



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 27th March 2019

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Present:

Richard McMahon, Esq., Deputy Bailiff and Presiding Officer

Law Officers

R. M. Titterington, Q.C. (H.M. Comptroller);

People's Deputies

St Peter Port South

Deputies P. T. R. Ferbrache, J. Kuttelwascher, D. A. Tindall,
B. L. Brehaut, R. H. Tooley

St Peter Port North

Deputies J. A. B. Gollop, C. N. K. Parkinson, L. C. Queripel,
M. K. Le Clerc, M. P. Leadbeater, J. I. Mooney

St Sampson

Deputies L. S. Trott, J. S. Merrett, G. A. St Pier,
T. J. Stephens, C. P. Meerveld

The Vale

Deputies M. J. Fallaize, M. M. Lowe, L. B. Queripel,
J. C. S. F. Smithies, S. T. Hansmann Rouxel

The Castel

Deputies R. Graham L.V.O, M. B. E, C. J. Green, B. J. E. Paint,
M. H. Dorey, J. P. Le Tocq

The West

Deputies A. H. Brouard, A. C. Dudley-Owen, E. A. Yerby,
D. de G. de Lisle, S. L. Langlois

The South-East

Deputies H. J. R. Soulsby, H. L. de Sausmarez, P. J. Roffey,
R. G. Prow, V. S. Oliver

Representatives of the Island of Alderney

Alderney Representatives S. Roberts and A. Snowdon

The Clerk to the States of Deliberation

C. Foster (H.M. Deputy Greffier)

Absent at the Evocation

Miss M. M. E. Pullum, Q.C. (H.M. Procureur);
Deputy P. R. Le Pelley (indisposé); Deputy N. R. Inder, (relevé à 9h34)

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States of Deliberation

*The States met at 9.30 a.m. in the presence of
His Excellency Vice-Admiral Sir Ian Corder, K.B.E., C.B.
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE BAILIFF *in the Chair*]

PRAYERS

The Senior Deputy Greffier

EVOCATION

CONVOCATION

The Deputy Greffier: Billet d'État V and VI of 2019. To the Members of the States of the Island of Guernsey, I hereby give notice that a Meeting of the States of Deliberation will be held in the Royal Courthouse on Wednesday, 27th March 2019 at 9.30 a.m. to consider the items listed in these Billets d'État, which have been submitted for debate.

5

The Deputy Bailiff: Deputy Inder, you nearly arrived on time. Would you like to be relevé?

Deputy Inder: Yes, please, sir.

IN MEMORIAM

**Former Deputy Francis Quin
and former Deputy Roger Perrot**

10 **The Deputy Bailiff:** Members of the States of Deliberation, on 3rd March we lost two true Guernseymen, who served our community both in this Assembly and more widely with distinction. The fact that there was standing room only at both funerals is testament to the huge regard in which former Deputies Roger Perrot and Francis Quin were held.

15 Whilst there were clearly some differences between the two gentlemen, the similarities are such that I propose to weave together the strands of their tributes but, in doing so, would have to remember to mind my Ps and Qs.

Francis William Quin was born in Guernsey on 16th March 1940. A part of his childhood was spent in internment during the war in Biberach. He rarely spoke about that episode in his life, although it clearly instilled in him a deep gratitude, shared by many, for the work of the Red Cross. When the Countess of Wessex visited to mark the 70th anniversary of the Liberation, Francis was part of a small group of former internees presented to Her Royal Highness that day.

20 Francis was a St Martin's boy to his core. On walks to school with former Chief Minister Mike Torode their friendship, which was to last all Francis' life and would see them serving in tandem,

was forged. However, education was not at the forefront of Francis' mind and he subsequently pursued a number of quite varied careers, including butchery, working in the construction industry, the Merchant Navy and diving for shellfish.

Francis also played his part in the boom years of the tourist industry, with his own deckchair and whoopee float business. Francis was a renowned marksman. Bearing in mind that the Commonwealth Games at which competing for Guernsey is possible, the fact that he was picked to represent the Bailiwick in clay target shooting at four Commonwealth Games demonstrates just how accomplished he was. He also competed at five Island Games.

In terms of giving something back to the sports he loved, through administration, he served as president of the Clay Target Shooting Club and the Squash Racquets Association, as well as being president of the Guernsey Sports Council for two terms. As a result of the latter, Francis spent some time as a non-States' member on the Recreation Committee and he also served on the St Martin's Douzaine for six years.

Since its formation, Francis was a regular at Guernsey FC matches at Footes Lane, where he occupied a seat just in front of where the Comptroller and I sit, as a result of which I can vouch for the fact that he continued to maintain a keen interest in what went on in this Assembly.

Roger Allen Perrot was born in Guernsey on 22nd May 1946. He was educated at Elizabeth College – for those to whom this matters, number 5450 – where he excelled at various sports, particularly those involving a racquet, such as tennis. Thereafter he took a degree in physics, with a view to a career in the Army. But the military life was not for him, so he returned to Guernsey and switched to a career in law, joining his school friend Nick van Leuven, another former Member of this Assembly, in the firm led by Percy Ozanne.

Prior to his retirement from practice, Roger eventually became the firm's senior partner. The group of advocates ultimately practising as Ozanne's also produced others who have served, largely sequentially, in the States; including of course Deputy Ferbrache. If I could be permitted a wrestling analogy for a moment, over the years when I had the pleasure, if I could describe it as such, of appearing on behalf of what was the Island Development Committee and the Housing Authority, and their successor departments, the contests on those appeals, frequently in this very room, sometimes seemed like engaging in a tag match involving the super heavyweights Big Daddy and Giant Haystacks! I leave it to you to decide which was which! *(Laughter)*

Roger's association with Elizabeth College continued for the remainder of his life. He was a generous benefactor to the College, was heavily involved in its charitable foundation and managed over the years to involve himself in most of the governance roles available, including serving as one of the board of directors, being chairman of the Gibson Fleming Trust and president of the Old Elizabethan Association.

Professionally, amongst many highlights, Roger was counsel in the landmark human rights case in Strasbourg, McGonnell against the United Kingdom, which led to certain constitutional changes both here and in the United Kingdom. He was the Bâtonnier of the Guernsey Bar in the early years of this century, during which time he negotiated the original arrangements for legal aid.

Roger also served on the Douzaines, first in St Peter Port and later in St Saviour. His assistance and expertise were most welcome when the St Saviour's Community Centre was being developed. Roger had many other interests, particularly in sport, and he served as Commodore of the Royal Channel Islands Yacht Club. He further served as President of Rotary and also of the National Trust of Guernsey.

Roger was the first of the two to be elected to the States. He held office for two three-year terms as a People's Deputy for St Peter Port in the 1980's. Following his election in 1982, amongst an intake that included Deputy Roffey, Roger joined the Ancient Monuments Committee and the States' Telecommunications Board. Later that year he was also elected to the Post Office Board. His professional commercial experience was much valued as shown by his election as President of the States' Electricity Board, following his re-election to the States in 1985.

75 Roger was further elected to the Constitution of the States' Review Committee, in time serving on that Committee with Deputy Roffey and both of whom were later on the Constitution Advisory Panel, whose work from around a decade ago may well have been dusted off, following recent events.

80 After the summer recess of 1985, Roger became the President of the Post Office Board. His background as an advocate was especially useful for the committee he led, which looked at reforms to our conveyancing regime and resulted in the enactment of legislation to permit so-called flying freeholds of flats to be conveyed. He did not seek re-election in 1988.

85 Francis was first elected to the States in 2000, as a People's Deputy for St Martin and so was a new Member, along with, amongst others, Deputy Trott. Those two served together on the Sea Fisheries Committee and Francis was also elected to the Board of Health. At the beginning of 2001, Francis was elected to the Committee for Home Affairs, of which his old friend, Deputy Torode, was the President, and so began an association with that Committee which lasted for just over 15 years.

90 During his first term, Francis also joined the Agriculture and Countryside Board, the Liberation Celebrations Committee and the Public Thoroughfares Committee. In 2004, he was elected Deputy in the new electoral district of the South-East, where he was re-elected in 2008 and 2012, thus completing 16 years of continuous service by the time he chose not to seek re-election in 2016.

95 Under the then new Machinery of Government, in 2004 Francis was elected to membership of the Home Department and became the deputy minister in 2007, a role in which he continued thereafter. In 2008 he expanded his portfolio to include membership of the Culture & Leisure Department.

100 From 2012, Roger returned to the States having topped the poll by the so-called country mile out in the West, on a manifesto remarkable for its brevity. (*Laughter*) So for four years this Assembly was graced by both of these gentlemen. For Francis, this term was business as usual. Roger, however, was unsuccessful in becoming the Minister of the Commerce & Employment Department, a setback by which he was noticeably affected for a while. He was elected as the Chairman of the Panel of Members under the Administrative Decisions Review of Guernsey Law 1986.

105 At the beginning of 2013, Roger was elected to the Treasury & Resources Department. When the Constitutional Investigation Committee was formed in 2014, Roger was elected to membership of it and became its vice-chairman. Roger of course had been a driving force in this regard, having convened a well-attended public meeting at St James' in October 2009, at which some of these issues had been canvassed. Roger also served on another special States' Committee, the Social Welfare Benefits Investigation Committee.

110 One of the similarities between these two former Deputies is that over the years they have been serial requérants, particularly Roger. During the 1980's, he was a signatory of 15 requêtes, leading on four of them. They covered a disparate range of topics, starting with equal pay for female employees and the sale of St Stephen's Vicarage, and ending with one about the West United Agricultural and Horticultural Society.

115 Sandwiched in between there was one he led about the Friends of St James' Association, as well as another on the Review Board system, the legacy of which remains today because it led to the enactment of the 1986 Law and the creation of the Panel of Members he chaired in his final term.

120 Francis signed seven requêtes, including those relating to St Martin's Conservation Area, death with dignity and, most recently, our recognition of 27th January as Holocaust Remembrance Day. On Roger's return he signed a further four requêtes, perhaps most notably leading successfully on the topic of lasting powers of attorney, where we still wait some years later for the resultant legislation.

125 Perhaps one of the more notable differences between these two former Deputies is the number of occasions on which each spoke in debate in this Assembly. We now have the benefit of

Hansard, which enables an evidence-based and illuminating assessment to be made in that regard. Indeed, at the very first meeting after the 2012 election, Roger was given the first customary round of applause, following a maiden speech, although as the Bailiff noted, he must surely have spoken in this Assembly many times previously.

This was when Roger stood and spoke, unusually for just a few moments, to certain amendments he had seconded. He spoke more fully thereafter, commenting that the changes to the Rules with a view to facilitating the potential candidature for Chief Minister of his former junior partner, newly elected Deputy Harwood, might be worthy of support because, in Roger's words: 'He had done awfully well' – thus setting the tone for his subsequent contributions, which were frequently laced with humour. For Roger the English language was a joy. He was a real wordsmith and no one could describe him otherwise than as a gifted orator.

The contributions of Francis were rarer and usually somewhat briefer, but nonetheless they were always listened to attentively, because Members were fully aware that what he had to say would be based on sound, common sense. Francis also laced his contributions with humour, sometimes of a self-deprecating nature, as a means of reinforcing his points.

Accordingly, in their own particular ways, each made a real and effective contribution to debate and the parliamentary process. Like another former Member of this Assembly, Eric Waters, with whom he had overlapped for eight years and on whom, it might perhaps be said, he broadly modelled himself a little, Francis played an active role at the 'Alternative States' held at the White Rock Café.

It is impossible to do full justice to two such Guernsey giants in such a short compass but one thing is abundantly clear: in their own ways, Francis and Roger were united in their enduring passion for this Island. They strove to bring about what each regarded as being the best solution for whatever befell our community.

It could be said that they were hewn from Guernsey granite, lived their lives to the full, believed firmly in the importance of public service, adopted a cheerful, positive outlook, and so had a significant impact for the benefit of so many whose lives they touched.

Both Francis and Roger remained unmarried. It seems that in Francis' case, this was not for want of potential opportunities to settle down! (*Laughter*) Roger's lifelong partner, Caroline, predeceased him by some months. To Francis' nephews and their families and to Roger's cousins and wider family, we extend our sincere condolences. (**Members:** Hear, hear.) Members of the States, will you now please join me in rising to honour the memories of Francis William Quin and Roger Allen Perrot?

Members stood in silence.

The Deputy Bailiff: Thank you all very much.

STATEMENTS

General Update – Statement by the President of Policy & Resources

The Deputy Bailiff: Members of the States, we turn to the first of two Statements, which is a general update from the President of the Policy & Resources Committee, Deputy St Pier.

Deputy St Pier: Sir, in respect of Brexit, Members will be aware that the process of the UK leaving the EU continues to evolve. I do not intend to give a lengthy Statement on Guernsey's preparations and response to Brexit here, not least as I updated this Assembly at the January meeting.

We continue to do all we reasonably can to plan for – and mitigate – any changes that might result from the UK's departure from the EU, on whatever terms and date that that turns out to be.

170 We have worked with a no-deal Brexit as one possible scenario since the EU referendum and, along with other Committees of the States, we are now in a position where our plans are well developed, and we are as prepared as we can be.

We have tested these plans and looked closely at our supply lines. Whilst there may be disruption and a decrease in choice, we do not expect any shortages of food, fuel or medicines.

175 We have published information online and continue to engage actively with our community.

The Assembly has made it clear that it supports the objective of extending the UK's membership of the World Trade Organisation to Guernsey, and that work is continuing. These are complex negotiations that will set a framework for our future economic partnerships, so it is critical that we get it right. We still seek confirmation of that extension before the UK leaves the

180 EU, but any delay beyond that is unlikely to create any practical issues.

Following our decision to extend the territorial seas, the UK government has confirmed that it will be enacting that as soon as practicable, and by the beginning of July at the latest. The necessary Order in Council is currently being discussed with the UK.

Brexit-related matters will impact on the progression of other areas of work. One such area is the strategic review of the Island's population management approach. The Policy & Resources Committee and the Committee for Home Affairs have not yet come to a joint view in respect of the review. In addition, developments in relation to Brexit may have an impact on how we approach population management in Guernsey in the future, and so the Committees are also considering the impact of Brexit on the population management approach.

185

In respect of beneficial ownership and more specifically the proposed amendment to the UK Financial Services Bill proposed by two UK Members of Parliament, we continue to make a clear and compelling case that the UK cannot legislate for us on any matter without our consent – a point that is well understood by the UK government. (**Several Members:** Hear, hear.)

190

This move by UK backbenchers would be a clear contravention of the constitutional precedent. Moreover, it is also wholly unnecessary in the context of our robust approach to the retention and sharing of beneficial ownership information. We already meet international standards and share information on a basis that is acceptable to the National Crime Agency to a level to protect national security.

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We are continuing to engage with UK MPs on this matter before the amendment returns to the House of Commons. The fact that we have the same policy objective as these MPs in terms of tackling financial crime and tax fraud that makes the policy aspect of the proposed amendment so disagreeable ...

200

We are working closely with counterparts in Jersey and the Isle of Man. Given the constitutional issues this has raised, we also continue to look at ways in which we can ensure we have robust defences to this sort of threat, and a policy letter will be debated at this meeting on one of these measures.

205

Guernsey's commitment to meeting international standards was demonstrated earlier this month. On 12th March we welcomed the European Council of Finance Ministers reaffirming its view that Guernsey is a co-operative jurisdiction with respect to tax good governance. This follows a year of close working with the EU, with Jersey and the Isle of Man, and in consultation with industry.

210

We remain committed to ongoing co-operation and dialogue with the EU institutions. We also stand ready to help other jurisdictions, including any relevant EU Member States, develop and implement the economic substance requirements that we have in place, and as a jurisdiction we remain actively committed to the OECD's anti-Base Erosion and Profit Shifting Action Plan.

215

Sir, there is of course a link between our external relations work and our domestic policy agenda. One of those areas is of course the extension of the United Nations Convention on the Rights of the Child, which as an objective of the Children and Young People's Plan. This is an important objective, and the Committee is very pleased to advise the Assembly that the complex

220 work on demonstrating compliance to the Article of the Convention has been completed, and the relevant documentation has been shared with the UK government. We are now expecting the Convention to be extended to Guernsey, though we do not yet have a date.

225 Another significant development in relation to social policy was the launch of the matrimonial causes or divorce public consultation earlier this month, following on from the States' decision to simplify and make more inclusive the Marriage Law. This further consultation seeks views on the Policy & Resources Committee's preferred option of 'no-fault' divorce, amongst other reforms to modernise, make more inclusive and simplify the Law. The proposals will overall help to reduce conflict, improve outcomes for all parties, including of course children, and protect vulnerable parties. They will also ensure that the law can be applied to all marriages. The consultation closes
230 on 28th April.

As part of the Health & Social Care's Partnership of Purpose policy debate in December 2017, the States resolved to undertake a review of nurses and allied health professionals' terms and conditions. Although the States' Resolution focused on nursing and midwifery professionals, further discussion with Health & Social Care and the unions resolved that a review should
235 encompass all Agenda for Change bands – the pay scale for the majority of health care workers – to ensure a rounded review that does not create anomalies for the future.

The review was completed on schedule in December 2018. The review was facilitated using internal resources. Policy & Resources and Health & Social Care are currently finalising an action plan based on a series of recommendations within that report. Engagement is taking place with
240 the relevant unions as part of preparing a plan, which will be circulated to stakeholders in due course.

I also wish to provide a brief update on the establishment of the Social Investment Commission. The Commission, agreed by the Assembly as part of the Budget in autumn 2018, will invest public funds in the charitable and third sector. It will work in partnership with charities,
245 helping them apply for funds, and encouraging public services to work with them more closely through commissioning and partnership models. Funding will be drawn from areas such as Lottery proceeds, dormant bank accounts and distributed assets.

The Commission will play a critical role in building the capacity of the third sector, which itself plays a critical role in the wellbeing of our community. I want to take the opportunity to thank
250 those in the third sector who undertake that work, much of which is, of course, done on a voluntary basis. I also wish to thank the three members of the Social Investment Commission that the Policy & Resources Committee has appointed, following a selection process: Jurat Stephen Jones O.B.E. as Chairman, the Very Reverend Tim Barker and Susie Crowder who have been appointed as members of the shadow board in order to assist in establishing it.

255 The Policy & Resources Committee will bring a policy letter to the Assembly after the summer that sets out clearly defined terms of reference, a governance structure and a process for securing funding.

The Policy & Resources Committee also provides the political oversight role for the work on Public Service reform that is led by the Chief Executive of the States and his senior leadership
260 team. One of the most important components of delivering the changes set out in the 10-year plan for Public Service reform is delivering enhanced technology – it will support our community in providing more accessible and flexible public services. Deputy Le Tocq and I have been meeting with Committees and their Presidents to discuss progress in relation to the Future Digital Services work, and a policy letter will be brought to the Assembly in June.

265 The Public Service reform work also includes the ongoing rationalisation of the States' considerable estates footprint. I am pleased to advise that details of further rationalisation of a number of properties will be released shortly.

Finally, I want to add that the Public Service reform work also has an objective of providing enhanced support for Government, and that includes the needs of Deputies. The Policy &
270 Resources Committee and the Chief Executive have discussed how we can achieve that and we will work closely with the States' Assembly & Constitution Committee in that respect. We all recognise

that continuing professional development and pastoral care are important for those who serve our community in order to ensure we do so in the most effective way – particularly when as a Government and community we face so many challenges.

275 Thank you.

The Deputy Bailiff: Members of the States, there is now an opportunity to ask questions on any matter within the mandate of the Committee but I remind you that that does not extend to any topic which is part of another item of business at this meeting.

280 Deputy Kuttelwascher.

Deputy Kuttelwascher: Thank you, Mr Deputy Bailiff.

Could the President of Policy & Resources summarise what might be the negative impacts on our finance sector if access to the register of public ownership was made available to the public?

285 Thank you, sir.

The Deputy Bailiff: I think that is probably a question that could be asked in the context of the policy letter that is going to be debated later in this meeting, so I am going to rule that out of order.

290 Deputy Merrett.

Deputy Merrett: Thank you, sir, and thank you to the President of P&R for the update; that is appreciated.

The President mentioned a review of nurses' terms and conditions has been more widely looked into and that the plan would be circulated to stakeholders. As a seconder to that amendment, sir, I would like to ask the President if he believes that Deputies are stakeholders, as I believe we are, because part of the amendment was to bring some parity to other comparable jurisdictions. So can I ask the President if he will in fact advise Deputies and have that plan circulated to Deputies in due course?

300

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I do believe that Members of this Assembly are clearly stakeholders in that process, particularly for our largest spending Committee and for a significant body of our staff. Absolutely, I think that they should be included within that process. What I cannot say is the timeframe for that and how that will dovetail with other stakeholders, including of course unions and the employees themselves.

305

The Deputy Bailiff: Deputy Gollop.

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Deputy Gollop: One issue that I wrestled with even last night was none of us really know at the moment when the Brexit date, if it comes, will come; as the 29th March has already shifted around here and there. Is the Policy & Resources prepared to amend and enact, as they do, legislation suddenly or will it require other States' Members, other Committees and maybe the whole Assembly to meet in an extraordinary emergency fashion to change any legislation should that prove necessary by unforeseen events?

315

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Sir, Exit Day is defined within our Law as being 29th March this year or such other date as may be effectively chosen. We have therefore developed into our Law flexibility which does not currently exist within the UK. The UK requires a Statutory Instrument to go back for a positive affirmation. It is something that we can deal with by regulation.

320

325 So the Policy & Resources Committee are fully aware of the shifting scene. We passed a whole raft of regulations and Laws and ordinances yesterday, using the powers that are available to us. They will be laid before the Assembly in the normal way and that does seek to provide as much flexibility as is possible to allow for the shifting of Exit Day itself.

330 In terms of further meetings of this Assembly, sir, it is a little bit difficult for me to predict that because we do not know how events will unfold in the UK, but clearly this Assembly I am sure can be assembled at short notice should it be necessary. But I think I can reassure this Assembly and the community that actually, in the preparation to date, and in the flexibility that we have within our Laws, we should have sufficient flexibility to respond in any way required.

The Deputy Bailiff: Deputy Le Clerc.

335 **Deputy Le Clerc:** Thank you, sir.

340 This Assembly last year, in the Budget, agreed approximately £8 million to be spent on Civil Service reform and to this date I am very disappointed at the engagement that we have had with P&R on this matter. Committees were meeting with Members of P&R and staff but, actually, the information has been very difficult to obtain. I think we still need more clarification on governance structure, job descriptions; there is uncertainty within our Committees and our staff as to where they will actually be. I wonder whether it is possible to have an update to this Assembly as soon as possible on the actual structure of these governance and Civil Service reforms and what it actually means to the Committees?

345 Thank you, sir.

The Deputy Bailiff: Deputy St Pier, I think there was a question in there somewhere but it was hard to ascertain.

350 **Deputy St Pier:** I will give it my best shot, sir.

In the time available to me, I am not in a position to outline the detailed organisational structure which was perhaps implicit in Deputy Le Clerc's question. There has been a considerable level of dialogue with individual Members, with Committees and, of course, with a number of senior staff who are likely to be affected by the changes.

355 What I can say, also, is that further changes are imminent now as a result of that further engagement that has taken place and that is a matter which of course is being led by the Chief Executive and supported by Deputy Le Tocq as our lead on this matter within Policy & Resources. So I think Members and the wider community can expect further announcements shortly, sir.

360 **The Deputy Bailiff:** Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

365 In asking my question I need to declare that my wife is a nurse, but does the President of P&R not have concerns that broadening out the review to everyone that falls within Agenda for Change is actually moving away from the spirit and the intent of the amendment that was placed? 'Those who fall within Agenda for Change,' that is quite some broad sweep of health professionals and I just wondered whether it has drifted away from the original intent of the amendment?

The Deputy Bailiff: Deputy St Pier.

370 **Deputy St Pier:** Sir, I understand the spirit of Deputy Brehaut's question. It is undoubtedly a broadening out of the scope but it was done in consultation with those affected, of course, including, importantly, the Health & Social Care Committee and also the unions themselves. So I am confident, having seen the report that has been produced, the work that is being undertaken,

375 that we have not bitten off more than we can chew and this is an important, valuable piece of work, which followed from that successful amendment.

The Deputy Bailiff: Deputy Dudley-Owen.

380 **Deputy Dudley Owen:** Thank you, sir.

Following on from Deputy Le Clerc's question regarding Civil Service reform, I am interested to know why consideration has not been given by the P&R Committee to the introduction of the presidential meetings that happened at the beginning of the term and fell away and whether there is any update on that issue?

385

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Sir, the presidential meetings that took place at the beginning of this term were informal. That was obviously largely at a political level, rather than in relation to the organisational changes that were the subject of Deputy Le Clerc's question. The engagement on that issue, I think, has been more bespoke because what has been identified quite clearly is the individual needs of individual Committees are very different and therefore actually a round table does have its place on quite a number of issues – and indeed Presidents have come together on a number of occasions in the last 12 months or so to discuss a number of issues on which all Committees have a shared interest – but on this particular issue a more bespoke response has been the one that I think is appropriate, given the different needs of the Committees concerned.

395

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: Sir, in relation to the uncertainty around senior officers, a large part of the uncertainty would be resolved if the newly created roles were to be advertised and recruited at the earliest possible opportunity. Now as I understand it, the two roles which will serve all Principal Committees – committee secretary and head of operations roles – are going to be advertised as a package. Is Deputy St Pier able to advise when they will be advertised and when it is anticipated that those posts will be recruited to, please?

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The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I do not have that specific information to hand.

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The Deputy Bailiff: Deputy Yerby.

Deputy Yerby: Sir, also further to Deputy Le Clerc's question, Deputy St Pier said that there would be an announcement to States' Members soon about further changes. Will he take on board what Deputy Le Clerc has said, that engagement with Committees so far has been unsatisfactory and Committees are not yet sufficiently informed or confident in the next steps to be comfortable being announced to, and will he undertake to remedy that by further engagement before any announcement takes place?

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The Deputy Bailiff: Deputy St Pier.

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Deputy St Pier: Sir, I think Deputy Yerby's generic statement that engagement has not been satisfactory does not reflect the situation. As I said, individual Committees have individual requirements and will have individual experiences about whether they feel that there has been sufficient consultation or not. But absolutely Deputy Le Tocq and I, working with the Chief

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Executive, recognise that there is a need for an ongoing dialogue with all those impacted by this process.

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: Thank you, sir.

When senior leadership roles are appointed, do P&R feel that Deputies should sit on the interview panel to enable greater transparency?

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: There is a clearly defined process for when there is political involvement and when there is not. So again, in the time available, I do not think I can give a meaningful response to that. I certainly do not believe that it is appropriate that there should be political involvement in every senior appointment. I think it is the responsibility of the Civil Service to organise themselves to deliver the needs that the political direction has set. We inevitably come and go from our roles, we may not be serving in the same role this time next week and the Civil Service will be, so I think that has to be taken into account in the organisation of the service.

The Deputy Bailiff: Deputy de Lisle.

Deputy de Lisle: Thank you, sir.

I welcome progress with respect to the extension of territorial seas to 12 miles and the Paris Convention to be extended to Guernsey. Does the President have a timeframe for completion or can we take these as given now, because we have had both under review for some time?

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I believe when Deputy de Lisle was referring to the Paris Convention he was probably referring to the World Trade Organisation issue. In relation to the extension of the territorial seas, I am confident that that process will be completed before July this year. That is the undertaking which has been received from H.M. government in the United Kingdom.

In relation to the World Trade Organisation, as I said in my statement, I cannot give a definitive timeline for that process other than we are continuing to push for a decision before the United Kingdom leaves the European Union, whenever that is. As I have said, we do not consider it to be critical from any practical implications if that timeline is not met because we do not know when Exit Day is, other than to say we are continuing to push for a decision on that as quickly as possible.

The Deputy Bailiff: Deputy Soulsby.

Deputy Soulsby: Sir, the President mentioned an announcement would be made shortly on various aspects of property rationalisation. Can he assure me that this will be done with the approval of those Committees who may be impacted?

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I think the management of property has been the subject of significant debate in this Assembly in June last year, in a policy letter led by Deputy Parkinson when he was the President of the States' Trading Supervisory Board, so what I can say is that the rationalisation of our estate will be very much in accordance with the Resolutions which this Assembly approved through that policy letter.

The Deputy Bailiff: Deputy de Sausmarez.

480 **Deputy de Sausmarez:** Thank you, sir.

Following the President's response to Deputy Oliver's question, can the President please advise us where the policy around the appointment of senior leadership roles is clearly set out?

Thank you.

485 **The Deputy Bailiff:** Deputy St Pier.

Deputy St Pier: I am not able to give a definitive answer to that but I can ensure that that is distributed to Members because I know that Policy & Resources have seen it.

490 **The Deputy Bailiff:** Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you, sir.

With public sector reform in mind and we have heard this morning about new posts being created, I wonder if the President could give us an update in regard to the modernisation of the terms and conditions of employment? I am particularly thinking about higher salary positions. It has proven very difficult and costly in the past to delete posts or to dispense of someone's services when it has been required. Are these changes in regard to the modernisation of the terms and conditions keeping abreast or keeping up to pace with public sector reform?

Thank you, sir.

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The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: The short answer to that question is yes. A significant amount of work has been undertaken in the last 12 months and is ongoing. It is a huge piece of work, given the number of grades and the vast difference in terms and conditions, depending on where people serve in the Public Service.

So there has been significant progress and there will be further details published in the Chief Executive's report, which, under the Resolution of this Assembly, is due to be published at the same time as the Policy & Resource Plan update and later in the year. That will include the current position in relation to Public Service reform, including the terms and conditions review.

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The Deputy Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

515 I was concerned when the President said on the strategic review of the Population Management Law that P&R were not aligned with Home Affairs. I was wondering if the President can extend on that at all; what the commonalities are, and what the issues are that they are not aligned with Home Affairs, and how he intends to bring that back to the Assembly in due course?

Thank you, sir.

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The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: The Policy & Resources Committee and the Home Affairs Committee met yesterday to discuss this very issue. The work has largely been led by a review panel, which has comprised individual Members of both Committees, together with Deputies from outside the Committees. So it is only recently that both Committees have had opportunity to consider the work of that panel.

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I actually think, from yesterday's meeting, that significant progress was made and I think the differences are fairly narrow, actually, in relation to some of the recommendations which we are

530 looking to bring to the States and so I am confident that we can bring something later this year. I cannot add further to that, sir.

The Deputy Bailiff: Deputy Gollop.

535 **Deputy Gollop:** Thank you.

