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Jersey Community Relations Trust  
Contribution to the Women's Resource Centre, CEDAW Shadow Report

Submitted April 2012

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## **General Background**

The Convention on the Elimination of All Forms of Discrimination against Women (“CEDAW” and the “Convention”), adopted in 1979 by the United Nations General Assembly, is often described as an international bill of rights for women. It defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

The Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

The United Kingdom became a signatory to CEDAW in 1981 and ratified the Convention in 1986. Jersey is not subject to the Convention at present. Countries that have ratified or acceded to the Convention are legally bound to put its provisions into practice. They are also committed to submit national reports, at least every four years, on measures they have taken to comply with their treaty obligations. On this occasion, the United Nations asked that the UK include information regarding the status of the Convention in Crown Dependencies. In addition to the country report, there are also non-governmental shadow reports. In preparation for its shadow report, the Women’s Resource Centre<sup>1</sup>, made a request to the Jersey Community Relations Trust (the “JCRT” and the “Trust”) to contribute a section on Jersey. This document therefore represents JCRT’s findings.

As it is intended foremost as a contribution and due to limited resources, the JCRT chose to prioritise and focus on specific articles of the Convention regarding levels of discrimination against women in Jersey, rather than conduct an in depth analysis. It does not, therefore, cover all 30 Articles of the Convention.

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<sup>1</sup> <http://www.wrc.org.uk/>

## Jersey in Context

Jersey is a Crown Dependency of the United Kingdom measuring 9 miles by 5 miles and whilst it is represented by and defended on an international level by the UK Government, it is significantly independent from the UK. The Island's Government, 'The States of Jersey' possesses its own legal system and courts of law, as well as financial and administrative systems.

Local laws and policy are debated and passed by the 53 States of Jersey elected members. In addition, an Honorary Police system offers an alternative to formal court proceedings, which function and take place in any of the 12 geographically-divided Parishes.

The population in Jersey is 97,857. Women make up 51% of the population (49,561) and of this figure 16% are under 16 years, 61% are of working age (16-59 inclusive), and 22% are above working age<sup>1</sup>.

The 2011 Census showed that 99% of the population in Jersey are White, with the remaining 1% made up of Asian, Black and Mixed Race. Half (50%) of Jersey residents were born in Jersey. Almost one-third (31%) were born in the British Isles, 7% are Portuguese or Madeiran, 3% Polish and the remaining 8% are from 'elsewhere in the world'<sup>2</sup>.

The Finance/Legal sector employs 23% of Jersey's labour force, followed by Wholesale/retail trades, 16% then Public Sector 12% and Construction, 10%. In October 2011, the highest level of registered unemployed was recorded at 1,500<sup>3</sup>.

The cost of living in Jersey measured by RPI over the last 6 years has been similar to that of the UK - 21% and 22% respectively, though the 12 months to December saw RPI rise by 5%<sup>4</sup>. Direct food-cost comparisons show Jersey prices are between a quarter and a third higher than the UK. In the third quarter of 2011, house-prices were found to be at £189,000 for a 1-bed apartment and £510,000 for a three-bedroomed house<sup>5</sup>.

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<sup>2</sup> Jersey Census, 2011

<sup>3</sup> Jersey Economic Trends, 2011

<sup>4</sup> Jersey Retail Prices Index

<sup>5</sup> Jersey Statistics Unit

Jersey has a complex qualification scheme affecting people's access to accommodation, work and benefits. In broad terms, people with ten years continuous residence on the Island have an unrestricted right to accommodation. Immigrants who marry locals can purchase a matrimonial home with their spouse. If they divorce this right is lost. People with less than ten years' residence can only live in accommodation specifically classed as unqualified. Five years' residence gives an unrestricted right to work, while less than five years' residence generally restricts individuals to low paid jobs. Five years' residence is also required to access Income Support benefit.

### **Jersey and CEDAW**

In 1998, the Policy and Resources Committee recommended that Jersey should not join in the UK's ratification of the Convention. In that report the Committee advised that it was in agreement with the findings of a group of interested persons that the Convention should not be adopted wholesale. Instead a formal process should be initiated in consultation with the relevant Committees of the States for promoting and progressing various matters covered by the Convention that are of particular relevance for the Island [States Assembly Q's].

