



**IX  
2016**

# **BILLET D'ÉTAT**

**TUESDAY, 8th MARCH, 2016**

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# BILLET D'ÉTAT

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## TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

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I hereby give notice pursuant to Rule 1(4) of the Rules of Procedure of the States of Deliberation that the items contained in this Billet d'État which have been submitted for debate will be considered at the Meeting of the States of Deliberation already convened for **TUESDAY, the 8th MARCH, 2016.**

R. J. COLLAS  
Bailiff and Presiding Officer

The Royal Court House  
Guernsey

25<sup>th</sup> February 2016

**PRIaulx LIBRARY COUNCIL**

**NEW MEMBER**

The States are asked:-

I.- To elect a member of the Priaulx Library Council to fill the vacancy which arose on 1<sup>st</sup> January, 2016, by reason of the expiration of the term of office of Deputy Roger Domaille, who is eligible for re-election.

**(N.B. Each year the States elect a member of the Priaulx Library Council, who does not need to be a sitting Member of the States, to serve a two year term.)**

## **HEALTH AND SOCIAL SERVICES DEPARTMENT**

### **APPOINTMENT OF A RESPONSIBLE OFFICER UNDER THE REGULATION OF HEALTH PROFESSIONS (MEDICAL PRACTITIONERS) (GUERNSEY AND ALDERNEY) ORDINANCE, 2015**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

16<sup>th</sup> February 2016

Dear Sir

#### **Executive Summary**

1. The Health and Social Services Department (“HSSD”) wishes to nominate Dr. Peter Rabey, the Medical Director of HSSD, as the Responsible Officer under “The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015” (“the Ordinance”) to succeed Dr. Nick Lyons who was the interim appointee.
2. The appointment of a Responsible Officer is required to be made by the States of Deliberation under Part III, section 10(1) of the Ordinance.
3. This nomination was approved by the HSSD Board on 3<sup>rd</sup> February 2016. HSSD wishes the appointment to take immediate effect, to ensure the continuity of the regulation and registration of medical practitioners working in or coming to work in Guernsey.

#### **Background**

4. At the States Meeting of 25<sup>th</sup> June 2014, the States of Deliberation considered a States Report entitled “Introduction of Responsible Officer Legislation to Strengthen Medical Practitioner Quality Assurance” dated 7<sup>th</sup> April 2014 (Billet d’État XII June 2014), and resolved to introduce a Responsible Officer regime in Guernsey as set out in paragraphs 12 to 31 of that report.
5. A Policy Letter entitled “Amendment of the Regulation of Health Professionals (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015” was considered by the States of Deliberation on 30<sup>th</sup> July 2015 (Billet d’État XIV July 2015) when a number of amendments to the proposed legislation were agreed. The Ordinance was subsequently approved on the 24<sup>th</sup> November 2015.

6. The Responsible Officer has a critical role in the regulation of medical practitioners in Guernsey and Alderney and makes recommendations to the General Medical Council (“the GMC”) on whether or not the doctors for whom the Officer is responsible should be revalidated.
7. HSSD appointed an interim Responsible Officer, Dr. Nick Lyons, in February 2014 while policy was being prepared for the introduction of Responsible Officer legislation. Dr. Lyons is leaving the Island at the end of March 2016 to take up a full-time appointment in the United Kingdom and HSSD, in accordance with Part III, section 10(1) of the Ordinance, wishes to nominate Dr. Peter Rabey, HSSD Medical Director, as the Responsible Officer with immediate effect.
8. In accordance with Part III, section 10(2) of the Ordinance, HSSD wishes to recommend the appointment of Dr. Peter Rabey as Responsible Officer for both classes of registered practitioners (United Kingdom Connected Practitioners and Local Practitioners). A brief summary of Dr. Rabey’s Curriculum Vitae is attached for information as Appendix 1.
9. HSSD has consulted with the Policy Council in relation to Part III, sections 10(3-5) of the Ordinance, which states that the Policy Council will appoint a second or further Responsible Officer should there be, in its opinion, a conflict of interest or an appearance of bias in relation to a Responsible Officer. HSSD will bear any costs of administering this process.
10. HSSD requests that this appointment is made with immediate effect in order to ensure that medical practitioners can continue to be registered and appropriately regulated under the system for registration and revalidation of doctors on-island and to avoid any vacancy in the post which could be viewed unfavourably by the GMC.
11. In recommending Dr. Peter Rabey as Responsible Officer, Health and Social Services Department is satisfied that he fulfils the criteria set out in Part III, section 10(6) of the Ordinance.

