



To: Members of Chief Pleas
To: The Law Officers of the Crown
To: Perkins (External Auditors to Chief Pleas) – Guernsey
CC: His Excellency the Governor of Guernsey, Lord Ponsonby of Shulbrede; Policy & Resources
CC: Residents of Sark

**RE: ONGOING PROCEEDINGS INVOLVING SARK ELECTRICITY LIMITED — ARTICLE 6 /
ARTICLE 1 PROTOCOL 1 EXPOSURE, RECUSAL APPLICATION, AND RESULTING ACCOUNTING
/ AUDIT RISK**

Dear Conseillers,

This correspondence is sent OPENLY, on the basis that it may be placed before a Court.

It is copied to Perkins (External Auditors) because the **new matters** now arising fall directly within:

- UK GAAP (FRS 102 Section 21) — provisions and contingent liabilities; and
- International Standards on Auditing (including ISA 320 and ISA 501) — materiality and completeness of litigation and claims.

1. Nature of the exposure now arising

As Members will be aware, the proceedings involving Sark Electricity Limited (“SEL”) have now moved beyond regulatory and valuation dispute into the territory of procedural fairness, tribunal integrity, and associated Convention rights.

The current position includes:

- A live appeal to the Royal Court arising from the handling of recusal applications;
- A pleaded case of Article 6 ECHR breach (fair trial / impartial tribunal);
- A consequential Article 1 Protocol 1 (“A1P1”) interference claim (procedural deprivation affecting identifiable sums and rights); and
- Associated claims for non-pecuniary and pecuniary harm, with quantification reserved.

In parallel:

- A conflict-based claim concerning the Law Officers of the Crown is live;
- A breach of Contract claim against the EPCC is live (*An application by the Law Officers seeking to dispose of that claim has not succeeded*); and
- Matters concerning that claim — including exposure in the order of c. £1.3 million — are progressing.

In future:

- The broader legal and financial claims against Chief Pleas and others are currently being prepared and will be filed shortly; and,

Our concerns regarding potential criminal actions against individuals involved are currently being considered by The Guernsey Police and we are preparing new evidential submissions for them at this time.

2. Judicial recognition of “real and serious” dispute context

The OPEN judgment of HH Hazel Marshall KC (22 December 2025) has already:

- characterised key issues arising from the statutory / procedural framework as “real and serious”; and
- recognised that regulatory and procedural uncertainty may reach the level of human rights engagement and distortion of outcomes.

This judicial framing makes it unsustainable to characterise the present procedural-fairness issues as speculative or remote.

3. Article 6 and A1P1 — nature of financial exposure

The present claims are not abstract.

They include, at minimum:

(4) Non-pecuniary harm (Article 6)

- distress, uncertainty, and procedural prejudice arising from:
 - prolonged non-determination,
 - absence of oral hearing,
 - continued adjudication under challenge,
 - risk of mis-attribution of delay;

(ii) Pecuniary consequences (A1P1 / consequential)

- loss of access to timely relief;
- inability to protect identifiable financial positions;
- accumulation of quantifiable financial exposure linked to procedural non-progression;
- incremental litigation costs driven by procedural inefficiency.

These heads are already pleaded and structured, with quantification reserved but supported by a defined evidential base.

4. Quantified and emerging exposure envelope

Without prejudice to formal quantification, the following risk envelope is already identifiable:

A. Known quantified strands

- Existing live and pending exposure schedules (exclusive of damages, interest and costs):
 - £4,000,000+ (approximate range already identified separately)
- Conflict-based claim currently progressing:
 - ~£1.3 million

B. Procedural-breach related exposure (emerging)

- Non-pecuniary damages (Strasbourg-type comparators)

- Pecuniary loss linked to:
 - inability to obtain interim relief,
 - timing loss and cashflow deprivation,
 - compounding regulatory effects

C. Combined indicative envelope (order-of-magnitude, not a claim)

Taking the above together, a reasonable worst-case envelope (for FRS 102 / audit-visibility purposes only) is:

£5 million – £8 million+

(exclusive of interest and full adverse costs scenarios)

This is not advanced as a final claim figure. It is the minimum level at which exposure ceases to be “remote” and clearly becomes material for accounting and audit purposes.

5. UK GAAP (FRS 102 Section 21) implications

FRS 102 requires:

- Provisions, where:
 - a present obligation exists,
 - outflow is probable,
 - and a reliable estimate can be made;
- Contingent liabilities, where:
 - an obligation is possible but dependent on future events, or
 - probability/measurement is not yet satisfied.

Critically:

Contingent liabilities must be disclosed unless the possibility of outflow is remote.

Given:

- judicial recognition of serious issues,
- live proceedings across multiple forums,
- quantified and logically connected loss pathways,

it is not credible to characterise the present exposure as “remote”.

6. Audit implications (ISA 320 and ISA 501)

ISA 320 — Materiality

The scale of the exposure relative to Sark’s budgetary position means:

- omission or understatement would reasonably influence economic decisions of users of the financial statements.

ISA 501 — Completeness of litigation and claims

The auditors are required to obtain sufficient evidence that:

- all material litigation and claims are identified;
- exposure is properly described; and
- management assertions (including “remote”) are supportable.

Any approach that does not actively engage with:

- the Article 6 / A1P1 claims,
- the recusal-based appeal,
- and the progressing conflict claim,

would place the audit process under obvious strain.

7. Practical consequence for Chief Pleas

As with the compulsory purchase pathway, the financial reality is straightforward:

- These are not isolated disputes;
- They are linked procedural and systemic exposures;
- And the aggregate financial risk sits well beyond annual operating scale.

