

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

AMENDMENTS TO
 THE RULES OF PROCEDURE OF THE STATES OF DELIBERATION AND THEIR COMMITTEES

The States are asked to decide whether, after consideration of the policy letter entitled "Amendments to the Rules of Procedure of the States of Deliberation and their Committees" dated 10th September 2018, they are of the opinion:-

1. That the Rules of Procedure of the States of Deliberation and their Committees should be amended with immediate effect as follows:
 - (a) To amend Rule 1.(3) (under 'Dates of Meetings') as set out in paragraph 2.1 of this policy letter, replace Schedule 1 with the Schedule attached as Appendix 2 to this policy letter and amend the revised Schedule 1 to include the 2019 – 2020 States' Meeting dates agreed by the States in September 2018.
 - (b) To amend Rule 3.(5) (under 'Submission of items to the States') as set out in paragraph 3.2 of this policy letter.
 - (c) To amend Rule 4.(2) (under 'Information to include in motions laid before the States') as set out in paragraph 4.3 of this policy letter.
 - (d) To amend Rule 6.(2)(b) (under 'Hours of sitting, extensions and adjournments') as set out in paragraph 5.1 of this policy letter.
 - (e) To amend Rule 9.(3) (under 'The Business of the Meeting') as set out in paragraph 6.2 of this policy letter.
 - (f) To delete Rule 23.(5)(f) (under 'Policy & Resource Plan') as set out in paragraph 6.3 of this policy letter.
 - (g) To amend Rule 10.(1) (under 'Statements') as set out in paragraph 7.5 of this policy letter.
 - (h) To amend Rule 10.(2) (under 'Statements') as set out in paragraph 7.6 of this policy letter.
 - (i) To amend Rule 10.(3) (under 'Statements') as set out in paragraph 7.7 of this policy letter.

- (j) To amend Rule 10.(5) (under 'Statements') as set out in paragraphs 7.8 - 9 of this policy letter.
- (k) To amend Rule 11.(2)(e) (under 'Question Time') as set out in paragraph 8.3 of this policy letter.
- (l) To amend Rule 11.(3) (under 'Question Time') as set out in paragraph 8.4 of this policy letter.
- (m) To amend Rule 14.(2) (under 'Questions for written reply') as set out in paragraph 9.1 of this policy letter.
- (n) To amend Rule 16.(3)(b) (under 'Elections') as set out in paragraph 10.5 of this policy letter.
- (o) To amend Rule 16.(6) (under 'Elections') as set out in paragraph 10.8 of this policy letter.
- (p) To amend Rule 17.(12) (under 'Rules of debate') as set out in paragraph 11.6 of this policy letter.
- (q) To amend Rule 19 (the section 'Motion to annul a Statutory Instrument or Ordinance') as set out in paragraph 12.3 of this policy letter.
- (r) To amend Rule 24.(1) (under 'Secondary propositions – amendments, sursis, etc.') as set out in paragraph 13.6 of this policy letter.
- (s) To amend Rule 24.(2) (under 'Secondary propositions – amendments, sursis, etc.') as set out in paragraph 13.8 of this policy letter.
- (t) To amend Rule 3.(11)(e) (under 'Submission of items to the States') as set out in paragraph 13.9 of this policy letter.
- (u) To amend Rule 24.(2) (under 'Secondary propositions – amendments, sursis, etc.') as set out in paragraph 13.17 of this policy letter.
- (v) Under 'Closure and voting' as set out in paragraph 14.3 of this policy letter:
 - (i) to delete Rule 26.(1) and renumber the subsequent paragraphs accordingly.
 - OR, if that proposition is rejected
 - (ii) in Rule 26.(1), to amend the words *"the Presiding Officer shall put the said request to the vote and if the majority of the Members voting support it..."*

to “the Presiding Officer shall put the said request to the vote and two-thirds of the Members voting support it...”

- (w) To amend Rule 26.(2) (under ‘Closure and voting’) as set out in paragraph 14.4 of this policy letter.
 - (x) To amend Schedule 2 entitled ‘Declaration of Interests made pursuant to Rules 29 and 36 of the Rules of Procedure of the States of Deliberation and their Committees’ and the accompanying Explanatory Notes as set out in paragraph 15.4 of this policy letter.
 - (y) To amend Rule 37.(4) (under ‘Term of office’) as set out in paragraph 16.2 of this policy letter.
 - (z) To amend Rule 37.(4) (under ‘Term of office’ as set out in paragraph 16.6 of this policy letter.
 - (aa) To note the Committee will produce a guidance note providing an overview of what may or may not constitute a “direct or special interest” as set out in paragraph 17.8 of this policy letter.
2. To direct the States’ Assembly & Constitution Committee to amend the Indexes to the Rules of Procedure of the States of Deliberation and their Committees, taking into account the resolutions agreed by the States of Deliberation further to consideration of Proposition 1.

The above Propositions have been submitted to Her Majesty’s Procureur for advice on any legal or constitutional implications.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

AMENDMENTS TO
THE RULES OF PROCEDURE OF THE STATES OF DELIBERATION AND THEIR COMMITTEES

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

10th September, 2018

Dear Sir

1 Executive Summary

- 1.1 The States' Assembly & Constitution Committee aims to maintain its practice of periodically submitting to the States of Deliberation a policy letter containing any proposals for reform which, in the opinion of the Committee and based on experience of events, would benefit the way the States function as a democratic parliament and government.
- 1.2 This is the second such report¹ produced by the present Committee further to the introduction of the Rules of Procedure of the States of Deliberation and their Committees ("the Rules") which have been in force since the 1st May, 2016.
- 1.3 The policy letter also considers suggestions made by Members of the States, some of which have led to the Committee recommending reform and some of which have not. Appendix 1 to this policy letter sets out the areas where the Committee is not recommending reform further to suggestions made.

¹ Billet d'État XXIV, 2016, '[Changes to the Rules of Procedure of the States of Deliberation and their Committees](#)' (P. 2016/26) presented to the States of Deliberation on 7th September, 2016.

1.4 This policy letter proposes amendments to the following Rules:

Rule	Section of the Rules	Paragraph	Proposition
1.(3)	Dates of Meetings	2.1	1(a)
3.(5)	Submission of items to the States	3.2	1(b)
4.(2)	Information to include in motions laid before the States	4.3	1(c)
6.(2)(b)	Hours of sitting, extensions and adjournments	5.1	1(d)
9.(3)	The Business of the Meeting	6.2	1(e)
23.(5)(f)	Policy & Resource Plan	6.3	1(f)
10.(1)	Statements	7.5	1(g)
10.(2)	Statements	7.6	1(h)
10.(3)	Statements	7.7	1(i)
10.(5)	Statements	7.8 - 9	1(j)
11.(2)(e)	Question Time	8.3	1(k)
11.(3)	Question Time	8.4	1(l)
14.(2)	Questions for written reply	9.1	1(m)
16.(3)(b)	Elections	10.5	1(n)
16.(6)	Elections	10.8	1(o)
17.(12)	Rules of debate	11.6	1(p)
19	Motion to annul a Statutory Instrument or Ordinance	12.3	1(q)
24.(1)	Secondary propositions – amendments, sursis, etc.	13.6	1(r)
24.(2)	Secondary propositions – amendments, sursis, etc.	13.8	1(s)
3.(11)(e)	Submission of items to the States	13.9	1(t)
24.(2)	Secondary propositions – amendments, sursis, etc.	13.17	1(u)
26.(1)	Closure and voting	14.3	1(v)
26.(2)	Closure and voting	14.4	1(w)
Schedule 2	‘Declaration of Interests made pursuant to Rules 29 and 36 of the Rules of Procedure of the States of Deliberation and their Committees’ and the accompanying Explanatory Notes	15.4	1(x)
37.(4)	Term of office	16.2	1(y)
37.(4)	Term of office	16.6	1(z)
49.(1)	Declaration of Interest at Committee meetings	17.8	1(aa)

1.5 In line with the practice started in 2013, the Committee has distributed to States’ Members a copy of the Rules with the changes proposed in the

Propositions shown with ‘tracked changes’. This is also available at the States’ Assembly & Constitution Committee’s website² for members of the public to view.

- 1.6 In this policy letter, any additional text proposed is shown in bold and any deletions of existing text are shown using the ‘strikethrough’ function.

2 Dates of Meetings

- 2.1 Rule 1.(3) relates to the dates that States’ Meetings were convened for the period from the 1st of May, 2016 to the 31st of August, 2017. As this information is now historic, the Committee recommends this Rule should be amended to ensure Schedule 1 contains the forthcoming dates on which States’ Meetings shall be convened. It is proposed to amend Rule 1.(3) as follows (Proposition 1(a)):

~~*In respect of the period from the 1st of May, 2016 to the 31st of August, 2017*~~
†The dates on which States’ Meetings shall be convened, in respect of the relevant period set out in paragraph 1, subject to the other provisions of these Rules, shall be as set out in Schedule 1 to these Rules.

- 2.2 It is also proposed to replace Schedule 1 with Appendix 2 to this policy letter ‘Dates for the first day of States’ Meetings’; and, further to the States resolving the States’ Meeting dates for 2019 – 2020 in September 2018, for this Schedule to be updated with those meeting dates.

