



**OFFICIAL REPORT**

**OF THE**

**STATES OF DELIBERATION**

**OF THE**

**ISLAND OF GUERNSEY**

**HANSARD**

**Royal Court House, Guernsey, Thursday, 16th July 2020**

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**Present:**

**R. J. McMahon, Q.C., Bailiff and Presiding Officer**

**Law Officers**

Miss M. M. E. Pullum, Q.C. (H.M. Procureur),

**People's Deputies**

**St Peter Port South**

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

**St Peter Port North**

Deputies C. N. K. Parkinson, L. C. Queripel, M. K. Le Clerc,  
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, N. R. Inder, M. M. Lowe, L. B. Queripel, J. C. S. F. Smithies

**The Castel**

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

**The West**

Deputies A. H. Brouard, E. A. McSwiggan,  
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**

S. M. D. Ross, Esq. (The States' Greffier)

**Absent at the Evocation**

R. M. Titterington, Q.C. (H.M. Comptroller)  
Deputy J. A. B. Gollop (*relevé à 9h 33*); Deputy M. P. Leadbeater (*relevé 12h 02*);  
Deputy P. R. Le Pelley (*relevé à 9h 46*); Deputy S. T. Hansmann Rouxel (*relevée à 9h 33*);  
Deputy J. P. Le Tocq (*relevé à 9h 46*); Deputy A. C. Dudley-Owen (*relevée à 9h 46*)

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# States of Deliberation

*The States met at 9.30 a.m.*

[THE BAILIFF in the Chair]

## PRAYERS

*The States' Greffier*

## EVOCATION

# Billet d'État XV

## DEVELOPMENT & PLANNING AUTHORITY

### **XIII. Amendments to the Land Planning Legislation Relating to Planning Applications – Propositions carried**

*Article XIII.*

*The States are asked to decide:*

*Whether, after consideration of the Policy Letter entitled 'Amendments to Legislation Relating to Planning Applications' of the Development & Planning Authority, they are of the opinion:*

*1. To approve the proposals to amend the Land Planning Legislation relating to planning applications so as to –*

*(a) remove the requirement for planning applications to be accompanied by four copies of plans and information; and*

*(b) remove the requirement that an application for outline planning permission must not be made where the application is also an Environmental Impact Assessment application ("EIA application"), and*

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

**The States' Greffier:** Billet d'État XV – Article XIII – Development & Planning Authority – Amendments to the Land Planning Legislation Relating to Planning Applications.

**The Bailiff:** Before I call Deputy Tindall as the President of the Authority to open the debate,  
5 Deputy Gollop and Deputy Hansmann Rouxel, both of you slipped in during the course of roll call. Is it your wish that both of you be relevés?

**Deputy Hansmann Rouxel:** Yes please, sir.

10 **Deputy Gollop:** Please, sir.

**The Bailiff:** Thank you very much.  
Deputy Tindall to open debate then, please.

15     **Deputy Tindall:** Thank you, sir.

The Development & Planning Authority is grateful that this policy letter is being considered at this States' meeting. We believe that the matters addressed are of urgent significance to the economic recovery post-Covid-19, particularly in relation to facilitating the progression of the development of the Leale's Yard Regeneration Area for which a development framework has now  
20     been approved, but also in terms of enabling the digital submission and processing of planning and building control applications through the SMART Guernsey initiative.

In the DPA's Business Plan for 2017 to 2020, we identified the need to continuously review workstreams to identify changes to legislation which could enhance certain aspects of planning. This policy letter is recommending two such amendments which became obvious through the  
25     Agilisys work to provide a digitalised service for planning and the other through the Leale's Yard regeneration development framework.

As part of the Future Digital Services SMART Guernsey programme, the digital online platform for planning will not only allow planning applications to be submitted electronically and viewed by the public online, Deputy Graham will be pleased to hear that it will also allow us to identify at an  
30     early stage, earlier than the quarterly monitoring reports, the number of applications in a particular category. *(Interjection and laughter)*

As it says in the policy letter, the project was started before the pandemic and thanks to the local architects and parish officials we have started testing a version. But due to a lack of resources and digital capacity, progress was not as rapid as we had hoped. However, with the Revive and Thrive  
35     Strategy approved, we hope that this will be rectified so we can offer a 21st century Planning Service.

To cope with the lockdown the Director of Planning and the Head of IT put together a make-do and mend version which has worked well. But there are issues with the copyright of the plans which have been submitted and not everyone can access the documentation easily or at all. This will need to be addressed and we are told that planning is at the top of the queue for the upgrade to enable  
40     us to comply with our statutory duties under the land planning legislation.

As part of that, it is obvious that the number of copies of the plans and documentation currently required by the legislation will no longer be needed. Four copies were originally included in the legislation which came into force on 6th April 2009, as one was for the file record, one to be returned stamped to the applicant, one for the public deposit inspection and one for any consultations. Once  
45     the online portal is available, these paper copies will no longer be required, saving everyone time and effort. A small change, but one that paves the way for a great improvement that the Planning Service can offer to applicants, neighbours and those who consider making an objection.

The other change for which we are seeking approval is the removal of the requirement for any planning application which requires either an Environmental Impact Assessment, or EIA, or if a  
50     Screening Opinion is issued at pre-application stage confirming the development requires an EIA.

The need became apparent through the work for the Development Framework for the Leale's Yard Regeneration Area, or LYRA.

The idea of the master developer approach has been suggested for the LYRA and that progress for the development will be enhanced if the application, which would be an EIA development, could  
55     be undertaken through outline planning permission. This will enable an application to be made with only high level values and design parameters, enabling the scoping opinions setting out the matters which should be addressed and the level of detail required to ensure the protection of our natural environment.

Hopefully this will encourage interest in making an application not only at the LYRA but for other  
60     areas, such as the Harbour Action Area in both St Sampson's and St Peter Port which forms part of the Seafront Enhancement Area and the three remaining regeneration areas also in St Peter Port. Development frameworks for the three regeneration areas which the DPA hope to be able to start work on shortly.

65 The regeneration area development frameworks in Town looking at mixed use and that could include a greater emphasis on homes and less on offices because of the reassessment of how we work but with the overarching aim of reinvigorating our main centre.

With the interest that has been shown recently I ask Members, sir, to support these Propositions so we can proceed to revive and thrive our built environment while looking after our natural one.

70 Thank you, sir.

**The Bailiff:** Deputy Merrett.

**Deputy Merrett:** Thank you, sir.

75 I will first of all declare an interest. As Members I am sure undoubtedly know by now, Mr Merrett is a director of Lovell Ozanne and therefore, arguably, they could benefit from this policy paper.

Now, 1(a) I completely understand and I applaud it. It has been a bane that we have to have four copies of anything and it is at exceptional cost because some of those applications are hundreds of pages long; they can be. So 1(a) I absolutely understand.

80 But 1(b), the wording, I struggled with. And maybe that is when I should not have had such large Chinese walls and just simply asked Mr Merrett, but I did not. So 1(b), and the wording is this:

remove the requirement that an application for outline planning permission must not be made where the application is also an Environmental Impact Assessment application ...

85 I just find that a little bit odd wording. It is not very clear to me, sir. *(Interjection)* So my understanding is that if there is a requirement for an EIA, an Environmental Impact Assessment, for a full planning application, which can cost thousands if not I believe tens of thousands of pounds, but certainly thousands of pounds, that the intent of removing that requirement from outline application is to try to have more outline applications and generate more interest in the market *per* se. I get that.

So it is basically an outline application gives some sort of level of understanding or certainty that is how I see it, but my understanding, and I am sure Deputy Tindall will be able to reply to this, is that an applicant will still need to do an EIA for a full application.

90 So it is almost like putting a stake in the ground and having the stated interest or intent. So the question I ask is this: surely an EIA would inform a scheme design in the first place? Surely an EIA has some value? So the concern, if there is no EIA, could potentially jeopardise the integrity and content of an outline permission because it would not have been taken into the mix, shall we say.

95 If we said, as I said before, that the EIA has some value, it must have some value to the application otherwise it would not cost so much and be a requirement, and has a value of informing the application. So, sir, arguably, an application could significantly change. I mean, in the outline permission could become worthless, if the EIA changed the application so much?

100 So it is arguable that to try and save some money up front in the short term could mean that the outline application and permission could be rendered void, or certainly be significantly changed. That could therefore cost more money in the long term. That is of course depending on what the EIA may or may not reveal, shall we say.

So remember Members, the EIA is needed for a full application anyway. So as I said, it is probably a good indicator of possibility or of intent and agreement but it would still depend on other factors as required by law, which I believe is the EIA.

105 So as long as this is clear and communicated to our community I will support this, but I would counter that there will be some confusion, there may be some uncertainty and some complaints because the argument being from the community, potentially, that, 'This was approved, we have outline planning permission approved', but of course that was based on the agreed data available at the time, which my understanding from this will mean there will not be an EIA.

110 So I absolutely applaud the removal of any obstacles for a development but I am disappointed and surprised that this policy paper does not or has not as far as I can see – and again, I am sure Deputy Tindall can advise the Assembly – considered the threshold of development frameworks,

because there was quite some debate in this Chamber about the threshold requirements and the discontent that it was so low.

115 So I put it to the Assembly that arguably the information contained within development frameworks should and will be within the full planning application. I would argue that it should be the Planning department that consider an application and they should be the ones to determine if that application fits or fulfils within the policies of the IDP.

120 Now, of course, how policies are interpreted by applicants and how they are implemented by Planning may always cause some discontent and some confusion, and my interpretation would certainly be different of some policies to other people and from the Assembly. So we know there can be some confusion.

125 So if Deputy Tindall could give us an update on what consideration has been given to removing the threshold or changing the thresholds for DFs. I am sure that has been considered by the DPA and I am sure we can get an update today, that would be great, because I think this and can be a barrier also to development.

130 Now, when Deputy Tindall spoke, I was a little bit concerned that we have now recognised this is a barrier, especially I am talking to 1(b), because of the Government's requirement for this regeneration, and we are saying there is a bit of a barrier. And Deputy Tindall used various examples: they were all government, I will say Government projects, but Government regeneration areas.

135 Now, that is great, it has been recognised now, that is fantastic; I am really pleased. But actually I am led to believe – not through Lovell Ozanne Architecture; not through Mr Merrett – that this has been flagged before. It has been flagged before by architects and members of the building construction industry. So they have flagged that there is a barrier. 'Do we have to do this? Can we get ...', and they know the risk involved. The professionals, the architects would be able to communicate this to their clients of the risks involved in not having an EIA for an outline planning permission. But they always had happened before and they flagged this but we have not moved on it, and now ... and I think Deputy Tindall used the Leale's Yard Regeneration as a good example, now we have realised actually it is a barrier and actually we ought to do something about it.

140 But that just concerns me a bit that, we have not reacted ... We have reacted now, if I am understanding of what Deputy Tindall has said, as there's a barrier to the regeneration rather than acting before when it was a barrier to business. So I think that is what I took from when Deputy Tindall spoke.

145 So in summary, sir, I do support this. I do believe in removing the barrier and I applaud it. But we need to be clear in our communication because what I do not wish to have is members of our community ... And it is different, if you are household and you make an application, it is quite different than when you are able to afford to pay professional fees where they have the expertise and they understand it; they understand that that is what they are paid to do. But when it is a member of our community doing an application they may not have and they get very confused and very complicated.

150 What I wish to avoid, I really wish to avoid, is having people complaining saying, 'But we have got outline planning permission', and then when they go to have an EIA and submit a full planning permission, it could be quite a change. I mean, if we are not going to show any due consideration to the EIA then we have to think why do we actually have them and want to show due consideration to the EIA? I think we should, but the point I am trying to make is we need to be clear that outline planning permission could actually fall, it could potentially be worthless if the EIA throws something into the mix that is so different to the expectation that actually it becomes worthless and so the perceived value of saving money or saving that work could therefore be lost when they go to make a full application. It is complicated, I think I have tried to be as clear as possible.

160 So I hope Deputy Tindall is aware of my concerns and that she can address them, but also address the barrier of having development frameworks at such a low threshold.

Thank you, sir.



**The Bailiff:** Deputies Dudley-Owen, Le Pelley and Le Tocq, is it your wish that each of you be relevé(e)?

**Deputy Le Pelley:** Yes please, sir.

**Deputy Dudley-Owen:** Please, sir.

**Deputy Le Tocq:** Grateful, sir, thank you.

**The Bailiff:** Thank you very much. We will mark you as present.  
Deputy Gollop.

**Deputy Gollop:** Thank you – I am grateful to be present too.

I have more than a passing interest in the planning frameworks and evolution, because of course for two years I sat with Deputy Brehaut when he was Deputy Minister and with the President of Le Société Yvonne Burford on the old Environment and then I was promoted, if that is right word, to be President of the Development & Planning Authority before Deputy Tindall's era where she and Deputy Oliver assisted me, and Deputy Lester Queripel, greatly.

Many of these issues that Deputy Merrett has flagged up were indeed on the horizon at the time and in fact I see Deputy Oliver nodding at me. Deputy Oliver was a particularly strong proponent, perhaps based on her commercial background in development and surveying. We were behind the curve compared to other jurisdictions in evolving planning online.

So obviously I am going to support all of this as far as it goes. Although, as Deputy Merrett pointed out, this has kind of crept in almost as an evolution of the transformation of the Civil Service through the Agilisys transformation programme. It is linked to Covid, in a sense, it is an improvement. And therefore it is not front line in the way that the anti-discrimination legislation is to our concerns, but it is worthy of support.

I think the points to make are though that yes, we can and should remove the requirement for four copies of plans and information from the paper age. And indeed I have been criticised by my political colleagues and some civil servants for wasting money by still having paper copies on occasion, but it can be easier in certain circumstances too. But there is a point on page 2 that needs to be scrutinised. It says:

The first of the two relatively minor changes ... will assist with the making of planning applications ... It is proposed that the requirement in respect of all types of applications –

– to be removed. Is that therefore for all kinds regardless of scale? Clearly an application to change a door, window or sign is of a very different nature from a significant development of 30 or 40 properties. And I want clarification on that, because that brings me to my second point.

There are still members of the community, possibly lawyers and their representatives, definitely members of the older generation in some cases who would wish to go down to Frossard House or another suitable location and review those plans with the scrutiny of a human person looking at architectural drawings. So will paper copies still be available? Not necessarily four copies because clearly that is being removed, but will one copy potentially be available for scrutiny, or two? That is the first question we need to be clear on.

The second aspect is that we deal with outline planning applications here. Clearly, Deputy Merrett has raised a point that Environmental Impact Assessments may be necessary to be in paper copies in some context and not in others. We need clarification on that.

That brings us to the Leale's Yard issue, page 6, 3.14:

In order to facilitate such a master plan, it is recommended that an outline planning permission can be given in respect of an EIA development. This would significantly assist the appropriate delivery of larger and more complex sites such as the Leale's Yard Regeneration Area ... The potential for granting of outline [planning] permission across the whole site would have the benefits of providing a sound basis ... [and it would] avoid the significant initial costs associated with a detailed application. I would be theoretically possible to develop Leale's Yard in other ways, and indeed joint outline and

detailed applications for development of the site were approved in 2016 but were not implemented, but by allowing an outline application, it is believed that a barrier to development would be removed.

Now, are we saying therefore, because Deputy Parkinson and Deputy Trott are on record in another context as saying Leale's Yard is a project that can move ahead at a quicker pace, that these changes in relation to EIA will enable the whole process to go quicker and effectively the DPA political and officer professional level will be able to give a yay or a nay to a scenario without the need for detail and therefore that will enable the development to be more flexible? Because we clearly need to be clearer perhaps as to what scope this will have and whether it will not only strengthen the hand of the developer and the economy but whether it will strengthen or weaken the representations that members of the public or lobby groups might wish to make because that is of course always the balance of planning in meeting both the needs of the economically motivated developer and the stakeholders in the community.

Thank you.

**The Bailiff:** Deputy Soulsby.

**Deputy Soulsby:** Sir, we are currently debating a six-page policy letter on setting out things that I think are eminently sensible, uncontentious; I cannot imagine anybody here is going to vote against it. It has taken longer to have this debate than to actually read the policy letter and I would just ask Members: can we just get on with the vote and get on to matters of more importance to the community at this moment in time?

Thank you.

**A Member:** Hear, hear.

**The Bailiff:** Deputy Inder.

**Deputy Inder:** Sir, no, I am not going to. This is a debating Chamber and I am slightly concerned ... I was not going to stand up but I am going to stand up now – that irritated me.

Now, what this seems to be, it is designed around Leale's Yard. This has all been designed around Leale's Yard. Now, the Leale's Yard development came through, if I remember correctly, and I am happy for Deputy Merrett to stand up, and I will remind Members –

**Deputy Oliver:** Point of correction, sir.

**The Bailiff:** Point of correction, Deputy Oliver.

**Deputy Oliver:** This not designed about Leale's Yard.

**Deputy Inder:** Well, it looks like it from –

**The Bailiff:** Just a minute, Deputy Inder.

It was Deputy Inder's opinion that he thinks it is designed around Leale's Yard. He is not misleading or making an inaccurate statement, he is expressing his opinion.

Please continue, Deputy Inder.

**Deputy Inder:** Sir, this looks like it is designed around Leale's Yard, because, page 5 through to page 6, it is all about Leale's Yard.

Now, if I remember correctly, and I do not, (*Laughter*) I believe Leale's Yard idea of the development and the idea of the Co-op handing their debt to the States of Guernsey came from, I think it was the Deputy Merrett requête, and that is how that came to pass.

I do also remember seeing a presentation where Deputy Heidi Soulsby I believe was on the project board as well. So this has got Leale's Yard written all over it and this has not been approved by the States, well in terms of we have not seen –

**Deputy Soulsby:** Point of correction, sir,

**The Bailiff:** Point of correction, Deputy Soulsby.

**Deputy Soulsby:** I am not on the project board.

**Deputy Indor:** Well, I have been in .... Deputy Soulsby can, if she would like to ... I am happy to give way again, if she could explain what her relationship is with Leale's Yard because I have seen a presentation presented at the Committee for Economic Development where she and a number of other people were on some kind of project board.

So I am happy to give way.

**Deputy Soulsby:** Sir, yes, at one time I was asked to be on the project board and I declined. I have never been on the project board.

**Deputy Indor:** Well, I am afraid it was on the slides that we saw, and ESS have seen the slides and Economic Development have seen the slides. So at the time that was a fact so if it has changed since then, I cannot help that.

Now, what slightly annoys me about this is that I am being told not to debate something which I have got considerable skin in the game. Now, I do not know that the Leale's Yard, to be honest with you, is not the right site, but I will not be told not to debate something which has clearly got Leale's Yard written all over. And this Assembly is potentially walking into the nationalisation of its building industry if that goes ahead. I said that in the last States and I will say it when the Leale's Yard proposal – *(Interjection)* Well, okay, we ...

So in short, sir, I am probably going to support it, *(Laughter)* but I will not be told by anyone not to debate something which I think is fairly significant because effectively the reality is, if it is not this Assembly it will be the next Assembly, the next Assembly will be asked to take the debt of the failure of the Co-op, basically handing the debt to this Assembly and I will not be told not to debate something by anyone when I think it is that significant.

**Deputy McSwiggan:** Rule 26(1) please, sir. *(Interjections)*

**The Bailiff:** Will those Members of the States who wish to speak in the debate on these Propositions please stand in their places.

Deputy McSwiggan, is it still your wish to invoke Rule 26(1)?

Well, Members of the States, there is a motion to be put to you that debate on these Propositions, this item of business, be curtailed at this point subject to the usual winding up. Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare that carried and therefore I invite the President of the Authority, Deputy Tindall to reply to the debate.

**Deputy Tindall:** Thank you, sir.

Slightly ironic on the last point about stopping debate on an important matter when of course I felt that was indeed the case yesterday. **(A Member:** Hear, hear.) But I do appreciate that this is a

305 longer debate than I anticipated because it is, as Deputy Soulsby said, pretty clear, simple changes we want to make that were highlighted by Leale's Yard, not around Leale's Yard.

So I will address the questions of Deputy Merrett as best I can, albeit briefly. This has not been raised before. It was highlighted, as I say, because of the consultation of the first regeneration area. It is intended for all of the regeneration areas, all four of them, to benefit them, including the

310 Harbour Action Areas, Seafront Enhancement and larger developments. It is not just one area. It has absolutely nothing to do with any funding whatsoever. It is not the role of the DPA and we have adamantly pushed back on that from other quarters and we will do so again here today.

Those we have spoken to, myself and the Director of Planning and others, are very keen on this in respect of the EIA. The EIA is an extremely detailed report. It is a process which has many layers and many requirements to protect the natural environment.

315 In Schedule 1 it describes those that do require an EIA and Schedule 2 describes those which may need a screening opinion and scoping opinion which are detailed in the policy letter. I do not intend to read them out but I can direct Deputy Merrett to 3.4 and 3.5.

The topics that are generally covered as a starter for 10 will be in the development frameworks. The pre-application will then talk through them more. You get to an outline planning permission and you do not need this detailed report any more, if we have this approved today, and that helps investors. It helps people come along. They do not want to keep pulling out the cheque book every time to be able to get very far along the line for a planning application. That has very clearly been seen at Leale's Yard because we did have an outline planning application and a full application on

325 another part of that site and unfortunately that did not proceed. It is an example – no more. So the idea of the confusion and complaint: well, obviously the applicants who will be affected by this are professionals. They have shown interest and in fact we feel very strongly that they will be more than happy if this is approved and it gives choices, because clearly if a developer does want to do an EIA and asks for a Screening Opinion then, if it is a Schedule 2 development, clearly they can go ahead. It is a staged process and that is why it is so important to be balanced because some areas will not need it and some will.

330 So the changes that could come forward ... If it is definitely an EIA development, then the applicant can decide at which stage they wish to do it. It will be, as I say, part of the conditions and it is a cost-benefit analysis on their behalf, but it gives choices.

335 As far as Deputy Gollop mentioned with regard to strengthening the applicants and maybe effecting the representations, no, because it is still an outline planning permission. It is still goes through the same process, it just means that the absolute detail is not necessary at each stage but eventually the reserved matters will come back open planning meeting and therefore the same approach will be taken.

340 The basis of the copies for the public: yes, it is mentioned again in the policy letter about householders and how it will be affected. In addition this will apply to applications received from householders in hard copy as during the transition phase they would be scanned on to the portal again only requiring one copy.

345 Again, Charles Frossard House I am pleased, very pleased, to announce has been open since 22nd June and as I say, the make-do and mend applications have been available online since 16th June.

So, sir, I hope ... Oh, I beg your pardon: development framework thresholds. As I have repeatedly said that requires a planning inquiry because it is part of the IDP and was part of the Five Year Review. Now, we are working on lots of different ideas. We have especially since lockdown ended. I have met many people and spoken to them on the phone: there is a real buzz out there and there may be lots of opportunities to actually do a planning inquiry earlier and things like this could be tacked on, as we said in the Five Year Review pause debate.

350 It basically is we want to encourage business, we want to encourage investment, we want to encourage the balance between the neighbours, the objectors and the applicant, which is always the approach for planning. That is why we never please everyone or even sometimes anyone.

But the point is that this is a means to an end. It does not affect anyone or change any balance between everyone on this Island, but we need it to carry on the good work to enable the built and natural environment to be protected.

Thank you, sir.

360

**The Bailiff:** Deputy Roffey, you are rising.

**Deputy Roffey:** Yes, I would like to declare an interest, sir.

365

While I accept Deputy Tindall's assurance this is not about Leale's Yard, clearly that is one of the big schemes that will first be influenced by it or impacted. While I am no longer a director of the CICS, I know my judgement is still very much swayed by my long association with that organisation and therefore I shall abstain.

**The Bailiff:** Thank you very much.

370

Members of the States, there are two Propositions. I am going to put them to you together, unless ... well, I am going to put them to you together.

Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare both Propositions carried.

## **POLICY & RESOURCES COMMITTEE**

### **XIV. Revision of the Double Taxation Arrangements made with the Isle of Man and New Zealand, and new Double Taxation Arrangement with Estonia – Proposition Carried**

*Article XIV.*

*The States are asked to decide:*

*Whether, after consideration of the Policy Letter entitled "Revision of the Double Taxation Arrangements made with the Isle of Man and New Zealand, and new Double Taxation Arrangement with Estonia", dated 20 February 2020, they are of the opinion:*

*To declare that:*

*(a) the "Protocol Amending the Agreement Between the States of Guernsey and the Government of the Isle of Man for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income", signed by Guernsey on 12 November 2019; the "Protocol Amending the Agreement Between the States of Guernsey and the Government of New Zealand for the Exchange of Information with Respect to Taxes and the Allocation of Taxing Rights with Respect to Certain Income of Individuals", signed by Guernsey on 16 September 2019; and the "Agreement Between Guernsey and the Republic of Estonia for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance", signed by Guernsey on 18 November 2019, have been made with the governments of other territories with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of those territories; and*

*(b) it is expedient that the double taxation agreements that Guernsey has with the Isle of Man, signed on 24 January 2013, and New Zealand, signed on 21 July 2009, as so amended, and the Double Taxation Agreement that Guernsey has entered into with the Republic of Estonia for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion*

*and avoidance, should have effect, with the consequence that those Agreements shall have effect in relation to income tax in accordance with section 172(1) of the Income Tax Law, notwithstanding anything contained in the Income Tax Law, or any other enactment.*

**The States' Greffier:** Article XIV – Policy & Resources Committee – Revision of the Double Taxation Arrangements made with the Isle of Man and New Zealand, and new Double Taxation Arrangement with Estonia.

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

**Deputy St Pier:** Sir, I have nothing to add to that which is in the policy letter.

**The Bailiff:** Is there any Member who wishes to speak in this debate?  
If not, then there is a single Proposition, Members of the States. Those in favour; those against.