In past eras of Policy Council, some Chief Ministers, particularly the current Vice-President of Policy & Resources, would act as a trouble-shooter from time to time as part of the mandate of the senior co-ordinating committee. Does Deputy St Pier intend to continue that role in, for example, bringing together disagreeing parts of the States' estate, such as for instance Aurigny and Economic Development at present?

The Deputy Bailiff: Deputy St Pier.

545 **Deputy St Pier:** Sir, I think anybody, certainly in my role and indeed the Policy & Resources Committee, always has to be mindful of mandates and I think Members of this Assembly will be very protective of their mandates and where they believe the boundaries lie. I think there is always clearly a role for all of us to play in working across Committees and I hope I play my fair share of that as and when required and will continue to do so.

550 **The Deputy Bailiff:** Deputy Dorey.

Deputy Dorey: Thank you, Mr Deputy Bailiff.

Speaking to property professionals working in the public sector there is a considerable underspend on what is needed in terms of maintaining public buildings. Will P&R consider reviewing the amount allocated significantly to the budgets for the maintenance of public buildings so that we can maintain our buildings to the right levels that are needed for their use?

The Deputy Bailiff: Deputy St Pier.

560 **Deputy St Pier:** Sir, of course talking of mandates that largely lies within the mandate of the States' Trading Supervisory Board, in terms of the maintenance of the properties. That was the subject of Deputy Parkinson's policy letter last year, the recognition of years of under-maintenance and how that needed to be addressed.

I think certainly in the short-term the issue primarily is not one actually of lack of funding but actually the management of project resources and the management of the work required to deliver that maintenance. That absolutely was the subject of Deputy Parkinson's policy letter and I am sure is very high on the priorities for Deputy Ferbrache and his team. I am delighted to see he is nodding, sir.

570 **The Deputy Bailiff:** As no one else is rising, what I will do now is to explain that, because the sun is out and it is warm in here, if anyone wishes to remove their jackets then they are free to do so.

**Undersea Electricity Cables –
Statement by the President of the States' Trading Supervisory Board**

The Deputy Bailiff: The next item of business is a Statement from the President of the States' Trading Supervisory Board on the undersea electricity cable.
Deputy Ferbrache.

Deputy Ferbrache: Thank you very much.

Sir, I am grateful for the opportunity to update the Assembly today on Guernsey Electricity's submarine cable strategy and the steps it has been taking to secure the ongoing importation of electricity following the failure of the existing cable to Jersey – GJ1 – in October of last year.

Members will be aware that that cable forms part of the wider Channel Islands Electricity Grid, which also includes three submarine cables between Jersey and France. The Grid itself is a joint venture, with ownership shared between Jersey Electricity and GEL. The electricity that Guernsey has imported from France since 2000 is contractually guaranteed to come from low-carbon sources and over time has generally proven to be considerably cheaper than available local alternatives.

The benefits of the grid are thrown into sharp relief when things go awry and, as we know, the GJ1 cable has suffered a series of significant failures. The most obvious consequences of a failure are substantial increases in operating costs and carbon dioxide emissions, both arising from the use of our on-Island generators, which in turn rely on burning more expensive heavy fuel oil.

Offshore cable repair costs are also very significant and can range from between £5 million and £10 million depending on whether the repair is planned or reactionary and when it takes place. Obviously it is more expensive for obvious reasons.

Members will recall that the cable first failed in 2012. This failure was completely unexpected. A subsequent forensic investigation of the failed section identified the cause and, importantly, the indicators that could be monitored from then on to identify future potential problems. As a result of that monitoring process, GEL undertook a further pre-emptive repair to the cable in 2015. As we know, the latest failure was last October, which came without warning, in spite of the improved monitoring arrangements in place.

Despite the repairs undertaken last year, I have to advise the Assembly that there remain significant concerns over the cable's integrity. Ongoing monitoring since the cable was re-energised has identified at least one further potential off-shore fault. The fibre optics that run through the cable have failed at the location concerned.

These failures mirror the type of behaviour exhibited by the cable prior to the events in 2012 and 2015 and suggest that another failure is likely. For now, GEL is mitigating the situation by reducing import levels to preserve the cable and reduce the risk of another expensive repair, meaning it is only currently supplying one third of our requirements.

As such, our reliance on on-Island generation continues. The impact on GEL's financial and environmental performance is significant. Prior to the current problems, GEL planned to meet over 90% of the Island's electricity requirements through low carbon imports, driven in part by the shareholder objectives set for the company by the STSB to reduce the carbon intensity of electricity consumed in the Island.

However, the reliance on local generation means that emissions have increased by around four fold – completely unacceptable – and additional generation costs are running at between, and these are eye-watering figures, £800,000 and £1 million per month. GEL is forecasting a financial loss of £5 million for the current financial year.

By any measure, this is not tenable. However, GEL has kept the STSB fully and regularly briefed on the matter and we have been reassured by GEL's focus on the need not simply to keep the lights on in the short-term but also on ensuring that the Island has an affordable, secure and environmentally sustainable supply of electricity in the long-term.

So, today I am pleased to advise the Assembly that GEL has now entered into a contract for a replacement cable between Jersey and Guernsey that will restore very quickly a resilient supply of low-carbon and affordable electricity imports to the Island. As shareholder, the business case for this project has been approved by the STSB. The cable is now being manufactured and a cable-laying ship has been secured. It is expected that the new cable will enter service this October.

At this point, it is worth remembering that in 2014, the States considered a policy letter on the funding arrangements for a new cable between Guernsey and Jersey following the cable failure in 2012. The estimated cost of that project at that time was around £45 million. The States agreed to finance the installation of a new cable by either guaranteeing any loans that GEL might need from third parties or by offering the company a loan direct from the States.

In the event, in 2015, as I have already said, GEL went on to make the pre-emptive repair to the cable. After completing its analysis of the cable's behaviour in the months thereafter, it was sufficiently confident in the longevity of GJ1 that it decided to defer progressing with the project and focus its attention on the development of a business case for a direct cable to France. I use the word 'defer' deliberately; with an expected life of at least 25 years, there was always going to be a need to replace the cable, it is a question of when, not if. But not now.

However, the scope of the project has been reduced since 2014. The expectation then was that the new cable would run independently of the old, in turn requiring costly land and buildings at both ends for the new sub-stations. Now, it is planned to completely decommission the old cable, meaning the new one can be connected to the existing onshore infrastructure without new sub-stations being required.

It is still not cheap. The replacement cable project is now expected to cost £30 million. It will be funded by long-term loans, some of which will be provided commercially and some of which – approximately £15 million – Policy & Resources has agreed to provide using the States' bond proceeds. I commend the conduct of P&R in dealing with this matter so expeditiously.

The new cable is to be manufactured and installed by NKT, a world leader in cable technology and installation. The original cable was installed in 2000 by ABB HVC, a company which was recently acquired by NKT. This is a point on which the STSB has particularly pressed GEL and the company has provided the following assurances.

Firstly, the cable it is buying today is not comparable to the one installed in 2000. The cable design and technology itself has moved on substantially over the last two decades and is now proving itself both elsewhere in the world and, closer to home, in the other newer cables between Jersey and France that have been installed as part of the grid.

Secondly, as part of the post-tender negotiations, GEL has been able to secure extended warranty terms for faults relating to the fibre optics. I am advised by GEL that the conventional warranty period would be significantly less.

Finally, NKT was one of only two suppliers who could commit to manufacture and install a replacement within the next year, which was deemed essential by GEL given the additional financial and environmental costs currently being incurred. The earliest manufacturing and installation dates being offered by the three remaining bidders was 2021.

GEL has assured STSB that the post-tender negotiations that were undertaken with NKT included significant discussions about the existing cable and its performance, given its anticipated design life of 25 years. The manufacturer worked proactively with GEL to assess and understand these issues and the impact of the repairs that have been necessary. As a result, a commercial settlement agreement has been reached between GEL and NKT in lieu of the existing cable's historic performance as part of this contract.

The terms of this settlement agreement are confidential. I know Members will be uncomfortable with that, or at least some of them will, but this is a reflection of the commercial environment in which GEL operates. Without the pre-requisite confidentiality provisions in place, GEL would have been unable to secure the agreement it has. I add it would have cost a lot more money to come to the conclusion that we are now coming to.

GEL has briefed the STSB, as shareholder, on the terms of the agreement. I can assure the States that the STSB is fully satisfied that the GEL board members have approached those negotiations robustly and with the best interests of both the company and the Island at the forefront of their minds. The STSB was also satisfied that the alternative, which most likely could involve lengthy and expensive litigation with no guarantee of success, was not in the best interests of the community.

GEL's long-term plans had always included provision for the replacement of the GJ1 cable. The company has brought forward this investment to ensure that the Island can maximise its imports of low-carbon and affordable electricity as soon as possible. I am conscious that this gives rise to questions on both the impact on tariffs and to GEL's longer-term cable strategy.

In considering tariffs, we should remember that the States has previously agreed, as long ago as 2012, that GEL would need to borrow in future to fund its long-term major capital investment requirements. Funding such assets through borrowing means their cost is spread over the period they are available for both today's and tomorrow's consumers in a fair and equitable way.

GEL's business case for the new cable is based on an assumed tariff cost increase of 2.7% to fund the capital and interest payments involved. To put this into perspective, I am advised this equates approximately to an additional £29 a year for an average Economy 12 customer. Under the current regulatory legislation for GEL, any such tariff increases would be subject to the approval of the Channel Islands regulator CICRA. In the circumstances, the STSB's view is that there should be no expectation of a dividend payment by GEL to the States and that any surpluses the company does make should be available either to reduce the impact on customers or for reinvestment in the business.

Turning now to the long-term impact on GEL's subsea cable strategy. GEL continues to develop a business case for a direct cable link from Guernsey to France, known as GF1. Much preliminary work is ongoing, but this project is not due to come to fruition until the mid-2020's, probably another five, six or seven years.

Both the company and the STSB believe that security of supply is of fundamental importance, not only to customers but also for the overall business confidence on which the Island depends. A second connection direct to France, together with a replacement cable to Jersey, would not only improve security of supply, but would also considerably reduce our dependence – and the amount we spend – on the on-Island generating plant at the power station either for back-up purposes or to meet peaks in demand that a single cable cannot accommodate.

Members will be aware that GEL has been proactively developing renewable energy initiatives, the most tangible examples being the solar array at the power station and Guernsey Post's headquarters. GEL's research has concluded that a strategy based on two submarine cables will actually help to enable the further adoption of renewables locally.

However, there are many inter-dependent issues that need to be balanced here, including the security, affordability, sustainability and independence of our electricity supplies. A decision on the second cable direct to France cannot be taken in isolation and can only be considered once the States has updated its Energy Policy. This policy will be pivotal for setting the direction for which such a significant investment decision can be made. To that end, the STSB and GEL look forward to publication of an updated Energy Policy for discussion and debate by the States shortly.

Sir, in closing, I think it would be fair to characterise the last few months as being very testing, and indeed I add the word 'indeed' for GEL. It would be very easy to underestimate the substantial amount of work that has been involved for the company, its board and staff in accelerating by several years its plans to replace the Jersey cable.

Both I and my colleagues on the STSB have been reassured by the resolute focus that the GEL team has shown in addressing the challenge and the commitment it has demonstrated to getting back on the right strategic, financial and environmental course. We all commend the company for the work that it has done so far, and I ask the States to note this Statement.

725 **The Deputy Bailiff:** Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, sir.

730 Whilst we continue with on-Island generation of electricity, would the President please be able to tell us what efforts Guernsey Electricity are making to reduce, and if possible mitigate, emissions wherever possible from the power station as a result of burning fuel?
Thank you.

The Deputy Bailiff: Deputy Ferbrache.

735 **Deputy Ferbrache:** Sir, that is a continuing concern of GEL. They are dealing with old equipment, they are dealing with an old plant, you would not put a power station now; it was put there over 100 years ago. So it is a continuing problem. But as I said in my Statement, the real problem is that it is going to have to use this power station because of the problems from last October and it will have to continue using it for most of the rest of its year. So it is doing its best and it is not ignoring those concerns.

The Deputy Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

745 My concern is the cost to our community; the end cost to the user. I think I am correct in quoting President Ferbrache that he said it was a loan for a major capital project. I would like to ask Deputy Ferbrache if he knows, if the loan for this major capital project came from Capital Reserves instead of from the bond or a long-term loan arrangement, what the cost for the user on a plan and basis comparable for the £29 Deputy Ferbrache quoted earlier would be, sir?

750 **The Deputy Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Speed was of the essence but also cost was of the essence. The bond terms, which are going to provide about half the money, about £15 million, are the best commercial deal that we could get. When I say 'we', on behalf of the board, on behalf of GEL. Similarly, the other half is being raised from commercial entities, again at the best rate possible. So therefore the board and GEL cannot see that the rate of £29 for the average economy consumer that I referred to could be reduced. So the money is coming half from the bond and half from third-party finance providers but it is best commercial terms that can be achieved.

760 **The Deputy Bailiff:** Deputy Trott.

Deputy Trott: Thank you, sir.

765 There was a lot in the President's Statement. He stated that the cost will be about £30 million for the cable and subsequently stated the extended warranties would be substantially less. Just for clarity, is that in terms of the impact on the purchase and installation costs of the cable or the duration or contractual reach and risk reduction of the warranties themselves?

The Deputy Bailiff: Deputy Ferbrache.

770 **Deputy Ferbrache:** Sir, that is a very apposite question. I go back to my previous term in the States, I was very much in favour of Deputy Bell, who brought the proposal on behalf of the Electricity Committee, as it then was, and the cable was due to last 25 years. Well clearly it fell far short of that.

775 So what the GEL have done, they have negotiated, when I say extra, additional, strengthened warranties, both in connection with the longevity of the cable and what will happen if, for

example, in 15 years' time, 18 years' time, we are in the same position as we are today with the current cable. As a lawyer now of 46 years' experience, I could not guarantee what the result of that would be if it were better litigated but they have done the best they can to get the best warranties that are achievable.

The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

Before I ask my question I would actually like to extend my thanks to the board of STSB and particularly to the board of Guernsey Electricity for working so hard to ensure the reliable supply of electricity, which is paramount. (**Several Members:** Hear, hear.)

I have a question – I am not sure if Deputy Ferbrache will be to answer, it is slightly technical, but is he aware of the capacity of the new cable GJ1, the replacement cable? Will that be the same capacity as the existing cable or will it be greater? The President did say that, prior to the current problems that we have been experiencing, over 90% of our electricity was being supplied through that. Is that likely to change at all with the new cable?

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, my understanding is that the capacity will not be any less but will not be much greater. I said in part of my Statement that the only way you can get 100% security without switching on the current lights down at the power station is to have two cables, because then you can mix and match. So that is my understanding. If it is wrong then I will let States' Members know in due course.

The Deputy Bailiff: Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you, sir.

Deputy Ferbrache mentioned the possibility of a direct cable to France in the future. It is an early stage, I know, but could he give us an idea of how much that might cost? Might that money be better spent, not only for environmental reasons but also for reasons of energy security and reliability, on building up our own renewable energy infrastructure?

Thank you, sir.

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Well sir, as I understand it, the cost of the cable to France could be in the region of £100 million. That is a lot of money by anybody's standards. I am a convert, really, to renewable energy and everything else. It would be nice, in X number of years, to not have power stations, to have heavy fuel being ingested and expended into the system. But that is in the future.

We need to get security of supply. We need to have an Energy Policy and, again, there is no implication that anybody has been at fault in relation to that but that is very important that we get a proper energy steer from the States. Speaking personally, I cannot see any practical alternative to having a direct cable link to France.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Thank you, sir.

As we go in today, being lobbied by a redoubtable senior citizen, the question surely is raised: how does the interesting announcement by the President today dovetail in with the long-awaited energy strategy? Because the questions of strategic capability, links with fibre optics, costs and the President's support for greener, more sustainable energy forms, surely we should be debating and

830 agreeing on an energy strategy before further work is done on supporting these important initiatives?

The Deputy Bailiff: Deputy Ferbrache.

835 **Deputy Ferbrache:** All that is being mentioned today is the urgent need to replace the Jersey cable. We do not have time to debate it because otherwise we are going to be spending another £800,000 to £1 million each month on on-Island generation with not only the cost, it is the environmental impacts, which are very adverse to everybody in the Island but particularly those living around the power station, that we need to address now. There is a time for jaw-jaw, but this is now a time for action. *(Laughter)*

840 **The Deputy Bailiff:** Deputy Tooley.

Deputy Tooley: Thank you, sir.

845 I would like to echo the words of those that have already thanked STSB and GEL for their work to continue to sustain the supply. I wonder if perhaps Deputy Ferbrache could offer some reassurance to those on low or fixed incomes that consideration will be given to the effect on them of what is, for them, a considerable price increase, no matter how reassuring a little under £30 might sound to many here and elsewhere; for many £30 is a huge increase over a year. I wonder what reassurance Deputy Ferbrache can offer that consideration will be made of those
850 individuals' struggle with this?

The Deputy Bailiff: Deputy Ferbrache.

855 **Deputy Ferbrache:** Again, a very fair and apposite point. Of course GEL is an independent company of the States, the role of the STSB is as a shareholder etc. But I know from conversations that we have had with senior management at GEL that they are addressing exactly the point that Deputy Tooley has raised. If people will have difficulty, e.g., the extra £29 or whatever the figure may be, they will be sympathetically looked at, I am assured by GEL.

860 **The Deputy Bailiff:** Deputy Lester Queripel.

Deputy Lester Queripel: Sir, Deputy, Ferbrache said he cannot see an alternative to our installing a direct cable to France; can he tell me please whether or not STSB have ever consulted with the Alderney States regarding our possibly linking up with the tidal power plant that will
865 hopefully be installed off Alderney in the next few years? I ask that because if we could link up with Alderney tidal power plant, as opposed to installing a direct link to France at the cost of £100 million, surely that would be a lot cheaper.

The Deputy Bailiff: Deputy Ferbrache.

870 **Deputy Ferbrache:** Sir, I am not here to debate the Guernsey-France cable link. Their business case has to be established. All the things that Deputy Queripel has mentioned will have to be addressed. The Energy Policy will then be debated by the States' Members here. All I am saying is that it is very active consideration; nothing will be done without the States' approval. After all we
875 are talking about an expenditure of around £100 million.

The Deputy Bailiff: Deputy Le Clerc.

Deputy Le Clerc: Thank you, sir.

880 The question I am going to ask Deputy Ferbrache I am not sure he will be able to answer today but perhaps if he could find out the information? I would like to know how much in profits has been transferred over the last five to 10 years back to the States? Because actually those profits were made out of consumer payments and we are now, in effect, asking consumers to pay twice. As Deputy Tooley has said, that is quite a considerable increase for people. So if we could know
885 the sum, perhaps not today but perhaps in the future?

Thank you.

The Deputy Bailiff: Deputy Ferbrache.

890 **Deputy Ferbrache:** That is a very fair question. I do not know that, as Deputy Le Clerc has said. It will be a matter of record that over the last 10 years there is X million pounds. But what I also said in the Statement is because of these extra costs it is not likely, in fact there is no reality, that there will be any dividends coming to the States because of a cost that will have to be recovered and also any savings that can be made, as I have said, the intention is that they are passed onto
895 the consumer.

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Sir, Deputy Ferbrache in his Statement referred to the Channel Islands' Electricity Grid but for the avoidance of doubt could he just advise whether it will be CIEG or GEL that owns this new cable? Also the ownership being one way or the other, confirm that it has no impact on the power-sharing agreement, which already exists, and therefore there is the assurance that, wherever the ownership of the cable lies we can be assured that we can draw our full allocation of power through it?
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The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, I will answer that in reverse order. Yes, I give that assurance in relation to that and the new cable will be owned solely by GEL.
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The Deputy Bailiff: Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

Does the cable failure present an opportunity, bearing in mind the way the digital economy is ever evolving, to review the provision of fibre optics to the Island with a view to possibly adding to that provision?
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The Deputy Bailiff: Deputy Ferbrache.

920 **Deputy Ferbrache:** I think it does, sir. Deputy de Sausmarez was talking about enhanced capability, producing more electricity, and I have answered that the best I can. But as I said in my Statement, the cables of today are much better than those of 20 years ago, so it will give that extra facility but no doubt, if the Guernsey-France cable is approved in due course, that will be even more of a benefit.

925 **The Deputy Bailiff:** Deputy Smithies.

Deputy Smithies: Thank you, sir.

I wonder if my friend, Deputy Ferbrache, would agree with me that the increase of £29 per annum is an average and therefore a consumer with a lower bill would not be paying anything like that much?
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The Deputy Bailiff: Deputy Ferbrache.

935 **Deputy Ferbrache:** Well, sir, I never disagree with the Vice-President. I do agree with him and confirm what he has just said.

The Deputy Bailiff: Deputy de Lisle.

940 **Deputy de Lisle:** Thank you, sir.
Can the President confirm the state of revenues held by GEL at the current time? Their reserves, do they not have any reserves?

The Deputy Bailiff: Deputy Ferbrache, are you able to answer that question?

945 **Deputy Ferbrache:** I am prepared to give my best if you want me to answer it?

The Deputy Bailiff: If you think it will assist Deputy de Lisle.

950 **Deputy Ferbrache:** They do have some reserves but some of those reserves are being used for this purpose but equally they would still need reserves because this is the only issue that Guernsey Electricity has to deal with. They have looked at this in the most commercial way. This has been foisted upon them through no fault of their own; through a cable that has turned out to be disappointing in its longevity and the problems that it has caused, and they have had to react sensibly but speedily.

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The Deputy Bailiff: Deputy St Pier.

960 **Deputy St Pier:** Does the President agree with me that the Government of Jersey and in particular the new Minister for Planning should be congratulated for processing the FEPA application in a very timely manner that enabled the order to be placed? Also does he agree with me that GEL also should be commended for holding their prices down for seven years and they almost certainly would not be increasing them now but for this unfortunate event?

The Deputy Bailiff: Deputy Ferbrache.

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Deputy Ferbrache: Well, sir, I agree with everything that Deputy St Pier has just said, save that there would have been general pressures, even if this had not happened, for a price increase because most businesses cannot operate at the same cost seven years on when there has been no increase for the last seven years. So, save for that one caveat, I agree with Deputy St Pier.

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The Deputy Bailiff: Deputy Hansmann Rouxel.

Deputy Hansmann Rouxel: Thank you, sir.

975 I am unsure if the President of STSB would be able to answer this but the cable that is being replaced, will that remain on the seabed, the old cable, or are there any plans to recycle and re-use it?

The Deputy Bailiff: Deputy Ferbrache.

980 **Deputy Ferbrache:** I know it is going to be decommissioned but I do not know whether that means it is just unplugged and left on the seabed or removed. I will find out the answer and let Deputy Hansmann Rouxel know. I do not know.

The Deputy Bailiff: Deputy Brouard.

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Deputy Brouard: Thank you, sir.

Would the President of ... (**Deputy Ferbrache:** Whatever I am!) (*Laughter*) States' Trading Supervisory Board, agree with me that the presence of on-Island facilities of producing electricity are absolutely vital and it just shows that when a cable does go down that we have facilities and the N-2 policy needs to be maintained going forward?

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The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, I certainly agree with Deputy Brouard that we have got to maintain our on-Island capacity, certainly for the foreseeable time, because those who will recall, on 1st October about five o'clock or whatever time it failed, the Island had no electricity for 45 minutes or so. Then it was brought up, because the machines were turned on at the power station and then we had power over the next two or three hours. Jersey, if it did not have all these cables, they would be in a different position. If all their cables were uprooted – I know that is very unlikely – they would not be able to do what GEL did in October of last year, so I agree with that.

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The Deputy Bailiff: Members of the States, I am going to exercise my discretion to extend the period of questioning of the President of the States' Trading Supervisory Board for a variety of reasons. There are a number of Members who want to ask questions, so Deputy Tooley.

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Deputy Tooley: Sir, with apologies for nit-picking, would the President of STSB not agree with me that the problem with an average price is that while there are those who might pay less, there will understandably be those who might pay more and in very many cases that might well be those on fixed incomes who are unable to work and earn, therefore more likely to be at home and, in all likelihood, as a result have higher heating bills, higher electricity bills and so on?

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The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: I do not think Deputy Tooley is nit-picking at all. It is a very good point because I talked about £29 being the average when I answered Deputy Smithies' question, but of course there will be elderly people that are in their homes more, or there will be families where they use lots of electricity, who are not necessarily high earners. I am assured by GEL that those issues will be favourably addressed.

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The Deputy Bailiff: Deputy Merrett.

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Deputy Merrett: Thank you, sir.

I will try and be more succinct with my question to Deputy Ferbrache, in support of what Deputy Le Clerc was asking. We have, I believe, put our profits from GEL into Capital Reserves. One question, I will be as quick as I can, is was there any consideration given to taking the funding for this major capital project from Capital Reserves and, if so, how much would that have cost our community on an annual basis, compared to borrowing from the loan and other sources?

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The Deputy Bailiff: Deputy Ferbrache.

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Deputy Ferbrache: Once a dividend is paid to, when I say P&R, to the States, it is gone. It is then within the control of P&R. That is a matter for them. What I want to say and I have got to say, and I think I have already said it but I emphasise it, the co-operation that the STSB and GEL had from Policy & Resources and Treasury has been exemplary. They dealt with it commendably, they dealt with it efficiently, they dealt with it sensibly. I do not know whether they could have pulled

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£1 million or £2 million or £3 million from reserves, that is not a judgement I can make. All I can say is that I commend the way they have dealt with this particular issue.

The Deputy Bailiff: Deputy Lowe.

Deputy Lowe: Thank you, sir.

Would the President please either give me assurances or find out if, whilst the generators are operating at full capacity down at Guernsey Electricity, that full testing is taking place to ensure that the neighbours are not suffering from noise and vibration and they are operating within the limits of their permit?

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, I do know the answer to that question; they have done that. But of course we are dealing with a 1904 building, or whatever it is, it is over 100 years old. It has been insulated, there is modern equipment but there is old equipment. So all the testing has been done that should be done, but undoubtedly it has caused more inconvenience to the neighbours than is desirable, through the fault of nobody.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: I know various stakeholders and representatives of the Island attended workshops facilitated by Guernsey Electricity to discuss strategy, including possible price rises. My question therefore is the 7% price rise announced this year. Will, in the President's opinion, that be a one-off occasion or will it be accompanied by further similar rises every year for the foreseeable future so Electricity is able to build up a strategic reserve, perhaps at the expense of the consumer?

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, GEL would never act and has never acted in its lifetime at the expense of the consumer. I cannot guarantee that there will not be price rises next year or the year after. That will be a matter dependent on circumstances at the time but, under the current regulation, those have to be approved by the Channel Islands regulator, or if that form of regulation is removed, by this Assembly, or by a Committee of the States or body of the States. So I cannot give that assurance but I do know that, in answer to Deputy St Pier, one of his questions, it is the first rise for seven years.

The Deputy Bailiff: Deputy Tooley.

Deputy Tooley: Thank you, sir.

I just feel I need to address the elephant in the room. Is Deputy Ferbrache, as President of STSB, confident that we fully understand the long-term impact of Brexit on importing our power from the EU?

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Well sir, before I came out this morning I saw a statement from Mrs May in 2016 saying, 'We have got Brexit. We are going to bring it through. We are going to deliver.' Three years on she has not really achieved that and it is a mismatch. Before the French cable contract is approved, if it ever is, that will be an issue that needs to be addressed. I, frankly, do not see a problem, but I would not like to commit £100 million of the States' money in relation to that,

because the French will want to sell the electricity and then make a return on the electricity. I think that is the best answer I can give. If I could give a wiser answer on Brexit I would be Prime Minister of England, which perhaps might be for the benefit of people in England, I know not!

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

Deputy Ferbrache has tried to answer Deputy Tooley's questions about costs very generously but I think he has implied that Guernsey Electricity may take into account their consumers' ability to pay when deciding what to bill them. Surely that is not the case? Is it not true that Guernsey Electricity will not, when billing customers, take any account of their ability to pay but it is the responsibility of the States to establish schemes of assistance, to assist people who are unable to meet their energy costs? Is that not the way that Deputy Ferbrache sees it?

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Yes and no. Yes to the second part. But equally, they are not going to say, 'You have got four children, you only earn £200 a week, therefore your electricity bill is less.' What they will say is that, 'We know that you are going to struggle to pay it, so talk to us about paying it; we will come to an arrangement because we do not want you to not have electricity, we do not want your children not to be able to do all the things that children need to do. We do not want people to be uncomfortable.' That is the way of the approach. I do not think you will be able to bill for less. I was not implying that.

The Deputy Bailiff: Deputy Lester Queripel.

Deputy Lester Queripel: Sir, in response to my earlier question, Deputy Ferbrache said he is not here today to debate the difference in costs in relation to either installing a direct cable from France or linking with the future Alderney tidal power plant. But the question I asked was have STSB ever consulted the Alderney States regarding our possibly linking up with their tidal power plant?

I asked that because he said he could not see any alternative to our installing a direct cable to France, so I presume the answer to the question I asked was, no, they have not consulted with the Alderney States. Can he give me an assurance, please that STSB will at least talk to the Alderney States about the possibility of our linking up to their tidal power plant, instead of exclusively focussing on a direct cable to France, with a potential cost of £100 million?

Thank you.

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, to the best of my knowledge the answer is no. Because clearly I am going to be President for less than a year. The answer is no, I do not think that consultation has taken place. But to me that is part of the wider concept of the energy policies, where those kinds of conversations will take place, Deputy Brehaut's Committee will lead that and I am sure that they will have those kinds of conversation with the Alderney authorities, the STSB, Guernsey Electricity, *et al.* That is the way that I envisage, sensibly, it should proceed.

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Thank you, sir.

Does Deputy Ferbrache agree with me that this new cable and indeed Brexit has no impact whatsoever on the current EDF supply contract; It will be unaffected and we have the assurance of that in relation to those two events?

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Absolutely, sir, because it is a contract with that body. They cannot vary it for those circumstances so it is not going to have any impact at all.

The Deputy Bailiff: Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

Would Deputy Ferbrache not agree with me that tidal power energy generation in Alderney is still a long way off and the plant envisaged, at a period in time, would only produce enough electricity to supplement Guernsey's consumption of about 80 megawatts *per annum*?

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Well sir, frankly, Deputy Brehaut knows more about that than I do, but I fully accept what he says. As I say, I am a convert, really, in connection with we have got to be looking to alternative power supplies – by that I mean tidal power, whatever it may be, whatever the technology can bring – because it is unacceptable and it will be unacceptable deep into the 21st Century to keep creating our energy and our power in the way that happened over the last 100 years.

The Deputy Bailiff: Deputy de Lisle.