3 Submission of items to the States

Timing of the publication of propositions

- 3.1 Rule 3.(5) requires the Greffier to publish an original proposition ‘*as soon as possible on the States’ website*’. The Committee received feedback that the propositions being published late afternoon (particularly on a Friday) limited the media’s ability to give the item adequate coverage and therefore could limit the extent to which the public is informed on the subject.
- 3.2 It is suggested to amend the Rules so that the Greffier shall cause a proposition to be published ‘*within one working day on the States’ website, or as soon as possible thereafter*’ to more efficiently manage the information being disseminated to the public, Members and the media. It is proposed to amend Rule 3.(5) to read as follows (Proposition 1(b)):

² The document can be accessed on the www.gov.gg website under [Government>The States of Guernsey \(Parliament and government\)>Committee Responsibilities>States Assembly & Constitution](#)

*On receipt of an original proposition submitted for consideration by the States the Greffier shall cause it to be published ~~as soon as possible~~ **within one working day** on the States' website, **or as soon as possible thereafter**, and in such other form as he or she may determine. The Greffier shall also notify all Members that the item is on the website and send it to them by the method which the Member has chosen. The Greffier shall simultaneously transmit the item to the Presiding Officer and the Policy & Resources Committee and shall also cause a notice of its title to be posted on the noticeboard in the Royal Court building.*

4 Information to include in motions laid before the States

Statements explaining when an item should be considered

- 4.1 Rule 4.(2), states *"every original proposition laid before the States may be accompanied by a statement from the Committee or group of Members, as the case may be, expressing its or their preferred date when the item should be considered by the States."*
- 4.2 It was submitted that a number of Committees wished to have the option to request that their proposition should be prioritised in the agenda and suggested that the Rule is extended to cover the prioritisation of the proposition in the draft schedule. It was further suggested that the Rule be clarified to ensure a Committee includes the reasoning for the request in its statement, and highlight any implications of a proposition not being debated at a certain Meeting or day.
- 4.3 After consideration, the Committee agreed the Rule should be amended in line with the above suggestion. It suggests Rule 4.(2) should be amended as follows (Proposition 1(c)):

*"every original proposition laid before the States may be accompanied by a statement from the Committee or group of Members, as the case may be, expressing its or their preferred date **and an explanation, if required**, when the item should be considered by the States.*

5 Hours of sitting, extensions and adjournments

- 5.1 The Committee was asked to consider the hours of sitting of the States of Deliberation (see paragraph 2.8 of the appendix report). Whilst the Committee agreed that the times States' Meetings ordinarily commence and adjourn remain appropriate, it did, nevertheless, agree by a majority (with Deputy Dorey dissenting) that the length of the lunchtime adjournment should be reduced from 2 hours to 1 ½ hours and is proposing Rule 6.(2)(b) should be amended from 14:30 to 14:00, to read as follows (Proposition 1(d)):

- (2) *Unless the business of a Meeting is previously concluded ordinarily the Meeting shall on each day thereof:*
(a) *be adjourned by the Presiding Officer as near as may be to 12.30;*
(b) resume at 14.00;
(c) *be adjourned by the Presiding Officer, in accordance with paragraph (3) or (4), as near as may be to 17.30;*

6 The Business of the Meeting

- 6.1 On 6th June 2018³, the States of Deliberation agreed to amend Rule 1.(2) of the Rules of Procedure of the States of Deliberation and their Committees to the following:

Ordinarily the first day of a Meeting shall be a Wednesday, except for the Meetings held to consider the annual Budget of the States which shall begin on the first Tuesday in November, and the Policy & Resource Plan and States' Accounts which shall be considered at the same dedicated Meeting in June which shall begin on a Tuesday except in general election years when they will be considered at a later date in that year.

- 6.2 As a result of this change, Rule 9.(3) requires a minor amendment as follows (Proposition 1(e)):

The only business at a special Meeting shall be the Annual Budget of the States or the States' Accounts ~~or~~ and the Policy & Resource Plan, as the case may be.

- 6.3 For completeness, it also recommends that Rule 23.(5)(f) should be deleted. (Proposition 1(f)). The Rule reads as follows:

each year the Policy & Resource Plan shall be debated at a States' meeting at which no other business shall be considered.

7 Statements

- 7.1 Rule 10 sets out the Rules relating to Statements made in meetings of the States of Deliberation.

Time-limits on statements under Rule 10

- 7.2 It was noted a time-limit only applied to statements given under Rule 10.(4). After consideration, it was agreed to propose a 15-minute time limit for statements given under Rules 10.(1),(2) and (3) (included in the recommendations below).

³ Billet d'État No. XV, 2018, Resolution 2(a): www.gov.gg/CHttpHandler.ashx?id=113614&p=0

- 7.3 It was suggested that there could be an exceptional need for a Committee to make a statement that cannot be delivered in 15 minutes and that, if a 15-minute time limit is introduced for statements under Rule 10.(3), there should be a proviso that the Presiding Officer can permit a longer statement at his discretion (included in the recommendation below).

Correcting information previously provided in Statements

- 7.4 It was highlighted to the Committee that there is no mechanism by which a Member can rectify incorrect information previously provided to the States of Deliberation. The Committee is therefore proposing that the first sentence of Rule 10.(1) should be amended.
- 7.5 The Committee proposes Rule 10.(1) should read as follows (Proposition 1(g)):

*“Any Member who has obtained permission from the Presiding Officer to make a statement on a matter of a personal nature, **or to correct information previously provided by that Member**, which, in the opinion of the Presiding Officer, should be made may make that statement:-*

- (a) at the time prescribed in Rule 9; or*
(b) at such other time as the Presiding Officer may direct;

*Provided that the Member has supplied the Presiding Officer with the text of the statement in advance **and that the statement shall not exceed 15 minutes in duration”.***

- 7.6 It is recommended Rule 10.(2) is amended to read as follows (Proposition 1(h)):

Any Member holding the office of President or member of a Committee who has tendered a resignation from that office who wishes to make a statement regarding that resignation may do so at the next Meeting after tendering the resignation or during the meeting at which a successor to the vacated office is to be elected:

- a) at the time prescribed in Rule 9; or*
b) at such other time as the Presiding Officer may direct.

Provided that the statement shall not exceed 15 minutes in duration.

Clarifying that statements are agreed by Committees

- 7.7 Rules 10.(3) and (4) relate to a statement made on behalf of a Committee. In order that it is clear that the statement has been agreed by the Committee, and

the President is responding on behalf of their Committee, it is suggested the first section of Rule 10.(3) is amended to read as follows (Proposition 1(i)):

*(3) Any Member who has obtained permission from the Presiding Officer to make a statement on behalf of, **and approved by**, a Committee or otherwise relating to States' business which, in the opinion of the Presiding Officer, should be made may make that statement:*

a) at the time prescribed in Rule 9; or

b) at such other time as the Presiding Officer may direct.

***Provided that the statement shall not exceed 15 minutes in duration (which may be extended at the discretion of the Presiding Officer in exceptional circumstances).** In respect of (3) only, after the Member has made the statement, the Presiding Officer shall allow a period not exceeding 15 minutes (which period may be extended at the discretion of the Presiding Officer) for questions to be asked within the context of the statement;*

7.8 It is suggested that the first sentence of Rule 10.(5) should be amended as follows (Proposition 1(j)):

*(5) Any statement made under the provisions of paragraph (4) shall not exceed 10 minutes in duration **and shall be approved by the Committee.***

7.9 It was also noted that changes made to Rule 10 as a result of the propositions and policy letter entitled '*Regular Statements by Committee Presidents*'⁴ had introduced some ambiguity as to the interruption of the Rule. The proviso regarding question and answer limits, which previously applied to Rule 10.(3), had been moved to after Rule 10.(5). This change inadvertently meant that it could be interpreted that the proviso no longer applied to Rule 10.(3) but to Rule 10.(5) only. To ensure absolute clarity, the Committee propose to replace the semi-colon at the end of Rule (5) with a full stop and for the proviso to be amended to state:

Provided that:

after any question asked further to a statement made under Rule 10, the Member to whom questions are addressed may decline to answer a question if, in his or her opinion, any answer given might be inaccurate or misleading. Each individual question shall not exceed one minute in duration and the answer thereto shall not exceed one and a half minutes in duration.

⁴ Billet d'État XI, 2017 <https://www.gov.gg/article/159812/Regular-Statements-by-Committee-Presidents>

8 Question Time

8.1 Rule 11 sets out the procedure for question time in the States of Deliberation. Rule 11.(2) and (3) require the question(s) to be sent to the person to whom it is addressed, the Presiding Officer and HM Procureur five clear days before the Meeting. The Member replying to the question provides the answer to the Presiding Officer and HM Procureur the day before the meeting.

8.2 Given the Greffe manages the administration of States' business (including producing the initial draft States' Meeting agenda and updating the States of Guernsey website), it is proposed that Rules 11.(2) and (3) are amended to ensure the questions and response are also submitted to HM Greffier.

