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1. Executive summary

1.1. Background to the study

One of the aims of the Jersey Legal Information Board is integrating the criminal justice system in Jersey. Together with the Home Affairs Committee, the Jersey Legal Information Board have sponsored this study into the feasibility of establishing an integrated criminal justice system. The draft Home Affairs criminal justice policy has also been a driving force behind this project.

1.2. Approach taken to the work

1.2.1. This scoping study has built on two previous pieces of work sponsored by the Jersey Legal Information Board. The previous contributors to these studies were asked to verify whether the historic information from these studies was still accurate, and if not, how it had changed. Criminal justice system agencies were also asked to estimate the detailed cost of processing information.

1.2.2. Interviews were held with chief officers, senior managers and information managers, to find out the strategic direction of the different agencies, and what issues were expected to have an impact on the administration of criminal justice in the next 5 years. Other jurisdictions were considered to see what issues they had faced.

1.2.3. Suppliers were asked to submit proposals for the creation of an integrated criminal justice system in Jersey, and these were assessed against the cost of doing business at present to generate cost benefit analyses.

1.3. Summary of the main findings

It was found that the current case, for a sophisticated, fully integrated criminal justice system in Jersey, was not a compelling one. There was a large question mark over whether there were enough problems with the current system, enough benefits to be gained from full system integration, and sufficient motivation from all

agencies, to drive forward a major change project at this time. To its credit, the Jersey system worked satisfactorily for the most part, and current information exchange was cost effective, if wasteful in some areas. There were no significant benefits to be gained, by several of the criminal justice system departments, in introducing an integrated system. In fact, implementing such a project would be detrimental to some departments in the short term. The cost of change was high, and the funding environment at this time was unfavourable. While there were some important efficiency and social benefits that could be achieved by changing to an integrated system, the view was taken that together they did not make a case of sufficient strength to outweigh the cost in time, disruption, and money, of introducing a sophisticated, fully integrated criminal justice system at present. Some of the current deficiencies in the criminal justice system could, however, be tackled in other ways, which could bring about tangible gains in the short term, including partial integration of current systems using existing technology, while also positioning the criminal justice system to make a fully integrated programme more feasible in the longer term.

1.4. Summary of the main recommendations

1.4.1. It was not recommended to seek to implement a sophisticated, fully integrated criminal justice system at this point, though it is recognised that this is a desirable aim for Jersey in the longer term. Though benefits to integration were identified, they were not considered sufficient to outweigh the costs, difficulties, and risks of integration at this time. Instead, recommendations have been made which should help to address some of these issues in ways other than full systems integration, but which could lay the foundations for a fully integrated criminal justice system, if and when the environment becomes more favourable. This is felt to be a more realistic and achievable aim at present.

1.4.2. It was recommended that a strategy group should be established with the task of overseeing the future development of the administration of criminal justice. This strategy group should seek to produce a blueprint of all planned changes to the criminal justice system, in order to assist in setting priorities, and ensuring that project dependencies were clear. The strategy group should

work under an agreement that all agencies should work together in a coordinated fashion.

1.4.3. It was recommended that the strategy group should oversee the implementation of a number of small projects, many of these based on exploiting existing technology, that would improve efficiency in the current system, and help position the criminal justice system for a possible future project to fully integrate information systems.

2. Introduction

2.1. Background to the scoping study

2.1.1. In 1999, the Jersey Legal Information Board published its programme of projects to enable realisation of the vision to see Jersey's legal system recognised as the global best for a small jurisdiction. One of the streams of work identified was in relation to criminal justice, and this later was further defined as integrating the criminal justice system in Jersey.

2.1.2. The Home Affairs Committee, in their report "Developing Jersey's Criminal Justice Policy", also state their support for an integrated criminal justice system in Jersey. This work is also in line with the States of Jersey Change Team's 'Better, Simpler, Cheaper' initiative.

2.1.3. The Jersey Legal Information Board and the Home Affairs Committee agreed to jointly sponsor this scoping study into the feasibility of establishing an integrated criminal justice system in Jersey.

2.2. The approach

2.2.1. Dr Debbie King and Mr Douglas Mason were appointed to produce a report into the current status of the criminal justice system in Jersey, and the feasibility of moving towards an integrated criminal justice system.

2.2.2. The approach included verification of two previous studies sponsored by the Jersey Legal Information Board into the state of Jersey's criminal justice system. The Cap Gemini, Ernst and Young report of 2000, examined detailed information flows across the justice system. The information matrix work, completed by Computer Services in 2002, identified all the separate units of information across the criminal justice system. Department information managers were asked to verify these previous reviews, correct them where there were changes, and assign estimated costs to each information transfer and storage process. Where departments were not able to assign detailed costs, estimates were made based on the total staff time used, and costs of similar processes in other departments.

2.2.3. Interviews were held with Chief Officers, senior managers, and information managers, across the criminal justice system, at which information was gathered about the current state of the criminal justice system and the expected future pressures on the system. Data was also gathered on what was felt to work well at present, and what could be improved.

2.2.4. Projects to establish integrated criminal justice systems in other jurisdictions were researched. This research concentrated on the different types of technical solutions, their cultural impact, and eventual success. The different approaches were considered in the light of Professor Richard Susskind's analysis of the various levels of technical maturity in criminal justice systems, and what may be best for Jersey. The Causeway Programme in Northern Ireland was visited by Dr King, among others. At this meeting, the group was told about the background to the Causeway Programme, and the approach taken to their work.

2.2.5. A number of commercial suppliers were approached to determine their possible interest in working with Jersey to develop an integrated criminal justice system. These companies were invited to submit no obligation proposals for how they might approach this work, together with resource implications and high level cost estimates. The companies approached included Fujitsu, Logica, Syscon, Beaumont Colson, Itex, KPMG, Partners for

Change, Unisys, Peoplesoft, Open Text, PA Consulting, Microsoft and Stanton Marris. Written responses to the request for expressions of interest were received from Fujitsu, KPMG, Logica, Partners for Change, Syscon, Beaumont Colson, PA Consulting and Itex. For reasons of commercial confidence, the four different types of solutions mentioned below, derived from an analysis of all of the written responses received, are referred to throughout the text as belonging to Company A, Company B, Company C and Company D.

2.2.6. Research was carried out into the possible implications of data protection, human rights, and freedom of information legislation, on an integrated criminal justice system. UK government guidelines on the implementation of their equivalent legislation have been very useful in understanding the probable situation in Jersey.

2.2.7. Based on the verified information flow data, and estimated process costs, the interviews with information managers, chief officers and senior staff, and the high level proposals from potential suppliers, a cost benefit analysis was performed. A separate analysis was carried out for each different type of technical solution or approach suggested by suppliers.

2.2.8. The cost benefit analyses, interviews with information managers, chief officers and senior staff, and the high level proposals from potential suppliers, form the basis of the recommendations of this report. These recommendations also take Professor Susskind's recommendations and legislative constraints into consideration.

2.3. Assumptions

2.3.1. It has been assumed that the updated information derived from the 2000 Cap Gemini, Ernst and Young study covers the majority of the criminal justice system, and therefore forms a sound basis for cost benefit analysis. Very little evidence was found of legal prohibitions to the electronic transfer of information that is currently sent on paper. The exceptions to this rule were those cases where there was a legal requirement to produce an original,

signed, document. Other than in those situations, and taking data protection legislation into consideration, it was assumed that all information within the criminal justice system could be transferred and stored electronically.

2.4. Exclusions

The estimates for the generation, transfer, and storage of information in the criminal justice system did not include costs for non-States departments. The costs incurred by the 12 parishes were therefore not included. Costs were also not considered for Crown Advocates and Defence Advocates outside the States of Jersey. At this level of enquiry, it was not felt appropriate to include stakeholders external to government in this study.

3. A review of the current processes in the CJS in Jersey

3.1. The agencies reviewed

3.1.1. As part of this study, the following stakeholder parties in the criminal justice system were reviewed in depth:

- Bailiff's Chambers;
- Judicial Greffe, including the Magistrate's Court Greffe;
- Viscount's Department;
- Law Officers' Department;
- States of Jersey Police;
- Parish of St Helier;
- Probation Service;
- H.M. Prison La Moye.

3.1.2. The study also benefits from information received from Customs and Immigration, HM Attorney General, the Legal Advisors for the Police, the Data Protection Registrar, the Parish of St Brelade and the States Greffe.

3.2. Criminal justice system key interfaces

- 3.2.1. It could be argued that Jersey has a criminal justice process, but not a criminal justice system at present. That is to say, a person's experience of criminal justice in Jersey, would be of a number of separate processes, and a number of separate agencies. There is no single system at this time, that governs the way in which information is transferred between agencies, or that manages the way in which responsibility for progressing a case is transferred.
- 3.2.2. The States of Jersey Police are the originators of much of the information that is passed across the criminal justice system in Jersey. They have frequent communications with the parishes on policing matters, in sending details of people who are to appear in front of parish hall enquiries, and for the preparation of charge sheets, and case papers, for the Magistrate's Court. The parishes similarly have a close relationship with the Magistrate's Court Greffe. The Magistrate's Court Greffe in turn deals frequently with the Judicial Greffe and the Law Officers' Department, as well as the Probation Service and Viscount's Department. The Probation Service has a close relationship with the Magistrate's Court, the Prison, the States Police, the parishes, and the Judicial Greffe. The Law Officers' Department work closely with the States Police, the Viscount's Department, the Judicial Greffe, Magistrate's Court Greffe and Bailiff's Chambers.

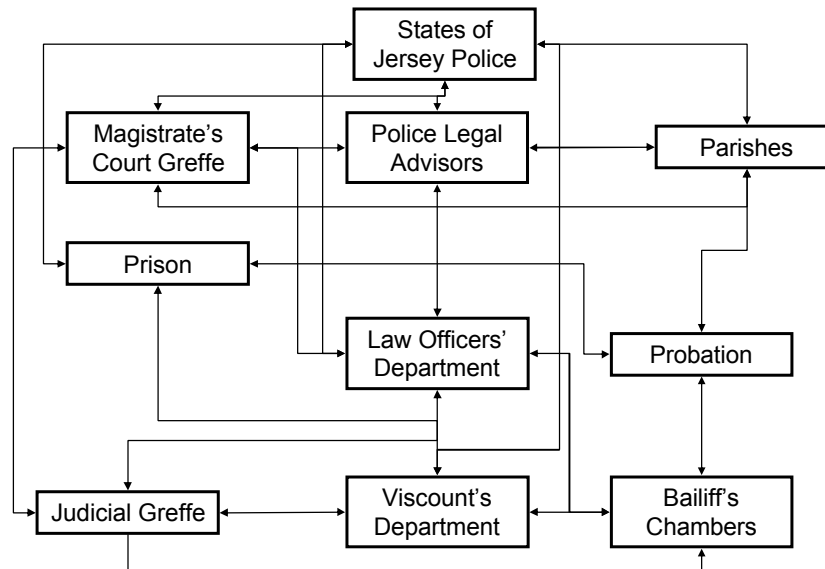


Figure 1

3.2.3. There are several other important interfaces, but as can be seen in **Figure 1** above (a simplified example), there is not a straightforward waterfall model of data flow in the criminal justice system, where information passes from one agency to another, then on to another, until the process is concluded. Information flow in the Jersey criminal justice system is far more complex and iterative, with the same parties being involved with different agencies at different stages. This means that a fully integrated criminal justice system for Jersey would not be a simple task to create, but would require a complex information model, and it would need a large scale project to realise success.

3.2.4. At a simplistic level, departments could be seen as net importers and exporters of data within the criminal justice system. Data exporters create data that is used by other departments, data importers use data that is produced by other departments. One example of data export is the criminal record of an individual. This is retrieved by the States of Jersey Police, and forwarded, as necessary, to authorised parties such as the parishes, for parish hall enquiries, the Probation Service to inform the preparation of social enquiry reports, or the courts, to assist in sentencing.

3.2.5. The States Police are net exporters of data, as they generate much of the data that it is used by other parties in the criminal justice system. They also import data, such as court results. The Prison, on the other hand, are net importers of data. They rely on information generated by other departments, such as social enquiry reports, the sentence of the courts, criminal records, and court appearance dates for detained persons. Department that import significant quantities of data, for internal use, are likely to benefit more from an integrated criminal justice system than departments that do not import much data.

3.2.6. The Judicial Greffe, including the Magistrate's Court Greffe, the Law Officers' Department, the Bailiff's Chambers, and the Viscount's Department, only import small amounts of data, for their own internal use, from other departments. The Probation Service, parishes, and Prison all rely on the import of large quantities of information from other departments to carry out their role in the criminal justice system.

3.3. Duplication of information across the criminal justice system

Analysis of the revised criminal justice system information matrix demonstrates that, of the 332 different units of information currently recorded across our criminal justice system, only 42 information units are unique to one stakeholder. There are no systems that currently accept data directly from another system in the criminal justice system, and therefore, whenever stakeholders record one of the 290 units of information that has already been recorded elsewhere, work is duplicated.

3.4. Information and Communication Technology (ICT) systems used

3.4.1. The States of Jersey Police use the OPEN system developed by the Dyfed Powys Police force in the UK. This is a relatively sophisticated system that allows the States Police to link information from several operational areas together. This, in turn, allows them to monitor performance across the organisation.

3.4.2. The Jersey Probation and After-Care Service have recently moved from using the ICMS (Integrated Case Management System) system developed by a consortium of UK probation services, to DAISy (Data Analysis and Information System). DAISy has been developed from the ICMS system to be especially suitable for Jersey, and includes a number of enhancements to the previous system. This system supports the Probation Service in all areas of its work. There is a link to this system at H.M. Prison La Moye.

3.4.3. The Viscount's Department use the VEMS (Viscount's Enforcement Management System) SQL based system, also known as Lazarus. This system was developed specifically to meet the needs of the department, with the aid of external contractors. It allows the Viscount's Department to have arguably the best fines collection record in the world, with the collection of 96% of fines levied.

3.4.4. Aside from the systems listed above, and the intelligence systems at Customs and Immigration, there are no further systems specifically developed for criminal justice work used in Jersey. The Prison maintain manual records, and other departments use standard Microsoft Office and Lotus Notes tools to manage their information needs in the criminal justice system.

3.4.5. The OPEN, DAISy and VEMS systems are all based on SQL databases, the States of Jersey standard database, which means that they are all technically compatible with each other. There has been considerable investment in these systems to date, but the States Police are conscious that the OPEN system may not be developed much further, and may need to be replaced within the next few years. The States Police, Viscount's Department, and Probation Service are not tied in contractually to their current systems.

3.5. Advantages and disadvantages of current work practices

3.5.1. The current criminal justice system has developed over hundreds of years. Different departments, even those that work very closely together, have developed separately. It is telling that in our current environment there are very

few examples of direct system data sharing between different stakeholders: a number of Prison staff have access to the Probation Service's DAISy system, and the Police Legal Advisors have limited access to States Police systems for example. Across the criminal justice system in Jersey, the level of technical sophistication varies greatly between departments. The States Police, Probation and Viscount's Department all operate systems specifically designed to assist in the administration of criminal justice. The Bailiff's Chambers use a standard diary tool to arrange court resources, and the Magistrate's Court Greffe record court results in Excel.

3.5.2. The Prison maintain manual ledgers to record admissions and manual records for prisoners. This can lead to considerable resource implications, and time delays, in information retrieval, if former prisoners are readmitted. Certain members of the Prison staff do have access to the Probation's DAISy system, and ***it is recommended that the Prison investigate realising the maximum potential from their current access to DAISy.*** However, before any fully integrated criminal justice system could be implemented in Jersey, the Prison would first need to have, as a minimum, some form of electronic database created, to replace their manual systems of recording admissions, and maintaining prisoner records. ***It is recommended that urgent consideration is given to providing the Prison with a technical solution to its information storage and maintenance needs.*** The basic solution could be a simple, relatively inexpensive, database, designed using States standards. Consideration should be given, during development, to how this system might form part of a future integrated criminal justice system.

