

Vision Paper: A new legislative framework for statistics in Jersey

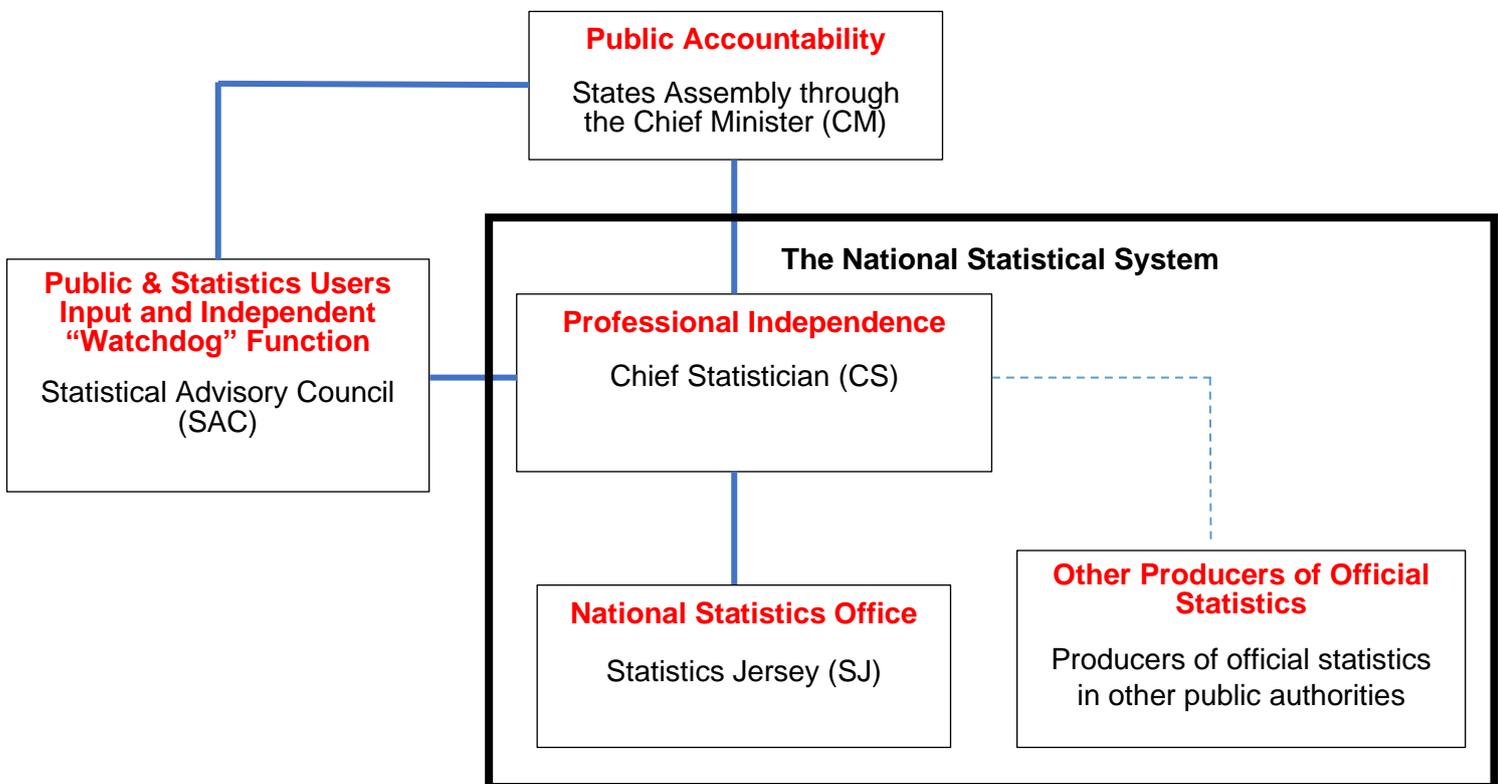
Section 1. Introduction

1. This paper translates the vision of the Statistics Legislation Steering Group (“the Group”) into specific proposals to improve Jersey’s statistical legislation. These proposals will ensure that the Jersey National Statistical System (NSS) accords with international guidance (in particular the United Nations Guidance on Modernising Statistical Legislation) and best practice standards, and inspires public trust and confidence in the quality, relevance and integrity of the statistics which it produces.
2. Jersey’s proposed National Statistical System will:
 - a. safeguard the professional independence of statistics producers
 - b. prevent interference, political or otherwise, in statistics production and dissemination
 - c. identify and respond to the needs of statistics users
 - d. produce statistics which improve citizens’ understanding of Jersey
 - e. produce statistics to guide decision-making on the Island’s future
 - f. at a minimum, be adequately resourced to deliver the agreed range of official statistics¹
3. The Chief Minister [announced](#) on 18 February 2021 the creation of a Steering Group, chaired by Deputy Kirsten Morel, to “review the arrangements for statistical regulation and the production of statistics by Statistics Jersey and other public authorities to develop proposed amendments to the Statistics and Census (Jersey) Law 2018, with the aim of lodging them with the States Assembly by the end of this year.”
4. Since then, the Group has examined Jersey’s statistical system, which is currently underpinned by the Statistics and Census (Jersey) Law 2018 (the “2018 Law”). It has explored international guidance, best practice, and statistical legislation in other jurisdictions, including small jurisdictions of comparable complexity and size to Jersey. This process has been supported by a series of technical papers.
5. Following this evaluation, the Group has determined that amendments are required to bring Jersey’s statistical legislation into line with international best practice standards and to maintain the public’s trust and confidence in the Island’s statistical system in the long term. It has developed initial proposals for legislative changes in the following five key areas:
 - a. the governance of Statistics Jersey;
 - b. the identification and protection of Jersey’s official statistics;
 - c. the coordination of the NSS;

¹ See the definition of tier 1 statistics at section 2, page 5, below.

- d. the role of a Statistical Advisory Council (SAC); and
 - e. data sharing.
6. The primary purpose of these proposals is not to amend provisions in the 2018 Law which govern or relate directly to the census. However, these provisions will be reviewed following the 2021 Census.
 7. The organisation, objectives and accountabilities of the proposed Jersey National Statistical System (NSS) are presented below in Figure 1.

Figure 1 - Jersey National Statistical System (NSS)



Section 2. Governance of Statistics Jersey