In 2003 the matter of joining CEDAW was again brought to the attention of the States and although it was felt that there were no "issues of substance" which might revoke the earlier decision, it was agreed that the issue should continue to be raised in the future<sup>6</sup>.

### **Jersey Community Relations Trust**

The Jersey Community Relations Trust was set up as a charity by the States of Jersey in 2004 and is run by a Committee of seven trustees, including one States Member. It aims to eliminate discrimination on any ground by promoting good relations between all members of society and seeks to achieve equality of treatment and opportunity within the local community. The Trust promotes changes in the law that will enhance equality and commissions research in areas where inequality needs to be addressed.<sup>7</sup>

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<sup>6</sup> States Assembly Questions (2003) Deputy Bob Hill of St Martin

<sup>7</sup> [www.jerseycommunityrelations.org](http://www.jerseycommunityrelations.org)

## **Key Observations and Recommendations:**

The Trust has identified the following issues as the main factors that impact on gender equality in Jersey.

1. At 23% the representation of women in the States Assembly is unacceptably low. Equality of representation in political life is an important goal in its own right and a stepping stone to ensuring equality in other areas. In the view of the Trust, the States need to identify and reduce the barriers to increased female participation.
2. Jersey has a high rate of female participation in paid employment but, women make up only 1/3 of managers, directors and senior officials. There is also evidence that women are disproportionately represented in the caring, leisure, service and administrative/secretarial occupations. Women are significantly underrepresented in skilled trades. Jersey does not keep statistics on gender pay differences, but the distribution of women in the workforce suggests that there may be a significant gender pay gap. The States of Jersey should collect statistics on gender pay so that the causes of inequality can be identified and rectified where possible.
3. One of the factors affecting gender pay is likely to be the high cost and lack of availability of childcare. The cost of childcare is an important social issue as well as being relevant to gender inequality. The Trust recommends that the States of Jersey should look at ways of reducing childcare costs.
4. The absence of any discrimination legislation is another area of considerable concern. Without discrimination legislation women are likely to face discrimination in employment, both in relation to obtaining employment and ensuring equality of treatment while in employment. The States have indicated their intention to bring forward discrimination legislation by the end of 2012 and the Trust hopes that this timetable is maintained.
5. The lack of a maternity law and legislation on flexible working are also impediments to equality. The States need to bring forward legislation on these issues as a matter of priority. In doing so the States should recognise that childcare is a shared parental responsibility and that the rights and obligations of fathers to care for their children needs to be included in this legislation.

6. The lack of specific legislation on domestic violence does not appear to have impacted on the manner in which domestic assaults are treated by the courts and the police. However, the levels of domestic violence remain acceptably high and have increased in recent years. The States need to identify the underlying causes for this violence and take action to deal with them.
7. The assumption in the Income Tax Law that the income of a married woman is deemed to be that of her husband is archaic and unacceptable. The Trust recognises the administrative benefits of married couples filing a single tax return, but this should be a joint return that does not include sexist attitudes that demean women.

## Article 7: Political and Public Life

“States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.”

### 7.1 Political Life

The representation of women in the States Assembly of Jersey at 23% is only slightly higher than the than the global average of 19%<sup>8</sup> and considerably lower than the minimum recommended target of 30% set by the United Nations. After the most recent election on 29 October 2011, there was no increase in the number of women elected to office. Only one of the 10 Senators<sup>9</sup> is female, and a similar situation is reflected at the Executive level where the Minister for Health and Social Services is the only woman out of the 10 Ministers in the Council.

**Table 1:** 2011 Election Results

<b>Candidates</b>	<b>Male</b>	<b>Female</b>
Senators	10	3
Constables	13	3
Deputies	46	17
<b>Total Candidates</b>	<b>69</b>	<b>23</b>
Number of Elected Members	<b>39</b>	<b>12</b>

<sup>8</sup> Interparliamentary Union

<sup>9</sup> States members with an Island-wide mandate



Of 23 women that stood in the 2011 elections, 12 were elected. This encouraging 53% success rate shows that the electorate are quite willing to elect women who stand for political office and that the problem (and the solution) to women's representation in Jersey's Assembly lies in the number of women running for office in the first place. Efforts made to address this would likely lead to an increase in the number of women being elected.