8.3 It is proposed that Rule 11.(2)(e) is amended as follows (Proposition 1(k)):

*shall be furnished, either in writing or electronic format, to the person to whom it is addressed, the Presiding Officer, Her Majesty's Procureur, **the Greffier** and to the official postal or e mail address of the relevant Committee not later than 15.00 on the day preceding the fifth clear day before the day of the Meeting, excluding Saturdays, Sundays and Public Holidays;*

8.4 The Committee further propose that Rule 11.(3) should be amended to make it clear that the response provided to a question lodged under Rule 11 has been agreed by the Committee, and that the President is responding on behalf of their Committee. The Committee therefore proposes that Rule 11.(3) should be amended as follows (Proposition 1(l)):

*The Member replying to the question shall furnish, either in writing or electronic format, the proposed answer **approved by the Committee** to the Presiding Officer, ~~and~~ to Her Majesty's Procureur **and the Greffier** not later than noon on the day (excluding Saturdays, Sundays and Public Holidays) preceding the Meeting of the States and by 17.00 of that same day to the Member asking the question. The answer, when given in the Assembly, shall not exceed one and a half minutes in duration.*

9 Questions for written reply

9.1 The Committee propose that Rule 14.(2) should be amended to make it clear that the response provided to a question lodged under Rule 14 has been agreed by the Committee, and that the President is responding on behalf of their Committee. The Committee therefore proposes that Rule 14.(2) should be amended to read as follows (Proposition 1(m)):

*Where a question is placed in accordance with this Rule the President of the Committee shall, subject to Rule 15, furnish a written reply **approved by the***

Committee thereto to the Member who placed the question within 15 clear days of the receipt of the question; and the President of the Committee shall furnish a copy of the reply to the Presiding Officer and the Greffier;

10 Elections

Tied votes in elections

- 10.1 Rule 16 covers the election of Members to the offices listed at (a) to (i). Rule 16.(3)(b) relates to two or more candidates securing an equal number of votes. It reads as follows:

if two or more candidates secure an equal number of votes and the addition of one vote to his or her poll would have entitled any such candidate to be declared elected, a second ballot shall be held in respect of such candidates only; and where in such a second ballot the addition of one vote to his or her poll would have entitled a candidate to be declared elected, the Presiding Officer shall either rule that a further ballot, or, if necessary, further ballots, shall be held, or direct that the candidates shall draw lots to determine the matter;

- 10.2 It was suggested to the Committee that the Rule be amended to include a provision that, in the event of a tied vote for a position, either a further short speech from each candidate, or a further short period of questions should be permitted e.g. for a duration of 15 minutes before another ballot. It was suggested that the provision of further information from the candidates would help give more legitimacy to the outcome.
- 10.3 It was further suggested that the provision to “draw lots to determine the matter” is removed. It was submitted this would be an unsatisfactory means by which an election would be determined and the result would arguably not be accepted as legitimate.
- 10.4 The Committee agree the drawing of lots is an unsatisfactory means of resolving a tie in elections; however, in the absence of a viable alternative, it concluded the option should be retained.
- 10.5 After considering the suggestion for a further speech, or a further period of questions, it concluded that there was merit in a further period of questions being permitted after a second tied ballot and therefore proposes 16(3)(b) be amended to read as follows (Proposition 1(n)):

if two or more candidates secure an equal number of votes and the addition of one vote to his or her poll would have entitled any such candidate to be declared elected, a second ballot shall be held in respect of such candidates

only; and where in such a second ballot the addition of one vote to his or her poll would have entitled a candidate to be declared elected, the Presiding Officer shall **allow Members to question the candidates for a period of not more than fifteen minutes.** ~~either rule that~~ **Following conclusion of the period of questions, a further ballot shall be held, and, where in such a third ballot the addition of one vote to his or her poll would have entitled a candidate to be declared elected,** the Presiding Officer shall either rule that a ~~or, if necessary,~~ further ballot, shall be held, or direct that the candidates shall draw lots to determine the matter;

Election of members of a Committee: enabling the candidate to speak

- 10.6 Rule 16.(6) relates to the election of members of a Committee. The proposer may speak for not more than five minutes in respect of each candidate proposed by that person before voting takes place, and neither the candidates nor any other member shall be entitled to speak.
- 10.7 It was suggested to the Committee that candidates for membership of a Committee should be allowed to speak to provide them with the opportunity to explain why they wish to undertake the role, what they would offer, etc.
- 10.8 The Committee agreed there is merit in enabling the candidates to speak as part of the process and agreed to propose a change to Rule 16.(6) to enable the Proposer for speak for up to 3 minutes and the candidate to speak for up to 3 minutes. It is recommended to amend Rule 16.(6) as follows (Proposition 1(o)):

*....If there are more candidates than vacancies the Presiding Officer shall invite each proposer to speak, for not more than ~~five~~ **three** minutes in respect of each candidate proposed by that person; **and each candidate to speak, for not more than three minutes,** before voting takes place. No other member shall be entitled to speak.*

11 Rules of debate

- 11.1 Rule 17.(12) is commonly known as the 'give way' provision and was introduced in 2013⁵. It reads:

A Member who wishes to make an interjection relevant to the point being made by the Member speaking may do so if the Member speaking agrees to give way. The Member speaking should at all times be aware that another Member may wish to interject. The Member speaking may, in his or her discretion, refuse to

⁵ Billet d'État XV, 2013 - Volume 2, Article 15: <https://www.gov.gg/article/150426/States-Meeting-on-30th-July-2013-Billets-XV-XVI-Accounts-XVII>

give way. A Member wishing to make the interjection shall so signify by standing and remaining silent until the Member speaking either gives way or refuses to give way. When a request to give way has been refused the Member standing shall resume his or her seat immediately.

- 11.2 Given the layout of the Chamber, Members may not be aware that a Member has stood and is waiting silently to be noticed. Equally, Members reading from a pre-prepared speech may not be aware that someone has stood. This has sometimes led to murmurs and coughing in the Chamber to alert the Member speaking that another Member has stood.
- 11.3 Rule 17.(11) enables members to call a “Point of Order” or “Point of Correction”. The Committee recommends that a similar call should be introduced for Rule 17.(12). In the House of Commons, it is common practice for a Member to stand and state “*Will the Honourable Member give way*”. It is suggested Rule 17.(12) is adapted to enable Members to stand and ask “*Will the Member give way*”.

Introducing time-limits for interjections

- 11.4 Erskine May⁶ advises that ‘*interventions should not be excessively long*’ and that ‘*interventions in interventions are not allowed*’. When the Committee originally introduced the concept it had commented that ‘*Giving way is a means of making an interjection, not a speech. It should only be for a brief period, after which the Member called to speak resumes speaking*’.
- 11.5 The Committee has noted that some interjections under this Rule have been prolonged and therefore recommends that a two minute time limit is introduced on such interjections.
- 11.6 The Committee therefore proposes that Rule 17.(12) should be amended to read as follows (Proposition 1(p)):

*A Member who wishes to make an interjection relevant to the point being made by the Member speaking may do so if the Member speaking agrees to give way. ~~The Member speaking should at all times be aware that another Member may wish to interject.~~ The Member speaking may, in his or her discretion, refuse to give way. A Member wishing to make the interjection shall **do** so by standing and **stating “Will the Member give way?”**. ~~signify by standing and remaining silent until~~ The Member speaking **may, in his or her discretion**, either give way or refuse to give way. When a request to give way has been refused the Member standing shall resume his or her seat immediately. **When a Member***

⁶ Erskine May, Parliamentary Practice – 24th edition, p. 436

speaking agrees to give way, the Member making the interjection shall speak for not more than two minutes.

12 Motion to annul an appointment laid before the States of Deliberation

12.1 Rule 19 refers to a motion to annul a Statutory Instrument or Ordinance.

Introducing a motion to annul an appointment laid before the States

12.2 From time to time, appointments are laid before the States of Deliberation. For example, on 27th September 2017, an appointment was laid before the States of Deliberation regarding the ‘Appointment of Chairman of the Guernsey Banking Deposit Compensation Board’, in accordance with section 3(4) of the *Banking Deposit Compensation Scheme (Bailiwick of Guernsey) Ordinance, 2008*. In June 2015, March 2017 and February 2018, the appointment of a Chairman and the appointments to the Board of the Office of the Financial Services Ombudsman were laid before the States in accordance with *The Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014*.

12.3 Both pieces of legislation state that the States of Deliberation have the power to annul the appointment but there is currently no mechanism in the Rules of Procedure for a Member to move a motion to annul an appointment laid. The Committee proposes Rule 19 is amended to read as follows to enable a Member to move a motion to annul an appointment (Proposition 1(q)).

Motion to annul a Statutory Instrument, Ordinance or appointment

(1) *This rule applies to any Statutory Instrument **or appointment** laid before the States pursuant to a Law or Ordinance providing that it may be annulled and to any Ordinance laid before States pursuant to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended.*

(2) *Every motion to annul a Statutory Instrument, Ordinance **or appointment** must be in writing and must state the names of its proposer and seconder.*

(3) *A Member who proposes to move a motion of annulment must furnish the proposed motion to the Presiding Officer and copies thereof:*

(a) to the President, Policy & Resources Committee;

*(b) to the President of the Committee concerned with the Statutory Instrument, Ordinance or **appointment** to which the proposed motion relates;*

(c) to H. M. Procureur; and

(d) to the Greffier

not later than five clear days (excluding Saturdays, Sundays and Public Holidays) before the Meeting of the States at which the motion is proposed to be moved. Immediately after the closing date for the receipt of such motions the Greffier shall cause a copy thereof to be delivered to every Member.