8. Proposed legislative amendments would:
 - a. guarantee the professional independence of the Chief Statistician;
 - b. provide the Chief Statistician with an unfettered right to comment on any aspect of statistics including their funding, use, accuracy, reliability, adequacy, erroneous interpretation and misuse;
 - c. secure adequate funding for Statistics Jersey which is commensurate with its responsibilities under the Law; and
 - d. ensure the Chief Statistician is accountable for the good governance of Statistics Jersey.

9. The Group proposes that the office of Chief Statistician will become a corporation sole. This would provide the office with legal personality distinct from the person holding the role. This would enable the office to, for example, hold property and enter contracts, and ensures that obligations and liabilities, both statutory and contractual, continue notwithstanding any change in office holder. Current examples of corporation soles under Jersey legislation include the offices of the Chief of the States of Jersey Police, the Commissioner for Children and Young People and the Charity Commissioner. Legislative amendments will define the responsibilities and powers of the Chief Statistician, in line with legislation for other corporation soles in Jersey, and in statistical legislation in, for example, Australia.

10. The recruitment, appointment, suspension and dismissal of the Chief Statistician would be governed by specific provisions under an amended Statistics Law.
 - a. The Chief Minister will have responsibility for appointing the Chief Statistician. In so doing he or she must consult with the Statistical Advisory Council and take the Council's views into account. Provisions would ensure that the Chief Statistician must be suitably qualified for the role. Recruitment for the role would be carried out in line with the processes of the Jersey Appointments Commission.

 - b. The Chief Statistician would be employed by the States' Employment Board (SEB), ensuring access to public service pension and salary arrangements. However, particular arrangements will be required in law to ensure their independence. Subject to further consultation, this may include:
 - I. setting out in law that they are not be bound any provisions in the Employment of States of Jersey Employees Law (Jersey) Law 2005 which may conflict with their functions. This being Part 5 of the 2005 Law which restricts the political activities of States Employees, or,
 - II. mirroring the employment provisions set out in Schedule 2 of the Commissioner for Children and Young People (Jersey) Law 2019, albeit it should be noted that direct parallels cannot be drawn between the Chief Statistician and the Children's Commissioner. Whilst the Chief

Statistician's independence must be ensured so as comment, unfettered, on any aspect of statistics, the Children's Commissioner's independence must be ensured to provide for far more extensive powers of review of government policy and services, including investigation of any matters relating to the rights of children and young people.

