



Office of Utility Regulation

Communication: OUR Way

Information Notice

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FOREWORD

Since October 2001 when the Office of Utility Regulation was established, Guernsey's utility sectors have gone through significant change. Some changes have been driven from within by the process of commercialisation – and in the case of telecommunications, change of ownership – which was designed to achieve more efficient and cost-effective services. Other changes have been driven by outside forces; changes in technology, the changing expectations of consumers, international development and the emergence of competition.

Against this backdrop the OUR has worked to put in place a regulatory framework for utility services in Guernsey that is effective, efficient and comprehensive. Much has been done, but there is much still to do.

During that time, more and more people have become aware of the role and function of the OUR, and we believe it is useful at this stage, to re-confirm that role and describe the relationship of the OUR with various other relevant organisations and bodies who have an interest in utility services.

We also want to take this opportunity to direct people to the wealth of information on the regulatory regime that is publicly available – this document is the 69th public document that the OUR has published since it was established 15 months ago.

But perhaps the most important message we want to communicate is that we are here to listen to you – the customer, the company, the operator the licensee. In this document we set out again the various channels available to communicate with OUR and would like to encourage all interested parties to participate in our wide ranging consultations and help us to ensure that our work meets the needs of the Guernsey economy and people.

Regina Finn
Director General of Utility Regulation

1 Introduction

The Office of Utility Regulation (OUR) was established by the States of Guernsey on 1st October 2001¹ to regulate the three utilities of post, telecommunications and electricity in the Bailiwick of Guernsey. As the end of its first calendar year of operation draws near, much of the regulatory framework has been developed to allow the regulated markets to operate efficiently, but much still needs to be done.

In developing the framework in such a short time, the OUR has relied extensively on its communication mechanisms to seek views from interested parties in a structured and constructive way and to provide information on its decisions and policies. This has helped the OUR to formulate policies and approaches that meet the needs of the market. The OUR has also sought feedback on the priority issues for the market – from industry and consumers – and publishes its forward work programme on its website (www.regutil.gg). The website also contains a large amount of detailed information on what are often complex subjects, as well as outlining the role and responsibilities of the Office.

After one full year, the OUR considers that it may be useful to restate the OUR's role and responsibilities in the context of the regulated markets and the roles of other organisations or groups. The OUR also wishes to highlight again the various channels of communication open to the Office, along with the mechanisms that can be used to make views known, receive information and provide input into the ongoing development of the regulatory regime for utility services in Guernsey.

The remainder of this Information Notice is structured as follows:

Section 2	restates the role and objectives of the OUR
Section 3	describes the OUR relationship with some other relevant organisations, both statutory and voluntary
Section 4	reconfirms the OUR commitment to transparency and openness and lists the type and sources of information available
Section 5	sets out the various structured communication processes used by the OUR to obtain views from interested parties and respond to queries.
Section 6	conclusion

The OUR encourages all interested parties to avail of the processes set out in section 5 of this document, particularly the consultation process, to make their views known to the OUR.

¹ Under the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

2 Role of OUR

The twin aims of the OUR are: -

- to ensure that Guernsey consumers of utility services receive the best possible in price, choice and quality utility services; and
- to facilitate the development of vibrant, sustainable utility sectors in Guernsey that can underpin and contribute to the overall economic and social prosperity of the Bailiwick.

These aims are taken from the statutory objectives of the OUR which are set out in the Regulation (Bailiwick of Guernsey) Law, 2001 and are summarized below:

- Protect the interests of users of utility services in terms of prices, quality, service levels, permanence and choice;
- Secure utility services to satisfy reasonable demands;
- Ensure utility sectors contribute to the economic and social development and well-being of the Bailiwick;
- Introduce, maintain and promote effective sustainable competition;
- Improve quality and coverage of utility services;
- Facilitate availability of new utility services; and
- Lessen adverse impact on the environment².