Deputy de Lisle: Sir, there is concern over the 6.8% increase confirmed by CICRA recently with respect to electricity costs. I just would like to ask the President whether in fact that 6.8% includes the costs that are going to be incurred with regard to this new connection to Jersey and whether in fact some of the reserves held by Guernsey Electricity at the current time will be actually used to fund the new cable link?

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, the 2.7% is an *extra* cost, over and above that cost, because of the ... As regards the reserves, I think I have answered that question before. I cannot add anything further to the answer I previously gave.

The Deputy Bailiff: Deputy Tindall.

Deputy Tindall: Thank you, sir.

In recent correspondence with GEL I have been trying to establish how I can get a smart meter to assist and, in the light of the conversations, I would like the assurance that perhaps there is a means by which we could have an enhancement for users, for example by enabling a wireless energy monitor, which I am informed I have to buy, but actually would be useful to be able to provide to enable people to save on their bills?

Thank you, sir.

The Deputy Bailiff: Deputy Ferbrache.

1190 **Deputy Ferbrache:** Sir, I cannot really answer that question. I do not mean anything disrespectful to Deputy Tindall and I hope she gets her bit of kit as cheap as she can in the future. In relation to that, I know that the GEL people will be listening to the comments and the questions made by the States and I am sure they will take that on board.

Questions for Oral Answer

POLICY & RESOURCES COMMITTEE

Reform of probate provisions – Project plan and timeframe; fee structure; benefits and compensation

1195 **The Deputy Bailiff:** Thank you very much Deputy Ferbrache and we now move into Question Time proper. Deputy Gollop has a set of Questions to pose on the reform of probate to the President of the Policy & Resources Committee.
Deputy Gollop.

1200 **Deputy Gollop:** Thank you very much, sir, Deputy Bailiff.
I have a number of Questions and a few supplementaries here and there as well. My first Question to Deputy St Pier, please, is how far has Policy & Resources proceeded with their stated aim of reforming probate provisions pertaining currently to the ancient framework of the Ecclesiastical Court?

1205 **The Deputy Bailiff:** Deputy St Pier to respond.

Deputy St Pier: Sir, the Policy & Resources Committee agreed with the Dean of Guernsey in June 2018 to the establishment of a working group to include the Dean, together with representatives from the Ecclesiastical Court, the Royal Court and civil servants to explore how the proposal to transfer the customary jurisdiction for probate could be implemented.

1210 The group has now met on three occasions and work is ongoing to consider the jurisdictional, legal and practical issues involved in the proposal to transfer the jurisdiction to the Royal Court. As a result of this process, a policy letter is currently being prepared. There remains further work to be undertaken, including consultation with stakeholders, such as the States of Alderney and Chief Pleas in Sark. Following this consultation the Committee will be in a position to make
1215 recommendations in its policy letter to be submitted to the States of Deliberation for consideration in the second or third quarter of this year.

Deputy Gollop: I thank the President for his Answer. I ask at this point how far will Alderney and Sark be able to contribute meaningfully to this without changing the direction of the main line, as it were?
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The Deputy Bailiff: Deputy St Pier.

1225 **Deputy St Pier:** Sir, I think the purpose of the consultation will be to invite them to offer a view on whether they wish for the jurisdiction of the Ecclesiastical Court to continue in respect of probates in their Island. In terms of the impact of that, that would need to be considered by the working party as to whether there could be some kind of bifurcation between the Islands and the Bailiwick if that were the desired objective.

The Deputy President: Is this your second Question, Deputy Gollop?

Deputy Gollop: Yes. My second Question is can the Policy & Resources Committee provide a probable project plan and timeframe for the likely change?

The Deputy Bailiff: Deputy St Pier to answer.

Deputy St Pier: Sir, the details of the planned transfer are being considered alongside representatives of the Royal Court as the proposal would mean that jurisdiction would be transferred, resulting in the Royal Court being responsible in future for delivering the probate function.

If States' approval is given, as the second stage of the process, the legislation required to effect the transfer will be drafted. The current project plan will then be developed further in order to address the practical and detailed aspects of the transfer. It is intended that the transfer will be implemented with the service being delivered by the Royal Court from January 2020.

The Deputy Bailiff: Supplementary question, Deputy Gollop?

Deputy Gollop: Yes, please, sir; thank you sir.

I thank the President for his Answer but bearing in mind the Answer to this and the previous Question, the suggestion is made that the third quarter might be the time that this will come to the Assembly, which effectively might be late September 2019. Will there be sufficient time, should a positive Resolution be obtained, to draft the legislation and develop the processes in time to inform all parties, including the Law firms, by 1st January 2020?

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Yes, we believe so, sir.

The Deputy Bailiff: Supplementary, Deputy Inder.

Deputy Inder: Yes, sir, and this is coming out of Deputy Gollop's Questions. We are moving probate out of the Church and moving it to the Royal Court, would Deputy St Pier give it some consideration he could move it further into the private sector and possibly making it cheaper for people, like Land Registry in the UK? I am just making a comparison, you can transfer a house in England via an accountant; I am just wondering if this has gone far enough at all and if we should not be looking at finding different ways of managing probate?

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: I am not sure the question arises out of my responses to the previous Questions, does it, sir?

The Deputy Bailiff: I think it might do, just on the basis that the details of the planned transfer were the subject matter of the Answer.

Deputy St Pier: In that case, sir, it has not been part of either Policy & Resources' consideration or that of the working party to date to go further than that which has been outlined in my previous responses.

The Deputy Bailiff: Your third Question, Deputy Gollop.

Deputy Gollop: Thank you very much, sir.

Will the proposed reforms lead to a net increase from the present very reasonable Ecclesiastical Court traditional fee structure, which is around a 0.33% quantum rate with a £100,000 cap on overall costs, for example?

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The Deputy Bailiff: Deputy St Pier to reply.

Deputy St Pier: Sir, there are no plans to change the fee structure or cap for probate currently in operation. As far as possible the function will transfer in its current form but with the probate service being overseen in future by the Royal Court rather than by the Ecclesiastical Court.

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The Deputy Bailiff: Supplementary question, Deputy Gollop?

Deputy Gollop: If I could be allowed a slightly off-the-wall question here it would be that the nature of the change might mean that more clients in future seeking probate would use the service of highly regarded advocates; will that lead inevitably to a cost increase to the service-user because the Royal Court will be the future court, rather than the current court?

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The Deputy Bailiff: Deputy St Pier, can you answer that question?

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Deputy St Pier: Sir, the choice is made by the family or executors or representatives of the deceased; whether to use members of the Royal Court or not is a matter for them and of course it is a matter for those advocates and their firms as to what they would charge for that. But I can add nothing further to my previous response in relation to the intentions in respect of the charges to be levied in the event that the function is transferred to the Royal Court.

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The Deputy Bailiff: Deputy Tindall.

Deputy Tindall: Thank you, sir.

For clarity, is the plan to look at enabling the system to be as simple as possible, to ensure that people do not have to have legal advice or that the legal advice will be of such that, for example, volunteers at Citizens Advice could provide such?

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The Deputy Bailiff: Deputy St Pier, can you answer that?

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Deputy St Pier: Sir, yes, the intention is to ensure that the processes are as simple as possible and should not require external legal advice for the vast majority of individuals and their estates.

The Deputy Bailiff: Deputy Brehaut. Oh, no.

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Deputy Brehaut: I can ask one if you like!

The Deputy Bailiff: Deputy Gollop, your fourth Question.

Deputy Gollop: Moving on, I have not consulted with the Church or any charities on this Question but the Question is how will Church of England interests, and especially the needy third voluntary and tertiary sector organisations which currently benefit, benefit from any immediate reform or change given that some worthy entities and bodies gain useful resources at present under the present arrangements?

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The Deputy Bailiff: Deputy St Pier to reply.

1335 **Deputy St Pier:** Currently any surplus funds from probate fees are distributed by the Deanery Fund LBG. As part of the transfer policy it is proposed that in future any surplus funds would accrue to general revenue and funding will then be made available to be distributed among community charitable and third sector causes through the Social Investment Commission. Church and faith-based groups will be eligible, along with others, to apply for funds as they do currently to the Deanery Fund.

1340 **The Deputy Bailiff:** Supplementary, Deputy Gollop.

1345 **Deputy Gollop:** Whilst thanking Deputy St Pier for his generous Answer, I wonder, though, if the money is to be allocated or hypothecated or just in the will of this Assembly as to whether to use that kind of sum as part of the funding identified earlier for the Social Investment Commission?

The Deputy Bailiff: Deputy St Pier.

1350 **Deputy St Pier:** Ultimately that will be a matter for decision of this Assembly after a debate on the policy letter and, in due course no doubt, through any appropriate Budget Resolutions.

The Deputy Bailiff: Deputy de Lisle.

1355 **Deputy De Lisle:** Can the President indicate what quantum of monies we are dealing with in terms of the transfer?

The Deputy Bailiff: Deputy St Pier.

1360 **Deputy St Pier:** Sir, the surplus for the Ecclesiastical Court in recent years has fluctuated significantly from one year to another, depending on the size and number of estates which pass through it. But certainly in recent years it has been a significant six-figure sum each year.

The Deputy Bailiff: Deputy Inder.

1365 **Deputy Inder:** Deputy St Pier is there any danger that with our Assembly's natural reaction to take God out of the system, there is a danger this might end up becoming more expensive for people? Might we get to the point where we find that the Ecclesiastical Court is probably our cheapest option?

1370 **The Deputy Bailiff:** I think that might be a question that does not arise out of the Answer given, which is about the third sector getting some funds. So it is really about where the funds go to, so you do not need to answer that, Deputy St Pier.

Your fifth Question, Deputy Gollop.

1375 **Deputy Gollop:** I wonder if Deputy Inder's question might fit better into this one. What guarantees can the leadership of Policy & Resources Committee give the States and the public that any updated system will be digitally efficient, low to minimal cost and provide a net benefit for the taxpayer?

1380 **The Deputy Bailiff:** Deputy St Pier to reply.

Deputy St Pier: Sir, the Royal Court will be responsible for the probate function and is experienced in using the appropriate technology to enhance accessibility and the efficiency of services. A critical objective of the policy, as indicated in the response to a previous

1385 supplementary, is to maintain the high levels of service and the reasonable costs for probate. Detailed arrangements for the service will require further planning and to be undertaken as referred to in my response to the second Question, sir.

The Deputy Bailiff: Deputy Inder, supplementary.

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Deputy Inder: I will try, sir, I am not doing very well. I am just wondering off the back of that whether the FDS process might have some kind of role in it or is there a clear separation, in IT terms, between this building and Sir Charles Frossard House?

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The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Yes, sir, I would expect the FDS to have a role in this, as with many other digital projects in this building in St James' Chambers and in Frossard House.

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The Deputy Bailiff: Deputy Tindall.

Deputy Tindall: Thank you, sir.

I note the low to minimal cost point. Will there be any safeguards that are being proposed in order to avoid, for example, what is happening in the UK, whereby probate fees for larger estates are being raised substantially more than they were more recently?

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The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Sir, as indicated in my response to Question three, the plan is to ensure that the current cap is retained.

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The Deputy Bailiff: So Deputy Gollop, your sixth and final Question to the President of the Policy & Resources Committee.

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Deputy Gollop: Thank you very much for this opportunity.

My Question six is: has any compensation been considered in any structural change to the reconstruction of the probate facilities to existing providers and officers?

The Deputy Bailiff: Deputy St Pier to reply.

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Deputy St Pier: Sir, if the probate function is transferred the Ecclesiastical Court will retain its other functions including its jurisdiction for marriage licences and Church faculties. The working group is carefully considering the impact of the proposed transfer and the arrangements for the future service in a manner that supports the current staff and maintains the high quality service provided by the Ecclesiastical Court and its officers for service users. This is a matter that does need to be considered sensitively and in a way that respects the confidentiality of those staff.

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The Deputy Bailiff: Supplementary, Deputy Gollop.

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Deputy Gollop: Presumably, therefore, sir, any additional aspects of the transition – I take the point about the confidentiality – will be conveyed to States' Members in the appropriate way, should any consequences occur during the transition period, should the States approve the move later this year?

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The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Yes, sir.

The Deputy Bailiff: Thank you.

COMMITTEE FOR EDUCATION, SPORT & CULTURE

**Education resources and policies relating to autism –
Autism child development centres; integration within mainstream schools;
exclusion of disruptive children; Autism Communication Strategy**

1440 **The Deputy Bailiff:** We now turn to Deputy Gollop's second set of Questions, this time to the President of the Education, Sport & Culture Committee and this is about education resources and policies relating to autism. So Deputy Gollop, please, your first Question.

1445 **Deputy Gollop:** Yes, sir. Apologies. I think it crosses over Health & Social Care a little bit but that is the nature of social provision. Question one: how far has the one mainstream school/college campus vision proceeded in relation to creating and resourcing post-2020 autism child development centres and base facilities at both the proposed main secondary education school sites under the approved model?

1450 **The Deputy Bailiff:** The President of the Committee, Deputy Fallaize, to reply.

Deputy Fallaize: Thank you, sir.

One advantage, among many, of rationalising the number of mainstream secondary school sites is that it becomes financially viable to provide well-resourced communication and autism bases on all such sites. The Committee's plans include communication and autism bases at both
1455 of the 11-18 colleges.

The combined area of the bases will be substantially larger than the single base originally proposed for La Mare de Carteret in 2016. Providing bases in both the 11-18 colleges will allow all students with communication and autism needs to transfer from their primary schools with their
1460 peers and will avoid requiring them to travel further to school than other students. The relevant professional staff will determine how the bases operate in practice and will consult with stakeholders including third sector representative bodies.

1465 **The Deputy Bailiff:** Supplementary, Deputy Gollop?

Deputy Gollop: My supplementary is that whilst I welcome that news with, I think, other people as well, I wish to ask further: how well does the President and the Committee envisage that integration will be able to occur whereby children who go with their peers and have good facilities from the well-resourced base will also be able to participate in a full range of lessons, music, sport
1470 and extra-curricular activities with their colleagues within the two new schools?

The Deputy Bailiff: Deputy Fallaize.

1475 **Deputy Fallaize:** Thank you, sir.

I think the first task in pursuit of that objective is to ensure that the bases are located within each of the mainstream schools or colleges. That objective can be achieved as a result of rationalising the estate. Another advantage of running it like that is that the children who are not in the base are close to the activities of the base and so have a better understanding of what is going on in the base. I think the objective of inclusion, which is worthwhile, is best served by

1480 having bases in all of the schools and the professional staff who will be running them are as dedicated to inclusion as possible.

The Deputy Bailiff: Deputy Hansmann Rouxel.

1485 **Deputy Hansmann Rouxel:** Thank you, sir.

In terms of just having the bases within the school, with the increased size of the school, as part of the plans has the Committee looked at adding separate break-out spaces, or safe spaces, within the plans of the school, so it is not necessary for a child who is having a difficult time to march across an entire campus to reach a safe space?

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The Deputy Bailiff: Deputy Fallaize.

1495 **Deputy Fallaize:** The answer is yes. The actual physical plans will be presented to the States and publicly at the time the policy letter is published, but the simple answer to Deputy Hansmann Rouxel's question is yes. Once the plans are published there will be opportunities for Deputies and others to explore with professionals exactly how that kind of space will be used in practice.

The Deputy Bailiff: Deputy Oliver.

1500 **Deputy Oliver:** Thank you, sir.

I am really pleased to hear there are going to be two bases on the site but, with everything, you can put a base on the site but will there be the appropriate funding to actually make those bases successful?

1505 **The Deputy Bailiff:** Deputy Fallaize, can you answer that at the moment?

1510 **Deputy Fallaize:** I can. I can say that there will be, for exactly the reason that Deputy Oliver states. The space, without it being adequately resourced, would be pointless. We are working closely with the professionals in this area to ensure it is not just that the bases are staffed, but we are able to use them to their maximum advantage. If Deputy Oliver wanted to meet with the professionals who are leading the planning in relation to that work then obviously we would be pleased to arrange a meeting.

The Deputy Bailiff: Deputy Dudley-Owen.

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Deputy Dudley-Owen: Thank you, sir.

I wonder if the President of Education, Sport & Culture would be able to let us know whether Guernsey Disability Alliance, their autism specialists, have been involved in the co-creation of any plans in regard to these bases?

1520 Thank you.

The Deputy Bailiff: Deputy Fallaize.

1525 **Deputy Fallaize:** The bases have not been created yet but I met, and other Members of the Committee met, with representatives of the Guernsey Disability Alliance about five or six weeks ago to begin those discussions and I certainly have asked officers to ensure that there is engagement with them again between now and the time that the policy letter is published.

1530 There will also be engagement, very extensively, with third sector organisations such as the Guernsey Disability Alliance in the context of the new Education Law, which is being developed, which in the long-run is going to have to set the framework for the provision of special educational needs, which may change in the future. The important thing in relation to the

development of the two sites or colleges is that they are essentially future-proofed so that if there is policy or legislative change in the future, in relation to special educational needs, they can accommodate those changes.

1535 **The Deputy Bailiff:** Deputy de Lisle.

Deputy de Lisle: Can I ask whether facilities will be retained within the primary sector, sir, thank you?

1540 **The Deputy Bailiff:** I am not sure that arises out of the Answer to the original Question, Deputy de Lisle, which was about the post-11 position. So there is no need to answer that. Your second Question, Deputy Gollop.

1545 **Deputy Gollop:** Thank you very much, sir.
Will every effort under the new corporate and behavioural policies identified already by the President being developed and implemented be made to accommodate autistic spectrum-diagnosed youngsters within the mainstream integrated sector and curriculum?

1550 **The Deputy Bailiff:** Deputy Fallaize to reply.

Deputy Fallaize: The development of the policies to which Deputy Gollop's question refers does not imply any alteration in the capacity of mainstream schools to accommodate children with autism. Of course the policies do reinforce the importance of supporting the needs of all children. Pupils with autism require a broad range of specialist support services. Professionals working in this area, including educational psychologists working within the office of the Committee for Education, Sport & Culture, work hard to integrate children with autism into the life of their school, including in relation to the curriculum.

1560 **The Deputy Bailiff:** Supplementary, Deputy Gollop.

Deputy Gollop: I could have phrased that question better, actually, because it also identifies children who have other behavioural needs and SEN needs generally. My follow-up is: within the answer of supporting needs of all children, the President surely must realise that would identify a significant professional resource in order to help not only behaviourally challenged children but children with different needs that might exhibit different kinds of behaviour? I am not suggesting that all behaviour-challenged children have special needs or *vice versa* but I am saying: is the President prepared for the resource needed both for primary and the secondary sectors?

1570 **The Deputy Bailiff:** Deputy Fallaize to reply.

Deputy Fallaize: Thank you, sir.

1575 There is already considerable resource spent in this area. I am not quite sure what Deputy Gollop's question is getting at. If he is asking, in the event that there are additional resource requirements as a result of the new behaviour policies and other policies introduced, if that requirement is identified by professionals then of course the Committee will be prepared to make the necessary investment.

The Deputy Bailiff: Deputy Hansmann Rouxel.

1580 **Deputy Hansmann Rouxel:** In terms of the behavioural policy, I think what Deputy Gollop is trying to touch on is that some behavioural aspects of disability do present themselves as difficult behaviour and there is a concern that those behaviours are managed in the correct way instead of

1585 exclusion and discipline that might lead to the detriment of a child's education. Is the President aware or the Committee aware of how many children who are disciplined do actually fall on the spectrum or have some diagnosis, even if that was retrospective of them falling out of the system?

The Deputy Bailiff: Deputy Fallaize, are you able to reply?

1590 **Deputy Fallaize:** Well, no, because I do not know what Deputy Hansmann Rouxel means by disciplined. I do not think I will be able to obtain accurate statistics for how many children are disciplined who have special or additional education needs because I do not quite know how one would define disciplined. If the question is how many children who are subject to fixed-term exclusions are children with special or additional needs then I think that data would be available. I
1595 do not have it at my fingertips but if Deputy Hansmann Rouxel wishes I can provide it in due course.

The Deputy Bailiff: Deputy Stephens.

1600 **Deputy Stephens:** Thank you, sir.
Would the President agree with me that all staff in schools need to be trained in and be autism-aware to facilitate the best educational experience for all pupils in the school and promote an inclusive school environment?
Thank you, sir.

1605 **The Deputy Bailiff:** Deputy Fallaize.

Deputy Fallaize: Yes, I agree with Deputy Stephens and if she, given her professional background, or if other professionals working in education, feel that there are any gaps in that regard then I would be pleased if they could be drawn to the Committee's attention and we will
1610 address them through the continuous professional development programme.

The Deputy Bailiff: Deputy Brehaut.

1615 **Deputy Brehaut:** Thank you, sir.
Would the President agree with me that the term autism is a very broad term; it is a spectrum? So is it not perhaps ironically unfair to single out autistic children, even in this context, and just talk about children in the round, they could have dyspraxia, maybe dyslexia, which historically a great deal of work has been put in, but simply to talk in the round about children with specific
1620 needs and challenges at any one period?

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: I think that is self-evidently true and most Members of the States seem to me
1625 to be nodding in agreement. He is right, there is a tendency in society to label conditions. We have a daughter who is dyslexic but it is not necessarily helpful to attach those sorts of labels to children. However, Deputy Gollop's questions did refer to children with autistic and communication needs and therefore I felt, in answering the questions, that I had to use the terminology that he was referring to. But Deputy Brehaut's point is clearly correct.

1630 **The Deputy Bailiff:** Deputy Dudley-Owen.

Deputy Dudley Owen: Thank you, sir.

Deputy Fallaize has just mentioned CPD, continuous professional development. Can the President please confirm whether this budget, therefore, will be increasing over the short-term, in order to ensure that our teachers are well-trained in this area?

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: No, because at the moment I am not aware, the Committee is not aware, of any additional identified need as a result either of the new policies or of the kind of philosophical objectives we are talking about this morning in relation to autism and communication. However, as I said in my answer to Deputy Stephens' question, if any professionals feel that there is a need for enhanced continuous professional development, then we will put in place the budgetary provisions necessary to provide that.

The Deputy Bailiff: Deputy Gollop, your third Question.

Deputy Gollop: I accept there are some flaws in the methodology of these Questions. My third Question actually covers a base. Is the Education, Sport & Culture Committee tracking and following recent UK developments suggesting that excluding disruptive children with issues from mainstream integrated schools can have negative social and psychological consequences for both the individual and society? Here I should add my point is not just about children with autism but children with many other conditions, dyslexia, dyspraxia, ADHD, and none, with other behavioural issues. It is a more generic question.

The Deputy Bailiff: Deputy Gollop, you should know that you ask the Question, you do not explain the context in which it is being put, please.

Deputy Fallaize to reply to the Question.

Deputy Fallaize: As I understand it, the reference in Deputy Gollop's Question to recent UK developments is to permanent exclusions. Guernsey state schools are not permitted to exclude permanently and, indeed, fixed term exclusions are used only as a last resort. Last year the States resolved that the wholly outdated 1970 Education Law should be repealed and replaced and work is well underway to bring to the States the necessary policy letter and then subsequently the new projects and ordinances. But no decisions have yet been made about whether to recommend maintaining or revising the existing approach to pupil exclusions. Of course, keeping students safe must remain a key priority for all schools.

The Deputy Bailiff: Deputy Inder, supplementary.

Deputy Inder: In the response Deputy Fallaize gave I am just wondering, it does arise out of Deputy Gollop, I think, within the new policy letter relating to Education Law: will he be pushing back some of the responsibility to the parents and not just to the teachers for behavioural issues?

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: I am not sure that an Education Law would be able to capture the kind of thinking that Deputy Inder refers to. If he refers to the behaviour policies that were introduced, that thinking has been captured within it very much at the request of schools, particularly secondary schools, who wanted it to be understood that behaviour in the school is partly affected by behaviour outside of school, immediately around school, for example on school buses, and that parents have a significant responsibility in relation to behaviour in addition to schools. So there is no question that the Committee accepts and agrees with the point that Deputy Inder is making. Whether we can actually get those words in an Education Law I am less sure about.

The Deputy Bailiff: So Deputy Gollop, your final Question to the President.

Deputy Gollop: Yes, thank you, sir.

1690 How far are Education, Sport & Culture working with Health & Social Care and other relevant
Committees to ensure the Autism Communication Strategy is successfully implemented with
resources, skills, money and diagnostic professionals working with secondary and teenage young
people?

The Deputy Bailiff: Deputy Fallaize to reply.

1695

Deputy Fallaize: The Committee allocates as many resources as is reasonably possible, both in
terms of money and professionals, to work with and for children with autism and additional
communication needs. Professionals working within service areas for which the Committee is
responsible work closely with colleagues across the States.

1700

The Deputy Bailiff: Supplementary question, Deputy Gollop.

Deputy Gollop: Given that 'reasonable' is a subjective but legally often used word, how can
we measure what reasonable means, particularly as some activists on the Island would suggest
that provision in other areas, postcodes, etc. is somewhat greater than Guernsey's?

1705

The Deputy Bailiff: Deputy Fallaize, can you answer that?

Deputy Fallaize: Well, I can say that it would not be a surprise if the provision of public
services is better in jurisdictions where the tax-take is considerably above what it is in Guernsey.
My use of the word 'reasonable' is based on the fiscal policies of the States. The Committee
invests as much as it reasonably can in this area of work.

1710

The Deputy Bailiff: Deputy Hansmann Rouxel.

1715

Deputy Hansmann Rouxel: Thank you, sir.

With the work or the communication with HSC and the movement to larger schools and the
subsequent increase in capacity for on-site specialisms, is any work being done to include HSC
professionals that currently move around between all different schools, and place them
permanently in one of the sites?

1720

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: Well, already there have been considerable discussions between officers
reporting to our Committee and officers reporting to Deputy Soulsby's Committee in that regard.
The position is basically this: there is space, or there will be space on these sites, to accommodate
a range of professionals who provide what might broadly be regarded as Health or Social Care
services to students.

1725

There is an open invitation from my Committee to Deputy Soulsby's Committee to identify
exactly who those professionals are and, if they are identified, unless there are hundreds of them,
then in our policy letter that we submit in May, we will incorporate a proposal for them to be
accommodated on the College sites. If we do not receive that information we will not be able to
include it in the policy letter.

1730

The Deputy Bailiff: Deputy Gollop, second supplementary.

1735

Deputy Gollop: My second supplementary is: given the answers to the question, is it not therefore the case that resources may lead to unmet needs unless finance is made available, which somewhat negates the idea that we could have a world-class service without financing it appropriately?

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: I think Deputy Gollop wants to have a debate about fiscal policy. I think that the service that we are providing at the moment is reasonable. I think much of the work that the professionals are doing is exceptionally good but the whole package is reasonable because it is quite limited by the fiscal policy constraints placed on it by the States.

Ultimately, this is a political choice around how much money we want to invest in public services, how we want to spend that money. Once the budgets are approved, the task of our Committee is to ensure that the maximum possible resources are deployed as efficiently as possible in this area and every other area of the Committee's budget. I am confident that in this particular area of work that is achieved. Actually the budget in this area is being increased on a discretionary basis, year on year, including in 2019.

The Deputy Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

Could the President please confirm my understanding, he has just thrown the gauntlet to HSC to come forward with the figures for people that are required to fund the human resource needed in the schools by May, when surely the submission date for that policy paper will be in just a couple of weeks?

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: The submission date for the policy letter is at the end of May, with a proposed timetable for a debate in July. I have not just thrown the gauntlet down to the Committee for Health & Social Care; there have been discussions going on for some time between officers who report to the two Committees and for some time my Committee has encouraged the Committee for Health & Social Care to identify which professionals it would advise accommodating in a co-located design on the new secondary college sites.

I am not critical of the Committee for Health & Social Care; our policy letter will reflect the level of information which we are able to be provided with by the time it is submitted. If there is more information to come then we just will not be able to go as far in the Propositions as we would otherwise. But the destination and the objective is clear and is shared between the two Committees to co-locate some services for young people on these 11-18 college sites.

The Deputy Bailiff: Deputy Soulsby.

Deputy Soulsby: Sir, yes, does the President agree with me that a more effective and joined up autism service for children could be developed if we combined our resources from across the multiple service areas involved?

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: Yes, but I think that we are debating here where they would be located. Clearly if there are some professional staff who ought, for the objective that Deputy Soulsby sets out, to be based on the 11-18 college sites, then that can be done. That is effectively at the discretion of the Committee. But if we are going to co-locate staff, including those who report to

1790 the Committee *for* Health & Social Care, it is just not possible for my Committee to have the necessary information to incorporate those co-location proposals to any great detail in the policy letter that is submitted in May.

1795 My Committee, we will get as far as we can possibly get with co-location in the policy letter in May but until we are provided with the officers, service professionals who currently report to HSC, who that Committee believes ought to be accommodated on those school sites, I think we are going to be limited in how far we can take the proposition.

The Deputy Bailiff: Deputy Soulsby, second supplementary.

1800 **Deputy Soulsby:** Sir, my question was not related to co-location, although information has already been provided to the Committee, especially in terms of developing pilots; because it is all about transformation, not just lifting and shifting people from one place to another. My question was the principle of combining resources, so we have a more joined-up service. It does not necessarily matter where they are, it is just so as we can provide a more joined-up service.

1805 **The Deputy Bailiff:** Are you asking the question again?

Deputy Soulsby: No, I have nuanced the question, sir, by saying 'principle' rather than anything to do with location.

1810 **The Deputy Bailiff:** Deputy Fallaize.

1815 **Deputy Fallaize:** If Deputy Soulsby is referring to the possibility of some services, which are currently provided, broadly speaking, under my Committee's umbrella, being moved to Deputy Soulsby's Committee or operating under some kind of co-agency framework then I, and I know the other Members of my Committee are, very relaxed about that and are very happy to discuss proposals because there is no territorialism in terms of wanting to retain staff under the auspices of our Committee.

1820 In relation to pilots, my understanding of it is that pilots for these co-located services will commence in all or most of the secondary schools in the relatively near future. That is certainly the advice that the Committee is getting from its officers and that is what it has encouraged its officers to work on with officers from Deputy Soulsby's Committee.

The Deputy Bailiff: Well, that concludes Question Time.

Thank you all very much. We now move into the first item of substantive business.

Billet d'État V

ELECTIONS AND APPOINTMENTS

I. Election of a Member of the Elizabeth College Board of Directors – Mrs Michelle Galpin elected

Article I.

The States are asked:

1. To elect a member of the Elizabeth College Board of Directors, who need not be a member of the States, to replace Mr Michael Buchanan whose term of office expired on the 5th January

2019, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation, as set out in Section 1 of The Rules of Procedure of the States of Deliberation and their Committees.