*Members voted Pour*

**The Bailiff:** I declare the Proposition duly carried.

## COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

### XV. Proposals for a New Discrimination Ordinance – Debate commenced

*Article XV.*

*The States are asked to decide:*

*Whether, after consideration of the Policy Letter entitled "Proposals for a New Discrimination Ordinance" (dated 2nd March, 2020), they are of the opinion:*

*1. To agree to the preparation of an Ordinance, under the provisions of section 1 of the Prevention of Discrimination (Enabling Provisions) (Bailiwick of Guernsey) Law, 2004 in relation to the prevention of discrimination on the grounds of disability, carer status and race in accordance with the policy proposals set out in this Policy Letter.*

*2. To agree that:*

*a. with the exception of the provisions referred to in paragraphs b. and c. below, the Ordinance referred to in Proposition 1 ("the Ordinance") shall come into force six months after its approval by the States,*

*b. the provisions in the Ordinance relating to discrimination complaints in the field of education shall come into force on a date to be appointed by regulations made by the Committee for Employment & Social Security, which date shall be after the date on which the Ordinance comes into force pursuant to paragraph a. above, and*

*c. the provisions in the Ordinance relating to a duty to make changes to physical features shall come into force on a date to be appointed by regulations made by the Committee for Employment & Social Security, which date shall be at least five years after the date on which the Ordinance comes into force pursuant to paragraph a. above.*

*3. To direct the Committee for Employment & Social Security to bring detailed policy proposals to expand the grounds covered in the Ordinance referred to in Proposition 1 to the States for consideration. This should be in accordance with the proposals and timeline set out in section 8.*

*4. To note the Committee for Employment & Social Security's intention to recommend, in phase 3 of the development of the Ordinance, the introduction of the right to equal pay for work of equal*

*value in respect of sex, in accordance with the International Covenant on Economic, Social and Cultural Rights and in order to support the extension of the Convention on the Elimination of All Forms of Discrimination Against Women.*

*5. To direct the Committee for Education, Sport & Culture and the Committee for Employment & Social Security to work together to develop an appropriate adjudication mechanism for complaints with respect to disability discrimination in schools and preschools and for any discrimination complaints relating to States' school admissions and to note that any request for additional funding for this purpose will be submitted through the appropriate budget setting process.*

*6. To approve the transfer from the Budget Reserve to the 2020 revenue expenditure budget of the Committee for Employment & Social Security:*

*a. of £90,000 to fund an increase in the capacity of the Employment Relations Service, developing Rules of Procedure and a rolling training programme for the Employment and Discrimination Tribunal, programme management, and beginning to develop guidance and a code of practice, and*

*b. of £40,000 for conducting a survey on prejudice and discrimination and beginning to develop an approach to address issues identified through the survey (noting that the request for b. stands, even if the preparation of the Ordinance is not approved, in order to promote equality and prevent discrimination via cultural change).*

*7. To direct the Policy & Resources Committee to include specific additional funding in the recommended Cash Limits of the Committee for Employment & Social Security: a. to fund the Employment and Equal Opportunities Service and the Employment and Discrimination Tribunal, estimated at £200,000 in 2021; £305,000 in 2022; and £325,000 from 2023 onwards, and b. to fund proactive work to raise awareness and change attitudes in relation to prejudice and discrimination in the community, estimated at £45,000 per annum (noting that the request for b. stands even if the preparation of the Ordinance is not approved in order to promote equality and prevent discrimination via cultural change).*

*8. To approve the allocation from the Transformation and Transition Fund, or other source deemed appropriate by the Policy & Resources Committee, of £395,000 to fund project set-up costs and awareness raising about the legislative changes between 2021 and 2023.*

*9. To instruct Property Services to find suitable office accommodation for the Employment and Equal Opportunities Service to move to.*

*10. To amend the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005 to require Tribunal Chairs to be legally qualified, as set out in section 7.4.3 and appendix 6.*

*11. To prepare legislation outlining the powers and functions of the statutory official who will lead the Employment and Equal Opportunities Service and to amend existing employment and discrimination legislation in order to transfer any relevant powers to that statutory official (as outlined in section 7.4.2 and appendix 6).*

*12. To amend existing employment and discrimination legislation to ensure that a consistent approach is taken to offering pre-complaint conciliation with regards its effect on suspending the time limit for registering complaints and to enable other relevant time limits to be amended as may be considered appropriate.*

*13. To note the Committee for Employment & Social Security's intention to introduce Rules of Procedure for the Employment and Discrimination Tribunal by Order under the provisions of paragraph 3 of the Schedule to the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005.*

*14. To amend the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 to ensure, so far as appropriate, that the limits for financial compensation in that Ordinance are consistent with the limits set out in this Policy Letter and, so far as may be appropriate, to ensure consistency between the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 and the Ordinance with respect to civil penalties and criminal offences, as set out in section 10 and appendix 4.*

*15. To note that the Committee for Employment & Social Security shall have the power to prescribe by Regulation, inter alia:*

- a. exceptions to the Ordinance,*
- b. what is and is not a "physical feature" for the purposes of the Ordinance, and*
- c. when tenants can request improvements to accommodation in relation to the rights of tenants in residential accommodation.*

*16. To note that the Committee for Employment & Social Security will bring proposals to the States for the establishment, operation and funding of an "Access to Work Scheme" by the end of 2021 (see section 7).*

*17. To agree that policy work on the outdated legislation and the policy and legislation gaps identified in section 9 should be considered for prioritisation through the Future Guernsey Plan in the next States' term. 4*

*18. To repeal the discriminatory provisions relating to women in the following legislation, as set out in section 9.5:*

*Loi ayant rapport à L'emploi de femmes, de jeunes personnes et d'enfants, 1926,*

*The Quarries (Safety) Ordinance, 1954,*

*The Safety of Employees (Growing Properties) Ordinance, 1954,*

*The Safety of Employees (Miscellaneous Provisions) Ordinance, 1952.*

*19. To direct the preparation of such legislation as may be necessary to give effect to these Propositions, including consequential amendments to other legislation.*

*20. To direct the Committee for Employment & Social Security to conduct a postimplementation review of the effectiveness of the legislation for individuals, employers and service providers no later than two years after the implementation of the final phase of the legislation (including changes to physical features coming into effect), or earlier if there are significant issues with respect to the operation of the legislation.*

**The States' Greffier:** Article XV – Committee for Employment & Social Security – Proposals for a New Discrimination Ordinance.

**The Bailiff:** I invite the President of the Committee, Deputy Le Clerc to open debate on this matter.

Deputy Le Clerc.

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

Sir, I am delighted to present these proposals for a new Discrimination Ordinance to the Assembly today – they have been a long time coming.

Since the Committee for Employment & Social Security took over responsibility for the Disability and Inclusion Strategy in May 2016, we have worked diligently to prepare. First, draft policy proposals for multi-ground discrimination legislation, which we consulted on during the summer of 2019, and second, a final set of policy proposals which we lay before you for consideration today.

It has been a long and difficult road. A major consultation last year revealed big divisions in what our community felt was proportionate in terms of discrimination legislation. Bringing forward proposals that could carry with them a community with very polarised views has been incredibly challenging. We have had to compromise; we have had to ask those who have waited far too long for protection to compromise also. They have done so pragmatically, although they would prefer the legislation to go further and for some grounds of protection to be introduced sooner.

The revised proposals now recommend the phased implementation of multi-ground discrimination legislation. This Assembly is asked to approve seven recommendations today, the most important of which are: to approve the phased development of multi-ground discrimination ordinance; to approve phase one of the development of the ordinance and to direct the drafting of the relevant legislation; to agree the development of the Employment & Discrimination Tribunal to have the capacity and skills to hear complaints made under this new Ordinance; and to agree the enhancement of the Employment Relations Service to an Employment & Equal Opportunities Service to ensure that the legislation can be implemented effectively.



Phase 1 will cover discrimination on the grounds of disability, race and carer status. Our definitions have changed following consultation feedback. Carer status will apply to informal carers of disabled people who are close family members or who live in the same household and when the person being cared for has continuing or frequent care and support needs.

We are proposing that a person would fall within the protected grounds of disability if they have one or more long-term physical, mental, intellectual or sensory impairment. An impairment would be defined and would be considered to be long term if it has lasted or is expected to last for not less than six months or is expected to last until the end of the person's life. This is the same as the requirement under the Discrimination (Jersey) Law 2013.

This time period would not exclude potentially relapsing or reoccurring conditions where a person is in a period of remission, for example, cancer, multiple sclerosis, mental health conditions, or where treatment is controlling the condition. For example, HIV or diabetes.

I want to empathise why we need this legislation, how much we need it and why we need to agree it now today. It is approaching 15 years since the States last made such significant progress in tackling discrimination, when an Ordinance prohibiting sex discrimination in employment came into force. It is six and a half years since the States approved the preparation of proposals for legislation to protect disabled people and their carers from discrimination as part of the Disability and Inclusion Strategy. It is over 50 – and I repeat, 50 – years since the UN's International Convention on the Elimination of all Forms of Racial Discrimination was extended to Guernsey in 1969 and yet racism is still not unlawful here.

With the global focus on tackling racism this is not acceptable and must change. If this policy letter is approved and the States agree to the drafting of race discrimination legislation, Guernsey will finally meet its international commitments to outlawing discrimination on the grounds of race.

People may experience discrimination or unfair treatment due to some aspect relating to who they are, for example, because of their sex, race, age, religion, sexual orientation, marital or carer status, or because they have a disability. Discrimination can happen in all areas and stages of life. We all have an age, race and sex, and therefore this legislation once fully implemented will protect every member of our community from unfair treatment when accessing employment and goods and services. It will not apply to our private relationships.

The current lack of legislation denies citizens the opportunity to challenge instances of discrimination that they experience. It makes Guernsey a less attractive place to live and work. Freedom from discrimination is at the core of all human rights. Just one case of discrimination that cannot be challenged is one too many, when it denies an individual their human rights and prevents them participating fully in society. Our democracy is only legitimate if everyone can participate. (**A Member:** Hear, hear.)

Discrimination is happening in Guernsey. We know this because we have had several examples and pieces of evidence including the 2012 Disability Needs Survey, the Guernsey Disability Alliance reports, including real-life examples, from statistics collected by the Citizens Advice Bureau and from people who have contacted us individually as Deputies to describe their experiences.

Part 2 of the 2012 Disability Needs Survey found that a significant minority of carers have experienced some form of discrimination in the workplace as a result of their caring role. This included 17% of respondents who believed they had lost their job because of a caring role and 7% who experienced bullying or harassment due to being a carer. This is not acceptable in the 21st century Guernsey.

Our society is ageing, more people are living with long-term disabilities and health conditions, and we need people in the community to act as informal carers to reduce the pressure on our health service. To sit back and let this discrimination continue and not do anything about it is grossly irresponsible. It would not be a sign of a community that is among the happiest and healthiest places in the world where everyone has equal opportunity to achieve their potential. To reject this legislation would be to condone a system where it is okay for some people to be treated unfairly just because of who they are.

465 I am now going to quote from a statement issued by the Board of Institute of Directors on 8th June this year. It said:

The motto on the IoD's Crest, 'Integrity and Enterprise', will have meant something different to our founders in 1903, but it can serve today as a reminder that no director and no business can claim to act with integrity if they discriminate against anyone based on who they are.

**A Member:** Hear, hear.

**Deputy Le Clerc:** Our Revive and Thrive Strategy says:

We want to be an inclusive society known for international excellence in creating and sustaining wealth, health and community and will not leave anyone behind

470 This legislation is precisely about not leaving anyone behind, and more importantly about not leaving anyone behind because of who they are. Guernsey together does not and should not mean Guernsey together except for the marginalised few.

Please do not say this is not a good time. Those who will be protected by this Ordinance have been waiting long enough. A significant amount of work and financial commitment has already  
475 gone into developing these proposals. Let's not waste that huge investment of Committee and staff time. A comparison of different options in the policy letter shows that we have scaled back and taken a proportionate approach with respect to costs.

Guernsey has recently enhanced its reputation on the world stage through the successful management of Covid-19. Let's build on that. Globally the issue of race discrimination has been  
480 highlighted. All lives should matter. We have been waiting over 50 years for race discrimination to be outlawed in Guernsey. In the western world, Guernsey is close to, if not in, last place. To throw out this legislation today has the potential to really harm our international reputation.

Guernsey as a community has made great strides over the past three to four months in improving access for disabled people. We have realised that many jobs can be done effectively from  
485 home and measures introduced during the Covid-19 epidemic have opened up access for disabled people through the increasing number of goods, services and activities that are now available online.

Many more businesses are now online or offering home delivery and the majority of us have accessed social and recreational activities through the virtual environment.

490 Some virtual opportunities that were not thought possible before Covid-19 have now been introduced through necessity and could potentially remain an option for disabled people after the current health crisis is over. Voting remotely on Teams or via proxy in a States' meeting when unable to enter the States' debating Chamber, for example, due to a spell in hospital for a long-term condition potentially being a case in point.

495 These are great examples of reasonable adjustment that have been made in a short period of time. Why should disabled people be denied such reasonable adjustments when Covid-19 has shown that they can be made relatively quickly and easily when the will and the need is there?

We need to continue this progress, protect disabled people, value carers for what they do and welcome those from all backgrounds who contribute to our society. We need to embrace this  
500 legislation and the key role it will play in making Guernsey a fair, just and equal society. We need to protect all members of our community from racism, prejudice and discrimination in its many forms.  
(Two Members: Hear, hear.)

Sir, I urge Members today to show, by approving this policy letter, that we as a society are not  
505 willing to sit back and tolerate discrimination and prejudice, to show that Guernsey together really does mean everyone together, no one left behind, no one less important.

Sir, I wholeheartedly recommend these proposals to the Assembly. Thank you. (*Applause*)

**The Bailiff:** I am just going to give a gentle reminder, first of all, that anyone who is in the Public Gallery, however much they support anything that is said by any Member of the States of

510 Deliberation, is not enabled to show their support by applauding or doing anything like that. If it continues, I am afraid there will be an instruction that people will be removed because you are permitted to attend and observe but not participate, and there is a Rule for the Members of the States of Deliberation that they can have no contact with those who are in the Public Gallery and for today's purposes the Public Gallery extends slightly on to the floor of the States.

515 There are a series of amendments to these Propositions, Members of the States, and the order in which I have decided to take them begins with amendment 8 which has a motion under Article 7(1) of the Reform (Guernsey) Law, 1948 to be proposed by Deputy Dudley-Owen.

Deputy Dudley-Owen, do you wish to say anything in respect of that motion?

520 **Deputy Dudley-Owen:** Yes, sir, Deputy Ferbrache and I have decided not to lay the motion. Thank you.

**Several Members:** Hear, hear.

525 **The Bailiff:** Amendment 8 is not being pursued at all?

**Deputy Dudley-Owen:** That is correct and I will explain later in debate.

**The Bailiff:** Thank you very much indeed.

530 In that case, Deputy Langlois, the Committee has an amendment being proposed by you and seconded by the President. Is it your wish to move that amendment now?

**Deputy Langlois:** Yes it is, sir.

535 **The Bailiff:** Thank you very much. In that case, please do.

#### [Amendment 9](#)

*1. To replace Proposition 3 with the following:*

*"3A (i) To direct the Committee for Employment & Social Security to bring detailed policy proposals to expand the grounds covered in the Ordinance referred to in Proposition 1 to the States for consideration. This should be in two Phases, in accordance with the proposals and timeline set out as follows:*

*Implementation of phase 1*

*2021 – Training stage: Provision of training and information, etc, in respect of phase 1, as approved by the States.*

*2022 – Implementation of phase 1: Enactment of Ordinance in respect of phase 1 covering the grounds of disability, carer status and race.*

*Phase 2 2023 – Phase 2 policy letter returns to the States: Setting out policy proposals in respect of the grounds of age, religious belief and sexual orientation and the grounds covered in the existing Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 (i.e. sex, marital status, gender reassignment, and pregnancy and maternity (with any appropriate updates in the framing of those grounds)). Also including proposals to introduce a legal right (from 2027) to equal pay for men and women workers for work of equal value and consideration of multiple and intersectional discrimination.*

*2024 – Implementation of phase 2 (excluding equal pay for work of equal value): Amendment Ordinance, adding phase 2 grounds of protection to the new Discrimination Ordinance, to be brought to the States for approval and to enter into force.*

*Later entry into force in respect of some provisions*

*2026 – Discrimination in education: Provisions relating to discrimination in education to come into force no later than 2026.*

*2027 – Accessibility action plans, complaints relating to a “physical feature” of a building and equal pay for work of equal value: The final provisions of the Ordinance relating to (i) the requirement for public sector goods, services and education providers to prepare accessibility action plans in relation to the public-facing aspects of their services; (ii) the ability to bring discrimination complaints relating to a “physical feature” of a building, and (iii) the introduction of the right to equal pay for men and women workers for work of equal value come into effect.*

*Review*

*2029 – Post-implementation review: To take place no later than two years after all provisions of the Ordinance are in force. May take place sooner if required.*

*(ii) To direct the Policy & Resources Committee to ensure that the Committee for Employment & Social Security is provided with sufficient resources, through its annual budgets and/or through the provision of shared States’ resources, to deliver the remaining policy and drafting work within the timeframe set out in this Proposition.*

*Or, should Proposition 3A. not be carried,*

*3B (i) To direct the Committee for Employment & Social Security to bring detailed policy proposals to expand the grounds covered in the Ordinance referred to in Proposition 1 to the States for consideration. This should be in three Phases, in accordance with the proposals and timeline set out as follows:*

*Implementation of phase 1*

*2021 – Training stage: Provision of training and information, etc, in respect of phase 1, as approved by the States.*

*2022 – Implementation of phase 1: Enactment of Ordinance in respect of phase 1 covering the grounds of disability, carer status and race.*

*Phase 2*

*2023 – Phase 2 policy letter returns to the States: Setting out policy proposals in respect of the grounds of age and religious belief. Also including consideration of multiple and intersectional discrimination.*

*2024 – Implementation of phase 2: Amendment Ordinance, adding phase 2 grounds of protection to the new Discrimination Ordinance, to be brought to the States for approval and to enter into force.*

*Phase 3*

*2025 – Phase 3 policy letter returns to the States: Setting out policy proposals in respect of sexual orientation and the grounds covered in the existing Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 (i.e. sex, marital status, gender reassignment, and pregnancy and maternity (with any appropriate updates in the framing of those grounds)). Also including proposals to introduce a legal right (from 2027) to equal pay for men and women workers for work of equal value.*

*2026 – Implementation of phase 3 (excluding equal pay for work of equal value): Amendment Ordinance, adding Phase 3 grounds of protection to the new Discrimination Ordinance, to be brought to the States for approval and to enter into force.*

*Entry into force in respect of some provisions*

*2026 – Discrimination in education: Provisions relating to discrimination in education to come into force no later than 2026.*

*2027 – Accessibility action plans, complaints relating to a “physical feature” of a building and equal pay for work of equal value: The final provisions of the Ordinance relating to (i) the requirement for public sector goods, services and education providers to prepare accessibility action plans in relation to the public-facing aspects of their services; (ii) the ability to bring discrimination complaints relating to a “physical feature” of a building, and (iii) the introduction of the right to equal pay for men and women workers for work of equal value come into effect.*

*Review*

*2029 – Post-implementation review: To take place no later than two years after all provisions of the Ordinance are in force. May take place sooner if required.*

*(ii) To direct the Policy & Resources Committee to ensure that the Committee for Employment & Social Security is provided with sufficient resources, through its annual budgets and/or through the provision of shared States' resources, to deliver the remaining policy and drafting work within the timeframe set out in this Proposition."*

*2. In Proposition 4 to substitute the words: "in Phase 3 of the development of the Ordinance" with the words: "in accordance with the timetable set out in Proposition 3A or 3B (as the case may be)".*

**Deputy Langlois:** It is rather a long amendment and I did suggest that I could give an abbreviated version of it for the listeners' benefit. I do not know whether that would be acceptable.

**The Bailiff:** Deputy Langlois, if you do not want the Greffier to read it then you can do what you like in opening debate on it. So if you want to summarise you can.

**Deputy Langlois:** Thank you. Okay. Well, I think my prepared speech will explain the amendment well enough for us to avoid having to have the whole amendment read out.

The length of amendment 9 belies its simplicity. The amendment's objective is, as the explanatory note explains, to give States' Members the opportunity, when we come to the final vote on the substantive Propositions, a choice between shortening the timeline for future phases or retaining the timeline set out in the policy letter.

Firstly, I would like to thank the proposers of amendments 2 and 3 for bringing the timeline of future phases out of the shadow of the implementation programme for phase 1.

In October last year the Committee decided it would be beneficial to bring proposals for only a selection of the grounds to the States this term. We also decided it was more appropriate to propose a timeline for the remaining grounds than to leave that task to the next Committee and States. Officers prepared about half a dozen variations on a three-phased theme, and after some deliberation, we chose what eventually became the timeline expressed in figure 8.6.1 of the policy letter.

However, it is true to say our main concern at the time was which grounds should be included in phase 1. It became clear as amendments were lodged that some States' Members considered the three-phase approach led to too long a timeline. Given that the Committee originally intended to bring all the grounds to the Assembly this term, one could not deny that a five year gap from 2020 to 2025 before a policy letter with detailed proposals on the sexual orientation and the sex grounds was laid did appear excessive.

Both the two amendments – that is 2 and 3 – lodged with the intention of shortening the timeline have good points, but neither was entirely satisfactory. Amendment 3 did not go far enough in that it left the sex ground on its own for 2025. That ground would be necessary for us to implement much-delayed legislation related to CEDAW, the UN Convention on the Elimination of All Forms of Discrimination Against Women. Amendment 2 on the other hand went too far in governance terms. It put the cart before the horse. Fundamental to our system of Government is the principle that Committees lay detailed policy letters before this Assembly, they are debated and finally the substantive Propositions are voted on. Only then is legislation drafted.

Amendment 2 proposes that two grounds, religion and sexual orientation, should be moved to phase 1 from phase 2 and phase 3 respectively without any detailed policy proposals having been laid before this Assembly. Amendment 2's explanatory note states that:

... both these grounds would be relatively straightforward ...

However, we should have learnt by now that no aspect of anti-discrimination policy, or indeed any policy, is straightforward. It is not enough to direct as amendment 2 does that a policy letter on exemptions should be drafted in parallel with the legislation. Draft in haste, repent at leisure.

Amendment 9 finds the firmer middle ground between amendments 2 and 3. The amendment's option 3(a) simply merges phase 3 into phase 2 so that all the remaining grounds will be presented

in a single policy letter in 2023. That will make for a more concentrated workload but the amount of work involved will be same as if the two future phases were retained.

Obviously a lot of work has already been done. The decision to phase the policy letters was only made after a major piece of consultation had been undertaken last summer. However, there is still a substantial amount of work to be done before the current detailed proposals could be lodged. The consultation was only one piece of the evidence gathering and there still remained the development of a coherent, logical set of proposals in parallel with ongoing consultation, not least with the Policy & Resources Committee.

Most of the remaining grounds will not prove as complex as those in this policy letter, but it would be foolish to imagine that any of them could be shoehorned into phase 1 without inevitable unexpected consequences. The remaining grounds all need detailed policy proposals to be worked up and then presented to States' Members. This could be achieved by 2023.

Amendment 9, if approved, will give the Assembly the choice between two viable timelines: the original timeline in the policy letter and the shortened one explained in the amendment. I ask States' Members to support it.

Thank you.

**The Bailiff:** Deputy Le Clerc, do you formally second that amendment?

**Deputy Le Clerc:** I do, sir.

**The Bailiff:** Thank you.  
Deputy Inder.

**Deputy Inder:** Sir, I was going to try 26(1), but I do not know if it is worth it at all.  
26(1), please, sir.

**The Bailiff:** Well, nobody was standing to speak Deputy Inder, so on that basis I was simply going to put the amendment to the vote because there is nothing for anyone to reply to even.

So this is amendment 9, Members of the States, which is proposed by Deputy Langlois, seconded by Deputy Le Clerc which will, if approved, have the effect of substituting Proposition 3 with alternative Propositions 3(a) and 3(b). Those in favour –

**Deputy Merrett:** Sir, can I have a recorded vote, please?

**The Bailiff:** There is a request for a recorded vote from Deputy Merrett. So Greffier, recorded vote, please.

*There was a recorded vote.*

*Carried – Pour 38, Contre 0, Ne vote pas 0, Absent 1*

**POUR**

Deputy Trott  
Deputy Le Pelley  
Deputy Merrett  
Deputy St Pier  
Deputy Stephens  
Deputy Meerveld  
Deputy Fallaize  
Deputy Inder  
Deputy Lowe  
Deputy Laurie Queripel  
Deputy Smithies  
Deputy Hansmann Rouxel

**CONTRE**

None

**NE VOTE PAS**

None

**ABSENT**

Deputy Leadbeater

Deputy Graham  
Deputy Green  
Deputy Paint  
Deputy Dorey  
Deputy Le Tocq  
Deputy Brouard  
Deputy Dudley-Owen  
Deputy McSwiggan  
Deputy De Lisle  
Deputy Langlois  
Deputy Soulsby  
Deputy de Sausmarez  
Deputy Roffey  
Deputy Prow  
Deputy Oliver  
Alderney Rep. Roberts  
Alderney Rep. Snowdon  
Deputy Ferbrache  
Deputy Tindall  
Deputy Brehaut  
Deputy Tooley  
Deputy Gollop  
Deputy Parkinson  
Deputy Lester Queripel  
Deputy Le Clerc  
Deputy Mooney

**The Bailiff:** Well, Members of the States, I do not think I need to wait for the voting records to recognise that that was carried without any dissention and therefore it was carried 38 votes to 0.

620 The next amendment in my running order is going to be amendment 2. Deputy Parkinson is the proposer of that amendment, if you wish to lay it.

[Amendment 2](#)

1. To insert the following Propositions:

*"1A. To agree that prevention of discrimination on the ground of sexual orientation (meaning, in accordance with the Committee for Employment & Social Security's Technical Proposals of July 2019, "a person's sexual orientation towards persons of the same sex, or persons of a different sex, or persons of the same sex and persons of a different sex") shall be included within the Ordinance prepared in accordance with Proposition 1.*

*1B. To agree that prevention of discrimination on the ground of religious belief (meaning, in accordance with the Committee for Employment & Social Security's Technical Proposals of July 2019, "a person's religious belief, which includes their religious background or outlook, and also includes not having a religious belief") shall be included within the Ordinance prepared in accordance with Proposition 1.*

*1C. to agree that if 1A and/or 1B are approved:*

*to direct the Committee for Employment & Social Security to report back to the States as soon as possible in the next States term with a policy letter on the proposed exceptions for the grounds of sexual orientation and religious belief and that this should take place in parallel to the legislative drafting of the new Ordinance.*

2. To replace Proposition 3 with the following:

*"3. To direct the Committee for Employment & Social Security to bring detailed policy proposals to expand the grounds covered in the Ordinance referred to in Proposition 1, 1A and 1B to the States for consideration, in accordance with the following timeline:*

*Completion of Phase 1*

*2021 – Training Stage: Provision of training and information, etc, in respect of Phase 1 as approved by the States.*

*2022 – Implementation Stage: Enactment of legislation in respect of Phase 1.*

*Delivery of Phase 2*

2023 – Phase 2 policy letter: Protection on the ground of age. Modernisation of the existing Sex Discrimination Ordinance. Equal pay for work of equal value. Consideration of multiple and intersectional discrimination. Protection on the grounds of religious belief and/or sexual orientation, if not incorporated in Phase 1 by virtue of Propositions 1A or 1B.

2024 – Training and implementation: Ordinance including Phase 2 grounds brought to the States for approval and implemented (with six-month lead-in period as in Phase 1). Training on new grounds of protection rolled out.