### **7.1.1 Meeting with Female Assembly Members**

The Trust requested a meeting with all female Assembly members to gather collective insights into reasons for such low representation of women in office. Specifically, the meeting explored whether female politicians faced specific barriers and what steps should be taken to increase the number of women in the Assembly. A meeting was held on 14 December 2011 and a separate meeting on 30 January 2012 with Anne Pryke, the Minister for Health and Social Services who is currently the only female minister. The following responses were noted:

- There is a general consensus that women are underrepresented in the Assembly and that this is an issue that needs to be addressed.
- One of the main obstacles identified is the confrontational-model of politics in the Assembly rather than one based on consensus building. According to current members; *"This environment puts off many women from entering politics"* (Minister Anne Pryke) and *"There is still a chauvinistic attitude"* (Deputy Carolyn Labey)
- Women's dual role in paid employment as well as domestic responsibilities and childcare is seen as a barrier to entering politics. For current Assembly members the Assembly's work schedule is also a major hindrance; notably the late timing of evening meetings (which invariably become further extended) and do not take into account the challenges of working mothers in a society that sees mothers as the primary carer. As Deputy Carolyn Labey commented, *"Women should think carefully about other commitments [before entering politics]. Like it or not, our society looks to women to look after children"*.

Senator Sarah Ferguson, on the other hand was of the view that “*the more we make out of differences is the real problem*” adding that “*accommodations will be made if you’re good [at one’s job]*”

- Jersey is a small island and ‘*politics can be so close*’. (Minister Anne Pryke). Because this is a small community, most people can easily recognise politicians and approach them on the street, call them at work, on their mobiles and at home as this information is also often easily available. While it is desirable that politicians be accessible to the public, in Jersey this can easily get out of hand and quickly cross reasonable boundaries. This feature of Jersey politics discourages women from joining politics.
- Asked whether positive discrimination measures such as implementation of quotas which has proved effective in many countries that have increased their level of participation should be adopted in Jersey, the response was a resounding no.

*“I would be insulted. I want to be taken for my characteristics... Gender quotas in Norway boards were unmitigated disasters”* (Senator Sarah Ferguson)

*“That wouldn’t work”* (Deputy Judith Martin)

*“I want to be there [the Assembly] in my own right”* (Minister Anne Pryke)

## **7.2 Judiciary**

The Royal Court of Jersey is Island’s principal court and hears both civil and criminal cases. There are two full-time judges, the Bailiff (Chief Justice) and the Deputy Bailiff. Part-time judges called ‘Commissioners’, are also appointed when needed for specific cases or for specific periods. For the appointments of the Bailiff and Deputy Bailiff, there is a consultation process before a recommendation is made to the Queen, who finally appoints the Bailiff. Those consulted are Members of the Court, Crown Officers, the Bailiff’s Consultative Panel (comprising senior politicians) and senior members of the legal profession. The Bailiff has the power to appoint Commissioners.

Other significant courts include the Court of Appeal, the Magistrates Court and the Employment Tribunal.

The table below shows a clear gender disparity in the Judiciary suggesting that there needs to be a more concerted effort to address this imbalance.

**Table 2:** Gender breakdown of Jersey’s Judiciary<sup>10</sup>.

	<b>Male</b>	<b>Female</b>	<b>Description</b>
Bailiff	1	0	Presiding Officer
Deputy Bailiff	1	0	Presides in the Bailiff’s absence
Lieutenant Bailiffs	2	0	Senior Jurats
Commissioners	7	1	Part-time judges / specific periods
Jurats	9	3	Unpaid elected – assists Judge
Master of Royal Court	1	0	Legally qualified - deals with interlocutory matters
Judges of Appeal	10	2	The Court of Appeal consists of distinguished lawyers who are Judges or Queen’s Counsel
Magistrate	2	0	The Magistrate and Assistant Magistrate are full time judges appointed by the Bailiff (Chief Justice). Relief Magistrates are appointed by the Bailiff from amongst experienced private sector lawyers
Assistant and Relief Magistrates	5	1	
Employment Tribunal (Chairman and Deputy)	1	1	Established to resolve disputes between employers and employees over employment rights
<b>TOTALS</b>	<b>39</b>	<b>8</b>	

### **7.3 Jersey Financial Services Commission (As an example of Women in Public Life)**

The Jersey Financial Services Commission (JFSC) is responsible for the regulation, supervision and development of the financial services industry. Financial services now account for almost half of total economic activity in Jersey and it employs about a quarter of the workforce<sup>11</sup>. It is a sector, therefore, that is of vital importance to the Island’s economy. However, only 3 out of 20 Directors and 1 out of 9 Commissioners are female.