In its very first published document (OUR 01/01) the OUR set out the principles that would guide the OUR in its work:

- In line with international experience, users' interests will best be achieved by creating, through regulation, an environment that allows competitive forces to operate effectively wherever feasible.
- To ensure that user and industry needs are understood and decisions are well informed, the Director General will consult interested parties appropriately.
- Light-handed regulation is preferred; regulation is appropriate only if it achieves the objectives of creating a benefit to utility users in Guernsey and supporting the economic and social strategy of the Bailiwick.
- The Director General's role in protecting the interests of any of the regulated industries (current and future operators) exists only in so far as is necessary to ensure the industry operates effectively and is able to satisfy user needs.
- Decisions, directions, Regulations, licence conditions and licensing application procedures will be fair, open and transparent.
- Less regulation may be needed in time when markets operate more competitively.

These principles continue to guide the OUR in carrying out its statutory functions in the marketplaces.

² Section 2 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

3 Other Relevant Bodies

In regulating the utility sectors, the OUR interacts with a number of other organisations and bodies who have functions and responsibilities that complement those of the OUR. This section briefly describes some of those organisations, outlines their roles, and explains how this relates to the role of the OUR.

3.1 The States of Guernsey

The democratically elected States of Guernsey has three relevant and distinct roles in relation to the utility sectors in Guernsey.

3.1.1 As Legislator

First, as the body responsible for enacting primary legislation in Guernsey, the States of Guernsey sets out its overarching policy objectives in such legislation. The States has set out in the regulatory laws³ its policy for the three utility sectors and has assigned certain functions to the OUR in those Laws. In this role of legislator, the States of Guernsey is also responsible for other related legislative matters such as the question of whether or not Guernsey should have competition law, the enactment of Consumer protection legislation, the passing of IP legislation and Data Protection legislation and much more.

Relationship with the OUR: The OUR implements the policies set out by the States on an impartial and independent basis within the legislative framework set out by the States. The OUR is statutorily independent from the States.

3.1.2 As Utility Sector Policymaker

The second role of the States of Guernsey is to decide on the overall policy that Guernsey wishes to see put in place in the three utility sectors, and indeed in relation to other industries and economic sectors. For the sectors of post, electricity and telecommunications, that policy role is exercised by the Board of Industry. The Board brings recommendations to the States of Guernsey in relation to States Directions to the Regulator in a specific set of areas. It is through this mechanism that the States sets out its social and economic policy. For example, in each of the sectors, the States has directed that there should be uniform pricing across the licensed area, for a minimum set of services. This is commonly referred to as the “Universal Service Obligation”. The OUR then imposes this on licensees through licence conditions and enforces it.

Relationship with the OUR: States Directions set out in some detail certain key policy decisions in the utility sectors that affect the society and economy of Guernsey. The OUR then implements those policies consistent with the legislation. The individual decisions

³ the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the Telecommunications (Bailiwick of Guernsey) Law, 2001, the Post Office (Bailiwick of Guernsey) Law, 2001 and the Electricity (Guernsey) Law, 2001

of the OUR, including enforcement and licensing decisions, are not subject to the States as it is essential that these decisions are impartial, fair and transparent and seen to be free from any unspoken political influence.

3.1.3 As Shareholder

The third role stems from the fact that the States, on behalf of the people of Guernsey, owns 100% of Guernsey Post Ltd, and 100% of Guernsey Electricity Limited. Therefore the States has a role as shareholder of these two companies and holds the normal shareholder responsibilities in relation to corporate governance etc. This role is fulfilled by the Advisory and Finance Committee

Relationship with the OUR: The OUR regulates all three utility sectors independent of who owns the companies operating in those sectors. Thus while the States is the shareholder of Guernsey Electricity Limited and Guernsey Post Limited, it holds no shares in Cable & Wireless Guernsey Ltd. This does not affect the role of the OUR.