- c. Whether the Chief Statistician should be appointed for a fixed-term or whether their appointment should be open-ended remains under consideration.
 - d. Provisions would also ensure that the Chief Minister's power to suspend or to dismiss the Chief Statistician must be exercised in accordance with due process and for certain limited reasons which will be defined in legislation. Those reasons would relate to professional criteria only and could not include where the Chief Statistician, in exercise of his or her functions had made public comments on any aspect of statistics. As part of this process, the Chief Minister must give prior notice to the SAC of his or her intention to suspend or to dismiss the Chief Statistician.
11. The ability of the Chief Statistician to make public comment on any aspect of statistics, including their funding, use, accuracy, reliability, adequacy, erroneous interpretation and misuse would be set out in Law. In practice, the fact that he or she is a corporation sole will provide additional confidence in their powers to make public comment on statistics, in line with their professional judgement.
 12. The Chief Statistician would have responsibility for performing all the key statistical functions listed under the Law. Statistics Jersey would be the office of and managed by the Chief Statistician and its role would be to support the Chief Statistician to fulfil his or her statutory functions. The States Assembly would be placed under a statutory duty to provide adequate funding and resources to Statistics Jersey to enable the Chief Statistician to perform his or her statutory functions.
 13. Statistics Jersey staff would be employed by the SEB – this will facilitate movement of statisticians and analysts between Statistics Jersey and other statistical/analyst teams elsewhere in government for career and professional development and enable them to access standard government benefits including pension benefits. Statistics Jersey staff would, however, be independent of government and work solely under the direction of the Chief Statistician. This is, for example, as per the existing Care Commission and Charity Commission arrangements.
 14. The Chief Statistician would be placed under a duty to maintain proper accounts and to prepare an annual report for Statistics Jersey. The annual report would be backwards looking, covering the work which Statistics Jersey had undertaken throughout the preceding year, as well as the overall performance of the NSS.
 15. The Chief Statistician would also be required to produce a forwards-looking 4-year plan for the output of the NSS, including Statistics Jersey, following the publication of a new government's Common Strategic Policy. New provisions would ensure that both the annual report and 4-year plan must be published and presented to the Chief

Minister, who would then lay the report and the plan before the States Assembly. In preparing the annual report and 4-year plan and prior to presenting them to the Chief Minister, the Chief Statistician must seek input from the Statistical Advisory Council (SAC). The SAC may suggest amendments to the report and to the plan and provide these to the Chief Minister and the Chief Minister must take these into consideration before presenting the documents to the Assembly.

16. As with other current corporation soles under Jersey Law, the corporate functions of Statistics Jersey, such as human resources, information technology, estates management and finance, would be funded by the Government of Jersey.

Section 3. Official Statistics

17. Proposed legislative amendments would:
- a. bring the definition of Jersey's key, official statistics in line with international standards;
 - b. permit all public authorities to produce official statistics;
 - c. protect Jersey's most important statistical outputs and publications;
 - d. provide the Chief Statistician with responsibility for producing a Code of Practice and for assessing compliance with it;
 - e. enable the Chief Minister or Chief Statistician to authorise reviews of tier 1 statistics (see below for a definition), including by independent external experts; and
 - f. provide the Statistical Advisory Council with powers to request that the Chief Statistician or Chief Minister undertake reviews of particular tier 1 statistics.
18. The Group proposes that Jersey adopts the United Nations Generic Law on Official Statistics (GLOS) definition of official statistics.

Article 1.2 of the GLOS

"1.2 Official statistics in the context of the present Law:

- a) Are statistics describing on a representative basis the economic, demographic, social and environmental phenomena of [country name];
- b) Shall be developed, produced and disseminated in compliance with the provisions of the present Law, the United Nations Fundamental Principles of Official Statistics (A/RES/68/261) [and the European statistics Code of Practice/National Code of Practice] as well as internationally agreed statistical standards and recommendations;
- c) Shall be referred to as official statistics in the statistical programmes."

19. Legislation would be amended so that any public authority, as defined under Article 1 of the Freedom of Information (Jersey) Law 2011, would be able to produce official statistics. Currently, only Statistics Jersey can produce official statistics.