*Specific Lead-In Periods*

2026 – Discrimination in Education: In accordance with Table 8.6.1 of the policy letter, provisions relating to discrimination in education come into effect no later than 2026.

2027 – Accessibility and Equal Pay: In accordance with Table 8.6.1 of the policy letter, the final provisions of the Ordinance (relating to public sector accessibility action plans; complaints in respect of changes to physical features; and implementation of equal pay for work of equal value) come into effect.

*Evaluation*

2029 – Post-Implementation Review: To take place no more than two years after all provisions of the Ordinance are in force. May take place sooner if required.

3A. To direct the Policy & Resources Committee to ensure that the Committee for Employment & Social Security is provided with sufficient resource, through its annual budgets and/or through the provision of shared States' resources, to deliver the remaining policy and drafting work within the timeframe set out in Proposition 3."

**Deputy Parkinson:** Yes, sir, I do, and I will speak now.

625 As Deputy Langlois has explained, the difference between amendment 9 and amendment 2 is effectively now that the States have agreed that phases 2 and 3 should be consolidated into one phase, which was part of the import of amendment 2, the difference is that in amendment 2 the grounds of discrimination on the basis of religion or sexuality will be moved into phase 1 which is the first phase to be done.

630 The reasons for this quite simply are that this really should not be controversial stuff. To me you do not need to do a lot of further work on whether people should be discriminated against because they are Jewish or because they are gay. The answer is no, they should not, and more over there is no great cost or inconvenience in implementing this legislation, in bringing these grounds into phase 1. It does not require any investment by business, it does not import any concept of  
635 reasonable adjustment. Essentially, people should just not discriminate on these grounds.

If you want a consultation on what the impact of moving these into phase 1 would be the answer is there would be less discrimination.

To be honest, it is so straightforward I do not understand why the Committee did not put these pieces into phase 1 anyway. Consultation with industry revealed no significant objections to  
640 discrimination on these grounds, and frankly no quality business is going to allow discrimination on these grounds. It simply enshrines what we would all regard as good practice and good behaviour.

Now, there will be possibly some discussion about issues to do with confusion about gender. But the wording of amendment 2 is pretty straightforward. It carves out all those issues. It says you cannot discriminate against somebody on the basis of who they are attracted to, and you do not  
645 have to define the gender of the person who is doing the complaining, you do not have to define the gender of the people they are attracted to. The wording of amendment 2 covers attraction to men or women by males or females.

So essentially all of that subjective stuff about gender identity is moved back into phase 2 where it can be the subject of further consultation. The only adaptation that would need to be made in  
650 moving sexuality and religion into phase 1 would be to define some necessary exceptions. Presumably you will still need to be a Roman Catholic in order to get a position as a priest.



I am hoping that the range of exceptions will be really very limited. I do not think they need to be particularly wide. Clearly there will be very specific instances where discrimination on the basis of religion or discrimination ... well, it is hard to imagine any case where discrimination on the basis of sexuality could possibly be legitimate. But the amendment leaves space for the Committee to go away and think about whether there needs to be any other exceptions and to bring that wording forward into the resulting legislation.

Now, as I said, there has been no real substantive objections from industry about these grounds and I think in fact quite the contrary. As Deputy Le Clerc said in her opening speech, actually, businesses which operate inclusive, non-discriminatory policies are more attractive places to work and are more respected in the community than businesses which are not. So there is no cost to implementing these proposals and in fact I think there will be very tangible benefits.

Now, of course some people will say having these grounds of discrimination in the legislation will open businesses to frivolous litigation by disgruntled employees who claim that they have been sacked or not promoted because of their religion or their sexuality. In the present case it has always been the case that businesses can be subject to legal action for alleged unfair dismissal, constructive dismissal, and there does not have to be any particular grounds for that. Employees who feel they have been mistreated may have complaints against businesses and that will continue. But as anyone in business knows – and I have been in business in Guernsey for a long time – when you are dealing with employee and HR matters you have to very carefully document the decisions you make and the processes you have gone through. Clearly if you dismiss an employee or discipline an employee and you have not got good records as to why you did it then you may have legal exposures which you would not otherwise have wanted.

But that is no different under any form of anti-discrimination legislation than it is under general employee protection laws now. It is not that businesses will have to introduce new HR procedures to protect themselves from anti-discrimination legislation. They will simply have to comply with good HR procedures as they do now to avoid any problems with it.

Now, I think that really summarises it – it is a very simply case. Guernsey has unfortunately fallen well behind the rest of the world in terms of anti-discrimination legislation. Deputy Le Clerc referred to some obligations which are now more than 50 years old that we have not discharged. This is another area where frankly everywhere else, or everywhere else in the developed world, there would be protections and where we simply have not introduced them.

In the spirit of Guernsey together, now is the time to be getting on with introducing these measures, particularly ones which have no adverse impact on business or no cost to business and where there is general agreement that discrimination in these areas should not be permitted. So we have to make an effort to catch up. If Guernsey together means anything at all surely it means no one left behind.

So I think that is all I need to say. It is a very straightforward choice for Members: do they want to move religion and sexuality into phase 1 or do they want to leave them in phase 2 as the ESS amendment proposes? I would urge Members to take a not particularly bold step, but a nevertheless symbolically important step to move them into phase 1 and get on and show that we are willing to act on discrimination legislation.

Thank you.

**The Bailiff:** Deputy Tooley, do you formally second this amendment?

**Deputy Tooley:** I do, sir.

**The Bailiff:** Deputy Inder.

**Deputy Inder:** Can I attempt to move Rule 24(4), then straight on to Rule 26(1)?

**The Bailiff:** Members of the States, Deputy Inder is invoking Rule 24(4), so I am going to invite those Members who wish there to be a debate on this amendment to stand in their places.

705 I think even I can work out that there are more than seven Members, by a considerable margin, standing.

**Deputy Inder:** Rule 26(1), sir.

710 **The Bailiff:** Deputy Inder is now invoking Rule 26(1) –

**Deputy Inder:** Sorry, I beg your pardon – I withdraw the Rule 26(1).

**The Bailiff:** You are withdrawing the Rule 26(1). Thank you very much.  
715 Who wishes to speak on this amendment? Deputy Dudley-Owen.

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

I would like to thank Deputy Parkinson for laying the amendment and also setting out the stall of the amendment so clearly and I agree with everything that he said.

720 However, I really do need clarification on one thing because in the original proposals – and I would appreciate some input from Members of Employment & Social Security here – the original proposals last summer raised a question about the definition of the word ‘sex’, and we are talking about sex here in the amendment. I would really like some clarification because Deputy Parkinson used the word ‘gender’, and gender has a different definition from the word sex. I find this all a very  
725 confusing topic myself and I really would like to have some clarifications because that does caveat my support for the amendment and being able to vote in favour of it. So I would really appreciate a little but more clarification.

Just a word on Deputy Inder’s attempts to ... I realise why Deputy Inder is doing this because obviously he wants to speed on to general debate and get this passed. I think that everyone is in  
730 agreement with that but there are some issues that really do need to be clarified (**A Member:** Hear, hear.) and I would hate to stifle any debate. I will not be supporting Deputy Inder’s attempts to curtail any of our debate this morning.

Thank you, sir.

735 **The Bailiff:** Deputy Graham.

**Deputy Graham:** Thank you, Mr Bailiff.

I share Deputy Parkinson’s bewilderment, really, that sexual orientation and religion should have posed so many barriers as to have been relegated to a later phase, and so instinctively I regard this  
740 amendment as benign and worthy of support.

But I rise to my feet because the comments I am about to make I think I could make about any of the other seven amendments which I think are in play. That is that I look at the Committee *for* Employment & Social Security and I do not think one could find within the States’ body a better  
745 qualified bunch of Deputies with better integrity, better intellect to take on the proposed legislation of this order. They have been at it for several years and something in there tells me they have probably got it right or as near right as they pragmatically think it is to go at this stage.

So I have an instinctive nervousness about any of the amendments, meritorious as they may well be individually, both in motive and in desired outcome, and so I am very much looking forward  
750 really either for Deputy Le Clerc or any of her team when responding to debates on the amendments to really address this issue.

Because what I was worrying about is that – I think I have used this metaphor before with complicated legislation – do we not risk perhaps pulling the thread on a pullover and unravelling the whole thing inadvertently? That is my fear on this one, and really I would like the Committee in its various forms to address that during debate, please.

If, sir, I stray into general debate to make a general point then I will accept your ruling and forgo my right to speak later on. But I have to say that my general attitude to the way mature jurisdictions should conduct themselves is that the less they rely on legislation the better. In other words, I think a really mature society is one that can reach socially laudable objectives without resort to the law. But even I think have to admit that the course of education and evolution of our cultural change is now in need of a boost of support from the law. And just as I say that the law itself is not sufficient to change attitudes and to change things on the ground, neither is cultural change or education.

So I very much welcome this, despite my instinctive reluctance to resort to legislation. I think in the circumstances we find ourselves it is absolutely necessary and it is wonderfully pleasing to see that I think almost uniquely in the course of this States over the last four years we have almost complete unanimity both in our objectives and also those shared manifestly by so many others outside.

But just to revert to my original point on the danger of amendments, no matter how laudable, I reserve really my judgement on all seven of them until I hear quite clearly advice from the Committee.

Thank you, sir.

**The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Thank you very much, sir.

Sir, I very much echo Deputy Graham's comments. I think both Deputies Graham and Dudley-Owen have really captured the aspirations of this amendment are self-evidently a good thing and the right thing to be doing, but the issue which perhaps Deputy Graham did not touch on but was hinting towards, is the unintended consequences of this amendment. I think that is really where the Committee for Employment & Social Security can guide us and my understanding is that they are not supportive of this amendment, so clearly we need to understand the reasons for that.

I will return to this in general debate but I think we are guilty of this in terms of seeking to promote those issues of concern to us in terms of things which seem self-evidently right to us, and arguing for them in this Chamber. But it is the consequences of those decisions which sometimes it is difficult for all of us here to capture and understand during any given debate.

The theme that I will return to is in relation to the widening of the whole scope of this legislation and the delay that that perhaps has caused to the original intentions back in 2013. I would describe that as perhaps an unintended consequence of the 2018 debate.

So certainly the Policy & Resources Committee when we were considering these amendments on Tuesday, as is set out in our published letter of comment, is very much echoing Deputy Graham's comments that we do defer to the Committee for Employment & Social Security to advise us on these and therefore are instinctively unlikely to support the amendments other than those which we have indicated in our letter of comment for that reason, sir.

**The Bailiff:** Deputy Roffey.

**Deputy Roffey:** Thank you, sir.

I am happy to give guidance of what this Member of Employment & Social Security thinks on this amendment. And it is incredibly difficult, because just about everything Deputy Parkinson said in his introduction had resonance with me, and it is also difficult because the Committee wanted, as Deputy Langlois said earlier, to bring all of these multiple grounds in phase 1. We did not want to park any of them.

But I am also aware of why we reluctantly changed that strategy and it was because originally in the last Assembly a decision was taken specifically to fast track – it did not happen, but that was the intention, I think – to bring forward with some speed protection for disabled people and carers, and we were in real danger of running out of road as a Committee in this Assembly and not being able to achieve that because ESS, before I was a Member, had persuaded the Assembly, rightly in my

view, that discrimination should be a multi-ground approach and it should cover all sorts of grounds; and we really could not risk not delivering on that promise. So very reluctantly we decided to phase this.

810 Now, Deputy Parkinson in his introduction said, 'But this is so incredibly simple with no complexity at all, there is no way ...' he does not understand how this could delay things. With all due respect, I do not think he is quite right. What we are doing here ... normally the way we do business is we bring a policy letter and in that policy letter the resolutions we pass include the drafting instructions so that the law can be drafted. We are doing that today as far as race, disability  
815 and carer status. But the policy letter is not evolved to the point where it gives drafting instructions on sexual orientation or on religion. And therefore there is a danger, if it is more complex than it at first seems, that we will delay the things that we are passing the drafting instructions for today and we are sending the Law Officers away, or their team away, to turn that into law, but we are saying at the same time you have to weave in these other issues, there should be no problems, it is really  
820 straightforward, it is all black – sorry – and white. We are covering that! But 'it is all very straightforward' – it may not be quite like that and there is, I am afraid, a danger of delaying delivering our number one priority here. And for that reason I, with a huge, heavy heart, have to vote against this amendment.

Now, Deputy Parkinson said, 'Well, nobody approves saying you can't work here because you're  
825 Jewish', or, 'We're not going to serve you in this shop because you're gay', and he is absolutely right. And if it was just as simple as that, then fine. But actually all of these grounds when we looked at it proved to have surprising degrees of complexity.

Now, Deputy Dudley-Owen has brought up the trans issue and we have debated around our table *ad infinitum* the right approach and the balance of rights between the person who wants to  
830 self-identify as a gender other than the one that they ascribed at birth and other people for whom that feels uncomfortable in protected spaces. Deputy Parkinson is right, that I think can be part of his amendment and that can be dealt with. It is not going to be any easier. It is an evolving area of social policy in every country. But that could be dealt with later on and we could deal simply with sexual orientation in the traditional sense, if there is such a thing.

835 Religion is actually I think even more complex. First of all, you have to define: what is a religion? Is Rastafarianism a religion? Is Jedi a religion? Sorry, I exaggerate possibly to draw the point. Then you have got the exemptions area. Certain religions bring with them traditional activities which clash with the ... there was a famous case way back in the 1970's I think about Sikhs not wanting to wear crash helmets in the UK.

840 All of these things are resolvable. There has to be a balance of rights and you have to decide where the exemptions are and where the right to ... but it is not as black and white as it first appears. And once you draw up that list of exemptions, you have to consult on them, you do have to go out to consultation saying these are the detailed proposals we now have on these additional grounds – not just to employers, because it is not just employment law, it is far wider than that, and therefore  
845 you have to go out for consultation.

I think it is fairly straightforward. I think there are examples from what happens elsewhere that can guide us and if we can bring this forward quicker than 2023, I would be delighted, because I think this is a cautious timetable that has been set out. It will depend on the resources that it is afforded, and there is a lot of competition for resources I know, but if the resources are there, as  
850 Deputy Langlois said, a lot of the work has already been done, I hope we can telescope it.

But I do just have this fear that if we put it into phase 1, something really unusual for this Assembly, saying the legislation should pick up things on which no detailed drafting instructions have been put forward at policy letter stage, we could come to find that we have let down the group that we first of all started off this whole process of trying to have a discrimination law.

855 So I am furious with myself for voting against this amendment, and I really hope that these grounds ... because, to be honest, Guernsey certainly, particularly on the area of gay rights, have taken far too long to get where we are now. We should have been there donkeys' years ago. And

too long to legalise homosexual acts. We took too long to equalise ages of consent. We have certainly been too long to outlaw discrimination on the grounds of sexual orientation.

860 So I am 100% with Deputy Parkinson on that but I just think there is a hidden danger in here. I pledge that if I am in the next Assembly and on ESS, I will do my best to bring forward these grounds faster than the timetable outlined in this policy letter. But please do not put it into phase 1 because you might just torpedo what we are trying to do as our first stage.

865 **The Bailiff:** Deputy Merrett.

**Deputy Merrett:** Thank you, sir.

When Deputy Parkinson opened, he in my opinion talked very much to employees and employers, and of course this is not just what this is about. So Deputy Parkinson expressed on numerous occasions I think there were no objections from industry. But this is wider, thankfully, than that. This is about accesses to goods and services.

Now, like Deputy Parkinson, I do not find this particularly complex. But perhaps that is because I attended the workshops that ESS put on, I engaged with lobbying groups and discussed the concerns so that I could understand the complexities that some of our community have. It is only by doing that, by helping ourselves to educate ourselves. But I would argue that Deputies are in a very good position to do this because we get invited to *many* different workshops and opportunities to engage with our community, and I for one try to do so.

So I think if Deputies had attended those workshops and if they had engaged and I apologise, sir, because I cannot remember it but I think it was called equalities for all workshop things, there were loads of them. I really enjoyed them, I attended them, I learnt so much – I learnt so much, it was unbelievable – and I am very grateful for the members of our community who attended those workshops and helped to educate me. So I wish to thank them. Of course I cannot look at them in the Public Gallery, but if they happen to be here I will thank them.

So the bit I am not sure ... I think I understand the bit that Deputy Dudley-Owen was confused about, but I just wish to say, and I am sure Deputy Parkinson can help us with this, because first of all, there were objections from our community, or concerns from our community, because it is our duty I think as Members not only to converse and engage with any lobbying groups, but also to converse and engage with people that are on the opposite side *per se* of the debate. We need to try and come up with a balance going forward by listening to the opposing views, which I have done.

I was surprised at some of the very deep-rooted feelings and beliefs that some of our community have. That does not mean that I do not respect them, it does not mean that I did not try to understand them, because I can assure you, sir, that I have. It was a journey, one that I am very pleased I went on. I just wish I had known to have worn hiking boots and a rucksack at the time. I did not think the journey would be quite as hard and as complex as it turned out to be.

So quickly and very quickly, because I think this could be more on main debate, but sexuality and gender are two different things. Now, we all have a sexuality and we all have a gender, but this does seem to confuse some people. To me, sir – and I hope I have got this right, I hope Deputy Parkinson ... I am sure he will correct me if I am wrong, but – sexuality, to me, sir, is your attraction to someone else. That is your sexuality. But your gender is how you feel about yourself. So male, female, neither, both etc.

So Deputy Tooley and I have drafted an amendment. There are no amendments in play. The only amendment in play at the moment is this one. We have not submitted it and we have not submitted it yet because we may not need to. I do not believe we do need to. I have just been corresponding electronically with Deputy Tooley regarding that, but the concern we have is that sexuality there is no protection against discrimination at all but there is protection for gender. So that is why we moved our amendment because we wanted everybody to have some protection.

But I do agree with Deputy Graham ... I think it was Deputy St Pier – I was listening, sir – it was Deputy St Pier who said that we really need to understand from Employment & Social Security, and

910 it was a very short debate on amendment 9, why Employment & Social Security believe that this amendment now, Deputy Parkinson's amendment, should not be supported and why their amendment, which I thank them for, I do – I was so relieved when I saw it – should be supported.

Now, we had unanimous support for that one, so clearly this Assembly has confidence in Employment & Social Security, clearly we are supporting this. But I just wish for any Member of  
915 Employment & Social Security to advise the Assembly very clearly why they believe this should not be supported, because I think that will help Members of the Assembly to come to a ...

Other Members of ESS, I appreciate Deputy Roffey's opinion, but we have not heard from the President or the Vice-President. But I think that would be helpful to Members, so I would ask at  
920 early doors if the other Members of ESS, if they feel so inclined to do so, could advise this Assembly of why we should not support this, because if they do not convince me and influence me significantly, I *will* be supporting this. So please let me know why I should not.

Thank you.

**The Bailiff:** Deputy Fallaize to be followed by Deputy Le Tocq.

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

I am really quite torn on this amendment. I am minded to support the Committee throughout this debate because I think the Committee has done an outstanding job in getting these proposals back to the States.

930 They inherited this responsibility from the Policy Council and that would never be an easy inheritance, but the Policy Council had really not done very much politically with discrimination which in those days the intention was that it would be focused on disability. But ESS really had to start from scratch almost, in terms of building legislation, and I think they have done a brilliant job. I commend the Committee for the proposals they have put before the States. Although it is fair to  
935 say they are not that good that they did not need to amend their own Proposition 3 a few minutes ago.

But the reason I am torn is because the case that Deputy Parkinson made in his amendment is unarguable. Clearly there ought not to be discrimination on grounds of sexual orientation or religious belief and the Discrimination Ordinance ought to be extended to those grounds as soon  
940 as possible.

Unless Deputy Le Clerc can explain further when she speaks in this debate. I think the issue ... Deputy Parkinson says this is all very simple and ESS I think say, 'It's not as simple as you think', and although Deputy Roffey gave some examples about Rastafarianism and other things in connection with religion, I think the issue, the real issue, is: does this amendment take the legislation into the  
945 area of engaging the definition of sex? That is really I think what this comes down to.

Now, this is a complex area. Deputy Parkinson referred to it as gender identity, but it is not really gender identity, it is sex.

**Deputy Parkinson:** Correction, sir.

950 **The Bailiff:** Point of correction, Deputy Parkinson.

**Deputy Parkinson:** I very clearly made a distinction between gender identity and sexuality. Sexuality is about who you are attracted to, gender identity is who you are; and the wording of  
955 amendment 2 concerns only who you are attracted to.

**The Bailiff:** Deputy Fallaize.

**Deputy Fallaize:** I said there was a difference between sex and gender. Deputy Parkinson's  
960 response was that what is engaged here is sexual orientation or sexuality. Of course what he said is correct. Sexuality is who you are attracted to, gender clearly is about how you feel. But sex is

something different and it is an area of contention. The point is it does not need to be resolved today, but the question is would it need to be resolved before the legislation could be extended to cover sexual orientation and religious belief?

965 Deputy Parkinson I think says that it would not need to be because we are dealing here only with sexuality and religious belief, but I do not think that view is shared by the Committee *for* Employment & Social Security, or not all of the Members of the Committee *for* Employment & Social Security. I think there is a view that in order to ... Deputy Parkinson is getting very cross with me, but I do not particularly disagree with him. I sense that there is some, in the opposition to this  
970 amendment, concern that before the legislation extended to sexual orientation it would be necessary to get into definitions of sex, and that is quite complex.

Now, if that is not the case, my inclination probably is to support this amendment. Because if the issue is only the timing and how the resources that would be taken to get the grounds in the amendment into phase 1 and whether complexity would arise and there would be a delay I think in  
975 a sense is addressed by part 2(c) of Deputy Parkinson's amendment because although the words in the amendment deal only with the exceptions, so he is accepting that there would need to be a policy letter that would come back to the States to deal with exceptions in order to allow the legislation to be extended to sexual orientation or religious belief, in reality, if the Committee in studying the exceptions uncovered that other things needed to be addressed before the legislation  
980 could be extended to these grounds, then they would obviously deal with that in the policy letter that came back to the States.

To be honest, I am not sure that the real issues that are at play are coming out here. Deputy Parkinson is saying this is all very simple because sexual orientation and religious belief are very simple and Employment & Social Security are saying, 'Oh, actually, they might be quite complex  
985 and that might delay the introduction of the legislation'. But I do not think anybody is really explaining why the grounds are simple and why the risks are complex.

So I think that is why I am torn and in a sense one is left with one's heart being with Deputy Parkinson, because clearly these grounds ought to be in the legislation as soon as possible, and with one's head with Employment & Social Security, because they are the Committee which  
990 has got us to this point and probably their judgement in the whole matter should be ... one should trust their judgement.

I think Deputy Le Clerc, when she speaks on this debate, does need to address whether the Committee believes that in order to extend the legislation to these grounds whether it would be necessary first to get into the issue of the definition of sex. If not, I do not really think there is much  
995 risk in this amendment. If they do think that it would be necessary to get into that territory, I think this amendment would in all likelihood delay the introduction of the legislation. So her guidance or her Committee's guidance on that point would be much appreciated.

**The Bailiff:** I am going to call Deputy Le Clerc next, if she wishes to speak, although I had  
1000 indicated I would call Deputy Le Tocq next. But if the President of the Committee wants to speak at this point then I will call her.

Deputy Le Clerc.

**Deputy Le Clerc:** Sir, I just felt that it was important for me to get up and speak. It may help  
1005 curtail the length of the debate.

The area of gender, sex, sexual orientation is quite complex and for some difficult to understand. In fact I have got my little crib cards here that I carry around in my diary because I think it is really important and it is clear to me, on the floor of this Assembly, that there are some Members that are still confused. I think that is one of the reasons why we wanted to present a package to the Assembly  
1010 originally in phase 3 but wanted now to bring it forward into phase 2 with our amendment 9.

So I will just read my little crib cards. So sexual orientation or sexuality is who you are attracted to sexually and many Members have said that today. Gender is how you feel about yourself and then sex is probably where we get into the more difficult ground and sex is the biological differences

1015 between male and female, classified at birth, based on chromosomes, hormones, inter-productive organs and genitals, and that is the area of debate that is out in the public and people are having more of a struggle with.

I will give way to Deputy Parkinson.

1020 **Deputy Parkinson:** It may be a debate in the public, sir, but it is not a debate engaged by amendment 2. Amendment 2 concerns only sexuality. That is to say who you are attracted to. It does not matter whether your sex is male or female, it does not matter whether your gender identity is masculine or feminine – it is simply irrelevant. All that the amendment 2 says is you cannot be discriminated against on the basis of who you are attracted to.

1025 **Deputy Le Clerc:** And I agree with Deputy Parkinson, but this debate has dragged that into question here, and that is our concern. That is why we felt it was better to put this together as a package of proposals where it could have a clear debate in phase 3, but now hopefully brought forward to phase 2.

1030 So Deputy Fallaize has said can I say will it be necessary to define what sex is. I do not know whether it will be necessary to define when we bring sexual orientation in. The debate has dragged itself that way this morning. So I cannot say how it would be, but that was the concern for some of the Assembly. I am sorry, I am not going to give way.

1035 I think the other thing that we have to remember is back when we laid this policy paper; we laid this policy paper in February. There was huge pushback in February from the business community and that is one reason why we had to pull back on all protected grounds. So we would have loved to have had the full debate here today or in March, but actually I think if we had had the debate in March the policy paper would not have gone through. The policy paper would not have gone through. Even the disability and the carers; I think we would have *really* struggled with that – really struggled with that. I think we are in a different place now because of what has happened in other parts of the world and has brought the community together.

1040 So we worked very hard from last October, when we got the consultation findings in, to define disability and come to some compromise. So one of the reasons that we were unable to bring in sexual orientation and religious belief was because of the volume of work and the amount of time the Committee had to spend with businesses and with other lobby groups trying to find a compromise on that definition of disability. So I think that just puts that into context of where we are. So we just thought that a package of proposals as outlined was the best way forward.

1045 With regard to religious belief, we believe that there is some work that needs to be done on the exceptions. I expect there will be some work on sexual orientation. My concern is, and I think this has already been outlined, that it is not the usual way for the States of Guernsey to bring in a policy paper and legislation at the same time. We usually debate and we give guidance to Law Officers, we will not necessarily have the ability to do that.

1050 So there will be some cost. People have waited a substantial amount of time for the legislation on disability and carer status, and of course race as well now. So we do not want anything to delay. You have heard me say in the States here how often we have had pushback on resources, policy officers, we have got Revive and Thrive coming through; the last thing I want is to keep on adding bits and pieces (**A Member:** Hear, hear.) to our proposals that may end up in pushing back this legislation and bringing this back in 2022 to the next Assembly.

1060 Who knows who is going to be in the next Assembly. Who knows if it is going to get the support from the next Assembly. So to keep on adding bits to it is not the way forward. We believe, set out in amendment 9, that we have got a way forward; and again, we will still need the funding to do that.