## **Resources**

12. As explained in the Policy Letter entitled “Amendment of the Regulation of Health Professionals (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015, Section 6 (Billet d’État XIV of 2015) (“the Policy Letter”), the new regulatory system will be funded by an increase in the annual charge required to be paid by all registered medical practitioners under The Regulation of Health Professions (Medical Practitioners) Ordinance, 2015 (Resolution 1(q)) from 2017. The States of Guernsey will pay the annual charge of States-employed consultants and consultants employed by the Medical Specialist Group (as required under the contract with the Group).

13. The Policy Letter had estimated the total cost of the regulatory system to be £95,000. However, with the appointment of Dr Rabey this would reduce to a total of £50,000 but remain funded by the annual charge with a corresponding reduction in the fees charged when the regulatory system begins in 2017. The reduction in the total cost of the regulatory service should also result in a proportionate reduction in the £25,500 per annum that was estimated to be the cost to the Health and Social Services Department of paying the annual charge of States-employed consultants. In addition to the annual fee, a one-off registration fee will be charged in 2016 of £80 per doctor, which will offset all administrative costs incurred to date in the development of the system.

### **Recommendation**

14. The Health and Social Services Department recommends that the States appoints Dr. Peter Rabey, Medical Director of the Health and Social Services Department, to the post of Responsible Officer for both classes of medical practitioners (United Kingdom Connected Practitioners and Local Practitioners), for Guernsey and Alderney, in accordance with Part III, section 10(1) of the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015 with immediate effect.

Yours faithfully

P A Luxon  
Minister

H J R Soulsby  
Deputy Minister

M P J Hadley  
M K Le Clerc  
S A James

R H Allsopp  
A Christou  
Non-States Members

**APPENDIX 1****Curriculum Vitae Summary****Dr Peter George Rabey**

Dr Rabey joined the States of Guernsey as Medical Director in November 2015. Prior to this appointment he was the Deputy Medical Director and Responsible Officer for one of England's largest NHS Trusts. As a Responsible Officer, Dr Rabey is well known for his ability to provide strong medical leadership. He has a proven track record in implementing successful change and reform, working with a wide range of stakeholders. Dr Rabey is also very experienced in both commissioning and contract negotiation. As a Deputy Medical Director, he has demonstrated highly effective medical management across a range of specialities. He has led on the transformation and improvement of a variety of services in recent years, including women's and perinatal services; women's and children's services, and emergency and acute services. Dr Rabey is committed to high quality, evidence-informed medical care. He has been a 'Fitness to Practice' panellist with the General Medical Council (GMC) for eight years making a significant contribution to the regulation and professional standards of doctors.

Dr Rabey is also a respected clinician, (a consultant anaesthetist) and as such is highly skilled in the areas of orthopaedics, renal and transplant, hepato-biliary surgery, emergency surgery, obstetrics and gynaecology, day case and general surgery. He is a strong medical leader who is committed to promoting and ensuring the continuing professional development of doctors in order to achieve the best possible outcomes for patients.

Dr Rabey has been fully registered as a medical practitioner throughout the last five years and the GMC have approved his application to become Suitable Person.

**(N.B. The Treasury and Resources Department notes that the costs of the regulatory system for medical practitioners will be lower than was previously estimated. However, should the costs of providing the system change then it is expected that the Committee *for* Health and Social Care will adjust the fees charged so that the system remains fully self-financing.)**

**(N.B. The Policy Council supports the proposals in this Policy Letter and confirms that it complies with the Principles of Good Governance as defined in Billet d'État IV of 2011.)**

The States are asked to decide:-

II.- Whether, after consideration of the Policy Letter dated 16<sup>th</sup> February, 2016, of the Health and Social Services Department, they are of the opinion to appoint Dr. Peter George Rabey, Medical Director of the Health and Social Services Department, to the post of Responsible Officer for both classes of medical practitioners (United Kingdom Connected Practitioners and Local Practitioners), for Guernsey and Alderney, in accordance with Part III, section 10(1) of the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015 with immediate effect.



## STATES' ASSEMBLY & CONSTITUTION COMMITTEE

### DECLARATION OF UNSPENT CONVICTIONS

The Presiding Officer,  
The States of Deliberation,  
The Royal Court House,  
St. Peter Port

23<sup>rd</sup> February 2016

Dear Sir,

#### **EXECUTIVE SUMMARY**

On the 25<sup>th</sup> June 2015 (Billet d'État XI of 2015), after consideration of an amendment laid by Deputies Spruce and Gillson to the States' Assembly & Constitution Committee's policy letter on the General Election 2016, the States resolved *inter alia* to direct the States' Assembly and Constitution Committee to lay before the States of Deliberation:

- a) *amendments to the Rules of Procedure of the States of Deliberation and the Rules relating to the Constitution and Operation of States Departments and Committees, specifically to require Declarations of Unspent Convictions, that is to say of any criminal convictions resulting in sentences of imprisonment which are not to be treated as spent pursuant to the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002. This additional declaration to be made and lodged with the Greffier and published by him, in the same manner and at the same time that existing Declarations of Interest are required to be so made, lodged and published;*
- b) *proposals to extend the requirements in relation to Declarations of Unspent Convictions, to candidates at elections for the office of People's Deputy; to ensure appropriate verification of such declarations, and to create a specific offence of knowingly or recklessly making false statements in them; and directing the preparation of such legislation as may be necessary to give effect to those proposals.*

In formulating its proposals, the Committee took advice from the Law Officers, staff at the Home Department, including the Vetting Bureau, and the Data Protection Commissioner. They raised a number of issues, in particular the Commissioner. As a result of the Commissioner's concerns the Committee believes that part of the terms of the Resolution should not be adopted. This policy letter sets out how the Committee believes that the spirit of the Resolution could be implemented, while complying with the principles of the Data Protection legislation, by means of amendments to the new Rules

of Procedure of the States of Deliberation and their Committees (part a) and changes to the Reform Law (part b).

## REPORT

1. The first part of the resolution on the Declaration of Unspent Convictions requires the new Rules of Procedure of the States of Deliberation and their Committees (“the Rules”) to be amended to require Members to make Declarations of Unspent Convictions. These are defined in the resolution as “any criminal convictions resulting in sentences of imprisonment which are not to be treated as spent pursuant to the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002”.
2. The resolution requires such Declarations to be made and lodged with H.M. Greffier and published by him in the same manner and at the same time as the existing Declarations of Interest are required to be made, lodged and published. Declarations of Interest are made in the form set out in the Schedule to the Rules, lodged with the Greffier and published on the States’ website. In order to implement the resolution, the Committee’s original intention was to propose a new section to the form where Declarations of Unspent Convictions would be made and thus they would be treated in the same way as the rest of the Declaration of Interests. In extensive discussions with the Data Protection Commissioner the Committee was advised that the intention to implement exactly the terms of the resolution could conflict with Data Protection principles by which the States are bound.
3. Some of her comments are included below. The Committee recommends Members of the States to consider them carefully before deciding how to vote on the Propositions and to consider the likely extent of the problem that they believe these proposals will remedy. The Commissioner noted that:

*“Conviction data falls within the definition of sensitive personal data as defined in the Data Protection (Bailiwick of Guernsey) Law 2001 and special provisions are made for the processing of all such data.”*

*“The recognition of the sensitivity of such data reflects the case law on Article 8 of the European Convention on Human Rights.”*

*“Any requirement to disclose such data must be lawful, justifiable and proportionate.”*

4. While noting that any changes that the Committee proposes will be lawful, in the sense that they will be implemented by means of changes to the Rules of Procedure, which are authorised by legislation (the Reform (Guernsey) Law, 1948, as amended), the Commissioner was concerned by the initial intention that this information would be published on the States’ website. She queried what would be achieved by the unrestricted and permanent publication of such data on

the internet, which is the case with the normal Declarations of Interest required at present, and whether it would be justifiable or proportionate.

5. The Commissioner was greatly concerned that once such data have been published online about an individual they effectively form a permanent record about the person.

*“Some such consequences may be easily predicted, but many will more likely be entirely unpredictable. Once data is published online, it will likely remain there in permanent form (even if cached) and on the basis that there is no control over the manner in which other individuals/organisations may choose to re-publish, extract, comment etc. upon such data, the potential for disproportionate harm to the individual to whom it relates should not be underestimated.”*

The information might also be given wide currency by social media and the like. Thus the States would be unable to guarantee either control over or security of the data once published. The Commissioner believes that such a proposal could be seen as neither justifiable nor proportionate under Data Protection legislation. The reputation of a former States’ Member could be harmed many years later by the information. She was not aware of another area of employment / office where such a requirement to publish existed. She believed that was likely to be a deliberate reflection of the important governance issues that necessarily attach themselves to all handling of such data.