Article 1 of the Freedom of Information (Jersey) Law 2011

"public authority" means –

- (a) the States Assembly including the States Greffe;
- (b) a Minister;
- (c) a committee or other body established by a resolution of the States or by, or in accordance with, standing orders of the States Assembly;
- (d) an administration of the States;
- (e) a Department referred to in Article 1 of the Departments of the Judiciary and the Legislature (Jersey) Law 1965;
- (f) the States of Jersey Police Force;
- (g) a parish;
- (h) to the extent not included in paragraph (a) to (g) above, any body (whether incorporated or unincorporated) –

- (i) which is in receipt of funding at least half of which is from the States in one or more years,
- (ii) which carries out statutory functions,
- (iii) which is appointed, or whose officers are appointed, by a Minister,
- (iv) which appears to the States to exercise functions of a public nature, or
- (v) which provides any service under a contract made with any public authority described in paragraphs (a) to (g), the provision of such service being a function of that authority;

20. The greatest legal protections would be afforded to official statistics which would be termed “tier 1” statistics. These would be the Island’s most important statistical outputs and publications which are essential to understand how well Jersey is performing. In identifying those statistical outputs and publications which should be listed as tier 1 statistics, the Law would incorporate a principles-based approach. It is proposed that Jersey should take a similar approach to New Zealand in applying principles for tier 1 statistics as those which:
- a. are essential to critical decision-making;
 - b. are of high public interest;
 - c. meet expectations of impartiality and statistical quality;
 - d. require long-term data continuity;
 - e. allow international comparability; and
 - f. meet international statistical obligations.
21. The Group proposes to protect tier 1 statistics by placing a duty on the States Assembly to ensure that adequate funding and resources are allocated to enable the production of the list of tier 1 statistics. Further legal protections would place a duty on statistics producers to prioritise the production of tier 1 statistics over other statistical outputs and publications. The Law would place a duty on producers to publish the protected tier 1 statistics periodically, in line with the publication schedule. The publication schedule sets out the tier 1 statistical outputs which will be published during the following rolling 12-month period.
22. The Law would ensure that statistical publications and outputs can only be removed from the list of tier 1 statistics for good reasons and, to do so, a rigorous process must be followed. This ultimately would require the approval of the Chief Statistician and the SAC followed by a Proposition by the States Assembly to remove outputs from the list of tier 1 statistics.
23. Anyone can nominate a statistical output/publication for consideration by the Chief Statistician to be included as a tier 1 statistic. The decision to designate a statistic as a tier 1 statistic is the sole responsibility of the Chief Statistician following the endorsement of the relevant ministers or public authorities involved in the production of the nominated statistic and the SAC.
24. In line with the GLOS definition of official statistics, all tier 1 statistics would have to describe on a representative basis the economic, demographic, social and environmental phenomena of Jersey. The production of the tier 1 statistics must also comply with the Jersey Code of Practice for official statistics. The Chief Statistician

would have responsibility for devising and for publishing the Code but in doing so must consult with producers of official statistics and the SAC.

25. Therefore, following nomination, the Chief Statistician would assess each statistical output/publication as to whether they describe the key phenomena of Jersey and for compliance with the Code of Practice. In addition, the Chief Statistician would be required to determine whether the statistics meet the principles of tier 1 statistics (which will be set out under the Law) and, thus, whether the output/publication is of sufficient importance for its production to be funded by the States Assembly and protected under the Law.
26. Where the nominated statistics are found to have satisfied these tests, the Chief Statistician must undertake a final consultation with the Statistical Advisory Council. Following this consultation, he or she must add the output/publication to the list of tier 1 statistics. The Chief Statistician would hold responsibility for maintaining the list of tier 1 statistics, for publishing the list and for ensuring that it is readily accessible by statistics users. The Chief Statistician would also be responsible for releasing a 12-month-ahead rolling publication schedule for all tier 1 statistics.
27. The Chief Statistician would be under a duty to instigate a routine programme of reviews of tier 1 statistics and to establish criteria against which these reviews will be carried out. The SAC must be consulted on this programme of reviews and the criteria for the reviews and the Council's guidance must be taken into account.
28. The SAC would have the power to request the Chief Statistician to review a particular tier 1 statistical output when the SAC believes that the production, management and/or dissemination of those statistics does not comply with the Code of Practice. If the Chief Statistician refuses to fund a review, the SAC may request the Chief Minister to consider initiating an independent review. In making a decision to fund a review of tier 1 statistics, the Chief Minister and the Chief Statistician must have regard to the resources available to carry out such reviews. If the SAC's request to commission a review is not, in the Council's view, dealt with appropriately, the SAC must raise this in its annual report to the States Assembly. It may also choose to issue public comment on the issue.
29. Reviews would be carried out by Statistics Jersey staff, by peer review using Jersey statistical/analytical subject experts, or through peer review by international experts in the statistical subject matter.
30. The producers of tier 1 statistics under a review would be under a statutory duty to support and cooperate with the conduct of all reviews.