*(4) Unless the enactment governing the instrument otherwise provides, a motion to annul may be proposed either at the Meeting at which the Statutory Instrument, Ordinance **or appointment** is laid before the States or at the next subsequent Meeting.*

*(5) When notice of a proposed motion of annulment has been given in accordance with paragraph (3), the Presiding Officer shall invite the President of the Committee which made the Statutory Instrument or proposed the enactment of the Ordinance **or agreed the appointment** to speak on the matter:*

*(a) if the motion is to be proposed at the Meeting when the Statutory Instrument, Ordinance **or appointment** is laid before the States, immediately after it has been so laid by the Greffier; or*

*(b) if the motion is to be proposed at the next subsequent Meeting of the States following the Meeting at which the Statutory Instrument, Ordinance **or appointment** is laid before the States, immediately before consideration of any business which would be debated in category 9(1)(g).*

(6) The motion of annulment shall then be proposed and seconded, following which general debate shall be permitted. After general debate, if any, the President of the Committee concerned shall be entitled to respond to the debate, following which the proposer of the motion shall be entitled to respond to the debate.

13 Secondary propositions – amendments, sursis, etc.

13.1 Rule 24 sets out the process for submitting secondary propositions.

Explanatory notes

13.2 The layout of amendments is set out in the appendices to HM Greffier's Directive entitled 'The Submission of Propositions to the States' (as required by Rule 3.(23)). The Rules are silent as to what form an amendment should take. However, practice to date has been that the amendment only sets out how the propositions are to be amended, sometimes with a brief 'explanatory note' (albeit the Rules do not expressly state that such a note may be included).

- 13.3 Rule 3.(21) has a specific provision stating that legislation shall be accompanied by a brief explanatory memorandum approved by HM Procureur. Rule 3.(1) states that *'any supporting policy letter or requête or motion must be attached to the original proposition at the time of submission'*. However, no such provision is available for the submission of secondary propositions and therefore it appears the Rules do not envisage that anything should be attached to secondary propositions.
- 13.4 Under the 'Standing Orders of the States of Jersey', any draft proposition may be accompanied by a report setting out why the proposer considers that the proposition should be adopted.
- 13.5 At present, the only mechanism by which the proposer of a secondary proposition could formally present any supporting evidence or a report to the States is by requesting that either the Policy & Resources Committee or the Scrutiny Management Committee include this as part of a letter of comment (in accordance with Rule 3.(19)). It would then be circulated as if it was an original proposition and given the same identification number as the principal item.
- 13.6 There have been amendments and a sursis lodged during this political term where the proponents may have wished to have the ability to attach a report setting out why the proposition should be approved. The Committee believes that those lodging a secondary proposition should have the ability to append a report setting out why the proposition should be adopted, should they wish to do so. It is therefore proposed to amend Rule 24.(1) to insert the sentence in bold after the first sentence to enable this (Proposition 1(r)):

*Any Member who intends to lay before the States a secondary proposition shall submit it to the Greffier and it must state the names of the proposer and seconder, **and it can include a brief explanatory note. A supporting report may be attached to the secondary proposition at the time of submission.***

Inconsistency in the wording of Rule 24(2)

- 13.7 An issue was raised with the inconsistency in the wording of Rule 24.(2). Whereas (d) and (e) make specific reference to a Member proposing to move an amendment to a Proposition, this is not specifically stated in (a), (b), (c), (f), (g) and (h) and therefore is arguably open to broad interpretation as to what can be amended.
- 13.8 It is therefore proposed the wording of Rule 24(2) is amended to read as follows (Proposition 1(s)):

(6) A Member who proposes to move an amendment or sursis (other than one proposed on behalf of the Committee submitting the original proposal or

one proposed on behalf of requérants in the case of a requête) **to a proposition:**

- (a) to **approve** a Projet de Loi or draft Ordinance; or
- (b) which may have the effect of increasing expenditure; or substituting another contractor; or altering the timing of any works; or
- (c) **relating** to the Annual Budget; or
- (d) ~~to a proposition~~ relating to taxation, fees or other charges bearing on the revenues of the States; or
- (e) ~~to a proposition to approve~~ **relating** to a Policy & Resource Plan; or
- (f) **relating** to a draft Strategic Land Use Plan, or any amendment to such a Plan, which is laid before the States pursuant to section 5(3) of the Land Planning and Development (Guernsey) Law, 2005; or
- (g) **relating** to any proposals for a Development Plan, Subject Plan or Local Planning Brief or any amendment to such a Plan or Brief, which is laid before the States pursuant to section 9(4) of the Land Planning and Development (Plans) Ordinance, 2007; or
- (h) **to set or approve social insurance and other related benefit and contribution rates or otherwise relating to the annual policy letter concerning those benefit and contribution rates** ~~relating to the annual policy letter proposing social insurance rates of contribution and benefits~~

13.9 If the proposed amendment to Rule 24.(2) is successful, for consistency Rule 3.(11)(e) under 'Submission of items to the States', should also be amended as follows (Proposition 1(t)):

- (11) Any original proposition which proposes the approval of any of:
...
- (e) **any proposals in the annual policy letter proposing concerning social insurance and other related benefit and rates of contribution rates and Benefits** ~~proposing concerning social insurance and other related benefit and rates of contribution rates and Benefits~~

Timeframe for submission of secondary propositions under Rule 24.(2)

13.10 The timeframe for the submission of secondary propositions under Rule 24.(2) was considered. It was noted that at the States' Meeting held on 25th February

2010⁷, the timeframe to submit amendments under the equivalent rule (then Rule 13.(2)) was increased from five to seven days. It has been suggested that the timeframe to submit amendments under Rule 24.(2) should be reduced to five days.

- 13.11 In 2010, a Minister submitted that five clear days' notice of an amendment or sursis pursuant to Rule 13 was insufficient to give the department or committee concerned enough time for a full investigation of its implications and, because of that, some amendments had proved to be very costly and time delaying and requested that the Committee review the operation of this rule. Given that, at that time, a Member of the States only had eight working days in which to digest a report and draft an amendment, the Committee took the view at that time that it was not feasible to require a longer period between the lodging of an amendment and the debate.
- 13.12 However, as the States agreed to the earlier publication of Billets d'État, it was subsequently possible to allow a slightly longer period and the then Committee recommended that the notice period be changed to require seven clear days' notice which would allow departments and committees a full week and two days to consider the implications of the amendment.
- 13.13 At the time, the Committee commented that whilst the change appeared modest, it was anxious that it should not negate the benefits of an earlier publication of the Billet d'État by extending the notice period for amendments and sursis. The Committee quoted a letter from the then Chief Minister of the Policy Council who had been consulted on the proposal:

"[Policy Council] Members considered whether, in light of the proposed increase in the time that information contained in a Billet d'État is in States Members' hands, the time limits for amendments should be increased in order to give Departments/Committees longer to consider them. There was also a suggestion that there could be a requirement to consult Departments/Committees before submitting amendments.

There was no consensus on this matter and, indeed on balance, Members concluded that this could have the undesirable effect of changing the balance in favour of Government at the expense of individual States Members who use amendments as a means of influencing States policy".

- 13.14 The Committee considered the arguments for maintaining the status quo or reverting to a five clear day timeframe. It noted that, while policy letters are

⁷ Billet d'État IV of 2010, Article 12, Publication of States Reports and Frequency & Hours of Meetings of the States of Deliberation, p.129': www.gov.gg/article/150477/States-Meeting-on-24th-February-2010-Billets-II-IV-V

now generally published at least five weeks before they will be debated in the States, given Members' heavy workloads, Members have limited time and resources to prepare amendments. Where Meetings are scheduled only two weeks apart (e.g. 28th November and 12th December 2018), the agenda for the latter meeting would only be determined two weeks before the Meeting is held, limiting Members' time to prepare amendments. It was further noted that there had been occasions during this political term where Members have sought to suspend the Rule 24.(2) to enable amendments to be debated.

13.15 It was noted that setting a timeframe of seven clear working days gave Committees 11 days to prepare a response, as it would include two weekends. The Committee concluded that a timeframe of five clear working days provided seven days for a Committee to respond to an amendment which was sufficient. A Committee presenting propositions benefits from staff and resources to respond to any amendment lodged whereas a Member lodging an amendment does not have such support.

13.16 The Committee concluded – in line with the then Policy Council's caution in 2010 - that the balance has been weighted too heavily in favour of Committees at the expense of States Members, and therefore proposes amendments under Rule 24.(2) being lodged five clear days before the meeting.

13.17 The Committee recommends amending the following sentence of Rule 24.(2) to enable this (Proposition 1(u)):

must furnish the proposed amendment or sursis to the Greffier not later than 15.00 on the day preceding the ~~seventh~~ fifth clear day before the meeting (excluding Saturdays, Sundays and Public Holidays) or, in respect of an amendment to propositions which have financial implications and which is proposed to be moved by the President or another representative of the Policy & Resources Committee, not later than 15.00 on the day preceding the second clear day before the meeting (excluding Saturdays, Sundays and Public Holidays).