This is in danger of unravelling the whole thing. The debate is going off at tangents. It is clear to some what sexual orientation means, but I think it does drag in the other protected grounds and that is one reason why we think it is better to put it all together in a package in phase 2.



1065 I think that has probably answered most of the questions that people have raised so far; thank you, sir.

**The Bailiff:** Deputy Le Tocq.

1070 **Deputy Le Tocq:** Thank you, sir.

I thank you, sir, for calling Deputy Fallaize and Deputy Le Clerc to speak before me because not only will it make my speech much shorter but I think they have, and through their interaction with Deputy Parkinson, illustrated why this is such a minefield and why it would be dangerous for us to move forward at this stage without taking people with us. And that is the whole point really of any discrimination, and the danger in thinking that legislation by itself will help resolve this issue I think is foolish and not well placed.

1075 It is important and I am supportive of it, but it is not enough. There are many people out there that despite Deputy Parkinson's valiant attempt to say this is very simple who do not understand and who do not feel it is simple and are very concerned and we need to take them into consideration. His arguments which I think, whilst well intended, are a bit of a *reductio ad absurdum* to try and make it seem much simpler than it actually is.

1080 Sir, I think I have mentioned it in the Assembly before: a friend of mine gave me a book a couple of years ago, the title of which was *I Think You'll Find It's a Bit More Complicated Than That*, because he was fed up debating things with me that politically he thought were only simple to resolve and I regularly used that phrase. And I am afraid this is one of them.

1085 I could illustrate myself but I think the Deputies that have spoken before me, Deputy Roffey particularly, have done that. But there is one instance, for example, on religious belief, and many people would have thought I would be supporting it on that basis alone perhaps, but I know that is a minefield too. I had a friend years ago who was Jewish who applied for an organist job in America at a Presbyterian church. Now, he was not a practising Jew, he would have called himself a spiritual person, but he did not get the job. And he took them to task for discrimination on the basis that he was Jewish and it got very complicated and expensive and all sorts of legislation was involved in that. It is more complicated than it seems.

1090 Sir, I go back to this: whilst I think Deputy Parkinson has tried his best to say on the sexual orientation issue it does not involve gender identity issues, for many people it does. I will be very concerned about that particularly as a father of daughters and in terms of what that might imply in the future. So I think we need to go with the Committee who have decided to phase this – and there has been an amendment on that. So there has been compromise on it and it seems reasonable to me that time is spent to consider very carefully how we progress and take people with us and phase this in an appropriate way.

1100 I for one, bearing in mind the fact that it was me that introduced the Disability & Inclusion Strategy seven years ago and had to apologise several years later when we had not got very far with it at all, I do not want to see any further delay to that.

1105 Let's do what we can achieve to do that is reasonable and let's not make our aims so high that we end up falling on our face again.

Thank you, sir.

**The Bailiff:** Deputy Tooley.

1110 **Deputy Tooley:** Thank you, sir.

None of us, not one of us, is equal until we all are. I think we need to remember that when we say, 'Look, we have got to get this through'. We absolutely have got to get this through. We absolutely have got to protect the rights of people who are being discriminated against and have been for far too long because of disability and so on. We have absolutely got to see no delay in that. But we will not be equal after we have passed that legislation until we all are.

We do not have a system, we do not have a society, which says discrimination is wrong, where it is unfair, until we have provided that protection for everybody who is discriminated against unfairly.

If we leave today's debate having got through the legislation around removing the possibility of discrimination against disabled people but we still have not removed the possibility of discrimination against people on the grounds of sexuality, which has no legal protection whatsoever in this Island, then we have not created a system still where we have equality for the people in this Island. Yes, I will be glad when we have doing what we have done, but I will not be able to celebrate because we still will not have done it. We still will not be there.

I am hugely supportive of this policy letter. I think when this policy letter was lodged back in February, and when it was probably finalised weeks before that, it was absolutely as far as the community were ready to support. But this is not February. We are in July and the world is a different place. And just in that time since February the UK, for example, has approved an extra £14 million in security measures to protect the Jewish community in London because of the number of anti-Semitic attacks that have taken place. The Belgian city of Aalst in February said that an anti-Semitic parade was just fun because there is no proper protection for people on the basis of religious belief against discrimination in these ways. It does not exist in lots of places and we could start to actually say Guernsey is a place where these things are not going to happen, they are just not acceptably any more.

Deputy Parkinson has said that the sexuality part of this is very simple and others have said, 'Well, it is simple, but it gets complicated because people get confused', and we will have the opportunity later on in this debate to vote for an amendment which would put extra funds/extra resources into the kind of education that would say we know it looks complicated, let's make it simpler. Let's explain it, let's get out there with the education, let's take the people with us so that before we are enacting this they fully understand it, they are fully with it, they are there, and they will understand why this has been so critical if they do not already understand it.

But I think more of our community than that. I absolutely think more of our community than that and I think while there is still concern amongst some and I understand that there is concern around protected spaces and so on. Deputy Le Tocq just said, 'As a father of daughters I am worried about what that will mean'. Well, I am not a mother of daughters. I am a mother of sons and if we are talking about spaces that are risky because of their nature, I think there is a great deal of concern about public toilets and so on, which goes back to the days of cottaging, if I am honest, and so on – it really does. And there is a great deal of concern about those kind of spaces and there is a great deal of concern that allowing anyone to access these spaces potentially puts dangerous people around the vulnerable. And I get that concern, but as a mother of sons, if there are dangerous people out there I do not want them in any of the toilets. It is not about who they are, it is not about how they present, it is not about who they believe they are and may or may not have whatever other people think is the right to say that, if these people are not safe they simply should not be there and if they are safe then it should not matter how they are presenting.

It is a smokescreen and it is a smokescreen that people are not blowing up deliberately. I think when feet trample they cast up dust and that can cause obscurity without necessarily intending to do so and that is what is happening here. I think possibly my words are beginning to do that for some people in the Chamber.

We will not have equality until everybody has it. We cannot say it is too hard because people do not understand it. Deputy Parkinson and I in this amendment have done our absolute best to create a situation where we can carve out a description of sexual orientation which means that we can say we understand there are confusions, we understand there are complications, we will engage those later when there is time for more debate, but right now there are a group of people whose rights have no protection in law and we should not walk away today without having changed that.

Thank you.

**The Bailiff:** Deputy McSwiggan.

**Deputy McSwiggan:** Thank you, sir.

1170 I have held off on speaking on this amendment because probably unlike anything else in this debate I am still speaking from an open wound and I probably have not helped myself by speaking directly after Deputy Tooley. So I hope that Members will indulge me a little.

1175 It is certainly not a secret that throughout this term this has been a particularly difficult area for the Committee to address, that Deputy Langlois and I have found ourselves at different poles of an argument that we have not been able to resolve. And I want to thank him for handling my position with complete respect in the way that he introduced amendment 9. I am going to try and do exactly the same in the way that I respond to this amendment.

1180 In a sense it does not matter that we disagree, because I suspect neither of us will be on the Committee next term and it will fall to others here or others soon to be here to work out the compromises that we could not.

When this amendment was first lodged I was really pleased to see it and I felt that it addressed something that needed to be addressed, that, as Deputy Graham said, had no rational reason for not being progressed now. But I was reminded, by the way it was received, by the way that some Members have spoken on it today, why it was that the Committee did not put sexual orientation into phase 1, why it was that we recognised that it needed to be addressed in a later phase in the context of other things and with greater consideration.

1190 The bottom line is it does not really matter who is right in this debate right now. It matters what they do with the belief that they are right. We did not put sexual orientation into this phase for exactly the reason articulated by Deputy Le Clerc: because we were not prepared to put the brakes on progress for disabled people and carers that we have promised from the outset of this term that we will deliver and that appeared to be in jeopardy if we went any further than the proposals that we have on the table right now take us to.

1195 There is no reason, no logical reason why this amendment should jeopardise that progress. Deputy Parkinson was right in his opening speech to say the definition of sexual orientation does not need to engage the definition of sex, or at least I believe he is right in saying that and it is clear from many other speeches that others agree that he is right in saying that.

1200 But it is equally clear that some people are unwilling to tackle protection on the ground of sexual orientation without using it as an opportunity to address their concerns or their particular views on the definition of sex and of gender and on the protection that should be available for transpeople. Those arguments are not entangled necessarily because they are logically entangled, but because *many* people have chosen to make them politically entangled. (**A Member:** Hear, hear.)

Whether this amendment is logical and right on the face of it or not we have all learnt through years of experience in this Chamber that sometimes even when the States says, 'Get on with it' that does not make the resistance go away, that does not mean that progress is suddenly guaranteed.

1205 This is all an art. Sir, I do not think that the definition of sexual orientation engages the definition of sex. Others do, and it matters less whether you agree that they are right or not but what you believe they are going to do with that.

1210 There is also for me the question of solidarity. Standing here as someone who is bisexual, who is married to another woman, I know a reasonable amount about the history of hard-won LGBTQ rights and I know that the experiences of gay people and the experiences of transpeople have been tied together in that history from the outset and we owe so much to each other.

1215 I know that in the last decade or so it has become increasingly easy for people like me to be accepted notwithstanding our sexual orientation. That this States have done a great deal to make Guernsey a more inclusive community for gay and bi people; that we ourselves finally approved the Same Sex Marriage Law. But no one here should doubt that the current, increasingly regressive approach towards transpeople is also going to hurt the rights of LGB people.

This argument alone proves that and that is going to be, whether this amendment is approved or not, a real challenge for the next States, and it is something that everyone here and everyone

who hopes to join us here needs to get educated about and needs to really understand; and needs to recognise the price of progress and the cost of doing nothing.

So my fear is nothing to do with the inherent rightness or wrongness of this amendment. I think the amendment is right. I want to support it; I may yet support it. But I do not think that it is going to achieve what it sets out to achieve; what on the face of it it will achieve. I think that it is going to continue to face the resistance that we have faced over the last four years. I think it is going to be another obstacle in the way of progress, to achieving what we need to achieve in phase 1, what we owe to the community and what we have said we will deliver.

But if I do not vote for it then I go back to that point of solidarity because we are only here today because the community as a whole came together around the need for non-discrimination law. People whose own rights are not being protected in phase 1 of the legislation came together in solidarity with disabled people and carers, with people who experience discrimination on the grounds of race and said, 'No, don't wait any longer, get that phase 1 through, get that discrimination law in place and then make as much progress as you can on subsequent phases'. We all stood together.

For people who today win progress that is years and generations overdue, for people who today win protections that have been needed for so long and that have been far too long in coming, I would say to them, sir, please continue to stand in solidarity with those who will not be protected until phase 2, whose rights are still delayed and thereby denied.

This needs to continue to be Guernsey as a whole community saying we can do better. There are complicated issues to resolve. There are compromises that may need to be found and it will not be us doing that for very much longer, but the people who come after us. There are difficult questions to tackle but they cannot be put off forever because they are difficult and we need to stand together and to keep working together to make sure that we get the right outcome and we do not leave it too long. *(Applause)*

**The Bailiff:** Deputy Hansmann Rouxel.

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

I thank Deputy McSwiggan for her excellent speech and I arise, not to prolong this debate – I see Deputy Inder with his head in his hands. *(Interjections and laughter)* Perhaps we need a bit of levity after the couple of speeches.

I think I want to urge Members to concentrate on the clarity that Deputy McSwiggan provided. And it is not just about what is a toxic debate, which should not be a debate out in the wider world, but it should be about what we as this legislature can agree. And in the definition ... I think actually, I was minded to vote against this for all the reasons outlined about the confusion that has raged around the particular debate. But actually, the clarity in the definition and separating these two parts of a debate, which should not be confused, I think will actually add more clarity to the debate when we get to it.

Who you love is not determined by any ... **(A Member: Law.)** Any law. It is as simple as that. And you should not be discriminated on the grounds that you love somebody, whoever they are or how we choose to define that person in law will make no difference because it is who you are.

That I think for me has me persuaded me to vote for this amendment. Despite the concerns raised, I do think we are able to do this and remove some of the distinction and make it very clear that it is just about who you love and not to do with the ... I keep mentioning *the* debate that rages on social media, and I think when we do get into the next phase we need to be far wiser about how we in Guernsey are able as Guernsey together to deal with that debate and not be dissuaded by the cacophony of negativity that surrounds that. And vulnerable people are being really damaged by the toxicity of that. This is not that debate and actually we have an opportunity to separate those two out by agreeing this amendment.

And actually, I would urge Members to listen to the clarity that Deputy McSwiggan provided and to vote this through.

**The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Yes, I am of course a Member of Employment & Social Security and I think a few weeks ago we were in the peculiar position here where a different Committee were almost bringing a Proposition to the States about working together happily and I suppose if strict rules were applied at Social Security, ESS and its predecessor, I would have been forced off the Committee years ago because I do not always toe the party line and all the rest of it, to say the least.

But the problem is I think many of the great attributes of the Committee's officers, but also the leading figures of this term, Deputy Le Clerc and Deputy Langlois particularly, and in a way Deputy Roffey, because of his experience of Government is very much that of statesmanship and statesmanship is very much working within the structure of Government, the budgets, the resources, the utilisation effectively of officers' time. And once you go beyond that more to the world of campaigning, you could call it populism, you could call it showboating, then you have got a different sort of politics. And it is not just the right who campaign, it can be the more progressive side of society as well.

Sometimes you see arguments developing in the realm of social media that are complicated. For example, the famous Harry Potter author JK Rowling has been embroiled in a complicated argument that has created a lot of media noise but actually has nothing to do with the amendment in front of us, because the amendment Deputy Parkinson and Deputy Tooley have placed – even if one or two of the speeches go over the shop a little bit – is very clear. It is about sexual orientation, that is to say your lifetime legal adult partner, whether the person be a person who could you define or self-define as of the male sex or self-define as of the female sex, and we have already worked on that. We have equal marriage throughout our system now.

The other part of it has again nothing to do ... I can understand with any complexities of transsexuality. It is to do with religion. Religious discrimination has existed for at least 2,000 years and we want to outlaw that and I think virtually everybody who supports the package of anti-discrimination legislation would put religious discrimination right towards the top of their list and I think it is totally unacceptable in Guernsey and I cannot see how it can delay the bigger picture.

Now, I happen to know, we all know really, that we have had an outstanding team of professional officers some of whom came from Policy & Resources, and we are grateful for that. We have also had an outstanding team of politicians, at least some of them, and lobbyists and people who have helped us; from lawyers who visited us, to disability and equality campaigners, to people with worldwide knowledge, to people with expert knowledge of health or employment matters.

Actually, the bulk of the work has been done, especially in terms of sexual orientation discrimination and religious discrimination. Perhaps some people who contributed to the process would argue that maybe we are in danger of being too lenient on exemptions for religious discrimination and there are other people who say, what is a religion? Star Wars? I do not know. Paganism? I am not sure. Humanism; humanitarian ideas as a philosophy? That has already been put forward leading thinker in the Island. So we have a lot of issues to look at. But I would contend the bulk of the issue has been done and I would also contend that this amendment does not take us into the far more dangerous territory of defining sex and gender, equal pay for equal work – not that I am against any of that, but it is far more complicated.

So I feel that if it is the will of the States to go for this now I can perhaps go against the Committee and follow Deputy McSwiggan's outstanding arguments.

The issue though I have is that we need to hear and listen to whether for the foreseeable future, which is now, Policy & Resources are willing to commit the staff and budgetary resources necessary to accelerate what was an unnecessarily delayed timeline. Because our intention a year ago today was to do everything perhaps at the same time and at least move in a much faster timeframe. But we need to know that the leaders of the States are behind us to a degree or at least some of them are.

We also need to know that it can be resourced within our law chambers I think we know it could be but obviously that has to be a decision that is made at the highest levels, and we also need a degree of guestimates that the next Assembly, whoever it consists of, whichever Committees they sit on, will continue with the work and will be inspired to do so perhaps by the wider electorate.

So we need answers on all of those questions and I think if at the end of this debate I am satisfied that the wider project will not be derailed, I will support this amendment.

**The Bailiff:** Deputy Soulsby.

**Deputy Soulsby:** Sir, I think two outstanding speeches of this debate have been by Deputies Tooley and McSwiggan. I have got a huge amount of respect for Deputy McSwiggan who has been the driving force, with all due respect to my very good friend Deputy Le Clerc, who has worked tirelessly on this. Deputy McSwiggan, from before she became an elected politician, has really pushed for anti-discrimination legislation. To me, what Deputy McSwiggan is saying really holds a lot of sway in how I vote.

I have always been in favour of an all-encompassing discrimination law. I was ... not disappointed; of course I want disability discrimination and it is long overdue and it has been an absolute black mark against this States and previous States at how slow it has gone. But for me I totally endorse Deputy Tooley's comment that nobody is equal unless we are all equal and seen as equal under the 'aw.

But for me, I have always had the issue of it being called a 'Discrimination Law'. It seems so negative. I do not want to get into general debate now, but it is kind of relevant to this amendment. So I will not speak much on this but I believe we should have been going for 'equalities' legislation; called it 'equality' rather than discrimination. That negativity just really impacts me.

Now, when this amendment came along I thought, great. And I also thought that does not go far enough. It does cover sexual orientation, it does not cover gender/transgender. I know quite a bit about transgender and I am not going to go into it in this debate – I will in general debate. For me, this is about sexual orientation. It is very clear, as Deputy Parkinson has said, and Deputy Gollop has said, that the work has been done on this and, honestly, in terms of sexual orientation, where is the issue? Where is the issue here? I mean, what is it going to cost? It is not going to cost businesses any money, is it? What are they going to do? They are not going to need to do anything within their workplace to deal with sexual orientation.

All the issues from a business point of view have been about reasonable adjustments and I have issues about how they have approached that – but again, that will be for general debate. But for me I really cannot see why anybody should be against this amendment.

I feel really for the Committee because I know Members like Deputy Roffey in particular Deputy McSwiggan and Deputy Gollop especially will be very much not wanting to have to phase in anything at all. Absolutely they have been forced into it. They have been beaten down by people who actually do not understand all the issues but think they do and think there are concerns here that absolutely do not exist.

I do not think we should need legislation, but we do. And we need to be seen as a jurisdiction that absolutely does respect everybody's rights and I think putting it off, basically kicking this down the road ... I mean, six years, or whatever it was, that will not be six years, it will be 10 years. We know how the States works, we know how long it has taken to get to here and I just think we cannot afford to be so backward in terms of discrimination in total.

I have heard nothing today, and I can understand Deputy Le Clerc saying ... but I have heard no convincing argument why bringing in this amendment will slow anything down whatsoever, because it is a relatively simple amendment. As Deputy Gollop said, a lot of the work has been done. It is not an area of huge conflict and I think there should be no reason why we cannot just get on with it and get this moving in the next term.

I hear Deputy Roffey saying if he is here he will push it through. If I am here, I will definitely push this through. But it should not need for one person to be elected saying, 'Well, I'm going to do it,

even if the States haven't been instructed to do it'. I think we need to give a message to the next States that this is important and we need to move to we treat everybody equally under the law.

Thank you, sir.

**The Bailiff:** Deputy Langlois.

**Deputy Langlois:** Thank you, sir.

Deputy Parkinson and some of his supporters in their speeches have made a very good case for including sexual orientation and religion in our anti-discrimination legislation. But we have already agreed to do that. It has almost got 100% support I think in this Assembly and I am sure in the next Assembly. But it is really just a question of timelines and we discussed that earlier, we have changed or potentially changed the timelines when we come to the debate on the substantive Propositions.

But what we are doing is having a debate with no detailed policies in front of us. It is okay for Deputy Parkinson to stand up trying to reassure everybody and saying this is all very straightforward, there have been no objections to the proposals, but that is not necessarily true. Nobody can make that assumption. I think Deputy Le Tocq touched on it: it is an extraordinary idea that the States could actually give legislative instructions with no detailed policy letter in front of it.

Deputy Roffey touched on the fact that we would be sending away the Law Officers with no instructions in the form of agreed Propositions and a policy letter, and that might very well cause problems we do not know in terms of delaying the actual the core of this, the phase 1 grounds, and I think that is a real problem.

But even more than that I think we owe the Island detailed policy proposals before we go ahead and instruct legislation to be drafted. Islanders will have seen what is happening, they might have even read the policy letter, *(Interjection and laughter)* or a summary of it perhaps. But to actually just put in something where, even if they wanted to, they would have no idea of what is going to be entailed in this new bit of legislation because there is not a word of a detailed policy letter.

It is no good saying ... Deputy Gollop is right, and I said so myself: an awful lot of work has been done. We have been out to consultation, we have had responses from the consultation, we have considered those and as I said in my previous speech, there is still a big gap between that situation and bringing a detailed policy letter to the States and we simply have not – I mean, people might wish we had, but – we have not done that yet. People might have regrets that the Committee did not bring all the grounds to the States in this term, and that is a shame. But we took that decision it was crucial to get the three grounds through this term and to do that we phased the proposals.

Now, people are expressing regrets about that: Deputy Tooley and Deputy Soulsby. But that has happened. We are where we are and you cannot just go back and to wish detailed proposals being in front of you and debating as if we had them, because we simply do not. I think it is extraordinarily dangerous, and it is simply not good governance, for us to make a decision and to approve this amendment which goes against all our usual procedures.

I do not want to get precious about our procedures, but they are there for a purpose and we are the Government of the Island. And maybe it is because our term has been extended we are getting too introspective and thinking about ourselves and our own beliefs, but we are the Government of this Island and we are simply not taking the Island with us or presenting the Island with any detailed proposals for us to debate and have any feedback from the Islanders. So I think it would be extraordinary to approve this amendment.

I give way to Deputy St Pier.

**Deputy St Pier:** Sir, I am grateful to Deputy Langlois for giving way and he was clearly coming to a close. So I am glad he will have the opportunity perhaps to respond to this.

The trouble with speaking early in a debate is things do arise in debate and you do not of course have an opportunity to raise them again, and there have been a number of other Members of the Committee who have spoken who again will not have the opportunity to respond. So perhaps Deputy Langlois could address this question.

Most of the debate on this amendment has centred around what would become the new Proposition 1(a) in relation to sexual orientation. But there has been very little comment in relation to what would be 1(b) – and obviously on the final votes we would have the opportunity to accept or reject 1(b) on its own merits as it were – apart from I think Deputy Le Tocq who spoke to this. The question I have and I would be interested in Deputy Langlois' view, and hopefully representing the views of the Committee, is the impact of the issues around 1(b); and Deputy Le Tocq did speak to some of those particularly in relation to exemptions. Because it strikes me that it seems to be a more complicated issue than perhaps the issues around 1(a), which I think a number of speakers have spoken to, to the extent that it has been confined to sexual orientation rather than other issues which I think have been addressed by others.

So I would just be interested in Deputy Langlois' comments on that please, sir.

**Deputy Langlois:** Thank you, sir.

I was speaking about both Propositions. I was not just speaking about the sexual orientation ground. I was talking about the religion ground as well. But the very fact I cannot answer Deputy St Pier's question is indicative that a lot more work needs to be done on these grounds. We have not got, as I said several times, detailed policy proposals in front of us and particularly about religion or on the sexual orientation grounds.

So we are having this debate on sort of an emotional level, I suppose one could describe it, but we have not got any detailed proposals in front of us. And I have to be honest, I have not really thought about the religious ground since we decided to phase these in, personally. So I am unable to answer his question about what I think about it because the honest truth is I have not really thought about it for six months or so now.

That is the danger of voting for this amendment. I think the States will realise in time it has made a big mistake. And I cannot say right now what that mistake is but I would know from my experience that there will be consequences of breaking our usual pattern of developing legislation. I would ask States' Members to vote against this amendment.

Thank you.

**The Bailiff:** So I turn to the proposer of the amendment, Deputy Parkinson to reply to the debate.

**Deputy Parkinson:** Well, sir, I suppose the contributions to the debate have fallen into three categories and I need to cover off those points.

One is people saying that there is some confusion between sexuality, gender and sex, and that there are hidden complications in the proposed measure against discrimination on the grounds of sexuality. There is another group of people who have said that there are unknown complications, very unspecific risks of derailing the rest of the process and that we have not had a policy letter setting out reasons why we should prohibit discrimination on the grounds of sexuality or religion, and that some people have also said that this will involve an unknown amount of work and lead to possible delays in the legislation, which of course primarily was intended to benefit the disabled and that we should not risk derailing the process. So I will try and deal with those points.

Now, on the definition of sexuality, I really will just be repeating myself if I try and explain again why sexuality is completely different from sex and gender. Essentially, it does not matter whether you are a man or a woman, it does not matter whether you are attracted to a man or a woman, you should not be discriminated against because of who you are attracted to. It really is incredibly simple, despite the sort of smokescreen that some Members have been trying to throw up, 'Ooh, hidden complications here, this is going to involve', whatever. Honestly, this really is amazingly simple. You do not need to define anything else.

I accept that there is a wider public debate going on about other issues which are not engaged by this amendment, but that is why the amendment was drafted exactly as it has been drafted to ring-fence one area which should be completely uncontroversial.



I have accepted – reluctantly, but I do accept – that gender identity, for example, will be dealt with in phase 2 after further consultation, after drafting the sort of policy letters that Deputy Langlois wants to see. I am unhappy that we are not dealing with all of the grounds for discrimination in one hit. But, like Deputy McSwiggan, I accept the practical realities of the situation and we can only bite off the bits that we can chew at this time.

Sexuality is completely uncontentious. Nobody out there is saying we should be able to discriminate against people because of who they love, and it does not cost anything to put in a law that says that you should not discriminate against people because of who they love.

So I will pick up some of the practical issues in the other sections. Now, then there has been this whole smokescreen of, ‘Oh, it could result in unforeseen complications; we have not produced a policy letter around this’, and then when people have been asked to give examples of what sort of complications do you think might arise, we have had Deputy Le Tocq and his Jewish organist, and I cannot remember who it was who raised Sikhs and their turbans on motorbikes.

Look, the reality is, Guernsey is 50 years behind the times. This kind of legislation exists in every other developed country. We do not have to reinvent the wheel. (**A Member:** Hear, hear.) Actually, the UK dealt with the question of Sikhs wearing turbans riding motorbikes. The issue of Jewish organist has probably come up somewhere, somewhere else.

**A Member:** He pulled out all the stops! (*Laughter*)

**Deputy Parkinson:** Indeed. And the States should pull out the stops to get on with anti-discrimination legislation. (**Several Members:** Hear, hear.)

So the reality is (a) we are not reinventing wheels, this is not rocket science; secondly, as Deputy Gollop says, most of the work has already been done; and thirdly, all of this stuff went out for consultation, it has been out for consultation for years and everybody in the Island who wants to put in a plea for Sikhs on motorcycles has had the opportunity to raise those points. No substantive issues have come up. And for Members of ESS to say, ‘Oh, well, we do not know, we have not done a policy letter’, frankly is just disingenuous. A lot of this I fear is people making excuses for not progressing because of, frankly, misconceived reservations about the sexuality definition and the proposal in amendment 2.