Section 4. Coordination of the National Statistical System

31. Proposed legislative amendments would:
 - a. formalise the establishment of Jersey's NSS, comprising the producers of tier 1 statistics across public authorities;
 - b. provide the Chief Statistician with the powers to establish a committee of producers of official statistics; and
 - c. provide the Chief Statistician with professional leadership of statisticians and analysts across public authorities, including responsibility for their career and professional development.

32. The Group proposes that Jersey continues to have a decentralised NSS in which both the national statistical office (NSO), Statistics Jersey, and other public authorities hold responsibilities for producing official statistics. However, if this decentralised model is to function effectively, the Group considers it important that there is coordination and quality management across the NSS and that the Chief Statistician is empowered to lead and is provided with the necessary funding to manage this decentralised system.

33. The NSS would be defined under the Law as being those public authorities holding responsibility for producing statistical outputs and publications which feature on the list of tier 1 statistics. In line with UN guidance, the Chief Statistician would be given powers to establish a committee comprising representatives from the producers of tier 1 statistics, as well as any representatives of the producers of non-tier 1 statistics who the Chief Statistician believes it would be appropriate to invite. Members of the committee may include, for example, those leading the production of statistics in the departments for Children, Young People, Education and Skills and Health and Community Services. Statistics Jersey would hold responsibility for organising the committee.

34. The purpose of the committee would be threefold:
 - a. it will coordinate the production and release of tier 1 statistics and assist the Chief Statistician to compile the 12-month publication schedule
 - b. it will coordinate the production of the 4-year plan for the output of the NSS, including Statistics Jersey
 - c. it will be a forum in which the producers of statistics can focus on continuous improvement of the quality of official statistics.

35. The Group proposes that the Chief Statistician should be the professional head of statisticians and analysts across the Government of Jersey. This would allow statisticians and analysts to raise professional queries about professional statistical standards and methodologies with the Chief Statistician, including compliance with the Code. It would also allow the Chief Statistician to coordinate their career and professional development, ensuring that appropriate professional training and opportunities are available across public authorities.

Section 5. Statistical Advisory Council

36. Proposed legislative amendments would:
 - a. establish a Statistical Advisory Council to gather and present the views of the public and statistics users;
 - b. provide a neutral forum for the public and statistics users to interact with the Chief Statistician, Statistics Jersey and other producers of statistics in public authorities on the quality, relevance and integrity of official statistics;
 - c. empower the Statistical Advisory Council to raise and to publish concerns in relation to the production, quality, relevance and integrity of official statistics;
 - d. give the Statistical Advisory Council the power to report annually directly to the States Assembly; and
 - e. include a statutory duty on the Chief Minister to provide adequate funding for the Statistical Advisory Council.

37. Amendments would be made to current provisions under the 2018 Law which relate to the Statistics Users Group which would be superseded by a Statistical Advisory Council (SAC).

38. The Statistical Advisory Council would gather and present the views of the public and statistics users, and help protect the professional independence of the Chief Statistician and Jersey's National Statistical System. The SAC will not be formally constituted as a regulator but will act as a "watchdog" to champion the production, use, quality, relevance and integrity of public authority statistics and provide appropriate checks and balances through governance mechanisms.

39. The SAC would hold a number of statutory powers and responsibilities including:
 - a. a broad power to raise and to publish any concerns it may have regarding the quality, relevance and integrity of official statistics as it sees fit;
 - b. liaising with members of the public, including conducting user and public consultations, to gather and present their views;
 - c. provide advice to the Chief Minister on matters related to the appointment of the Chief Statistician
 - d. nominating statistics to be tier 1 statistics;
 - e. advising the Chief Statistician on the contents of the list of tier 1 statistics;
 - f. advising the Chief Statistician on the four-year work programme of the NSS and on the programme of reviews of tier 1 statistics;
 - g. providing a neutral forum for the public and statistics users to interact with the Chief Statistician, Statistics Jersey and other producers of statistics in public authorities on the quality, relevance and integrity of official statistics;
 - h. reviewing and commenting to the States Assembly on Statistics Jersey's annual report, including raising any concerns the SAC might have in relation to its funding, resources and independence;
 - i. presenting recommendations to the Chief Statistician, the Chief Minister, the States Assembly and to the public;