14 Closure and voting

14.1 Rule 26.(1) is colloquially known as the 'guillotine motion'. A Member who has not already spoken in the debate, otherwise than in pursuance of Rule 17(3), (11) or (12), may at any time (but without interrupting another Member who is addressing the Meeting) request the Presiding Officer to close a debate on any matter (including an amendment or a sursis).

14.2 There was a range of views within the Committee regarding the threshold that should be reached for such a motion to be successful. At present, if the majority of the Members voting support the motion debate shall be closed. It

was suggested that this should be amended to require a two-thirds majority. It was also suggested that the Rule should be rescinded.

- 14.3 Given the disparate views the Committee held, it agreed to submit two options on Rule 26.(1) for the States to consider, as follows (Proposition 1(v)):

Under the section heading 'Closure and voting':

- (i) *to delete Rule 26.(1) and renumber the subsequent paragraphs accordingly.*

OR, if that proposition is rejected

- (ii) *in Rule 26.(1), to amend the words "the Presiding Officer shall put the said request to the vote and if the majority of the Members voting support it..." to "the Presiding Officer shall put the said request to the vote and if two-thirds of the Members voting support it..."*

If a Member wishes to retain the existing Rule as drafted, it is recommended they vote against both of the above propositions.

- 14.4 Rule 26.(2) states "A Member may vote only from his or her seat in the States' Chamber. Immediately before announcing his or her vote in a division (appel nominal), a Member must switch on his or her microphone and switch it off again immediately after he or she has voted". Whilst this system generally works well, in presidential elections when there are two or more candidates, Members are not always in their allocated seats (given the Presidents of the Principal Committees and Members of the Policy & Resources Committee will move from the top bench to the main body of the Chamber to enable the period of questions from Members to candidates under Rule 16(4)(b)). It is therefore suggested that Rule 26.(2) be amended to clarify that a Member must be seated in the Chamber to vote in a presidential election where there are two or more candidates. It is proposed to amend the Rule as follows (Proposition 1(w)):

"A Member may vote only from his or her seat in the States' Chamber. In presidential elections where there are two or more candidates, a Member may vote only from a seat in the States' Chamber. Immediately before announcing his or her vote in a division (appel nominal), a Member must switch on his or her microphone and switch it off again immediately after he or she has voted".

15 Register of Members' Interests and Register of Members' Unspent Convictions

- 15.1 In line with Rule 29, the Greffier maintains a Register of Members' Interests in which all lodged Declarations of Interest are kept. All persons elected are required within seven days of being elected or re-elected, and subsequently during the month of May annually, to make and lodge with the Greffier a Declaration of Interest.
- 15.2 It was suggested that Declarations of Interest should not be restricted to only Bailiwick Interests. An unsuccessful amendment had been lodged in 2015 to replace 'Real Property situated in the Bailiwick' with 'Real Property, wherever situated'. The Committee noted that one of the arguments against the amendment was in respect of the security of unoccupied properties outside the Bailiwick if the address was disclosed.
- 15.3 The Committee concluded that there may be occasions where property situated outside the Bailiwick is a relevant interest which should be disclosed in relation to matters under consideration by the States e.g. discussion on transport links etc. In light of concerns regarding the security of property outside the Bailiwick, it proposes Members should disclose only the town/city/region that the property is located.
- 15.4 It is proposing that Parts 6 and 7 of Schedule 2 '*Declaration of Interests made pursuant to Rules 29 and 36 of the Rules of Procedure of the States of Deliberation and their Committees*' and the accompanying Explanatory Notes are amended to read as follows (Proposition 1(x)):

Part 6 Real Property ~~situated in the Bailiwick~~

<i>Enter 'none' in box if there is no interest to declare</i>	
---------------------------------------------------------------	--

<i>Address of each Property in the Bailiwick; town/city/region of each property outside the Bailiwick</i>	<i>State whether owned, leased, rented or held in trust</i>	<i>Purpose for which Property is held</i>

Part 7 Company Shareholdings

<i>Enter 'none' in box if there is no interest to declare</i>	
---------------------------------------------------------------	--

<i>Name and address of each Company</i>
<i>In respect of companies listed above where the holding is over 10% of the issued share capital, give a brief description of their business/work and state what real property, if any, they hold (either directly or indirectly) in the Bailiwick.</i>

EXPLANATORY NOTES:

...

<i>Part 6</i> <i>Real Property situated in the Bailiwick</i>

...

<i>Part 7</i> <i>Company Shareholdings</i>

...

In addition, if the shareholding, or aggregate shareholding, exceeds 10% of the issued share capital you must also give a brief description of the main business activities of each of those companies and state what real property, if any, ~~situated in the Bailiwick~~ is held, either directly or indirectly, by the company.

16 Term of office

- 16.1 Rule 37.(4) states as follows: *If the President or a member of a Committee resigns from that office in a letter to the Presiding Officer, the resignation shall take effect automatically on the election by the States of a successor to the office vacated. No debate shall be held on the matter of the resignation.*
- 16.2 The Committee is proposing that this Rule is amended so that the resignation of a President or Member of the Committee shall take effect automatically on a proposition being laid before the States for a successor to the office. The Committee believes it is unreasonable – in the exceptional event that a successor is not appointed – that the resigning Member should be required to remain in post. It proposes that if, when a proposition is laid, no nominations are proposed, the post should become vacant⁸. It therefore recommends that the wording in Rule 37.(4) is amended as follows (Proposition 1(y)):

If the President or a member of a Committee resigns from that office in a letter to the Presiding Officer, the resignation shall take effect automatically on a

⁸ Rule 40(7) provides for circumstances where a Committee is inquorate and an urgent decision is required.

proposition being laid before the States for the election by the States of a successor to the office vacated. No debate shall be held on the matter of the resignation.

- 16.3 The Committee was asked to consider whether, when a President of a Committee resigns from that office, the remaining Committee Members' tenure should also cease and be followed by an election for Committee Members.
- 16.4 An argument in favour of this proposal is that the Committee as a whole would receive a fresh mandate from the States. The President could nominate the existing Committee Members or nominate other Members. Existing Committee Members could seek re-election to the Committee, even if they are not the President's preferred nomination, or take the opportunity to reflect whether they wish to continue on the Committee and not seek re-election. It would afford the President the opportunity to propose to the States their preferred team and for the States to elect the Committee as a whole.
- 16.5 An argument against this proposal is that all Members of the Committee are elected as equal members of the Committee and that the resignation of the President should not necessitate the dissolution of the entire Committee. It could be argued that such a Rule would undermine the role and status of Committee Members. Members having to stand down and subsequently seek re-election may be viewed as unnecessary. If the Committee proved unworkable with its new President, it would remain open to Members (including the President or Committee Members) to lodge a motion of no confidence in the Committee which, if carried, would require the immediate resignation of all the members.
- 16.6 The Committee is, on balance, in favour of the suggestion set out in paragraph 16.3. It was noted there would be occasions where requiring the entire Committee to resign may be viewed as excessive e.g. if the President resigned for personal reasons or had passed away. However, having taken into account all the arguments, the Committee believed there was merit in the suggestion and therefore recommends that when a President is elected, any remaining members of that Committee will cease to hold office. It therefore recommends inserting paragraph Rule 37.(4A) to read as follows (Proposition 1(z)):

On election by the States of a successor to a vacated office of President of a Committee, any remaining members of the relevant Committee will cease to hold office.

17 Declaration of Interest at Committee meetings

17.1 Rule 49.(1) reads as follows:

(1) A Member of a Committee who (or whose spouse, or any of whose infant children or any company in which the Member has a controlling interest on the Member's own or their behalf) has a direct or special interest in the business under consideration by the Committee must not participate in either discussion or voting thereon and must immediately declare the interest and withdraw from the meeting during the discussion and voting on the matter concerned.

17.2 There has been criticism that the reference to '*a direct or special interest*' is ill-defined. Some Members have made representations to the Committee that the Rule should be liberalised or that '*direct or special interest*' should be specifically defined within the Rules. One Member suggested the Rule should be rescinded entirely.

17.3 The Committee has carefully considered the representations made to it and has noted Members' concerns that the term '*special interest*' is ambiguous. As publicly stated, the Committee is not in favour of liberalising the Rules relating to declaration of interests.

17.4 The Committee previously consulted with HM Procurer as to whether the existing wording could be clarified or improved and was advised that the wording could be clarified if Members wished to change the effect and/or meaning of the Rule. However, HM Procurer indicated that it might be impractical to seek to clarify the Rule if the Committee's view was that the Rule should remain and should continue to be interpreted strictly.

17.5 HM Procurer noted that the particular concerns which had arisen related to specific cases where advice had been given leading to some Members considering that the Rules were being interpreted too strictly. HM Procurer also noted that the Rule, as literally interpreted, could cause some practical difficulties which were perhaps unsurprising in a small jurisdiction where Members often wear more than one hat. Prior to the Rule being changed many years ago, it could be seen as important for Members with particular interests (which one might now consider to be a '*direct or special interest*') to sit on relevant Committees where their particular knowledge and experience might be thought to add value to their membership. This has to be weighed against the current wording which, if followed, should give protection for Members against potential accusations of bias or conflict.