<sup>10</sup> Royal Court of Jersey website as of Feb 2012

<sup>11</sup> Jersey in Figures 2010, Jersey Statistics Unit

Whilst the Commission is an independent body, it is accountable for its overall performance to the States of Jersey through the Minister for Economic Development.

Under Article 12 of the Financial Services Commission (Jersey) Law 1998,

*(1) The Minister may, after consulting the Commission and where he/she considers that it is necessary in the public interest to do so, give to the Commission guidance or give in writing general directions in respect of the policies to be followed by the Commission”.*

*(2) It shall be the duty of the Commission in carrying out its functions to have regard to any guidance and to act in accordance with any directions given to it by the Minister.*

### **Recommendations:**

#### **With regard to representation in the Assembly:**

The States of Jersey should recognise that attaining a gender balance in the Assembly is an important goal and that action needs to be taken to address the current imbalance. The States need to support research into the factors affecting the participation of women in politics and put in place education or other measures that will assist and encourage women to engage fully in the political process.

#### **With regard to the Judiciary**

The Trust recommends that the Bailiff should explore the barriers to the appointment of women to judicial positions.

#### **With regard to the Jersey Financial Services Commission:**

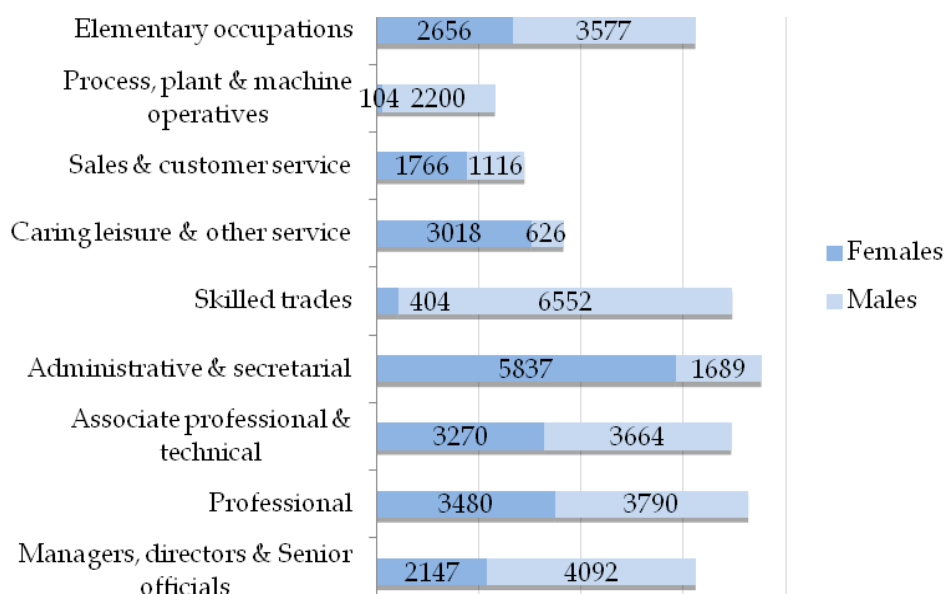
The Trust recommends that the Minister direct the Commission to explore the barriers that are preventing women reaching decision-making positions in the finance sector and how this might be remedied.

## Article 11: Employment

“States shall ensure that women have the same opportunities as men in employment, promotion, training, equal remuneration, social security and safe working conditions. Women must also be protected in respect of pregnancy, maternity and marital status.”