3.5.3. There is no presumption in favour of departments developing new systems in the criminal justice system in partnership with other criminal justice system stakeholders. ***It is recommended that any new criminal justice systems are developed in partnership with relevant criminal justice system stakeholders.*** Some departments have tried to develop systems that complement other agencies' requirements, such as when the States Police set up the OPEN project board with representatives from across the criminal justice system. This was not completely successful, however, as the charge

sheet automatically generated by OPEN was not acceptable to the Magistrate's Court. Charge sheets are therefore retyped by parishes for presentation to the Magistrate's Court. ***It is recommended that consideration should be given to adapting the charge sheet produced by the OPEN system so that it meets the needs of the Magistrate's Court.***

3.5.4. The current system is paper bound. In the life cycle of a complex criminal case, that goes through the Magistrate's Court as an old style committal, to the Royal Court and then the Court of Appeal, many duplicate copies are made of original papers. As well as the costs of duplication, this ultimately causes a great deal of waste. Where there is so much dependence on manual records, it may be difficult to ensure that information is kept up to date. In Jersey, due to the small size of the jurisdiction, the latter has not proved to be too significant a problem.

3.5.5. The States of Jersey Police have to allocate substantial resources to the preparation of information for minor offences to be considered at parish hall enquiries. In other jurisdictions many of these minor offences are dealt with through fixed penalty notices, which are simpler to administer. The parishes, too, expend considerable effort in dealing with minor offences. This may be among the matters currently being examined by HM Attorney General's working party set up to review the law on criminal procedure. If so, the findings of the group may be taken into consideration, where system improvements are identified, so that these may be implemented in advance of any project to automate processes.

3.5.6. There is a high level of dependence on the efficiency of individual departments within the criminal justice system, and efficient transfer of responsibility between departments, as it is not possible to monitor performance across the system. While there were no reports received of high profile failures to communicate key information in a timely manner, such as could lead to personal tragedy, this is seen to be a risk within the current system.

3.5.7. The public do not have easy access to information about the criminal justice process. Public information is available from a number of different sources, such as the Judicial Greffe website, from the States of Jersey Police, and from the Magistrate's Court Greffe, but there is no one place that victims, witnesses, and family members of accused persons can go to, to find out information about the progress of criminal cases. ***It is recommended that consideration should be given to creating a central repository of public information about the criminal justice system to improve access to information.*** One option for this central repository could be a dedicated area of the single government website, that could gather together in one place all public information about the criminal justice system. Such a website could also have a private, secure, area for victims and witnesses to check on the progress of cases that relate to them. However, in the absence of an automated system to produce case progress information, the resource implications of maintaining a private area could be very high, so this would probably be considered as a later enhancement of a criminal justice information website. ***It is recommended that a private area of the criminal justice website should be considered as a later development, to allow secure access to case progress data for victims and witnesses.***

3.5.8. Though there is not universal agreement on this matter, some senior staff in the criminal justice system feel that the current system works sufficiently well. It is always possible to get hold of information if required, and there are well established networks of personal contacts between criminal justice system agencies, though these are not infallible. There is also a genuine professional preference in some areas of the criminal justice system for paper-based working, and serious concerns about a move to electronic media.

4. Possible future changes to the Criminal justice system

4.1. Available options for change

4.1.1. Professor Richard Susskind, advisor to Jersey Legal Information Board, has described 5 different levels of ICT systems maturity for criminal justice systems.

- At the first level, there are incompatible systems, not sharing data. These systems are based on different technology, and could not be joined up, or transfer data between each other.
- The second level is technically compatible systems, that are not connected or working together. These systems could be joined up to allow data to be transferred between systems, or shared, but this does not happen.
- The third level is systems that do actually work together, but not using the same database. These systems are technically compatible, and data is passed from one system to another like passing on the baton in a relay.
- At the fourth level, departmental systems work together and share the same body of data. These systems do more than send and receive information to each other, they actually share the same information, so that when one agency updates data, all agencies with the correct access permissions can see the updated version.
- Finally, at the fifth level, all agencies use one single system for all their information storage and retrieval needs across the criminal justice system

4.1.2. In the criminal justice system in Jersey we are effectively between the first and second level of technical maturity. We still maintain manual databases, in addition to Excel databases and SQL based systems. We do not demonstrate any significant instances of different systems working together across criminal

justice departments. In the future, we could choose to stay as we are, we could aim for a more sophisticated technological level with increased compatibility, or we could take the regressive step of introducing new systems, in a piecemeal fashion, that are not compatible with existing systems. An integrated criminal justice system could be a level 3, level 4, or level 5 solution. These three levels describe different levels of sophistication for an integrated system.

4.1.3. It is not necessary, when talking about the 5 technology levels put forward by Professor Susskind, to imagine that only one, complete, implementation of a model could suit the criminal justice system's information needs. It might be possible, and it might be preferable, to only integrate a small number of key criminal justice systems at first, and plan to integrate others later. This is the approach taken in Northern Ireland on the Causeway Programme.

4.1.4. The invitation to several commercial suppliers, to suggest how they might establish an integrated criminal justice system in Jersey, identified 4 main technical options for change.

The Company A proposal

4.1.5. The most sophisticated option, put forward by Company A, was to use their existing suite of justice systems to establish an integrated criminal justice system. Successful implementation of this solution would create a situation where data would only be entered once across the criminal justice system. Where data had been generated by one agency, and another agency received updated information, it could amend the shared record, and all stakeholders with access permission could see the updated record, and a history of changes. This is similar to Professor Susskind's fourth level of technical maturity, and similar to the level of sophistication which is aimed at by the Causeway Programme upon completion.

4.1.6. In order to achieve the best results from the Company A solution, it would be necessary to address issues such as data ownership, editorial rights, and security protocols. Data ownership is concerned with defining who owns data that is produced, and who is responsible for it. Editorial rights determine

whether other system users will be able to amend original data produced by another user. Security protocols will determine which users will have access to data, at what times, and what audit trails will be generated for those viewing and amending data. There would need to be a binding agreement, from all partners in the integrated system, that no one agency will unilaterally pull out of the integrated system, or develop peripheral systems that are not compatible with the core system.

4.1.7. The Company A solution would dramatically reduce the cost of transferring data, and storing data produced by other agencies, in the criminal justice system. There would be much better management information available than at present, as a by-product of an integrated system is agreement on all data formats including statistical data. The public, and criminal justice system users, would be able to expect a much faster response time for queries about the progress of criminal justice. This proposal is one of the most costly of those put forward, with a gross estimated cost of £4.2m over 10 years. A 10 year period gives a good picture of how costs and benefits are related during, and following, a major change project.

The Company B proposal

4.1.8. The second most sophisticated proposal was put forward by Company B . The proposal was a cross between Professor Susskind's level three and level four technical solutions. The solution is similar to the Company A proposal, but differs in that users will not be able to amend other users' data. There will therefore be an element of duplication, where users may have to create their own copies of original data, and amend these for their own purposes. This is still very close to the level four technology, but there is an aspect of 'handing the baton on' with data.

4.1.9. In order to achieve the Company B vision, data ownership and security protocols would need to be agreed. There would again need to be a binding agreement from all users that no one agency could unilaterally pull out of the integrated system, or develop peripheral systems that are not compatible with the core system.

4.1.10. The Company B solution would allow a greatly reduced cost to transferring data, and storing data produced by other agencies in the criminal justice system. This saving would not be as great as with the Company A proposal, however, as users would need to create new versions of data if they wanted to amend or update it. Like the Company A solution, there would be much better management information available than at present, as a by-product of an integrated system is agreement on all data formats including statistical data. The public, and criminal justice system users, would also be able to expect a much faster response time for queries about the progress of criminal justice. This proposal has been estimated to cost almost £1.25m over 10 years.

The Company C proposal

4.1.11. The next most sophisticated technical solution is that proposed by Company C. Their proposal is for a mixture of integrated systems between some agencies, with other agencies excluded. The efficiency savings of this solution would be significant, but smaller than in the Company B solution. The same issues of data ownership, security protocols, and commitment from all involved partners would need to be addressed. The statistical information supported by this solution would not automatically be as comprehensive as in the Company A or Company B solutions, as not all of the agencies would be sharing the same data, and therefore would not necessarily be bound to have the same statistical base. The proposal does, however, include a case management module, which could reduce the risk of important information failing to be communicated, and also allow delays in the system to be highlighted and escalated as appropriate. This is the most expensive proposal, being estimated to cost over £4.4m over 10 years.

The Company D proposal

4.1.12. The final type of proposal put forward was presented by Company D. In their suggested solution, an integrated criminal justice system would not be developed, at least not initially. Instead, work would be done on developing improved interfaces between key systems. The solution would allow faster

transfer of data between systems, but there would still be duplication of inputting, and some transfers of information would remain unchanged. This would allow more efficient working, but the benefits achieved would be expected to be smaller than in the Company C proposal. Statistical analysis of the criminal justice system would not be improved by this solution. The proposal does include a court diary system, and the estimated costs of this solution over 10 years would be £825,000.

Cost of an integrated criminal justice system

4.1.13. Details of the estimated costs of the four different types of proposal may be found in Appendix 1. From analysis of these proposals, it is clear that introducing an integrated criminal justice system, in one of these three ways, is likely to cost more than it will save in terms of efficiency gains. There would need to be an initial capital outlay of between £700,000 and £2,400,000, and ongoing annual revenue costs of between £105,000 and £360,000. The estimated efficiency saving, in the tenth year of implementing an integrated system, is estimated to be between £98,000 a year and £120,000 a year.

4.1.14. The most sophisticated technical solution, that would deliver the greatest efficiency gains, is the Company A proposal, a fully integrated system, where data is entered once, and maintained by any users with the correct permissions. This solution is estimated to cost £4.2m over 10 years, including both capital development costs and ongoing revenue maintenance costs. The next most sophisticated technical solution is that proposed by Company B . This solution is for a fully integrated system, where information may be viewed by all those with the correct permissions, but where data can only be amended by the originating agencies. This is estimated to cost at least £1.2m over 10 years. The efficiency improvements would be slightly less than in the Company A proposal. The Company C proposal, is for a partially integrated system, where some agencies are not included in the integration process. The efficiency benefits from this solution may be expected to be fewer than the Company B solution. The cost of the Company C solution is estimated to be £4.4m over 10 years. The Company D proposal cannot be directly compared to the others, as it is not for an integrated system.

4.1.15. The above figures should be treated as conservative. One reason for this is that any project problems that delay the realisation of benefits, and/or increase the project cost, and/or reduce the eventual benefits, would further increase the actual cost, and reduce the equivalent value of efficiency savings. It is more common than not to have project overruns for cost and time in complex IT projects.

4.1.16. All of the costs identified are estimates from suppliers, based on a high level overview of Jersey's criminal justice system. It is possible that, on more detailed analysis, the cost of providing an integrated system in Jersey could be cheaper than currently estimated. It is also possible, however, that the cost could be greater than the current estimates. The suppliers concerned have submitted their initial estimates on the understanding that they cannot be held to the estimated costs. Each of the suppliers contacted has identified the need for further detailed analysis of the criminal justice system requirements before they could estimate a firm cost for development work. There has been no adjustment of the expected costs to reflect the high level of risk of an integration project. It would be normal practice to set up to 10% of the total project cost aside, as a contingency fund, which could be called on in the event of unexpected additional costs to the project, not covered by the contract with a supplier.

4.1.17. It is worth noting that all of the savings identified in the cost benefit analysis are manpower efficiency savings, and could only be realised if staff numbers were reduced across the criminal justice system. Some non-staff costs do occur elsewhere in our examination of the system (photocopying costs for example), however, none of the proposed solutions include an electronic courtroom. Data may be moved about, or shared, more efficiently between agencies through automated systems, but while courts continue to work with paper, information will at some point have to be printed out, distributed, and disposed of securely, or physically stored. The costs of these processes may be moved from the current department to another in an

integrated system, but they will not be avoided while courts require hard copies of all case papers.

4.2. Experiences in other jurisdictions

CRAMS (Case Recording And Management System), National Probation Service, England and Wales

4.2.1. The UK has suffered poor publicity over a number of high profile Information and Communication Technology project failures in several areas of government, including within their criminal justice system. The CRAMS National Probation Service case management software was originally planned to be implemented across all probation services in England and Wales, but it had to be abandoned after several years' work had still failed to bring the intended benefits. Of the 54 probation services, only 16 used CRAMS extensively, with 15 services not introducing the software at all. Against an initial estimate of £4m, the eventual spend on CRAMS rose to almost £11m, excluding costs borne by individual services to correct problems with the reporting tool. Due to the failure of CRAMS, 27 probation services resorted to developing their own case management software (which is the reason for the development of ICMS, the precursor to DAISy, used by Jersey's probation service). This piecemeal development led to data being held in a number of different formats, which was expected to create a major challenge for the development of any future national probation case management tool.¹ It is important to be aware of the potential risk in starting any major change project, and the example of CRAMS as a major integration project that failed is a useful reminder.

The Causeway Programme, Northern Ireland

4.2.2. The Causeway Programme in Northern Ireland was set up for the following reasons:

¹ See the National Audit Office report at: http://www.nao.org.uk/publications/nao_reports/00-01/0001401es.pdf for more details

- To ensure that the administration of justice is not delayed by lack of timely, accurate information
- To eliminate duplication in information capture and storage
- To reduce the number of routine enquiries made from organisation to organisation
- To promote good management through the provision of relevant and accurate statistics
- To reduce the resources devoted to correcting errors from copying and to moving paper documents

4.2.3. The Causeway Programme is a joint undertaking by the criminal justice organisations in Northern Ireland. It aims to improve the administration of criminal justice by replacing paper-based records with systems based on the electronic storage, transfer and retrieval of information. The model used attains Professor Susskind's level four discussed above comprising a centralised information store and an Intelligent Data Exchange for sharing information. The result is a virtually unified system where interoperating separate systems share one body of data. This project has a target completion date of December 2006, but it has already won recognition for its Programme Director, Brett Hannam, winner of the Office of Government Computing 2004 Individual Delivery Award. This project is an excellent example of the commitment and resources necessary to achieve success in large scale, complex projects. The Causeway Programme is estimated to cost £35m over 5 years, with the majority of the benefits being delivered in the final year of the project. It is important to note that the project does not list costs savings as a business driver for the project, but concentrates on process improvement. By way of comparison with Jersey the population of Northern Ireland is 1.7 million people. The cost of the criminal justice system was estimated as £890 million in 2003. There are 21 court venues and the Court Service employs 750 staff and deals with 55,000 cases per year. There are 29 police districts employing 7,500 officers and three prison establishments. The Probation Service employs about 250 people and prepared nearly 7,000 reports for the courts in 2001-2002. Clearly the criminal justice system is not only much larger than Jersey's, but also more complex with several branches of each of Jersey's

single services (e.g. Magistrate's Court, Police Force, Probation Service, Prison) thus making the management of information much more difficult. The Causeway project itself employs 12 staff made up of 6 specialists and 6 people on two year secondments from the criminal justice agencies.

CICJIS (Colorado Integrated Criminal Justice Information System), USA

4.2.4. The following information is taken from the website of the National Conference of States Legislatures in the United States².

4.2.5. Colorado first identified the need to integrate criminal justice information in 1974 when it developed a long-range plan for an automated criminal justice information system. In 1989, a Commission on Information Management task force was charged with developing a five-year plan. This task force identified 10 objectives for an integrated system, including providing law enforcement agencies with real-time access to criminal history information; maintaining a complete, current and accurate criminal justice database with adequate security and privacy features; and providing accurate and timely information relative to crime and criminal justice activities within Colorado to criminal justice agencies for operational and statistical purposes.

4.2.6. In 1993, the Criminal Justice Commission created a subcommittee to study how to link the various state criminal justice information systems. Data quality issues were identified during the commission's study. As of July 1994, almost nine of 10 criminal history records were incomplete. In addition, almost 200,000 arrest fingerprint cards had not been processed by the Colorado Bureau of Investigation (CBI). These problems highlighted the need to improve the effectiveness of the criminal justice information systems. However, since the Criminal Justice Commission was allowed to sunset in June 1994, no plan was ever implemented

4.2.7. Against this background, Colorado succeeded in becoming the first US State to introduce an integrated criminal justice system, the Colorado Integrated Criminal Justice Information System (CICJIS) in 1996. However, although this

² For more information, see the website at <http://www.ncsl.org/programs/lis/intjust/report01.htm#Colorado>

system had been operating for many years an audit report in 2003 still showed a number of problems including: different restitution amounts recorded in 55% to 60% of cases, between two linked systems; users not being properly trained in CICJIS; and two-thirds of Colorado counties did not have access to the most efficient fingerprinting method.³

4.2.8. Colorado demonstrates clearly how much effort may be involved in such a large scale complex project. Its initial attempts ended in failure, but at the second attempt, a successful system was introduced. However, seven years after this system first went live, there were still significant unresolved issues, which would have had an impact on the operational resources of the criminal justice system.