17.6 HM Procurer pointed out that the wording of the Rule had not changed for several years (and was unaffected by the 2016 machinery of government

changes) and in practice seemed well understood in the majority of cases. There was scope for the Rule to be changed if the Committee wished to do so - to cover purely financial interests, for example, or to exclude the interests of family members - but this depended upon whether the Committee wished to change the effect of the Rule. In discussion it was also noted that what constituted 'special interest' was, in practice, largely a matter of judgment based on particular facts – changing the wording to suit particular circumstances set out in the Rules would not therefore necessarily assist Members.

17.7 After lengthy deliberation, the Committee as a majority (with Deputy Inder dissenting) resolved not to suggest the further liberalisation of the Rule. In June 2018⁹, an amendment was lodged to amend the Rules of Procedure to define "special interest" as *"an interest from which the Member or other person concerned could derive benefit"*. The amendment was narrowly defeated but the debate demonstrated the States desired more clarity regarding the definition of a "special interest".

17.8 Whilst this policy letter does not include a proposition to amend the Rule, the Committee has agreed to work with the Law Officers of the Crown to develop and publish general guidance on what may or may not constitute a "direct or special interest". In giving a commitment to provide such guidance, the Committee emphasises that it is impossible for it to be exhaustive, given, as stated above, 'special interest' is, in practice, largely a matter of judgment based on particular facts. It therefore proposes the following (Proposition 1(aa)):

To note the Committee will produce a guidance note providing an overview of what may or may not constitute a "direct or special interest".

17.9 It remains open for any Member, who is unsatisfied with the Committee's position, to lodge an amendment inserting a Proposition seeking to amend this Rule for consideration by the States.

18 Indexes to Section 1 and Section 2

18.1 Further to any changes to the Rules of Procedures of the States of Deliberation and their Committees, it is recommended that the Indexes to each Section of the Rules be updated to include any new provisions. Proposition 2 sets out this recommendation.

⁹ Billet d'État XVIII, 2018, Article 4, Amendments to the Code of Conduct for Members of the States of Deliberation (P.2018/50): <https://www.gov.gg/article/165368/Amendments-to-the-Code-of-Conduct-for-Members-of-the-States-of-Deliberation>

19 Compliance with Rule 4

- 19.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 19.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 19.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions have the majority support of the Committee. Please note that Deputy Dorey does not support Proposition 1(d).
- 19.4 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee to advise the States and to develop and implement policies in relation to the procedures and practices of the States of Deliberation and committees of the States.
- 19.5 Also in accordance with Rule 4(5), the Committee consulted with the Law Officers of the Crown regarding the proposed amendments to the Rules.

Yours faithfully

P. J. Roffey
President

H. L. de Sausmarez
Vice-President

M. H. Dorey
N. R. Inder
M. K. Le Clerc

Appendix 1: Review of the Rules of Procedure of the States of Deliberation and their Committees: further suggestions

1. Introduction

- 1.1 The Committee received a number of suggestions for amendments to existing Rules, and new Rules, during the consultation undertaken as part of its review. This report sets out why the Committee resolved not to propose amendments to the Rules relating to these suggestions.
- 1.2 The Committee also received a number of suggestions which fell outside of the review of the Rules of Procedure. The second part of this report deals with these suggestions.

2 Suggestions considered but rejected by the Committee

- 2.1 This section details the suggestions put to the Committee that it resolved not to progress.

Submission of items to the States: propositions ‘to note’

- 2.2 Rule 3.(24) states that *“any proposition the effect of which is to note the contents of an accompanying policy letter shall be construed as a neutral motion, neither implying assent for, nor disapproval of, the contents of the policy letter concerned”*.
- 2.3 It has been suggested that a proposition ‘to note’ is meaningless and that the above Rule should be rescinded. The Committee concluded that the ability for the States ‘to note’ remained important given, for example, that it enabled the States to note an existing resolution or workstream being undertaken by the Committee relevant to other propositions under consideration.

Information to include in motions laid before the States: consultation with Treasury regarding the financial implications of a proposition

- 2.4 Rule 4.(3) requires that:

“Every proposition laid before the States which has financial implications to the States shall include or have appended to it in a policy letter or requête or otherwise an estimate of the financial implications to the States of carrying the proposal into effect;

Provided that:

the proposer(s) of such a proposition may request from any Committee any information required to enable such an estimate to be included or appended and the Committee shall thereupon provide complete and accurate information to enable the proposer(s) to set out the estimate.

- 2.5 It has been suggested that an additional paragraph should be included in the Rules along the lines of the following:

“Every original proposition laid before the States which has financial implications to the States shall have appended to it a statement that it has been submitted to Treasury for advice and evaluation”.

- 2.6 The Committee noted that the existing wording of Rule 4.(3) required that every proposition which has financial implications shall include information regarding an estimate of the financial implications to the States of approving the Proposition.
- 2.7 The Committee further noted that Rule 3.(19) provided the Policy & Resources Committee with the right to submit letters of comment on items submitted for consideration by the States. It therefore considers the Policy & Resources Committee has the ability to provide advice and evaluation – if required – on any proposition submitted through this mechanism. It does not consider the Rules require amendment to enable the Policy & Resources Committee to comment.

Hours of sitting, extensions and adjournments

- 2.8 Rule 6 sets out the times that Meetings shall ordinarily commence and adjourn. It has been suggested that Meetings should commence at 8:30, be adjourned as near as may be to 12:30, resume at 14:00 and be adjourned as near as may be to 18:00. It has been further suggested that there should be a 15 minute break as near as may be to 10:15 and again at 16:00.
- 2.9 The Committee considered the merits of introducing set adjournments during States’ Meetings. Given Members have the freedom to leave the Chamber during debate when they choose, it concluded that set adjournments were unnecessary, and could prove disruptive to debate.
- 2.10 The Committee considered the suggestion that Meetings should commence earlier and conclude later. However, after discussion, it felt that the current times were appropriate.

Opening of Meetings etc: Prayers and Afternoon Roll Call

- 2.11 Rule 7.(2) directs the Greffier to recite the Lord's Prayer in French at the commencement of each day of a meeting and pronounce the Grace in French at its close. It had been questioned whether the practice of reciting prayers in the States of Deliberation remains appropriate in an increasingly secular society. The Committee, as a majority, with Deputy Roffey dissenting, agreed the practice should continue.

Afternoon Roll Call

- 2.12 Rule 7.(3) requires the Greffier, immediately after the opening prayer, to call the roll of Members. There is no Roll Call after the lunchtime adjournment and it has been suggested that the Greffier call the roll of Members at the start of the afternoon session.
- 2.13 Any Member who is absent during the morning Roll Call is not called during an *appel nominal* (a recorded vote) unless that Member has been relev  . When an *appel nominal* is called, any Member who was present at the initial Roll Call but subsequently absent for the vote will be notable by their absence and marked as 'absent' in the published vote. After discussion, the majority of the Committee (with Deputy Inder dissenting) did not believe there was merit in introducing an afternoon Roll Call.

Order: communication with the public gallery

- 2.14 Rule 8.(2) prevents Members having any communication with a person in the public gallery while the States are in session. It was suggested to the Committee that the Rule be rescinded. The Committee noted that whilst it was possible for a Member to communicate with a person in the public gallery – and beyond - by use of an electronic device, the key purpose of the Rule was to prevent verbal communication and the passing of paperwork between Members of the States and the public gallery while the States are in session.
- 2.15 The Committee concluded the Rule was required, as verbal communication or the passing of documents between the public gallery and Members during a Meeting could be potentially disruptive to proceedings, distracting for Members, and disrespectful to the Member speaking at that time.

Statements: Quarterly financial updates from the Policy & Resources Committee

- 2.16 The President of the Policy & Resources Committee previously committed to provide quarterly financial update statements. It was suggested to the Committee that such statements should be required under the Rules and

incorporated into the annual rota of “*Regular Statements by Presidents of Committees of the States and the nominated Alderney Representative*”. The Committee consulted with the Policy & Resources Committee who stated, given such updates had been regularly delivered to date and would continue to be delivered in future, it did not see the merit in introducing a Rule to that effect. It also stated that it was important to have a degree of flexibility regarding the timing of the updates.

- 2.17 Having taken into account the comments of the Policy & Resources Committee, the Committee concluded that a Rule was not required at this time. However, if the regularity of such statements reduces, or ceases, in future, the Committee will consider proposing a Rule.