6. The system would also need to deal with the fact that unspent convictions may become spent at a future point in time and that would need to be monitored and managed.
7. Consideration was given to having a voluntary scheme of Declarations. However, the Commissioner again had concerns:

*“We would also suggest that where consent is being suggested as an option in such a context, there is a strong argument that it may be difficult to assert that it is freely given. Were any individual not to wish to provide consent for such publication there would be a disparity in the manner in which Deputies (and those standing for Deputy) are treated, with data relating to some being published and others not. This would seem to defeat the object of the proposal.”*

8. The Commissioner also stated:

*“It is also worth mentioning that the new European data protection regulation talks specifically about conviction data and tightens up control of processing to a significant degree. Such developments are worthy of note in light of recent precedent in what has become known as the ‘right to be forgotten’ where individuals have taken cases to court to require removal of data which has been published about them and which has been deemed unfairly detrimental.”*

9. For all those reasons, the Commissioner believed that proposals which led to the publication on the States' website of Declarations of Unspent Convictions in the manner envisaged by the Deputy Spruce / Deputy Gillson amendment would, at the very least, contradict the spirit of Data Protection legislation and also the Rehabilitation of Offenders legislation.
10. Therefore, the Committee is proposing instead that Declarations of Unspent Convictions be put in a paper-based Register, the information from which would not be uploaded to the States' website.
11. The Committee proposes that the Register would still contain all the information required by the resolution. In keeping with the aims of the resolution, Members would also still need to submit a Declaration immediately upon election as a Deputy and submit an updated one each year, as they do with the Declaration of Interests. However, it would be submitted to H.M. Greffier on a separate paper form and he would keep all such current Declarations in a file. Nevertheless in order to achieve the disclosure objective of the resolution that file would be available for inspection at the Greffe by anyone. A Member whose conviction became spent before the next Declaration was due would have the right to submit an amended Declaration which would replace the version which had become out of date.
12. The Committee has considered whether the requirement to declare unspent convictions should apply also to offences committed in other jurisdictions. Currently any person who at any time during the five years preceding an election has been sentenced to a period of imprisonment of six months or more is ineligible to hold office as a People's Deputy but only where the sentence was imposed by a court in the United Kingdom, any of the Channel Islands or the Isle of Man. This long-standing provision has been effective due to the close links between the police forces in those jurisdictions which mean that sentences can easily be verified. In contrast, the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 applies in relation to any conviction by a court in any other jurisdiction, rather than simply the British Islands.
13. There is an argument that these new provisions on Declarations by Members should apply to any conviction by a court anywhere in the world. Otherwise a person could, quite legitimately, be a Member without disclosing a conviction for a serious crime in another jurisdiction which he or she was not obliged to declare.
14. This wider approach to disclosure raises a number of issues. First, it may be harder to check that a true declaration has been made as checks with other law enforcement agencies may be less easily achieved. Second, a person may have been convicted due to an act which is an offence in another jurisdiction but which is not an offence in Guernsey. Two examples may suffice to illustrate the point. One, in many "Western" democracies, including parts of the Commonwealth, the deliberate destruction of the national flag or its use in an inappropriate way is illegal. Two, in many countries homosexual acts remain illegal. In neither case

would an offence have been committed in Guernsey but the conviction would need to be declared if still unspent. Therefore, the Committee has decided to recommend that a People's Deputy would only be required to disclose an unspent conviction where the act which led to that Deputy's conviction would also constitute an offence in Guernsey.

15. If the area where unspent convictions have to be declared were not worldwide then the proposals would not be fulfilling that part of the terms of the States' Resolution. The Committee has, therefore, decided to recommend that, in respect of both parts of the resolution, any unspent conviction which resulted in a sentence of imprisonment in any jurisdiction, anywhere in the world, must be declared, unless it was in respect of conduct which would not be an offence if committed in Guernsey.
16. As set out above, article 8 of the Reform (Guernsey) Law, 1948, as amended, sets out various criteria which must be met in order to be eligible to hold office as a People's Deputy. The Committee is not proposing to change any aspect of those criteria. However, it should also be noted that the Committee is proposing that, once declared, that is the end of Members' responsibilities in that area. Unlike with the matters in the Declaration of Interests, which have to be declared during States' debates and committee meetings, the Committee does not believe that there should be any requirement to declare unspent convictions except in the form submitted each year.
17. In order to implement the terms of the resolution, the Committee therefore proposes that new Rule 29 be extended as set out in Recommendation 1. It also needs to be given a new heading and the Committee is taking the opportunity to make the wording in Rule 29(1) consistent with other references to the Declarations of Interest.
18. A new Schedule 3 to the Rules, which is the new Declaration form, also needs to be created, with an explanatory note to accompany it and is set out in Recommendation 1.
19. The Committee proposes also that the Code of Conduct should be amended to give a further enforcement mechanism. It proposes that Members would be in breach of the Code of Conduct if they made a false statement in their Declaration of Unspent Convictions.
20. The second part of the resolution requires the Committee to bring proposals to extend the requirements to declare unspent convictions so as to include candidates at elections for the office of People's Deputy.
21. The Committee therefore proposes that the Reform (Guernsey) Law, 1948 should be further amended. It proposes that, in addition to having to satisfy the requirements of section 8 of that Law, future candidates should also have to make a Declaration of Unspent Convictions which resulted in a sentence of

imprisonment. As with the first part of the resolution, the convictions which would have to be declared would be any which are not to be treated as spent pursuant to the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 and regardless of where the conviction occurred, provided that the act which led to that conviction would also constitute an offence in Guernsey.