3.2 The Utility Companies

The various companies operating in the three sectors have their own distinct roles to play. Each company has its own mandate and memorandum and articles of association, which set out its functions and provide a reference for the shareholders to assess whether the company is performing adequately.

Within this commercial framework, the companies are responsible for the direct provision of services to the public. In doing this they must comply with the minimum level of services set out by the States in any policy directions and enforced by the OUR, e.g. the universal service obligation to provide telephony services and exchange lines to all users in the Bailiwick at a uniform and affordable price. Beyond these levels of services, the companies are directly responsible for meeting customers' needs within a commercial framework, including rolling out new services, introducing new and innovative products and offerings etc.

They are also responsible at an operational level for setting terms and conditions for their services and handling any complaints or difficulties that customers encounter with those services, and for meeting their licence obligations as well as all other obligations unrelated to utility regulation, e.g. accounting standards, reporting etc.

Finally, the utility companies' licences provide for the establishment of forums for their consumers in which consumer views can be received by the companies. This is designed to ensure that consumers have a direct avenue of communication with the companies and is not designed to replace individual consumer dealings with the companies

Relationship with the OUR: The OUR is responsible for licensing activities in the three sectors. There are multiple licensees in the telecommunications sectors and one licensee in each of the postal and electricity sectors at present. The licence texts for all licensees, which are published and available from the OUR website, set out the relationship between the OUR and the regulated companies and the OUR is responsible for enforcing those license conditions.

3.3 Trading Standards Service

The Trading Standards Service (previously known as the Department of Consumer Affairs) is a section of the Board of Industry and has five roles:

- Weights and Measures
- Fair Trading
- Consumer Advice
- Consumer Safety
- Trading Standards

A full description of the role of TSS is set out on the BoI website⁴ and includes checking weighing and measuring equipment, ensuring that trading in the Island is conducted in a fair and safe manner by keeping watch over trading methods and levels of protection offered to consumers, providing free and impartial consumer advice and complaint investigation service, monitoring the safety of consumer products and providing advice to traders on their standard of trading and trading policies.

In March 2000 the States of Guernsey approved the introduction of legislation relating to the sale and supply of goods and services, unfair contract terms, misrepresentation and the disposal of uncollected goods. This legislation is at the stage of preparation and the TSS is the point of contact for this legislation.

Relationship with OUR: The TSS acts as a consumer champion across the economy of Guernsey and is the contact point in relation to the introduction of new legislation in Guernsey on consumer protection. This legislation will apply to the licensees in the utility sectors.

In advance of this, the TSS provides a complaint referral, arbitration and handling forum for consumer complaints in relation to utility services as described below in section 5.4.

⁴ <http://industry.guernsey.net/tradingstnds.html>

3.4 Data Protection Commissioner

The position of Data Protection Commissioner was established in accordance with the Data Protection (Bailiwick of Guernsey) Law, 2001 which came into effect in August 2002. The Data Protection Commissioner is responsible for enforcing the law, developing guidelines or codes of practice for the handling of personal data, and holding a register of all persons controlling personal data in Guernsey.⁵

Relationship with OUR: the Data Protection legislation applies to the regulated utilities directly and all licensees are required to comply with that law. Insofar as there are matters relevant to the areas of responsibility of the OUR and the Data Protection Commissioner, these are discussed on a bilateral basis.

3.5 Non Statutory Organisations

There are a number of non-statutory organizations in Guernsey which, while they do not have a formal relationship with the OUR, may have an interest in the work of the OUR and the regulated utility sectors. For example the Citizens Advice Bureau may receive representations in relation to utility services and the Consumer Group may discuss issues relating to the utility services also.

Relationship with the OUR: The avenues of communication described in the following sections 4 and 5 are available to these groups, as well as to any other interested parties, and the OUR welcomes their participation in consultations in particular.

⁵ <http://www.dataprotection.gov.gg/>

4 Information about the OUR

The Laws governing the Regulatory Regime in Guernsey require the Director General to be independent, fair and impartial, in carrying out her functions and to do so in a manner that is timely, transparent and objective and consistent with states policy directions.

