloitte was Jersey Harbours Limited (A Jersey Limited company, 100% of shares owned by the States of Jersey, but with the proviso that such shares could not be disposed of, ensuring that as an essential Island entity, Harbours would remain in States ownership). This is in fact, Incorporation and thus from Fishers original proposal, Harbours have come full circle. This does however reflect well on a maxim of mine, 'Sound decisions are based on well researched information'.

To the best of my recollection, the Trust Port figured fourth in Deloitte's presentation (they were specifically asked to identify and rank all the options). Informally, I asked the lead consultant for his personal reasons for not giving the Trust Port concept higher priority. He advised me that in his view, it revolved around the assets that would need to be transferred to the new entity to provide viability and sustainability. In his view, transferring assets to a Trust would make it difficult if not impossible for the States to 'recover' some or all of the assets should they so wish to do so. With the Jersey Harbours Limited concept (JHL), this difficulty would not arise, in his view, as the Memorandum and Articles of Agreement of the Company would ensure the assets would always remain in States ownership.

My personal view is that the exhaustive financial and allied projects carried out at the direction of F & E and in conjunction with both Fisher Associates and Deloitte demonstrate conclusively that Harbours has a viable and sustainable future as either an incorporated body or the now less favoured Trust Port model. This future identity, once agreed, which can only be by a Report and Proposition to the States of Jersey and the subsequent debate, will, if progressed, ensure separation of Jersey Harbours from the States prior to November 2005, when the Ministerial form of government is due to commence.

Throughout the lengthy process, every opportunity has been taken to endeavour to find an accommodation for in particular, the TGWU members of Harbours, the only Trade Union represented within the Manual Workers Joint Council. The Jersey Civil Service Association has been more accommodating, being content to wait until a proposal for their members had been agreed in draft and put forward for discussion. The MWJC has, unlike the Unions involved with Jersey Post and Jersey Telecoms, not been able to reflect the benefits of 'sustainability through change' to their membership, wishing the 'status quo' to remain. This is not an option if Jersey Harbours is to have agreed separation from the States and a progressive and commercially focused future prior to November 2005, failing which it would appear the only option would be for it to be subsumed within EDC.

I would respectfully direct the members of the Shadow Scrutiny Panel to the recently circulated 2003 Review of Jersey Harbours and in particular to the final pages, commencing with 'Operating & Trading Account' and followed by 'Statistics'.

This information, together with the recently updated 10 year Financial Forecast, demonstrates clearly in my view that Jersey Harbours, as a separate entity from the States, has a sustainable future, on the understanding the model for this can be finally agreed by a States debate.

**This submission is provided as requested by Senator Vibert's letter of 12<sup>th</sup> May and is on a 'without prejudice' basis. It is also subject to such errors and omissions as may be contained herein, being compiled from memory and without requesting access to the existing documentation.**

A handwritten signature in black ink, appearing to read 'BJSN', with a long horizontal stroke extending to the right.

**BJSN**  
**10<sup>th</sup> June 2004**

Encl: Copy of 2003 Review: Jersey Harbours

Copies: Senator Len Norman, President, Harbours & Airport Committee  
Captain Howard Le Cornu, Acting CEO, JH  
Mr Piers Baker, Strategic Development Co-ordinator, JH  
Mr Bob Norman, Chairman JPUA