22. The Committee proposes also that a candidate would have to agree that appropriate verification of the information declared could be undertaken by the Returning Officer for the election. The Committee anticipates that this would generally be achieved by using the services of Guernsey Police. As with the proposals above in respect of sitting Members of the States, the Committee proposes that the Declaration would be kept in paper format only. The forms for each candidate would be put in a file kept by the Returning Officer for that district for the election in question. They would be available for inspection by the electorate when they went to cast their votes. The Declarations would then be destroyed as soon as all formalities after the election had been completed. (For successful candidates the information would then need to be declared under the provisions relating to Members which are outlined above.)
23. The Committee proposes also that the new legislation should contain provisions to enable the States to prescribe rules as to the publication of this information.
24. As envisaged by the Deputy Spruce / Deputy Gillson amendment, the Committee proposes further that a specific offence should be created of knowingly or recklessly making false statements. This would be in addition to the fact that a candidate might have committed an offence under existing legislation, namely the Fraud (Bailiwick of Guernsey) Law, 2009 for a failure to disclose information. The Committee believes that the penalty for making a false declaration should be the termination of the Member's term of office as a People's Deputy and preventing the person from being eligible to be a member of a States' Committee who is not a Member of the States. Therefore, the Committee proposes that, once any legal proceedings and appeals, if appropriate, had been concluded, the States should, by Resolution, be able to declare any Member convicted of knowingly or recklessly making a false declaration ineligible to hold office as a People's Deputy or as a member of a States' Committee who is not a Member of the States until the next General Election
25. Primary legislation, in the form of amendments to the Reform Law, will be necessary to implement the new provisions in respect of candidates for the office of People's Deputy. The primary legislation regarding disclosures by candidates will, therefore, not be in place in time for the General Election in April 2016. The Committee made the States fully aware of this at the time of the debate on the Deputy Spruce / Deputy Gillson amendment in June last year.
26. The resolution refers to the office of People's Deputy only. The Chief Minister wrote to the Committee on behalf of the Policy Council to suggest that these changes should apply also to members of committees who are not Members of the



States. The Committee agrees with this suggestion. Under the terms of Rule 46 of the new Rules all candidates for office as members of committees who are not Members of the States are obliged to provide a completed Declaration of Interests. The Committee is proposing that the new Declaration of Unspent Convictions should also have to be made by members of committees who are not Members of the States and is proposing changes to the Rules to achieve that. If approved, the terms of the resolution will also apply to such people.

27. During the debate on the amendment it was also suggested that persons seeking to hold the various parochial offices should also have to complete such a Declaration. The arguments in favour of the proposals – that they promote good governance, maintain the highest ethical standards, and reduce the risk of legitimate criticism due to inadequate process in the event of a complaint – apply equally to parochial offices, namely: Douzenier, Constable, Procureur of the Poor and member of Schools' Committees. The Committee notes that this suggestion goes beyond the resolutions, that it would require further amendments to primary legislation, and the Committee has not had time to consult with the parochial authorities before the submission of this policy letter. The Committee therefore proposes that its successor Committee consider this aspect further and return to the States after having consulted with the parochial authorities.
28. The Committee wishes to make it clear that it did not initiate the need for this policy letter. It brings it to the States as directed by the terms of a States' Resolution. It believes that the Recommendations herein are the closest to the terms of the Resolution that it can sensibly propose. Nevertheless, there is a range of views among the members on whether any changes at all are necessary. Deputies Conder and Bebb feel sufficiently strongly about the matter to advise at the outset that they are opposed to the recommendations and will vote against them.

#### CONSULTATION / RESOURCES / NEED FOR LEGISLATION

29. The Law Officers have been consulted. They share the Data Protection Commissioner's concerns and advise that a paper-based Register on which information is kept up to date and where appropriate removed entirely, and which can be inspected by electors on request, is more likely to be considered compliant with Data Protection principles than publication on the internet. They have also noted that any requirement to disclose convictions must be proportionate to a legitimate objective which it seeks to achieve, and its precise terms will require careful consideration in the development of the legislation.
30. The approval of the recommendations would have minor resource implications for the States as the declarations of candidates would need to be checked, as set out above, to ensure that they were accurate and the candidate had not made a false representation. It should be possible to carry out these checks within existing staff resources.