Question time: Supplementary questions and duration of question time

- 2.18 A Member requested that Rule 11 be amended to enable Members to ask a question regarding a President’s response to a supplementary question. Rule 11.4)(a) states that ‘*no Member may ask more than two supplementary questions in respect of each principal question*’ and the Rules do not permit a Member to ask an additional question on a supplementary answer.
- 2.19 The previous Committee had considered whether this Rule should be amended in its policy letter dated 27th January, 2015¹⁰ and had concluded that there would be no change to the Rules relating to supplementary questions (then Rule 5.4)) and provided the following reasoning:

10. *Rule 5 prescribes the procedure for asking questions during the question time period at the beginning of States’ meetings. Sub-rule 5(4) provides that no Member may ask more than two supplementary questions in respect of each principal question. The important element is that supplementary questions can arise only out of the principal reply: they cannot be about a supplementary question nor a supplementary answer. This can be restrictive and result in the need for a further question or questions to be asked at a subsequent meeting or result in a Rule 6 (written) question being asked. In many cases the answers could probably be given at the time if the topic of the series of questions could be widened.*
11. *However, it would be difficult to restrict where the questioning could lead as the questions went step-by-step ever further from the original question. Nor does the Committee believe that a system, such as*

¹⁰ Billet d'État VI 2015, Article 7, States Assembly and Constitution Committee - The Rules of Procedure of the States of Deliberation, The Rules Relating to the Constitution and Operation of States' Departments and Committees and Related Matters, p. 552:
<https://www.gov.gg/article/120649/States-Meeting-on-24th-March-2015-Billets-IV-V-VI>

pertains in the House of Commons, where the initial question is a bland non-question, usually about the Prime Minister's engagements for the day, followed by the 'real' question, is appropriate in the Guernsey context. All committees of the States are comparatively small and do not have the considerable resources to devote to anticipating the questions that a Minister or Chairman might be asked in a particular States' meeting. It is difficult to make question time more spontaneous when the heads of committees, howsoever titled, are replying on behalf of their committees and therefore cannot commit themselves, at least in terms of policy, to anything which their committee cannot support.

12. *The Committee therefore proposes that Rule 5(4) should not be amended.*

- 2.20 The Committee has considered the suggestion and concurs with the view of the previous Committee.
- 2.21 Rule 11.(6) states that, if, at the conclusion of one hour after the commencement of question time, all the questions have not been disposed of, the Presiding Officer may, in his or her discretion, postpone dealing with questions not then disposed of to no later than the conclusion of the meeting. It has been suggested that, as the number of questions lodged has increased, this Rule should be rescinded.
- 2.22 The Committee concluded that one hour for question time was sufficient, particularly given that the introduction of the general update statements from Presidents offered Members the opportunity to question Committees on matters under their mandate. The existing Rule does not preclude question time from continuing past an hour; it merely gives the Presiding Officer the discretion to postpone questions not then disposed of to no later than the conclusion of the meeting.

Elections: Points of correction during the question time of a presidential election

- 2.23 Rule 16.(4) enables a period of questions where there are two or more candidates for the election of a President of a Committee. It was highlighted that in the course of a normal debate, Members are permitted to make points of correction whereas they are unable to raise points of correction during the election process. It was suggested that Members are allowed to advocate a 'point of correction' during question time.
- 2.24 The Committee considered the points raised and agreed that any information provided during question time should be accurate. However, it noted there are significant differences between normal debate and elections, most notably that

there are time limits at every stage of the question time element of elections. The Committee believes it would be unwise to remove the time limits and considers that there is no practical way of permitting points of correction while time limits remain.

Removing appendix reports

- 2.25 In March 2005, the House Committee presented a report¹¹ which included a recommendation to enable reports published as appendices to be debated. It advised that the Rule sought to *'strike a balance between, on the one hand, giving Members an opportunity to debate an appendix report and, on the other hand, preventing such a debate from being used to direct policy matters which may not have been considered by the department or committee which presented the report'*.
- 2.26 Rule 20 mirrors the Rule introduced in 2005. It has been suggested to the Committee that it would be preferable that every report submitted for inclusion in a Billet d'État should be placed on the agenda for debate, thus dispensing with appendix reports and the need to lay a motion to debate them. It was further suggested that some major reports have been lodged as appendix reports and not been subject to debate.
- 2.27 The Committee considered the purpose of appendix reports and noted that such reports were primarily submitted to provide information to the States and the public and to ensure the reports are permanently placed in the public domain by virtue of their inclusion in a Billet d'État. It further noted that, for the majority of reports, their content did not generally necessitate debate by the States of Deliberation. However, if Members believed the report did require debate, the mechanism existed to enable this.
- 2.28 The Committee further noted that in the present term only one motion to debate an appendix report had been submitted and any Member who wished an appendix report to be debated should utilise the existing Rule to facilitate this. It therefore did not consider there were compelling grounds to propose an amendment to this Rule.

Secondary propositions – amendments, sursis, etc.

- 2.29 It was suggested to the Committee that there was merit in requiring a secondary proposition to set out, in the explanatory note, what consultation had taken place with the Committee responsible for the original proposition prior to the secondary proposition being lodged. The reasoning was that this

¹¹ Billet III, 2005, Article 6 'House Committee – Rules of Procedure of the States of Deliberation, p. 381': <https://gov.gg/article/150541/States-Meeting-30th-March-2005-Billet-III>

would facilitate discussion of the implications of the amendment between the proponent and the relevant Committee(s).

- 2.30 After consideration, the Committee resolved that whilst there was an expectation that Members should liaise with the relevant Committee(s) regarding amendments lodged, it did not believe this should be set out as a requirement in the Rules. It concluded it would be clear in the debate of the amendment – and the subsequent ‘Hansard’ report – what consultation had taken place.
- 2.31 It was further suggested that explanatory notes should be mandatory rather than optional to ensure that the reasoning for the proposed amendment was set out on the face of the amendment.
- 2.32 A Member is required to set out the arguments in favour of an amendment when it is presented to the States. Given their line of reasoning (and any further supporting or counter arguments in debate) will be published in the ‘Hansard’ Report, the Committee resolved this would provide an adequate record of the reasoning for the States supporting or rejecting a proposition. It did not support explanatory notes being mandatory and is therefore not proposing any changes to the Rules.

Closure and voting

- 2.33 As stated in paragraph 14.1 of the policy letter, Rule 26.(1) is colloquially known as the ‘guillotine motion’. It has been suggested that those who have already spoken in debate should not be allowed to vote to close any debate, as those who have spoken can prevent Members who have not spoken yet. The Committee considered the suggestion but did not agree there were grounds to preclude any Member from voting on such a motion.

Register of Members’ Interests and Register of Members’ Unspent Convictions

- 2.34 It was suggested to the Committee that Members should be required to disclose membership of the Freemasons. The Committee considered the suggestion. However, it concluded that it would not amend Schedule 2 to specifically require disclosure of membership of the Freemasons over membership of any other organisation.
- 2.35 It noted that Part 11 of the Declaration of Interest form requires Members to *“Declare here any other interest or benefit received which, whilst not required to be registered under Parts 1-10 might reasonably be perceived by other persons to influence actions as an elected Member of the States”*. If a Member believes that their involvement in an organisation might be perceived to influence their actions, they have the ability to disclose this in that section. In

line with the guidance notes on the form, Members “*may also use this section to record any interests or other matters that are not required to be registered but which, in your opinion, should be disclosed to the public*”.

Length of debates and speeches

- 2.36 Some Members have suggested that there should be limits on the length of speeches, with one Member suggesting that speeches – outside those given in opening and closing – should be limited to 10 - 15 minutes. This topic was previously considered by the Committee when it proposed the new Rules in November 2015¹², as follows:

44. *There could be limits on the length of speeches, which could, for example, include provisions to give a longer time to the Member proposing the matter than to other speakers and different lengths for different debates. The latter would necessitate some form of categorising debates to determine which length of speeches a debate was permitted. Although in general it is evident which items will need or justify longer than others, it is not always clear cut. It is likely that there would be frequent moves to recategorise items or suspend the Rule.*

45. *Any credible limit on the length of speeches would probably need to be set somewhere around ten minutes. This would inevitably cut short some, though by no means all, of the better speeches heard in the States. There is also a danger that a time limit on the length of Members’ speeches could come to be seen as a target to be achieved, or at least an allowance to be used, rather than the limit and this could even have the effect of lengthening debates. Therefore, the Committee is not proposing a limit on the length of speeches.*

- 2.37 The majority of the Committee (with Deputy Inder dissenting) agrees with the conclusion reached in the 2015 policy letter.

Comments on legislation laid before the States

- 2.38 The Scrutiny Management Committee highlighted there was no mechanism by which the Legislation Review Panel could comment on legislation that has been laid before the States during a Meeting. Legislation laid before the States would not be subject to debate unless a motion to annul a Statutory Instrument or Ordinance was lodged.

- 2.39 The Scrutiny Management Committee submitted that the Panel wished to have

¹² Billet d’État XVII, 2015, Rules of Procedure of The States of Deliberation and Their Committees - Proposed New Rules <https://www.gov.gg/article/150853/States-Meeting-on-24th-November-2015-Billets-XX-XXI-and-XXIIa>

the option to bring particular issues that had been discussed by the Panel to the attention of Members and stated it should be possible for the President to comment on legislation at the time it is laid before the States of Deliberation.

- 2.40 The Committee gave careful consideration to the suggestion and whether there was merit in suggesting an amendment to the Rules to enable a motion to be lodged to debate Statutory Instruments or Ordinances, similar to the option available to debate appendix reports. It questioned the value of introducing such a mechanism in respect of legislation laid before the States if the Panel was not suggesting annulling a Statutory Instrument or Ordinance. It noted that nothing precluded the Legislation Review Panel from circulating comments to Members in advance of debate regarding Statutory Instruments or Ordinances.

Restricting Members to serving on two Committees

- 2.41 It was suggested that Members should be restricted to serving on two Committees unless there were exceptional circumstances. It was argued that it was important that all elected members served on at least one Committee.
- 2.42 The Committee concluded it was for the States of Deliberation – in the full knowledge of a candidate’s existing Committee membership – to determine who should serve on a Committee.