If unresolved at an early stage, these matters will compound through:

- damages,
- interest,
- and adverse costs.

8. Governance requests (parallel structure)

SEL therefore asks Members to require:

A. A formal “Procedural Claims & Human Rights Exposure Schedule”

Consistent with FRS 102 Section 21, identifying:

- all live and pending claims (including Article 6 / A1P1);
- the conflict-related proceedings (~£1.3m);
- associated cost exposure ranges;
- management classification (provision vs contingent liability);
- reasons for any assertion of “remote” (if made).

B. Auditor visibility (Perkins)

A written confirmation from Perkins as to:

- how the above exposure is being treated;
- how ISA 320 materiality is assessed;
- and what audit evidence has been obtained under ISA 501.

C. Consolidated affordability assessment

A statement explaining:

- how these combined litigation exposures (procedural + compulsory purchase) are fundable relative to the published budget baseline, without unacceptable harm to residents.

9. Closing position

SEL remains fully committed to resolving matters in a way that restores stability and certainty for Sark. We had previously made it clear that the proposed sale terms to Island Power was initially made on a **‘drop hands’** basis on all other claims against any parties by SEL and its Director/Owner.

While the current proceedings now make that initial offer impossible; SEL remains committed to a reasoned and legitimate resolution that places the stable future of Sark's Energy and its Investment needs in the reach of Island Residents; and our door remains open to genuine engagement aimed at swiftly securing that outcome.

However, Members should be clear:

The current course is not a series of discrete disputes. It is a developing systemic exposure across valuation, procedure, and human rights, carrying multi-million-pound consequences if not properly surfaced and addressed.

The purpose of this correspondence is to ensure that:

- decision-making is properly informed, and
- accounting and audit treatment reflects reality, before liabilities compound further.

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Alan Witney-Price
Managing Director
Sark Electricity Limited

ANNEX A (Recusal / Procedural Fairness)

Article 6 / Article 1 Protocol 1 — Loss Mechanics & Quantification Framework

A.1 Procedural Trigger Events

Threshold procedural failure: Recusal applications were determined on the papers, with no oral hearing listed or held.

1. Continuing acts: Directions issued 24 April 2026 pressed proceedings forward notwithstanding unresolved tribunal-legitimacy issues and created a live mis-attribution of delay risk.
2. E12 non-progression: A Second Appeal + urgent injunction filed 24 October 2025 was never acknowledged, listed, or heard, despite chasers on 28 October and 4 November 2025.

Operational consequence: these events combine to produce (i) Article 6 procedural deprivation and (ii) consequential A1P1 practical deprivation of access to identifiable sums during the period of tribunal dysfunction / non-access to urgent relief.

A.2 Loss Mechanics — Article 6 (Non-Pecuniary)

Non-pecuniary harm arises mechanically from the procedural sequence itself:

- prolonged non-determination and paper-only refusals;
- denial of an oral hearing on tribunal legitimacy;
- continued case advancement while the challenge remained unresolved; and
- compounded prejudice from the risk that delay is mis-attributed to SEL as non-cooperation / want of prosecution.

Quantification discipline: any non-pecuniary award is reserved to the Court, but the pleaded indicative band is grounded in Strasbourg-type practice.

A.3 Loss Mechanics — A1P1 (Pecuniary / Identifiable Sums)

A1P1 is framed consequentially: the interference pleaded is procedural deprivation of access to identifiable sums during tribunal dysfunction, not a merits challenge to regulatory policy or tariff-setting.

Mechanism of pecuniary loss

1. Identifiable sums are generated / recorded in the E10 calculation basis as blocked/outstanding across defined billing periods.
2. The only procedural mechanism to seek urgent interim protection was the E12 injunction, which remained unlisted; SEL was therefore unable even to argue for interim relief.
3. Each month of non-access / non-progression compounds the cashflow impact (timing loss / loss of use of money), while the procedural dispute remains unresolved.

A.4 Quantification Snapshot

E10 quantified impact to date:

- £394,741.80 recorded as blocked or outstanding to 31 March 2026.
- Ongoing accrual thereafter is pleaded as approximately £54,000–£58,000 per month.

Important discipline

- E10 records financial impact by period and quantum and expressly does not assert final entitlement in this Annex; entitlement remains to be determined through lawful process.

A.5 Methodology

For pecuniary quantification the method is:

1. Baseline: a counterfactual procedure in which:
 - recusal is promptly and properly determined (including oral hearing where required), and
 - urgent applications (including E12 injunction) are listed within a reasonable timeframe.

2. Difference: compare:
 - actual cashflow / blocked sums and incremental costs incurred under the challenged procedural path, minus
 - the baseline costs and cashflow position that would reasonably have applied under prompt fair procedure.

3. Attribution: isolate increments attributable to:
 - non-listing / non-access to urgent relief (E12), and
 - continued case progression under unresolved tribunal legitimacy.

A.6 Interest & Incremental Costs (Reserved)

- Interest is claimed as an ordinary incident of effectiveness (time-value of money) where pecuniary loss or monetary relief is established.
- Incremental unavoidable costs are reserved to be evidenced by invoices/fee notes and a short “but-for baseline” comparison.

A.7 Reservation & Sequencing

This Annex is intended to assist decision-readiness and audit visibility by setting out mechanics and measurement. The Appellant recognises the Court may:

- determine breach and protective/corrective relief first, and
- reserve quantification to a later stage.