4.3. The case for an integrated criminal justice system

4.3.1. There is a great deal of duplication in the current system. While we are told that there is not a problem with increased errors due to duplicate input, this remains a risk, and it is always less efficient to record the same data many times than once only. Because we pass on so much data in hard copy, paper waste and storage space and cost are significant issues. One example of this from the Jersey criminal justice system is the passing of criminal records from the States Police to the Probation Service. In this instance a criminal record is retrieved electronically by the States Police, printed out onto paper, put into an envelope and sent to the Probation Service, who scan the hard copy into an electronic database, and then shred the original. The costs of printing, carriage, scanning and shredding the criminal record could all be avoided if the data could be passed, securely, in electronic format.

4.3.2. Some key stakeholders in the current system, notably the States Police, Probation Service, and Prison, have expressed concern about the resources needed to continue to work with the present information systems.

³ For more information see the full audit report at: http://www.state.co.us/gov_dir/cicjjs/About/2003-CICJIS-Audit.pdf

- 4.3.3. The criminal justice system in Jersey does not have good management information available across the criminal justice process. Different agencies record data in different ways, and report on different matters. It is very difficult to generate meaningful statistics about the efficiency of the Jersey's criminal justice administration. Good quality statistics inform the agencies of the criminal justice system about their own performance, and the performance of the system as a whole. The data can be used also to inform criminal justice policy, and the need to improve the quality of statistical data in the criminal justice system was a key recommendation of Professor Andrew Rutherford's report to the Home Affairs Committee in 2002. The quality of statistics in Jersey's criminal justice system could be greatly improved as a product of the implementation of an integrated system.
- 4.3.4. We do not have infallible safeguards to ensure that important information is passed on in a timely manner. This could include information about a known suicide risk, a child protection risk, a person's history of racial violence, or mental illness. In Jersey's current system, there are no safeguards ensuring that this type of information is confirmed as received by other agencies, though work on a multi agency public protection policy is reasonably advanced. The criminal justice system agencies, and others, do sometimes use a risk notification tool called RAMAS (Risk Assessment, Management and Audit Systems) to alert other agencies to individuals who pose a potential risk to themselves or to others. The notification process can also trigger a case conference to ensure suitable communication and joint action in serious cases. However this tool is not used by all agencies in all cases. Recent events in the UK have highlighted the importance of watertight procedures for sharing this type of information. The impact of just one major scandal, such as the murder of Victoria Climbié in February 2000, would not only be a tragedy in itself, it would also affect Jersey's reputation, and the Jersey public's confidence in the system. Greater control over this type of information could be guaranteed with an integrated system automatically highlighting risks for all key parties. It would be further possible to ensure that these agencies confirmed receipt and understanding of this information, failing which, there could be an automated escalation procedure, whereby the data originator would be advised that the

information did not appear to have been received. This type of safeguard would not have to rely on the existence of an integrated criminal justice system, but could be easily supported by such a system.

4.3.5. Public access to criminal justice information is not good. There is information available, through different agencies, about the criminal justice system in Jersey, but there is no central repository that can be referred to. An integrated criminal justice system would not solve this problem, but designing and building an integrated system would create a good opportunity to address the issue of public access to criminal justice information. The users of this information would be the general public, victims, victim organisations, witnesses, accused persons and their families.

4.3.6. There was no consensus on whether time taken between charge and sentence posed a problem in Jersey of sufficient weight to support the introduction of an integrated criminal justice system. (This is further evidence of the difficulty of extracting management information in our current system.) However, Article 6 of the European Convention on Human Rights, states that ‘... everyone is entitled to a fair and public hearing within a reasonable time...’ While no evidence was presented that showed Jersey to be systematically failing in this regard, some individual instances of excessive delay were given. These instances were rare, and often related to the unusual complexity of the case. There was an example mentioned, however, of a Youth Court case where the offence occurred in August 2004, and the first hearing of this was in March 2005. Improved information systems may or may not reduce the time taken to process a court case, but they could help highlight situations where a delay was becoming unreasonable.

4.3.7. It was noted that there were occasions when individuals were presented in court on a series of charges, and the court remained unaware that there were other, related charges that had not yet been brought to the court. On those occasions, it was possible that the sentence of the court was different to what it would have been, had the full extent of the related offending behaviour been known. It was thought that the introduction of an integrated criminal justice

system, with a case management function, could help avoid this happening. It was also noted that a case management tool across the criminal justice system could help avoid any delays in the transfer of responsibility for criminal cases between different agencies.

4.4. The case against an integrated criminal justice system

4.4.1. Several key staff, within the Jersey criminal justice system, noted that our current way of doing business does work within the current resources (time and staff) available. It has been maintained that Jersey does not face the same pressures as a larger jurisdiction, and that we do not suffer from the same types of delays from charge to trial, or the same resource pressures. It has been stated that some instances of duplication are unavoidable. An example of this would be several departments being represented in court at the same time, all recording the results of the court. While it could be argued that the recording of results need only take place once, this would not free up any staff time, as the staff involved would still need to attend the court.

4.4.2. The costs of change are high. The cheapest proposal for an integrated criminal justice system was at a gross cost of £1,225,000 over 10 years. These costs are calculated by adding the total capital development cost to the ongoing revenue costs, over a 10 year period. The costs would not be offset by savings, as actual cost savings for an integrated system would only be realised if staff numbers were reduced, or the amount of paper in the system was reduced. None of the departments who contributed to this study could imagine making actual manpower savings in the event of an improved information system being implemented, as any staffing savings would more likely be reallocated to other, currently under-resourced, areas of the departments' business. This, of course, would still benefit those departments. The greatest savings in the use of paper would rely on the introduction of an electronic courtroom. It was felt by most interviewees that the Jersey criminal justice system is not ready for an electronic courtroom at this time, and that working with paper in court was more efficient, and appropriate, in the great majority of cases, than using a computerised system.

4.4.3. If an integrated criminal justice system were to be introduced in Jersey, the amount of disruption, loss of staff time, and expense of implementation, would outweigh any actual cost savings or efficiency savings in some departments. Those departments administering the courts would be the hardest hit by a large scale integration project. These departments: the Judicial Greffe including the Magistrate's Court Greffe; the Viscount's Department; the Bailiff's Chambers; and the Law Officers' Department; would need to be involved at all stages of an integrated system's development, but they are net exporters of data, and would therefore not realise savings on the scale of net importers of information, such as the Probation Service and the Prison.

4.4.4. The States of Jersey Police generate a large proportion of the information used by other agencies in the criminal justice system. The States Police, however, operate on a separate network to the other government agencies. This separation has been deliberately managed to protect the local link to the Police National Network (PNN). Having a link to the PNN is needed to search and maintain criminal records. Jersey does not have a right in legislation to have access to the PNN. While determining the viability of a direct data link between the States Police and other agencies was outside the scope of this study, the States Police have expressed a concern that changes to their current protected network status could potentially jeopardise their link to the PNN. If the States Police could not access the PNN for criminal records, the administration of criminal justice would be very seriously affected, as the current sentencing procedure relies on access to full criminal records. If the States Police did not form part of an integrated criminal justice system, there would be greatly reduced system benefits.

4.4.5. There is little evidence to suggest that reform of the criminal justice system is a political priority in Jersey. The States of Jersey 2005-2010 Strategic Plan does make specific reference to the criminal justice system in Jersey, but does not refer to a need to bring about change to the judicial systems. Strategic Aim Three, 'To Enhance Quality of Life' with the strategic objective 'Support of the Judicial and legal systems' only has the strategic action: 'Recognise and

support the importance of the Island's judicial and legal systems, thus enabling the Courts to maintain the highest standards in the administration of justice'.

4.4.6. Large scale, complex ICT projects are inherently risky. The UK has suffered poor publicity over a number of high profile ICT project failures in several areas of government, including within their criminal justice system. The CRAMS case management software was originally planned to be implemented across all probation services in England and Wales, but it had to be abandoned after several years' work had still failed to bring the intended benefits. Of the 54 probation services, only 16 used CRAMS extensively, with 15 services not introducing the software at all. Against an initial estimate of £4m, the eventual spend on CRAMS rose to almost £11m, excluding costs borne by individual services to correct problems with the reporting tool. Due to the failure of CRAMS, 27 probation services resorted to developing their own case management software (which is the reason for the development of ICMS, the precursor to DAISy, used by Jersey's probation service). This piecemeal development led to data being held in a number of different formats, which was expected to create a major challenge for the development of any future national probation case management tool.⁴ It is important to be aware of the potential risk in starting any major change project, and the example of CRAMS, as a major criminal justice system information and communication technology project that failed, is a useful reminder.

4.5. The environment for change

4.5.1. Large scale, complex projects have a tendency to fail, that is, to exceed the budget, to take longer than planned to complete, or to deliver reduced functionality, or any combination of these three factors. To mitigate the risks of this happening, it is vital that there is strong leadership for the change programme, and it is very important that there is a high level of commitment to the changes across all participating organisations. Political support for projects also helps to protect against failure.

⁴ See the National Audit Office report at: http://www.nao.org.uk/publications/nao_reports/00-01/0001401es.pdf for more details

4.5.2. Commitment is much easier to achieve, in large cross-departmental projects, when all the participating departments are able to see a clear benefit from successful completion. In Jersey, the Judicial Greffe, including the Magistrate's Court Greffe, Bailiff's Chambers, Viscount's Department, and Law Officers' Department, have all said that they are comfortable with the current criminal justice administration. They can see that there could be benefits with a more sophisticated system, but they are adequately served by the present system. Where there are different levels of commitment to change, the project leader needs to have the ability to influence and motivate all parties, and at the last resort, to impose change.

4.5.3. The criminal justice system scoping study is sponsored by the Home Affairs Committee, and the Jersey Legal Information Board. The Jersey Legal Information Board is chaired by the Bailiff, the President of Jersey Royal Court. In Singapore, where many positive changes have been made to their justice system, the championing of the changes by the Chief Justice was seen as a key success factor. In Jersey, the Bailiff could provide leadership for changes to the criminal justice system. The President of the Home Affairs Committee would also be strongly placed to champion any criminal justice system changes. In the current criminal justice administration, due to the separation of powers between the Judiciary and the Executive, no one person or authority is able to enforce compliance with a change programme.

4.5.4. If Jersey were to work towards an integrated criminal justice system, there would need to be regular, detailed, input from criminal justice staff to the project team, to ensure that the delivered system met the needs of its users. Staff within the criminal justice system in Jersey are working to their full capacity, and some departments have warned that their staff are already barely able to carry out their legislated duties. The inability of hard pressed departments to provide adequate staff time to support such a change project would pose a significant risk to its success. The impact of staff involvement in developing an integrated criminal justice system would mean either a reduced level of service to the public within existing staffing levels, or the employment

of extra staff. This would be necessary to allocate resources to user requirements workshops, to prototype testing, and to final acceptance testing, for example. The success of the Causeway Programme in Northern Ireland to date, has been in no small part attributed to the extensive involvement of criminal justice staff. This need for staff input to the project would continue, to a greater or lesser extent, throughout the project's development, which could be up to 5 years. Political support would be needed to approve either extra staff, or reduced levels of service within the criminal justice system. The probable alternative would be project failure. It is extremely difficult to estimate the internal staff involvement necessary to support a five year integration project, but the requirement is unlikely to average less than one person, from each agency involved, giving up half a day a week, every week, for five years, to the project. In practice, there will be long periods when very little input will be needed from the different agencies, and other periods when representatives will need to be involved on almost a full time basis.

4.5.5. There is no single budget for the administration of criminal justice. This means that the capital cost of developing an integrated system would either have to be funded from within the existing cash limits of the constituent agencies, or separate capital funding would need to be sought. The States of Jersey capital funding programme is determined for the next 5 years. The Treasury have advised that they are willing to consider investing funds in projects that will achieve actual cost savings, on the understanding that future cash limits will be reduced in line with the expected savings. The IT Capital Vote, decreasing from £4m in 2006 to £3m in 2009, is fully allocated for the next three years, and could not be called upon for a major integration project. The Finance and Economics Committee manages a sum of monies called the Criminal Offences Confiscation Fund, consulting with HM Attorney General before promoting or supporting any measure. The Attorney General's advice was that a project to provide a new information technology system across the various pillars of the criminal justice system would be eligible to apply for funding from this source, but of course there was no guarantee that any request would be approved and there were many other calls on the Fund.

4.5.6. In 2004, the States of Jersey agreed a major five year change programme for the public service. This programme was to radically reform the organisation, and to reduce the annual cost of running public services by £20m after five years. This programme may have conflicting influences on the ability of criminal justice agencies to cooperate on an integrated criminal justice system project. On the one hand, the introduction of a culture of change would support a future criminal justice system change project. The type of cooperative working practised during the States Change Programme would be useful experience. On the other hand, the fact that there is already a major change programme underway, may make it harder to achieve success with an integrated criminal justice system project, as scarce resources would already be diverted to the States Change Programme. While change was happening within criminal justice system agencies, as part of this programme, it could be harder to introduce other changes, as there might not be a clear, stable, base from which to move ahead.

4.6. Data Protection issues

4.6.1. The Data Protection (Jersey) Law, 1987 was the first piece of legislation in the Island to address the use of computers and its prime purpose is to uphold an individuals' right to privacy by ensuring that any computer processing and use of their personal information follows a set of enforceable standards. It will shortly be replaced by the Data Protection (Jersey) Law, 2005, which will extend data protection controls to cover certain structured manual, as well as electronically processed, personal information.

4.6.2. The processing and disclosure of sensitive personal data by criminal justice departments is legitimised by Schedule 3 of the Law as the processing is necessary for the administration of justice and for the purpose of, or in connection with legal proceedings.

4.6.3. States departments have to ensure their own compliance with the Law by registering as a user and by ensuring that personal data shall:-

- be collected and processed fairly and lawfully;
- only be held for specified, lawful, registered purposes;
- only be used and disclosed for registered purposes or disclosed to registered recipients;
- be adequate and relevant to the purpose for which they are held;
- be accurate and, where necessary, kept up to date;
- be held no longer than is necessary for the stated purpose;
- have appropriate security surrounding them.
- and that appropriate subject access will be granted

4.6.4. So long as criminal justice agencies collect the data lawfully, and it is accurate, relevant and secure, there is no difficulty about disclosing that data to other members of the criminal justice system, provided that they are registered to do so for that purpose.

4.6.5. The criminal justice system also benefits from certain exemptions regarding disclosure for law enforcement purposes, and exemptions to subject access, for the prevention or detection of crime or the apprehension or prosecution of offenders. Also in other circumstances, for example where a criminal justice department believes that disclosure of information is urgently required for preventing injury, or other damage to the health of any person or persons, Article 33 (7) of the Law allows them to do so. In such a case a department could disclose information to a non-registered recipient: a member of the public at risk for example.

4.6.6. Should the Jersey criminal justice system move towards greater integration then the data ownership issues would need to be clear to all departments. Where data is passed from agency to agency the data would still “belong” to, and would still be the responsibility of the separate criminal justice agencies, with all the necessary access and security controls required to be in place. For this reason, and others, the advice of the Data Protection Registrar is that whilst the Law sets out the legal framework to enable processing and disclosure, fully detailed protocols should be signed up to by all agencies

involved, because agencies would remain separate data controllers, with their own responsibilities and liabilities.

4.6.7. The Data Protection Registrar also advises that, although law enforcement benefits from a wide range of exemptions, it is preferable in the circumstances of this project not to look to these, rather to the ways in which the data can be processed and disclosed in compliance with the general terms of the law, as exemptions may be problematic for a number of reasons. Again, data sharing protocols for the Criminal Justice System project should work effectively and entirely lawfully in this regard.

4.6.8. Other data protection implications for the scoping study are :

- Any department not already registered would have to be so.
- If data were to be exchanged between departments for the first time this would represent a change in disclosure. Departments may therefore have to change their registration details to register a new disclosure.
- The issue of ensuring security of transmitted data would be a factor. Systems would have to be robust and vetted e.g. with by the use of audit trails etc.
- If transmitted data were to be subsequently stored the principle referring to storage would have to be followed: i.e. it can be held no longer than is necessary for the stated purpose.
- There will be Data Protection implications if any data were being processed off-island. This would constitute a transfer of data and the Jersey data user would have to have due regard to the security of that data as well as the protections for the individuals who are subject of that data. In addition the data user would need to ensure that the receiving country met certain standards.
- Greater use of electronic media could give rise to issues concerning the use of paper, and any changes from paper to electronic media would have to be checked for compliance. For example there is reference in the new Law to a copy of a warrant having to be shown when premises are entered and searched (Schedule 9 Article 50).