## RECOMMENDATIONS

31. The States' Assembly & Constitution Committee recommends the States to resolve:

1. that the Rules of Procedure of the States of Deliberation and their Committees be amended as follows:

Replace the existing title of Rule 29 with "Register of Members' Interests and Register of Members' Unspent Convictions"

and

In Rule 29(1) replace "declarations of interests" with "Declarations of Interest"

and

Insert immediately after Rule 29(4) new paragraphs in the following terms:

- "(5) The Greffier shall maintain (in paper form only) a Register to be known as the Register of Members' Unspent Convictions in which shall be kept all Declarations of Unspent Convictions lodged in accordance with paragraph (7).
- (6) The Register of Members' Unspent Convictions shall be available at the Greffe for public inspection whenever the Greffe is open for normal business.
- (7) All persons elected shall within seven days of being elected or re-elected and subsequently during the month of May annually make and lodge with the Greffier a Declaration of Unspent Convictions.
- (8) All Declarations of Unspent Convictions required to be lodged with the Greffier under paragraph (7) shall be in the form set out in Schedule 3 to these Rules.
- (9) The unspent convictions which must be declared are any criminal convictions in a court in any jurisdiction which resulted in sentences of imprisonment which are not to be treated as spent pursuant to the provisions of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002, unless they were in respect of conduct which would not constitute an offence if committed in Guernsey at the time the declaration is made.
- (10) A Member in whose case a conviction becomes spent may immediately provide a revised Declaration to the Greffier. The Greffier shall remove from the Register and immediately destroy any Declaration which has been superseded by another.



- (11) The Greffier shall remove from the Register and immediately destroy any Declaration which relates to a person who is no longer a Member.”

and

In Rule 46(2) insert immediately before the full stop “and a completed Declaration of Unspent Convictions as set out in Schedule 3”;

and

In Rule 46(5) replace the words “or if there was potentially one it could be managed. The Declaration” with “or if there was potentially one it could be managed, and had also seen a Declaration of Unspent Convictions and was satisfied that any declared unspent criminal convictions of the person elected were compatible with his or her holding that office. The Declarations”;

and

Insert immediately after Schedule 2 a new Schedule 3 in the following terms:

“Schedule 3

Declaration of Unspent Convictions

Enter ‘none’ in the box if there are no unspent convictions to declare	
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<p>Declare here any unspent convictions which resulted in a sentence of imprisonment imposed by a court in any jurisdiction.</p>

Explanatory note:

Rule 29 requires disclosure of any criminal convictions resulting in sentences of imprisonment which are not to be treated as spent pursuant to the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (“unspent convictions”). In broad terms, such a conviction is “unspent” until the end of the following periods, according to the length of prison sentence imposed in respect of it:

Imprisonment (including a suspended sentence of imprisonment) for a term exceeding 6 months but not exceeding 30 months	10 years after the date of conviction, or 5 years if the person was under 18 when convicted
Imprisonment (including a suspended sentence of imprisonment) for a term not exceeding 6 months	7 years after the date of conviction, or 3 ½ years if the person was under 18 when convicted

It is important to note that convictions recorded outside the Bailiwick are equally subject to rehabilitation, and are “unspent” for the same periods. The only exception is that these Rules do NOT require the unspent conviction to be declared if the conduct concerned would not be an offence if committed in Guernsey at the time the declaration is made. **A conviction resulting in a sentence in excess of 30 months’ imprisonment is never spent, and must be declared irrespective of its date.”**

2. that the Code of Conduct for Members of the States of Deliberation be amended as follows:

Insert a new Rule 15A in the following terms:

“A Member shall not knowingly or recklessly make a false statement in a Declaration of Unspent Convictions.”

3. that the Reform (Guernsey) Law, 1948, as amended, be further amended to provide that candidates for the office of People’s Deputy must make a declaration of all unspent convictions which resulted in sentences of imprisonment as defined in the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 in any jurisdiction anywhere in the world unless they were in respect of an act which would not constitute an offence if committed in Guernsey; that candidates must agree that appropriate verification of the information declared could be undertaken by the Returning Officer for the election; and that the declaration form would be available for inspection by the electorate at that election; and that Declarations would be destroyed as soon as the election to which they related had concluded; and that provisions would be included to enable the States to prescribe rules as to the publication of this information;

and

that a specific offence should be created of knowingly or recklessly making false statements, the penalty for which, in addition to any fine, imprisonment or other sentence imposed in the event of a prosecution and conviction, shall be that the States, once any legal proceedings and appeals, if appropriate, had

been concluded, could by Resolution declare any person convicted of the offence ineligible to hold office as a People's Deputy or as a member of a States' Committee who is not a Member of the States until the next General Election.