1825 **The Deputy Greffier:** Elections and appointments, Article I, election of a member of the Elizabeth College Board of Directors.

The Deputy Bailiff: Deputy Trott.

1830 **Deputy Trott:** Sir, I rise to propose Mrs Michelle Galpin. Her outstanding CV as an actuary is noted in the Billet and she is the unanimous nominee of the Board. I can also confirm, sir, that she has no conflict and has declared accordingly.

The Deputy Bailiff: And that is seconded by?

1835

Deputy Fallaize: Yes, sir, I am happy to second the candidate.

1840 **The Deputy Bailiff:** Thank you very much, Deputy Fallaize. Are there any more nominations to be a member of the Elizabeth College Board of Directors? In that case I will put to you the candidature of Michelle Galpin, proposed by Deputy Trott and seconded by Deputy Fallaize. Those in favour; those against.

Members voted Pour.

1845 **The Deputy Bailiff:** I declare Mrs Galpin duly elected.

LEGISLATION LAID BEFORE THE STATES

**Motor Vehicles (International Circulation) (Amendment) Ordinance, 2019;
Seatbelts (Amendment) Ordinance, 2019;
Road Traffic (Trailer Registration) Ordinance, 2019;
Road Traffic (Motor Vehicles and Trailers) (Periodic Technical Inspections) Ordinance, 2019;
Road Traffic (Construction and Use of Motor Vehicles) (Amendment) Ordinance, 2019;
Road Traffic (Guernsey) Ordinance, 2019;
Lighting of Vehicles and Skips (Amendment) Ordinance, 2019;
Road Traffic (Miscellaneous Provisions) (Guernsey) Ordinance, 2019;
European Union (Brexit) (Bailiwick of Guernsey) Law, 2018
(Commencement) Ordinance, 2019;
Motor Vehicles Licensing and Traffic (Fees) Guernsey Regulations, 2019;
Motor Vehicles (International Circulation) (Guernsey and Alderney)
(Brexit) Regulations, 2019;
Aviation Security (Bailiwick of Guernsey) Amendment, Direction, 2018**

1850 **The Deputy Greffier:** Legislation laid before the States: Motor Vehicles (International Circulation) (Amendment) Ordinance, 2019; Seatbelts (Amendment) Ordinance, 2019; Road Traffic (Trailer Registration) Ordinance, 2019; Road Traffic (Motor Vehicles and Trailers) (Periodic Technical Inspections) Ordinance, 2019; Road Traffic (Construction and Use of Motor Vehicles) (Amendment) Ordinance, 2019; Road Traffic (Guernsey) Ordinance, 2019; Lighting of Vehicles and Skips (Amendment) Ordinance, 2019; Road Traffic (Miscellaneous Provisions) (Guernsey) Ordinance, 2019; European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2019; Motor Vehicles Licensing and Traffic (Fees) Guernsey Regulations, 2019; Motor

1855 Vehicles (International Circulation) (Guernsey and Alderney) (Brexit) Regulations, 2019; Aviation Security (Bailiwick of Guernsey) Amendment, Direction, 2018.

The Deputy Bailiff: Members of the States, we note that all of those items of legislation have been laid before this meeting. There have been no motions to annul.

LEGISLATION FOR APPROVAL

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

II. The Social Insurance (Guernsey) (Amendment) Law, 2019 – Proposition carried

Article II.

The States are asked:

Whether they are of the opinion to approve the draft Projet de Loi entitled 'The Social Insurance (Guernsey) (Amendment) Law, 2019', and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

1860 **The Deputy Greffier:** Legislation for approval, Article II, Committee for Employment & Social Security – the Social Insurance (Guernsey) (Amendment) Law, 2019.

The Deputy Bailiff: Any debate on this? I see nobody rising, I will therefore put to you this draft Projet de Loi for approval. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare the Proposition duly carried.

COMMITTEE FOR HEALTH & SOCIAL CARE

III. Hospital Modernisation Programme – Debate commenced

Article III.

The States are asked:

Whether, after consideration of the Policy Letter entitled 'Hospital Modernisation Programme', dated 11th February, 2019 they are of the opinion:

- 1. To direct the Committee for Health & Social Care to progress with the proposed ten year programme to modernise the Princess Elizabeth Hospital, in support of the Partnership of Purpose;*
- 2. To delegate authority to the Policy & Resources Committee, following approval of the necessary business cases, to open capital votes of a maximum of £44.3 million, charged to the Capital Reserve, to fund Phase 1 of the Hospital Modernisation Programme, as set out in section 7 of the Policy Letter; and*
- 3. To note that delivery of subsequent phases of the Hospital Modernisation Programme will be subject to prioritisation by the States for inclusion in future capital portfolios.*

1865 **The Deputy Greffier:** Other business, Article III, Committee *for* Health & Social Care – Hospital Modernisation Programme.

The Deputy Bailiff: I invite the President of the Committee, Deputy Soulsby, to open the debate.

1870 **Deputy Soulsby:** Sir, it was in 1949 that our future Queen officially opened the building that was to bear her name, the Princess Elizabeth Hospital. In those intervening 70 years the Hospital has played an increasingly important role in the protection, promotion and enhancement of the health and wellbeing of Islanders.

1875 The work undertaken 24/7 behind its walls has contributed in no small way to residents having amongst the highest life expectancies in the world. The Hospital – or as we all know it, the PEH – has had such an important party to play in our community since it was opened. It is where life begins and ends. It is where lives are saved or improved. It is where we learn what it is to be a mortal human being and who and what are most important to us.

1880 We should be proud of having such a facility on such a small Island. There must be very few places in the world that could boast a hospital providing such a range of services for such a small population. There is a tendency to take it for granted and to have a good old moan on social media when something goes wrong; but really we should not. We are very lucky indeed.

1885 That is because, over the years, previous boards and committees, in various guises, have seen the need to adapt it in ever-changing landscapes. New innovations in medical practice, advances in scientific understanding, medical research and technology have all helped to improve outcomes but they have also put increased demands on the physical infrastructure.

1890 There has probably not been a time when the need to expand and adapt the infrastructure of the PEH has not been either discussed or implemented. Now a few months back, I read a piece about the post-war period of health care in Guernsey, written by the much respected Dr Brian Seth-Smith, who spent a lot of his working life at the Hospital and who sadly died in January.

1895 In this article, he talked about plans for phase 1A and B, to create a new children's ward, operating theatres, central sterilisation department, pharmacy, post-mortem room and supporting service area, which were first drawn up in 1966. Apparently these were thrown out by the then States as being too grandiose, with one speaker stating that he did not want a mortuary as he did not see why we should spend money on the dead.

1900 But plans were eventually accepted in 1971 and that first phase of development was completed 15 years later. Dr Seth-Smith made the comment, though, that whilst an excellent design it was unfortunate that X-ray and the receiving room were at the Vauquiedor end, far from the theatres and wards.

1905 Now the most recent developments covered the new clinical block, completed nine years ago now, and the Oberlands Centre that was opened in 2016. Just as it has been a focus for our community over the last 70 years, the PEH campus has a big role to play in the development of our new model of care, the Partnership of Purpose. We see it as a backbone of the system with a long-term intention that it should be the focus for the delivery of secondary health care, including acute hospital, mental health services and diagnostics.

1910 However, we are struggling with what we have now. The design is inflexible and makes it difficult to implement new technology and new ways of working. Some of the areas are very dated and costly to maintain. Just recently we had to close a theatre because of a water leak into the air filtration system, which followed a more serious leak last year. Added to that there are the problems with asbestos in various areas, which mean that where repairs are needed, say the plant room under the theatres, staff have to wear full protection gear and the whole process takes much longer than if it was a benign environment.

1915 We are unable to meet various building regulations and standards because of the layout and parts of the site do not support those with a disability, nor provide the best working environment.

The 10-year modernisation programme that we are presenting to Members today is an essential catalyst for change, enabling greater integrated patient-centred care in a modernised hospital that is safe, flexible to meet future needs and which ultimately will improve patient experiences and outcomes.

The programme is divided into three phases to minimise the impact on the delivery of services. At the same time it spreads the capital costs over a number of years and should benefit the local construction industry. Details are all provided in the policy letter and I will not repeat what was said in there. However, I think it is important to focus on a few points relating to page one, for which we are seeking funding approval today.

Various reviews, including that by the NMC in 2014 into maternity services, highlighted the issue with distance of Loveridge, the maternity ward, from theatres. At the moment the staff have to undertake drills to ensure they can get women who need an emergency Caesarean section from the ward to theatre within 20 minutes; the main risk area being the fact Loveridge Ward is on a different level to the theatre block and therefore a lift is needed. The plans seek to address this issue.

However, this will not be a simple, pardon the pun, lift and shift of Loveridge and Frossard, the children's ward, but address other limitations of our current offering. This includes a dedicated area for children and young people presenting with mental health issues, spaces more suitable for adolescents and a means of treatment away from the wards.

Now the backlog with regard to orthopaedics is well known and, thanks to support from ESS and P&R, an incredible amount of hard work by HSC staff, we are now actively tackling it. However, the key limitation to us on what needs to be tackled if we are to minimise the risk of this happening in the future is the infrastructure. A real pinch point that is impacting on the number of operations that can be undertaken and causes more postponements than we would like is the number of critical care beds.

This is an increasing problem as the age of those who we operate on rises. Whilst in the past we may not have operated on 70- and 80-year-olds, this is becoming more and more common and expected. Those patients are more likely to have other underlying health conditions, which means they need more care post-op in the critical care unit beds.

We currently only have seven such beds, which means we are very vulnerable to any emergency or trauma cases that arise. The plan is to create enough space that will enable us to start with 10 beds and later to 12. The plan is for a new theatre block to include critical care beds to be built that will enable the latest technology, including robotics, to be introduced, whilst reducing the problems we currently experience in terms of maintenance, which I have just mentioned.

As part of phase one, work will be undertaken to identify the most suitable location for MSG staff and consultants. This will then enable any building work to be carried out in phase two, and within the seven-year deadline, when the current leases expire. Having consultants on site will be conducive to greater integrated and patient-centred care.

Throughout the programme we will be building in better support for those with a disability. This will include better signage that will support those with conditions such as dyslexia and dementia, as well as new facilities such as changing place toilets.

The overall anticipated cost for the programme is between £72.3 million to £93.4 million. The first phase, due for completion by 2021, will cost between £34.3 million and £44.3 million. On that, it is probably worth noting that Jersey has spent a similar sum just trying to identify where to put their new hospital and are yet to reach a conclusion on that.

It is for phase one that we seek funding support now. We will be coming back to the States in respect of phase two, that will cover orthopaedics, day patient unit, relocation of MSG, equipment library and private wing, and phase three, which will include pathology, pharmacy and emergency department as the programme progresses.

Finally, I cannot finish without mentioning transport and parking. The Committee understands the frustration for those visiting the PEH who find it difficult to park. None of us has dedicated

parking spaces. We know what it is like to try and park there at various times, both for our friends, family and ourselves.

Seventy years ago the PEH had 20 parking spaces. Fifty years ago, it had 120 spaces. Today there are 1,700 parking spaces across the campus. Those are the official ones, not including people parking across grass verges and down the side roads. And still it is apparently not enough. Now whilst at peak times we are around 50 spaces short, outside of those times, there are plenty of spaces going spare.

Now we will shortly be adding 80 additional temporary parking spaces that will help us specifically as works get under way. However we cannot just look at pouring more tarmac over the site. History has shown it does not work and it is not value for money. So thanks to the support of Environment & Infrastructure, a travel strategy has been developed for the campus and the Committee will receive the report very soon. We hope that this, combined with the development of new staff changing facilities which is currently underway, will help in the creation of a more sustainable long-term solution.

Sir, in summary a key aim of the Hospital Modernisation Programme is to improve the experience of anyone needing our services from the moment they arrive on the PEH campus, get the care they need when they need it, to when they leave. We want that experience to be as stress-free as possible and with the best outcomes as possible. But more importantly, we want it to be a joined up part of an overall seamless experience of community care for all. That is what the Partnership of Purpose is all about and that is why I hope Members will give it their full support.

Thank you.

The Deputy Bailiff: Deputy Inder.

Deputy Inder: Sir, I am only really going to talk about costs. I remember the waste transfer station debate in February 2017, gave us a cost of £26 million and when we picked through the breakdown of the actual figures – and there is not a breakdown of figures in this document and I accept that and I will put quite a lot of trust in Deputy Soulsby and her team to go through those – there was £2.6 million worth of professional fees. The answer to that was, 'That is the standard rate.'

If you have £93 million in total cost, there is potentially around £10 million of design costs there which seems to my mind – and I will make the same arguments I made last time – the problem with these is when we have a fixed fee cost, inevitably what happens, it is in the interest of the people proposing it, not necessarily the Committee obviously, the designers, to make everything become a lot more expensive because of course that is how their fees are dictated.

So I am just wondering if, between herself and possibly Policy & Resources, we can look in some way at mitigating those costs because I just think a 10% rate, when you are designing something is far too much in our modern period.

The other thing I am concerned about – only slightly concerned about because there do look to be some detailed costs, I must remind Members that the last time I saw a cost was the Inert Waste Strategy, of December 2017, when we were told it was £30 million. Seven months later it became £40 million, then about two months later I think Deputy Ferbrache told us it was going to be £45 million. So it jumped by a huge amount of money from the policy letter.

And this is what we have got here, we have a policy letter here, which we are here to vote on and I am quite sure it is going through this Assembly. But two things I would like, possibly, Deputy Soulsby to assure us of: one, these projects are accurate and the real work has been done on it; and I am wondering if, when the projects come back to us in bits and pieces that we can do something about the exorbitant professional fees that Government always intends to pay on these capital projects?

Thank you.

The Deputy Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

2025 Whether we are considering our health or educational estate, we need to understand the
requirements from the services now and in the future. We need to understand the health or
educational outcomes that we are trying to achieve. If our schools did not have the teachers, the
pens and papers, the books – namely the educational tools they need to educate our children and
our community – would we then consider the bricks and mortar part of the educational estate or
2030 would we address the lack of teachers, pens, paper, books, educational tools that they need to
educate our children and our community?

I would suggest we would be putting our time, energy and money into resolving any issues
concerning educational outcomes and would start with the people we are asking to deliver those
outcomes; ensuring that they have the tools in their box, the things they need to deliver good,
equitable, educational outcomes for our community.

2035 I do not believe we will be seeking, initially, to develop new buildings or be concerned with the
bricks and mortar. Buildings are important but are pointless without the essential tools to educate.
It is the people and the educational tools needed to deliver the outcome that we are seeking to
deliver to our community that are of vital importance.

2040 Today we are debating, deliberating primarily the bricks and mortar part of our health care
estate, but I am not convinced that we are enabling and giving our health care professionals, our
consultants and doctors, all of the appropriate and expected tools in their box. For example, do
they have access to all the drugs and medicines that they need to deliver good, equitable health
outcomes for our community?

2045 We are told in the policy paper, sir, the objective of the Hospital Modernisation Programme is
to optimise the delivery of health care and one of the objective goals is to achieve excellent
clinical outcomes. But the question I would like to ask the President, sir, is how will that be
achievable if we are not providing the drugs and medicines that our community may need, that
our medical profession may need, as literally vital tools in their box?

2050 Further, we are told that this aligns to Service Guernsey. Under Performance Management it
states that, '... we will demonstrate our effectiveness and provide context by benchmarking our
services against other jurisdictions'. But when we do try to do this, we try to compare ourselves
with other jurisdictions, for example with regard to our community's accessibility to drugs and
medicines, as commonly referred to in most jurisdictions as NICE recommendations, we
continually fail to wish to compare ourselves.

2055 Some are only too keen to point that we have a different tax regime and so therefore cannot
really compare our divergence from adopting or aligning ourselves more closely with Jersey, the
Isle of Man or the UK, with regard to NICE. Therefore I am slightly confused by this, so would
expect and appreciate the President explaining this when she responds to debate, as to which
jurisdictions that we would be benchmarking our services against.

2060 I would ask if we are sure we are apportioning the right amount of our resources, our time,
energy and money, into a new hospital configuration rather than perhaps that should be at the
same time as fully understanding our community's expectations and needs. It is unclear in this
policy paper if HSC has completed an assessment of our community's healthcare needs, their
expectations and their needs for today and in the future.

2065 We are hopeful that our community will live longer and healthier lives, even happier lives, that
they will be working for longer. An ageing population can have its positives as well as negatives.
What I would appreciate the President advising me, and this Assembly, is if a health needs
assessment has been completed, where I and our community can locate it. Surely this must have
been completed because, if not, if HSC has not defined what the health needs are, then how can
2070 they have determined how the Hospital infrastructure needs to be developed?

What I am keen to ensure happens, sir, is that the service has shaped the future infrastructure
rather than the buildings dictating the service provisions. Knowing Deputies on the Committee

and the experienced and expert officers, I am sure this has been done. It is just not obvious as to where I can locate it.

2075 So we are asked to consider that over £94 million may be required to modernise the PEH over a 10-year period, but I am not sure that we really know what it would cost or, more importantly, the health outcomes of adopting perhaps a presumptive approach to adopting NICE-approved drugs and medicines, rather than a mandatory one. I am not fully convinced that all the waste has yet been eliminated in the existing PEH site. So I find myself in a bit of a cart before the horse
2080 scenario.

If we are striving for excellent clinical outcomes, clinical excellence, as we could as we have excellent clinicians, they arguably have limitations to their tools in their tool box when it comes to certain provisions, for example drugs and medicines. I cannot see how we can think the Hospital estate will help. They can have a nice, new shiny toolbox with compartments in it, which is easy
2085 access, but if some of those compartments are empty how will that help them achieve fair and equitable outcomes for our community?

Further, sir, I am concerned that even if the variations of forecast expenditure are adequate, they do not appear to be validated yet. We are asked to delegate the authority, following approval of the necessary business cases, to open capital votes of a maximum of £44.3 million –
2090 meaning that we as an Assembly do not have the necessary business case; we are asked to simply delegate that to P&R, to trust P&R. They will make a decision when they have the necessary business case.

So, I ask, why don't States' Members have the business case so that we can determine if this really is the best use of such a large of amount from our Capital Reserves? What if P&R say no? I
2095 trust then, sir, that HSC would bring it back to the States. But I do feel as if I am being asked to agree something with one hand tied behind my back, one eye closed and my fingers crossed.

One reason I feel this way is because the anticipated capital cost for the whole programme has a very large range of over £21 million, being the range stated in 1.3. That is because it is between the figure of £93.4 million and £72.3 million. That is a divergence of £21 million. So I find myself
2100 being asked to make a decision based on tens of millions of pounds, admittedly with a wide ranging variable and with quite distinct caveats from HSC.

Even the initial anticipated cost for stage one has divergence of £10 million; 7.5 states a range of costs from £34 million to £44 million. That is an estimate of over a third from the lowest figure to the highest. It almost makes it feel like it is more like a guesstimate, rather than an estimate. Or
2105 as it is referred to in the policy paper, as an anticipated cost. I simply do not understand how a project that could cost £34 million, another £10 million could or may be spent but then again may or may not and so therefore HSC has written this range. At least it is stated that every effort will be made to minimise expenditure, although one would rather hope that would be a given.

In summary we are asked to approve the policy paper before us today but I am not convinced the health outcomes are clear enough and I do not have the business case to back it up. Further, I
2110 was unable to even consider an amendment as to whether this work should be in four phases rather than three, over a longer timeframe, if it would mean that our community could get better access to drugs and treatments if our medical profession could have more tools in their box.

Surely, sir, if we take this much from our Capital Reserve, it will need to be replenished, which then impacts on how much operating costs or budget HSC will have in the future? I do not doubt
2115 for one moment there is a need to invest in our infrastructure, in our bricks and mortar, but I believe that we also need to invest and ensure that our medical profession has as many tools in the box as possible.

In fact, sir, one of the most quoted statements from this Assembly so far is we wish to be the healthiest and happiest place in the world to live, where everyone has equal opportunity to
2120 achieve their potential. The potential to live, the potential to be healthy, to have access to drugs and medicines on an equal footing surely has to be at the very heart of this?

If we are going to compare ourselves with other jurisdictions then it has to be across all of our health care services; not just how shiny and new our toolbox is but the tools within it and the outcomes from it.

Thank you, sir.

The Deputy Bailiff: Deputy Green.

Deputy Green: Sir, thank you very much.

Firstly, the committee which I lead wishes to put on record that it supports in principle the proposed modernisation of the Princess Elizabeth Hospital. But one of the tasks of my committee, sir, is to question does the policy letter, which is obviously seeking a large amount of public money, represent the best possible value for money for the Guernsey taxpayer and it is fair to say that on the evidence before us at this stage it is very difficult to assess that fully as to whether this constitutes real value for money.

Similar to the point that Deputy Merrett made a moment ago, I note that Proposition 2 states to delegate authority to the Policy & Resources Committee to open capital votes for a maximum of £44.3 million to fund phase one of the Hospital Modernisation Programme. This approach, if agreed, means that the States would be signing off expenditure of up to £44.3 million without seeing a detailed business case for any of the constituent products within phase one of the programme.

Whilst the SMC accepts that this suggested approach may potentially reduce the time taken to complete phase one, the proposed approach undoubtedly means that very substantial capital expenditure will not receive detailed parliamentary oversight by this Assembly in respect of phase one. The question can be asked: would it be more appropriate, from a good governance perspective, for the States to sign off on each of the major components within phase one, given the level of expenditure?

Clearly such an approach, if agreed, will pass additional power from this Chamber to P&R to make these decisions and I think it is important that elected Members understand that and understand exactly what they are voting for if these Propositions are supported. Therefore, as of today, we do not know with any great certainty what it is that we are voting for, given the effect of Proposition 2 in particular.

In terms of the range of costs for phase one, we are told of a cost somewhere between £34.3 million and £44.3 million but it is not immediately apparent from the material that we have that we should have confidence in that range of figures. The question is how confident can we be in those figures and why?

There is also not a lot of evidence in the policy about the alleged tangible benefits of the overall programme and indeed how those might be measurable going forwards. I think some additional clarity on the measurement of the tangible benefits, from Deputy Soulsby when she sums up, would be welcome today.

Phase one of the programme consists of what are termed priority projects, including funding the programme and project management resources, which have been costed at £1.8 million up to 2021. The SMC would appreciate being informed by Health & Social Care as to how many additional staff or indeed consultants are being taken on to undertake these duties in addition to the existing resources allocated to transformation within Health & Social Care.

The policy letter indicates that this prioritisation has been done partly by health professionals but again it would be helpful, when Deputy Soulsby sums up the debate, for there to be an indication as to why these projects in phase one enjoy a higher priority when compared to those in later phases and for that to be explicit. In the policy letter that rationale for the suggested phasing is perhaps not fully explained.

Project four within phase one, at a cost of between £15.8 million and £20.8 million is intended to increase theatre capacity and hopefully reduce the time patients have to wait for surgery. Of course, at the moment, we are aware of significant delays in specialities such as orthopaedics. The

2175 ability to increase capacity is clearly dependent on HSC and the MSG attracting and retaining suitable staff to undertake this work, but again it would be helpful if there could be an explanation, given the current recruitment problems in this area, how they hope to solve these long-standing problems ahead of the completion of the additional facilities.

2180 Paragraph 12.2 of the policy letter sets out a high-level indication of the potential impact on the general revenue expenditure of the capital programme:

The potential revenue impact of the programme is estimated to be between £2.9m and £3.4m per year (2021 to 2029), which arises from the possible additional staffing requirements needed to support the proposed increase in beds and overheads, such as housekeeping and utilities.

2185 Whilst we take the point that increased private patient activity might well possibly help to offset some of that extra public expenditure, we would have hoped generally that a new hospital within a transformed health care system would be able to create efficiencies that would help drive costs downwards so I would appreciate some guidance on this. I thought that, at the least to some extent, this capital investment would help unlock those efficiencies but how can that be reconciled with the potential increases in liability to the taxpayer set out in paragraph 12.2?

Similarly, in paragraph 12.3, in relation to funding requirements and resource implications, the policy letter further states that:

The details of the full revenue implications and financial benefits will be determined once the design work has been completed in the next phase.

2190 On this basis the SMC does have concerns regarding the recurrent financial cost of the proposed modernisation work. It is perhaps disappointing that after the amount of time expended thus far on progressing through the capital allocation process no real clarity has emerged on the ongoing financial impact resulting from the proposed programme. Surely the ongoing costs of these developments must be central to their overall potential benefit? If additional costs do exist then I would expect them to have been identified very clearly before the plan was submitted for States' approval.

2195 In relation to paragraph 14.1, Partnership Working with the States of Jersey, it states:

Opportunities exist through this programme, and the recently established Channel Islands Joint Working Group for Health and Care (2018), to explore further ways to collaborate and work in partnership with the States of Jersey. There are recognised similarities in the challenges that both Islands face relating to their health and care systems and Jersey is likewise seeking to transform the landscape of their health and care services.

2200 This is the only reference to joint working with Jersey in the policy letter. Given the current position in Jersey, where uncertainty exists on the delivery of a new hospital there, it appears surprising that the possibilities for closer joint working do not receive greater prominence in the policy letter. The SMC would certainly hope that any opportunities for joint working to enhance services and to cut costs will be fully explored. Surely the present circumstances therefore offer a once in a generation opportunity that should not be missed to work together across the Channel Islands on this?

2205 These proposals clearly focus on significant investment within the acute health care setting but it would appear that these proposals do little, perhaps deliberately, to enhance the delivery of improved community services, which was one of the cornerstones of the Partnership of Purpose document.

2210 So the question is if we are intending on spending up to £40 million-plus of taxpayers' money on the local health and social care services, would we necessarily spend as described in this policy letter or would we consider that a significant portion should be prioritised for extra cash for enhanced community provision or for social care or for end of life services or for mental health services?

2215 Therefore it would be helpful for some real assurances that this policy letter, which could lead to some £90 million of public money being spent overall, represents the best choice at this particular time. Ultimately, paragraph 1.6, early on in the policy letter, says:

... it is essential that all capital investment supports the transformation of health and social care and the delivery of tangible benefits.

2220 I totally endorse that statement, but my committee will be monitoring this project as it goes forwards to try to ensure that those aims are fully achieved if this policy letter is carried, but some further assurance today, sir, that, (a), this whole programme will properly underpin transformation of health and social care and, (b), that the tangible benefits referred to will be clearly identified and will be measured going forwards, would certainly help me when I come to vote.

The Deputy Bailiff: Deputy de Lisle.

Deputy de Lisle: Thank you, sir.

2225 I think we need to reflect on all the calls and the concerns that we have had in recent years with respect to the health services. The orthopaedic length of time to get operations, the more recent cancer patient delays are just a few of the calls. The length, up to a year or more, is something we have to prioritise.

2230 It seems to me also that we need the specialists, we need the nurses and we need the equipment as a priority and I am not sure that that comes over in this. It seems to be facilities, which seem to be talking about more rooms and more bricks and mortar, if you like, and developments on the site. I just wonder whether that site can take a lot more, actually, than it has at the current time.

2235 So there is an issue here that perhaps we are not looking after the community to the extent that we need, the people involved in all these concerns, and we are running after developments which perhaps are outside that particular area. So I would ask that that is looked into and we get some confirmation because £93 million is an awful lot of money to be spending at this time; £43 million of this on this particular phase. The general revenue impact, as has been mentioned, increases the commitment that we will be giving.

2240 I am not one for spending money on relocation of MSG from Alexandria House. That complex is close to the Hospital – close enough, surely? – and has served well and continues to do so. There needs to be more on working with Jersey, to save money, really, for both jurisdictions in the forthcoming future in providing shared and added services, resources and equipment.

2245 So I think we need, certainly, some assurances from the minister that we are in fact concentrating on people and on the equipment that is sorely needed, because some of the criticism is that the equipment is down or we are having to replace it or whatever and we have not got the specialists and nurses that we require to carry out the services that are required. So I ask for some confirmation and assurances with respect to this policy letter that seems to gloss over some of these current issues and does not really define exactly where the money is being spent.

2250

The Deputy Bailiff: Deputy Brehaut.

Deputy Brehaut: Thank you very much, sir.

2255 I did not intend to read this speech because what I was hoping Deputy Soulsby would do was lay out not only the development itself but issues touched on by Deputy Merrett and others. When we talk about schools, the next sentence we start talking about teachers and we start talking about pupils. This is a fairly significant project and I do not know whether the word ‘nurse’ was used in the opening speech or whether we referred to client or patient, maybe we did a couple of times but not very much.

2260 Firstly, what I want to say, and I apologise for the downbeat nature of my speech, I have to say I am supportive of these plans. Perhaps the report could have had a little more meat on the bone

but the 30 or so pages make the case clear enough. I survived the report despite the numerous references to the Partnership of Purpose; something I know that means a great deal to Members of HSC and those who are still steeped in health issues but I am afraid that expression is having the same impact on me as the expression 'strong and stable leadership', 'in the national interest'. Simply through repetition, I am afraid that aspiration is being diluted.

I suppose my observations on the report will be seen as a bit predictable because I usually do have a view on staff retention or, to be specific, nurse recruitment and retention and, again, I will declare my interest; my wife is a nurse and, coincidentally, off-Island today, recruiting. My concerns have not gone away and neither will they. For I believe sooner or later the bough will break and something has to give and I think we need much more of an acute focus on the real staffing issues facing this community. It is not just health, it is health and social care, because my concerns are broad, rather than specific references in here.

As a Member of HSSD, I promoted the rebuild of the clinical block as a real tool in the box for staff recruitment and retention and just who would not want to come to this Island to work in our gleaming, shining new facilities? This report, too, in paragraph 1.3, talks of the potential to use the new facilities as a draw and as an attraction for new staff. But the reality is the ever-changing challenge of staff recruitment and retention looks very different both in the pre- and the post-Brexit world.

But what can we offer now today as a package? Well, we do actually offer higher salaries than the UK and higher special duty payments. We will pay the NMC subscription. Relocation support; house-hunting trips; a rent allowance; a single subsidised accommodation or help towards rent, along with, and it says in the package and this I found particularly interesting bearing in mind Deputy Soulsby's comments, free parking across all Health & Social Care sites.

So on one hand we have this problem with parking at the Hospital site and we are going out on recruitment drives selling free parking as a very soft incentive to come here. Now the offer of free parking will probably make the matter of travel plans perhaps a tad more tricky, but it also has to be seen in the context of the advice now, encouraging people to bring their own car, because an area of rising cost within health and social care is taxi fares, for agency staff.

I do not blame Health & Social Care for saying, 'Actually, taxi fares have gone up at such a rate we suggest you bring your own car.' The knock-on to that, of course, is you do not nip on a flight any more, you have to drive to the port. It is weather-dependent and then, as an agency member of staff, somebody has to be found to cover your position because you cannot make it back to your place of work as you could have done perhaps if you had just jumped on a flight.