Now, as to the cost of doing it, well, again, Deputy Gollop tells us that ESS has done most of the work, and again I repeat that actually you do not have to reinvent this legislation. Pretty well every other country in the developed world has anti-discrimination legislation covering these grounds. You do not have to look far for well-trying and tested precedents to develop anti-discrimination legislation these areas.

For all those reasons, I just simply do not understand the opposition to this. It is easy to do, it is not expensive to do. It has been consulted on, there is no political resistance. Yes, of course there are some people trying to make an issue where there is not an issue on sexuality. But that is just education and I think it was Deputy Merrett who said that we would have a couple of years to educate people. That surely cannot be a stumbling block to doing what is right.

Deputy Gollop raised the subject of statesmanship and not doing just what is popular – or I think that was the import of what he was saying – statesmanship is about doing what is right (**Several Members:** Hear, hear.) and not basing decisions on irrelevant noise.

So I urge Members to put their passions to one side, to think about this rationally, accept that there is no reason why these measures should not go through. If they were bad for society, no other country would have done them and yet the reality is every other country has done them and Guernsey is simply lagging far behind.

So we have an opportunity through this amendment to say, yes, ESS, we are pleased with the work you have done, we definitely want to move forward with anti-discrimination legislation in respect of the disabled and in respect of carers, in respect of people who are abused because of their race – we totally agree with all of that. And all we are saying is, yes, we welcome the decision to condense phases 2 and 3 into one phase, to speed up the timetable; that is progress too, well

1530 done. But at the same time, there are some elements of what you, ESS, are proposing to put into  
phase 2 which are just complete no-brainers. Why do we not just get on with them? Yes, there will  
be some more noise inevitably around the sexuality/gender identity issue I am sure. But Members  
have to be man, or woman, enough – I have to be gender neutral – to stand up to the public and  
say, no, all we have done is said you cannot discriminate against somebody on the basis of who  
1535 they love. It is as simple as that.

The public will eventually be taken with us because it is right. And I know we do have an  
obligation to take the public with us, but I think the public out there are hugely supportive of this.  
Not just the people who were on the steps of the Court yesterday, but thousands of other people.  
I believe there are 10,000 disabled people in Guernsey. Who knows, there may be 5,000 LGBT  
1540 people. There are large numbers of people out there, beyond those who are standing on the steps  
of the Court, who want to see some progress.

So I urge Members to support the amendment.

**The Bailiff:** Is there going to be a request for a recorded vote?

1545 **Deputy Lester Queripel:** Yes please, sir.

**The Bailiff:** Deputy Leadbeater, I know you have been sitting patiently there for a while. As we  
are having a recorded vote, is it your wish to be relevé?

1550 **Deputy Leadbeater:** Yes please, sir.

**The Bailiff:** We will mark Deputy Leadbeater as present please.

Recorded vote please on this amendment 2, Members of the States, which is proposed by  
1555 Deputy Parkinson seconded by Deputy Tooley.

*There was a recorded vote.*

**The Bailiff:** Well, Members of the States, I am satisfied that amendment 2 has been carried. I  
will announce the voting record in a moment, but, Deputy Tooley, can I ask for your assistance,  
please? You have submitted two amendments, both seconded by Deputy Merrett, which are  
numbered 3 and 1. Do either of those need to be laid?

1560 **Deputy Tooley:** The passing of amendments 9 and 2 mean that we do not need to lay either of  
those two amendments.  
Thank you, sir.

1565 **The Bailiff:** I am grateful for that indication.

Members of the States the next amendment that we will turn to, just so that you can get it ready,  
will be amendment 7 to be proposed by Deputy Hansmann Rouxel.

*Carried – Pour 34, Contre 3, Ne vote pas 1, Absent 1*

**POUR**

Deputy Trott  
Deputy Le Pelley  
Deputy Merrett  
Deputy St Pier  
Deputy Stephens  
Deputy Meerveld  
Deputy Fallaize  
Deputy Inder  
Deputy Lowe

**CONTRE**

Deputy Langlois  
Deputy de Sausmarez  
Deputy Roffey

**NE VOTE PAS**

Deputy Le Clerc

**ABSENT**

Deputy Ferbrache

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 McSwiggan  
Deputy De Lisle  
Deputy Soulsby  
Deputy Prow  
Deputy Oliver  
Alderney Rep. Roberts  
Alderney Rep. Snowdon  
Deputy Tindall  
Deputy Brehaut  
Deputy Tooley  
Deputy Gollop  
Deputy Parkinson  
Deputy Lester Queripel  
Deputy Leadbeater  
Deputy Mooney

1570 **The Bailiff:** Well, Members of the States, the voting on amendment 2 proposed by Deputy Parkinson and seconded by Deputy Tooley is that there voted Pour 34, Contre 3, 1 abstention, 1 absentee and I declare amendment 2 duly carried.

Deputy Hansmann Rouxel, it is amendment 7 next, please, if you are ready to open debate on that. Do you want all of it read?

1575 **Deputy Hansmann Rouxel:** No, sir, I will spare the Greffier.

**The Bailiff:** Thank you very much.

#### [Amendment 7](#)

*To add new Propositions, numbered Proposition 21 and 22 and 23 and 24, as follows:*

*"21. In accordance with Rule 54(1) of the Rules of Procedure of the States of Deliberation and their Committees, to agree that with effect from the start of the next States term (i.e. October 2020) there shall be a Committee of the States constituted as follows and listed in Appendix A of the aforementioned Rules of Procedure:*

*Title – Equality & Rights Advisory Committee*

*Constitution*

*A President who shall be a member of the States and five other members who need not be members of the States, all elected on the nomination of the Committee for Employment & Social Security. And where a members of Employment and Social Security Committee and of the Policy & Resources Committee may not be members of the committee.*

*Duties & Powers*

*To advise the States of Deliberation on matters relating to equality and rights.*

*To provide a rights and equality perspective to States Committees and the Assembly in development of policies and legislation which engage rights and equality.*

*To promote meaningful consultation with affected parties at an early stage in the development of new policies and legislation.*

*To monitor the implementation of conventions and protocols that have been extended to Guernsey, and ensure that rights and equalities are embedded in States' processes.*

*To produce reports on specific areas of rights if there a public interest identified by the Advisory Committee.*

*To investigate and report on issues if directed to do so by the Assembly.*

*To produce an Annual Report to the States of Deliberation.*

*To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.*

*The Operational Functions*

*To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.*

*"22. To direct that before the end of the next States' term in June 2025 the Equality & Rights Advisory Committee shall lay before the States its advice, together with appropriate Propositions, on whether there is a need for the Committee to continue to exist in the light of experience during the 2020-25 States' term.*

*"23. To direct that when nominating members of the Equality & Rights Advisory Committee, the Committee for Employment & Social Security shall ensure that the membership of the Committee represents plurality in social interests and includes at least one member able to provide the perspective of people with disabilities."*

*"24. To direct the Policy & Resources Committee to make available from the capital reserve a sum not exceeding £35K for the initial budget of the Committee with further work done to consider the full responsibilities of its mandate once set up."*

**Deputy Hansmann Rouxel:** So, Members, amendment 7 is a bit of an oddball, accompanied by more reading, which I am sure Members were delighted with after the piles of reading that arrived from the policy letter.

It stems from the long process that ESS have been through. Now, amendment 7 asks for, in simple terms, it is asking for a new committee of the States to be created called the Equality & Rights Advisory Committee.

Now, it may surprise Members, and it surprised me, that we actually have a Rule that allows us to do this. It is Rule 54(1) of the Rules of Procedure and this Rule, it is in the States' gift to create a Committee of the States. Now, my job, I suppose, in laying this amendment, is to convince you that it is necessary. And it should not be necessary for this particular committee to be created, but I feel that we are missing things in the proposal before us. It does seem like a large concept, but I want to rein peoples' feelings about that in, is that is actually really simply.

When ESS have gone through the process of looking at an equality and rights organisation, they have been through an extensive process and went through all options appraisals. Members will note from the policy letter that in the original Disability Inclusion Strategy there was a Proposition directing an equality and rights organisation that was Paris Principles aligned to be set up, basically as soon as practically possible.

Now, it is my view that had that equality and rights organisation been set up right at the beginning of this process, we would not have had such a contentious consultation period because one of the key things about an equality and rights organisation is raising awareness around all of the issues.

Yes, as Deputy Parkinson said in his speech on amendment 2, we have fallen behind on things and we do have people moving in from different jurisdictions who have experienced different jurisdictions' legislation, and they bring with them a different view of how discrimination should be ... So, back to my amendment. The key things about an equality and rights organisation should be that it is independent and autonomous and can hold Government to account.

Now, this amendment does not tick those boxes, but neither does the proposal from ESS. They looked at all of the options, including option 6, which was a full equality and rights organisation that was fully independent and autonomous, had litigative powers to bring cases against the States should that be necessary. That would have come at an extra cost of £1.3 million.

Now, there are people, and there are many people, who understand from the perspective of people who have been discriminated against and who have fought to change culture, that it is necessary to hold Government to account. But the pragmatic approach is we are a small jurisdiction and we are capable of more substantive change than would be necessary by having an organisation with that level of power and I believe we can demonstrate that. But we are at the point now where we are implementing this and ESS have looked at all of the nitty-gritty of creating an equality and rights organisation and pulled out of that the bits that will have a proactive effect on the legislation.

So things like advice to businesses, the guidance, all of those things that would have taken place in an equality and rights organisation, are encompassed almost to some degree in their Proposition, which is to create an 'Employment and Equal Opportunities Service'.

Now, in that title, Members will notice that rights are missing from the title, and rights are missing from the work. So there is no organisation that will be looking at rights as a whole. This is where I came to looking at what is the amendment before you.

From the report ... And I apologise, I mentioned in one thing I think I made a spelling mistake or two in the report, but I am sure that not everyone with their grammar pencils would have noticed.

So how do the current proposals for an Employment and Equal Opportunities Service fall short of an equality and rights organisation envisaged in the Disability Inclusion Strategy? I have mentioned it is not independent and it does not provide advice to Government. Now, there is not an organisation that can provide that impartial advice to Government and that is when we have debated contentious rights issues. In any of the jurisdictions that you look at – and there is wealth of information and thank goodness for open and transparent governments the world over – you can access equality and rights organisations' views on the contentious rights areas, but we as our Government have no standing, we have no organisation that can provide that advice.

We also within our States, as a parliament, do not have that function within the mandates of the different Committees. Employment & Social Security does have equality in their mandate and it is important to understand that this committee is not a policymaking committee. That is a very clear distinction. It is not a Principal Committee, it is just a minor Committee, like the Transport Licensing Authority or the Overseas Aid Commission. It is a minor Committee. It should not be resource hungry. We do still have the Transport Licensing Authority.

But what it does do, and what it is supposed to do, is create a mechanism for non-States' Members – and again, that is in our Rules of Procedure, that non-States' members can sit on Committees – it creates a mechanism to have non-States' Members. Now, it might be in the next Assembly that we have a diverse section of Deputies and there might be more than one States' Member that fulfils the mandate of the Equality & Rights Advisory Committee's mandate and that the membership should be representative of a cross-section of social interests.

The wording I think in the original paper for the equality and rights organisation was a plurality of thought, but up until now I have not been able to say that without stumbling over 'plurality' – I said it right twice, I am not saying it again. So yes, it might be in the next Assembly we have a more diverse Assembly and there are potentially more than one States' Member who would fit the bill and be able to sit on that. However, it is important to have that plurality of social interests on the committee and those non-States' Members would be acting in the same way as non-States' Members who sit on the STSB, for instance. The STSB recognises that there is expertise that the States does not have and they have those members provide that expertise their business knowledge.

Now, I can understand that there are some Members who would be concerned that having non-States' Members on a States Committee is somehow counter to democracy. But we have them on the board of STSB and importantly the similarity between STSB and the Equality & Rights Advisory Committee is that they are not policymaking committees.

This advisory committee would purely be to look at those rights issues and provide advice to Government. They would be able to monitor the implementation of conventions and the progressive realisation of rights. Now, that sounds really complicated, but at the moment External Affairs does provide a report to the UK which forms part of the UK submission to the UN. But

currently that is provided by, I imagine, an officer in External Relations who pulls together information from different Committees on how they are progressing and sends off this report. There is no external input into that report. This committee would be able to input into that report.

It is not a duplication of work: it is harnessing the expertise from our community, giving them a mechanism to clearly outline and look at where the rights are and advise the External Relations team; and if the political Members want to take away some of those recommendations, it is up to them when they put together the report. However, the advisory committee would have been able to look at that and would be able to take in examples of where the community feels there has been a lack of progress in areas, a lack of realisation in areas.

In the report I cite the example, throughout this term there have been several examples where the GDA has had to proactively seek to be consulted on areas of policy and legislation that directly affect people with disabilities.

Now, the Convention on the Rights of Persons with Disabilities – and I do need to apologise because I made a typo there; I said ‘people’ instead of ‘persons’. ‘Ah, what does it matter? It’s just a word’ – actually, the way that we present words starts to have a long term effect, and it is ‘persons’ not ‘people’. So the contravention in Article 4.3 of the Convention of the Rights of Persons with Disabilities is:

States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations –

– in the ‘development and implementation of legislation and policies’. Even though it has been raised several times in this term, it still happens again. There is not a recourse for the GDA, who are not a Government advice body. They are a body representing a wide cross-section, I think 42 members, different groups that represent groups with different disabilities. They have come to us and said, ‘We haven’t been consulted on this’, time and time again, and there is no way for them to register, actually, this keeps happening. And for us to then go, well, look at our processes, how can we be better? How we can progress this right and not keep making the same mistake over and over again? It is simple, but we do not currently have a place in the States that can concentrate that information and provide clear advice to Government on that.

In my haste to lay this amendment, I did speak to some officers and you can see in the explanatory note a wise owl would have realised that £19,000 per annum and £21,000 do not add up to the requested £35,000 that is in the proposed Proposition 24. It is unfortunate, just a mistake. That is really where this hits the road because I am asking for a bit of cash. Advice does not come free and the third sector also does not come free.

I do sympathise with Employment & Social Security in bringing this policy letter to the States that they have tried to be as – *(Interjection and laughter)* Deputy Roffey says ‘tight’; well, okay, your words, not mine; but yes, I might have put it slightly more diplomatically – as possible. So I realise asking for some extra funding to create what is not there at the moment might strike Members as being a bit cheeky. But I think we can get better bang for our buck with what I am proposing.

I have also spoken to officers in depth after the amendment was laid and there is naturally concern around spreading costs. But ultimately it is up to us to rein in the expense. If that is what the Proposition asks for, that is the budget of responsibility in setting up the committee.

It also is only for a term, and that is quite clearly because this is not a replacement – I want to make it clear, it is not a replacement – for an equality and rights organisation. Nothing can replace a fully independent and autonomous equality and rights organisation holding the States to account, But we can see that ... well, I can certainly see that there is a need for this. There is a gap in what we are doing and can we do it pragmatically for less money within utilising what are already processes happening in the States that consolidate those areas. It should not require a full-time person. Yes, if it proves worthy at the end of the term, that could be part of the report, that, ‘We do need to increase the funding and it has proven worthy in this respect and that respect, and actually, these are the functions that we believe need to be expanded’. At that point the States can then decide what they want to do with the committee.

1710 The sort of hidden part of this also comes from ... It is not just about the equality and rights organisation, it stems from my experience as the disability champion. Now, Members will know, I smile now but I was not smiling a couple of years ago. The role of the disability champion was created in the States and it was created at a time to promote the rights of persons with disabilities and try and move the agenda on.

1715 In other jurisdictions, you have ministers for disability. There are many parliamentary roles that exist that have disability in their title and they act as champions for those rights. That is what we thought we had as a disability champion. But unfortunately what happened and the experience that I went through exposed the fact that in our haste to want to create a role and say to the community there is somebody championing disabled persons' rights, unfortunately, what it did was create a non-official position.

1720 Now, what that meant was that there is no support around that role. There was volunteer support at some point. But in terms of data protection, we as Deputies when we do our parishioner work are data controllers in our own right. Now, if as disability champion I have a team of volunteers who are dealing with me, I am the data controller for that team of volunteers because it is not an official role. If I sit on a Committee, the Committee is the data controller and I am not the personal data controller. Yes, I need to comply with data control legislation, but I am not the data controller for that information in the Committee. Now, that particular conundrum is what I experienced, but it goes further than just the complications around data protection which we could argue till the cows come home.

1730 It is about the creating a platform for officially having some kind of equalities role in the States and that is why the president would be a Member of the States and have the ability to speak in the States and have the authority to speak on behalf of the committee, the advisory committee, about rights and equality. That official-ness of that role ... It is creative way of looking at it, but I have looked at all different jurisdictions and for our size and our unique system of Government there is not another place to put a disabilities minister or an equalities minister. There is only what I am suggesting.

1735 Now, I realise to some Members what I do is not valued. But I have tried as much as I can through this term to, when there are contentious issues, try to look at the rights and perspectives of persons with disabilities in a broader sense and bring that voice to the Assembly.

1740 What this committee would do, and whoever would be the States' person elected to that Equality & Rights Advisory Committee would have the ability to do that in a slightly more official way and have very clearly some support around them, and the team of non-States' Members, the committee members would be covered by data protection of the States.

So all of these things came together in my mind and out popped this amendment. It is not perfect, but I urge Members to give it a go.

1745

**The Bailiff:** Deputy Merrett, do you formally second this amendment?

**Deputy Merrett:** I do, sir, and reserve my right to speak.

1750

**The Bailiff:** Deputy Le Clerc.

**Deputy Le Clerc:** Sir, I ask to invoke Rule 24(6), please.

1755 **The Bailiff:** Well, Members of the States, Deputy Le Clerc is inviting me first to rule on whether this amendment goes further than the original set of original Propositions and I am satisfied that it does because it is seeking to insert new Propositions to create a committee.

Therefore, there will now be a motion that there be no debate on this amendment and no vote taken thereon. Those in favour; those against.

1760

*Members voted Contre.*

**The Bailiff:** I will declare that lost.

So we will resume debate on this amendment when we ... We will now adjourn until 2.30 p.m., Members of the States, and resume debate on this amendment.

*The Assembly adjourned at 12.34 p.m.  
and resumed its sitting at 2.30 p.m.*

**Proposals for a New Discrimination Ordinance –  
Debate continued**

1765

**The Bailiff:** Well, Members of the States, we are in amendment 7.  
Deputy Laurie Queripel.

**Deputy Laurie Queripel:** Thank you, sir.

1770

I really do get where Deputy Hansmann Rouxel is coming with this amendment and I am likely to support it. But I do have a couple of questions and I would appreciate if they could be addressed.

1775

I am just wondering if actually, although it is really well-intended, could this in some way be counterproductive? By which I mean at the moment Deputies are contacted directly by very well-organised and very knowledgeable lobby groups and interest groups – so that is GDA, Liberate, other groups – and we get emails from them that are very detailed and very clear and they are very well-informed emails.

1780

I am just a bit concerned, will that kind of contact then be diverted towards the advisory committee and not so much towards Deputies? And if that is going to be the case is there some way or other that that kind of contact or that knowledge, that information will be somehow watered down or moderated before it gets to the Deputies?

1785

So that is my first concern: will that mean less effective direct contact with Deputies if these groups are going to go to the advisory committee rather than directly to Deputies?

1790

My second point is, if that is going to be the case, does it not constitute some sort of ... What is the word I am looking for? Constitutes – *(Interjection)* No, no. It is some sort of ... It is sort of like a double effort, really. That is the point I am making. Does it constitute work being done twice, in a way? There is a word for it, it begins with c but I cannot think what it is. I know the letter is c but I cannot think what it is. Yes. So will that be the case? Will there be double the amount of effort for the same outcome; for the same product?

1795

The other thing I would like to ask Deputy Hansmann Rouxel, I am sure she will know this, but has this amendment and what this amendment is calling for, got the blessing of special interest groups, the lobby groups like the GDA, and like Liberate, or are they ambivalent about it, or are they not so keen on it? So that would be interesting to know as well because this is being set up really, or will be set up, to assist those sort of groups or to give them another area of contact – a voice, in a sense. Is it actually what those groups want? So it would be interesting to hear that as well, if that is the case.

1800

As I say, sir, the concept is good. I really do get the idea. But I am just a bit concerned actually that, as I say, we have a very good relationship as Deputies on a one-to-one basis with these organisations and these groups and I am just a little bit concerned that that actually might be watered down by having this kind of committee in place. And will there be a duplication? That is the word I was looking for. Will there be a duplication? It begins with d – I was one letter out! *(Laughter and interjections)* Did you really? I am a bit selective about what I hear from other people, especially when it is the President of the Committee I sit on. *(Laughter)* I listen to him so much anyway! So will there be a duplication of effort?



Oh, there is just one more thing – I sounded like Columbo then for a second, but there is just one more thing. If there is £40,000 going towards the setting up and funding of a committee like this, I just wonder, actually, if there is that money available, would it not be better spent actually providing some funding to the groups that contact us? Would it not be a better use of £40,000 to help them with some funding rather than it going towards a States Committee?

Thank you, sir.

**The Bailiff:** Deputy Fallaize.

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

I support this amendment. There are States Committees and there are States Committees, and whenever you propose forming a States Committee there is always some hesitation because one thinks of the States Committees which are most prevalent with large ... well, actually, not very large armies of staff, but numerous officers, and playing the kind of role that most Committees play in this Assembly.

But this Committee I think would be more like the Overseas Aid & Development Commission. In fact the proposed membership is structured rather like that. And it is a Committee of the States, which gives it the authority of the States and allows it to play a role it would not otherwise play, but it is not a Committee which is reporting to the States every week or every month or which has a large army of staff.

Although I am very supportive of the proposals of the Committee ... By the way, I think Deputy Le Clerc was right when she said the proposals may well have been defeated if they had been brought to the States early this year. There is now almost unqualified enthusiasm for them but I am not sure that would necessarily have been the case. So I think the Committee did the right thing by not trying to go too far too quickly. I think they pushed it about as far as they could reasonably get away with when they submitted their proposals.

The one slightly disappointing aspect I think of the proposal is the absence of an equality and rights organisation. I cannot quite understand why they did not propose it because I know that there was some concern expressed by the Policy & Resources Committee and perhaps by others, but actually, they have constructed a Proposition which proposes in a sense an alternative arrangement to an equality and rights organisation. I do not know why they did not just put them in as alternative Propositions and say, 'Our main proposal is an equality and rights organisation, but if the States are not prepared to live with that, we have put this secondary structure in place which is the minimum that we are prepared to live with'.

So I think the absence of an equality and rights organisation will materially weaken the effect of the legislation. Clearly does not mean that the legislation ... it is any less important that it should be approved, but I do not think it will have quite the same effect on the ground as if there was an equality and rights organisation.

I think that this type of legislation needs to be promoted. I think a body which is independent of the States and can bring together the expertise and experiences of people who are closest to discrimination would be best able to promote the legislation.

There is no monitoring function set out in the employment and equality body which Employment & Social Security is proposing. That body is not going to be able to advise the States Committees, certainly not the Assembly, in the way that an equality and rights organisation could.

I am sure it is going to play a valuable role but it is going to be, I think, quite bureaucratic. I do not mean bureaucratic in the sense that it is going to create lots of paperwork. I mean it is going to become a kind of arm of the bureaucracy; it is going to become quite mechanistic.

One of the paradoxes of this debate about discrimination legislation over the years is that I have found that those who are most sceptical about the need for legislation say, what we really need is not legislation but cultural change, who also happen to be the people who are most opposed to setting up an equality and rights organisation, and an equality and rights organisation is in my view the key element that would provide and promote education and cultural change.

I am sympathetic – although I am very much in favour of the legislation – to those people who say, actually, ‘You know, legislation in a sense is a blunt tool you cannot change the way people think just because you have legislation in place’. That is true, and you need education, you need cultural change, and an equality and rights organisation would be right at the forefront of that kind of work and that movement; and it is absent from the framework that is being put forward by Employment & Social Security.

I think that the creation of this committee that is proposed in this amendment would help fill some of the gaps which will be left by the absence of an equality and rights organisation – not all of them, but some of them.

I think of my Committee, Education, Sport & Culture. I would value having – I cannot remember what the name of this committee is going to be, but whatever it is; the Equality and Rights Advisory Committee, I think; yes – I would value having that kind of body to go to which understands the way the States operates, which understands how policy letters are formulated, which understands how Propositions are put together, which can advise committees. The Policy & Resources Committee would be able to advise our Committee or whichever Committee it was and then could advise the States actually in debate, not just from the perspective of lobbying, but advising the States in the Assembly on the ground as it were.

I think it would be valuable to have that kind of body, and it would be particularly valuable because it will not be stuffed full of States’ Members. I do not mean that disrespectfully. There is nothing wrong with the States’ Members, but – well, some of them there is – *(Laughter)* I think bringing into a States Committee members of our community who are not States’ Members but who have experience and expertise in this area would be valuable. Then having a States’ Member lead the committee would help because it would be able to have a voice in the States and in dialogue with other States Committees.

So I do understand the concern about, ‘Oh, it is another committee, it adds to bureaucracy’. And those sorts of arguments used to have some currency when the States had 57 Committees or even when the States had 20 Committees. There was this reluctance to add to the number of Committees. Actually, the States have probably as few Committees now as it is possible to have, following rationalisation in recent years, and so I do not think we need to have any concern about adding to the number of Committees.

This is a time-limited committee. It would not have policymaking functions. It would in a sense sit, I think quite neatly, alongside other Committees playing the sort of role – it is not a good analogy really, but – a kind of role that the Overseas Aid & Development Commission plays. I think in the whole architecture of the proposals that the States are being asked to vote on today, this type of committee has a role. If it does not work, then it is time limited and it can be scrapped. It might evolve in time into something that looks more like an equality and rights organisation, but I think if this amendment is lost something valuable will have been lost from the framework of reform that the States are being asked to approve today.

For that reason, sir, I hope the States will vote for the amendment.

**The Bailiff:** Deputy Merrett.

**Deputy Merrett:** Thank you, sir.

First of all, I would like to put on public record my thanks to Deputy Hansmann Rouxel for all the hard work that she has done, not only on this amazing – slightly biased, because I am seconding it – explanatory note, which obviously has taken considerable time and research, but also all the hard work she has done in this perceived role, and I say that with the utmost respect, of Disabilities Champion. Because there has not been, in my opinion, the support, whether that is support with GDPR or support from any secretariat or anything to try to achieve that role. So I wish to place on public record my thanks.