### 11.1 Overview

In recent years, Jersey has maintained a high rate of female participation in paid employment. Having peaked at 85% in 2010, the number of women in paid jobs currently stands at 77%; only slightly less than that of men at 81%, yet women make up only 34% of ‘managers, directors and senior officials’. In addition, women who are self-employed make up 3% of the working population in comparison to men who number 11%. Unemployment figures are typically low in Jersey, currently showing 4% for women compared to 5% for men. The two main reasons women remain economically inactive are ‘retirement’ (49%) and ‘looking after the home’ (27%)<sup>12</sup>[Check with latest figures].



**Figure 1:** Occupation by Gender

## 11.2 Gender Pay Gap

Fig. 1 above shows that women make up 83% of ‘caring, leisure and other service occupations’ and 78% of ‘administrative and secretarial occupations’. In the areas of ‘skilled trades’ and ‘process, plant and machine operatives’ women make up 6% and 5% of the workforce respectively. Such figures suggest that in Jersey society, stereotypical gender roles are overwhelmingly the norm, which can present constraints for women seeking entrance to certain sectors of the workforce.

Further, in societies where there are higher concentrations of women in lower-skilled/low-status positions, research such as the Kingsmill Review<sup>13</sup> shows that there is likely to be a notably wider gender pay gap. In recognition of this, the UK Home Office recently launched a voluntary framework, ‘Think, Act, Report’, which asks employers to undertake analysis of gender equality issues in the workplace. It is intended to aid in narrowing the gap and improve transparency on pay and address workforce issues (Gender Equality Reporting, UK Home Office). In 2010, the Chief Minister was questioned on whether he had any data on the gender pay gap in Jersey comparable to that issued by the United Kingdom’s Equality and Human Rights Commission (Deputy Southern, States Assembly Questions 2010). The UK Commission had identified that women earn on average some 16% less than men (rising to 27% for over 40’s). The Chief Minister’s response was that the Statistics Unit did not collate comparable data on gender pay in Jersey to enable a robust analysis on gender pay differences. The task of overseeing gender pay issues is now under the Social Security Department’s remit as part of its employment legislation programme, yet to date there is no available data on gender pay.

### **Recommendation:**

Before any effective management of the apparent gender disparity in Jersey’s occupational sectors can be undertaken, it is imperative that the States’ begin collection and analysis of statistics on differences in earnings based on gender.

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13 Kingsmill Review of Women’s Pay and Employment 2001

### **11.3 Employment Legislation**

#### **Employment (Jersey) Law 2003**

The Employment (Jersey) Law 2003 which came into force in 2005 did not incorporate rights to maternity leave or maternity pay. While unfair dismissal for pregnancy, childbirth and maternity appear as provisions within the legislation, dismissal for these reasons will not be automatically classed as unfair until associated Regulations are introduced.

#### **Maternity Law**

At present there is no statutory right to maternity leave despite the Social Security Department Minister's stated intention to introduce maternity legislation<sup>14</sup>. In 2008 the Employment Forum<sup>15</sup> made a Recommendation to introduce 2 weeks' paid maternity leave and up to 16 weeks unpaid leave as well as 2 weeks unpaid paternity leave, the right to time off for ante-natal appointments and the right for a woman to return to her previous job<sup>16</sup>. There are currently no obligations for an employer to offer flexible working practices but according to the States of Jersey Strategic Plan (2012), family friendly legislation is described as a "long term project" which is "currently in development, but not yet signed off"<sup>17</sup>.

#### **Discrimination Law:**

There is currently no discrimination legislation in Jersey that protects women against discrimination either before or during employment. Some limited protection for discrimination in relation to termination of employment is afforded by the employment law.

The States of Jersey have agreed to introduce anti-discrimination legislation by the end on 2012 that will cover sex discrimination in an employment context.

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14 Maternity, Paternity and Family Friendly Working: Response to the Recommendations of the Employment Forum and Law Drafting Instructions for Stage 1 – Issued by the Social Security Minister on 18<sup>th</sup> June 2010

15 Non-political consultative body established 1999

16 Jersey Employment Forum (2008) "Recommendation to the Social Security Minister – Maternity, Paternity and Family Friendly working"

17 States of Jersey (2012) 'States Strategic Plan 2012 Consultation: Analysis of Key Strategic Issues'

### **Recommendations:**

The States should ensure that statutory rights to maternity leave and flexible working are introduced as a matter of urgency together with the proposed discrimination law.

