

EXECUTIVE COUNCIL

PUBLIC

Title: Agreement between FIG and Sure on VSAT licensing

Paper Number: 213/25

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Portfolio Holder: The Hon MLA Mark Pollard

Reason for paper: This paper is submitted to Executive Council:

For policy decision (including budgetary policy)

Publication: Yes with redactions as **highlighted**. It is suggested that this report not be published until agreement is signed with Sure.

Reason for Redactions or not Publishing:

Under Executive Council Standing Order 23(2), Executive Council must have regard to the categories of exempt information in Schedule 3 to the Committees (Public Access) Ordinance when determining if information should be withheld.

The categories which are potentially relevant to this paper are:

Paragraph 9: information about others' financial and business affairs

Paragraph 10: Information about relevant contracts and negotiations

Paragraph 12: Information about legal advice

Previous papers: 37/15 - Strategic Telecommunications Review; 223/15 - Telecoms licence; 42/17 - Exclusive licence; 130/19 – Communications (Amendment) (No.2) Bill; 163/16 – Communications Bill; 41/25 - VSAT Select Committee Recommendations – implementation and next steps; 100/25 Proposed changes to VSAT licence policy and fee level

List of Documents: Appendix 1: Summary of Sure agreement with FIG
Appendix 2: One-off payment calculations

1. Recommendations

Honourable Members are recommended:

- a) Approve the heads of terms negotiated between FIG and Sure to support Sure to maintain existing telecommunications services for the remainder of the licence period.
- b) Approve the associated budget.
- c) Authorise the Director of Development and Commercial Services, following consultation with the Chief Executive, Financial Secretary and Attorney General, to finalise and sign an agreement with Sure based on the summary in Appendix 1.
- d) **REDACTED**

2. Additional Budgetary Implications

2.1 This table shows the operational expenditure liability of the proposals in this paper.

FY 2025-6	FY 2026-7	FY 2027-8	TOTAL
£2,495,040	£2,447,753	£1,223,877	£6,166,670

2.1 The 2025-26 figure includes two payments: a one-off back payment for losses incurred April to August 2025 (only payable in FY 2025-26), and then ongoing losses. Other years are just the ongoing losses maximum. FY 2027-8 only includes payments to end of December 27, as this is the earliest end point of the current exclusive licence. Detailed breakdowns are provided below.

2.2 It is not expected that all of this budget would be claimed, as claims are against evidenced losses. The figures above account for the maximum possible loss (i.e. if 100% of customers ceased to use Sure broadband services entirely), as this is the amount needing to be accounted for in total.

3. Executive Summary

- 3.1 Executive Council paper 100/25 outlined Sure's response to FIG's proposals to change the VSAT licence fee and policy. Sure made clear that the impact on their business of this change could compromise their ongoing viability and ability to discharge their universal service obligations.
- 3.2 Sure also stated that the changes could impact their legitimate expectations under the exclusive licence, and potentially be open to legal challenge. Whilst FIG does not agree that Sure has a legitimate expectation, nor what the consequences would be if they can demonstrate this, legal challenge could significantly delay implementation of ExCo's decision on VSAT policy and fee, which is not considered acceptable given the clearly demonstrated public demand for this change. Sure has commenced the process of applying to the Court to challenge the decision.
- 3.3 Executive Council therefore authorised officers to engage Sure in negotiations to agree a commercial solution to guarantee continued service provision from Sure once the VSAT policy and fee were enacted. This paper presents the results of those negotiations.