Now, Members could say, ‘Well, this is a bit of a sledgehammer to crack a nut, isn’t it?’. But what an awkward nut we appear to have before us. We this morning have tried to make ... well, some

Members this morning have had some issues with maybe the amount of research, reading; I do not know what engagement they have done. I do not know. But there seems to be a bit of a gap. So I would say, in my business terms, a gap in the market but actually I think what going forward there could potentially be is a gap in the political accountability that really centres, and just centres, on equality rights.

That is not to say ... Members may recall this is my second attempt at trying to set up a committee; under slightly different rules, I think. But last time it was very different because I was really pushing the point on, I think ... I know what it was, it was on fuel duty. But Deputy St Pier stood up and said, 'No, I am going to deliver this in this political term', and Members said, 'Okay Deputy St Pier we're with you, and we're no longer with Deputy Merrett'. That is fine because we had that continuation of the political term and indeed it has been or it is being delivered. So thank you for that.

But as I see it, it is only how I see it, because it is just purely my opinion, we cannot just continue in my world to leave this just in ESS's hands if we really wish to keep up momentum; if we really want to push this over the line.

Now, the reason I say that is I could easily leave this in ESS's hands with the currently constituted Committee of ESS – absolutely I could. I would be confident, I would be happy. But we are led to believe that many or a majority of ESS are not going to seek re-election. Even if they did seek re-election, we do not know if they would get elected, and even if they get elected, we do not know whether or not they will get elected on to ESS. I think that really is where I am very supportive of this amendment because what I am trying to do is keep up the political momentum not just with a newly constituted ESS, but actually have a voice separate from that in this Assembly. That is what I think is important.

So to me, this amendment ensures that there is political accountability with support, and already two Members today have said they would like to keep the momentum, they wish to re-stand, they wish to be re-elected – I think it was Deputy Soulsby and Deputy Roffey – and they want to keep the momentum going, and that is absolutely fantastic.

I think it is worth noting that we can ... This committee, we have a time limit on it, but I am led to believe it can be dissolved earlier if it needs to be or it could be extended. That means it is at the gift of this Assembly or the future Assembly – it is in our gift.

So really, to me, this is about putting our money where our mouth is. It is about keeping this on the political agenda, and allowing ESS to go away and develop and do the work they need to do but having somebody separate that is able and willing to engage. I am not saying ESS are not engaged, because they have. I thought the consultation was fantastic. I honestly did. I thought it was absolutely brilliant. The opportunity to attend workshops, the opportunity to meet people; I thought it was brilliant and I really ... I am not going to say enjoyed it, because I found it quite difficult, but I was willing to engage and willing to learn. So I think this helps keep it very much on the political agenda and I think it is about engaging with the community.

Now, Revive and Thrive was all about – well, some of it was about – working with the community, listening to our community and this whole, 'building back better'. So I just want to keep my foot on the acceleration pedal. And if there was not an election coming, if the Members of ESS would decide to change their minds and re-stand, I might have more comfort. But that is I think, to me, sir, where this is coming from.

We will have a new ESS, but I would really like to have this other voice in the States to really ... If we are going to build back better, let's try and get this committee for ... it is a short period of time, just to keep our foot on the accelerator.

So I put it to Members, sir, that this really is about: are we going to put some money where our mouths are? Are we actually going to walk the talk or are we just going to talk it?

So to me, I think Deputy Hansmann Rouxel has made a convincing case, but I am not naïve – there is clearly a monetary cost to this. But I think it is time that rather than just talking about it and rather than after years, and I do not know how many decades or years we have a disability champion for in this Assembly, but to broaden that out, especially over the next political term, to keep the

1960 momentum, to have somebody that actually has a voice in the States, has some support, who is able to engage with the community.

I do not know who the other members of this potential committee could be – I do not know. Deputy Laurie Queripel said, actually, will this stop people from communicating with us? No, it will not. Of course it will not. Members of the community can contact us whenever they like. But what this will do is will ... Maybe some Members are not able to respond to all their emails, maybe all Members are not able to go to the workshops. I know there was only a certain amount of Members that did go to the workshops, maybe that is the case. So maybe this is just a conduit to getting all of that information from all of those stakeholders together around the committee table *per se* and to be able to have that in the States.

1970 So I think obviously – so totally biased on this, I appreciate that, but – what the duties and powers and what it is trying to achieve is admirable and it should be achievable. So it, for example, provides a rights and equality perspective to States Committees and the Assembly; and I know Deputy Fallaize seemed quite keen on that because he thought it would be very helpful. As simple as this, sir: producing an annual report, just so that we can see, understand, the progress that is being made.

1975 Now, I am very lucky that ... well, we are all very lucky, actually, that we can email – anybody can by that way, but – the Committee *for* ESS and say, 'Can you give me an update? When do you think this is going to come to the Assembly?'. But sometimes I am not always sure what progress is being made or has been made to actually keep our foot on the pedal and to get this back and to at least have every year some sort of report that has not got to be 30, 40, 50 pages, just a report to say this is the progress that has been made, this is what has happened so far this year, just for a short period of time – so just for the next political Assembly.

1980 Now, if ... and I know Deputy Le Clerc has said this in GDA meetings and other meetings, that we should have some of the legislation back before us next year – I hope that is the case, but I am sure we will find out later in debate if that is – it might be that this committee can be dissolved a bit earlier if the phasing and the timing is kept together.

1985 So I am supportive of this and I think that I would implore Members to support it because the costs associated with it in my mind give such a wider benefit to our community as a whole because they will have a Member of the States, elected in October, that they know can be that conduit to approach and to engage with, and I think that is invaluable. It is not to say they cannot talk to any Member of the States. But I would put it to Members that Deputy Hansmann Rouxel has spent a proportion of her time, and I think probably a large proportion of her time, trying, trying her uttermost to be the champion for disabled persons. So I think that this will give some recognition to the importance of what we are trying to achieve as an Assembly and it will simply keep the momentum going.

1990 So that is why I am going to support it and I would urge Members to do the same because I put it to Members that if we do not we are not walking the talk. We are just saying, 'Yeah, we're going to do this, yeah we think the disabled champion is such an important role, yeah'. I mean, I do not know if you have ever stood for it (*Laughter*) – I know Deputy Hansmann Rouxel did – and at times that role has been let down by a lack of support, for sure. I do not doubt that for one moment because I have been quite close to it.

2000 So I think this is important. I think it is something that in view of what Deputy Fallaize said ... I think Deputy Fallaize absolutely right that we really need an independent ERO going forward and this to me is a stepping stone to get there. So if the States are not willing to go for an ERO straightaway, and there is a massive cost implication there, we know that. Well, that is what we were told in the papers; okay. Well, forecasting ... we did Accounts yesterday, so we can all see how good our forecasting is. But if there is a cost, and I think this is something that for a short period of time, one political term or less, we should just do it.

2005 So I would ask Members to support it, but I will listening closely, as I am sure many members of our community are, to this debate.

2010 **The Bailiff:** I am going to call Deputy Le Clerc next.

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

2015 Sir, I feel I am already battered and bruised and we are not through the afternoon yet. The ESS  
is starting to look like the villains today, when we think of the four years of hard work that we have  
put into this.

2020 This amendment has caused a bit of a dilemma for the Committee. In principle, the Committee  
would support the creation of an independent organisation providing a greater level of scrutiny of  
the States on equality and rights issues, providing that this could be achieved in a proportionate  
and cost-effective manner. Even though this is what this amendment is clearly seeking to achieve, I  
am finding it difficult to support as it is currently constructed.

2025 Earlier this week the Committee met with Deputy Hansmann Rouxel at a Committee meeting to  
understand her aims and objectives and how the proposed advisory committee would operate in  
practice. While Committee Members have some sympathy with the aims of the amendment, the  
conclusion of the Committee was that further thought needed to be given as to how this might be  
best achieved.

2030 The constitution of the proposed Equality & Rights Advisory Committee gives some cause for  
concern. The amendment calls on ESS to nominate the members of the committee to the States.  
While ESS has done a lot during this term, through the development of the policy proposals before  
you today to further human rights in Guernsey, rights are cross cutting, relevant to all States  
Committees, not just ESS. So to place nomination rights in the hands of ESS suggests otherwise.  
Arguably, this should lie with the Policy & Resources Committee.

2035 I am sure States' Members are aware the Committee has had to compromise in respect of the  
equality and rights organisation in order to recommend something that was within an acceptable  
cost envelope to business, to P&R and would have had a chance of being approved by this  
Assembly.

2040 I draw your attention to appendix 7 and if you look at the costs there of the various options, a  
full, up-and-running ERO organisation that we would have wanted was an extra £1.3 million of  
funding per annum. Equality and human rights commission, but without strategic litigation, and a  
an employment relations office, we are looking at £890,000 additional. And if you are looking at  
employment and equal opportunities commission, £670,000 cost per annum.

2045 So actually, we would love, the Committee would love, if we had had the funding for this, and if  
someone really wanted to, that is what should have come before the States today. But we have had  
to compromise, and under the Committee's proposals there is a potential, if agreed by the States,  
at a later date for the Employment and Equal Opportunities Service to develop into that  
independent ERO that we all want. But it needs to be properly resourced, and it could take some of  
the functions and duties currently not included in the mandate.

2050 This is our longer term vision and we would have wanted it sooner, but we were working within  
a cost envelope, particularly when we were putting this policy paper together back in January and  
February.

2055 One of the main difficulties with the proposal is that it will not be independent. It will still be a  
States Committee and the proposed purpose of the new committee for me is somewhat confusing.  
For example, there would be potential overlap with the mandate of P&R in respect of external affairs  
function and the monitoring of international conventions. In addition, the mandate of ESS says, 'To  
advise the States to develop and implement policies on matters relating to' mandate and 'equality  
and social inclusion, including in relation to disability' So therefore I would expect the next phase  
of work on the discrimination legislation to fall to ESS, and I just do not see how having a second  
advisory committee would speed up this work. I think it might actually slow it down when you have  
got two Committees.

2060 We believe that at an absolutely minimum the proposed committee would need one full-time,  
high calibre senior officer with a relevant qualification, several years of experience and in addition  
a part-time executive assistant. So we think that the costs that have been put into this amendment  
of £35,000 are underestimated. We believe that it will require more costs.

I am just really concerned, in the rush to approve various amendments, that overall costs are going to start to spiral. I expect that the next ESS Committee will have to fight tooth and nail, like we have had to fight, to secure the necessary resources to deliver this programme of work.

Sir, this is my second sort of end of term because we have got this meeting and we have got the next meeting, and I have now seen twice a rush for Committees to bring forward policy papers and, with one eye on the Election, for there to be a wish list of wonderful things that they would like to introduce that all come at a cost and then they get approved and then it is up to the incoming Committee and the incoming Assembly to fight for those funds and resources.

We absolutely want an ERO, but I just do not think the timing is right on this amendment. So I would ask you to not approve this amendment today and go for the big win later on when we can bring a more comprehensive policy paper and we know where we are with the States' finances.

Thank you, sir.

**The Bailiff:** Deputy Prow.

**Deputy Prow:** Thank you, sir.

I have to say I had a difficulty with this amendment, in the sense of knowing how to vote on it, but I have to say the speech from Deputy Le Clerc has to some degree I think tipped me in one direction.

Can I start by perhaps bringing up some of the points that Deputy Merrett made around the excellent work that Deputy Hansmann Rouxel has done as Disability champion? I personally have welcomed the support she has given the States in speeches, and her often passionate speeches about this issue and I think she has done a really good job in that regard. And I think to some degree, in her opening speech to the amendment she did not perhaps do herself enough justice.

I think my difficulty perhaps with this amendment is some of the points that Deputy Queripel brought up right at the beginning about how much it is supported by the third sector and does it do what it says on the tin. Now, Deputy Fallaize when he spoke, he did make some good points, particularly around what would be the new Propositions 22, 23 and 24. He did put some meat on the bone as to what practically perhaps this committee could achieve. This is perhaps where I would like if possible somebody from P&R to perhaps give a view. I think my difficulty perhaps is around Proposition 21, and Deputy Le Clerc has touched on this to some extent, because it is very specific. It wants to invoke Rule 54(1) and:

... to agree with effect from the start of the next States term ... there shall be a Committee of the States constituted as follows and listed in Appendix A ...

Sir, this is not a Proposition that goes away and asks to be investigated: this sets up a committee for the next States. Now, I and others in this Assembly have already pointed out that our term actually ended in June. We are in an extended period and I worry about imposing on the next States a new committee. I would venture to suggest really that we should trust the next States to perhaps look at the constitution, look at the legislation and I very much hope that this policy letter is passed and certainly Deputy Le Clerc is not the villain, or her Committee – they have done an excellent job. **(A Member:** Hear, hear.) It will be for the next States to implement that. And I take Deputy Merrett's point about momentum and so on and so forth. At the end of the day, it will be their responsibility.

Sir, some while back I was party to the drafting of a requête which was going to be led by Deputy Soulsby – and Deputy McSwiggan had a lot of input – which was around considering the setup of our Committee system, learning lessons and giving the next States a platform to perhaps be able to review how well, say, the P&R-led system has worked, where it needs to be improved and so on and so forth. Now, that was withdrawn and it was not laid because it did not really have the appetite, or we felt that, the potential requérants felt, it did not really have the momentum. I worry in Proposition 21 that this States rearranging the Committee furniture and the costs which Deputy Le Clerc has outlined and whether it will actually deliver the outcomes that Deputy Hansmann Rouxel desperately wants.

2115 So in conclusion, my opinion has wavered during this debate, but having listened to Deputy Le Clerc I think I know which way I am going to vote; but I look forward to the closing speeches and I would, perhaps if somebody from P&R could give a view on some of the points I have raised, be very grateful.

Thank you, sir.

**The Bailiff:** Deputy Inder.

2120 **Deputy Inder:** Thank you, sir.

There might be another way around this, actually. If we go on to the Government site and you look at the various Committees and their responsibilities, part one talks about the constitution, part two talks about duties and powers and there is another general tab called responsibilities. It says in 2125 1.:

to contribute to fulfilling the States' objectives and policy plans, including by supporting and participating in cross-committee work

We could change that. We could make some reference for the new Discrimination Ordinance. We could change fairly quickly and we could say across all of our Committee responsibilities that we have to keep an eye on discrimination and equality. We could do that.

2130 We could also do something else. If you look at the Rules – which will be the first time in two years I have actually read the damn things – if we look at section 4 and it talks about, 'Information to include in motions laid before the States', 4(1): statements about being submitted to H.M. Procureur for a second eye. 4(2): preferred dates. 4(3) is also an important one as well. 4(3) is always the one about the money bit, and says:

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

2135 Now, given the importance of this document, it would not be impossible for us by the end of this States term, because we do have to come back to States with a new set of Rules, it would not be impossible for us and I can feel my Principal Officer probably listening to radio with a clay doll sticking pins into me right now for giving her even more work, but it would be possible for us, I believe, to add an extra Rule within there that says something similar and so each Proposition or motion could basically give some or should pass some sort of ... not the word 'test', but at least pay 2140 some deference to the equalities and new discrimination laws that we are going through at the moment.

2145 Now, at the moment, the States' Assembly & Constitution Committee would not be able to write that. But if Members of ESS might agree, I think it would be possible for them to effectively write up an appendix of some sort, all the things that every motion must give some consideration to. It goes back in the Rules and we create a second Rule that ensures that every motion gives some consideration to the new policy letter that I am sure we are about to approve today. So that might be a simpler way of doing it. So I will leave that in Members' hands.

2150 But in the main I am going to agree with Deputy Le Clerc. It does not look like, with the greatest respect to Deputy Hansmann Rouxel and Deputy Merrett, the costs are just not going to be the costs – they never are. You have got seven or eight Members on this new constitution, you have got a President and the Rules say:

7 commissioners at £19,000 per annum and the hidden cost of Civil Servant support would be in the region of £21,000.

2155 That is just not going to happen. It will end up being full time. It will end up being a secretariat and given where we are now, the likely state of our finances, I genuinely believe a solution might be to have an appendix attached to our current Rules ensuring that every motion laid before the States pays some deference in some way to what will be a brand new document and that is where

I would start, using the Rules, rather than going through the process of creating in this ... I was going to say post-Covid, I think in this Covid period. So that is what I would be doing.

**The Bailiff:** Deputy Roffey, I know you have been patient, but your President trumped you. So, Deputy Roffey.

**Deputy Roffey:** Absolutely, sir; I always give way to my Presidents because they know far better than me. *(Laughter)*

However, no, sir, I do not think Deputy Inder's idea will really work, but then I am not completely convinced by Deputy Hansmann Rouxel's either.

All of this trouble started from the fact that there is not an equality and rights organisation being proposed here. Just what I said is the gesticulation from Deputy Fallaize and he said, 'Why on earth did we not include it at least as an option either/or?'. He is viewing this from the sunlit uplands of July 2020 and not from those grey stormy days of January and February of this year – and I am not talking about the weather, I am talking about the political weather and where we were trying to get this across the line.

It was not just the employers' organisations that were giving us grief – I am used to that. They have always been wrong about progressive legislation and social advancement, from minimum wage onwards. That is par for the course. It was not the fact that all of *The Press* commentators were having a go at us – *Press* commentators know nothing, believe you me.

It was not just that some very senior Members, some very influential Members of this Assembly thought the whole project was nonsense. Some of those Members have deigned to be here this afternoon, others have not, **(A Member: Hear, hear.)** which is unfortunate I think, but also in a series of meetings with P&R, yes, they were all supportive of the idea, but it is too expensive, too expensive, too expensive, did not think it was going to cost this much, the Vice-President said to me. That was when we had cut things down, we thought, completely to the bone.

Now, we had to take on all those forces of evil, if you like – not P&R they are not forces of evil – *(Laughter)* all of those headwinds and brought something to the States like a glorious burning comet. But actually, politics is sometimes about judgement and from the framework we were sitting in then, we thought that would achieve nothing because we would just lose the whole darn thing.

So we tried to be pragmatic and yes, we could have done either/ors on everything with an ideal and a whatever. I think we probably would have been laughed out of court if we had done about eight or nine of those, because, actually, the tribunal service is not exactly, if we had unlimited money, how it would be either. The education side is not exactly how we would like it to be and we have got another amendment. It would be interesting to know where people want to put their money or whether they want to fund all of these things because we have got another amendment on that.

Actually, Deputy Fallaize was talking – I am not going to get on to the next amendment now but it is a judgement if there is limited cash – he said it is about changing culture. Actually, the money in the next amendment – I think it is being taken next – the £150,000 instead of £45,000 is all about trying to do just that.

To some extent, I have given up on money limitation, to be honest. I feel a little bit like Deputy Le Clerc. I went home and my blood pressure was really quite high. Not because Deputy Parkinson had won his amendment – I was actually secretly very pleased indeed that he had, I have to confess that, but because we have been painted almost to be the ... We were the only ones voting against or abstaining on it because we thought we had come – I am really sorry Deputy Tindall, this is not gender neutral – to a gentleman's agreement with Policy & Resources that if we cut this down, made it affordable, made it something that the resources of the Island could coach – and that impacted on the speed that it could be brought in as well – that we would get their fulsome support.

I have to say yesterday's letter of comment that came out was very fulsome support. I felt nailed on to actually stick to my side of the bargain. But of course, all Members of P&R voted for the amendment this morning; and I can tell them now, it is going to take a lot of resources, and not in



six months' time but now, because this Committee is going to need to draw up that detail, not a new one that knows nothing about it.

2210 Sorry, I am going back to the last amendment. But the point is that I do not think the money restraints that we have been honour-bound to live within really exist anymore because P&R's actions give the lie to that. Maybe it is just election time, and actually I am not saying it of any individual, but I doubt there would have been a vote with only one abstention and two people voting against that particular proposal if it had been a year ago. That is the only observation I make; and, ironically, I was one of the ones that desperately wanted to vote in favour of it if I thought the  
2215 resources were going to come with.

Brings us back to this: the money in this amendment is not realistic. It is going to be more than that. Fine if you are going to fund that and you are going to fund the education programme that we are about to address, but actually, I think of the two, that might have more impact than this will. Secondly, in the absence of an ERO, I am not sure this is the ideal substitute. The whole beauty of  
2220 an ERO, apart from their expertise, is their independence. This is a States Committee – not very independent of the States.

Deputy Merrett says, well, we are all jolly fine bunch in ESS now, but the next lot might be a load of beastly retrogrades. Well, I tell you what, they will be the ones nominating all of the members of this commission because that is what the amendment says.

2225 I think there is something in this idea, I just do not think it has been got quite right and it needs to be taken away. I think Deputy Fallaize was right that it is actually more like the Overseas Aid Commission than it is like a States Committee. But I understand where Deputy Hansmann Rouxel is coming from because the Rules allow her to propose setting up a States Committee. It would take, ideally, a much slightly longer and more cognitive approach to come forward and say, 'Let's set up a commission'. But a States Committee is not really I think the right –  
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**Deputy Fallaize:** Point of correction, sir.

**The Bailiff:** Point of correction, Deputy Fallaize.

2235

**Deputy Fallaize:** The Overseas Aid & Development Commission is a Committee of the States. It is formed in exactly the same way under the same Rules as the committee that Deputy Hansmann Rouxel is proposing. The only reason it has got 'Commission' at the end is because it existed as a commission before the 2016 reforms and it was felt a bit daft to try and change the name from 'Commission' to 'Committee'. But it is a Committee of the States in exactly the same way as is proposed here.  
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**The Bailiff:** Deputy Roffey to continue.

2245 **Deputy Roffey:** I stand corrected, but I think this is more accurately described as a commission, probably should have been, and I do not think the nomination rights should have been restricted to Employment & Social Security.

Interestingly, Deputy Hansmann Rouxel drew the parallel with STSB as the nearest thing she thought because of the voting non-States' Members. Well, I seem to recall a huge kerfuffle in this  
2250 Assembly because there was not a majority of States' Members amongst the voting Members of STSB and the adding of an extra States' Member to correct what was seen as to be something that was completely wrong. So it is not altogether logical. But I think she is right that we need something. We need something that draws together expertise in this particular area.

I think Deputy Le Clerc is also right that rights go beyond actually the contents of this policy letter. Equality is great and it is long overdue, but there are rights that are beyond that, and I actually  
2255 think it would be helpful if P&R were to take on the job of looking at some kind of equality and rights commission, to take the zeitgeist from today, to take the feeling from today this is what is needed.

We have actually done most of the drafting, of the work that could be done, particularly as far as this particular area of equality legislation of what an ERO would look like. I think there is a feeling in the States that we want a sort of ERO, (**A Member:** Hear, hear.) that we do want an ERO and maybe that we have been too timid as a Committee, as ESS. I do not think we were. I think we were reading the runes correctly at the time. But maybe in retrospect and where we find ourselves where we are ... But then let's actually have a proper ERO.

I would like to invite, certainly Members of P&R, to ask what their view is on actually putting some money into a proper equality and rights organisation; an independent one. Not an organ of the States, but one that actually operates as originally intended, because I think that would be really helpful for the way I vote at the end of this debate.

**The Bailiff:** Deputy de Sausmarez.

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

Deputy Inder made a suggestion which I think works quite well on paper, but in my experience, on paper is where it stays. We already have many such resolutions in respect of health, environment, what else; future generations. That was one that Deputy Hansmann Rouxel and I in fact brought and sadly it is not even a tick-box exercise, I think. So I think it is a laudable idea but in practice it is just not going to cut the mustard.

Deputy Fallaize talked about cultural change and legislation as though they are an either/or and actually I think they are absolutely hand in hand, in my experience. Everything I have ever researched about changing cultural attitudes towards something will tell you that legislation plays a really key role. So I do not see them as an either/or at all.

Really what this boils down to is, is what this amendment is suggesting better than the *status quo*. Deputy Hansmann Rouxel has been absolutely up front in saying it is not perfect, it is a long way from perfect. I for one am fully supportive of an ERO and I am really hopeful that that is somewhere towards the majority view. But we know that we are not going to have an ERO up and running immediately. Is this interim step – it is fully acknowledged as an interim step – better than nothing? I am tempted to think that it probably is,

Someone else was also talking about, I think Deputy Laurie Queripel raised the questions of is this somehow going to detract. For me, actually, if I can use climate change as a bit of an example, I think one of the biggest barriers we have got is that we just do not have the expertise within the States; within the whole machinery of the States, really. We know that different areas of expertise are very well-represented within the community but it is getting that expertise into the right places at the right times that is so challenging.

Again, I think in terms of climate change, this would not be the right, ultimate solution, but I do think that putting a body like this in place is probably going to be better than not having a body like this, because its role would be to go through ... I do not accept ... Deputy Le Clerc said this is effectively cutting the grass of ESS's mandate. but actually I think it very much supplements the mandate of ESS and I can actually see, if ESS were having to go through everyone else's policy letters and advise, in the way that Deputy Inder was suggesting, that would be a huge addition to their normal, already large workload.

But I think having a body of expertise that we know is going to be more expert because it would be constituted precisely on those terms, being dedicated to the kinds of duties and responsibilities as set out in this, would be a good thing.

So I am very inclined to support this, notwithstanding the observation that the resources are likely to be more, because ultimately I think it boils down to is this work that we want doing or not? Frankly, if it is work that we think should be doing, then we should be paying for it. I do not think we should just be expecting the third sector to pick it up all the time. The third sector have worked their absolute socks off as it is, and I am not allowed to interact with the public gallery, but there are some incredibly, hardworking individuals who go above and beyond and I am just amazed at how productive they can be. I just do not think it is a particularly ethical stance to expect them to

carry out this level of work across the board. I just think that if we think this work is worth doing we should be putting our money where our mouth is. (**A Member:** Hear, hear.)

Also, several people have mentioned foisting this on the next Assembly – Oh, I give way to Deputy Laurie Queripel.

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**Deputy Laurie Queripel:** Sir, I am grateful for Deputy de Sausmarez giving way.

She is making a very good speech, but I did say when I spoke that actually perhaps those third sector groups could get the money themselves and actually do that work themselves with the funding from the States, rather than the States doing it.

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The second thing is it actually is not our money, it is the taxpayers' money, and whenever we agree to extra expenditure I know where that money is going to come from unless we have tax reforms: it is going to come from the lower to middle earners. And until we have tax reforms I am very reluctant to vote for anything that takes more money out of the pockets of those people. But if we could have tax reforms and get more money from where it could be best spared that would be a different matter. But this is why I have concerns about these things.

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Thank you, sir.

**Deputy de Sausmarez:** Well, I am grateful to Deputy Laurie Queripel for his interjection actually, because I think that is useful. I am not going to comment on the latter part of his point. P&R can pick that up.

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I am going to say this cautiously, because I cannot speak for the third sector organisations, and I will put the caveat around that I have not consulted them on this particular question, because I am speaking shooting from the hip here. But I would have thought that those organisations would possibly be happier spending any money that they have got from whatever source that comes from on the core functions of those organisations rather than advising on policy in quite such a way as is set out here.