The other real financial incentives are the £1,160 bonus *pro rata* in that case, the £3,000 bonus over two years of service, and an additional bonus of £3,000 after four years. I think those are all good, solid incentives. But let us remember, set in the context of a band 5 nurse earning between £26,000 and £34,000 a year, a band 6 between £31,000 and £42,000 a year; now I was in conversation with a Member of this Assembly and a position was being advertised, a Civil Service post, and the conversation went along the lines of, 'Just who would work for £28,000 these days?' Well, nurses do! They work for £28,000 these days or that is the base, albeit, but a number of people do.

Now the one thing that concerned me was hearing that, with regard to pay, this is broadened out for everyone that falls under the Agenda for Change package and that gives me a real concern. Of course unions will argue the best for their employees. That is what they are paid to do. But Deputy Jonathan Le Tocq will well remember what PSRC tried to do was to help the lowest paid members of our community, not nurses but some of the manual workers, to say how can we help you in isolation from the rest of States' employees to give you that uplift?

What we found very quickly is it eroded pay differentials and then the group above them wanted the same increase. You give literally a £30 increase to a manual worker and you will find that the airport firemen end up getting it because they believe that their pay differentials have been eroded.

If you look at the nursing salaries and look at the band 8As, when people are earning £70,000, 3% is worth having; 3% of £28,000 is very different and I think we need to guard against further rewarding people who have, respectfully, moved out of the clinical environment because the clinical environment is where the pressures are real and where they remain. So with all of the financial incentives and a brand new clinical block, why do we have around 80 agency staff?

I do beg your pardon, I am sorry I did not see. I give way to Deputy Le Tocq. I am sorry I did not see him.

Deputy Le Tocq: I thank Deputy Brehaut for giving way.

I just want to confirm that the review that took place, which has taken place – and the report, as the President of P&R mentioned in his update, is now being considered for action – was taken in the broadest sense of terms of its scope because there are other transformational agendas taking place as well, right across the States.

I believe the fears that Deputy Brehaut has just alluded to were taken into consideration when the brief was actually designed and, as a result, we can use the review effectively to minimise the sorts of things that he was talking about.

Thank you.

Deputy Brehaut: I thank Deputy Le Tocq for that clarification.

So why, with all of these financial incentives and with shiny new facilities, albeit that the clinical block as we have just been reminded is nine years old now, do we have 80 agency staff? I appreciate they are not our nursing staff – and agency staff, by the way are not a bad thing, they are a positively good thing – but we need to see our challenge in the challenge of other communities.

Now the Cavendish Coalition, who were tasked with doing a review of the potential demand on nurses, say that a new report commissioned by a coalition of 36 health and social care organisations reveals the NHS could be short of 51,000 nurses. That is enough staff for 45 hospitals. So the NHS will be short of 51,000 nurses; this is in the context of Brexit transition, by the way. Because if people are not moving to the UK then they are probably not wanting to come to Guernsey.

So then, if we look to Scotland and Scotland say the withdrawal from the European Union would create additional challenges and that is according to a report, with 17,000 people from other European countries currently working in health and social care in Scotland. That is 4% of the Scottish workforce. So the demand on agency staff would be high in Scotland. So the demand on agency staff would be high in Guernsey too and every other local health authority.

In southern Ireland, an observation in a report, the INMO say that burnout is now commonplace in nursing and midwifery and unless pay is addressed the recruitment and retention crisis would get worse. It goes on in a little bit more detail, it now takes an average of six months to recruit one nurse and some emergency department vacancies arose in 2016 and they remain unfilled. Again we are after those same people.

Now just looking across the water to Devon, in Devon alone, Bridie Kent from Plymouth University observes that there are 820 nursing vacancies at the moment and that will escalate across the country as the situation, she says, is 'really dire'.

We should not overlook the fact that Guernsey is trying to do its bit and I think in its 2019 Budget, Health & Social Care were allowed, or the request was for another £1.5 million for training and although people will train here, and there are conditions surrounding that training, not many people will train on Guernsey and see out their career on Guernsey, although a trained nurse is a trained nurse.

To be clear, as I said, I am not opposed to the employment of agency staff; far from it. What I want to understand is what is the anticipated cost on the payroll of the proposed new development in the short term. I say the short term because it is such a phased development it is difficult to get a picture of some years down the line on the overall cost. So my point is if we

2365 accept that we will require agency staff for the foreseeable future, and I believe that we do, and the need will remain there across the organisation, then what is the ceiling?

Do we say that, as a community, a remote community of 63,000 people, in the middle of the English Channel, do we say that we will get to a point whereby, to provide the health care services here, we think it would take across the health and social care, social workers, nurses, all these
2370 posts, we are looking at a budget that would underpin 200 agency staff; 150 agency staff? Or do we get to the point where we say, actually, Guernsey does some things that actually a small community should not do?

I get the *Press* very early at home and I was just reading the *Press* comment column today in a piece in the *Press* that talks about assistance for orthopaedics and Guernsey residents going off-
2375 Island for orthopaedic procedures. So do we ultimately need to do a little bit more than that? It is just understanding in the round because what does not come in this report is just a parallel, small HR piece of work, that would have helped them sell the pressures and help explain the pressures they are under.

A number of us in this room have served on HSC in the past and the level of agency staff is
2380 always something of a barometer. These days, agency staff are the new norm and it is not a question of our systems failing, it is more a question of our systems would fail if those staff were not here. I think, as I said, what is missing from the report other than a passing reference in 12.2, is any attempt to reference the nature, the scale of the appointment challenges that lay ahead. You can only have, wait for it, a true Partnership of Purpose when you have partners and at times
2385 those partners are very thinly spread.

When Deputy James was on HSSD, at each meeting she would ask the staff what were the levels on the wards, were they adequate? Importantly, were they safe? She was and is and remains a passionate advocate of her former colleagues who are still involved in nursing. Those voices, for whatever reason, are lower in the mix these days and I think they should still be central to the
2390 arguments when we present policy letters such as this.

I have to say that more than ever we do need to hear those voices who seek to care for the carers and for some of those partners, some of those carers, who struggle to find a purpose, a reason to stay, the hours are long, the pay is not generous and the demands on them appear to be increasing daily.

2395 Just in summing up, in closing then, we have seen in 12.2 a need to spend a further between £2.9 million and £3.4 million on staff. It says housekeeping, utilities. Although it says extra beds it does not actually refer to nursing within that figure. We have seen a request in the budget uplift, was it for trainee nurses, I think, I said £1.5 million, it may be £1.2 million and we are seeing today another request for £1.5 million.

2400 What we need to do, and I appreciate there are other pieces of work outside of what is here today that give us that information, it would be really useful when we debate some things such as infrastructure and a building, if it is explained to us: how it is staffed, how it will work, how do you deliver, how do you work with our partners in the community to deliver the aspirations that you have all signed up to?

2405 Thank you.

The Deputy Bailiff: Well, Members of the States, we will now adjourn until 2.30 p.m.

*The Assembly adjourned at 12.30 p.m.
and resumed at 2.30 p.m.*

**Hospital Modernisation Programme –
Debate continued –
Propositions carried**

The Deputy Greffier: Continuation of debate on the Hospital Modernisation Programme.

2410 **The Deputy Bailiff:** Deputy Prow.

Deputy Prow: Thank you, Mr Deputy Bailiff.

Sir, as a Member of the Committee for Health & Social Care, I rise briefly in support of this Hospital Modernisation policy letter. In doing so, there is no need for me to repeat the points very
2415 ably expressed by the President of HSC in her opening.

At a strategic level I would reinforce, particularly to Deputies Merrett and Green and to some others, that this is a modernisation workstream which sits within the wider direction of travel for the transformation of Guernsey's health and social care system. Without delivering changes and improvements to the estate and facilities, from which our services are delivered, our skilled and
2420 dedicated workforce, which Deputy Brehaut has quite rightly highlighted, our nurses and health professionals, simply will not be able to perform upon the Partnership of Purpose vision unanimously agreed by all of us in this Assembly at the end of 2017.

Sir, this project has been thoroughly researched and stakeholders fully engaged. This includes a target operation model which is very comprehensive, and also a very large business case which
2425 was submitted to P&R and been scrutinised and which was made available in the Members' Room.

The stark facts are that the current operating model for our health services imposes a series of constraints on delivery service due to inadequate flexible space and infrastructure. Without change this will result in the services becoming increasingly ineffective and a source of public and
2430 staff dissatisfaction. Putting it in simple terms we must invest in health and social care buildings and facilities and do so quickly but this will not come cheap. As outlined, the whole programme is estimated to be in the region of £72 million to £93 million. I therefore understand the questions posed by Deputies in this debate.

Sir, this is why the programme is divided into three phases which will be delivered over 10
2435 years, managing the cost, making the PEH fit for purpose whilst allowing construction not to interfere with the viability of the site, an issue our sister Island has found problematic.

Sir, HSC has also indicated that two further policy letters on phases 2 and 3 will be forthcoming to this Assembly.

The first stage of between £34 million and £44 million deals with the vital areas of critical care and theatres and the development of the location of our medical specialists within the hospital
2440 environment.

Sir, I would ask Deputies to carefully consider section 6 of the policy letter which clearly identifies objectives and outcomes. These include the principles of flexible design, creating an environment that improves pathways and access to health services, better management of
2445 conditions, reducing patients' stay and future demands.

I ask all Deputies to support this exciting and necessary programme which will take this Island forward and our health and social care provision for the future needs of all of our population.

Thank you, sir.

2450 **The Deputy Bailiff:** Deputy Dorey.

Deputy Dorey: Thank you, Mr Deputy Bailiff.

I identify with the remarks made by Deputy Brehaut before lunch.

2455 The need for these projects in phase 1 and further phases, particularly the ones in phase 1, have been identified for a number of years and therefore they have been outstanding for several years. So for that reason alone I support this project.

2460 But the report is very high level and there is not very much detail in this policy letter. Some of the reasons for the project are that standards have changed and errors were made when previous phases of the PEH were developed. For example, the maternity unit was opened in 1992 and that included a theatre but the theatre was not to the right specification and was very soon unusable and was only used for a very short time.

Also the maternity unit and this was 27 years ago was built in the wrong location and that is part of the points made by the President that it was not next to the theatres.

2465 In the clinical wards which were opened at the end of the 1990's it included a three-bed high dependency unit which I understand and was told that it was not viable to be used for that purpose because the most economic approach was to have all the intensive care and high dependency beds together in one unit, so that is what is being proposed in these proposals.

My point is that I am looking for the detailed design of those facilities needing scrutiny and checking against current and future standards

2470 These proposals include delegation to P&R to approve the business case, but I believe there needs to be some independent scrutiny and challenge to these proposals to ensure that we do not make such significant mistakes that have proved so costly in terms of building facilities in the wrong location which is what happened in the past as I have just outlined.

2475 So I ask both P&R and HSC to give me assurance that the detailed plans will be subject to an independent expert's scrutiny and challenge to minimise the risk of mistakes as was made in the past. As we in light of these proposals give delegated authority which will mean they will not be subject to the public scrutiny that plans in the past have been subject to when they have been debated at a more detailed level by this Assembly.

Thank you.

2480 **The Deputy Bailiff:** Deputy Hansmann Rouxel.

Deputy Hansmann Rouxel: Thank you, sir.

2485 Just a few small points. Looking at what is planned or the brief detail that is outlined for the change in the maternity ward there is obviously some clear evidence to move it closer to theatres but as part of the whole transformation of services when the maternity wards are being redesigned I would hope that more work is looking at the service as a whole in terms of how many home births and those kind of changes in how we do maternity services or what can be offered might impact on the actual space required within the ward, and obviously the current
2490 ward has sort of an open plan and that is not always conducive to new mothers getting any sleep whatsoever, as I discovered when I had my two children at the PEH.

In terms of the feasibility study for the MSG, the potential relocation I was quite ... perhaps it is just naivety on my part, but to see that it would be between £0.5 million and £0.6 million just for a feasibility study. Is this just how much these things cost? I think this is a similar ... and I think
2495 Deputy Inder might be quite surprised that I might agree with him on something, yes, you can quote me on that, but is enough scrutiny involved in the pre-process so how much money we are spending just on a feasibility study and is that value for money just on a feasibility study?

I absolutely agree that the work should take place and unlike other speakers before me I have absolutely no problem with the idea of the MSG relocating to the PEH it does make absolute
2500 sense, but spending that money just on a feasibility study does seem like quite a large amount of money, again perhaps that is just my naivety that these things do cost, but do they need to cost that much just for a feasibility?

I do not have as much vehement objection or not necessarily objection but disagreement with the policy letter. I personally, having seen in tandem with the policy of purpose, having gone to
2505 the presentation the policy letter was ... yes, it is short and it is quite high level but the underlying

policy work has been done and I think we have to acknowledge where we are within the process and whether too many gateways and processes start being put in place when we have underlying policy objectives and we look at how that translates into capital projects, if there are clear policy indicators and reasons that can be demonstrated – and I believe that in this case you can see those with all the policy and strategies that are sitting underneath this work that show us where we need to be with this infrastructure. So the dots for me all lined up. Yes, there is not all of the fleshed out detail but the very important direction of travel is clearly laid out so it is not a project in isolation and I think that is what people are concerned with. In the past, projects have been these sort of isolated projects in isolation, ‘Or we need to do this wonderful bit. Let’s put this extra bit on.’ I am quite glad to see this as a 10-year project because it does show that continuity. That is personally what I see when I read this. I do not see the gaps, I see the bigger picture. So I have a different reaction to some of my colleagues.

Just I would caution against what I think Deputy Graham mentioned as process paralysis, is too much wanting to get everything right. I think there has to be a point where we trust a committee and I do trust the Committee *for* Health & Social Care and trust the policies that we have agreed in the States to have enough structure around these capital projects.

Yes, I will finish there and, please everyone, vote for this policy letter.

The Deputy Bailiff: Deputy Tooley.

Deputy Tooley: Thank you, sir.

There has been a fair bit of question today about the delivery of health care outcomes and the improvement in those following the work that we are hoping to do. The goal of measuring, reporting and comparing health care outcomes is to achieve the quadruple aims of healthcare: to improve the patient experience of care; to improve the health of the population; and to reduce the *per capita* cost of healthcare while seeking to see a reduction in clinician and staff burnout.

The World Health Organisation defines an outcome measure as a change in the health of an individual or group of people or population that is attributable to an intervention or a series of interventions.

The changes this policy letter and the funding HSC is therefore requesting will improve healthcare outcomes and that is made clear in the business case which sits alongside this policy letter and which was made available to Members both online and in the Members’ Room. But we were aware that that would have been a huge amount of detail to plough through for all Members at a busy time and so it may not have been entirely clear in the policy letter.

Let’s just address some of those issues though that have been perceived to have been lacking in the actual wording of the policy letter that sits around this. In terms of health outcomes and tangible benefits, the modernisation process that we are requesting your assistance to bring forward at the Hospital will lead to improved clinical pathways from admission to discharge with better utilisation, turnover and management of beds. New facilities to manage admissions and discharges of service users will support more efficient use of current bed numbers. Increased capacity in critical care unit and enhances flexibility in theatres and orthopaedic wards will allow for more effective management and reduced waiting lists.

The theatre suite will have standardised theatres use, so will maximise flexibility and make efficiency better. The airflow, the lamina flow, will be standardised; where that is currently restricted it will no longer be so, and all theatres will be able to be used for all procedures, which is not currently the case.

We will merge the day patient unit and theatres so that we can use those facilities and staffing teams more effectively sharing resources such as equipment and reducing ongoing procurement costs.

NICU and paediatrics will develop dual trained staff to work across both areas. This is a more efficient use of staffing resources and will improve morale. It will improve recruitment and retention and we hope to be able to reduce agency costs, as has been seen in Jersey.

Reduced downtime in theatres where there are maintenance problems will be encased because they will not have to deal with the challenges that are presented by the asbestos that is there at present and that will also lead to reduced maintenance costs and compliance with *[inaudible]* regulation.

This supports the development and extension of the day patients' surgery which gives much better health outcomes, reduces risk of infection a quicker return to work and so on. The day patient unit at present is too small and it cannot be extended to develop this because of its current location.

This addresses feedback from staff that the current physical infrastructure challenges how they deliver care. The new design will address this, which will improve recruitment and retention. That has the potential to reduce agency costs on an ongoing basis.

There will be improved energy efficiency in the new build. The design will give flexibility for the future leaving us ready to deal with new technologies. It offers the potential to reduce the off-Island costs because it allows us to improve flow and bed utilisation; the management of waiting lists, improved patient experience and more flexible provision, for example ward environments that are interchangeable for both male and female patients without separate areas being required. We will see reduced post-op infection rates in orthopaedics because we will have a dedicated elective and trauma facility which we do not currently have. There will be better management of clinical risks through infrastructure design, for example the current use of a lift when we need to do emergency C-sections.

The private offering, as I am sure you are aware, does not really encourage the use of health insurance and so currently some people go off-Island for procedures. Improvements to the private offer have the potential to leave us able to look into health tourism.

Deputy Inder sought written assurance about mitigating the cost of professional design fees. Well, a percentage has been allowed which is within project or programme costs, but the procurement team are agreeing an hourly outcome fee for fixed pieces of work rather than percentages which hopefully will go some way to eliminate concerns.

There is also a concern, we understand, about cost creep and Deputy Inder has sought reassurance that the project costs are accurate. Well the use of a range of figures gives the maximum cost of the project in an effort to prevent future cost creep. These figures include optimum bias, consultancy and design fees, legal planning fees, non-transferrable equipment costs, an allowance for local construction costs etc. We are determined that this is a project which will be done by design and not one that will grow like Topsy.

Deputy Merrett has said that clinicians should have equitable access to drugs and treatments. Well, as she is aware because she was instrumental in ensuring that this was set out through the terms of the requête that was brought, this has already been identified as a priority. The Committee has commissioned a public health review into the NICE technical assessments and those findings will report in quarter two with a policy letter to follow in quarter three. States' Members were recently invited to a workshop exploring those issues surrounding equitable access to drugs, treatments and devices.

Consultation and engagement in shaping proposals; well, the staff have had drop-in sessions, they set up a system to work alongside the project team, there have been presentations, one to all project managers etc. and a group of staff have been involved in the design of staff changing facilities etc. there have been fortnightly communications with the staff blog and the gov.gg modernisation section has been kept up to date. MSG are represented on the governance board and there have been presentations to MSG consultants.

Population needs assessments, the joint strategic needs assessment for older people have recently been completed and will inform future services. Further needs assessments are planned to add to our health intelligence to inform our broad range of services, not just what is provided in the Hospital. We are continually looking at how we can address data protection issues around allowing us to future plan for the needs of our society.

2610 Deputy Green highlighted that delegated authority would be being given to P&R without the business cases coming back to the States and sought reassurance of the tangible benefits and health outcomes. Well, I hope that I have covered some of that in this speech thus far. And he asked about extra staff and consultants that might be required. Well, we will be recruiting a programme manager, two project managers and a project support officer that is supported within HSC, part-time support to cover communications, governance etc. most of it is from within there.

2615 There will be some external and there are job adverts out for some of those posts at the moment.

Deputy Green asked about why the phase 1 projects enjoy higher priority than later projects. Well, that was covered in the business case. It did go through the analysis that had gone into deciding which projects went where. But it really addresses the highest areas of clinical risk, for example CCU and maternity, where there have been major issues that we have managed to keep

2620 dealing with but could be better managed done properly. We need to manage the space available within the Hospital building and to keep the new build requirements to a minimum in order to keep the capital costs down.

Deputy de Lisle sought assurance that this represents the best choice for spending versus investment in community services. This is not, for us, about a choice between this or community services; it is absolutely critical that we look at both and work is ongoing to review our community provision and all aspects of the model are important to the vision for health and care.

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Deputy Brehaut also spoke at some length about the need to think about the staff who deliver our healthcare services as business as usual who will continue to deliver through the modernisation programme and on whom we are completely reliant for the delivery of health and care in our society. He is absolutely right those staff are utterly critical, and the work that has been ongoing to deal with pay and conditions and so on for those staff is incredibly important and we need to keep banging the drum for that.

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It obviously sits outside the remit of Health & Social Care to deal with those negotiations, that sits with P&R and I speak personally when I say I have been concerned that there may have been some muddying of the waters between what has been looked at for pay and conditions for nursing staff and so on and pay and conditions for wider States' staff while we look at Civil Service reform. The nursing staff and so on have waited a long time for this and it should not be held up because we are dealing with Civil Service reform. So Deputy Brehaut is absolutely right to say those things, but the reason they do not form a critical part of this policy letter is because they sit

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2640 out with what HSC has the ability to deal with and bring to the States.

Please vote for this policy letter. It genuinely will, I believe, make a difference to the way we deliver health care and to the health care outcomes of our population.

Thank you.

2645 **The Deputy Bailiff:** Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you, sir.

I merely rise to inform you that an amendment has been drawn up to be proposed by myself and seconded by Deputy Mooney and it is ready for circulation, so I just wanted to bring that to your attention. I do not know if it is perhaps advisable to have a two-minute recess so Members can read it or not but I leave to your judgement, sir, thank you.

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The Deputy Bailiff: Would you like to move the motion to suspend the Rules and if suspended then the amendment now, Deputy Queripel?

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Deputy Laurie Queripel: Is that possible? Can I do that please, sir?

The Deputy Bailiff: Of course you can.

2660 **Deputy Laurie Queripel:** Can I move that technical amendment and just speak to it briefly, if I may?

The Deputy Bailiff: Can we just circulate it, please?

Members of the States, do you all now have a copy of the one-page document marked amendment 1?

Deputy Laurie Queripel, do you wish to move the motion under Article 7(1) of the Reform (Guernsey) Law 1948 to suspend Rule 24(2)(b) of the Rules of Procedure to the extent necessary to permit the amendment set out?

2670 **Deputy Laurie Queripel:** I do, sir, thank you.

The Deputy Bailiff: Do you wish to speak on that at all?

Deputy Laurie Queripel: If I may, just for a brief moment.

2675 **The Deputy Bailiff:** You can speak on the motion to suspend.

Deputy Laurie Queripel: Thank you, yes, if I could, I just wanted to – (*Interjection*) I can't or I can? (*Interjections*)

2680 **The Deputy Bailiff:** Yes. What do you want to say as to why the Rules should be suspended?

Deputy Laurie Queripel: Well, firstly, sir, I wanted to apologise to you and to Members for the lateness of this amendment, that was the first thing I wanted to say. I do not know how much more I can say without getting into debate on the substance of the amendment.

Yes, okay, I will leave it at that, sir. (*Laughter*) I probably will be encroaching on to my amendment speech if I say much more, so I just hope Members see the importance of debating this amendment and approve its debate.

Thank you, sir.

2690 **The Deputy Bailiff:** Deputy Mooney, do you formally second the motion under Article 7(1)?

Deputy Mooney: I do, sir.

2695 **The Deputy Bailiff:** Is there anyone else who wants to speak on it? Can I simply put it to the vote? This is on the motion to suspend ...

Deputy St Pier.

2700 **Deputy St Pier:** Sir, Policy & Resources are unaware of this amendment. There is a reason for Rule 24(2)(b) which is obviously to allow Policy & Resources to have an opportunity to consider the effect of the amendment on potentially increasing expenditure. We cannot advise the States on that at all. For that reason, sir, I will certainly be opposing the suspension of the Rule. It is there for a reason, and it should not be suspended in this case.

2705 **The Deputy Bailiff:** Deputy Roffey.

Deputy Roffey: Thank you, sir.

I am old fashioned enough to believe that the Rules actually do have some purpose and some importance. There has been a creeping tendency over the last few years just to suspend them at the drop of a hat, and an almost, 'Oh well, we have got to allow Joe or Josephine or whatever to put forward their amendment so we must' – (*Interjection*) no, he is seconding it; (*Laughter*)

whoever – it is almost regarded as bad form if we do not sort of allow things to carry on through, it is almost anti-democratic. I do not see it as that. This is democracy shaped by a set of Rules for a good purpose.

2715 Now I understand why the provision is there to set aside the Rules, because sometimes if you take this Rule in particular, which is to do with timescales and when you can lay amendments, things can, that were utterly unknown, come out of the fair blue sky a day or two before and people think, 'Well, I have got to put an amendment. I would have put it earlier but just did not know about this. Please suspend the Rules as a result.' This does not fall into this category.

2720 If it is a good idea – I am not sure that it is – if it is a good idea for this whole Assembly, I do not want to get into the details of the amendment but to act in the way set out in this amendment, why on earth did the proposer and seconder not think that a week or 10 days ago? It is not as if any new information has come about.

2725 So I am afraid – maybe my former presidency of the States' Assembly & Constitution Committee has not left me totally yet – but I actually think the Rules are there for a purpose and we should only set them aside when there is a potent and powerful reason for doing so. I do not see it this time so I am going to vote against it.

The Deputy Bailiff: Deputy Soulsby.

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Deputy Soulsby: Sir, myself, and I am sure I am speaking for my Committee, will oppose having this amendment debated. Neither the proposer or seconder have contacted myself or the rest of the Committee and neither of them attended any of the presentations that we have put on about the modernisation leading up to the debate.

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The Deputy Bailiff: Deputy Ferbrache.

2740 **Deputy Ferbrache:** Sir, I would not normally align myself with Deputy Roffey about Rules because he and I take a different view of Rules, but this is a very bad amendment brought very late. It could easily have financial repercussions and, frankly, there has to be limits as to when these kind of things can be brought. As Deputy Roffey said, this should have been thought through weeks ago. To bring it now on the hoof is completely unacceptable and I ask that we substantially and overwhelmingly reject it.

2745 **The Deputy Bailiff:** Deputy Gollop.

2750 **Deputy Gollop:** I will probably contribute to the rejection of it because I want to support it. Actually I am probably in a minority here, but I think the new evidence that we have heard has been that some of us attended the presentation a bit late in the day because we missed the earlier one, and it is fair to say that I think we have heard today quite a lot of strong speeches, that are very supportive of the overall message but want more detail on the cases. That is the case I think for the States to take a bit like a leaf out of the UK's book and have a bit more parliamentary democracy rather than what amounts to executive derogation.

2755 **The Deputy Bailiff:** Deputy Meerveld.

The Deputy Meerveld: Thank you, sir.

2760 Again following on from Deputy Gollop's words, I do support this amendment and suspending the Rules to be able to debate it. At the end of the day this is bringing to attention something – a critical issue I think for us. (**A Member:** Hear, hear.) In this Assembly on numerous occasions we debate the minutiae of various issues and this policy letter – and I had not picked up on it earlier with the delegated authority to P&R is not bringing back the detailed business case –

Deputy Soulsby: Sir, point of correction.

The Deputy Bailiff: Point of correction, Deputy Soulsby.

Deputy Soulsby: Deputy Meerveld is straying into the actual amendment, not the motion, the reason why we should suspend the Rules.

The Deputy Bailiff: Yes, Deputy Meerveld, we want a fairly focussed debate at the moment, just as to whether to suspend the Rules.

Deputy Meerveld: Okay, sir, I will just say that unless this amendment is debated I will unfortunately vote against the proposal on the basis that I believe any capital project of this size needs to be brought back to the Assembly so that we as Members can scrutinise it and we can feed back feedback from the Assembly –

Deputy Soulsby: Sir, point of correction.

The Deputy Bailiff: Point of correction, Deputy Soulsby.

Deputy Soulsby: The programme will be coming back to the States as phases 2 and phases 3.

The Deputy Bailiff: Deputy Meerveld to continue.

Deputy Meerveld: Yes, sir. Thank you, sir.

Yes, but I want to see phase 1 – I would like to see this put back to the States.
I am finished.

The Deputy Bailiff: Deputy Lester Queripel.

Deputy Lester Queripel: Sir, we often advocate the merits and the advantages of living in a democracy and surely this is democracy at work.

Therefore, sir, I support suspending the Rules.

The Deputy Bailiff: Deputy Laurie Queripel, do you wish to reply to the debate on your motion to suspend the Rules?

Deputy Laurie Queripel: Thank you, sir.

As I said at the start, I hear what Deputy Ferbrache and others are saying about the lateness of the amendment. I have apologised for that, but I have always been bothered by the principle of delegated authority and where it might lead. Members might remember in the 2017 Budget Debate I voted against all the proposals to delegate authority because of that.

I think this is an important issue to debate not only specifically in line with this project and this policy letter, but more generally I think it is an important matter to debate. So I really do ask Members to support the technical amendment so that we can debate the substantial one and I would ask for a recorded vote, sir, on this part of the amendment.

Thank you.

The Deputy Bailiff: Well, Members of the States, there is a request for a recorded vote on the motion under Article 7(1) of the Reform Law, proposed by Deputy Laurie Queripel and seconded by Deputy Mooney.

Deputy Greffier.

There was a recorded vote.

Not carried – Pour 18, Contre 21, Ne vote pas 0, Absent 1

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Kuttelwascher	Deputy Soulsby	None	Deputy Le Pelley
Deputy Gollop	Deputy de Sausmarez		
Deputy Lester Queripel	Deputy Roffey		
Deputy Leadbeater	Deputy Prow		
Deputy Mooney	Deputy Oliver		
Deputy Merrett	Alderney Rep. Roberts		
Deputy Meerveld	Alderney Rep. Snowdon		
Deputy Fallaize	Deputy Ferbrache		
Deputy Inder	Deputy Tindall		
Deputy Lowe	Deputy Brehaut		
Deputy Laurie Queripel	Deputy Tooley		
Deputy Green	Deputy Parkinson		
Deputy Paint	Deputy Le Clerc		
Deputy Dorey	Deputy Trott		
Deputy Le Tocq	Deputy St Pier		
Deputy Brouard	Deputy Stephens		
Deputy Dudley-Owen	Deputy Smithies		
Deputy de Lisle	Deputy Hansmann Rouxel		
	Deputy Graham		
	Deputy Yerby		
	Deputy Langlois		

The Deputy Bailiff: Well, Members of the States, on the motion under Article 7(1) of the Reform Law proposed by Deputy Laurie Queripel and seconded by Deputy Mooney to suspend Rule 24(2)(b) to the extent necessary to allow the amendment to be placed, there voted Pour 18, Contre 21, with 1 absentee. Therefore I declare the motion lost and the amendment therefore cannot be placed because it is out time pursuant to Rule 24(2)(b) of the Rules of Procedure.

So we will resume general debate.

Deputy Tindall.

Deputy Tindall: Yes, sir.