In making these changes the States must recognise that there should be no assumption that childcare is predominantly a female responsibility and therefore paternity leave and flexible working for fathers should also be introduced.

#### **11.4 Childcare Policies**

Access to childcare benefits vary and are discussed below in 'Economic & Social Benefits'. Free pre-school education places for up to 20 hours per week are offered in some private and all States' run nurseries for the year before the child begins primary school. While it is recognised that the States is improving access to affordable childcare, there is still a long way to go. A recent report, 'The Children and Young People's Plan: A Strategic Framework for Jersey 2011'18 by the Children's Policy Group found that current high costs of childcare had caused parents to conclude that there is no economic benefit to their working and more worryingly, in many cases, had resulted in parents using more affordable but unregistered child-minders<sup>19</sup>. Traditional solutions to childcare such as family members do not require legal registration; however these instances are likely to be limited in Jersey due to the high number of older family members who will themselves be working.

The States of Jersey 'Strategic Plan 2012'<sup>20</sup> (Green Paper as of March 2012) identifies greater workforce participation as one of six areas currently under consideration for review in order to assess the social impact of policies locally. Greater female participation is achievable with supportive family friendly policies but unfortunately, support services continue to be inadequate, disproportionately placing obstacles in women's careers, limiting their choice of job and how many hours they can work. The results in Fig. 1 above reflect this, showing that women make up only 34% of 'managers, directors and senior officials'.

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18 <http://www.gov.je/consultations>

19 The Children and Young People's Plan: A Strategic Framework for Jersey 2011, 'Grow in a stimulating, nurturing environment', pp 35

20 States of Jersey (2012) 'States Strategic Plan 2012 Consultation: Analysis of Key Strategic Issues' accessed online at [www.statesassembly.gov.je/AssemblyReports/2012](http://www.statesassembly.gov.je/AssemblyReports/2012)



**Recommendation:**

The States of Jersey must address the issue of the high cost of childcare.

**Article 13 – Economic & Social Benefits**

“States shall ensure that women have equal rights with men to family benefits, bank loans and other forms of financial credit. Women must also be allowed to participate equally in recreational activities, sports and all aspects of cultural life.”

**13.1 Overview**

As in the UK, women in Jersey enjoy access to financial credit such as bank loans and mortgages on the same basis as men. Similarly, women are free to participate freely in recreational activities, sports and aspects of cultural life. However, family benefits are not accessible universally and are restricted to women who have been in the Island for more than 5 years. Availability of childcare benefits has recently been expanded to include ‘recent arrivals’ to the Island. Assistance with childcare was previously limited to those with full residential qualifications (those who have lived in the Island for 10 years or more or whose married partner is residentially qualified).

**13.2 Social Security Benefits****Contributions**

Prior to 2001, married women could elect for their husband to make contributions on their behalf. Although this option was removed in April 2001, women who are still in receipt of Social Security’s ‘red cards’ are unable to make appointments to discuss matters of contributions, made by their husbands without him being present. As a result of the 2001 reform, these instances will lessen over time.

**Income Support**

The Social Security Department’s Income Support benefit consists of separate components providing financial assistance that include accommodation, childcare and medical costs. It is only available where at least one adult in the claim has lived in Jersey continuously for at least 5 years. In situations where couples separate, the

spouse without 5 years residency is unable to claim for benefits even if they have dependent children living with them. The 2011 Census revealed that there are currently 1770 single parents with dependent children living in the Island, 89% of which are females. According to figures from the States of Jersey Statistics Unit, there are currently 80 single females with dependants who arrived in the Island since 2006. Their 'unqualified' status means they will currently have no access to family benefits.

### **Maternity Benefits**

A weekly Maternity Allowance is paid for 18 weeks (currently weekly rate £184.45) but is dependent on the amount of contributions made. For mothers who stay at home to care for their child for any period of time, protection is given to their contribution record and pension through Home Responsibility Protection (HRP). Also, a tax-free Maternity Grant of £553.41 as a single payment can be claimed by those with adequate contributions and is intended to assist with general costs of having a baby.