4. to agree that the States' Assembly & Constitution Committee shall consult with the Douzaines and, if considered necessary, report back to the States on the merits or otherwise of extending these provisions to the holders of parochial offices.
5. to direct the preparation of such legislation as may be necessary to give effect to the above decisions, including further amendments to the Reform (Guernsey) Law, 1948, as amended<sup>1</sup>.

Yours faithfully,

Deputy M J Fallaize  
Chairman

The other Members of the States' Assembly & Constitution Committee are:

Deputy R Conder (Vice-Chairman)

Deputy E G Bebb

Deputy A H Adam

Deputy P A Harwood

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<sup>1</sup> It may assist Members of the States to have the precise wording of Article 3(4) of The Reform (Guernsey) Law, 1948, as amended which applies to the above recommendation.

*"... any resolution of the States of Deliberation directing the preparation of legislation to repeal or vary any of the provisions of this Law which is carried by a majority of less than two-thirds of the members present and voting shall not be deemed to have been carried before the expiration of seven days from the date of the resolution:*

*Provided that where before the expiration of the aforesaid seven days an application in writing signed by not less than seven members of the States of Deliberation is made in that behalf to the Presiding Officer such resolution shall be brought back before the States of Deliberation by the Presiding Officer as soon as may be after the expiration of three months from the date of the resolution whereupon such resolution shall be declared lost unless confirmed by a simple majority."*

**(N.B. The Treasury and Resources Department notes that the minor resource implications arising from implementation of the proposals within this Policy Letter will be funded from within existing budgets)**

The States are asked to decide:-

III.- Whether, after consideration of the Policy Letter dated 23<sup>rd</sup> February, 2016, of the States' Assembly & Constitution Committee, they are of the opinion:-

1. To approve that the Rules of Procedure of the States of Deliberation and their Committees be amended as follows:

Replace the existing title of Rule 29 with "Register of Members' Interests and Register of Members' Unspent Convictions"

and

In Rule 29(1) replace "declarations of interests" with "Declarations of Interest"

and

Insert immediately after Rule 29(4) new paragraphs in the following terms:

- "(5) The Greffier shall maintain (in paper form only) a Register to be known as the Register of Members' Unspent Convictions in which shall be kept all Declarations of Unspent Convictions lodged in accordance with paragraph (7).
- (6) The Register of Members' Unspent Convictions shall be available at the Greffe for public inspection whenever the Greffe is open for normal business.
- (7) All persons elected shall within seven days of being elected or re-elected and subsequently during the month of May annually make and lodge with the Greffier a Declaration of Unspent Convictions.
- (8) All Declarations of Unspent Convictions required to be lodged with the Greffier under paragraph (7) shall be in the form set out in Schedule 3 to these Rules.
- (9) The unspent convictions which must be declared are any criminal convictions in a court in any jurisdiction which resulted in sentences of imprisonment which are not to be treated as spent pursuant to the provisions of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002, unless they were in respect of conduct which would not constitute an offence if committed in Guernsey.
- (10) A Member in whose case a conviction becomes spent may immediately provide a revised Declaration to the Greffier. The Greffier shall remove

from the Register and immediately destroy any Declaration which has been superseded by another.

- (11) The Greffier shall remove from the Register and immediately destroy any Declaration which relates to a person who is no longer a Member.”

and

In Rule 46(2) insert immediately before the full stop “and a completed Declaration of Unspent Convictions as set out in Schedule 3”;

and

In Rule 46(5) replace the words “or if there was potentially one it could be managed. The Declaration” with “or if there was potentially one it could be managed, and had also seen a Declaration of Unspent Convictions and was satisfied that any declared unspent criminal convictions of the person elected were compatible with his or her holding that office. The Declarations”;

and

Insert immediately after Schedule 2 a new Schedule 3 in the following terms:

“Schedule 3

Declaration of Unspent Convictions

Enter ‘none’ in the box if there are no unspent convictions to declare	
--	--

Declare here any unspent convictions which resulted in a sentence of imprisonment imposed by a court in any jurisdiction.