4.6.9. Overall, however any improvements to the Jersey criminal justice system information systems which would make them more accurate (e.g. one time entry; updating of addresses automatically across departments) could make the States **more** compliant with the Data Protection Law.

4.7. Freedom of Information issues

4.7.1. The Code of Practice on Freedom of Information currently affects the States Police, the Prison, Customs & Immigration, and the Official Analyst. It is planned to bring in a law, that would put the Code onto a legally binding level. It is likely that the departments currently exempt from the Code: the Courts and departments of the judiciary, including the Law Officers Department, would remain exempt from the new law.

4.7.2. If an integrated criminal justice system were to be introduced, there would not necessarily be a significant impact on freedom of information issues. As long as the data owners remain the same as in the current system, the existing departments would remain responsible for freedom of information issues. The Company B solution, the Company C solution, and the Company D solution would all meet this criterion.

4.7.3. If an integrated criminal justice system were to be introduced along the lines of the Company A proposal, there could be issues with freedom of information. This is because it would be possible to have data originally generated by one department, then amended by another, and the ownership of this amended data may need to be determined. The Causeway Programme in Northern Ireland, has a similar technical solution to that proposed by Company A, but it is felt that storing data centrally does not mean that a new database has been created, and therefore the owners of the data remain unchanged regardless of where the data is stored. This question has not been tested in the courts in Northern Ireland.

4.7.4. Despite the perceived lack of significant material change as a result of greater electronic exchange of information, it is felt that criminal justice departments bound by the Code of Practice, would be advised to enter into an information sharing protocol covering both Freedom of Information and Data Protection issues. This would lead to greater clarity and transparency. It is actually likely that creating an integrated criminal justice system would improve the ability to index and retrieve information, which would make it easier to comply with freedom of information codes.

4.8. Human Rights issues

4.8.1. Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms would appear to have clear implications for this scoping study. It states that every individual has the right to a fair and public trial within a reasonable time. Should the Jersey criminal justice system not be ensuring trial within a reasonable time frame it might be seen to be in contravention of the Law, and any steps which would lead to trials being held within a reasonable time frame would ensure compliance. An integrated system could therefore support Article 6 compliance by helping to ensure that there were no unreasonable delays for trials. There was no evidence found, during this study, to suggest that delays are currently a significant or frequent problem in the criminal justice system. It should be noted, however, that Jersey does not have statutory time limits for progressing criminal cases. If statutory limits were to be introduced, and the criminal justice system was found to be regularly failing to meet these targets, action would need to be taken to remedy the situation.

4.8.2. Article 8 of the Convention, the right to respect for private and family life, home and correspondence, also has implications for an integrated criminal justice system. If personal data is to be shared across the system, unless it is with the specific consent of the persons involved, or in accordance with law, in the pursuit of a legitimate aim, or necessary in a democratic society, then the Convention right may be breached. It is clear that the protection of personal data is a fundamental aspect of respect for private life. The impact of human

rights law can be seen in the area of data protection and administrative law, and in common law. An integrated criminal justice system would need to be carefully designed to ensure that there was no breach of Article 8 of the Convention.

4.9. Technical and organisational changes

4.9.1. All of the technical solutions proposed by suppliers seek to build on, not replace, existing technology. This means that the software currently used by departments would not be changed. The benefit of this approach is that the interface remains familiar for the end user. The drawback is that, as existing software reaches the end of its useful life, its replacement would need to be integrated with the existing systems, at an additional cost to the integrated criminal justice system.

4.9.2. The criminal justice organisations would not be organisationally affected by the development of an integrated criminal justice system. While the better use of information across the system may lead external stakeholders to consider the system to be a single agency, the independence of the different departments will not be compromised.

4.10. Cost benefit analysis

4.10.1. The cost of generating, transferring, and processing data in the criminal justice system at present, was calculated by assigning a manpower cost to each detailed process identified, department by department. The total cost of criminal justice system data management within States' departments came to almost £450,000 per year, of which just under a third represented the cost of transferring data between criminal justice system agencies, and storing received data, generated by other criminal justice system agencies. Approximately two thirds of the cost is in generating original data such as court orders, hearing transcripts and social enquiry reports. Between £135,000 and £150,000, therefore represents the annual cost of data processing that might be affected by the introduction of an integrated criminal justice system. This

analysis does not include the social benefits of integration, for example, the benefits of improved communication, risk reduction, management information and public access to information. Internal staff costs, for operational time given up to support the project, have also not been included.

- 4.10.2. The different technical proposals suggested by suppliers in this scoping study period were all analysed, and the details are listed in **Appendix 1**. In 4.1.15. above it has already been noted that none of the savings identified are actual savings, but even considering virtual savings, it can be seen that none of the technical solutions would generate efficiency benefits to equal their implementation costs over a 10 year period. In fact, it can be seen that none of the proposals for an integrated criminal justice system are expected to generate benefits that will equate to the additional revenue cost expected to maintain the technical solution. Because no actual cost savings were identified, not only will the capital cost of any of these solutions need to be found, but also additional revenue funding to pay for the ongoing support and maintenance of any new system.
- 4.10.3. The least expensive of the three integrated criminal justice system proposals, the Company B proposal, would require an initial capital investment in the region of £700,000, to be spread over 5 years, and an estimated continuing annual maintenance cost, following completion, of £105,000 a year. The costs of this project have therefore been calculated as £1.2m over a ten year period. The efficiency savings over this same period, if realised, would amount to approximately £620,000, leaving a net cost to the States of about £580,000 for the project. It must be stressed, however, that all the evidence presented shows that these efficiency savings (exclusively staffing savings) would not in fact be realised, and the actual cost for this proposal would be the full £1.2 m.
- 4.10.4. We are advised that it is highly unlikely that the potential manpower savings identified will be realised. The Company B proposal would therefore effectively increase, by about 75%, the current annual cost of transferring data between criminal justice system agencies, and the cost of storing received

data, generated by other criminal justice system agencies. The Company A proposal, which is closest to the Causeway solution, would cost an estimated £360,000 a year to maintain, which would more than treble the annual cost of transferring data between criminal justice system agencies, and the cost of storing received data, generated by other criminal justice system agencies.

5. Recommended option

5.1. The operation of the CJS in Jersey in the future

5.1.1. A sophisticated, fully integrated criminal justice system enables the efficient management of information needs in the criminal justice process, but it is not an appropriate solution for Jersey at this time. The current system works sufficiently well for many of its stakeholders, and there is not the same scope for efficiency improvements as in many larger jurisdictions. In Jersey, delays from charge to trial are not seen to be a major problem, and, in the absence of an integrated system, communication at operational level between different agencies is often made possible by well established personal networks of contacts. While efficiency could be improved in an integrated criminal justice system, this would not lead to significant cost savings. In fact, it is likely that an integrated criminal justice system would cost Jersey between £1.2m and £4.5m over 10 years. There is no shared vision across the criminal justice system administration of the need for technical solutions to improve performance, and there is therefore a risk that not all stakeholders would be equally committed. In summary, there are insufficient business drivers for full integration. ***It is recommended that a sophisticated, fully integrated criminal justice system is not pursued at this stage.***

5.1.2. Although a sophisticated, fully integrated criminal justice system is not recommended at this stage, it is recognised that this is a desirable aim for Jersey in the longer term. In the interim, there are a number of changes that can be made, that could improve the flow of information across the criminal justice system, including partial integration of current systems using existing

technology, and facilitate the future development of a fully integrated criminal justice system.

- 5.1.3. There is currently no single group that is responsible for the administration of the criminal justice system in Jersey. ***It is recommended that a strategy group, responsible for the direction of the development of efficient administration across the criminal justice system, should be established.***

This group would be responsible for setting overall policy for the development of the administration of criminal justice in Jersey. This group should meet at least 4 times each year, and could be co-chaired by a representative of the courts, and a representative of the non-judicial departments. This group should decide how far they agree with the vision of a sophisticated, fully integrated criminal justice system in the future, and how this vision may be achieved. They would then be well placed to “sell” that vision to all stakeholders.

- 5.1.4. Once established, the strategy group should work towards reaching agreement on a number of key issues. ***It is recommended that one of the strategy group’s first tasks should be to decide whether the different criminal justice system agencies should be bound to abide by collective decisions of the group on administration of the criminal justice system.***

Without a formal agreement on this matter, such as a binding memorandum of understanding, there would be a serious risk that any future complex change project, or coordinated development of the criminal justice system, could be undermined by the unwillingness of one stakeholder to participate. Similarly, there would be nothing preventing one agency developing a new, incompatible, information system, without consulting other criminal justice system members. Such an agreement would be particularly important considering the additional challenge posed by guaranteeing the compliance of non-States bodies, such as the twelve parishes. It is possible that such an important decision may need to be supported by the States of Jersey.

- 5.1.5. With an agreement in place, on decisions of the group being binding on all parties, ***it is recommended that the strategy group should work towards agreement on a single statistical reporting format across all criminal***

justice system agencies. The States of Jersey Statistical Unit could work with the strategy group on identifying the common ground between different agencies, and how both common and agency-specific statistical data may be presented jointly on behalf of the entire criminal justice system. After agreement on a statistical reporting format, the strategy group would be responsible for ensuring its implementation across the criminal justice system. Having a common language for statistical reporting would assist the development of criminal justice policy, and highlight any areas of concern in the administration of criminal justice. With the assistance of the Statistical Unit, there should be no cost apart from staff time in creating a common language for statistical reporting.

5.1.6. *It is recommended that the strategy group should review measures to ensure that the communication of urgent information, which relates to the safety of the public, staff and detained persons, is actively managed.*

The current criminal justice system does not have sufficient safeguards to ensure that this type of information is always correctly distributed, received, and acted upon. The RAMAS protocol is not uniformly applied in all agencies in all cases, and where controls are optional, there is a risk that urgent information may not be communicated in all cases. The racially motivated murder of Zahid Mubarek, at Feltham Young Offenders Institution on 21st March 2000, is an example of how a failure to pass critical warning information on, and act on it, may endanger people in the criminal justice system. A fully integrated criminal justice system could include, as part of its functionality, a mechanism to ensure that urgent information is shared automatically with authorised persons and organisations. In the absence of a fully integrated criminal justice system, Jersey should investigate an alternative solution, and implement it across the criminal justice system. The solution should be able to ensure that the information is sent securely to all authorised parties, and the recipients should confirm receipt and understanding of the notice. If receipt is not confirmed within a specified time, the originator should be notified, and should follow up the reason for this.

5.1.7. Although a sophisticated, fully integrated criminal justice system is not thought appropriate at this time, Jersey criminal justice agencies can consider how to facilitate a future project of this kind. One of the most important steps in this direction would be to agree a single data schema across the criminal justice system. This schema would determine how data within the system should be structured. For example, a standard postal address format could be used for all addresses. The strategy group could ensure that all new systems developed for criminal justice agencies in Jersey complied with the agreed data schema, and where possible and affordable, data formats in existing systems could be amended to comply with the standards. This would make any future integration project considerably easier to achieve, as working towards a single data schema would identify which agencies used which types of information, and having most or all existing electronic data in standard formats would make any data sharing solutions much easier to design. This would also make any potential interim data sharing, or data exchange, agreements more efficient, as data would be shared or received in the correct format to directly populate the recipient's database. For the above reasons, ***it is recommended that the strategy group agrees a single data schema for the criminal justice system, and that all new criminal justice systems developed, comply with this schema.*** The development of a single data schema would require significant staff input, as well as systems analyst time. It may also be considered appropriate to engage a consultant to help facilitate this work. It is possible that this work could cost up to £50,000.

5.1.8. ***It is recommended that the strategy group should produce a blueprint for criminal justice system development in Jersey.*** The blueprint would display in one place all of the different initiatives planned across the criminal justice system, and it would also note external factors such as new legislation and States strategic aims. This would allow senior managers to consider the interdependencies of all initiatives affecting the criminal justice system. This in turn could help inform any policy decisions on prioritisation of changes to criminal justice administration, and would be invaluable in planning towards a greater degree of integration across the criminal justice system.

5.1.9. As noted in 3.5.7 above, public information is available from a number of different sources, such as the Judicial Greffe website, from the States of Jersey Police, and from the Magistrate's Court Greffe, but there is no one place that victims, witnesses, and family members of accused persons can go to, to find out information about the criminal justice process, and progress of criminal cases. ***It is recommended that consideration should be given to creating a central repository of information about the criminal justice system, to improve public access to information, and it is recommended that a private area of the criminal justice website should be considered as a later development, to allow secure access to case progress data for victims and witnesses.*** The development of a website, to display all criminal justice information centrally, could be developed by criminal justice staff, with the assistance of the Computer Services Web Team, depending on availability. The cost of putting a simple site together could be less than £10,000.

5.1.10. ***It is recommended that the strategy group should consider how communication and efficiency may be improved through the better exploitation of technology already available to criminal justice agencies.***

Projects to be investigated could include common access to electronic documents using Livelink, the use of Livelink to generate case tracking workflows, and the use of secure e-mail where appropriate. It may be noted that messages sent within the States' internal e-mail system can be secured through the use of encryption. Some departments felt that a secure link to the Government Secure Intranet (GSI) network in the UK would be very useful, and this could be explored as well. It is believed that the secure electronic exchange of documents would bring significant benefits to the criminal justice system. The simple example of sharing court lists could provide an immediate benefit to some users. Transferring electronic documents securely could be quicker than transferring paper documents, and may lead to the prevention of waste, where the recipient does not need a hard copy of the data. We are aware that at present Livelink does not enjoy the confidence of some of its users; nevertheless the use of a tool such as this would bring many improvements to information exchange and it is hoped that it can be sufficiently developed to provide a secure and stable platform in the near

future. Reliable case tracking workflows could deliver some of the benefits expected of an integrated criminal justice system, such as the ability to monitor the progress of a case through the courts, and the creation of automated prompts. These prompts could include notices to warn witnesses to court, for example, or to highlight a potentially excessive delay in the progress of a case. Case tracking workflows could also support the joint management of cases across departments, as in prisoner sentence planning by the Prison and Probation Service. The States Police may also consider reviewing the possibility of revising the format of the charge sheet produced by the OPEN system. Development of Livelink workflows, and possibly connecting to the UK GSI network may involve significant costs, but it is impossible to estimate these at this time. The other projects listed above might cost in the region of £5,000 each to implement. It may be possible for some smaller projects to be funded from within the existing cash limits of affected departments.

5.2. Road map to achieve the vision

June 2005: strategic group established

October 2005: review RAMAS protocol for management of communication of urgent information

October 2005: secure e-mail investigated

October 2005: common access to electronic documents through Livelink investigated

October 2005: revised charge sheet from OPEN investigated

October 2005: investigate potential funding sources for future projects

December 2005: blueprint for criminal justice system development created

December 2005: memorandum of understanding agreed

December 2005: single statistical reporting format agreed

June 2006: single data schema agreed

June 2006: criminal justice system website produced

December 2006: case tracking workflows produced

5.3. Systems changes

No new systems are being recommended for the criminal justice system at this time, apart from the prisoner database referred to at 3.5.2 above. This is due to the fact that there is no perceived need for new systems in many criminal justice system departments, and that many small improvements might be achieved through the better exploitation of existing systems such as Livelink and DAISy.

5.4. Organisational changes

There are no actual organisational changes being recommended at this time, though it is felt that the different criminal justice agencies should make a concerted effort to work more closely together on issues such as those discussed in this project. As detailed below, at 5.5.1., it was found that, while personal relations may be good across the criminal justice system, organisational communication was sometimes lacking. An improvement in this area would lead to better inter-agency coordination of effort, and would improve the chances of success for a possible future integration project.

5.5. Cultural change programme

5.5.1. Despite the good working relations and the level of good will throughout the criminal justice system, and notwithstanding the various inter-departmental projects which have existed at various times, it was found that the member departments are still not always conscious of the developments and needs of other partner departments. They still tend to think of themselves as individual entities, independent of each other, not as constituent parts of a larger organisation. This attitude is understandable, due to the separate development of the different agencies, and also due to the need for there to be a distinct separation between the prosecuting authority and the court, for example. However, if the flow of information is to be improved across the criminal justice system, it is important that all agencies are more mindful of how they can work together, and make changes that will help their fellows as much as themselves.