- 3.4 The proposal is that FIG agrees a formula with Sure, presented in detail in section 5, below, for them to recoup a percentage of losses of broadband revenue, set against an agreed baseline of revenues before widespread (largely unlawful) use of Starlink began. The percentage recoupable by Sure will be tiered, with only a certain amount claimable at 100%, and reducing in increments above that amount, thereby maintaining incentive for Sure to continue to provide attractive consumer broadband products to retain and re-attract customers.
- 3.5 The proposals accept that a certain percentage of the population will simply not retain Sure broadband services once they are able to legally use Starlink on receipt of a VSAT licence, and that these losses arguably should be recoupable by Sure from FIG, as without the change to licence fee and policy they would not have lost these revenues.
- 3.6 As part of this agreement, Sure will launch new, cheaper unlimited packages to offer consumers a genuine choice between the cost of a Falkland Islands Starlink package (which will be the only packages available to users here) inclusive of licence costs, and Sure's own offer. This is intended to provide incentive for customers to consider retaining Sure services alongside or in preference to Starlink.
- 3.7 Sure will only claim for evidenced losses, with no guaranteed minimum amount other than a one-off figure to cover losses demonstrated between April and August 2025, which it is considered may be attributed to largely unlawful use of Starlink services. Ongoing payments will be based on actual loss figures, against an agreed baseline. Current forecasts in this paper are to the earliest end point of the current exclusive licence (December 2027) but if the licence is further extended then additional payments could become due. This will be detailed in the agreement between FIG and Sure which will be signed if ExCo approves this paper.
- 3.8 In effect this agreement means that all taxpayers will contribute towards an additional payment to Sure, via this process, to allow for VSAT licences to be available at the new fee level and with the new more permissive policy. This situation has occurred because of the existence of the exclusive licence and universal service obligation, and the likely impact of some customers ceasing to buy services from Sure. Although VSAT licensing is not within the exclusivity held by Sure, and have been issued under the old policy and fee level without challenge from Sure, the projected scale of consumer change and contingent financial loss presented a threat to Sure's ability to deliver services, as experience elsewhere has demonstrated. For reasons of safety, resilience, security and the essential nature of Sure services to the population, securing Sure's viability for the remainder of the licence period is considered an appropriate use of public funds.

4. Background

- 4.1 The longer background to this work is given in full in paper 100/25 and 41/25.
- 4.2 Between paper 100/25 and this paper, a key development was that FIG, working with the Regulator, chose to reject Sure's proposals for VSAT licences to require a mandatory minimum Sure package. Whilst this proposal would have passed much of the costs of this agreement onto the consumers choosing to take up VSAT services, and was therefore somewhat of a 'user pays' principle, it was considered to be open to legal challenge from members of the community. It was also something Starlink indicated could impact their willingness to provide services to the Falkland Islands as it sits outside their usual policies for service provision. Therefore, this option, which was tied

in to Sure's previous projected revenue loss figures presented in paper 100/25, is not considered here.

5 Detailed proposals for agreement with Sure

REDACTED

6 Consultation with the Communications Regulator

- 6.1 The Communications Regulator has been separately working on implementation of both the licence for Starlink to operate in the Falkland Islands, and on the revised policy and process, including enforcement, for the new VSAT licences.
- 6.2 She has been kept engaged in this negotiations process where discussions interacted with her role, to ensure alignment between processes and consistent and accurate information being made available for the public.
- 6.3 FIG and the Regulator are content that what is proposed here is, subject to formal contracting, acceptable and in line with the exclusive licence. It supersedes much of the 2022 Broadband Obligation contract, and the new contract will indicate this.

7 Resource Implications

7.1 Financial Implications

- The total budgetary implication is a new request and has no allocation within existing budgets.

7.2 Human Resource Implications

- Securing the detail of the new deal will require more time from DCS, AG Chambers, and the Regulator, as well as input from Treasury.
- Processing Sure's claims will require Treasury and DCS resource.
- Managing the 'lifeline' service scheme will require time from DPECS to establish criteria, and DCS to administer.

7.3 Other Resource Implications

None identified.

8 Legal and Legislative Implications

- 8.1 Agreeing this deal removes the threat of a judicial review, which would take up huge amounts of legal time and have significant costs.

9 Equalities and Human Rights Implications

- 9.1 Some members of the Falklands community consider that access to certain standards of telecommunications, particularly broadband, is a right and a necessity. The legality of this claim has not been ascertained, but it is certain that access to high quality communications is an important tool – for example, giving access to information, allowing languages to be easily translated, giving routes for reporting of concerns, access to services, etc.

10 Environmental & Sustainability Implications

10.1 None.

11 Camp Implications

11.1 It is acknowledged that providing telecommunications services in Camp is a particular responsibility and can be a technical challenge, which is why the Government's commitment to universal service remains in place.

12 Significant Risks

12.1 Risk of working with external VSAT providers and their compliance with FIG's regulatory regime. Mitigation is that when Starlink is licenced they will be subject to investigations and enforcement/penalties.

12.2 **REDACTED**

13 Publicity

13.1 The outcomes of this paper will be communicated directly to Sure by Director DCS.

13.2 A public comms plan will be devised with the FIG Communications Team. The opening of applications for VSAT licences will be timed to after Sure has announced its new unlimited package prices, so consumers can make an informed choice about which service they wish to take, at which price point.

13.3 **REDACTED**

14 Reasons for Recommending Preferred Option

14.1 To guarantee ongoing provision under the universal service obligation.

14.2 **REDACTED**