Explanatory note:

Rule 29 requires disclosure of any criminal convictions resulting in sentences of imprisonment which are not to be treated as spent pursuant to the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (“unspent convictions”). In broad terms, such a conviction is “unspent” until the end of the following periods, according to the length of prison sentence imposed in respect of it:

Imprisonment (including a suspended sentence of imprisonment) for a term exceeding 6 months but not exceeding 30 months	10 years after the date of conviction, or 5 years if the person was under 18 when convicted
Imprisonment (including a suspended sentence of imprisonment) for a term not exceeding 6 months	7 years after the date of conviction, or 3 ½ years if the person was under 18 when convicted

It is important to note that convictions recorded outside the Bailiwick are equally subject to rehabilitation, and are “unspent” for the same periods. The only exception is that these Rules do NOT require the unspent conviction to be declared if the conduct concerned would not be an offence if committed in Guernsey at the time the declaration is made. **A conviction resulting in a sentence in excess of 30 months’ imprisonment is never spent, and must be declared irrespective of its date.”**

2. To approve that the Code of Conduct for Members of the States of Deliberation be amended as follows:

Insert a new Rule 15A in the following terms:

“A Member shall not knowingly or recklessly make a false statement in a Declaration of Unspent Convictions.”

3. To approve that the Reform (Guernsey) Law, 1948, as amended, be further amended to provide that candidates for the office of People’s Deputy must make a declaration of all unspent convictions which resulted in sentences of imprisonment as defined in the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 in any jurisdiction anywhere in the world unless they were in respect of an act which would not constitute an offence if committed in Guernsey; that candidates must agree that appropriate verification of the information declared could be undertaken by the Returning Officer for the election; and that the declaration form would be available for inspection by the electorate at that election; and that Declarations would be destroyed as soon as the election to which they related had concluded; and that provisions would be included to enable the States to prescribe rules as to the publication of this information;

and

that a specific offence be created of knowingly or recklessly making false statements, the penalty for which, in addition to any fine, imprisonment or other sentence imposed in the event of a prosecution and conviction, be that the States, once any legal proceedings and appeals, if appropriate, had been concluded, could by Resolution declare any person convicted of the offence ineligible to

hold office as a People's Deputy or as a member of a States' Committee who is not a Member of the States until the next General Election.

4. To agree that the States' Assembly & Constitution Committee consult with the Douzaines and, if considered necessary, report back to the States on the merits or otherwise of extending these provisions to the holders of parochial offices.
5. To direct the preparation of such legislation as may be necessary to give effect to the above decisions, including further amendments to The Reform (Guernsey) Law, 1948, as amended.

## PAROCHIAL AND ECCLESIASTICAL RATES REVIEW COMMITTEE

### DISSOLUTION OF THE COMMITTEE

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

15<sup>th</sup> February 2016

Dear Sir

1. The current Constitution and Operation of States Departments and Committees states at 18 (2):

*“... Special States Committees (i.e. the members thereof) shall continue in office until –*

- (i) they have fulfilled their mandate, and*
- (ii) any legislation designed to give effect to such recommendations of the Special Committee as the States may have resolved to adopt has been presented to the States, approved, and where necessary registered. ”*

2. The Projet de Loi entitled The Parochial Church Property (Guernsey) Law, 2014 was approved by the States of Deliberation on 25<sup>th</sup> February 2015. The legislation is currently with the United Kingdom Ministry of Justice and is due to go to the Privy Council for approval and transmission to the Royal Court for registration in due course. A commencement Ordinance will duly be needed to be approved by the States of Deliberation.
3. The Members of the Special Committee constituted as the Parochial Ecclesiastical Rates Review Committee consider that they have fulfilled their mandate, and that legislation designed to give effect to such recommendations of the Parochial Ecclesiastical Rates Review Committee as the States have resolved to adopt has been presented to the Assembly and approved. Royal Sanction and subsequent registration are awaited.

### **Recommendations**

4. In these circumstances and as provided for in a resolution of 27<sup>th</sup> November 2015 contained in Billet d’État XXI of that year, the Committee recommends the States:



1. dissolve the Parochial Ecclesiastical Rates Review Committee on 30<sup>th</sup> April 2016; and
2. resolve that the Policy and Resources Committee shall assume any duties of the Parochial Ecclesiastical Rates Committee as may remain outstanding.

Yours faithfully

J A B Gollop  
Chairman

M M Lowe  
Vice-Chairman

D de G De Lisle  
R Conder  
C J Green

**(N.B. As there are no resource implications in this Policy Letter, the Treasury and Resources Department has no comments to make.)**

**(N.B. The Policy Council supports the proposals in this Policy Letter and confirms that it complies with the Principles of Good Governance as defined in Billet d'État IV of 2011.)**

The States are asked to decide:-

IV.- Whether, after consideration of the Policy Letter dated 15<sup>th</sup> February, 2016, of the Parochial and Ecclesiastical Rates Review Committee, they are of the opinion:-

1. To dissolve the Parochial Ecclesiastical Rates Review Committee on 30<sup>th</sup> April 2016.
2. That the Policy and Resources Committee assume any duties of the Parochial Ecclesiastical Rates Committee as may remain outstanding.