I just wish to briefly add, because I think my colleagues on the Committee have very eloquently set out all the good reasons why this is necessary, but I would also remind Members that the business case has been available to all Members, it is there for scrutiny, has all of this information, is in the Members' Room, and therefore in theory the States are fully aware of its contents if it had been read.

Thank you, sir.

The Deputy Bailiff: Deputy Laurie Queripel.

Deputy Laurie Queripel: There is one important thing that Deputy Tindall did not say, sir, and that is the public are not aware of all these details and all this information, (**A Member:** Hear, hear) and it is the public that we need to assure and reassure (**A Member:** Hear, hear.) when it comes down to projects of this type, significant policy matters, significant expenditure matters, the public –

I will give way to Deputy Soulsby, sir.

Deputy Soulsby: I do believe it is on the website as well, sir.

Deputy Laurie Queripel: That is still missing the point, sir. The public want us to debate these matters in this Chamber. There will be things that probably Members of the Assembly will say, extra information, perhaps extra opinions, extra thought, extra angles to this project and to this

policy letter that other Members have not thought of and that the public have not thought of. That is what this process is all about –

I will give way to Deputy Soulsby again, sir.

2850 **Deputy Soulsby:** I thank Deputy Laurie Queripel for giving way.

But is that not the purpose of Members here to read the outline business case if they can and then they can put the views that they believe that their constituents are interested in?

2855 **Deputy Laurie Queripel:** But there is still an important step in the process being missed out, sir. That is the business case comes here first for that full and frank debate with all the opinions, all the thoughts being put forward and perhaps in the meantime there will be views and opinions given to Members by the public that need to be expressed in this Assembly as well. But if we have not got all that information that can be debated in public and they have not got it then how can that process take place? So we are missing out on a really important part of the process here, sir.

2860 It is not about trust or mistrust. I mean Deputy Hansmann Rouxel was talking about trust and mistrust in committees. It is not about trust or mistrust in any committee, it is not about confidence or lack of confidence in any committee; it is about the Members of this Assembly taking and accepting the type of responsibility that Islanders have elected us to take and to accept. Yes, it might slow the process down a bit but I would rather set aside some haste so that
2865 thorough and inclusive and public scrutiny of a business case can take place. The figures, the rationale, the policy, so that scrutiny can be applied to all of those things in public.

So the way that Proposition 2 is worded at the moment it effectively bypasses that process and that is why I wanted that simple extra step inserted into the Proposition that we as an Assembly in public could fully scrutinise the full business case at an early and critical stage. Now as far as I am
2870 concerned there will be less effective scrutiny, public scrutiny, around this project, around this policy, around the proposed expenditure, because we have bypassed that process.

I give way to Deputy Tooley, sir.

2875 **Deputy Tooley:** Thank you, sir.

I thank Deputy Queripel for sitting down.

I wonder if before he ends his speech he could answer then for me a question. Given that the policy letter is in the public domain and contains the Proposition which gives authority to P&R, assuming the States adopts to delegate authority to allow this spend on this project that is in the public domain, and given that the policy letter is in the public domain, and given that the business
2880 case is in the public domain, I am not quite sure where a step is being missed. Those items are in the public domain, this debate is happening now to discuss those items which are in the public domain, which are the same items that I understand Deputy Queripel is saying he wants in the public domain for debate.

2885 So I am not trying to be difficult I genuinely would like to understand from Deputy Queripel why he thinks we need to have the debate twice.

Thank you.

2890 **Deputy Laurie Queripel:** Could I ask Deputy Tooley a question, sir, is she absolutely confident, 100% absolutely assured, that every member of the public has access to that business case?

The Deputy Bailiff: Deputy Tooley, you cannot answer that because you have already spoken.

Deputy Laurie Queripel: Perhaps she can deny or shake her head, sir. I will give way then –

2895 **The Deputy Bailiff:** Just a minute, Deputy Laurie Queripel, you cannot ask a question directly to another Member. It can be answered potentially by the President of the Committee when the President of the Committee replies to the entire debate.

Deputy Laurie Queripel: Well, I will answer the question then, if you do not mind, sir, (Laughter) I am not –

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Deputy Tooley: Point of correction, sir.

The Deputy Bailiff: Point of correction, Deputy Tooley.

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Deputy Tooley: I do not believe that Deputy Queripel is capable of answering a question about my opinion. In my opinion, sir, we have a well-informed populace who make themselves aware of what is going on in this Chamber –

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The Deputy Bailiff: Deputy Tooley, I am going to stop you there (**Deputy Tooley:** Okay.) because that is not speaking to a point of correction, it was not a point of correction in any event. You have already spoken in the debate.

The Deputy Bailiff: Deputy Laurie Queripel.

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Deputy Laurie Queripel: Thank you, sir.

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I am not at all convinced that every member of the public that might have an interest in this matter has had access to all the information that they would require. I am absolutely sure of that, sir. I think if they did have ... not every member is online, amazingly enough, not every member of the public who would take an interest in this matter has got an electronic gadget, they have not got a computer, they are not online. So that is the only way they could access the full business case, if they saw it online. There will be many members of our community that have not got that facility, and yet they will be incredibly interested in this issue.

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Most importantly, this is the point that I think is still being missed, they would want the full business case to be debated in this Chamber, sir, and they will want as many members of the public as possible to have forewarning of that business case. I am not convinced that has taken place up until now.

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I think that business case needs to come back – I am not saying that the next stage should not be P&R go away and do their thing with it, but I am saying that business case should come back to this Assembly first with the full figures, with all the information, with all the rationale, to be debated in public so that as many members of the public as possible, via listening to the radio or reading *The Press* via various media outlets, can have access to that debate and see what is being said and contribute prior to that debate if they feel they need to. Those kind of people, sir, people in that category might not have access to the business case as it stands at the moment as it is only available electronically, as far as I am aware, I will be corrected if anybody wants to correct me. (*Interjections*) I think I have made the point, sir.

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But for me, sir, there is a comparison here that could be drawn between the public sector reform, the restructuring of the Civil Service and what is happening now. There are Members of this Assembly who are really concerned about losing day-to-day access to their chief secretaries, their chief officers about there being a bit of a distance created between that process and their work and it might have an effect upon their work. I feel that a comparison can be drawn between that and this, sir, that we are in some way, not entirely, but certainly in regard to public debate and informed public debate we are being somewhat missed out, sir, and that concerns me greatly.

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Now, sir, I would just like to refer to some points that I have got for, well I am in general debate anyway but I just want to refer to some points that I have got for general debate. I would just say I do not feel I can vote for 2 anyway as it stands, so I will make that point now. But there are some other things that I think we need to be concerned about anyway.

Now I appreciate this would be a long-term project potentially in three phases and I will come back to that potential point in a minute. This very much goes to something that Deputy Dorey was saying. He was calling for an independent assessment or analysis of the business case. He did

2950 not feel there was enough detail in this current policy letter to provide full confidence in regard to
this project and what is being proposed. So therefore I realise it is a long-term project and it is in
three phases and more information will hopefully be forthcoming over time, but for me even to
have considered voting for this policy letter and proposals, sir, I would have definitely needed
some extra detail and some more clarification. Those points and queries centre around the
2955 following.

First of all, there is the issue of the asbestos that is within the structure of the Hospital building,
Now I will applaud the fact that this policy letter makes no bones about that, It acknowledges that
there is a problem with the asbestos within the Hospital, and it acknowledges there is an unknown
to that in that they are not quite sure yet if they have discovered or identified where all the
2960 asbestos is. So it is good that that has been acknowledged, but I have been told, and this might
be an exaggeration, but I have been told that the building is literally riddled with asbestos. So I
am seeking assurance that there will be a comprehensive plan to deal with the issue of the
asbestos.

Now there have been attempts in the past to deal with the asbestos. Some of it has been
2965 removed. I know some of it has been sealed with an adhesive but actually when you remove
asbestos the biggest hazard is the dust that it creates because it is being disturbed and unsettled.
So I just wonder if Deputy Soulsby could address that issue when she replies to debate. Is there a
comprehensive plan to effectively manage the issue of the asbestos? What is that plan and has
that plan – as I say, I know there is some perhaps they have not found yet but has that plan –
2970 been properly costed and is that costing included in the variable figure that we ...? Is that why we
have got a variance in the figures because there is an unknown in regard to the asbestos?

My second point, sir, is about the three phases. We are told that we will have the first phase
and then the next two phases will come back to the States for further debate and approval but it
is a bit of a *fait accompli*, isn't it? I mean once you have done the first phase I would imagine that
2975 really unless the first phase can stand alone without the other two phases going ahead, that
would not be so bad, but if the other two phases are needed to complement and to work
together with the first phase it almost seems to me that once we agree to the first phase then the
other two phases must naturally fall into place.

I give way to Deputy Yerby, sir.

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Deputy Yerby: It is a point of correction.

Deputy Laurie Queripel was right in his sort of secondary interpretation but each phase – in
fact each module within each phase – can stand alone on its own right. I hope that gives him
some assurance.

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Deputy Laurie Queripel: That is very helpful, I appreciate that, sir, because I was just a bit
worried that if you approve phase 1 then you have to have phase 2 and 3, but that is not
necessarily the case.

In 6.1, sir, of the policy letter it talks about working with stakeholders; a range of stakeholders
2990 were consulted. I am really concerned that service users are consulted as well, because I have
been contacted by some service users in regard to the mental health centre and they have some
misgivings about the layout of the facility.

Yes I give way to Deputy Oliver.

2995 **Deputy Oliver:** In the business case there is actually an asbestos management programme
that has been set out which is part of the modernisation programme and it is estimated to reduce
the maintenance cost by 50%, so that is already included in that, it is in the business case though.

3000 **Deputy Laurie Queripel:** Yes, I think there is a bit more to it than that. I was talking about the
way that it is going to be dealt with or cleared or the dust will be managed and all that sort of
thing. It is a really important issue. I have spoken to people who have worked in maintenance at

the Hospital and they have great concerns about how it has been dealt with in the past and how it is going to be dealt with in the future. So I think we need some proper assurance around how the asbestos is going to be managed and dealt with going forward, because my concern is we are going to create these modern and new facilities around an existing problem unless it is managed really well and dealt with comprehensively, and if it has to come out it has to be managed in a proper way and of course it has to be disposed of in a proper way too because it is a hazardous material.

So going back to my point, sir, I really hope that this consultation is going to take place with stakeholders but I really hope that service users will be listened to too, because I have been contacted by members of the public who have used the mental health centre or who have had family members who have made use of the mental health centre and they are quite concerned about the layout of it and the services that are offered there, they feel that there are some shortcomings in both the layout and the service and I have encouraged them to contact the Members of the Health & Social Care Committee and I do hope they will do that, but I –

Yes, I will give way to Deputy Tindall.

Deputy Tindall: I am grateful for Deputy Laurie Queripel giving way.

It is a slightly late intervention, if I may. It is just simply to say that there is specific HSC guidance which can be found on the gov.gg website about asbestos and it deals with refurbishment, demolition, the need for a survey and therefore there is a very structured means by which asbestos is dealt with.

Deputy Laurie Queripel: That is really good to hear, sir, but my point is I have spoken to people who have been involved in maintenance at the Hospital, or former maintenance team members, and they are of the opinion it has not been dealt with to that standard up until now. So I really do hope that that is going to be the case from now on.

So, yes, I just hope that service users will be properly listened to so that they can have their concerns met.

The other thing that I am torn on is the possible relocation of the MSG to the Hospital. I can see the benefits of that about better and more co-ordinated working between the MSG and the other services that the Hospital offers and the administration and all those sorts of things. But I am a bit concerned that if it does happen when the contract for the services that the MSG offer comes up for negotiation and it is going to be awarded again, does that almost mean that it is almost a forgone conclusion that the MSG will receive that contract? I am a bit concerned that if they become embedded into the system and embedded into the facilities at the Hospital that the process will not be as robust as it should be in regard to the negotiations and where that contract will be awarded. So I just wonder if Deputy Soulsby could address that issue, that is in 7.4 of the policy letter where that idea is mentioned of the MSG being relocated to the Hospital site and I am just a bit concerned that it will mean that the MSG might just become, I suppose for want of a better phrase, very comfortable and the HSC will become comfortable with them being there and the process in regard to the negotiation and the awarding of the new contract will not be as robust or as open as it should be, so I am just hoping that we can have some comment on that as well, sir.

Now I know Deputy Soulsby, sir, when she opened debate she spoke about – I think I have got this correct – that it is the intention of the Committee to see – I know there is a bigger process to go through in regard to this – but to see as much of the work awarded to local construction businesses as possible. The reasons for that, sir, are obvious as far as I am concerned. It adds value to the local economy, the money circulates around the local economy, the multiplier effect can be applied, whereas if it goes to ... and there is already a great deal of money that disappears off-Island and is lost to our economy. If it goes to non-local contractors that money will be gone and there will be no extra benefit or added value benefit for the Island's economy if that is the case. I

just hope that the emphasis will be on, if at all possible and as much as possible awarding contracts to local construction companies.

3055 Now, sir, in 7.14 it speaks very briefly about a travel plan and I always shudder a bit when I read that term, and at a Vale Deputies Surgery I think it was two surgeries ago not the most recent one – we had an ex-nurse come into our surgery and she spoke about travel plans for staff and she said that staff at the Hospital, some of them work very long hours, they go there very early in the morning, they leave very late at night, they have got very stressful jobs and sometimes
3060 the most convenient thing for them to do is to jump in their car, go to work and at the end of the day jump in their car and go home again. So she was really concerned that staff would not be pressured or forced into using alternative – not saying they should not be offered the option, she was not saying that – but be forced into using alternative forms of transport when really all they want to do is just jump in their car and go home after a long stressful shift. So I do hope that the
3065 options are going to be offered but there will not be any sort of compelling or any sort of compulsory element to the travel plan.

Finally for me, sir, it is the old chestnut of ongoing maintenance. We have seen not only at the Hospital but we have seen it around the Island in regard to public sector buildings and infrastructure, if these things are not maintained properly their life is shorter and they cannot be
3070 used fully for their proper purpose. So I really do hope that there is going to be a really good ... and at the Hospital actually we have seen in the past some of the more recent buildings, before you know it I have seen roofs deteriorating, I have seen green and moss on the roofs and leaks have been caused, and the gutters have not been cleaned out properly and there has been damp problems. I have seen it and I have been told about it as well. So I really do hope that if this
3075 project goes ahead and we have these new buildings that they will be maintained properly so that we can get the full value out of them and the best life out of them.

So just a few points and queries that I would like Deputy Soulsby to address there, sir.

Thank you.

3080 **The Deputy Bailiff:** Deputy Lester Queripel.

Deputy Lester Queripel: Sir, I resonate with everything that Deputy Laurie Queripel just said and I am also going to vote against Proposition 2.

In voting against it, I am not for a single second saying that I do not trust P&R, I trust them
3085 implicitly. To me, this is not about trust, to me this is all about us being included. It is about us all being a partner in the Partnership of Purpose we hear so much about. That might not be the way that many of my colleagues see it, sir, but it is the way I see it.

I ask for a recorded vote on Proposition 2, sir, please when we come to vote.

Thank you.

3090 **The Deputy Bailiff:** Deputy Meerveld.

Deputy Meerveld: Thank you, sir.

I was not originally planning on speaking on this policy letter, but I am driven to my feet by
3095 circumstances.

I am supportive of the general Propositions and proposals that have been put forward by HSC and will be supporting Proposition 1. But as other Members have said, I have issue with the fact that the numbers quoted in here show extreme variances: we have paediatrics, £7.9 million-
£10.3 million; we have theatres expanding and refurbishing, £15.8 million-£20.8 million; we are
3100 looking at 25% variance here on average between the estimates low and the estimated high end of the pricing.

So when this has been worked up in more detail I would like to see it coming back to the States as a proposal with detailed numbers where we know the exact values where this Assembly

can question on behalf of the public and question those values and make sure we are getting value for money.

When you think about the amount of debates we have had here on the minutiae of issues with very little financial impact why would we nod through something where we are talking about tens of millions of pounds with a £10 million variance potentially and potential overruns and delegate authority without further scrutiny by this Assembly. I think it would be a derogation of our duty on behalf of the public if we vote this through without asking for the final numbers once the detailed plan is worked up to be laid before this Assembly for a final check and approval prior to the money being spent. (**Several Members:** Hear, hear.)

Therefore, like many others, I will support Proposition 1 but I will be voting against Proposition 2.

Thank you, sir.

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Thank you, sir.

I intend to vote for Proposition 1 *and* to vote for Proposition 2. I can never see the point in owning a dog and wagging your own tail, and the dog in this case is of course P&R.

I just think there are different bodies that are better at doing different things. This body can say this £44 million is in the public interest to spend in order to do the things in phase 1 and come to a broad conclusion. Now some of us might be involved in a construction background or building background, but by and large an Assembly of 40 people trying to go through the minutiae of how a contract is built up and whether or not the costs for removing asbestos is slightly above, I actually think that is done more effectively and more forensically by a small body actually going through it in depth, almost heading by heading, and making sure that everything is as it should be.

Now I understand the argument that people want to see everything, do everything, and it is very difficult to argue against on the basis of openness, but I think I just do not think it is an effective way of going about things.

The only thing I want to add to that is I am really delighted that project one is project one. There were many things that kept me awake when I was President of the Board of Health but the disconnect between the maternity ward and the theatre suite was certainly one of them. Not only are they far too far apart but I think very often the porters actually have to use lifts to take people down which is fraught with danger obviously. I cannot say we were starved of funds, we did an enormous amount of construction back in the day, but one thing I never got round to was actually doing that. So I am delighted to see that my successors have got around to it and as far as I am concerned tomorrow will not be too soon.

The Deputy Bailiff: Deputy Lowe.

Deputy Lowe: Thank you, sir.

I am going to support this report. I think it is great, it is long overdue so I am delighted that Health have brought this forward for us.

But it is sort of putting a marker in the sand really inasmuch as not to Health but to the States as a whole – property – we are always talking about property and how we have got to look at property right across the States. Well, when we were actually doing that, and I often say property will not stand still, here is a prime example. Nine years ago we built the clinical block, specialist unit there for the Institute of Health with all the modern conferencing facilities and now we are going to move that. So as much planning as you can do is absolutely right but we cannot set things in stone and it may be that when this programme gets started they may need to change something else; and I commend Health if that is the case, because things do move and things do change, but that will not stop me actually supporting this report.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Thank you very much, Mr Deputy Bailiff.

3160 I have a lot of sympathy with some of the arguments we have heard today from Members like
Deputy Laurie Queripel and Deputy Meerveld, because I think that there is a disconnect between
what the public think States' Members are doing and what we are actually doing, because in
reality modern politics is about trusting and delegating a small number of States' Members,
maybe a committee or a cross-working party, who then in reality delegate most of their work to a
team of specialists who may be engineers or procurement analysts or managers, and the public
3165 perception is that everyone is involved in putting their eggs on the table.

On the one hand of course, I am a long standing supporter of a more executive model but
here of course the issue is that we do perhaps pick and choose our targets. One of the most
notable Members of this Assembly of course is Deputy Brehaut and I think sometimes I will be
honest here he has a rough ride from the Assembly because you sometimes read Environment &
3170 Infrastructure have spent £50,000 there, £80,000 there on a road traffic health and safety policy
and there is a huge hue and cry across society, at least if you read Facebook and Twitter and *The
Press* comment – maybe that is a minority. Yet here we have a set of projects, useful and game-
changing as they might be, that are £44 million and really have not had that much public noise.
Maybe it is because Deputy Soulsby and her team have really hit the money. Maybe it is because,
3175 as some other Members have suggested, the modern generation of people are much more online
savvy and do not need to go to the old-fashioned public meetings that did not get held and that
kind of thing, and instead if they are interested in greater depth and detail they are looking
online.

But regardless of that, apart from one or two perhaps slightly exaggerated media reports that
3180 we have heard which have quoted figures like £93 million around in a loose kind of way, we have
not had too much noise on this, and that surprises me because it goes back to the Partnership of
Purpose. I do not go along with Members who suggested the more you hear it the more it
weakens it and it becomes a cliché. I think it has just become part of our thinking collectively,
which is important.

3185 When you look at the design principles, and a helpful kind of Gantt chart I have got here, I
think these proposals tick all the boxes in terms of direct access, fair access to care, focus on
quality partnership approach, user centred, effective community service effective.

I also disagree with some Members who have suggested that this particular Committee is not
as focussed as it could be on the needs of the human resources workforce and the staff element,
3190 because I think there is a balance here and infrastructure and buildings are actually very
important. You cannot move forward unless you have the core building blocks and the kind of
issues Deputy Roffey and others have mentioned about the dangers of inappropriate locations of
lifts possibly malfunctioning, of that kind of thing have an impact and we do need to build a first-
class estate and ensure that it works.

3195 I see within this set of proposals broader visions down the line for eventually developing
robotics in medicine; maybe involving medical tourism; maybe upping the balance between the
private and the public sector so that everybody wins; maybe attracting specialists to work here.
There is a lot of potential benefits from the package.

But I, perhaps being more of a traditional Member, do think Members could have had more
3200 detail to debate. I know Deputy Tindall and others have pointed out that one can bring those
aspects to the table but in reality we probably have not and that is because we should be spoon-
fed. I do not know, but it is an issue.

I certainly can support, I think, what Deputy Inder said and Deputy Meerveld about the
variations in the prices, because we do see, well people said 10%; actually we are seeing 20-25%
3205 variations of between £7.9 and £10.3 million and so on. Even on a scaled down level we are
talking about £43 million maybe.

I support the projects of the women's and children's relocation of the maternity unit, the extended outpatients service, the critical care unit, and wearing my planning hat, in a manner of speaking we had an application that did not work from a particular Medical Specialist Group and I think there was a consensus that if there are ways of maximising efficiency within the Hospital the potential planning benefits as well as community benefits and revenue benefits and maybe contractual benefits are significant, 'increased collaborative working' is the phrase here, operational efficiencies, and maybe a restructuring of gateways and so on. I think all that is where we should be going, and I support the principle of community hubs being outsourced as well. New theatres, refurbished staff training facilities and the transport and parking. However, there are some specifics that I think one should go further on.

Transport and parking: Deputy Laurie Queripel was worried about the term 'travel planning'. I always think it is a curious phrase because although it has wide traction in environmental circles to the average every day person who has not worked in those things, travel planning sounds like me wondering whether to go to the Costa del Sol or the Algarve for my holiday, and it is not about that, it is about ecologically organising the community to look at alternatives and choices with sustainable transport and I am pleased to see that the Health Commission will be working with Active Travel in future.

I think there are issues with the car parking. I do not rule out personally looking, without getting into the planning of it, at a multi-layer carpark. I do not rule out – I will be unpopular for this but I think you have seen in certain UK hospitals on occasion for certain kinds of client they charge for parking. It could well be that the offer of free parking for all members of staff regardless of income or contract might have to be looked at. I think obviously we should prioritise parking for Hospital visitors and for people with genuine disabilities.

I also think that the public transport has an important role to play here. We have seen a certain disruption to the bus service, and just in passing, much as I support Environment & Infrastructure and the success of the bus service, I notice that the timetable coming up is seeing a reduction in the P2 service from every 90 minutes to every two hours, which links the Hospital with the north of the Island and the elimination of a round robin route that links the Hospital every two hours with the west coast, 62. Those routes are going partly because they have not been very successful in attracting Hospital visitors, clients or staff. So we have got a long way to go with the travel planning and Deputy Laurie Queripel is right therefore to be sceptical at this stage, but that does not mean we should not try and we should not work harder on those initiatives, but I think it requires a more joined up approach and more investment in alternatives.

I also think we need to analyse transport movements and consider whether it is mythic or not that commuters and residents in the Town allegedly park at the Hospital and walk into Town. I do not know if they do, but I think you need to analyse that kind of thing before making judgements. It is a shame in that area that too much of the estate is given over to parking when it could be used, I think, for more effective property management.

My final point concerns the campus as a whole. It is an enormous resource for Guernsey. It has some great facilities. It could and will be further improved. But what is disappointing is the access to it. The Oberlands entrance is poor and from time to time I notice properties come up in the area for sale and they are usually abandoned and left to sell in the private sector or to stay on market for some time; some of them are even owned by the public sector. I think it would be wise if States' Property Services could work with Health & Social Care to acquire those sites from time to time and maybe then utilise them as part of the estate for key workers and readjust the boundaries so that we have enough room for buses, ambulances and other vehicles to effectively pass each other on route to the Hospital. The Hospital surely is only as good as its road links, especially in emergencies.

So I actually would like to see even more work done on the infrastructure, but I think there should be more material for States' Members to look at, and I will go to the Members' Room for the next stage of our adventure.

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

I support all of the Propositions and I think that the policy letter is well written and I am very supportive of everything that is in it.

I also think that the attempt by some Members ... although only a small number, they have rather dominated the debate, but I think in numerical terms it is a relatively small number of Members who would like to become very much involved in the fine detail of these projects.

I think this programme of which this project is a part goes back to 2014 according to the slides that were presented to States' Members at a presentation I am afraid I could not attend, but I obtained the slides. The strategic outline case for the site was first developed in 2014. It was submitted through the States' Capital Investment Programme in 2016; it was approved as part of the Medium Term Financial Plan that went before the States in 2017; it is subject to a programme business case; it is subject to an outline business case. It is quite clear that some of the Members who are wanting to debate this at a more detailed level have not read the business case which has been made available, and I do not blame them for not reading it, but I think it is slightly unfortunate not to read it and then to come to the States to say, 'We really ought to have been provided with more detail.' So all of these things are available, and they are all in the public domain.

I accept Deputy Queripel's point that not everybody is online, but if a member of the public contacted him, for example, to express concerns about aspects of the project and he felt that that person seeing the business case would have helped, he could have asked the Committee to run off a hard copy of the business case and dropped it around to the person. I do not think you can just say because the thing is online it is not accessible to some people.

Sir, I think this has been subject to a lot of thorough planning and oversight and the policy letter is at an appropriate level.

Now, on the question of delegated authority and who is best placed to study business cases and approve business cases, first of all if there is ever a problem with getting approvals for a business case through the Policy & Resources Committee, in the sense that the sponsoring committee becomes dissatisfied, then that committee has the right to bring the matter back to the States. So in order for a project to proceed you have to get to a stage where the Members of the sponsoring committee are content with it, it has received approval from the States at this level and five Members of the Policy & Resources Committee are content with it. Now the Members of HSC and the Members of P&R make up one quarter of the Members of the States. To listen to some Members talking about delegated –

Deputy Merrett: Point of correction, sir.

The Deputy Bailiff: Point of correction, Deputy Merrett.

Deputy Merrett: Deputy Fallaize said that five Members of P&R would have to approve it. Well, my understanding is it is for a majority to approve, which would be three, sir.

A Member: Three.

The Deputy Bailiff: Deputy Fallaize to continue.

Deputy Fallaize: But the Members of the two committees together comprise a quarter of the Members of the States. Now, to hear some Members talking about their reservations about delegated authority you could be forgiven for believing that the States are being asked to delegate approval for the whole thing to one person or one civil servant. Well clearly that is not what is proposed.

Now if projects come back beyond the kind of level of detail that is set out here, where you end up is the scope of the project does not change, the costs do not change, the benefits do not change, the risks do not change; all that happens is that it takes longer for the project to proceed and the costs go up. And on top of that, committees are forced into this position where they have to identify the exact costs of projects.

Now, I have participated in numerous States' debates in relation to capital projects where Member after Member has said, why are the States giving up all their commercial advantage before they go out to tender for projects for asking the permission of the States to go out for tender for a project at a cost of £36.4 million, surprisingly the project ends up costing about £36.4 million. So I do not think that is in the best interests of the public. I actually do not think – I know Deputy Queripel disagrees and I am sure some other Members disagree – the public do expect States' Members to be here in the Assembly debating where the operating theatre should be –

I will give way to Deputy Meerveld.

Deputy Meerveld: Thank you to Deputy Fallaize for giving way.

I would not envisage when I was talking earlier that we would set out an amount and then go out to tender against it, but when you see a variance in the numbers presented of 25% on a £44 million contract, HSC and P&R can go out and get the tenders then come back to us and say it is not £15.8 million, it is not £20.8 million, it is £17 million, and then this Assembly can debate the exact numbers as tendered and decide whether that is good value for money and also the public is knowing that this Assembly is scrutinising it. That is what I would be looking for from this Assembly, not broadcasting an amount in advance but actually getting an accurate number to actually vote on whether it is £44 million, £40 million or £56 million at the end of the day.

Thank you, sir.

Deputy Fallaize: Well, sir, I think that going out to tender for projects and then bringing the matter back to the States for approval would be a crazy way of going about it –

I will give way to Deputy Lowe.

Deputy Lowe: Thank you, Deputy Fallaize.

You may say that and I agree some may see it as a silly way to come back and sort of say this is the quote that we have actually received, but many years ago in the States there would be a States' report and it would say: RG Falla, £x amount; RG Phillips, £x amount; and RG Littlewoods, £x amount, whatever it was, and it was set there and then it had the recommendation of that particular committee. It did on occasions actually receive amendments from this Chamber and they would go for the choice that they felt was appropriate because they saw the business cases and it was classed at one time as name and shame the builders and show how much – or the developers – how much they were actually putting in and the variants in the quotes. So therefore it actually brought the prices down because they knew it was going to be published with their name alongside and sometimes there was quite a difference in the past. I know probably you do not agree with that but actually it did work quite well.

Deputy Fallaize: I do accept Deputy Lowe's description of what happened. The problem is most of the projects went massively over cost, so the price was depressed because the tenderers knew that the price was going to be published and wanted to obtain the support of the States.

But I do not think that one can look back 15, 20, 25 years to the way the States managed capital projects with any great satisfaction. I think previous States did many good things but managing capital projects was not one of them. In fact the reason that every committee now has to wade through treacle to try and get any money at all out of the Capital Reserve is because P&R, and before them T&R, have put in place such robust gateway processes directly in response to the experience the States had in the late 1990's and early part of this century of projects not

receiving proper oversight and going millions and millions of pounds over budget. So what has happened since the era of more delegated authority being provided is that there have been fewer overspends and ultimately the public has benefited.

Now to return to the point I was making in relation to Deputy Laurie Queripel's point, I do not think the public do expect States' Members to be in the Assembly debating exactly where the operating theatre should be, or exactly where the operating table should be, or whether the asbestos should be removed using method x or using method y, because I think most people do not believe that States' Members when we are ... how long does every States' Member have to consider every single policy letter? Okay at the moment the volume of work coming before the States is not great, but under normal circumstances it is heavy. How much expertise is every States' Member drawing upon? How much time is every States' Member spending if they are being invited to provide scrutiny at that level of detail.