5.5.2. The Strategy Group proposed above can obviously reflect on why there should have been this finding from this project and what can be done to improve matters. One means of supporting partnership working may be to foster a sense of common identity in criminal justice system departments. This might be partly achieved by creating a newsletter for criminal justice staff, that would be aimed at keeping all staff aware of developments in the criminal justice system, such as the appointment of new members of staff, or the impact of a new practice direction on criminal justice departments. This newsletter could have a regular feature on planned improvements to partnership working, inviting suggestions from all criminal justice staff. This would be particularly useful in two respects: operational staff may have ideas about how communications may be improved where senior management would not even know a problem exists; and if there was not enough news to fill a brief newsletter, then senior management would know that their partnership working initiative was slowing down.

5.5.3. One sign of success in working in partnership is expressed by a comment on the Causeway Programme, where benefits of new ways of working are seen as an achievement of the organisation rather than for the organisation. When criminal justice system staff start to think of themselves as part of a larger organisation, rather than a member of a small independent department, and take pride in this larger association, then a coordinated programme of change has a much greater chance of success.

6. Findings and recommendations

Document reference	Recommendation
3.5.2.	<i>It is recommended that the Prison investigate realising the maximum potential from their current access to DAISy</i>
3.5.2.	<i>It is recommended that urgent consideration is given to providing the Prison with a technical solution to its information storage and maintenance needs</i>
3.5.3.	<i>It is recommended that any new criminal justice systems are developed in partnership with relevant criminal justice system stakeholders</i>
3.5.3.	<i>It is recommended that consideration should be given to adapting the charge sheet produced by the OPEN system so that it meets the needs of the Magistrate's Court</i>
3.5.7.	<i>It is recommended that consideration should be given to creating a central repository of public information about the criminal justice system to improve access to information</i>
3.5.7.	<i>It is recommended that a private area of the criminal justice website should be considered as a later development, to allow secure access to case progress data for victims and witnesses</i>
5.1.1.	<i>It is recommended that a sophisticated, fully integrated criminal justice system is not pursued at this stage</i>
5.1.3.	<i>It is recommended that a strategy group, responsible for the direction of the development of efficient administration across the criminal justice system, should be established</i>
5.1.4.	<i>It is recommended that one of the strategy group's first tasks should be to decide whether the different criminal justice system agencies should be bound to abide by collective decisions of the group on administration of the criminal justice system</i>
5.1.5.	<i>It is recommended that the strategy group should work towards agreement on a single statistical reporting format across all criminal justice system agencies</i>

Document reference	Recommendation
5.1.6.	<i>It is recommended that the strategy group should review measures to ensure that the communication of urgent information, which relates to the safety of the public, staff and detained persons, is actively managed</i>
5.1.7	<i>It is recommended that the strategy group agrees a single data schema for the criminal justice system, and that all new criminal justice systems developed, comply with this schema</i>
5.1.8	<i>It is recommended that the strategy group should produce a blueprint for criminal justice system development in Jersey</i>
5.1.9	<i>It is recommended that consideration should be given to creating a central repository of information about the criminal justice system, to improve public access to information</i>
5.1.9	<i>It is recommended that a private area of the criminal justice website should be considered as a later development, to allow secure access to case progress data for victims and witnesses</i>
5.1.10	<i>It is recommended that the strategy group should consider how communication and efficiency may be improved through the better exploitation of technology already available to criminal justice agencies</i>

Appendix 1 – Cost / Benefit Analyses

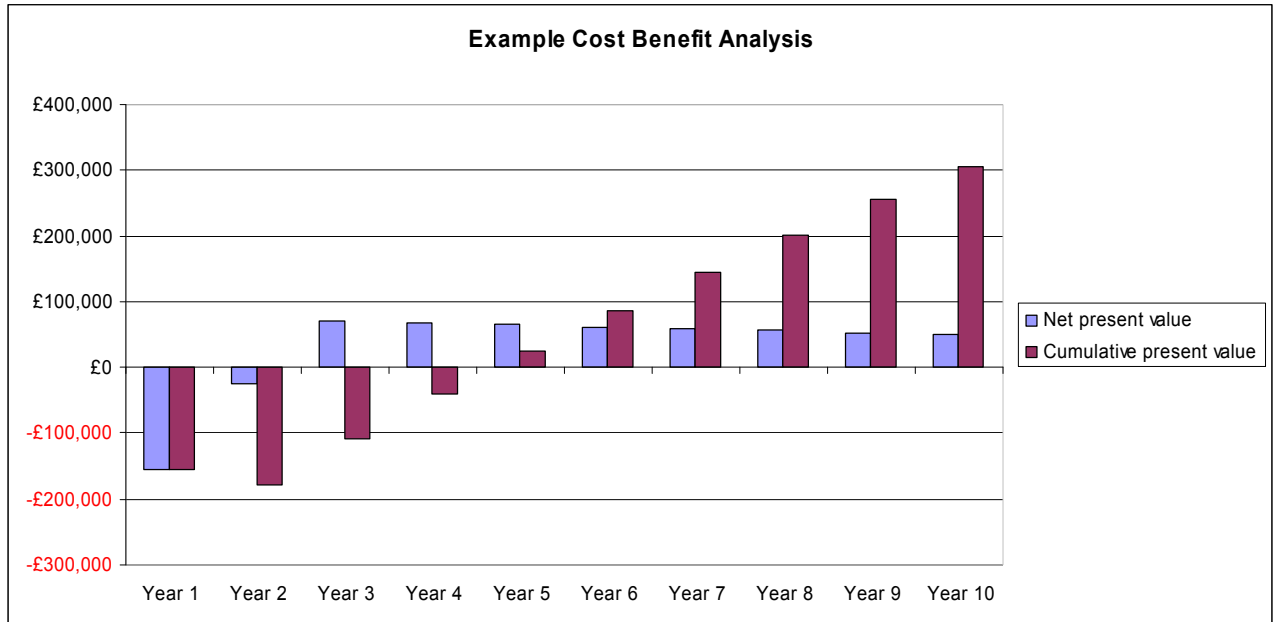
Example Cost Benefit Analysis

The example cost benefit analysis below is in three parts, the data table, and two chart views. The data table shows how the net notional cashflow, being the difference between the capital and revenue expenditure, and the benefits value, changes over a 10 year period. A 10 year view of costs and benefits allows the relationship between costs and benefits during, and following, development, to be considered. In the example below, the first two years' costs reflect capital development costs, and the ongoing costs in years 3 to 10 are revenue costs. The benefits value is the sum total of annual benefits expected by implementing the project, again over a 10 year period.

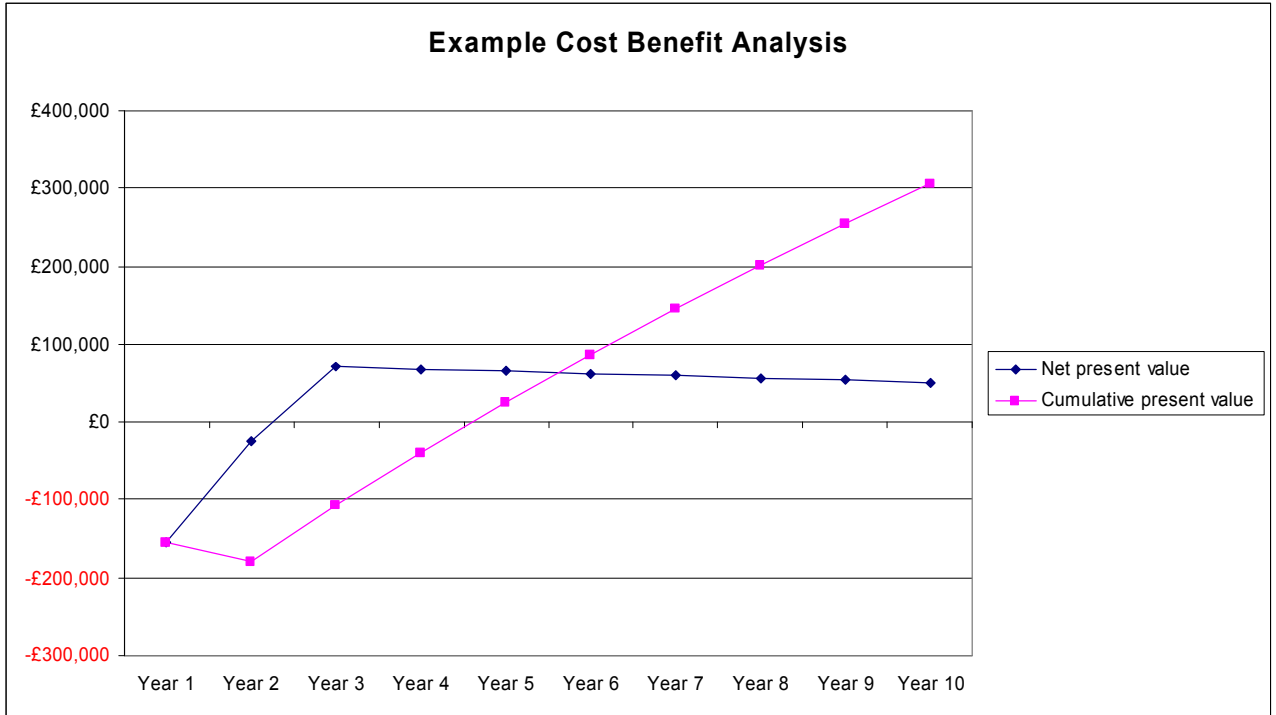
The discount rate represents the fact that the money that is invested in the project could have been invested elsewhere. The Treasury have advised that their current discount rate for cost benefit purposes is between 4.5% to 5%. For the purposes of this example, the discount rate of 5% has been used, as this includes a small adjustment to account for the fact that projects are inherently risky. The discount rate is applied to the net notional cashflow, to give the net present value, that is, the value that the future costs and benefits would be worth, in today's money.

The cumulative present value represents the difference between the total amount spent on the project, including capital and revenue costs, and the total benefits, accrued to that point. As soon as this figure goes above zero, the project has recovered all of its capital outlay, and revenue costs to date, and is showing a profit. In the example below, this happens in the fifth year of the project. This can be clearly seen in the graphs below. If the cumulative present value figure does not go above zero, the project never shows an actual cost saving. If the annual revenue cost exceeds the annual benefit value, the project can never achieve an actual cost saving.

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Capital expenditure	-£175,000	-£100,000	£0	£0	£0	£0	£0	£0	£0	£0
Revenue expenditure	£0	£0	-£41,250	-£41,250	-£41,250	-£41,250	-£41,250	-£41,250	-£41,250	-£41,250
Benefits value	£20,000	£75,000	£120,000	£120,000	£120,000	£120,000	£120,000	£120,000	£120,000	£120,000
Net notional cashflow	-£155,000	-£25,000	£78,750	£78,750	£78,750	£78,750	£78,750	£78,750	£78,750	£78,750
Discount rate 5%	1.0000	0.9524	0.9070	0.8638	0.8227	0.7835	0.7462	0.7107	0.6768	0.6446
Net present value	-£155,000	-£23,810	£71,426	£68,024	£64,788	£61,701	£58,763	£55,968	£53,298	£50,762
Cumulative present value	-£155,000	-£178,810	-£107,384	-£39,360	£25,428	£87,129	£145,892	£201,860	£255,158	£305,920

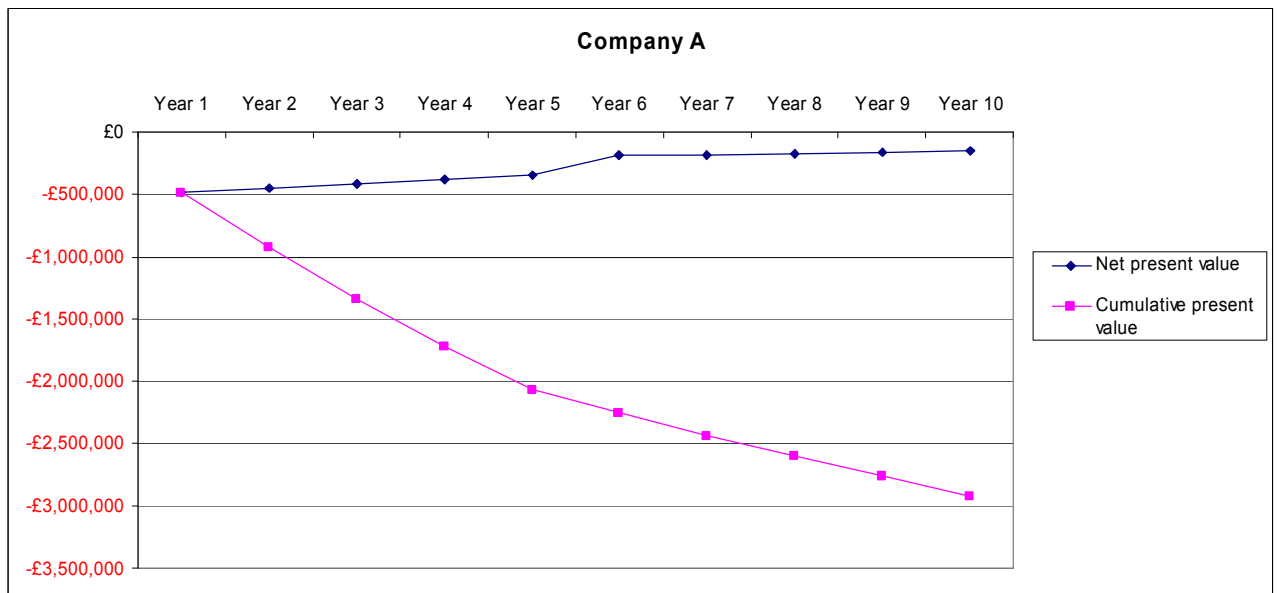
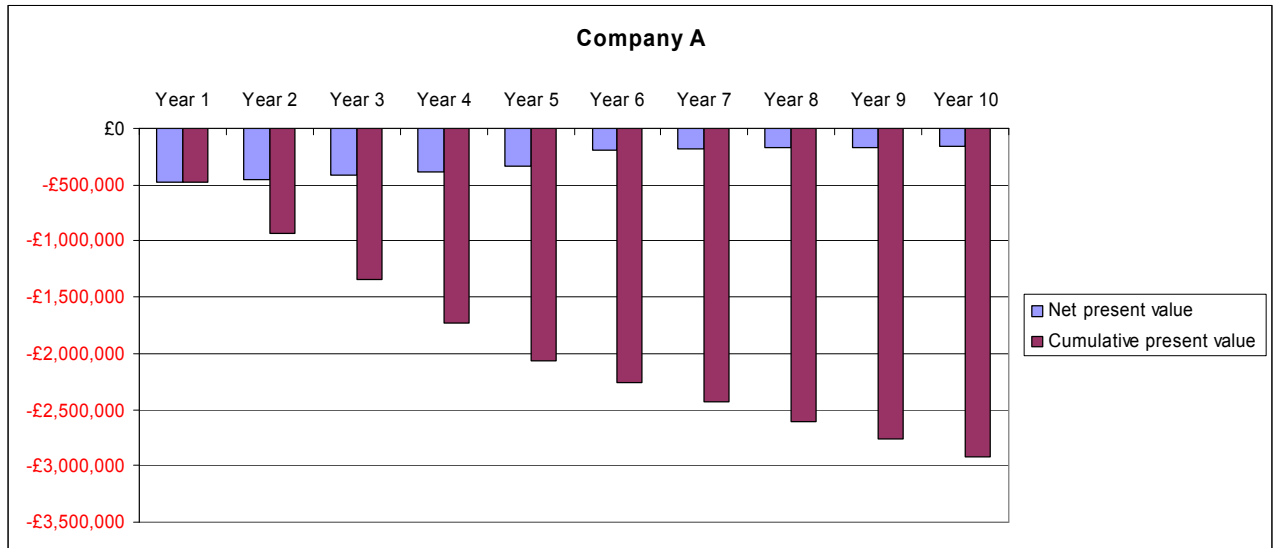


In the second graph, it is possible to see clearly that the net present value of the project decreases over time. At a certain point, the project would therefore become unprofitable. In the example below, this stage is not shown, but it would be more than 25 years after the start of the project, so it shows strong financial viability for the long term.