### **Childcare Benefits**

A Childcare component exists within Income Support for those of residentially qualified status (those resident on the Island for over 10 years). This consists of an hourly rate paid directly to the childcare provider. A 'Recent Arrivals Discount Scheme' assists working parents who have been resident in the Island less than 5 years. See above 'Employment: Childcare Policies' for information regarding free nursery places offered to 3-4 year olds.

### **Recommendation:**

It is recognised that in recent years the States have made reforms to policies, such as childcare benefit and income support, which have strived to correct long-standing gender inequalities. However, there is still work to be done to ensure that women's needs are clearly identified and fully supported.

The main issue is the lack of ensured access to family benefit for single mothers with less than 5 years residency. While it is accepted that the 'Recent Arrivals' system covers childcare costs, this will not sustain mothers on low-income.

## **Article 15 - Equality before the Law**

“States shall ensure that women and men are treated equally before the law. Women have the same legal right to enter contracts, own property and choose their place of residence.”

### **15.1 Overview**

The Draft Discrimination Law, which was initially proposed in 1999 was delayed numerous times due to procedural issues, lack of departmental expertise and budget constraints. The lack of priority given to this legislation frustrated many and even as late as 2010, the Deputy Chief Minister was still of the opinion that legislation and resulting positive discrimination would be “burdensome” to businesses in a small community when questioned about Jersey’s social policy framework<sup>21</sup>. Despite this, local employers have largely supported its introduction and in July 2011 the States of Jersey government agreed unanimously to ensure that its’ first anti-discrimination law would be implemented by the end of 2012. Once in force, the legislation is due to cover employment, the provision of goods and services, education, training and many other areas of life. Women will therefore have a remedy if they are discriminated against in any of these areas.

### **15.2 Income Tax (Jersey) Law 1961**

Under Article 121 of the Law, the income of a married women living with her husband is deemed to be his income and not her income. It is possible for either the husband or the wife to elect for separate assessment. In the absence of a separate election, a wife requires her husband’s written permission to deal with the tax office in relation to her and her husband’s tax affairs.

The presumption that the wife’s income is deemed to be that of her husband is unacceptable. The Trust recognises the administrative benefits of married couples filing a single tax return. However, the Law should be changed so that married couples who do not elect for separate taxation file a joint tax return. The filing of a joint tax return should carry with it a right for either spouse to discuss their joint tax affairs with the tax office without the need for permission from the other spouse.

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<sup>21</sup> States Assembly Questions (2010) Deputy Tracey Vallois of St Saviour

**Recommendation:**

The presumption that a husband is responsible for his wife's income is removed. Married couples are put on an equal footing and file separate tax returns or a joint tax return.

**Article 16 – Family Life**

“States shall ensure that women have equal rights with men in relation to marriage and as parents, as well as in respect of other aspects of family life.”

**16.1 Overview**

Nearly half of adults in Jersey are married or re-married (48%), 12% are divorced or separated, 6% widowed and one third (34%) have never married<sup>22</sup>. During the reporting period, approval for a civil partnership law was passed by the States of Jersey which recognises same-sex couples as having the same rights as husband and wife in relation to issues such as tax, adoption, housing and inheritance.

**16.2 Domestic Violence**

Figures show that instances of domestic violence increased from 245 in 2010, to 267 in 2011<sup>23</sup> and for the same period, domestic-related assaults classed as “grave and criminal” rose from 12% to 16% in 2011<sup>24</sup>. In response to this increase, one of the Island's Assistant Magistrates, Bridget Shaw, commented publicly that, “domestic violence is possibly the most serious criminal issue facing the Island.”<sup>25</sup>

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<sup>22</sup> Jersey Census 2011

<sup>23</sup> see Table 3 below

<sup>24</sup> States of Jersey Police, 2012

<sup>25</sup> 26<sup>th</sup> November 2011, Jersey Evening Post, 2011

**Table 3.** Police Statistics

	2011	2010
Instances of domestic-related ‘common’ and ‘grave and criminal’ assaults	267	245
% occurred in the home	79%	86%
7	50%	57%
% of cases victim refused to make complaint		
% resulted in prosecution	40%	32%
% “no crime”	2%	1%

### **16.2.1 Domestic Violence – The Police’s Role**

In Jersey, there is no specific legislation, covering domestic violence and it is not classed as a category of assault. However, the States of Jersey Police have an allocated section for victims of domestic violence and two fully trained full-time staff who attend incidents to assess the potential level of risk to the victim. High-risk victims are referred to Jersey Women’s Refuge, whether or not this support was requested.