In line with the requirement for transparency and in accordance with the principles articulated by the OUR, the Office publishes a wealth of information on its website. This information is also available in hard copy if required.

Published Information includes:

- Role and responsibilities of OUR
- Contact details for OUR
- List of Licensees in each sector
- Full text of licence conditions for each licensee
- Processes and procedures for dispute resolution and arbitration
- Reasons for and explanations of OUR policy and decisions
- Results of disputes and investigations
- Texts of all legal documents governing the operation of OUR
- Links to licensees and to other regulators
- Forward work programme and milestones in each sector
- All consultations and consultation reports (see section 4)
- Annual reports and accounts

Wherever possible the OUR puts as much information as possible in the public domain, compatible with the obligation of confidentiality imposed on the OUR in the legislation (commercially confidential information may not be made public unless the OUR considers that it is essential to do so for the purpose of carrying out its functions).

The publication of this document brings to **69** the total number of official documents published on the OUR website since it was established fifteen months ago. Clearly this represents a significant source of information, much of it dealing with complex matters such as price control and accounting separation.

When the OUR receives queries, it will, wherever possible, direct interested parties to the relevant published documentation as this represents the official position of the OUR on a wide range of relevant issues and provides context and background that may assist the person making the enquiry.

5 Communication with OUR

As the OUR's remit covers the three essential utility sectors of post, telecommunications and electricity, it has a large number of diverse clients, ranging from individual users of utility services in Guernsey to companies operating in the utility sectors; large companies or banks who are customers of the utility operators themselves to the wider public via the media; and from States of Deliberation as a policy entity to individual Deputies and Committees.

Given that the OUR comprises three staff plus the Director General, it must put in place processes and systems that enable it to fulfill its statutory functions efficiently and effectively while also managing communication with the office from a wide range of interested parties in the context of its finite resources.

This section sets out the various avenues used by the OUR for communication with interested parties.

5.1 Consultation

In line with the principles first set out in Document OUR 01/01 and repeated above in section 2, the OUR consults with interested parties wherever appropriate on issues handled by the Office. While there are certain matters on which the OUR is required to consult in accordance with legislation, the range of topics on which the office actually does consult goes far wider than the minimum required in law.

The consultation process is described in detail in document OUR 01/01 and provides a structured framework for interested parties to submit their comments on the key issues of importance within the regulatory regime. It also allows the OUR to develop the regulatory framework in a way that addresses the priority areas identified by the Office and by the market – including the priorities of the industries and their customers. Finally the consultation process is the most efficient way of collecting and processing structured input given the OUR's limited resources.

All consultations are accompanied by press releases and notices in the Gazette Officielle to raise awareness of the fact that a consultation paper has been issued and to encourage responses. In addition, any interested party can register on the OUR email alert list to be notified of the publication of any new document. For a limited number of issues the OUR also uses public presentations to promote awareness of and to encourage responses to Consultation Papers.

Over the course of the OUR's 24 public consultations⁶ conducted since October 2001, responses from individual users of utility services have been particularly welcome, but have been limited in number. The OUR would like to encourage all parties, including individual consumers, to take advantage of the opportunities to ensure that their views are heard through the consultation process by responding to consultations and attending public meetings.

The OUR's reports on consultations are published on the OUR's website and are available in hard copy on request. In addition all non-confidential responses to consultations are available for inspection at the OUR's office in normal working hours.

5.2 Public Meetings and Workshops

The OUR engages in public consultations and focused workshops to raise awareness in the case of a limited number of consultations and to encourage participation and responses. Considering the finite resources of the Office and the large number of issues to be addressed, the use of public presentations must of necessity be confined to a number of key issues. In 2002 the Office held presentations on questions of concern to all Islanders in the electricity market⁷ and early in 2003 the OUR will hold a further public presentation on postal matters in the Bailiwick of Guernsey. The OUR is hopeful that these presentations will encourage participation in the consultation process and assist in explaining the scope and range of key consultations.