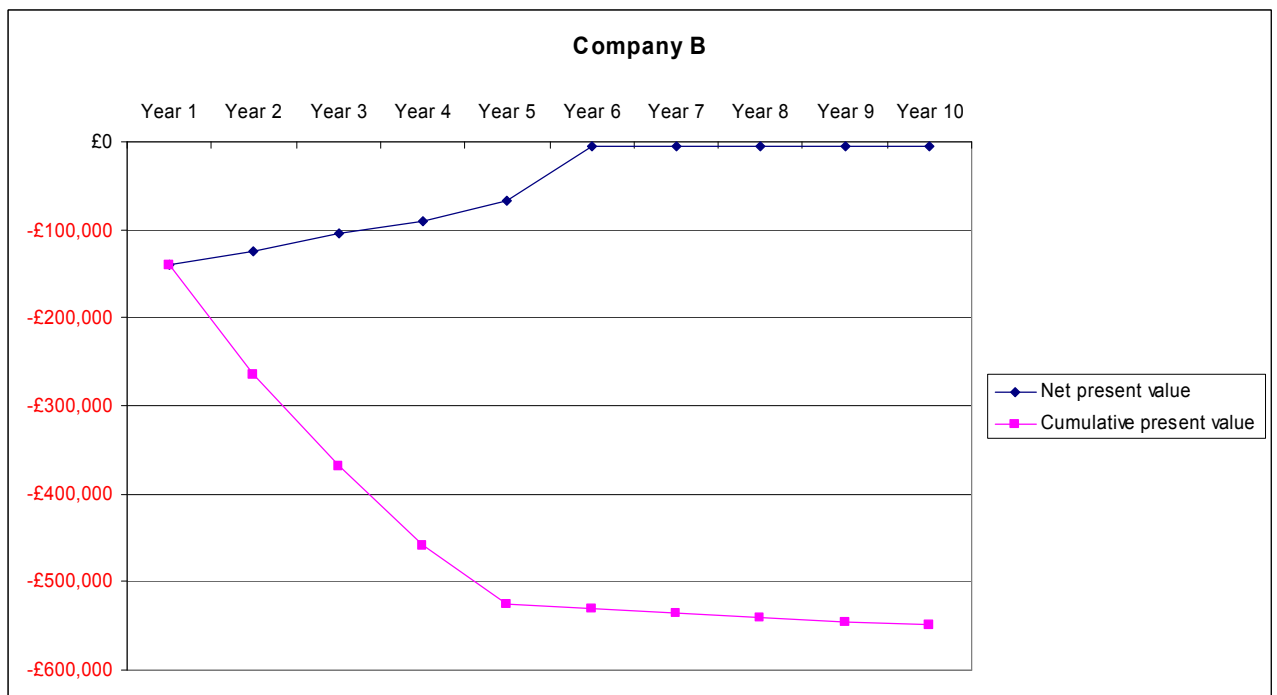
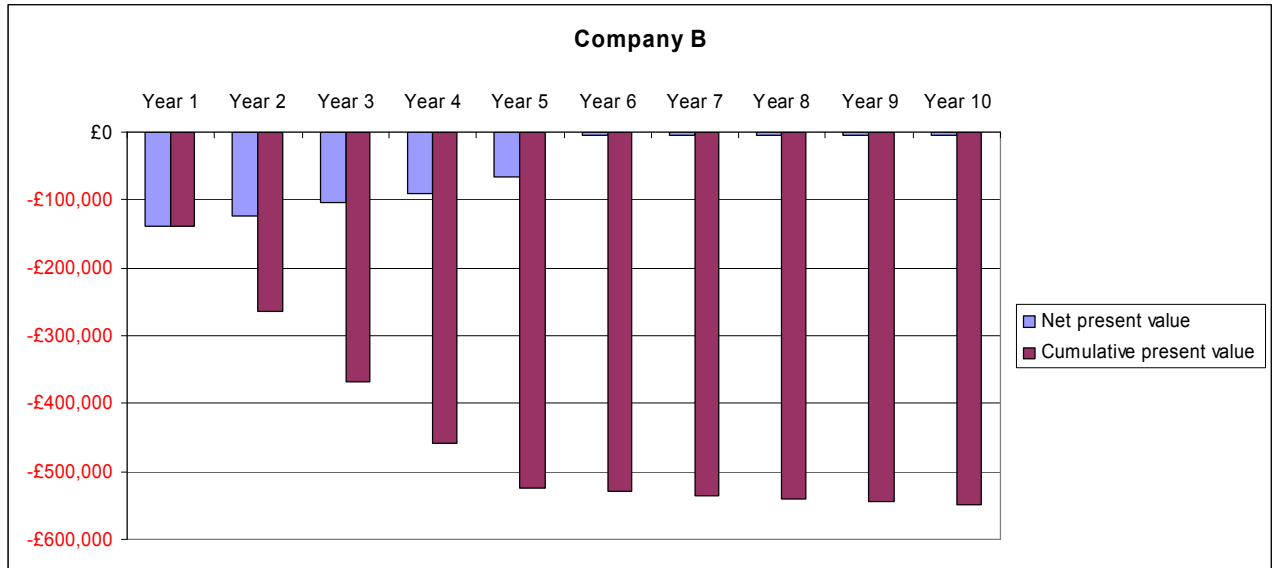
Company A Proposal

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Capital expenditure	-£480,000	-£480,000	-£480,000	-£480,000	-£480,000	£0	£0	£0	£0	£0
Revenue expenditure	£0	£0	£0	£0	£0	-£360,000	-£360,000	-£360,000	-£360,000	-£360,000
Benefits value	£0	£10,000	£25,000	£35,000	£65,000	£120,000	£120,000	£120,000	£120,000	£120,000
Net notional cashflow	-£480,000	-£470,000	-£455,000	-£445,000	-£415,000	-£240,000	-£240,000	-£240,000	-£240,000	-£240,000
Discount rate 5%	1.0000	0.9524	0.9070	0.8638	0.8227	0.7835	0.7462	0.7107	0.6768	0.6446
Net present value	-£480,000	-£447,628	-£412,685	-£384,391	-£341,421	-£188,040	-£179,088	-£170,568	-£162,432	-£154,704
Cumulative present value	-£480,000	-£927,628	-£1,340,313	-£1,724,704	-£2,066,125	-£2,254,165	-£2,433,253	-£2,603,821	-£2,766,253	-£2,920,957



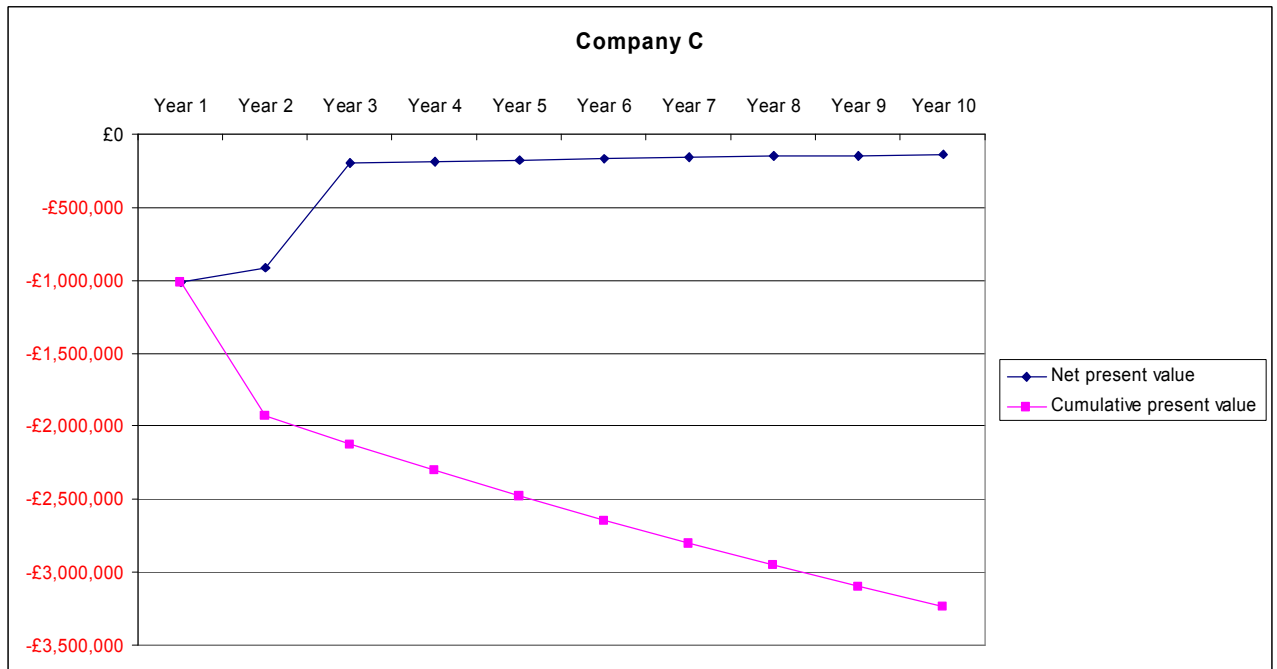
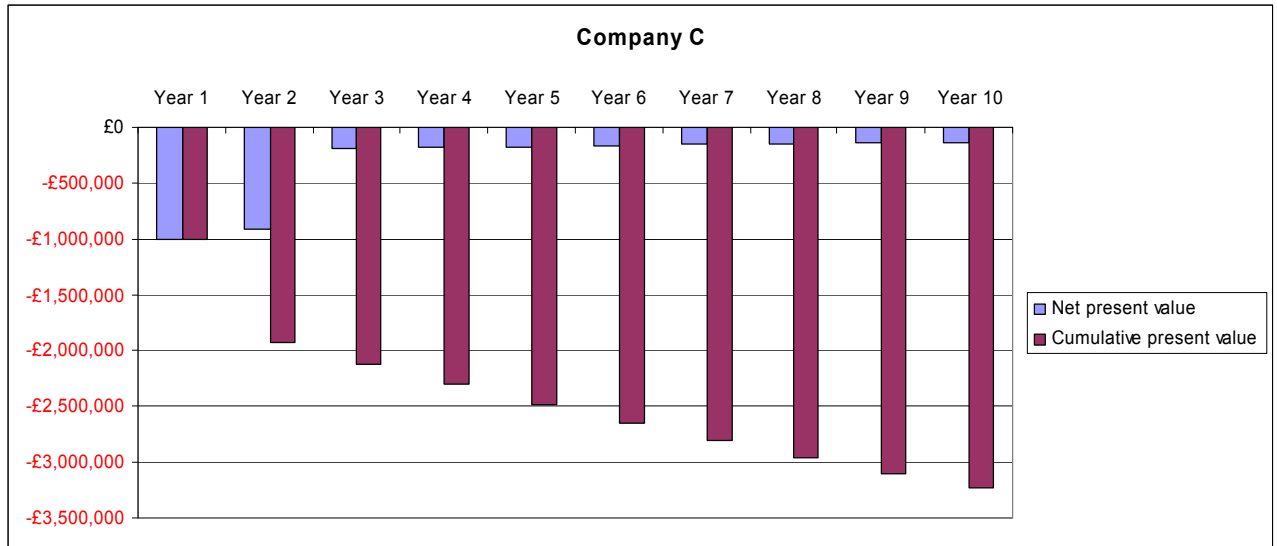
Company B Proposal

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Capital expenditure	-£140,000	-£140,000	-£140,000	-£140,000	-£140,000	£0	£0	£0	£0	£0
Revenue expenditure	£0	£0	£0	£0	£0	-£105,000	-£105,000	-£105,000	-£105,000	-£105,000
Benefits value	£0	£10,000	£25,000	£35,000	£60,000	£98,000	£98,000	£98,000	£98,000	£98,000
Net notional cashflow	-£140,000	-£130,000	-£115,000	-£105,000	-£80,000	-£7,000	-£7,000	-£7,000	-£7,000	-£7,000
Discount rate 5%	1.0000	0.9524	0.9070	0.8638	0.8227	0.7835	0.7462	0.7107	0.6768	0.6446
Net present value	-£140,000	-£123,812	-£104,305	-£90,699	-£65,816	-£5,485	-£5,223	-£4,975	-£4,738	-£4,512
Cumulative present value	-£140,000	-£263,812	-£368,117	-£458,816	-£524,632	-£530,117	-£535,340	-£540,315	-£545,052	-£549,565



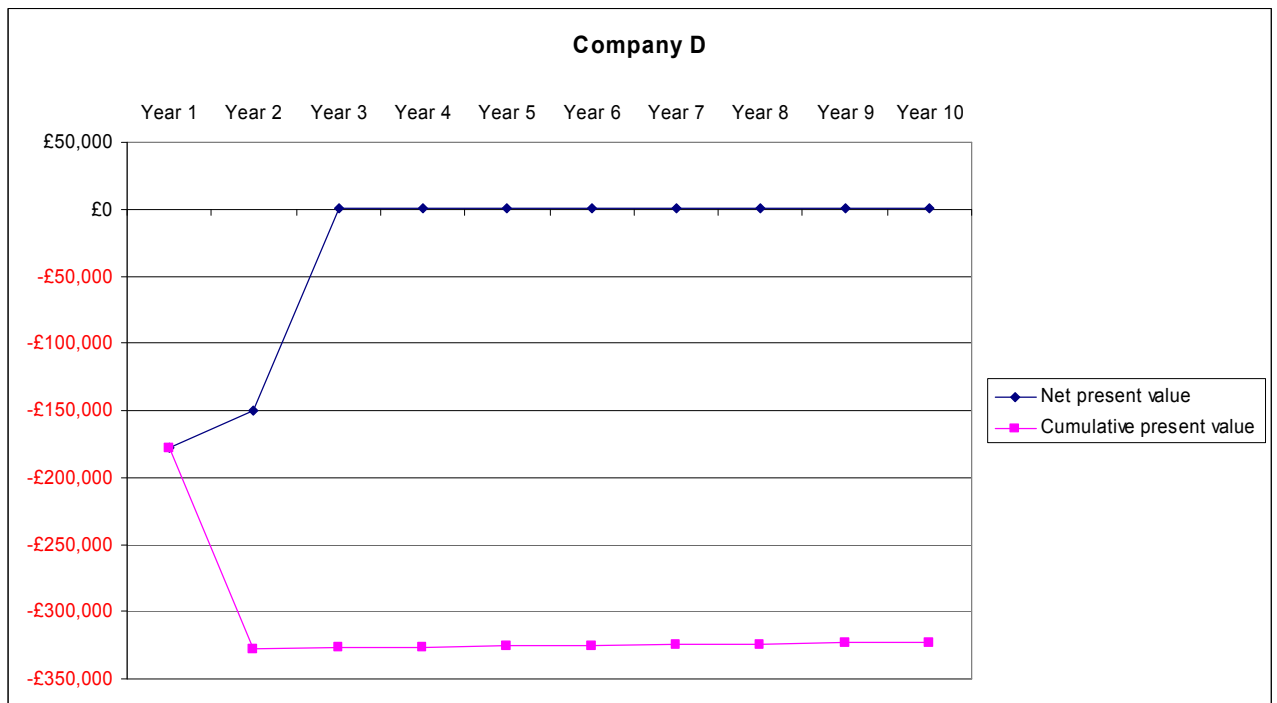
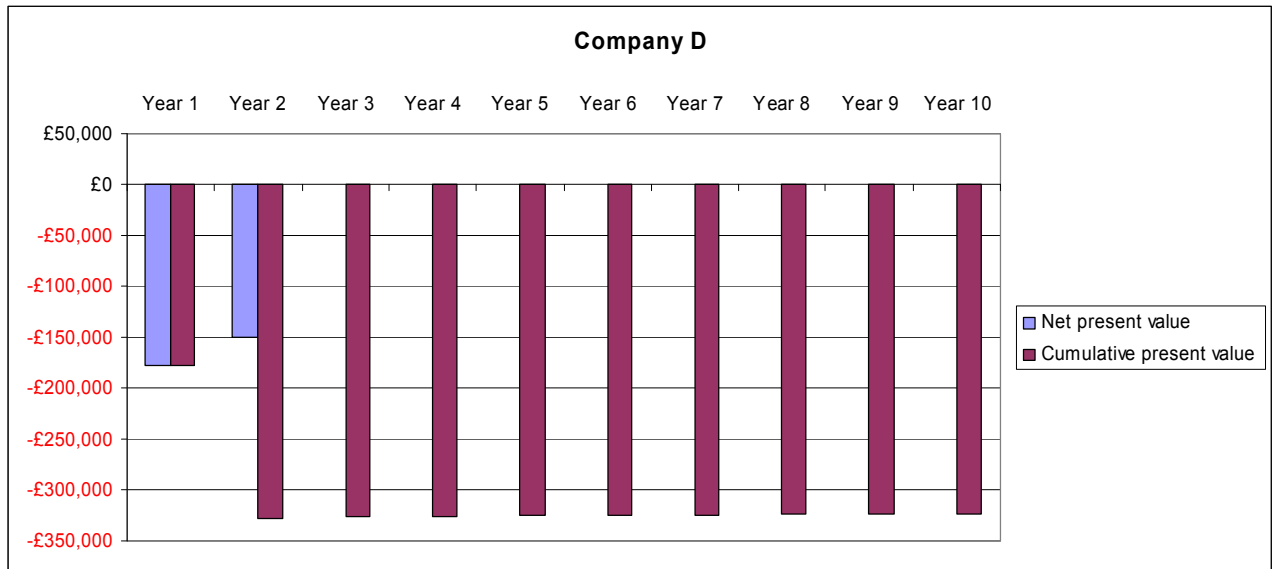
Company C Proposal