I think it is much better for the States' Assembly to deal with matters of strategic policy, setting policy direction, being asked to approve the kinds of things the States are being asked to approve now and then to delegate the responsibility for subsequent approvals. It does not have to be to the Policy & Resources Committee. If the States wanted to set up some other star chamber to approve capital projects made up of any number of Members of the States they could. I just think the principle of delegating authority to a smaller number of Members than the whole Assembly has proven to be more successful and more cost effective.

Deputy Gollop: Are you prepared to give way for a bit?

Deputy Fallaize: Certainly. *(Laughter)*

Deputy Gollop: I think the issue that Deputy Fallaize is touching upon and is seen in other areas in other departments and areas of responsibility too is: more and more States' Members and their supporters or otherwise in the community are wanting States' Members to directly control and interfere with many processes in the States even if we are amateurs and we would make mistakes. I think it is the professionalisation of processes to technocrats that is causing a degree of discomfort amongst politicians. Now whether that is good or not for society is a wider question and Deputy Fallaize has made his views relatively clear.

Deputy Fallaize: But I think the question is if there is to be political – I will give way once more to Deputy Roffey.

Deputy Roffey: Does Deputy Fallaize agree with me that the classic example of superb States' scrutiny of a capital project was when a project was brought forward with a proposed tender for a new water main across the entrance to St Sampson's Harbour and this Assembly in its wisdom overruled the expertise of those people who brought it forward and awarded it to another firm that had no experience at all in working in marine environments and the whole thing proved to be a disaster? Would he agree that that is not the sort of States' scrutiny that we want to return to?

Several Members: Hear, hear.

Deputy Fallaize: Yes, I would agree and you can add multiple other projects – the new jetty. The new jetty was a particularly fine example of that as well. They were complex projects but they would have been managed better, I have no doubt, under the processes that are adopted today than the processes which we used in those days.

Now it is four o'clock. We have been debating this for two and a half hours or something like that and this has been a relatively insipid debate – particularly the last few minutes, *(Laughter)* considering that this is a proposal to spend possibly upwards of £40 million in phase 1 and more

than £90 million ultimately and clearly the prevailing view in the States is that this policy letter is going to go through, the Propositions are going to go through.

Although I am fully supportive of it and I think it is a very good policy letter, it is rather thin. I mean 29 sides of A4 for expenditure of more than £40 million is quite thin and I do not doubt that debate is going to go on very much longer so two or three hours of debate to agree to that sort of level of expenditure is a relatively short debate on a short policy letter.

Now the only reason I make that point is for entirely self-indulgent purposes because I hope that the States is going to remember the level of detail that is in this policy letter and the length of this debate when they are asked to consider the proposals of my Committee in July and when my Committee is being berated for being unable to explain exactly which classroom which maths teacher will be teaching in on which site in period three on two years next Wednesday. I will be reminding the States of the level of detail that was set out in this policy letter and the approvals that the States were prepared to provide, which I am sure they will be to allow the Committee for Health & Social Care to get on with their policy letter.

I can assure the States there will be more detail in that policy letter than there is here because our project is at a slightly different stage of development, but I do hope the States remember the basis on which they were prepared to approve a stage one of possibly more than £40 million and subsequent stages totalling nearly £100 million of expenditure by the time we are on day three, four and five of the debate on my Committee's proposals in July. (**A Member:** Hear, hear.)

But that aside, sir, I fully support these Propositions, I think the Committee has done a very good job in laying them before the States and I look forward to the work proceeding.

The Deputy Bailiff: Can I just remind States' Members before I call Deputy St Pier who is just about to get up, that it is impermissible to interrupt another States' Member who is addressing the meeting unless raising a point of order or a point of correction. If a Member wishes the Member who is speaking to give way they stand in their place and wait for something to happen.

Deputy St Pier.

Deputy St Pier: Sir, I rise towards what I think may be the end of the debate to address some of the points which have arisen during debate, in particular those from Deputy Dorey in relation to the processes for oversight from here on in in relation to this project and the various business cases, but also the debate has clearly centred around the question of delegation of authority to P&R and I think it is worth addressing that too.

I think Deputy Fallaize referred to the robust gateway processes and I think that is highly relevant to this debate and to our knowledge of the way, process, programme and its approvals now works. I think reference back to what happened in the past is of historic interest but it is operating in the vacuum of the processes which now apply and I think that is highly relevant.

I think the fear which seems to underline the debate around Proposition 2 is that P&R will not sufficiently scrutinise the business cases on behalf of this Assembly. I think, in fact, practice and experience for most of the Members of this Assembly and their committees is probably the opposite, it is actually a fear that P&R will refuse to use its delegated authority and of course we do have a track record of doing precisely that. We will have no fear in refusing to use our delegated authority if we are not satisfied, in which case it would then be incumbent on the relevant committee to bring the matter to this Assembly for further scrutiny and further decisions.

The other challenge around requiring business cases to come back to the floor of this Assembly is a recognition of the impact it has on the speed of projects. It will add at least three months to the process, six weeks from the lodging of a policy letter to its being debated and a minimum of six weeks prior to that I would suggest in the preparation of a policy letter around a business case, quite possibly more in terms of various situations and draft going through the committee.

If there has been one plea from Member after Member after Member in this Assembly over a number of years it has been, 'What can we do to speed up the process of capital approvals and

processes?’ and I would suggest, sir, that the one thing we can do is to delegate authority to others to allow proper oversight to be injected into the process but allow projects to move ahead.

Deputy Meerveld, sir, suggested that what we should do is tender and then seek approvals on those tenders. The problem with that, sir, is that many projects particularly of this sort of scale, many of the tenderers will actually be very reluctant to tender on that basis because of the level of political risk which is suddenly injected into the process for them. So you will find some tenderers will simply refuse to participate which will reduce the competition that is available to the States. The second risk is that they will simply price that risk in because with a multi-million-pound project they may well be incurring six or seven figure costs themselves merely to tender. So to inject further political risk into the process for them is not, I would suggest, in the States’ best interests.

Then finally, sir, to return to Deputy Dorey’s challenge and my reference to Deputy Fallaize’s comments on robust gateway processes, yes, I can confirm that the use of delegated authority will require all the normal project assurance reviews (PARs) and all the normal gateways will absolutely apply with independent experts. Indeed I am sure when the President of Health & Social Care speaks she will confirm that only this week we had a meeting talking about this very project in which P&R put down the challenge of the need to have an independent expert to challenge space standards around this project in exactly the same way as has happened with the Committee for Education, Sport & Culture with their project. So the same set of processes will apply indeed to Education, Sport & Culture’s proposals as and when they return to the States later in the summer.

So I hope, sir, that does give Members reassurance about how the Policy & Resources Committee goes about the use and exercise of its delegated authority and the risks of not so doing.

I would therefore encourage Members, sir, to support the Propositions as set out in the policy letter.

The Deputy Bailiff: I now turn to the President of the Committee for Health & Social Care, Deputy Soulsby, to reply to the debate.

Deputy Soulsby: Thank you, sir.

I thank contributions, although they do seem to have been hijacked by a few wishing to pursue their own hobby horses, but around that I will try to respond.

I think Deputy Tooley has answered quite a few of the questions as they arose at least up to the lunch hour. Just to make a few other points that Deputy Inder spoke about, and I hope he got assurance from what Deputy Tooley said about the procurement and the rates consultants, but just to add and this does relate back to the little minor debate we had between Deputy Fallaize and Deputy Meerveld that in recent years projects have been managed exceedingly well in Health & Social Care, and on time and on budget, and I think we need to not always put our rose tinted glasses on and pat ourselves on the back about how things go nowadays.

Deputy Merrett – now I know she lost her voice in the debate on drugs and treatments and that requête, but that gave her no excuse to try and use that speech and hijack it for this policy letter. In fact she knows that there is a whole workstream going on drugs and treatments and we are definitely not focussed just on buildings, and I have said that more than once before, this is about transformation, you cannot just focus on buildings, and I totally agree which is why the Partnership of Purpose has 22 resolutions, of which just one is about the PEH modernisation.

She talked about all these different issues that we should be bringing up within the policy letter and we needed to complete one before we do another, but if you do that we will never get anything done. It is a moving feast, things change all the time in Health & Social Care. Again if we delay this now things will completely change in a few years’ time and the costs will in effect ratchet up.

The infrastructure – and this is something I will say further on as I deal with other points and I will repeat it as I do – we are talking about infrastructure that is at a critical point. Deputy Dorey

knows very well from his time when he was in my position about work that was ongoing when he was in post. I am sure there are things that still exist that were wanted to be changed when Deputy Roffey was in post, and certainly, as he mentioned, the maternity ward. This is critical now. We are not meeting certain safety standards or regulatory standards. The MNC have made it very clear, they are not the only ones; paediatric reviews about how there is an urgent need to move maternity nearer to the theatres and, yes, it does give me sleepless nights as it did Deputy Roffey. These are real people's lives and we see this and know about this every day.

Deputy Tooley has highlighted the benefits and the increased health outcomes from the programme, but if we do not do this, and we do not do it now we are actually likely to see a decrease in health outcomes. They are likely to be impacted. We know the impact, the problem, the infrastructure, we have with orthopaedics at the moment, that is directly related – it is not the only issue but it is directly related ... is one of the things impacting us and how quickly we can get back on track ... but the number of critical care beds.

Deputy Green, I think Deputy Tooley has answered some of your questions. Yes, we are working with Jersey but unless we do have a tunnel I suspect we still need a hospital here. In fact I think if we do have a tunnel neither Island would need a hospital except for emergencies and possibly day patients. Why would we for such tiny populations if you can easily get to France and back. That is for another debate. But we will still need critical care beds, we will still need theatres, day patient units. I think the issue about working with Jersey – and, yes, we are – and I think something will be announced, if not today, tomorrow about how we are working together in one particular area ... It is around specialties and how one Island could possibly specialise in one area rather than the other, so we are not spreading the same specialties, because those are very difficult areas to recruit, but how we can build centres of excellence around that? We do work together at the moment. Jersey use our nuclear medicine facility in the Hospital – people might like to know that.

Deputy Green talked about community care and he would like to know if we are dealing with community care, because it is all about medical ... yes absolutely, I can understand where he is coming from but this is a policy letter about Hospital modernisation and we have tried to put it in the context of the whole Partnership of Purpose and I did within my opening speech. But we are working in community care, we have begun a major new reablement programme eventually, thank goodness, and thanks to P&R for giving us some money on that, but again that was not the easiest thing to get, so if anybody thinks we can just lightly sign this off today and whoopee we have got £44 million to spend, I can assure you that is not the case.

So, yes, reablement work we are doing. The autism hub is being built and that should hopefully be completed middle of this year, so that is certainly more care and support in the community. We increased the amount of care we provided in the community by 20% last year. I think that shows that we are doing something, some great people are doing something, and the community hub which we are trying to get sorted will make a huge difference and certainly at the primary care level.

I got the impression that we should have been putting this in the policy letter about what we are doing about this and that, well honestly if people ... I mean people are welcome to observe Committee meetings, but I can assure you if we did put everything in here that we are working on now I think the complete works of Shakespeare would look like the size of the *Guernsey Press* as a daily. I mean there is a lot of work that is going on at the moment and we want to be focused. Yes, hands up, for me, I wanted a policy letter that was absolutely focussed on the job in hand – what we want Members to do, 'This is what we have got, please support us.' We gave the information that we think that Members needed in the position that Members sit.

Deputy de Lisle makes it sound like it is a vanity project. Well, again, we need this infrastructure. This is not about shiny new buildings whatsoever, a lot of the work actually if you do look at it closely and read it you will see that, yes, there is one new build, particularly the theatre block, the critical care unit and that will possibly be the most obvious to members of the public, but here we are also talking about how we reconfigure the PEH.

3570 It used to be called the PEH reprofiling project and we had had enough of that and thought, 'I wonder what on earth does that mean. Let's come up with another word. Yes, "modernisation".' So that is why it is called PEH modernisation, but reprofiling possibly gives that better idea that this is not all about shiny new buildings, it is about how we can use the space better so we are not building on and building on and building. Again it is maternity and paediatrics moving from one place to another, we have the theatres and critical care unit block, absolutely, but then by opening up freeing up the Loveridge Ward and Frossard Ward we can then do more in terms of orthopaedics. So that is another reason why – a major reason why – we are phasing. We can do one thing; if we did everything at once it would be quite a difficult project and would cause a lot of disturbance but by doing it the way we are doing it means we can do one part, decamp people from one place to another and then move people in. This is not all about shiny new buildings.

3580 He says that MSG premises they are fine where they are. Well, I think he needs to talk to the MSG. I do not think they would have even thought about moving away when they did only last year if they thought the buildings were perfect, and they are not, they do have issues particularly with Mill House and the size of the atrium.

3585 In terms of equipment, we have in the last few years put in a rolling replacement programme and that is very well embedded now and I think the whole maintenance programme work has been changed, working with P&R to ensure that runs smoothly. Yes, pieces of equipment break down. Whatever we do, a piece of equipment – and these are expensive pieces of equipment – breaks down, but we cannot run 24/7 and literally expect that we have a replacement piece of equipment for everything just sat there. That would cost millions and millions and millions. I know there has been a recent issue regarding some testing machine and that was unfortunate but, sadly, these things can happen. What we need to make sure is that what we do have is a rolling replacement programme so when things are coming to the end of their useful life we are running the procurement so it works, but hey, we cannot help it if something breaks just spontaneously and the whole thing needs to be replaced.

3595 Again Deputy de Lisle says he did not understand really why we need this development now. Well, we did not need this development now; we have needed it years ago, quite frankly.

3600 This brings me to a comment about costs of extra staff. KPMG said, in their work that helped support Partnership of Purpose policy letter, we needed an extra £25 million a year in the next 10 years if we do not do anything. Now what do people know, what does that £25 million mean? It is not things, it is people. We are talking about caring for people, that is what we will need if we do not do anything. So we will need more staff whatever we do, we know that, with the increase in demands, but that is where the Partnership of Purpose comes in.

3605 I am sorry to Deputy Brehaut, I know not everyone will become a believer and I cannot convert everyone, I can evangelise as much as I can, not everybody will support it but the Partnership of Purpose is here to stay. Whilst he does not like it, many others do in HSC, the wider States and our partners. If we do not enact it then there will not be any more money for nurses. We need to make these savings because we will have £25 million extra in the next 10 years, so by doing what we are doing as part of the Partnership of Purpose, surely that will help support any future pay claims for nursing staff.

3610 On that front that speech really is directed at the wrong committee because HSC has done its job on that front, we have put in the Partnership of Purpose policy letter how we wanted a review of pay and conditions. Yes, we had amendments saying, yes, let's make it happen sooner, which we were absolutely pleased about, but that has been done, and that has been done through the roles review and we have heard about that today but it is P&R as the employer that is the one that will make the decision, not HSC. So although I have a lot of sympathy for the comments he made really I think that needs to be something that might be part of another debate and it may well do later in the year.

3620 **Deputy Brehaut:** I do appreciate sincerely Deputy Soulsby giving way, but there is sort of amongst this a bit of a 'having your gâche and eating it too', because within these proposals you

acknowledge the need for more staff within a new facility, so identifying a need for new staff, additional staff having that discussion with P&R is about staff retention, recruitment and employment, and we cannot separate out those two things as easily as we would like. In other words, the ongoing recruitment retention and pay is P&R, however, I think both committees are responsible for delivering on recruitment and retention, I do not think the delineation is just where she thinks it is.

Thank you.

Deputy Soulsby: No, sir, I think Deputy Brehaut probably misheard me there. I was not talking about all the recruitment and retention. I was talking about pay and that does sit with P&R. We certainly do have – I mean if he would like to be a fly on the wall in committee meetings, he would know that that is a subject that is talked about at length, and I am hoping that what comes out of the finance and roles review would be really helpful on that front, but it is an area of frustration to the Committee, I can assure him.

I will not go on more about what was in his speech now as I do not think it was actually relevant particularly to this debate but, yes, we will need more staff. We have always said we will need more staff, but that is something that we are hoping to manage in the best way we can, and that work and roles review and cross committee working will help it.

Deputy Dorey wants confirmation regarding independent scrutiny. Well, there already has been in respect of the outline business case and has been costed into the programme costs as well.

In response to many people here talking about all the cost and there is a big band, well, it actually does in the outlined business case talk about the width and why we have got a range, so Deputy Meerveld could read that. But we are very much at the maximum; it does include everything and there is an optimum bias in there.

I thank Deputy Hansmann Rouxel regarding her understanding about the length of the policy letter. Yes, this all about I want to talk about focus and it is important for Members to focus on the bigger picture here. In reality there are reams and reams, or I should say virtual reams and reams, of paper behind this policy letter. They have been reviewed by lots and lots of P&R officers and independently reviewed by experts who do this job every day – and those are experts in hospital design and build, by the way, not just general experts. I know ‘expert’ is a dirty word nowadays but these are people that do this job day in, day out, same structure used as we have used before.

Now if I were in Deputy Laurie Queripel’s position – and I kind of was last term in that scrutiny role – I think I would probably be thinking like he is, I suppose, but really I think it is his duty to read the outline business case and all the information that is provided and let his constituents know about it; if people come to him and talk to him, to let them know and feed that information back. His simple little step in terms of the amendment would have created considerable cost and delay, neither of which we can afford.

When it comes to public opinion, I would like to say this to Deputy Laurie Queripel, the overriding response I have had is brilliant, ‘Just get on with it. The States never get anything done. They say it is common sense. If it means I get my op done sooner get on with it, just stop the prevarication.’ This is what I get, ‘Stop all these stupid consultations and get on with it.’ *(Interjection)* Yes. *(Laughter)* Oh, we have fun.

His comments about asbestos, it is as if that has not been thought about, as if we do not have experts who deal with this every day, that we do not have drills and routines about how we deal with asbestos, as if we do not ensure that what we do is done properly. We have to follow health and safety regulations. The outline business case gives a lot of detail about how asbestos is dealt with. If Deputy Queripel has a particular concern about asbestos we are happy to talk to him about it. Yes, it is a concern we are now having to deal with the legacies from the past, but that has been built into the outline business case.

In terms of service users, yes, they have been involved and as we say in the policy letter, it is important that we continue to involve them. We do in a number of projects at the moment

around the Hospital. We do lots of art work and various things like that which the community gets involved with in the Hospital. I hear what he says about the Oberlands but service users are heavily involved in the layout of the Oberlands and the feedback we have got is overwhelmingly good. We tend to hear from the people who do not like things rather than they do, but really if people have got issues on these things the best thing for them to do is to contact us and not just moan on social media, and then we can look into it and see can we change things.

Regarding MSG, it is a five-year rolling contract and this is not about what badge is on the front of any wall or anything, this is about making sure that we have room and the necessary appointment rooms and outpatient clinics available for those staff and consultants.

He spoke about local contractors. Hopefully the phasing will help that, but of course they want work, they want work that is what they want, the local construction industry, and they want it now and certainly they would not be happy if Deputy Queripel's amendment had been passed because that would have delayed it, kicked it into the long grass, for another year or two.

Regarding travel plans, I did talk about a travel strategy but, yes, I am sure travel plans may come out of this, but this is not about forcing people to do anything. It does not work. You cannot just force this, it is about helping people and people who want to be helped. People say, 'Well, I would love to do it but I cannot because of this that and the other,' and it is about helping people. We hope to be able to do that, as I said in my opening speech, by modernising, improving, developing staff facilities which at the moment are, quite frankly, woeful and are long overdue to be improved.

Deputy Lester Queripel said he cannot vote for Proposition 2 but he will vote for Proposition 1 which means he wants us to progress it but then will not allow us to progress it, so I struggle with that one.

If anyone here thinks it is easy to get money out of P&R then they are living in cloud cuckoo land as far as I am concerned. There will be considerable hoops to go through before we can put a spade in the ground.

Deputy Gollop talked about paid parking and parking. I understand I said 1,700 parking spaces; I misspoke, it is not 1,700, I do not know where I got that from because I do not know where on earth we would fit them; it is about 757 parking spaces, which we are adding, as I mentioned in my opening speech, another 82 temporary spaces. But virtually every NHS trust charges everybody, the NHS depends on it, and Jersey have it too. Now I suspect that will not go down too well here. (**Several Members:** Hear, hear.) You will notice it is not set out in the policy letter either. This is about a travel strategy about how we can make better use of the site. We look at various options that are available, but we are certainly not wanting to force people to do anything.

Deputy Meerveld wants exact values. Well, again, if he had read the outline ... and that he did not like the ranges, as I said in the outline business case we explain those ranges.

I thank Deputy Roffey. Yes, the programme is long overdue and particularly in maternity and paediatrics.

Now when we published the policy letter the media as usual interviewed me about it, but then they asked me one question, 'Where is the money coming from?' and I said where it is coming from is the Capital Reserve, a reserve that has been left virtually untouched because of the prevarication, procrastination that has gone on here for years. The fact that we have not been using it is not a good thing, it means we are not managing our assets properly and that is why we really need to get on with this programme and it is long overdue.

Just in summary, and as I said in my opening speech, the world of health and care is constantly changing we need to ensure against that background that we are able to be flexible and adapt to those changes. It is clear to anyone who works on the campus that investment is needed if we are going to meet the challenges we face and make the Partnership of Purpose real.

We have not created a grandiose plan but a programme that reflects a natural evolution of the site meeting the needs of Islanders and it means we can continue to be proud of the Hospital we have and the amazing work that is undertaken behind its walls every day.

I ask Members to please support this policy letter.

The Deputy Bailiff: Well, Members of the States, there are three Propositions. There has been a request for a recorded vote on Proposition 2 so I will simply put Proposition –

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Deputy de Lisle: Recorded vote on Proposition 1, please.

The Deputy Bailiff: There is now a request for a recorded vote on Proposition 1 as well so we will take each Proposition separately. Proposition 1 first as a recorded vote please, Deputy Greffier.

3735

There was a recorded vote.

Carried – Pour 39, Contre 0, Ne vote pas 0, Absent 1

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Soulsby	None	None	Deputy Le Pelley
Deputy de Sausmarez			
Deputy Roffey			
Deputy Prow			
Deputy Oliver			
Alderney Rep. Roberts			
Alderney Rep. Snowdon			
Deputy Ferbrache			
Deputy Kuttelwascher			
Deputy Tindall			
Deputy Brehaut			
Deputy Tooley			
Deputy Gollop			
Deputy Parkinson			
Deputy Lester Queripel			
Deputy Le Clerc			
Deputy Leadbeater			
Deputy Mooney			
Deputy Trott			
Deputy Merrett			
Deputy St Pier			
Deputy Stephens			
Deputy Meerveld			
Deputy Fallaize			
Deputy Inder			
Deputy Lowe			
Deputy Laurie Queripel			
Deputy Smithies			
Deputy Hansmann Rouxel			
Deputy Graham			
Deputy Green			
Deputy Paint			
Deputy Dorey			
Deputy Le Tocq			
Deputy Brouard			
Deputy Dudley-Owen			
Deputy Yerby			
Deputy de Lisle			
Deputy Langlois			

The Deputy Bailiff: This will come as a real surprise, Members of the States, on Proposition 1 there voted Pour 39, there was 1 absentee. Therefore Proposition 1 is carried.

So we turn now to Proposition 2 and a recorded vote please.

There was a recorded vote.

Carried – Pour 33, Contre 6, Ne vote pas 0, Absent 1

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Soulsby	Alderney Rep. Roberts	None	Deputy Le Pelley
Deputy de Sausmarez	Deputy Lester Queripel		
Deputy Roffey	Deputy Mooney		
Deputy Prow	Deputy Meerveld		
Deputy Oliver	Deputy Laurie Queripel		
Alderney Rep. Snowdon	Deputy de Lisle		
Deputy Ferbrache			
Deputy Kuttelwascher			
Deputy Tindall			
Deputy Brehaut			
Deputy Tooley			
Deputy Gollop			
Deputy Parkinson			
Deputy Le Clerc			
Deputy Leadbeater			
Deputy Trott			
Deputy Merrett			
Deputy St Pier			
Deputy Stephens			
Deputy Fallaize			
Deputy Inder			
Deputy Lowe			
Deputy Smithies			
Deputy Hansmann Rouxel			
Deputy Graham			
Deputy Green			
Deputy Paint			
Deputy Dorey			
Deputy Le Tocq			
Deputy Brouard			
Deputy Dudley-Owen			
Deputy Yerby			
Deputy Langlois			

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The Deputy Bailiff: On Proposition 2 there voted Pour 33, Contre 6, there was the same absentee and therefore I declare Proposition 2 carried.

Can I put Proposition 3 to you *aux voix*? Those in favour; those against.

Members voted Pour.

3745

The Deputy Bailiff: I declare Proposition 3 carried and therefore all three Propositions have been carried.

POLICY & RESOURCES COMMITTEE

**IV. Insurance – Statutory Discount Rate and Other Matters –
Propositions carried**

Article IV.

The States are asked to decide:

Whether, after consideration of the policy letter entitled 'Insurance – Statutory Discount Rate and Other Matters' dated 8 February 2019 they are of the opinion:

1. To approve the proposals set out in that Policy Letter for the preparation of the necessary Guernsey legislation to:

a. enable the introduction of a statutory discount rate with the setting of the rate to be by regulations of the Policy & Resources Committee;

b. create a power for the court to order the payment of damages for a personal injury claim by means of periodical payments;

c. create a power, by Ordinance, to introduce a scheme to recover costs which would otherwise fall to the States arising from a personal injury claim; and

d. create a power, by Ordinance, to introduce limitations to personal injury damages awards.

2. To direct the preparation of such legislation as may be necessary to give effect to the above proposition.

The Deputy Greffier: Article IV, Policy & Resources Committee – Insurance: Statutory Discount Rate and other matters

3750

The Deputy Bailiff: I invite the President of the Committee, Deputy St Pier, to open the debate.

Deputy St Pier: Thank you, sir.

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This policy letter by chance follows the previous item on the Agenda. Actually it could just as easily have been brought by the Committee for Health & Social Care as it principally touches their affairs, but nonetheless it is one that the Policy & Resources Committee is pleased to bring.

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It is relatively short but it is a significant policy letter. What it is seeking to do is to remove uncertainty in relation to the value of personal injury claims, and that is with a view to helping to mitigate the rising cost of insurance premiums in the future – which of course those costs are ultimately recovered from the community either effectively through the secondary health contract and/or directly from patient charges which are incurred by all of us in the use of health services.

3765

The bigger risk – and this has been a significant concern to the Committee for Health & Social Care which whom we have obviously worked very closely on this policy letter – is that ultimately some clinicians could become uninsurable and that of course would then lead to the withdrawal of health care from those professionals or alternatively it would require the States to step in and underwrite the exposure which those individuals would have. Neither of those outcomes do we believe to be in the best interests of the community and this is why we have brought the policy letter.

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It is recommending four changes and I just will briefly touch on those. The most significant and the most immediate is the introduction of a statutory discount rate, this is in respect of lump sum payments for the cost of future lifetime care. In those unfortunate cases an assumed rate of investment return is applied to the lump sum awarded to the individual. Now the higher the assumed rate of investment return then the greater the sum is discounted to bring it back to its current day value. The lower the assumed rate of investment return then the higher the lump sum will need to be to deliver the same value to the individual over the course of their lifetime.

3775

England has had a statutory discount rate since 1996, The Damages Act of 1996; and Guernsey courts have typically followed, have tended to follow, the use of that English rate until a Privy

3780 Council case heard in 2010, the Helmot Case where the Privy Council, for reasons best known to
itself and indeed set out in its judgement, adopted a lower rate, and indeed they adopted a
negative assumed rate of investment return, and of course –
I will give way, sir.

3785 **Deputy Ferbrache:** Point of correction, sir.

The Deputy Bailiff: Point of correction, Deputy Ferbrache.

3790 **Deputy Ferbrache:** The Helmot Case, the decision of the Privy Council was to uphold the
decision of the Court of Appeal. It was not the Privy Council setting new rules, it was the Court of
Appeal which was comprised of ... the main judgment was given by, as he then was Jonathan
Sumption QC who was so eminent that when he became a Judge he was immediately elevated to
the Supreme Court.

3795 **The Deputy Bailiff:** Deputy St Pier.

Deputy St Pier: I am grateful to Deputy Ferbrache for that correction.

3800 Nonetheless, the point clearly is the Helmot case in its final ruling, the net effect of which was
to lead to uncertainty in terms of the potential future rates that courts may choose to apply in
Guernsey if they were not going to simply follow the statutory rate which had been the previous
practice.

The proposal is that the statutory discount rate will be set by regulations and there will clearly
be consultation required on that; that would be the next stage following the development of any
legislation or the development of the legislation required to implement this recommendation.

3805 The second change is in relation to introducing the opportunity for courts to award periodic
payments. Again this is something which does exist elsewhere but is not current practice in
Guernsey. We believe that is again in the best interests of both the individual and indeed the
wider community in providing greater flexibility on those cases, the very hard cases where it is
difficult to predict the lifespan and needs of the effected individual.

3810 The third proposal is to look at the introduction of measures to recover health care costs that
fall to the States and these of course can arise, sometimes perhaps in road traffic accidents and so
on. This again will require more legislation, so it will require further work which would need to
come back to this Assembly for approval and again further consultation would be required in this.

3815 Then finally and perhaps most controversially, the suggestion to introduce a statutory limit on
damages. As I am sure Deputy Ferbrache – he may, I am sure he intends to speak, I know he
intends to speak, he has told me he intends to speak on this matter – I am sure he will affirm that
the general principle in relation to the award of damages is that the individual should be fully
compensated to the extent that the court is able to assess that for the damage which they have
experienced. But in practice of course many of the costs may actually fall to the States anyway in
terms of the provision of certain elements of that individual's care and therefore we believe there
3820 is a reasonable case, and Health & Social Care have made it to us, that the balance does need to
be struck between the interests of the individual and that of the community as a whole that needs
to bear those costs.

3825 Now I should emphasise once again just like the previous proposal that more consultation is
required, considerably more consultation is required, in relation to this proposal amongst many
interested and effected parties, and again more legislation would be required which would have
to come back to this Assembly.

3830 So there are a number of measures here; they are, as I said in opening the debate, significant.
The most immediate are those relating to the statutory discount rate and periodic payments, and I
look forward to the debate, sir.

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, I am grateful to Policy & Resources for bringing this policy letter before the Assembly but I am concerned with proposals (a) and (d) or 1 and 4.