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It does remind me of another thing, that one of the strengths of what Deputy Hansmann Rouxel is suggesting, which is a coordination. Now, I think actually we are incredibly lucky with the people who do represent this area of the third sector, and they are a pretty coordinated bunch. Certainly that is what it looks like from where I am sitting, and I really thank them for it. I am so grateful. I think we are *very* lucky. But essentially, I think they might agree that it would be better if they were not needed in that capacity, ultimately. Many of these organisations have got quite specific core functions and *raison d'être* and really it is our job as Government to be developing policies that support them to do that, to operate within that environment.

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So I do think that something like this has got two key advantages. One is that sort of coordinating function in a way. I think Deputy Merrett used the word that has now completely escaped my mind, but it is the sort of touchstone if you like, I think that is quite a 'conduit' – I think she used the word, and I think that is quite apt and also the fact that it would have a direct voice in this Assembly I think is really important.

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So I think everyone appreciates that it is a long way from perfect, but for me it comes down to: is this better than nothing; is this work that we want to see done? If so, we should support it.

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Someone was talking about, maybe concerns about the bureaucracy and whether this would just turn into another beast that needs feeding, kind of thing. But actually, in the same Rule, Rule 54(1), it gives the States the power to dissolve any Committee at any time as well as constitute it. So it would not even necessarily, if for any reason – (*Interjection and laughter*) Deputy Roffey is musing to himself about which Committee he might want to dissolve today. (*Laughter*) But it does underscore the point that this is not even just limited to the next States' term. If something better comes along to supersede it, it could be dissolved as and when.

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So I just have a question for Deputy Hansmann Rouxel and that is a little bit of clarity – and I am sorry if it is in the body of the amendment; it has been some days since I read it in detail – nominations would be ... well, it would be constituted on nomination by ESS. I am interested to know whether nominations could be made from the floor as well and whether it is just a nomination

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and in, or whether it is on a States' vote. So if Deputy Hansmann Rouxel could clarify that for me that would be useful.

2365 Thank you.

**The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Thank you very much, sir.

2370 Well, I am in a position actually ... I will not say I am sitting on the fence on this one, but I can see both sides of the argument here and I said in the Committee I was not sure which way I would go on this one because it was a wibbly-wobbly one. No.

2375 The thing is the amendment to a degree is flawed and I would have been not unhappy if the majority had voted not to debate this today for many of the reasons that have already been outlined. We have already had an admission that the budget did not add up. What was it, £35,000 and it is actually £40,000?

2380 I think if you are having staffing you have to be realistic, because we have been lucky at Employment & Social Security in that the last few years we have had really good people, outstanding civil servants who have worked for us, some of them on loan from other Committees. But you cannot necessarily go for the cheapest option and I think it would be unrealistic to put down a very small amount of money as sufficient support, especially because sometimes that support needs to not only work around people's personal circumstances who are staff but their specialisms and their strengths; and this will be a demanding role.

So I think that is an issue. Another issue is the anomaly that the way this is written:

all [will be] elected on the nomination of the Committee *for* Employment & Social Security.

2385 It does not seem at this level, and it could be amended at some point, for other candidates to be put into the frame. You could have a strange situation whereby in ESS they had a less rights-based focus, would put up candidates who they would suspect would not necessarily be advocates for rights, but who would be perhaps a little bit more cautious in their approach.

You see also within the constitution:

... members of Employment and Social Security Committee and of the Policy & Resources Committee may not be members of the committee.

2390 Well, we have seen how much confusion that has caused this term to the Transport Licensing Authority and the Development & Planning Authority which had constitutions which prohibited all kinds of Members – we sometimes struggled even to find candidates.

2395 So the interesting thing is instead of a champion being on one of the key Committees and leading the feedback from the community, they would then stand alone. That is a problem and I would not want to see resources in any way divided. But we see in Rule 4(3) the work completed would provide:

... some detail regarding the cost of 7 commissioners at £19,000 per annum and the hidden cost of Civil Servant support would be in the region of £21,000.

2400 I am not quite sure where we got the number of seven commissioners because I think we have got maybe the States ... never mind. But that is detail. The point is though that the committee would not hopefully be a second chamber for an effective Employment & Social Security body. It would have a different role from that. And I think I cannot represent the Committee's views here, I am not representing the Committee's views, I am outlining some of their concerns perhaps. But perhaps too somebody asked what would be the concerns of the voluntary sector, and I cannot do that either, but I suppose the voluntary sector would wish to see a focus in the States, a real sense of traction, to use a word that came out yesterday. I think Deputy Prow used the word actually: he wanted to see more traction in some respects.

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Deputy Prow's speech was very good but he perhaps had more faith in the future States than I do. Deputy Prow has only served in one Assembly, I have served in about half a dozen and I see how the promises made at elections or prior to elections can sometimes not materialise into policy or resources.

2410 That brings us to another point because today is not the first debate that we and some of my friends who might be listening or watching this from the Public Gallery have been involved with, where there was a very strong, 'Let's get going' positive attitude. That day, it was in the autumn, October or November 2013, when I had the privilege of being Disabled People's Champion, succeeding the excellent Deputy Stephens in the role. And there was unanimous support from the  
2415 Chamber – and we had 45 Members in those days – to make things happen and somehow or other, in the processes, in the resources, in the changing governmental system – we will not go through all that again – not much happened and ESS ended up holding the baby. And Deputy Le Clerc effectively had to wean the baby from a starvation diet of increasingly redundant milk and actually get it going on solids so that we put flesh on the bone. I am perhaps getting lost  
2420 in this metaphor.

But the point was that we were struggling and we have had to overcome institutional resistance. Because today we are sitting as a parliament, we are sitting as an Assembly, listening to lobbyists, reading good arguments, but when you sit as an executive, as a Committee Members we perhaps, dare I say it, get caught up in organisational politics in the inertia, occasionally not discouraged by  
2425 some elements of the public sector, the Civil Service in the past, it has to be said. We need to overcome institutional resistance at that level and we do need to make things happen.

So where am I going with this? I am likely to support the amendment and I have got two personal reasons for doing so. The first reason is, as I have already said, I was the second Disabled Peoples Champion. I was succeeded by my assistant champion, the then Deputy Arrun Wilkie, who did a better job than me in many respects because I think he was very good at understanding the organigram networks behind the scenes and also dealing with case histories. I was okay on going to events, doing the publicity and raising awareness, but different skills were needed.

In a way, Deputy McSwiggan was a champion as well. Well, she is a champion, but she was working in those days as a civil servant and when she retired and moved to another role that was a huge blow for me because I started to go nowhere; and I will explain the reasons for that in a minute. The fourth champion and the current one is Deputy Sarah Hansmann Rouxel who has placed this amendment, and she is the longest serving People's Disability champion interestingly enough. So she has set a very strong standard of sincere representation and understanding the intersectionality of many of these issues, not just about disability, but about the whole range of equalities and rights.

2440 But when I became Disabled People's Champion, some people who were disabled, even surprisingly some civil servants, Deputies and people who were writing press releases for communications, thought I had become a sort of mini-minister – we had ministers in those days – assistant minister for disabled people. I loved that role, but that was not my role. I had no staff, I had no support, I did not answer specifically, apart from one exception, to any Civil Service structure.

2445 I sat in committees with civil servants but I was advised not to be too political or showboating because my role was to just input the views of disabled people, not to represent the GDA, and especially not to be an expert witness because that was a role for professional experts who worked in the Civil Service.

I had a role in signposting people and acting as a kind of Island constituency representative and  
2450 also to promote more work done on the policy and the resources. But it was a role I was failing to deliver and to a certain extent all of the champions and assistant champions have had that problem. We have heard today about data protection being a demand. We have heard today about the need for effective staff support. We could do with an ombudsman. But the statutory protection, the ERO, the equality and rights organisation, is not there.

2455 So if I can interpret this amendment as, initially at least, a good way of supporting a kind of Disabled People's Champion with five key people from the community who are passionate in their field, I support it on that ground because we do not want another repeat of the last decade whereby

Disabled People's Champions have not achieved the results they have wished to and sometimes therefore had flack and issues.

2460 If there is a comparison to be made to the Overseas Aid & Development Commission, I had a quick look, over the lunch hour, over the membership of that body and it includes not only five people and a staff member who are passionate about the issues, but they have key professional skills as well, from being doctors, advocates, people in the finance sector. So we could get really good people who are not candidates or politicians on this body.

2465 That brings me to the second reason, because we went through almost a dark ages from 2013 onward when not much happened for several years and we had to really struggle. Deputy Le Clerc and Deputy Langlois and everyone were really statesmanlike in explaining why we had got to the compromises we have reached, and Deputy Roffey alluded to it as well, and that vacuum was not helped by the absence of a structure of people who could call us out.

2470 Because this Equality and Rights Advisory Committee is not just a States Committee for the sake of it, it is not a licensing authority, it is a not a parochial, ecclesiastical and rights thing that lasted for 10 years looking into parish churches. Deputy Green laughs because Deputy Green was a Member of the Committee, and it perhaps did not move as quickly as it could have done. This is about getting people to advise the States but to act as a critical friend, as a scrutineer to ESS and their successors, to Policy & Resources and their successors, and the States' Member leading the committee, or at least chairing it, would have a right to ask written questions, oral questions, speak in debate and not be a Member of Employment & Social Security or Policy & Resources.

2475 I entirely agree with my Committee in that it should not just be seen as a creature of ESS. Human rights apply across the States in every conceivable way. But I think this is a good enough start, and to have real impetus in the new term to ensure that the spirit of Covid-19, of Guernsey together, is not lost and that we do not go back to an austerity mindset and a disability rights, equality rights, human rights being at the bottom of the financial and resource tree.

2480 I think this amendment makes a positive difference and the Equality & Rights Advisory Committee will be a bulwark, a conduit and also maybe, to a certain extent but not completely, an embryonic equality and rights organisation, or at least ensuring that what ESS are putting forward to do with employment, which is a more measured tribunal approach, evolves but not in a wasteful way that we know Deputy Inder and other Members would be critical of.

Thank you.

2490 **The Bailiff:** Deputy Trott.

**Deputy Trott:** Thank you, sir.

2495 Sir, there is no doubt in my mind that this is a well-meaning and well-intentioned amendment because the proposer certainly falls neatly into those categories for a variety of reasons. However, it is a somewhat ironic amendment, because here we are talking about equality and inclusion and the amendment seeks to exclude a number of Members and certainly exercises little equality.

You see, this is why I find these sorts of debates tricky, because it is important that we demonstrate, I think, consistent principles and avoid wherever possible elements of hypocrisy, and there is no question that hypocrisy pervades this amendment.

2500 Both Deputy de Sausmarez and Deputy Gollop have talked about what the constitution would be, so I am going to repeat it:

A President who shall be a member of the States and five other members who need not be members of the States, all elected on the nomination of the Committee for Employment & Social Security.

So nobody else will be able to nominate, only the five Members of the Employment & Social Security Committee, and it goes on to say that:

... members of Employment and Social Security Committee and of the Policy & Resources Committee may not be members of the committee.

Well, let's look at the current constitution of those Committees today. The last speaker, Deputy Gollop, a former GDA champion, would have been an ideal member to sit on this sort of committee, as would a current Member of the Policy & Resources Committee. In fact, I can think of few people better. I refer of course to Deputy Jane Stephens, who has had a career dealing with disabled people and that has I think extended more recently in her political career on some occasions.

The next part of the amendment that is particularly odd ... Only yesterday I said that it had taken me six years to understand public finances, clearly there are some Members who after four struggle in that regard, because Proposition 24 says:

To direct the Policy & Resources Committee to make available from the capital reserve ...

Well, all Members will know that the Capital Reserve is there for capital projects, not revenue projects. It is completely the wrong source of funding and most of us, albeit it would appear not all of us, realise that.

Finally, to my friend Deputy Roffey, who was chastising Members of the Policy & Resources Committee for their vote on an earlier amendment, unusually for me, I could not attend Tuesday morning's P&R Committee, so I was not part of the discussion around the amendments. But what I would say to Deputy Roffey through you, sir, is that I realise he is a junior and inexperienced Member of the States, but Deputy Roffey should always listen to debate and not come here with fixed views but rather maintain an open mind and he should vote ...

I give way to my good friend Deputy Roffey, sir. *(Laughter)*

**Deputy Roffey:** I was listening with keen attention.

If Members of the Policy & Resources Committee had actually stood up and said they had had a conversion on the road to Damascus and wanted to throw a lot more resources at this, then I would have actually been influenced and thought I was still keeping my side of the agreement. They just sat quietly, saying nothing and then voted in the way which was not the way that would have been indicated from our meetings with them.

**Several Members:** Hear, hear.

**Deputy Trott:** Sir, I would go on to advise Deputy Roffey that he should always vote with his conscience, but if he needs any further guidance, and particularly when it falls to St Sampson's to start the voting, he could further take his lead from the Member who votes first.

Thank you, sir.

**The Bailiff:** Deputy Lester Queripel.

**Deputy Lester Queripel:** Thank you.

Sir, I have always valued the role of States' Disability champion. I think it is a vital role. That is why I stood as a candidate in a previous Assembly, alongside Deputy Gollop and Deputy Arrun Wilkie. As Deputy Gollop has just told us, he was successful and when he retired, he resigned, Deputy Wilkie took over, and we now have Deputy Sarah Hansmann Rouxel as our champion for the duration of this Assembly. I realise where she is coming from with this one, but I am not sure how to vote on it. I was attracted to it originally, until Deputy Le Clerc spoke, because what Deputy Le Clerc said was incredibly informative.

I am also struggling with it because in the last eight years as a Deputy I have worked on almost 300 one-to-one cases with Islanders and obviously in every one of those cases I was a data controller and I had no protection whatsoever, was vulnerable. But I was prepared to take that chance. Because

I had no protection, I was always vulnerable. I always lived in fear of someone accusing me of violating their data protection rights. In fact, there were two occasions when people did accuse me of violating their rights but they did that because I could not get them the result they were looking for, and they did not pursue the claim that I violated their rights because they knew that they did not have a justifiable case and the grounds to substantiate the claim. So the reality is, as we all know, Deputies who take on casework do not have protection as a data controller.

I am in a dilemma here because looking at this amendment, from a logical point of view, is it simply a case of passing responsibility over to this committee because they will be protected as data controllers, because they are a committee? That is my first question. I apologise if I am missing a fundamental point somewhere along the line in that one, sir.

I am also in need of clarification of what we are told in paragraph 2.5. We are told that the disability champion:

... doesn't benefit from the support of the civil service nor the legal protection that usually extends to Deputies carrying out official States' roles.

I am in need of clarification on the 'usually' bit. When does it and when doesn't it? 'Usually' is very confusing for me. It says:

... the support of the civil service nor the legal protection that usually extends to Deputies ...

So can Deputy Hansmann Rouxel give an example, please, of where it does not extend and an example of where it does?

I am in need of clarification regarding the statement on the issue of the disability champion 'doesn't benefit from the support of the civil service'. It is the word 'support' – and I apologise if I am confusing the issue here – by saying the 'support' of the Civil Service does that mean the cooperation of the Civil Service to help resolve individual cases? If it does, I do not understand that, because I have needed cooperation from numerous civil servants over the last eight years to help me resolve every single one of those almost 300 cases I have worked on and I have always received that cooperation. Or by saying support, does that mean the Disability champion has no one to turn to for support, a recognised assistant, for example, to help them resolve cases?

Sir, my vote hinges on that clarification, because despite what Deputy Le Clerc said when she spoke, I could still be persuaded to support this amendment if Deputy Hansmann Rouxel can sell it to me.

So in closing, I ask for a recorded vote when we go to the vote, please. Thank you.

**The Bailiff:** Deputy Green.

**Deputy Green:** Sir, I will be very brief.

Just to go back to first principles, as I understand it, sir, from the policy letter, I think it is paragraph 7.32 the Disability & Inclusion Strategy back in 2013 envisaged this equality and rights organisation and I was supportive then and supportive now of having that sort of organisation. But the reason why that was particularly in there was because of article 33 of the UN Convention on the Rights of Persons with Disabilities, which makes it pretty clear that the mechanism that is required, that is needed, is one or more independent monitoring mechanisms and of course what this amendment suggests is not independent of Government *per se*.

But I think the question is, as Deputy de Sausmarez put it, whether this proposal in amendment 7 is better than nothing, whether that will take us forward. At some point, I think, sooner or later, we are going to have to take the bull by the horns as it were in terms of developing a proper independent statutory equality and rights organisation. But it is whether in the meantime we have this as a *pro tem* measure or whether we do without it.

I think arguably this is better than nothing. I am not sure it is necessarily good enough to make a big difference in terms of the monitoring job and I think that is a central point I would like Deputy



Hansmann Rouxel to deal with when she sums up. Because I can see some advantage to this amendment. I do not think it is tokenistic. I can see that it is perhaps better than nothing. But we know we would be agreeing to this knowing that it is not what article 33 requires and it would only ever be a kind of *pro tem* measure.

So I would look for some assurance on that when she sums up, sir, but in the circumstances I can see that there is some merit in this. I am just not sure it will actually make that much difference in reality.

**The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Thank you, sir.

I am going to address some of the questions in relation to resources, which is clearly the responsibility of Policy & Resources to comment on. And there has been a challenge. I know officers were contacted for advice with the costing on these proposals, but at that time they did not have sight of the draft amendment or the proposed mandate or any of the supporting report and less than 24 hours before the deadline for submission.

In the absence of being able to determine what administrative support would be required, actually, officers – of course this did not involve any political input at the time – did suggest an alternative approach, to go off from the amendment, directing ESS, perhaps working with SACC actually and picking up Deputy Inder's point, to determine if there was a role for this kind of committee and to report to the States in due course with any proposals. I think that would have allowed for a more informed debate on this.

The draft amendment and supporting report were received two hours before the deadline for submission of amendments and the timeframe and the quality of information I think did make it difficult for officers to provide any meaningful response on the Rule 4(3) comments.

I think there is some confusion. Proposition 21 in the amendment actually refers to there being a president and five other members whilst Rule 4(3) information refers to seven commissioners. It is assumed that of course these commissioners would not receive any remuneration in line with that of the Overseas Aid & Development Commission.

The Rule 4(3) narrative includes £21,000 as the cost of Civil Service support for this committee, which I think does seem quite light. If this is a full-year cost, that equates to about half a full-time equivalent of an Executive Grade I. So it is a relatively junior position both in terms of the volume of work and the seniority of the individual concerned. I think it is unlikely that we have got that spare capacity, so I think we would be looking at how we would find that resource. So I think in essence we are talking about part-time support.

Within Proposition 24, as Deputy Trott has noted, the direction is, 'to make funding from the capital reserve'. But, of course, we are not creating any kind of capital asset. I think it does seem to have been identified as simply an easy source of funding, but we are not creating an asset or extending the life of an existing asset and I think the correct source of funding for 2020 would have been the Budget Reserve.

What we also need to bear in mind is that whatever the cost of this is it will be a recurring expenditure. This is not a one-off cost: it will be annually recurring. And the other thing that is not taken into account at all of course is the resource implications arising from liaison with other Committees which is envisaged in this. So that is it on commenting on the resource implications of this.

Just responding to Deputy Roffey in relation to criticising P&R's position in the last amendment. I did speak early in the last amendment, as he knows, and I did raise the question of Deputy Langlois towards the end of that debate. Certainly my own position in relation to that is very much that I think I can support Proposition 1(a) when it comes to the final vote. I will not be able to support Proposition 1(b) because I think it does have greater resource implications. I was convinced by Deputy Parkinson in debate in relation to the ease with which 1(a) could be implemented. I am not

convinced in relation to 1(b) and I will not be supporting 1(b) on that basis, because of the resource implications. So I think there is a consistency there.

2650 In relation to some of the questions asked by Deputy Prow in terms of the cost and wisdom of changing the Committee structure. I think it is quite difficult for P&R to comment on that. I think, clearly, it would be creating another Committee of the States. Does it impinge on P&R? No, I do not think it does impinge particularly on P&R, but I think it clearly does impinge on the Committee for Employment & Social Security. It is quite clear from the mandate of that Committee, 2655 'Responsibilities – Policy, Advisory & General':

8. equality and social inclusion, including in relation to disability

So I think we would end up with two Committees that are responsible for advising the States on matters relating to equality.

The other aspects of this committee, as envisaged in the amendment, are:

To promote meaningful consultation ... at an early stage in the development of new policy and legislation.

2660 That clearly is in relation to implementation. That is what I expect the Committee for Employment & Social Security to be doing. So I think there is a very great danger of actually creating two Committees competing to perform the same role. I think that could be highly confusing to everybody involved and particularly when we would actually have no overlap on the membership, as Deputy Trott spoke to.

2665 So I think the question of whether it should be left to the new States, that certainly is ... Again, I cannot really comment on that, but I think Deputy Prow's observations of that were correct.

2670 Deputy de Sausmarez and Deputy Green asked, or were really saying, is this better than nothing? I am afraid I would actually go further and I say, I think this is worse than nothing. I actually think it will potentially put us in a worse and more confusing position. I am sorry to say that because I do think, as Deputy Trott has said, the intentions behind those moving this are undoubtedly ... it is very well intended. But I am not convinced at all that it will create anything other than a more confused position which is the last thing we need in moving into the implementation phase.

2675 I think the question of cultural change needing to go hand in hand, which was Deputy de Sausmarez's phrase, to have legal change hand in hand with the leadership of that cultural change is certainly something that I would agree with and that was something that the States I think accepted, for example, in relation to the amendment which I brought on sexual offences, where I think the States was convinced that a legal change would help lead cultural change in relation to consent. So I would definitely agree with Deputy de Sausmarez on that.

2680 Which takes us to how do we take this forward, which was Deputy Roffey's point in relation to what P&R's view is on an independent ERO. I think I am certainly convinced, listening to those who have argued for an independent ERO, including Deputy Fallaize when he spoke, that there is a need for such an organisation and it is really a question of the timing and cost and how it is organised.

2685 I think what I will undertake to take away from this debate is picking up Deputy Roffey's challenge to, if you like, listen to the zeitgeist of this particular meeting, is to take that action away. As it happens, the Policy & Resources Committee is meeting next week to receive the report on arm's-length bodies and I think one of the actions that we, the Policy & Resources Committee, can inject into what follows from that arm's-length body review is how an independent ERO can and should be established in the context of all the other arm's-length bodies that are established.

2690 I hope that again, really, my response to, as Deputy Merrett commented, in relation to listening and responding to the debate on the taxation motor fuel and taking an action away, that is the action that I will take away from this debate in the event that the Assembly does reject this amendment, which I believe they should for the reasons that I have articulated and it should be moved ahead in another way.

I will give way to Deputy Roffey, sir.

2695 **Deputy Roffey:** Thank you, sir. I am grateful to Deputy St Pier for giving way.  
He mentioned motor fuel. I seem to recall on that day he actually pledged his political reputation on achieving a different form of taxation on motoring. Would he like to do something similar about setting up some sort of genuinely independent equality and rights organisation?

2700 **Deputy St Pier:** The runway on my ability to deliver on that political moment is fast running out, Deputy Roffey, with an election on 7th October. So I think I had better stick to what I can actually deliver which is in relation to the meeting next week for the ARB and making it an action coming out of that meeting. So I think it will, whether I will be in a position to take it forward in due course, but I do appreciate the challenge which Deputy Roffey has undertaken, has set me there.

2705 With that, I do advise Members, as the Policy & Resources Committee do, to reject this amendment, sir.

**Deputy McSwiggan:** Rule 26(1), should it be needed, please, sir.

2710 **The Bailiff:** Deputy McSwiggan is invoking Rule 26(1). So will those Members who wish to speak in debate on this amendment 7 please stand in their places.  
I will call you Deputy Le Pelley.

2715 **Deputy Le Pelley:** Thank you very much, sir; and thank you very much to Deputy McSwiggan for allowing me to speak briefly.

I served as one of the two assistants to Deputy Gollop when he was the people's champion from 2012-14 and I also served as chair of the support committee for that time as well. We dealt with quite a large number of cases and I would say quite successfully.

2720 We were blessed with a very high level of support from, amongst others, people like Shelaine Green, Rob Platts, Tracey Wheatley, Catherine Hall, Mike Garrett, and in fact they did an awful lot of work which actually helped us get through the legislation that came into play in 2013-14. I am very pleased to see that several of those I have just mentioned are actually still around and actually giving active support at the present time.

2725 When Deputy Gollop resigned his position he was replaced by Deputy Arrun Wilkie who changed the style and format of the people's champion, and I dropped off that support team at that time. But Deputy Gollop did have the help of two fellow Deputies who were fully committed to that work and he also had a dedicated team of four or five members from the voluntary organisation who put in hours and hours and hours of unpaid work – a massive amount support there. I understand ... I mean, a lot of them were volunteer supporters of the We all Matter, Eh?, if you remember that organisation. I am absolutely certain that the current people's champion could actually do with the kind of support from within this Assembly that Deputy Gollop had, because I think it was called 'Team Gollop', was it not?

2735 **Deputy Gollop:** Team John Gollop.

**Deputy Le Pelley:** Team John Gollop. And it had a lot of support and it also had lots of tentacles, if you like, that sort of stretch across into other Departments within the States. So as I say, I am sure that extra help would be of great help to the current people's champion. But I am not absolutely sure at the present time of exactly how I am going to vote on this amendment, given the responses of the President of ESS and the President of P&R.

2740 So I am going to look at Deputy Hansmann Rouxel and say: please convince me when you sum up – there is a vote to be had.

Thank you, sir.

2745 **The Bailiff:** I invite the proposer of this amendment 7, Deputy Hansmann Rouxel, to reply to the debate on it.

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

2750 I genuinely do not want to drag on for a long time, so I will try and ... the things that I think need replying to, and first off is Deputy Laurie Queripel.

I thank him for the questions because it highlights how this is different. Lobby groups are a specific entity and they have a different role. So this would not stop anybody emailing Deputies or lobbying Deputies or those groups and that function. That is separate to an ERO. A lobby group is – the official definition of lobbying is:

a form of advocacy with the intention of influencing decisions made by the government by individuals or more usually by lobby groups

2755 Now, this is not a lobby group: this is a committee of the States that would look at rights and present their opinion on how those rights intersect and put that to the States.

2760 Where I think the concern comes from regarding lobby groups is that potentially there might be a member that is on the committee who is also a member of one of the groups that do lobby the States. But that does not prevent there being contact directly with Deputies or anything like that. It provides a more official platform within the committee to provide that advice to the States. The plurality of social interests, so different members from different areas of interest in the community, that provides a mechanism to provide that perspective on the rights, not a collective lobby group to get through one particular thing.

2765 One of the things that Deputy Queripel was concerned about is blessings from interest groups. Now, I have not spoken to all of the interest groups and to be honest the reception from those that I have spoken to was slightly lukewarm because they wanted an ERO; but as an interim step this has value. So it is not all singing, all dancing, but as a mechanism to start doing some of the work that is missing in our Assembly that is a stopgap.