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Capital expenditure	-£1,010,000	-£1,010,000	£0	£0	£0	£0	£0	£0	£0	£0
Revenue expenditure	£0	£0	-£303,000	-£303,000	-£303,000	-£303,000	-£303,000	-£303,000	-£303,000	-£303,000
Benefits value	£0	£45,000	£91,000	£91,000	£91,000	£91,000	£91,000	£91,000	£91,000	£91,000
Net notional cashflow	-£1,010,000	-£965,000	-£212,000	-£212,000	-£212,000	-£212,000	-£212,000	-£212,000	-£212,000	-£212,000
Discount rate 5%	1.0000	0.9524	0.9070	0.8638	0.8227	0.7835	0.7462	0.7107	0.6768	0.6446
Net present value	-£1,010,000	-£919,066	-£192,284	-£183,126	-£174,412	-£166,102	-£158,194	-£150,668	-£143,482	-£136,655
Cumulative present value	-£1,010,000	-£1,929,066	-£2,121,350	-£2,304,476	-£2,478,888	-£2,644,990	-£2,803,184	-£2,953,853	-£3,097,334	-£3,233,990



Company D Proposal

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Capital expenditure	-£187,500	-£187,500	£0	£0	£0	£0	£0	£0	£0	£0
Revenue expenditure	£0	£0	-£56,250	-£56,250	-£56,250	-£56,250	-£56,250	-£56,250	-£56,250	-£56,250
Benefits value	£10,000	£30,000	£57,000	£57,000	£57,000	£57,000	£57,000	£57,000	£57,000	£57,000
Net notional cashflow	-£177,500	-£157,500	£750	£750	£750	£750	£750	£750	£750	£750
Discount rate 5%	1.0000	0.9524	0.9070	0.8638	0.8227	0.7835	0.7462	0.7107	0.6768	0.6446
Net present value	-£177,500	-£150,003	£680	£648	£617	£588	£560	£533	£508	£483
Cumulative present value	-£177,500	-£327,503	-£326,823	-£326,175	-£325,558	-£324,970	-£324,411	-£323,878	-£323,370	-£322,887



Appendix 2 – Human Rights

The States of Jersey adopted the Human Rights (Jersey) Law on the 17th May 2000, though the Law has not yet come into force.

“The purpose of this Law is to incorporate substantive rights set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms into the domestic law of Jersey thereby giving Jersey courts jurisdiction to determine whether rights enshrined in the Convention have been infringed.”⁵

The Law achieves this by :

(a) making it unlawful for a public authority⁶ and in two sets of circumstances, the States Assembly, to act incompatibly with Convention rights. A case may then be brought in a Jersey court or tribunal against the authority where it does so, or is about to do so, or against the States where it has done so. However, a public authority or the States Assembly will not have acted unlawfully under the Law if as the result of a provision of principal legislation it could not have acted differently;

(b) requiring that all legislation be interpreted and given effect as far as possible compatibly with the Convention rights. Where it is not possible to do so, a court may quash or disapply subordinate legislation; or

(c) enabling a higher court, to give a declaration of incompatibility for principal legislation thereby drawing attention to the need to amend the legislation to bring it into line with the Convention rights;

(d) requiring courts to take account of the case-law of the Court and the Commission in Strasbourg and also the Committee of Ministers;

⁵ Extract from Explanatory Notes Human Rights (Jersey) law 2000

⁶ ARTICLE 7 of the Human Rights (Jersey) Law 2000 states: “Public authorities and the States Assembly (1) It is unlawful for a public authority to act in a way which is incompatible with a Convention right. (2) In this Article “public authority” includes - (a) a court or tribunal; and (b) any person certain of whose functions are functions of a public nature, but does not include the States Assembly or a person exercising functions in connection with proceedings in the States Assembly.” The Jersey Government Human Rights website (www.humanrights.gov.je) states that : The law gives no express definition of “public authority” but it includes: States departments; Parish authorities; Police, prison and immigration officers; Courts and Tribunals; Non-departmental public bodies; Any person exercising a public function.

(e) requiring courts to develop the customary law compatibly with the Convention rights.

The European Convention on Human Rights was adopted in 1950 and was ratified by the United Kingdom on behalf of the Island in 1951.

The Convention Rights

The Convention guarantees the following rights and freedoms –

- right to life (Article 2)
- freedom from torture and inhuman or degrading treatment or punishment (Article 3)
- freedom from slavery and forced or compulsory labour (Article 4)
- right to liberty and security of person (subject to a derogation applicable to Northern Ireland) (Article 5)
- right to a fair and public trial within a reasonable time (Article 6)
- freedom from retrospective criminal law and no punishment without law (Article 7)
- right to respect for private and family life, home and correspondence (Article 8)
- freedom of thought, conscience and religion (Article 9)
- freedom of expression (Article 10)
- freedom of assembly and association (Article 11)
- right to marry and found a family (Article 12)
- prohibition of discrimination in the enjoyment of the Convention rights (Article 14)
- right to peaceful enjoyment of possessions and protection of property (Article 1 of Protocol 1)
- right to education (Article 2 of Protocol 1)
- right to free elections (Article 3 of Protocol 1)
- right not to be subjected to the death penalty (Articles 1 and 2 of Protocol 6).

These are the Convention rights which are referred to in the Law. The complete wording of the rights is given in the Schedule to the Law.

Article 6 would appear to have clear implications for this scoping study. It states that every individual has the right to a fair and public trial within a reasonable time. Should the

Jersey criminal justice system not be ensuring trial within a reasonable time frame it might be seen to be in contravention of the Law⁷, and any steps which would lead to trials being held within a reasonable time frame would ensure compliance.

The UK government has provided guidance on the legal framework which applies to data sharing - in particular the use of personal data by the public sector, across traditional organisational boundaries. The guidance, “Public Sector Data Sharing: Guidance on the Law

November 2003” is given on the Department for Constitutional Affairs website at :

www.dca.gov.uk/foi/sharing/toolkit/lawguide.htm

The following extracts are taken from that guide :

1. *The Human Rights Act 1998* ('the HRA') came into force on 2 October 2000 and it gives effect to the principal rights guaranteed by the European Convention on Human Rights ('the Convention'). The Convention was adopted by the Council of Europe in 1950 and ratified by the United Kingdom in 1951. It contains a number of fundamental rights and freedoms including the right to life, the right to a fair trial, freedom of thought, religion and speech and the right to respect for private and family life. Before the HRA rights contained in the Convention could only be enforced in the European Commission and the Court of Human Rights established in Strasbourg. Since the HRA the Convention rights have become part of domestic law and can be enforced directly in our courts by any person who claims to be a 'victim' of an infringement. There remains a right to bring cases in the Strasbourg court after pursuing domestic remedies.
2. The key aspects of the HRA are that:
 - All legislation must be interpreted so far as is possible to do so to be compatible with the Convention (section 3 (1));
 - It is unlawful for a public body to act in a way that is incompatible with convention rights (section 6);

⁷ *Dyer v Watson and Another* HM Advocate v K : The Times 04-02-02 Judgment January 29, 2002: It would be a breach of the right to a trial within a reasonable time under article 6.1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms for a boy who had been charged with serious sexual offences when aged 13 to be tried some 28 months later when he would be a youth of 16. But a delay of 20 months between charging police officers with perjury and the proposed date of trial was not such a delay as to be in breach of article 6.1. (From the <http://www.humanrights.gov.je/> website)

- All courts and tribunals are required to take account of relevant decisions of the European Court of Human Rights, and to have regard to the opinions and decisions of the Commission (section 2);
- Higher courts may make a declaration of incompatibility in respect of incompatible primary legislation, and in certain circumstances, of secondary legislation. Such declarations do not, however, change the law. That is for Parliament to do, if it so wishes. See section 4 of the HRA.

Article 8 of the Convention is of particular importance in the context of data sharing and privacy. Article 8 provides that:

'8.1. Everyone has the right to respect for his private and family life, his home and his correspondence.'

8.2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.'

3. Article 8 is not an absolute right. It is a qualified right that allows a public authority to interfere where that interference is:
 - In accordance with law;
 - In the pursuit of a legitimate aim; and
 - Necessary in a democratic society.

5. The first element requires a legal basis to permit data sharing that is a clear, reasonably accessible legal basis for the interference. Legislation, delegated legislation, the common law and even rules of a professional body may suffice. The second element means that the data sharing must be for one of the purposes specified in Article 8(2). It is usually fairly easy to satisfy this requirement. Satisfaction of the third element, 'necessary in a democratic society', will probably be the key factor in the majority of cases. In determining this element courts are required to look at all the circumstances of the case and assess whether the exercise of the power was 'proportionate'. This assessment is not straightforward and will involve the court in considering whether the means chosen were

necessary, whether adequate safeguards are in place and whether the aims were legitimate and sufficiently well defined. In the recent House of Lords case of *R v Secretary of State for the Home Department, ex parte Daly* [2001] UKHL 26 Lord Steyn set out a new test to be adopted by the courts in assessing the proportionality principle. In his judgment he emphasised the high level of intensity of review under the proportionality approach in that:

- The reviewing court may need to assess the balance which the decision maker has struck;
- The court may need to direct attention to the relative weight accorded to interests and considerations;
- The proportionality test may require the court to go further than the test of 'heightened scrutiny' previously adopted on judicial review. In particular, the test of heightened scrutiny was developed in *R v Ministry of Defence, ex parte Smith* [1996] 1 All ER 257 which was heard by the Court of Appeal before the HRA came into force. Here it was held that the more substantial the interference with human rights, the more the court would require by way of justification before it was satisfied that the decision was reasonable. However, the court would still only interfere with an administrative decision where it was satisfied that the decision was beyond the range of reasonable responses open to a reasonable decision-maker.

The UK guidelines go on to conclude: "A new data sharing initiative may involve two or more public bodies who wish to share information with each other in order to set up a central database of useful information that they may each access. This information could be, say, limited to up-to-date names and addresses of citizens. Alternatively, it could be information about children thought to be at risk of serious physical harm." It goes on to say that consideration will need to be given to various legal issues, including:

Human Rights Act issues

- Is Article 8 of the ECHR engaged i.e. will the proposed data collection and sharing interfere with the right to respect for private and family life, home and correspondence? If the data collection and sharing is to take place with the consent of the data subjects involved, Article 8 will not be engaged.
- If Article 8 of the ECHR is engaged, is the interference (a) in accordance with the law; (b) in pursuit of a legitimate aim; and (c) necessary in a democratic society?

Extract from: www.crimereduction.co.uk

Information Sharing⁸

The Legal Framework - Human Rights

The European Convention on Human Rights

The European Convention on Human Rights ("the Convention") is a convention of the Council of Europe, which was adopted in 1950 and ratified by the United Kingdom in 1951. It was designed to give binding effect to the guarantee of various rights and freedoms in the United Nations Declaration on Human Rights, adopted in 1948. Article 8 of the Convention provides that:

"8.1 Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others".

The Convention thus enshrines a right to respect for individuals' private lives and prescribes the circumstances in which it is legitimate for a public authority to interfere with

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the enjoyment of this right. The Convention provides a qualified right - interference with the enjoyment of the right is expressly foreseen in certain circumstances. It is recognised that public authorities in pursuit of legitimate aims will have just cause in a democratic society for intervening in individuals' private spheres.

Since the adoption of the Convention, citizens of Council of Europe member states have had the right to present cases to the European Commission and Court of Human Rights ("commission" and "court"), established in Strasbourg. An international body of case law therefore exists which informs the extent to which the fundamental rights and freedoms enshrined in the Convention may find practical application. Applying general principles of international law, the Strasbourg court interprets the Convention in such a way as to give practical effect to its objects and purpose. Hence, in the case of *Soering v UK* the court noted:

"In interpreting the Convention regard must be had to its special character as a treaty for the collective enforcement of human rights and fundamental freedoms... Thus, the object and purpose of the Convention as an instrument for the protection of individual human beings require that its provisions be interpreted and applied so as to make its safeguards practical and effective."

As well as interpreting the Convention in such a way as to give practical effects to its objects and purpose, the court also recognises that the Convention is "*a living instrument*" that should be interpreted in a dynamic manner. This notion means that the court is not bound by precedent and instead recognises that the conditions prevailing at the time a case is considered may properly affect the outcome of a particular decision. Hence the approach of the Strasbourg court particularly when considering cases touched on by societal mores (e.g. corporal punishment, legitimacy of offspring and the rights of transsexuals) has not remained fixed but rather has adapted to reflect prevailing conditions. With regard to Article 8 rights, developments in information and communication technologies have presented evolving challenges for judicial interpretation.

Restrictions of Rights

Article 8(2) specifically envisages circumstances in which interference with the rights contained in Article 8(1) are permitted. However, such interference is subject to satisfaction of strict requirements to prevent abuse and compromise of personal rights. A

number of principles have been adopted by the Strasbourg court when considering the extent of restrictions on the fundamental rights and freedoms set forth in the Convention.

The principle of legality: is relevant in this context since interference with the Article 8 right is expressly limited to that which is "in accordance with the law". The Strasbourg court has elucidated three rules applicable to satisfying this principle:

The legal basis for any restriction on Convention rights must be *identified* and *established*. In essence this is determined by reference to domestic law. Legislation, delegated legislation, the common law and even the rules of a professional body may suffice;

The law or rule must be *accessible* – i.e. persons likely to be affected must be able to find out what the law is that restricts their Convention right; and

The law or rule must be sufficiently certain that those likely to be affected must be able to understand its effect and thereby be able to order their conduct so as to avoid breaking the law.

The second key principle is **the principle of proportionality**. This principle is the mechanism by which the Strasbourg court seeks to determine whether a fair balance has been struck in the balance between the protection of the rights and freedoms of the individual and the interests of the community or society as a whole. In determining whether a restriction is *proportionate* the court will consider the following questions:

- Have "relevant and sufficient reasons" supporting the restriction been advanced
- Is there a less restrictive alternative
- Is the decision-making process procedurally fair
- Are there any safeguards against abuse
- Does the restriction destroy the very essence of the Convention right in issue

The principle of proportionality has been held by the Strasbourg court as being particularly relevant in determining whether or not a restriction under Article 8(2) is "necessary in a democratic society". Thus the notion of *necessity* is not synonymous with "indispensability" but rather implies a "pressing social need".

In determining the extent to which contracting states may be under a positive obligation to promote "respect for private... life", the Strasbourg court has applied a wide "**margin of**

appreciation". This doctrine recognises that different contracting states have different cultural and societal standards. In view of this, the Strasbourg court considers that the domestic authorities of those states are better placed than an international court to determine the propriety of particular measures.

Human Rights Act 1998

The Human Rights Act 1998 ("HRA") allows UK citizens to assert their rights under the Convention in UK courts and tribunals – although they may ultimately continue to take cases to Strasbourg. Furthermore, Section 3(1) of the HRA provides that "so far as possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with Convention rights". Section 6 provides that "it is unlawful for a public authority to act in a way which is incompatible with a Convention right". Accordingly, legislation is to be given effect and public authorities will be obliged to act in a way which is compatible with an individual's right to respect for their private life. If individuals feel that public authorities have failed to do so they may challenge this through the Courts.

The HRA provides that "a court or tribunal in determining a decision which has arisen in connection with a Convention right must take into account the [Strasbourg jurisprudence]".

Application of the HRA to data sharing by public authorities

Whilst consideration should be given to the Convention as a whole, Article 8 is the most important in terms of data sharing. This article protects an individual's right to privacy, family life, home and correspondence. Incorporated into UK law by the Human Rights Act, it has a fundamental impact on data sharing in this country.

In order to be compatible with Article 8 data sharing must be in accordance with the law, pursue a legitimate aim, and considered necessary in a democratic society.