Police also supply assistance to victims of domestic violence who need to return to an unsafe home to collect belongings. In such situations they remain present in their capacity to prevent a “breach of the peace” and can also alert the Women’s Refuge in certain cases where there is a need for a domestic alarm to be fitted.

The recently established Witness Care Unit<sup>26</sup> functions with 12 Police Support Volunteers who update victim and witnesses in regard to their case. Needs assessments establish whether translators or other considerations are required for particularly nervous individuals. A Witness Charter is currently being drawn up to set out standards which will underpin witness care within the Island’s criminal justice system.

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<sup>26</sup> States of Jersey Police: Policing Plan 2012 – States Assembly Reports

### **16.2.2 Code on the Decision to Prosecute**

In the absence of specific law relating to domestic violence, a code was recently issued by HM Attorney General to all Centeniers<sup>27</sup>, providing guidelines on the decision to prosecute. The code defines domestic violence as:

*“Any incident of threatening behaviour, violence, abuse or harassment between adults who are or have been intimate partners or family members, regardless of gender or sexuality.”*

It directs that in cases where “the victim of domestic violence has not made a statement of complaint”, or “complainants withdraw their complaints...that does not necessarily mean that the offence did not take place” and in these cases, “serious consideration must be given to what other evidence is present” indicating that it “might be possible to proceed without relying on the evidence of the victim at all.”<sup>28</sup>

### **16.2.3 Information Exchange**

In 2008, the States of Jersey introduced a protocol<sup>29</sup> to facilitate the exchange of information between departments in order to safeguard the welfare of children or vulnerable adults, including victims of domestic violence.

### **16.2.4 Jersey Women’s Refuge**

The Refuge provides confidential support to women and their children who are experiencing physical or emotional domestic abuse as well as safe accommodation overnight or the opportunity to drop-in during the day. Staff undertake outreach work in the community and have created a generic policy template for Human Resource professionals in local organisations, in order to train and raise awareness of domestic violence as an issue in the workplace.

The Refuge note that the introduction of the Witness Care Unit<sup>30</sup> and improved training for new police recruits have made a vast improvement to the treatment of

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27 Senior members of Honorary Police

28 States of Jersey Website (2012) Code on the Decision to Prosecute

29 Jersey Child Protection Committee, 2008

30 See 16.2.1 above – Domestic Violence: The Police’s Role

victims in the Island. However, there are reservations with regard to the proposed introduction of the ‘MARAC’<sup>31</sup> system, whereby ‘pattern reviews’, stimulate a shared information response in high-risk situations. Although this works well in a large jurisdiction, there are concerns that pooled information between agencies such as schools and doctors in a familiar, small community like Jersey could prove counter-productive resulting in disengagement.

Although the Refuge ultimately want perpetrators of abuse to be accountable for what they do, they also feel that it is imperative that the decision and power rests with the woman to involve whomever they decide to.

	2011	2010	2009	2008
<b>Residential</b>				
Total contacts	695	701	1089	825
New contacts	199	217	193	200
Ongoing contacts	496	484	897	463
Women admitted	58	62	67	60
Children admitted	44	38	34	49
Police Referrals	27	56	21	76
<b>Outreach</b>				
New Contacts	53	58	67	73
Ongoing	736	1003	67	73

**Table 4:** Statistics from Jersey Women’s Refuge

### 16.2.5 – ADAPT Programme for Offenders

The Jersey Domestic Violence Forum has introduced the ADAPT programme which looks at common themes of domestic violence such as power and control and denial

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31 Secure Multi-Agency Risk Assessment Conference Communications & Collaboration

It is offered to male perpetrators who want to stop their abusive behaviour towards women. Over 65% of male offenders who undertake the programme achieve completion and as a result recidivist rates are low. Victims are offered contact by a woman Support Worker throughout the programme. (Strategic Plan Progress Report 2011).

**Recommendation:**

The States of Jersey to look at the high rates of domestic violence on the island and take steps to address the underlying causes, and thereby reduce the incidence of domestic violence.