Restricting Presidents of Principal Committees from sitting as an ordinary member on other Principal Committees

- 2.43 It was suggested that Presidents of Principal Committees should not sit as an ordinary member on any other Principal Committee. The Committee concluded that it was for the States of Deliberation – in the full knowledge of a candidate’s existing Committee membership – to determine who should serve on a Committee.

Suspending the Rules of Procedure

- 2.44 Under Section 7.(1) of the Reform (Guernsey) Law, 1948, as amended, “*The States of Deliberation may by Resolution decide the Rules of Procedure to be applicable from time to time in and in relation to assemblies of the States of Deliberation or of the States of Election, and may likewise at any time vary, revoke or suspend such Rules or any of them*”.
- 2.45 It was suggested to the Committee that if a Rule needed to be suspended to enable the States of Deliberation to operate, the Rule was not needed in the first place. The Committee noted that, if this assertion was correct, in the light of recent suspensions of the Rules, this would necessitate the deletion of Rule 24.(2) (regarding a timeframes for amendments to certain propositions) and

Rule 26.(6) (regarding an amendment which goes further than the original proposition).

- 2.46 The Committee believes there are inherent risks in suggesting that such Rules be deleted. It has suggested an amendment to Rule 24.(2) to provide Members with more time to place amendments which should reduce the number of requests to suspend the Rules to enable such amendments to be lodged. It also believes that Members should seek, as far as is practicable, to adhere to the Rules the States of Deliberation have agreed, and only seek to suspend in the Rules in exceptional circumstances.
- 2.47 It was suggested to the Committee that a suspension of the Rules should require a two-thirds majority to succeed. After discussion, a majority of the Committee (with Deputies Roffey and Dorey dissenting) agreed it would be untenable to reject a majority vote.

Proxy voting

- 2.48 A request was made for the Committee to consider introducing a mechanism to allow Deputies to vote by proxy. The Committee reported on proxy voting in March 2015¹³. The relevant extract is produced below:

77. *At present, Members can vote only if they are present in the Royal Court Chamber and in their places. It has been suggested by a Member of the States that there should be a provision for Members to leave a voting slip with a fellow Member if they are unable to be present for a vote (effectively proxy voting).*

78. *Such a system could increase the numbers of Members voting in divisions and ensure their views were taken into account. There are several practical issues. The whole point of holding a debate is to try to influence other Members to vote the same way as the speaker. The Proposition in the Billet d'État may well have been, and often is, amended before the vote on it is taken, perhaps by an amendment laid séance tenante. The Member might want to vote on an amended Proposition in a different way from on the original. The colleague who would be casting the proxy vote would have to cast the vote regardless but it might not accurately reflect the absent Member's intentions at the point when the vote was held. Potentially it could encourage absenteeism.*

¹³ Billet d'État VI, 'The Rules of Procedure of the States of Deliberation, The Rules Relating to the Constitution and Operation of States' Departments and Committees and Related Matters', www.gov.gg/article/120649/States-Meeting-on-24th-March-2015-Billets-IV-V-VI

79. *The Committee does not therefore believe that such a system of proxy voting should be introduced.*

- 2.49 The Committee considered the request and concurred with the conclusions of the previous Committee.

3 Other matters falling outside the review of the existing Rules of Procedure

- 3.1 During its consultation on the Rules, the Committee received suggestions that fell outside the review of the existing Rules of Procedure. They are summarised briefly below.

The dual role of the Bailiff

- 3.2 As part of the submissions received, it was requested that the Committee review whether the Bailiff should continue to be the Presiding Officer of the States of Deliberation after June 2020.
- 3.3 The dual role of the Bailiff as President of the Royal Court and Presiding Officer of the States of Deliberation was considered as part of the 'Review of the Machinery of Government in Guernsey'¹⁴ (Section 3, 'The Role of the Bailiff in the machinery of government'). The Committee notes that the majority of the points presented in the report regarding the role remain valid today.
- 3.4 Recent focus on the dual role of the Bailiff has arisen, in part, through the States of Jersey's discussions on the subject, and the original decision to hold a referendum in 2018 asking whether the Bailiff as President of the States Assembly should be replaced by a Speaker elected by States' Members. The decision to hold a referendum was overturned on 10th July, 2018.
- 3.5 The Committee's view to date – noting that the Bailiff is apolitical, has professional skills suited to presiding over the States of Deliberation, and questioning the appetite for change – is that considering changes to the role has not been a priority for the States of Deliberation. However, it is maintaining a close watch on developments in Jersey and is of the view that if in the future Jersey decides against the Bailiff remaining the President of the States, it will seek the view of the States of Deliberation whether it wishes to retain or remove the Bailiff's dual role in Guernsey.

The number of Alderney Representatives

- 3.6 The Reform (Guernsey) Law, 1948, as amended directs that the States of

¹⁴ Review of the Machinery of Government in Guernsey
<https://www.gov.gg/CHttpHandler.ashx?id=79138&p=0>

Deliberation shall be composed as follows: The Bailiff, His Majesty's Procureur, His Majesty's Comptroller, thirty-eight People's Deputies and two Alderney Representatives.

- 3.7 It was suggested to the Committee, given the reduction in the number of States' Members, the number of Alderney Representatives should be reduced to one. The Committee does not believe it is appropriate to look at the constitution of the States of Deliberation only two years since the machinery of government reforms and will therefore not be considering this matter at this time.

Mid-term elections

- 3.8 In Autumn 2017, a Member requested the Committee conduct a review into implementing mid-term elections from May/June 2018. The Committee concluded it would be premature, in advance of the referendum on Guernsey's voting system, to look at the issue. It agreed to defer further consideration of the suggestion until after the results of the 2018 referendum were known.

The number of Members required on Committees

- 3.9 It was suggested the Committee review the number of Members required on Committees. As stated above, the Committee does not believe it is appropriate to look at the constitution of Committees only two years since the machinery of government reforms, and will therefore not be considering this matter at this time.

Length of political terms

- 3.10 It was suggested the duration of a political term should be extended to five years. The Committee agreed to consider this suggestion in more depth once the outcome of the referendum on Guernsey's voting system is known.

Attendance Records

- 3.11 The Committee is required by resolution to publish a record of States Members' attendance at meetings of the States of Deliberation, and Members' attendance at Committee Meetings, from time to time.
- 3.12 A few Members contacted the Committee requesting the discontinuation of the collation and publication of attendance records. The Committee appreciates the publication of such information provides only limited information on the output of States' Members. It does not show attendance at Committee sub-committee meetings or presentations. Nor does it show the amount of work or time spent, for example, on dealing with issues raised by

parishioners, correspondence and preparing for meetings.

- 3.13 The Scrutiny Management Committee requested the attendance statistics be amended to include public hearings organised by the Committee. The Committee has long adopted a policy that only attendance at official States' Committee meetings, and the States of Deliberation, will be included in the published report. The Committee noted that the Scrutiny Management Committee could either convene their public hearings as formal Committee meetings or publicise attendance at its hearings through other means, for example by detailing it in its annual report or issuing a press release providing details of attendance figures.
- 3.14 In future, the Committee wishes to investigate the production of more meaningful statistics regarding the work of the States of Deliberation and Members. However, in the interim, it believes a move to rescind the resolution would not be in line with the transparency expected by the electorate and therefore will not be recommending any changes to the practice.

Disclosure and Barring Checks for Members

- 3.15 The Committee has been asked to investigate requiring Members to have Disclosure and Barring Checks. This item has been added to the Committee's forward work programme to review after the referendum has taken place.

Simultaneous Electronic Voting

- 3.16 It was suggested that simultaneous electronic voting should be introduced. The Committee previously reported to the States of Deliberation in 2014¹⁵ on the topic, including the arguments for and against, the costs of different systems and the practical and procedural effects of establishing it. It also answered questions in the States of Deliberation on 13th December, 2017¹⁶. Given existing priorities, reconsidering the introduction of such a system is not a high priority for the Committee; however, it has agreed to add the topic to its forward work programme for consideration in future.

Publication of voting records

- 3.17 The website www.theyworkforyou.ie/ has recently been introduced in Jersey, which takes open data from the States of Jersey and presents them in a way that is easy to access. It provides a voting summary, voting data and the voting patterns of Members. It was suggested that a system to enable the public to

¹⁵ Billet XXI, 2014: www.gov.gg/CHttpHandler.ashx?id=92398&p=0

¹⁶ Hansard Report of Proceedings at the States of Deliberation on 13th December 2017
www.gov.gg/article/162531/States-Meeting-on-13-December-2017-Billets-XXIV--XXV

access voting records at a glance should be introduced in Guernsey.

- 3.18 As stated at paragraph 3.14, the Committee is keen to improve how information regarding the work of the States of Deliberation can be more accessibly presented. It has added this to its forward work programme but, given limited resources, cannot prioritise this workstream at the present time.

Schedule 1

Dates for the first day of States' Meetings
(all Wednesday, except where indicated)

2018

26 th	September	
24 th	October	
6 th	November (<i>Tuesday</i>)	Budget
28 th	November	
12 th	December	

2019

30 th	January	
27 th	February	
27 th	March	
24 th	April	
22 nd	May	
12 th	June	
25 th	June (<i>Tuesday</i>)	Policy & Resource Plan (progress & review) & Accounts
17 th	July	