Data sharing therefore requires a lawful basis ([see the section on Administrative Law](#)) The exercise of any power must also be proportionate and should seek to balance the demands of the general interest of the community and the protection of the individual's right to privacy. Data sharing will only be proportionate if:

- The objective is sufficiently important to justify infringing the right to privacy

- The measures taken to meet the objective are rational and fair
- The means used are no more than is necessary to accomplish the objective

The proportionality requirement is of particular relevance to the issue of bulk data sharing or data matching exercises, which potentially involve "collateral intrusion" into the right of innocent people to their privacy.

Proportionate safeguards are contained in the principles of the Data Protection Act. These include the duty of fairness; regard to the method by which data is obtained; the principles that data is adequate for its purpose, relevant and not excessive; that it is accurate and up to date; that it is not held longer than necessary; and that it is held securely.

Case Studies

One example of how human rights law affects the ability to exchange data is where this concerns information about victims. Applying Article 8, the victim will have a right to privacy, unless there is an overriding public interest in disclosing his or her information. A decision will, therefore, need to be made as to whether there is an overriding need which would justify setting aside the wishes and expectations of the victims in passing on their information. The nature and importance of the right to privacy together with the extent of the interference must be weighed against the nature and importance of the public interest the state seeks to justify.

The police duty of confidentiality is also a key factor in this example. A balance needs to be struck between the police's duty of confidentiality to victims, and their right to privacy, and the importance of other agencies being able to provide services to those victims. Any information subject to a duty of confidence cannot lawfully be disclosed unless it is in the public domain, the individual consents to the disclosure, there is statutory authority or some other specific overriding public interest justification requires disclosure.

To address human rights and common law duty of confidentiality issues, the victim must have a real opportunity to say if they do not want their details passed to say Victim Support, unless there is an overriding public interest in disclosure in a particular case.

Home Office guidance states that it is important that police officers should make it clear to victims that their details will normally be passed on to Victim Support unless the victim

says they don't want this to happen. The opportunity for the victim to opt out of having their details referred needs to be a genuine one, and there must be mechanisms in place to ensure their wishes are respected. The arrangements for processing also need to be fully compliant with the data protection principles.

For more information about disclosing victims details see [Home Office Circular 44/2001](#) or *Victims of Crime* leaflet which is given by the police to victims of reported crime.

Generally, there is a balance to be struck in deciding how someone's personal information is used. There might be arguments in the public interest for disclosing the information of victims or witnesses, but these would have to be balanced against any potential resulting prejudice to the interests of the individuals concerned. Victims would normally be expected to receive greater protection over disclosure than offenders. For example, it might be agreed that information be shared between local authorities and police forces for the purpose of seeking evictions. If the numbers of call-outs to addresses are used, some of these may be because of domestic violence. If the number of call-outs is used as a ground for eviction, the spouse might be made homeless along with the alleged abusing partner. This might then prevent others suffering domestic violence from calling the police in future for fear that eviction might be a consequence. In this case, therefore, it would be important to decide whether to provide details of all call-outs, or to withhold information on those related to domestic violence.

It is clear that the protection of personal data is a fundamental aspect of respect for private life. The impact of human rights law can be felt in the realms of data protection and administrative law, and in common law.

Appendix 3 – Freedom of Information

The States approved a Code of Practice on Public Access to Official Information on 20th July 1999 (P38/1999) and it came into force on the 20th January 2000. It refers to information created after 20th January 2000, or in the case of personal information, information created before that date⁹. The Code was updated in June 2004 (P.80/2004) and the introduction of Legislation is now under consideration. The Privileges and Procedures Committee has undertaken to bring a report and proposition to the States on this issue in 2005 and it is understood will be doing so in the near future.

The Code refers to all information : “Information” means any information or official record held by an authority¹⁰.

The purpose of the Code is to establish a minimum standard of openness and accountability by the States of Jersey, its Committees and departments, through-

- (a) increasing public access to information;
 - (b) supplying the reasons for administrative decisions to those affected, except where there is statutory authority to the contrary,
 - (c) giving individuals the right of access to personal information held about them and to require the correction of inaccurate or misleading information;
- while, at the same time -
- (i) safeguarding an individual’s right to privacy; and
 - (ii) safeguarding the confidentiality of information classified as exempt under the Code.

There will be a presumption of openness in the application of the Code of Practice, but information shall remain confidential if it is classified as exempt in Part III of the Code.

Departments affected by the Code :

⁹ Extracts copied from ACCESS TO INFORMATION GUIDANCE NOTES FOR DEPARTMENTS November 1999 available on the States Greffe website : www.statesgreffe.gov.je

¹⁰ From “A Code of Practice on Access to Information held by the States, Committees of the States and Departments of the States (Adopted by Act of the States dated 20th July 1999).

The Code of Practice does not apply to “the Courts and departments of the judiciary, including the Law Officers Department”, as these are not part of the government of the Island.¹¹

The Code should not apply therefore to the Courts; the Bailiff’s Chambers; the Judicial Greffe; the Law Officers’ Department; The Viscounts Department and The Probation Service, although according to officers of the States Greffe the departments which make up “departments of the Judiciary” have never been defined in writing.

The Departments relevant to the scoping study which are affected by the code are : The States Police; The Prison; Customs & Immigration; and The Official Analyst. The Code is, of course, voluntary but States departments are expected to comply with its principles .

The definition of an “Authority” for the purpose of the Code would exclude the Parishes, though nothing is to prevent an excluded body such as the Parishes, from voluntarily adopting the Code.

Effects of the Code :

An affected department has to comply with the Code in the following manner :

- (a) keep a general record of all information that it holds;
- (b) take all reasonable steps to assist applicants in making applications for information;
- (c) acknowledge the receipt of an application for information and endeavour to supply the information requested (unless exempt) within 21 days;
- (d) take all reasonable steps to provide requested information that they hold;
- (e) notify an applicant if the information requested is not known to the authority or, if the information requested is held by another authority, refer the applicant to that other authority;

¹¹ P.38/1999 which introduced the Code for States consideration stated that “the definition of an “authority” does not include the Courts and departments of the judiciary, including the Law Officers’ Department, as these are not part of the government of the Island. The Judicial Greffe has very clear internal rules and guidelines in relation to access to information, some of which are set out in statute, some of which are set out in Rules of Court, some of which are matters of Royal Court policy, and some of which are matters of Judicial Greffe internal policy. The operation of these is far more precise, practical and effective than a Code of Practice would be for that department. The independence of the judiciary from political or governmental supervision should be safeguarded, and it is entirely inappropriate to

- (f) make available information free of charge except in the case of a request that is complex,
or would require extensive searches of records, when a charge reflecting the reasonable costs of providing the information may be made;
- (g) if it refuses to disclose requested information, inform the applicant of its reasons for doing so;
- (h) the authority shall correct any personal information held about an individual that is shown to be incomplete, inaccurate or misleading, except that expressions of opinion given conscientiously and without malice will be unaffected;
- (i) the authority shall inform applicants of their rights under this Code;
- (j) the authority shall not deny the existence of information which is not classified as exempt which it knows to exist;
- (k) the authority shall undertake the drafting of documents so as to allow maximum disclosure.

Regarding access to information an authority shall “grant access to **all information in its possession**, except that Committees of the States, and their sub-committees, shall grant access to the agendas and minutes of their meetings, but not to agenda support papers; And an authority shall grant – “ applicants over the age of 18 access to personal information held about them; and parents or guardians access to personal information held about any of their children under the age of 18”.

Thus whether information is held manually or electronically the afore-mentioned criminal justice agencies should comply with their obligations regarding openness as above.

There are exemptions from the code, those having most relevance for Jersey’s criminal justice agencies being highlighted in bold :

Information shall be exempt from disclosure, if –

- (a) such disclosure would, or might be liable to -
(i) constitute an unwarranted invasion of the privacy of an individual;

include the Courts and the departments that support them within the operation of the Code. Given the independence of the Courts, it is a matter for them whether to release information”.

- (ii) prejudice the administration of justice, including fair trial, and the enforcement or proper administration of the law;**
- (iii) prejudice legal proceedings or the proceedings of any tribunal, public enquiry, Board of Administrative Appeal or other formal investigation;**
- (iv) prejudice the duty of care owed by the Education Committee to a person who is in full-time education;
- (v) infringe legal professional privilege or lead to the disclosure of legal advice to an authority, or infringe medical confidentiality;**
- (vi) prejudice the prevention, investigation or detection of crime, the apprehension or prosecution of offenders, or the security of any property;**
- (vii) harm the conduct of national or international affairs or the Island's relations with other jurisdictions;
- (viii) prejudice the defence of the Island or any of the other British Islands or the capability, effectiveness or security of the armed forces of the Crown or any forces co-operating with those forces;
- (ix) cause damage to the economic interests of the Island;
- (x) prejudice the financial interests of an authority by giving an unreasonable advantage to a third party in relation to a contract or commercial transaction which the third party is seeking to enter into with the authority;
- (xi) prejudice the competitive position of a third party, if and so long as its disclosure would, by revealing commercial information supplied by a third party, be likely to cause significant damage to the lawful commercial or professional activities of the third party;
- (xii) prejudice the competitive position of an authority;
- (xiii) prejudice employer/employee relationships or the effective conduct of personnel management;
- (xiv) constitute a premature release of a draft policy which is in the course of development;
- (xv) cause harm to the physical or mental health, or emotional condition, of the applicant whose information is held for the purposes of health or social care, including child care;**
- (xvi) prejudice the provision of health care or carrying out of social work, including child care, by disclosing the identity of a person (other than a health or social services professional) who has not consented to such disclosure;**
- (xvii) prejudice the proper supervision or regulation of financial services;

(xviii) prejudice the consideration of any matter relative to immigration, nationality, consular or entry clearance cases;

(b) the information concerned was given to the authority concerned in confidence on the understanding that it would be treated by it as confidential, unless the provider of the information agrees to its disclosure; or

(c) the application is frivolous or vexatious or is made in bad faith.

Thus those criminal justice agencies which are affected by the Code are not obliged to disclose information which might prejudice the prevention, investigation or detection of crime, the apprehension or prosecution of offenders, the administration of justice or the enforcement or proper administration of the law. However if an individual requested, say, access to personal information which did not prejudice those aspects of the criminal justice system the information should be disclosed. Similarly departments would not have to disclose information if that would prejudice the carrying out of social work or it would breach confidentiality.

Implications for the Scoping Study :

- As regards the information which the affected departments hold individually, nothing is different. Those departments should inform the public on the nature of information they hold and allow access unless the exemptions apply.
- The Courts and departments of the Judiciary are not affected by the Code, other criminal justice departments to whom the Code does apply do not have to grant access to information if that would prejudice the administration of justice and legal proceedings etc.
- If for any reason new information were to be collected as a result of the scoping study's findings, then that department's general record of information would need to be updated and the public informed that different information was being held.
- Were information to be passed electronically to another department that is currently passed manually there would be no new implications arising simply out of the change of medium. Whatever actions affected departments currently take as regards the transfer of information to another department would continue. Information passed from department to department presumably becomes the possession of the receiving department and it is for them to provide access to information if the information is not

considered exempt. Departments affected by the Code currently have to have regard to what the recipient department should or should not share with a future applicant. This issue can be clarified by the adoption of inter-departmental protocols as discussed below¹².

- The obligation regarding correction of information may be more of an issue with greater electronic communication. In many ways it should be easier to update incorrect information – another department may be able to automatically update incorrect or outdated information held electronically by another department if their IT access provisions permit this.
- There would be no perceived issues arising out of the States adopting a model where there were interoperating separate systems, sharing one body of data. In the Northern Ireland Causeway model there is an intelligence data exchange and a common/central data storage system. The storage of the data centrally does not create a database or a separate “agency” and, though this may require a legal ruling, the information should still belong to/be held by the separate criminal justice agencies. In any case it should be remembered that the Code only applies to the affected agencies and access need not be provided if that would prejudice legal proceedings etc.
- Despite the perceived lack of significant material change as a result of greater electronic exchange of information, criminal justice departments bound by the Code of Practice would be advised to enter into an information sharing protocol covering both Freedom of Information and Data Protection issues. This would lead to greater clarity and transparency. The UK government has developed a “toolkit” for Data Sharing which is given at: <http://www.dca.gov.uk/foi/sharing/toolkit/index.htm> This website also includes “Protocol Guidance” for data sharing which contains recommended

¹² **Extract from the Northern Ireland Causeway Project data sharing protocol: “Subject Access Requests/Freedom of Information Requests/Other Requests for Information**

The parties to the Protocol recognise that in fulfilling their statutory obligations under section 7 of the Data Protection Act 1998, or when responding to any request for information from an individual or organisation, that it would be good practice to consult the party from whom information has been received before disclosing it. They further recognise that such consultation will be a requirement when the Freedom of Information Act 2000 comes into force in January 2005. The parties to the Protocol will therefore consult in this manner whenever such a request is received. Consultation will allow a party to ascertain whether any of the exemptions set out in the Data Protection Act 1998 or Freedom of Information Act 2000 apply to that information. The party to whom the request was made will respond to it. The request will only apply to information held by that party, not to information held by the other parties to the Protocol that is not shared with that party (even if that information is also stored on Causeway). However, a data subject will be able to make a separate request under the Act to each of the parties to the Protocol. The parties agree to provide reasonable assistance to one another to enable them to respond to such a request within the timescales set out in the Data Protection Act 1998 and the Freedom of Information Act 2000.”

standards for formalising data sharing agreements and sets out the purpose, principles and commitments that organisations should adopt when they share data. A data sharing Protocol checklist has also been produced to supplement the Guidance and examples of protocols are given, including a link to the Home Office's information sharing website that focuses on crime reduction at

www.crimereduction.gov.uk/informationsharing/index.htm

- Should one database of information be created for the criminal justice system as a result of this project, legal advice would need to be sought concerning the ownership of that information (i.e. which “authority” held it) and hence responsibility for carrying out the duties of the “authority” under the Law. The UK government website has this to say on the subject of shared databases : “In instances where organisations develop a database to share pooled data, it is necessary to establish which organisation will act as the 'data controller' - they alone will have responsibility for disclosing information on a need to know basis.” (Though access could still be denied if that would prejudice legal proceedings etc.) It is considered an inappropriate use of resources to seek law officers' advice on a hypothetical question such as this at this stage of proceedings. Should the Jersey Criminal justice departments ever decide to create a shared database then this question would need to be verified.

Appendix 4– List of interviewees and contributors

Alison Edwards	CJU Manager	States of Jersey Police
Andrew Gillyett	Acting IS Manager	States of Jersey Police
Anne Harris	Deputy Greffier of the States	States Greffe
Brian Heath	Chief Probation Officer	
Dave Christie	Chef de Police	Parish of St Helier
David le Heuze	Magistrate’s Court Greffier	
Debbie le Mottée	Bailiff’s Judicial Secretary	Bailiff’s Chambers
Emma Martins	Data Protection Registrar	
Geoff Cornwall	Chef de Police	Parish of St Brelade
Graham Power	Chief Officer, States of Jersey Police	
Helen Miles	Research and Information Manager	Probation Service
Ian Black	Treasurer of the States	
Ian Skinner	Head of Planning and Research	States of Jersey Police
James Lambert	Director of Services	Judicial Greffe
Jason English	Finance Manager	Viscount’s Department
John Noel	Chief Inspector of Immigration	
Jonathan Lee	Research and Development / International Relations Manager	Computer Services
Mark Houze	Inspector	States of Jersey Police
Michael de la Haye	Greffier of the States	

Michel Couriard MBE	Vingtenier	Parish of St Helier
Michel Le Troquer	Manager, Charges Office	Parish of St Helier
Nick Watkins	Head of Operations	H.M. Prison La Moye
Laurence O'Donnell	Legal Adviser to the Police	Law Officers' Department
Paul Herbert	Senior Manager - Policies and Standards	Computer Services
Paul Matthews	Deputy Judicial Greffier	Judicial Greffe
Peter De Gruchy	Deputy Viscount	Viscount's Department
Peter Robinson	Head of Finance - Shared Services	States Treasury
Sir Philip Bailhache	Bailiff of Jersey	
Robin Morris	Legal Advisor	Law Officers' Department
Simon Crowcroft	Connétable of St Helier	
Dr Stephen Chiang	IT Director	Computer Services
Steve Cole	Chief Executive Officer Customs & Immigration	
Steve Le Maistre	Technical Support Officer - Client Services	States Treasury
Steve Le Marquand	Deputy Chief, Operations	Customs and Excise
Steven Austin-Vautier	Director, Home Affairs	
Steven Guy-Gibbens	Prison Governor	H.M. Prison La Moye
Tim Allen	Chief Clerk	Law Officers' Department
William Bailhache Q.C.	Attorney General	