5.3 Direct Requests for Information

The OUR puts as much information as possible in the public domain and believes that there is a wealth of information on the OUR's website in terms of discussions of regulatory policy, explanations of regulatory decisions and advice as to how to resolve complaints. On receipt of a request for information or clarification, the OUR will, wherever possible, direct people and organizations to the relevant published documentation. The published document will typically provide the context and background information relating to the issue, which will assist in a full understanding of the issue.

In order to efficiently respond to requests for information, the OUR does require that such requests are set out as clearly and as comprehensively as possible so that the OUR staff can understand exactly what is being asked and ensure an efficient and appropriate response to a question. Where information requests are received which are in fact complaints, then the sender will be asked to follow the OUR's Dispute Resolution Guidelines (see section 5.4 below).

⁶ Refer to www.regutil.gg/all_publications.asp

⁷ http://www.regutil.gg/elec_publications.asp#MarketInformation - Document OUR 01/22

5.4 Individual Complaints about Service

In September 2002 the Director General published formal guidelines to assist interested parties in submitting complaints regarding any company licensed to operate in the utility sectors. The Guidelines (OUR 02/32) are available from the OUR's website.

The utility companies are responsible in the first instance for handling complaints from their users. Therefore, should a consumer wish to make a complaint, they should contact the company involved and lodge an official complaint in accordance with the complaint handling procedures of that company. Guernsey Electricity, Guernsey Post and C&W Guernsey each have a code of practice in place as required by their licences, which sets out the procedures for handling complaints⁸.

However, should a complaint remain unresolved, either because the consumer is dissatisfied with the outcome, or the target time for the resolution has been exceeded, consumers can take the matter further by contacting the Trading Standard Service ("TSS")⁹ who will act as an impartial body and attempt to find a fair outcome for all the parties involved.

When a complaint remains unresolved after arbitration by the TSS, the issue may be referred to the OUR for a review of the TSS decision. A complaint can also be raised directly with the OUR if the consumer believes the complaint to be of a nature which is not appropriate to be handled in the manner outlined above. It is important that a complainant provides as much information as possible including the nature and effect of the dispute, actions taken to resolve the dispute, and the resolution sought by the complainant. It would assist the OUR if the complainant would also provide as much documentary evidence in support of the case as possible.

5.5 Systemic failure of Service

The OUR can request information from licensed operators on the complaints the companies receive, the number resolved, the nature of the complaints and the number outstanding. Information can also be provided by the TSS on any complaints that they handle. The purpose of this is to allow the OUR to identify systemic failures in services to users and address these as priorities in accordance with the licence conditions in place.

Individual investigations or other appropriate action is initiated as and when needed based on this information; e.g. in 2002 when C&WG launched its ADSL product, the OUR immediately initiated an investigation into both the product structure and the pricing. The widespread concern that emerged in the public confirmed the OUR's decision to investigate in that instance.

⁸To submit a complaint via Email, contact admin@electricity.gg ▶ custserv@guernseypost.com ▶ contact@cwguernsey.com

⁹ ts@industry.gov.gg

Similarly, the OUR has initiated a public consultation on quality of postal service standards which is due to commence in January 2003. This consultation has become even more relevant following degradation in the quality of postal services in the run up to Christmas 2002.

6 Conclusion

This information note seeks to provide an overview of the OUR's role and functions, to clarify the relationship between the OUR and a number of other organisations and bodies whose role and functions complement those of the OUR, and to highlight and explain the communication processes of the OUR.

Finally, the OUR wishes to thank all those organisations and individuals who have contributed to the OUR consultations in the past. Their input has assisted in the formulation of the regulatory regime. The OUR invites all interested parties to participate in consultation processes in the future by submitting responses to documents and attending public presentations, to make their views on the regulatory regime for utility services in Guernsey known.

/ENDS