3835 The President of P&R said well really this could have been brought by Health & Social Care rather than P&R because it affects them most. The case that is referred to in paragraph 2.4 of the policy letter, the case of Helmot and Simon, was not a case against the Board of Health. Mr Helmot was riding his bicycle when he was severely injured by a driver of another vehicle, so it was not a claim that related to the Board of Health at all. But let's just deal with that, because we
3840 are not here as an Assembly to protect insurance companies, we are not here to do the job for insurance companies. We are here to ensure that we continue with a separation of powers which is that the considerable body of knowledge that the Guernsey courts have in dealing with personal injury claims should be left as unfettered as they can be. That said, it makes good sense to deal with (b) and (c), particularly (b) which allows periodical damages to be paid for example on
3845 an annual basis. That makes clear good sense.,

But it is often said that somebody who proclaims themselves to be an expert should be looked at with a degree of circumspection. So I do not proclaim myself to be an expert, but what I can say beyond any doubt is that with the one exception of my very able former legal partner, Advocate Dawes, I have done more personal injury claims both small, medium and large than any other
3850 Guernsey advocate by, to use the phrase that was used in a different debate, a country bar. When I came back to Guernsey my legal career started in July 1972 and as a 21-year-old I became a barrister and of course you think you know everything at 21 and you know absolutely nothing. I meandered through the English courts for a few years and then I decided to come back to Guernsey in 1980. I became a Guernsey advocate 38 years ago this month in March 1981, and at
3855 that time the Bar consisted of 20 or 21 people.

Now we never had until the Court of Appeal 1961 Law really a proper appeal system. That set up the Court of Appeal but it did not open its doors until 1964. Anyway when I came back in 1980 all I think of 10 or 11 reported civil cases had made their way to the Court of Appeal – and there are 16, 17 years between 1964 and 1980-81 – and gave recorded judgments. Except, the nearest
3860 we had to one in relation to damages was the case of Smith and Harvey which was a case that was dealt with on prescription, and nothing really to do with personal injury.

The first case that I believe – I believe, and if I am wrong somebody can correct me – came before the Court of Appeal in relation to personal injuries claim was a case I dealt with, the case of Cavanagh and Hancock which came before the Court of Appeal in the early 1980's. Now England
3865 has had something called contributory negligence since the 1945 Statute which came into force on 1st January 1946. What that says is if you are injured in an accident and it is partly down to your own fault the court can reduce your damages by such percentage as is just and equitable. Now Guernsey eventually got round to bringing in the equivalent Statute by the Law Reform (Tort) (Guernsey) Law of 1979 because before 1946 in England and the 1979 Law in Guernsey, if a
3870 defendant could establish one degree of contributory negligence the whole claim failed. Now I acted for Mr Cavanagh who was killed in a motor accident and I went to – an excellent summary that the Deputy Bailiff gave earlier this morning of Deputies Quin and Perrot – I went to Roger Perrot and I said, 'I have only just come back to the Guernsey Bar,' I said, 'I have got a fatal accident claim, what do I do?' He said, 'How do you expect me to know? That is your job.' You can
3875 imagine him saying it in grand language. I went to Nick Van Louvin who eventually was most able, he said, 'I have never done one of those.' So I then went, because the case had not been started yet, I thought I will go to somebody who really is an expert on Guernsey Law and I went to the then Deputy Bailiff Charles Frossard, later Sir Charles Frossard, I said to Mr Frossard as he then was, I said, 'Can you point me in the right direction in connection with a fatal accident case?' he
3880 said, 'Well, I have never done one, Ferbrache.' He said, 'Have a look at the thing; I do not think anyone has ever done one for ever, but go and have a look.' Anyway I could not find anything so I

dug out Bullen & Leake which showed me how to draft the proceedings and I dug out Kemp & Kemp which showed me what heads of claim should be and what pleadings I should bring.

3885 Anyway we brought the claim, because normally ... These things are not as random as may have been suggested in Deputy St Pier's opening speech, because the measure of damages is really within that frame, whether you talk about a broken leg, a personal injury claim for brain damage or whatever it is, they are within a reasonable spectrum. So I looked it up, brought the claim, I was concerned about the contributory negligence point because Mr Cavanagh's accident was before the coming into force of the 1979 Law, so all the defence had to do was to establish
3890 that he was contributory negligent. Now normally if somebody is not wearing a seatbelt, as Mr Cavanagh was not, you would expect 25%-33% reduction in damages because you are not wearing a seatbelt. Anyway the Royal Court decided there was no reduction in damages, but the case was appealed, we had a multiplicand, which is the amount of damages that you look at, we had a multiplier which is the number of years for future losses because Mr Cavanagh left a young
3895 widow and a baby, a young child, so there had to be future damages for a long time.

We go off to the Court of Appeal – I cannot remember the third Judge, I think it may have been Chadwick who later became Lord Justice Chadwick, but I remember the other two, a gentleman who became Lord Clyde, a redhead Scotsman who was very perceptive and very able, and Lord Hoffman – and Lord Hoffman said to me, 'Mr Ferbrache, you clearly are an ardent
3900 believer in the law of cumulative probabilities,' and I said, 'Well, Mr Hoffman, I am sure I would be if I understood what it was.' So we went on and we managed to uphold the award that was made.

The point in relation to that was that was really the start of my career because Eagle Star were the insurers in relation to personal injury claims and it was also the first precedent that I am aware of of any materiality since the Court of Appeal was set up in connection with personal injury
3905 claims, so therefore I think I have a degree of expertise because the Eagle Star I think were the insurers of Mr Hancock and immediately after that case they instructed me for the next 10 or 12 years on all of their cases in Guernsey.

I also initially acted against the insurers of the States of Guernsey. Within two or three years they instructed me on all of their particular cases. Both of those institutions and others may have
3910 had poor judgement but thankfully it gave me a degree of expertise in relation to these matters.

So we come to, as he referred to, Helmut and Simon. Now what happened is Mr Helmut was severely injured in a road traffic accident, which was not his fault, and it is a case again that I have particular knowledge of because Mr Helmut's mother and his stepfather came to see me and instructed me. By that time my able partner Advocate Dawes, who has done many of these cases
3915 in his experience as an English Barrister, was dealing with it and although I maintained, because the family knew me had confidence in me, an involvement in it, it was Advocate Dawes that took the case to trial and very ably so. It was a six-week trial I think before Deputy Bailiff Collas as he then was and the Jurats, and let me say this that both the Court of Appeal and the Privy Council said in giving their respective judgments that the quality of the judging of Deputy Bailiff Collas and the findings of the Jurats was exemplary. They did alter them in certain regards, that is very
3920 common when you have an appeal system. Now an award was made of I think £9 million plus costs and interest in relation to Mr Helmut's award, anyway there was an appeal to the Court of Appeal, the Guernsey Court of Appeal, and as I say the main judgment was given by Mr Jonathan Sumption QC who I have already explained in my interposition was a very eminent lawyer who as soon as he became a judge was elevated to the Supreme Court, which I do not know if it was a
3925 precedent but certainly there were not very many.

Now of course the idea of damages is not anger, it is not revenge, it is to give compensation, and indeed in the Privy Council case to which the President has referred Lady Justice Hayle said in her judgment, or Lady Hayle I should say, said in her judgment, if I find the exact passage that the
3930 purpose of damages, she says this at paragraph 60:

The only principle of law is that the claimant should receive full compensation for the loss which he has suffered as a result of the defendant's tort, not a penny more but not a penny less. Allied to this is the principle which no-one in this case has sought to attack that damages must be expressed as a lump sum payable now.

So that is what she said and Lord Hoke in giving the first judgment in the Privy Council referred to the severe injuries that poor Mr Helmot suffered. He suffered severe brain damage, he suffered partial loss of vision and limb, he suffered a loss of life expectancy. In fact his life expectancy was reduced by five years and he would require specially adapted accommodation and 24-hour care for life. Now that decision was appealed in part, was allowed in part by the Privy Council by the Court of Appeal – as I say it went to the Court of Appeal – and the Court of Appeal decided in the judgment given by Mr Sumption, now Lord Sumption, that the discount rate which the President has already explained should be reviewed and the Royal Court had got it wrong. It was explained in all courts that England had the discount rate since 1996 and the Statute that again the President of P&R has referred to. But what Mr Sumption said, he and his colleagues in the Court of Appeal, they said that the discount rate that the Royal Court had got was wrong, and they applied another discount rate.

Now the reason you have a discount rate is because, and we will come to the second part of the policy letter in due course, because the theory is you get a lump sum for your future care, your future loss of earnings etc. You get specific awards for pain, suffering etc. but we are talking about the lump sum award. Now because you are getting it now and you are not getting it over a period of time it has got to be discounted, therefore there is going to be a discount rate. England has got a statutory discount rate. The Guernsey Court decided, the Court of Appeal decided that was not satisfactory, so the appeal was allowed and the extent of it was that Mr Helmot's damages were increased by about £4 million. Now is anybody saying that three distinguished Judges in the Court of Appeal, five distinguished Judges in the Privy Council, got it wrong when applying the principle that Lady Hayle had mentioned which is text book law – trite law, as one other advocate with the same name as me says – but in relation to that, you are looking to compensate the person, you are looking to give that man or woman the damages that they would have. Because nobody wants to be severely injured, nobody wants to be in a position whereby they are looking for damages. Mr Helmot would have much preferred that he could have completed his bicycle journey, gone home and enjoyed his life. His quality of life has been devastated.

So what Mr Sumption said, what the Court of Appeal said, in relation to that and the Court of Appeal judgment was given in September 2010 – now people like Deputy St Pier and Deputy Trott will be familiar with this because – they were talking about the bond markets at that time, to use Mr Sumption's words, were exceptionally turbulent. So what he said was:

The exceptionally turbulent state of the bond markets in the last three years suggested that it was unlikely that when those markets stabilised the gross redemption yield would be as low as the 1.28% found and used by the Royal Court.

He continued:

Until stabilisation took place therefore it might well be appropriate to re-examine on a case by case basis the current gross redemption yield available on UK index linked gilts.

He went on to say and this is the point:

A figure that could ordinarily be easily ascertainable and beyond serious challenge.

So what the Court of Appeal did and this was upheld by the Privy Council when they gave their judgment 18 months or so later, they said this is the discount rate for Guernsey when there are changes you can easily ascertain it, so why in the very rare number of cases of severe life changing, terrible, catastrophic injuries that somebody like Mr Helmot or a baby that could perhaps be injured as a result of perhaps some medical lack of care, why should they have their damages restricted when eminent courts, eminent lawyers who are steeped in experience have said that those are the appropriate damages? Because that is what Deputy St Pier effectively said in his introductory remarks.

Now of course it says, 'Well, we can have a review. There will be a review. All these experts will be looked at.' How often would the review take place; what would it look at; what would the consultation process be; what would the end result be?

Let me just tell you another Statute which has got really nothing to do with this but I will just bring it in for him – something called The Judgment Interest (Bailiwick of Guernsey) Law 1985. Now that came in and again when I first came back I was surprised that there was not power to award interest on damages both pre- and post-judgment. So I moaned about it and eventually there was a Statute. We will not talk about the pre-judgment rates because the courts apply current rates, 2%, 3%, 1%, whatever it may be. But what the 1985 Law said, it did not give a specific review, it said for post-judgment rates would be 10%. I may be corrected, it has only been reviewed once in the last 34 years to 8%. So if you get an award of damages in the Royal Court, for example, of £100,000, I am being over simplistic, then you will get 8% on that £100,000 until it is paid. That is far more than you would ever get in a commercial loan or debt situation. So therefore we have had a 1985 Statute and the idea was that that would be reviewed periodically to make sure that interest rates were not excessive and it has not happened. So why should this happen when this is so serious to the parents whose baby is brain damaged, to Mr Helmot who suffered brain damage, to his mother and stepfather who have got to care for him for their rest of their lives? How does this ... because what it is seeking to do is to say Mr Helmot, the injured baby, the person who has their legs chopped off, they should actually get less damages because it is too expensive for insurance companies. We do not have that many in Guernsey but we do have some and we will undoubtedly have more because human frailty and human negligence knows no bounds.

Now it takes me on to periodic payments. Now what they did in the Helmot case and what they do in all these kinds of cases, they say okay we have got to assess what this person's life dependency was. I think for Mr Helmot it was something like 45.9 years, something like that. Now nobody can predict that with accuracy because Mr Helmot might live 50 years beyond that or he might live 40 years beyond the date of the award. But the legal theory is that you give your damages a lump sum of x and that is used, there is an account made for inflation, that is used over the next number of years and it is deemed that the capital and the income will be exhausted the day Mr Helmot or whoever it is dies. Well that is a legal fiction, that is impossible because nobody can assess it; courts do their best. So therefore what does make sense is in relation to this policy letter is the provision at paragraphs 3.1-3.3 where it talks about periodic payments, because it says what would happen and it says:

In cases of damages awarded for catastrophic injury, often rendering the claimant unable to support themselves financially and requiring [lifetime] care, the damages awarded are designed to provide funding to cover for the rest of the claimant's life. However, it is impossible to predict with accuracy how long the claimant will live; care requirements may alter ... investment returns may be above or below those assumed by the prevailing discount rate. Therefore, a lump sum award payment could result in the claimant not having sufficient funding to meet their needs ... or receiving more funding than is necessary ...

It talks about the Damages Act which allows periodic payments. So therefore it is proposed at 3.3 and I support this absolutely:

Therefore, it is proposed that legislation is introduced that enables the court to order the payment of damages by means of periodical payments.

I have no problem with that, that makes considerable sense but that was not the thrust of Deputy St Pier's comments. He said the most immediate, the most concerning is the discount rate which is (a).

I also turn briefly to the next provision which is recovery of health care costs falling to the States. I have no real problem with that but I would like Deputy St Pier when he talks about – I think he means from insurance companies therefore if somebody claims ... if they take up £5,000 worth of health care costs from the Health Service those monies should be able to be claimed

4015 back by the States because they expended £5,000 worth of nurse care, bedding care, whatever it may be. What I want is assurance from him, and I think I understand it is that that will not take away from the award that a claimant may make, it is looked at from the insurance company, it is looked at from the defendant's perspective, because in all these instances the defendant is insured.

4020 Now I know we know of instances where defendants have rode motorcycles or cars and people have been injured and they have not been insured but there is an insurance group, it is not quite called that, which covers those claims. So somebody who is injured in an accident such as that will always receive appropriate compensation. So again that makes sense, albeit I receive that clarification.

4025 But the thing that gives me almost abhorrence is the statutory limitation to damages awards. Now why? In America they have it and I think they may have it in other situations. The only reason for that can be to limit damages. Well hang on, we have got the English courts, we have got the Guernsey courts and, as I say, I have done many of these, I have advised many insurance companies, I have advised many people and what you look at is a broken leg is worth – unless you are Ronaldo or let's hope it does not happen to Harry Cain but unless you are somebody like that – a broken leg is worth say £10,000-£20,000 those are the ranges you look at Kemp & Kemp which is updated, you look at other journals which update regularly weekly, monthly, they show the awards that the courts make in England and I have dealt with these awards before judges and Jurats over many years, I have never known a Guernsey court to be rogue, I have never known it to say well, okay, it is a broken leg and we know that the limits, the parameters are between £10,000 and £15,000 but this van was really speeding so we are going to give £30,000. It does not do that, it does it on proper judicial principles. So what can be, bearing in mind we are not in America where we hear people get a million pounds for a broken toe nail – I do not know if that is true or not but anyway but that is what you read and that is what you see – in England and in Guernsey generally the awards for damages are modest for personal injuries. Also what is meant by personal injury in that context, are we just talking about personal injuries every kind, are we going to have a whole schedule for everything from a broken finger to a catastrophic injury, a schedule of what you can award because it says it is proposed at paragraph 5.2:

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It is proposed that legislation is introduced which would enable the introduction by subordinate legislation of a statutory limitation to damages awards.

4045 Which damages; which awards; what would it cover; how would that be introduced; how would it be updated; how would we ever get around to making sure that it kept up with what is fair and reasonable? We have already got that, it is fair and reasonable because of the way the Guernsey courts, the English courts to whom we look in the assessment of damages, deal with these matters.

4050 This is a dangerous Proposition aimed solely for insurance companies, it is wholly wrong. So I ask this States to reject 1(a) and I ask them to reject 1(d). Thank you very much, sir.

The Deputy Bailiff: Deputy Yerby.

4055 **Deputy Yerby:** Thank you.

Sir, Deputy Ferbrache has claimed a degree of expertise and so following his advice I am going to apply a degree of circumspection. I would ask Members not to be dazzled by fine prose, there are strong political arguments for the full set of Propositions that are set out in this policy letter.

4060 Deputy Ferbrache has presented an excellent case from the perspective of a personal injury lawyer who naturally does the utmost for the client he has in front of him.

We as politicians have to think about the wellbeing of the entire population and the effect that meeting the needs of one person may have on our ability meet or otherwise the needs of others

We have to think about the impact that the rising cost of insurance for health care is having on our ability to deliver health care at all.

4065 Because Deputy Ferbrache said at the beginning of his speech that the case in point had nothing to do with HSC, that the Board of Health was not part of the case and he was right directly speaking, but indirectly we have seen rising costs of insurance for all manner of health professionals and particularly, again not linked directly to this case but to the principles invoked by it, particularly around obstetrics to the point that it is likely to become impossible to provide
4070 obstetrics at the scale we have to provide them and yet obstetrics is one of the services that I think on a remote Island like ours we could never get away with not providing. So we are creating a Catch 22 situation for ourselves unless we do something to tackle the issue that this policy letter sets out.

Sir, I would invite Members not to be daunted by the question of separation of powers, which
4075 again was invoked by Deputy Ferbrache early in his speech. He is absolutely right that governments should not interfere in the work of the court when it comes to finding someone right or wrong, guilty or not guilty. But it is very much within our legitimate power as Government to give the court the tools to work with in terms of how it can punish or reward, how it can handle the outcomes of the cases that it finds. It is the findings of the court that we are not to interfere in
4080 not the consequences of those findings.

So, sir, I would ask Members to bear in mind the total societal impact of the situation that we currently have in front of us and the fact that limitations are a reality of most people's daily life. Sir, the majority of us depend on health and social care services that are provided by this Government for this society and that is all we can depend on. If we happen to have a condition
4085 analogous to the condition of somebody who is obtained it in an accident, but it was an accident that brought us to that point, then all we can rely on are the services that the Government has provided and those are inherently limited.

To say that it is wrong to limit what can be given to one individual in one circumstance is to fail to recognise the fact that we have to meet the needs of the whole society and we have to do that
4090 in a way that is fair and is balanced and goes as far as it possibly can in meeting the needs of each individual but not at the expense, for example, of providing essential services, not at the expense of being able to meet the needs of everyone.

So, sir, I would ask Members to support these proposals in full.

4095 **The Deputy Bailiff:** Deputy Soulsby.

Deputy Soulsby: Sir, Deputy Yerby has covered very much what I was going to say and very eloquently.

Although I hear what Deputy Ferbrache says, with due respect, as Deputy Yerby pointed out, I
4100 do think he was speaking more as a lawyer and not necessarily what is in the best interest of the Guernsey public as a whole and the future of our Health Service.

There are real concerns amongst the medical profession and ourselves over professional indemnity insurance and the statutory discount rates. The impact on the negative discount rate means considerable pay-outs can potentially be made and out of all proportion to need.
4105 Insurance premiums here are already high – obstetrics and gynaecology, we are talking six figure sums – *six figure sums* – that is what we are paying, effectively that is what the Guernsey taxpayer is paying now to be able to have obstetricians and gynaecologists on this Island.

So unlike the NHS, we do not benefit from Crown indemnity here, we have to go to the market. This is not about supporting insurance companies at all, this is about ensuring that we can
4110 have medical practitioners who can continue to practice on the Island, and it is not theory either. Members may not know, I mean we do not always get all the information and things that are coming from our sister Island, but there is a case in Jersey, a personal injury claim there, where we are talking about a figure, a claim of £238 million – that is a lot of money. (*Interjection*) Even Deputy Trott says that is not just a rounding that is a lot of money. It is more than we have just

4115 said we are happy to spend on Hospital modernisation. If we get a claim like that here it will cripple us. This is a real issue. Doctors in Jersey say these massive lawsuits have had a direct impact on their ability to get indemnity insurance and how much it costs, and it is also said to be impacting recruitment. All the things we were talking about earlier.

4120 There is a quote I have found from the *Jersey Evening Post* from a couple of months ago, a Dr Minihane speaking on behalf of local GPs, consultants and medical specialists, he was quoted as saying:

It is right and just that we attempt to compensate people for loss but not to the extent that it cripples the Health Service. If the population decide to start negligence claims with no limit to the damages payable then the insurers of medical defence organisations that currently indemnify doctors could well withdraw from the market.

4125 As Deputy Yerby says, talk about loss, but we have got to see this in terms of the population as a whole, so somebody might be born with a genetic problem a disability – they do not get any pay-out for that, they will get care from Health & Social Care and all the wraparound support that they need, but they do not get money that has been won for them by a very good lawyer; but somebody who may end up with the same condition, but through an accident say, could end up with tens or hundreds of millions of pounds.

4130 The reality of that is if we do have somebody who gets such a large amount of pay-out who are the people who are going to suffer? Well, it will be those people with disabilities that are a genetic condition, because the money has got to come from somewhere and we might not have the people to actually look after those people in the future if we cannot actually insure them because the money will not be there.

4135 Sir, this looks like a rather dry policy letter I am sure people read it and thought, yes, fine, it is not that interesting, it is not like buildings and it is much harder for us to relate to, but this policy letter is probably more important in many ways than the one that we have just debated and my Committee is totally supportive of this and the medical profession is totally supportive of this policy letter which says we need to investigate. It is absolutely crucial that we do.

4140 I thank P&R for bringing it and consulting us in doing so, and I would just ask Members if they really do value the Health Service that we have at the moment even before all the reforms that we do, well we might not be able to undertake those reforms in the future if anything does happen, and we need to really seriously think about what we want for our health and care system in the future.

Thank you, sir.

4145 **The Deputy Bailiff:** Deputy Tindall.

Deputy Tindall: Thank you, sir.

4150 I rise because I, for a change, felt a little bit irked by the President of Health & Social Care's comment when she referred to Deputy Ferbrache as thinking too much like a lawyer. I have been accused of that many times and I find it rather irritating because when you think like a lawyer you have to think of the outcomes; you have to think things through; you have to think of all the possibilities, permutations if you like, and it is actually something quite beneficial. So for that reason I felt like I ought to stand.

4155 However, I also thoroughly have considered this, being a Member of the Committee, from all the legal aspects that Deputy Ferbrache has mentioned. I also acted for claimants for personal injury. I also was in a firm who acted on behalf of NHS Trusts. More importantly, I also acted on behalf of individuals who claimed Social Security and Disability Living Allowance, in other words those who actually had the personal injuries and the effects thereof and involved in personal injury trusts. I could go on.

4160 The point is I think what Deputy Yerby said really sums it up for me. This is a question of a balance, this is a balance between the provision of services and being able to do so and in effect reacting to what was a judgment, a scenario brought about by the decreasing interest rates, and

for me therefore I look at this as a sensible outcome with a fair balance to enable the benefit of the Bailiwick to continue to receive the medical services they deserve.

4165 Thank you, sir.

The Deputy Bailiff: Deputy Gollop.

4170 **Deputy Gollop:** Sir, I want to take more of a sort a wishy-washy indicative voting position on this because in a way intellectually I am rather persuaded by the erudite case Deputy Ferbrache has made, but I am likely to support Deputy St Pier and Deputy Soulsby today on the grounds that we will have a chance to look at very carefully the legislation and the other consequences when they return, and maybe have more analysis and expertise from diverse lawyers, lobbyists, insurance companies, medical professionals, before making a final, final judgement, final answer if you like, on the outcome.

4175 I have to say that to be a bit ironical here, I certainly do not think like a lawyer at all because I am not one but I did do a limited amount of legal training and I would liken myself more though to the sort of bargain hunter that you see on these cut price antiques programmes and the more shrewd antique dealer looks around and can automatically sum up what will sell and what will not as an auctioneer, and it is a strange kind of thing. I think I am a bit like that with policies; perhaps that is what I bring to the table because so often really well researched academic, evidenced, complicated, professional cases are made and I kind of sit there thinking, yes, but that is not going to work on the night, it is not going to fly for some reason or other politically.

4180 I think the problem here I will bring perhaps a contrary position, because we have heard, for example, Deputy Yerby arguing the case for restraint on the amount of money a severely disabled person might need in a very unusual and hopefully very rare court case, and Deputy Ferbrache arguing passionately that a person who is in real need and who has gone through the process of having extremely able lawyers such as himself before extremely able judges, yourself the Deputy Bailiff, the Bailiff and of course Justice Sumption – many other Justices should be entitled to what the award is.

4190 But my problem with that is this, that there is a philosophical and political tension always in any democracy between the role of the politician and the role of the lawyer, or rather the role of the courts. We do see on occasions, frequently in fact, the judiciary leading the way with libertarian policies or adjudications which then counteract the view of perhaps a less individualistic executive that is looking at the common good more and the communitarian interests.

4195 Now if we are sentimental today and throw out Deputy St Pier's arguments for another time and agree that Deputy Ferbrache has wisely put the point that judges and adjudicators made sensible resolutions in the past and will make equally sensible views in the future, the problem actually is a political one and this is why it is a little bit of a topsy-turvy situation we find ourselves in. Because my fear is that if we continue with the culture of unrestrained potential awards we will not just see the issues Deputy Soulsby and Deputy St Pier and others have identified, which would be: rocketing costs of insurance; the difficulty of some professionals to gain affordable insurance; the need of the States to underwrite claims and all the rest of it.

4200 We would have another situation potentially and that is the very viability of a public health system in the Channel Islands or in Guernsey and who knows what the future would bring if we had extraordinarily high claims which also led to extraordinarily high insurance claims, we would have to react by either closing down some facilities on the Island by default or by rocketing up the tax rates. This is surely a measure amongst other things of containing the inflation rate of medical and care costs on the Island to a certain extent. Maybe I am wrong in suggesting that.

4210 An example has been given of America which has completely different sets of laws in different States and so on, but I think we would probably acknowledge that America spends far more *per capita* of its GDP on medical and care costs than most other societies, and not necessarily in the

most efficient or cost effective way, and that has partly been a product of its litigious and very litigation based, very tort based style of individualism.

The dilemma I have is on the one hand we might need a society to give the maximum possible award to somebody who has suffered a dreadful life changing condition but in a way we would be better off utilising those resources, if we had them, for statutory protection and safeguarding of people with needs by improving our overall offer to people with life changing disabilities and conditions and changes.

I think there is a balance to be drawn, as Deputy Tindall has pointed out, and that balance is not just about the role of the individual and the courts, it is actually about the quantum of taxation and cost of the Health Service. Because, as I say, can Deputy St Pier give any indications as to whether we would indeed have a potential risk of needing substantially more money to fund the current medical and care option that we have if we do not support the line of thinking today?

The Deputy Bailiff: Deputy Trott.

Deputy Trott: Sir, I have no knowledge of how personal injury lawyers are paid, I do not know whether it is a fixed fee and time costs, a sliding scale, a percentage of the pay-out up front, a settlement, periodical or whatever, and frankly, sir, I care not, because I do not think this is about lawyers. But I do think it is about patients and, to my simple mind, it must be better to go under a surgeon's knife in times of need in the knowledge that that surgeon's liability is fixed or capped in some way than to not have the choice of availing themselves of that surgeon's knowledge and expertise in the knowledge that there is a small element of risk for you as a patient because they do not have unlimited insurable liability.

Now for me it is as simple as that. It was better articulated, I think, by both Deputy Soulsby and Deputy Yerby. But that is the reality of the situation that we face, and for me it is a simple decision to support this policy letter in its entirety.

The Deputy Bailiff: As nobody else is rising, I will turn to the President of the Policy & Resources Committee, Deputy St Pier, to reply to the debate.

Deputy St Pier: Sir, I think I can reply really very briefly because I think actually the debate, both sides of the argument have been presented extremely well, by Deputy Ferbrache speaking against a couple of the Propositions and indeed by other speakers speaking in favour. So I think there is little I can do to challenge or summarise those arguments which have been presented, and therefore I will not attempt to do so.

There are only two issues which I think need to be responded to, one is the challenge from Deputy Ferbrache in relation to the fact that this is really about insurers. It is that ultimately it is the insurers that do pick up the costs in these cases, he is absolutely right, but of course ultimately those insurers need to be funded by way of premiums, as I said in my opening speech, sir, and that ultimately does fall back on the consumers of the services and therefore the taxpayers and Islanders, which takes us back into the arguments of why we need to look at this as presented by Deputies Yerby and Soulsby so ably.

I think the final point was in relation to Deputy Gollop's challenge, the risks that this will incur or could incur significant future costs and again I think I did address that in my opening speech and Deputy Soulsby certainly spoke to that. I think we can, with hand on heart, say that the current situation does present some significant risks that could have an impact on the costs that are borne by us as a community and therefore the provision of future services, and again I think Deputies Yerby and Soulsby spoke to that very well.

So with that, sir, and whilst understanding and respecting the arguments that Deputy Ferbrache has presented so ably, I would encourage Members, sir, to support all Propositions as presented with the knowledge and reassurance that those controversial elements, particularly in relation to the statutory limit on damages, which I did acknowledge is not an easy subject, will

come back to this Assembly in due course and further significant consultation is required both on that; on the proposal to recover costs in full, health costs in full, and also on the rate of the statutory discount rate itself.

So with that, sir, I encourage Members to support the Propositions.

4270

The Deputy Bailiff: Members of the States, Proposition 1 is subdivided into four paragraphs. Is it your wish that they be put separately so that separate votes can be taken on them? In that case it is all about what goes into the enabling legislation, so there are the four elements that form Proposition 1 (a), (b), (c) and (d) and I will put each of those, (a), (b), (c) and (d), to you separately. Those in favour of paragraph (a); those against.

4275

Members voted Pour.

The Deputy Bailiff: I will declare paragraph (a) carried.
Paragraph (b); those against.

Members voted Pour.

The Deputy Bailiff: Well that is certainly carried.
Paragraph (c); those against.

Members voted Pour.

4280

The Deputy Bailiff: Also carried.
Those in favour of paragraph (d); and those against.

Members voted Pour.

The Deputy Bailiff: Well I will declare paragraph (d) carried, which means that the entirety of Proposition 1 has been carried. Those in favour of Proposition 2; those against.

Members voted Pour.

4285

The Deputy Bailiff: I declare Proposition 2 also carried.
Members of the States, bearing in mind the time, I am minded to get a clean start in the morning on the policy letter from the Committee *for* Home affairs rather than start that now and effectively stop at the end of the opening speech.

So we will close the meeting for today and adjourn until 9.30 a.m.

The Assembly adjourned at 5.27 p.m.