- j. preparing an annual report which the Chief Minister must present to the States Assembly; and
 - k. requesting the Chief Statistician or Chief Minister to conduct an exceptional review of tier 1 statistical outputs when the SAC believes the production, management and/or dissemination of those statistics does not comply with the Code of Practice.
40. There may be certain statistics which are produced by public authorities and which describe on a representative basis the economic, demographic, social and environmental phenomena of Jersey but which are not currently tier 1 statistics. It would also be within the remit of the Statistical Advisory Council to raise and publish concerns on non-tier 1 statistics which they believe describe these key phenomena.
41. The SAC will hold a broad power to raise and to publish any concerns it may have regarding the quality, relevance and integrity of official statistics as it sees fit. This would extend to any concerns it may have in relation to performance of the Chief Statistician, other producers of official statistics and the National Statistical System. This could include raising its concerns with the Chief Statistician, the Chief Minister or with the States Assembly through its annual report or with the Chair of the relevant scrutiny panel.
42. The Chair of the SAC would be appointed by the Chief Minister.
43. For the avoidance of conflict and to clearly evidence political independence Assembly Members would be disqualified from appointment to the SAC whilst in the Assembly and for a period of time, to be determined, after leaving the Assembly. However, subject to consultation, employees of public authorities may not be excluded from being appointed to SAC where the Chair determines that, as key users of, or commentators on statistics, their appointment is appropriate and the numbers appointed to SAC would not be seen to be disproportionate.
44. The Chief Statistician would be entitled to attend all formal meetings of the SAC. The SAC may conduct informal meetings in the absence of the Chief Statistician.
45. The Group proposes that the SAC should be required to produce an annual report that the Chief Minister must present to the Assembly. The report would cover issues including the SAC's activities and its recommendations.
46. The Chief Minister would be placed under a duty to provide adequate funding and resources to the Statistical Advisory Council to enable the Council to perform its statutory functions.

Section 6. Data Access and Sharing

47. Proposed legislative amendments would:
 - a. enable Statistics Jersey to request data for statistical and research purposes from public authorities
 - b. impose a duty on the producers of official statistics to maintain the security and confidentiality of data; and
 - c. allow approved researchers to access anonymised microdata for statistical and research purposes for the public good.

48. The Group proposes that current provisions governing access to public authority data for statistical purposes under the 2018 Law should be enhanced. Legislative amendments would enable public authorities to disclose information to Statistics Jersey for statistical and research purposes. This would empower Statistics Jersey to request the data which it requires to produce statistical outputs and reports, and would prevent public authorities from denying Statistics Jersey access to the data on the basis that it would be unlawful to do so. Public authorities would be required to provide the information requested by Statistics Jersey in the form and within a defined timeframe as specified by Statistics Jersey and, as far as is reasonable, at no cost to Statistics Jersey.

49. Statistics Jersey would be required to prepare and to publish a statement of the principles to which it will have regard and the procedures which it will adopt when accessing data from public authorities for statistical purposes. The Law should also include an express duty on the producers of official statistics across all public authorities to maintain the security and confidentiality of data.

50. New provisions would enable certain approved researchers to access anonymised microdata from Statistics Jersey for statistical and research purposes. These research purposes must be for the public good and would not, for example, enable researchers to use microdata for commercial gain. Any outputs from microdata labs would be checked for confidentiality by an officer of Statistics Jersey before being released to researchers. The Law will establish a process to enable the Chief Statistician to develop criteria for approval of researchers and projects, and to permit access to relevant anonymised microdata on a case by case basis. This would be a similar process to established arrangements run by national statistics offices in other jurisdictions.

Section 7. Next Steps

51. The Group welcomes feedback on these initial legislative proposals from all stakeholders, including the producers of statistics across all Jersey's public authorities, the Statistics Users Group, States Members, and other users of Jersey statistics across the island. The Group will consider all feedback.

52. The Group will refine its proposals and aims to lodge draft legislation in the States Assembly before the end of 2021.

Deputy Kirsten Morel, Chair of the Statistics Legislation Steering Group