2770 I am just trying to think. I thank Deputy Fallaize for his support and Deputy Merrett, and Deputy Inder's idea of, there were quite a few Members who mentioned ideas and the idea of putting a Rule, an equivalent of Rule 4(3) was something that I considered. Unfortunately, it does not really have that much effect, just having a Rule there, and actually if you have got a Rule who is going to be providing the advice on the Rule? If the expertise are not there then they are not there. It is a bit of a double-edged sword.

2775 Deputy Trott: I do not think I need to reply to anything Deputy Trott said. (*Interjections and laughter*) Members of P&R are not able to sit on any other Committees as it is, the Rules of Procedure, and Members of ESS because they nominate –

**Deputy Trott:** Sir, on a point of correction.

2780

**The Bailiff:** Point of correction, Deputy Trott.

**Deputy Trott:** That is of course not true. The Policy & Resources Committee Members sit on Committees when they cannot be populated and at times of stress, such as STSB, the DPA and others if needed. But I understand what Deputy Hansmann Rouxel is trying to say.

2785

**Deputy Hansmann Rouxel:** Thank you.  
I give way to Deputy Tindall.

2790 **Deputy Tindall:** P&R cannot sit on the DPA. (*Interjections*)

**Deputy Hansmann Rouxel:** Just an example of a junior committee – sorry, for the word junior. Deputy de Sausmarez raised an important point about nominations from ESS. In proposition 23 it says:

To direct that when nominating members of the Equality & Rights Advisory Committee, the Committee for Employment & Social Security shall ensure that the membership of the Committee represents plurality in social interests and includes at least one member ...

2795 I imagine they nominate and then it is agreed by the States, as other Committees are, and the wording in that suggests that when nominating, they are nominating. They are not appointing.

I do not think there is any value in going through everybody's. I just wanted to touch on the lobbying aspect because I think that is really important. One last thing is the volunteer time that we take for granted, something that Deputy Le Pelley brought up. We do try our best to do at a minimum, cut down what we are spending and I think we rely on the third sector without realising what a massive burden that places on them, and particularly in this area. If you are running a third sector organisation that does support people with disabilities and you are funded, often you will fund a particular thing, like an awareness campaign to help shops know that disabled people have money and wish to spend it and how to do that. That is a specific campaign and it is quite easy to fund and get funding for that. It is not as easy to get funding for examining rights or lobbying for the rights of your members.

2805 So it seems simple enough saying, 'Well, this work is being done by the third sector, why can't they carry on doing it?'. But it is a more complex web and by putting the non-States Member pay into the equation, that was the idea, is: that we value their expertise and their time that they are giving to help us make better decisions.

2810 I appreciate the resistance from P&R and ESS, and I certainly would not want this to jeopardise our friendship. I think this has been a valuable debate and I certainly appreciate the commitment from the President of Policy & Resources that they will look at a completely independent ERO. And believe you me, I will take them up on that offer.

2815 **The Bailiff:** Members of the States, we now come to the vote on amendment 7, proposed by Deputy Hansmann Rouxel and seconded by Deputy Merrett, which proposes to insert four new Propositions into the set of original Propositions. A recorded vote has already been requested by Deputy Lester Queripel.

2820 Greffier.

*There was a recorded vote.*

*Not carried – Pour 9, Contre 28, Ne vote pas 1, Absent 1*

**POUR**

Deputy Le Pelley  
Deputy Merrett  
Deputy Fallaize  
Deputy Hansmann Rouxel  
Deputy Green  
Deputy de Sausmarez  
Deputy Tindall  
Deputy Tooley  
Deputy Gollop

**CONTRE**

Deputy Trott  
Deputy St Pier  
Deputy Stephens  
Deputy Meerveld  
Deputy Inder  
Deputy Lowe  
Deputy Laurie Queripel  
Deputy Smithies  
Deputy Graham  
Deputy Paint  
Deputy Dorey  
Deputy Le Tocq  
Deputy Brouard  
Deputy Dudley-Owen  
Deputy De Lisle  
Deputy Langlois  
Deputy Soulsby  
Deputy Roffey  
Deputy Prow  
Deputy Oliver  
Alderney Rep. Roberts

**NE VOTE PAS**

Deputy McSwiggan

**ABSENT**

Deputy Ferbrache

Alderney Rep. Snowdon  
Deputy Brehaut  
Deputy Parkinson  
Deputy Lester Queripel  
Deputy Le Clerc  
Deputy Leadbeater  
Deputy Mooney

**The Bailiff:** Members of the States, the voting in respect of amendment 7, proposed by Deputy Hansmann Rouxel and seconded by Deputy Merrett, is as follows. There voted Pour 9, Contre 28, 1 abstention, 1 absentee; and therefore, I declare the amendment lost.

2825 Deputy Hansmann Rouxel, it is your chance to have another go because I am going to take amendment 5 next, if I may, which is, if you want to lay it. It is proposed by you, seconded by Deputy Merrett.

2830 **Deputy Hansmann Rouxel:** Yes, sir, I do wish to lay this amendment. So amendment 5 – can I have it read, please?

[Amendment 5](#)

*In Proposition 7 sub-paragraph b to replace “£45,000” with “£150,000”*

**The Bailiff:** Of course you can.  
Greffier.

2835 *The States’ Greffier read the amendment.*

**The Bailiff:** Deputy Hansmann Rouxel.

2840 **Deputy Hansmann Rouxel:** Thank you.

This amendment asks the Policy & Resources Committee to include specific additional funding in the recommended cash limits of the Committee *for* Employment & Social Security of an additional £105,000 compared to the original proposal.

Now, in the explanatory note, it does outline that it is:

Funding for proactive work to raise awareness and change attitudes in relation to prejudice and discrimination in the community and particularly in relation to assisting small businesses is essential as part of the cultural change required.

2845 It is a simple one: add a little more investment into the support and awareness raising for preparing the community and businesses for legislation. I am sure Members can appreciate the value of awareness raising and support prior to the legislation coming into force. If not, then I do not think there is anything I can say to change your minds.

2850 In fact, there are those who argue that we do not need this legislation but can achieve the same result with education. I think this was something that Deputy de Sausmarez touched on and I appreciate the sentiment of that. Wouldn’t it be lovely if we did not need legislation? But it does turn out that the same people who say that, when asking for funding for education and awareness, say no.

2855 So we are in a world where we need legislation to catalyse the change required, but ultimately it is not going to work on its own. It should be the last resort. We should not need it. But also, when we have got it, we do not want to overuse it, we do not ever have to use it. Like the policy outlines, and I think this from the policy letter is the most important sentence in it:

Preventing discrimination from happening is far better than responding to it after the event.

**A Member:** Hear, hear.

2860 **Deputy Hansmann Rouxel:** We have an entire Partnership of Purpose policy about 'prevention is better than cure', about changing that, and this is where the extra money will go to.

On page 215 of the policy letter, it sets out in 7.3:

Getting things right to start with: advice for people who ... have responsibilities under the new legislation.

There is a policy objective there:

... to provide advice, information and raise awareness amongst employers and service providers, so that discrimination does not happen in the first place.

That is in 7.3.1 – that is where my little favourite sentence lives:

Preventing discrimination from happening is far better than responding to it after the event.

2865 Now, in looking at the policy letter further down, in 7.6 it outlines the process that one would go through, when one gets ... how the tribunal and the Employment and Equal Opportunities Service would deal with the complaint. The first thing is there is a whole process that you go through and all of it is designed to prevent that. So I have just jotted down ... The first part is written notification; then there is potentially a pre-complaint conciliation; then there is formally registering the complaint; sending the complaint to the person who has been complained about; then there is official conciliation; and then there is a case management meeting; and then you might actually  
2870 might need to raise ... My point in raising that is that is a lot of stuff that is going to happen and what we really need to do is be looking at frontloading the prevention part of this legislation.

2875 So all this funding is about is frontloading the prevention part of the process and whilst £45,000 is potentially viable, I think if we are able to invest in this part of the process then ultimately we are going to see better results from the legislation. The goal should be changing attitudes and making sure that discrimination does not happen in the first place.

2880 Now, why increase? In the policy letter it outlines that £45,000 could be used for a combination of staff resource and some budget – *some* budget – to commission or procure relevant resources. That is not going to go very far. I think it is the bare minimum that Employment & Social Security feel that they could ask for and it just seems with the increase in budget, you can see there are going to be more opportunities to hold events, to reach out to different sectors, to tailor advice and awareness to different sectors so that it is relevant to them; you are not giving a one size fits all, but you are able to do a bit more tailoring and provide more events with the resources.

2885 Of course, the question remains, one of the awkward ones: please, sir, can I have some more? This is already costing and I absolutely appreciate our budget rules and responsibilities. It is not irresponsible to want to put money where you know it is going to have the right effect. But yesterday we agreed to a process of creating a business case that could cost upwards of £2.3 million. How much did we spend investigating Airport runways over the years, not just recently – how much?  
2890 Now, all of those things come at a cost that we recognise because there is a potential benefit at the end. But they do not all actually come to fruition. So is that money wasted? Well, potentially in some areas, but without putting that investment in we will not get the outcomes and we will not see the benefits.

2895 Now, this is a way of directly increasing the budget going to a specific area which is about frontloading the awareness raising and making sure that we are getting into a position where the entire community knows what this legislation is about and actually starts to recognise how easy it is to change what you are doing, or sometimes not even need to change – actually, well done you. It really is a simple thing.

2900 The effect of this legislation is what we should be concentrating on and what we want to achieve is no discrimination in the first place. To do that, I think we need to put the resources into this to achieve the goal.

**The Bailiff:** Deputy Merrett, do you formally second amendment 5?

2905 **Deputy Merrett:** I do, sir.

**The Bailiff:** Deputy Lester Queripel.

**Deputy Lester Queripel:** Sir, thank you.

2910 So even though my view is we should not have to spend taxpayers' money reminding anyone of the things they could be doing to make customers' and employees' experiences better, I am going to support this amendment, as I would have done the original Proposition and I will do if this amendment fails.

2915 I am going to support it because it has become apparent to me over the years, in general, there is not a lot of thought given to the little things that make a huge difference in our lives, even though they cost hardly anything to actually put in place.

2920 I have lost count of the times I have asked shopkeepers to put a chair alongside a counter in their shop. It does not cost anything – maybe the chair costs (*Laughter*) – you can get chairs in charity shops for peanuts. That chair, of course, would be for people with mobility problems to be able to sit in for a while and take the weight off their feet. I have lost count of the times I have asked office managers to put a coat hook on the back of a toilet door. So obvious, and yet so often not done. And I am not just talking about small organisations here: I am talking about large organisations as well.

2925 I am reminded of the time, probably a couple of years ago, when I had to use the disabled toilet up in the Grand Hall alongside this building because gents' toilet was fully occupied at the time. Whilst I was in there, I noticed there was not a coat hook on the back of the door for a disabled person to hang their coat, but there are coat hooks on the doors of the gents' toilets across the way. So I contacted States Property Services, and all credit to them, they fitted a coat hook on the back of the disabled toilet door in 48 hours. But I am amazed I had to do that in the first place. Why  
2930 was there not a coat hook on the back of a disabled toilet's door, when it is all so obvious? But of course, the obvious simply does not occur to some people. Little things, like coat hooks on the back of toilet doors and chairs alongside a counter in a shop, can make a big difference to our lives.

2935 Also, while I am talking about chairs in shops, I am always amazed when I see shop assistants on their feet all day at a counter, five days a week, not being provided with a stool or a chair. That does not apply to every store and every shop; some assistants do have seats and stools. But there are many that do not. It is about time those employers employed a little more compassion and understanding, in my opinion, if they want to provide the best conditions possible for their employees.

2940 Just like thousands of my fellow Islanders, sir, I have hidden disabilities, two of which are a fragmented disc at the base of my spine and I suffer from plantar fasciitis. In my case, I do not have enough flesh between my heel bone and the ground, so I cannot stand still for long periods of time. I know for a fact I am not the only person in Guernsey with those problems. I could not stand at a counter all day as a shop assistant in my condition and there will no doubt be shop assistants out there right now with the same problems standing behind counters all day, perhaps too frightened  
2945 or too embarrassed to say anything to their employer. So the reality is people do need educating.

Also, there are so many other things employers could be doing, yet some seem reluctant to do. For some reason, they just seem reluctant to do it. Maybe it just does not occur to them. I am talking about things like putting large print on notice boards for people who are partially sighted to be able to read.

2950 As the explanatory note tells us, this money will fund:

... proactive work to raise awareness and change attitudes in relation to prejudice and discrimination in the community and particularly in relation to assisting small businesses is essential as part of the cultural change required.

And it just goes on to say:



... more employers will understand what small changes they can make to make customers and employees experiences better ...

Well, to employers listening on the radio right now, I say, if you have not got a coat hook on the back of your disabled toilet door, put one; and if you have not got a chair alongside the counter in your shop, put one. You do not need legislation, surely, to do that.

2955 It also says in the explanatory note:

Clubs, societies, bigger businesses, charities and not for profit organisations will also benefit from education and promotion of anti-discrimination that will be able to be undertaken with this additional funding.

Finally, the last paragraph of the explanatory note, which tells us that:

Providing all this with on an on going budget of £150,000 will still be ... challenging but will enable education, multimedia promotion, [and] workshops etc to be available and can [all] be reviewed when the legislation is reviewed.

As I said earlier, sir, none of that money, taxpayers' money should need to be spent and, to be honest, the educating bit should not be needed either. But it obviously is, which is why I support this amendment and I commend Deputy Hansmann Rouxel and Deputy Merrett for laying it in front of us.

2960

I ask for a recorded vote when we go to the vote, sir, please. Thank you.

**The Bailiff:** Deputy Inder.

2965

**Deputy Inder:** Sir, the explanatory note is probably better than the actual Proposition, because the explanatory note just tells you what the proposer and seconder think the Committee is going to do with it. When you look at Proposition 7, it is a straight replacement from £45,000 with £150,000. So their explanatory note talks about small business. It is all great stuff. Yet 7(b), to fund:

... proactive work to raise awareness and change attitudes in relation to prejudice and discrimination in the community ...

2970

There is no mention of small business whatsoever, none whatsoever, and even that ... I do worry, having been a marketeer once, when I see these fairly weak, nebulous briefs which say to fund 'proactive work to raise awareness'. Is that promotional activity? There is nothing in here. For the life of me, I cannot see how anyone could – or maybe there is some detail behind this – I cannot see how the figure can be picked at £45,000 without knowing what you are going to do over a year period. So the problem I think the proposer and the seconder have got is that: explanatory, great stuff, fantastic, it makes a lot of sense to me ... And also, the other thing, it is recurring as well, and, often is the case, is you start on an educational programme, you usually frontload your education programmes and as your brand, your product gets out in the community you would not necessarily carry on spending £150,000 a year for eternity. So this is recurring.

2975

So the two problems I think the proposer has got is that the explanatory note is not actually related to Proposition they are inserting, it is recurring, and I am not convinced that if successful it actually directs ESS to do anything but spend more money on the – the word they are using is-community.

2980

Possible we can hear a comment from ESS; actually, it would be nice to hear from Policy & Resources, if they even support it at all; it might save us some hours. And I will leave it at that.

2985

But I do not think the actual Proposition does what the explanatory note says it does.

**The Bailiff:** Deputy Le Clerc.

2990

**Deputy Le Clerc:** Thank you, sir. Hopefully I have got a short speech that might clarify the position.

Sir, one of the objectives of this work is to reduce levels of prejudice and discrimination, and we propose doing that by carrying out an attitudinal survey covering prejudice and perceived

discrimination every eight years, consulting with groups effected by prejudice and carrying out strategically targeted education and awareness-raising programme around issues identified in the survey. It is really important to carry out that attitudinal survey from the beginning so that we have got a benchmark to know where we are improving or where we need to improve.

So that survey is estimated to cost around £40,000, but it is important to note that this would only happen once every eight years, and we are proposing that that first baseline survey would be undertaken in 2020. As I said, that is necessary so we can determine future measures have been successful.

So the annual budget of £45,000 identified in Proposition 7(b) in our main policy letter, that amendment 5 seeks to increase to £150,000, is intended to cover the costs of one permanent part-time member of staff and a non-staff budget of £15,000 per annum for printing materials, room hire, etc. So that is an annual budget of £45,000 every year.

But in considering this amendment, I think I need to be fair and point out that we have got, our proposals include a separate budget of £183,000 in total from mid-2020 to mid-2022 for education and awareness-raising activities in respect of the forthcoming legislation, and that education and awareness raising will be for the community and will be for businesses.

This is part of the £395,000 project set-up costs referred to in Proposition 8. So £45,000 referred to in Proposition 7(b) has been separately identified. So if the legislation proposals are not approved we could still continue our education and awareness raising.

Now, this has been really difficult for the Committee, because we have had, and I have explained in this debate and previous debates, some very difficult conversations with P&R in the development of these proposals and we have been under huge pressure to cut expenditure to the absolute minimum necessary. We have taken that, the £45,000 for the proactive work and raising awareness, is the absolute minimum necessary. Please note: the absolute minimum necessary. That said, of course the Committee would welcome a bigger budget and that puts us in a very difficult position, because do we continue with our proposal of £45,000 or do we vote the extra amount of money and the funding, which we could do more with, of course?

I will leave it for you the Assembly to decide that and the Committee Members themselves will vote individually on that, but it is very difficult. Of course we would like more money, but do we play the corporate game and I will be interested to hear what Policy & Resources have to say.

I would just like to finally point out to an interview that happened with Deputy St Pier back in 2018. It was on Channel Television and:

He added that the enactment of an Equalities Law is critical, to change attitudes as well as inform, educate and raise awareness.

So he identified back in 2018 that actually, raising awareness and education was vitally important. I would like to think that we might get leave from P&R that actually would increase this budget.

Thank you.

**The Bailiff:** Deputy Merrett.

**Deputy Merrett:** Thank you, sir.

It is a shame I think that when it comes to social policy we in some way feel that we should not ask for too much; that really, maybe, it is that we should not expect too much. We can spend longer, and it is not about the quantity of time, it is about the quality of time, but we do tend to debate for longer over small amounts that would fund or would help fund progression in our social policy. And I have noted that from being a States' Member for four years and I think that is where we are again here now with this amendment.

So Deputy Hansmann Rouxel and I laid this because it was really about the real wish to engage, educate and communicate. That is what it is all about. We felt that in the original Propositions that that amount ... And maybe we amended the wrong proposition. We have no resource to support

us, so we just did what we thought was right. But we thought this was where the extra bit of money could be put in, so that is why we have submitted this.

3045 Because to us – well to me, sir, and I hope Deputy Hansmann Rouxel agrees – is about the funding of the proactiveness and raising awareness and changing attitudes, and it is also – I think Deputy Le Clerc spoke to this – recognising the cultural shift as it happens and being able to recognise that and show due credence to that.

3050 Now, for the avoidance of absolute doubt, because I think there is a little bit of doubt sometimes, I do not think our community is rife with ignorant or uneducated people. I do not think that. But I do think – and that includes me – that we are at times oblivious to it. We just do not seem to notice it. We do not always, I do not always, fully understand how our actions, my actions, my words, our words, or our lack of action, or our lack of words, can be really detrimental to other people.

3055 Now, I have some examples that I am not going to vocalise, because I do not want to give the ignorant stance a platform. But they were sexism, they were racism and they were homophobia. These are comments, some are just flippant comments, but they were made to me regarding other people that I have heard over the last decade or two. Well, actually, it is more recent than that, but still. Now, they have been minimal, but they have been strong and they have been bitter and of course, as Members probably know, I have counted each of them, when I have recognised them at least. I have counted each ridiculous, spiteful, untrue and unacceptable assertion, inference, 3060 comment and statement, because I, as Members will know, will not be a bystander.

3065 So sometimes this has been at boardroom level and sometimes it has been over a coffee in the staff room. Sometimes it is over a beer at a bar. After a long day in the office you go to the bar, maybe you are relaxing a bit, but some of the comments have really astounded me. Now, I am absolutely sure that person has got the message when I took a huge breathe in and spoke, or I spluttered, or I almost choked on my beverage. But I try to remain calm – difficult for me, as Members will know – and I try to speak carefully. I try to speak considerably as to why I believe such comments are unacceptable and I try to understand why they thought, not only that was an appropriate comment to make, but why they considered it was an appropriate or realistic concern to actually have.

3070 Now, I put it to you that we as a Government, and I ... as a Member of Government and previous Governments, we have not in my view done enough to protect those who face discrimination on a daily basis and we have not exactly acted expediently in addressing this. But obviously, we will come to that more in the next debate.

3075 So in the context of this amendment, when I say protected, I mean we have not always been on the front foot when it comes to raising awareness, for example. Several members of our community, for example, making that positive change, and that is why I am absolutely reluctant and I am not going to say the derogatory comments that I have heard made to me, because I think we have got a duty in this Assembly to ensure that we ensure we do not use our position to give any platform to that kind of discussion or comments.

3080 So we tend to live, sir, I tend to, I am guilty of this, to rely very heavily on the Guernsey Disability Alliance and other similar lobbying groups to help educate and inform me, and from both sides. There is obviously one lobby group this side and one the other, and I do rely on them heavily and I am very appreciative of their time. And I appreciate it is not just about awareness, it is also about action, but we have to communicate the expectation, the information if we do indeed wish to promote awareness and action. I hope we can all agree on that. At some point, as a Government, 3085 we have to lead the way and I hope we are going to do that in the next 24 hours and certainly not just leave it to charitable groups to fund awareness campaigns.

3090 Now, for the avoidance of doubt, sir, I am not negating for one moment the excellent work that charitable groups or ESS have done; and I looked it up, it was called the Equality Guernsey Campaign and the hashtag #starttheconversation. It is unfortunate we were starting it in 2019, but then again that is when we started it. We were having conversations before, but that was the hashtag.

Now, it achieved high attendance figures. The strapline, and I love the strapline, was: 'All you need to bring is a curious mind and some enthusiasm'. Well, actually, I tick both of those boxes

3095 most definitely and that really hit the nail on the head for me. But much I noted, sir, was sponsored  
by private business. Now, it is really important that members of our community, including  
employers, are given guidance and support on the potential expected changes and how they could  
be implemented. We do not want this to be a minefield for anyone and that includes employers,  
employees, those accessing goods and services. But to me, this amendment, and I am very glad  
3100 Deputy Inder picked up on the explanatory note because it is about – oh, he is not in the Chamber,  
but there you go – especially small businesses who are less likely to have a compliance or HR  
department to help them navigate any new laws.

So to me, it was trying to put in some extra resource, and I appreciate what Deputy Le Clerc says:  
we might have put it into the wrong Proposition. But we put it in where we thought we should. That  
is the trouble with being a human being. But anyway, to me it was about the small, independent  
3105 business and I think they are the lifeblood of our Guernsey economy and they help, they are the  
lifeblood of our social fabric for our community and I do think they may need additional support,  
or some support, in identifying the simple to implement and easy to understand solutions – and  
Deputy Lester Queripel has given them some today. But I like to think it potentially needs to go a  
little bit further than that.

3110 So we need to try to educate, inform and give easy to understand solutions, in how they interpret  
and implement the existing laws, because there are existing laws, but also any future discrimination  
law.

That I think brings me on to the reasonable adjustments which is one of the areas that I felt had  
caused, in my opinion, unnecessary fear and concern from some businesses and some service  
3115 providers. Now, mainly it was due – I believe, by reading the consultation responses and meeting  
with industry – to the perception of potential cost or worse a presumption, and I heard this, of  
unnecessary cost: 'It's just unnecessary'. Well, many of our community cannot access goods and  
services or cannot access employment opportunities due to physical barriers as well as other  
barriers. I think we understand the sort of cultural barriers.

3120 So to my mind it is necessary to make our beautiful Island home, because it is beautiful, as  
accessible as possible to all of our community when we can reasonably do so.

So I think there needs to be a balance and that is exactly why only reasonable adjustments may  
need to be made. Now, defining reasonable adjustments, I struggled with it. I think we may do,  
because it can be problematic and it could be deemed subjective. That is why I believe ultimately  
3125 we need the ERO, the independent organisation. We know that and now we have got a pledge from  
Policy & Resources, or at least one Member of Policy & Resources, because we need that to  
determine each case on its own individual merits. That is what we need.

And sometimes, sir, I really hate the fact that I have got the surname Merrett, but there you go.  
So on their individual merits – not mine, on theirs. And if conflict arises, which I hope it does not,  
3130 but it may – arguably, we can probably predict it might or it will – but at least we need to ensure  
that we continue to raise awareness anyway. We need to continue it. I am absolutely with  
Deputy Hansmann Rouxel on this with preventative, because some of the human factor of being  
discriminated against is very difficult to ever ... It is recoverable from, I can assure members of our  
community it is. It is not that it is not possible, but it is difficult. It is a very difficult journey to go on  
3135 and we do not want people to go on that journey in the first place. Unfortunately, that is not always  
the case.

So I do not believe we should or we could try to define what is deemed reasonable. I think that  
would be incredibly difficult as each case, as I said, needs to be dependent on its own ... I have got  
to say 'merits' again, so sorry about that. And I do think we need to educate and we need to continue  
3140 the conversation that has been started, as there may be challenges and disagreement. I hope that  
is rare, but it is probably a sad reality. So that is where Deputy Hansmann Rouxel and I were coming  
from with this amendment.

Now, we looked at the budget and we thought it would be a struggle to do that on £45,000, and  
I think it would be a struggle to do it on £150,000. But at least at this juncture of our development,  
3145 because we are on this journey, I think we need to, as I think Deputy Hansmann Rouxel said,

frontload it a little bit. So of course, in years to come, the panacea or utopia is that when anti-discrimination is embedded in our community culture we will not need these funds because it will be part of the new norm. I do not want to say build back better, but there you go. It should part of the new norm.

3150 So we, Deputy Hansmann Rouxel strongly believe that it is now and the time to continue to fund proactive work at a reasonable level. And sir, I will end it with this, because I think this is a reasonable adjustment. That is what I think. I think this is a reasonable adjustment and I urge Members to support it, and if it transpires that ESS are supportive of it, that we have just put it on the wrong Proposition then they are totally free to submit an amendment to put it in the other Proposition if  
3155 they want it to go from a different pot, if they feel that strongly.

I am hoping that Members will agree to this and I am disappointed that when we come to social policy we seem to have to ... It seems honestly, sir, like a wrangle, like a complete, 'Oh, can we have a little bit more?' *constantly* and this is ... Do not get me wrong, £100,000 is a lot of money, I appreciate that. But we trip through other policies of economic significance and they are sort of £12  
3160 million, £32 million, we are like, 'Yes, okay, we understand that, that is fine', and sometimes I just think we do not always understand that human capital, to put the word, I think probably the wrong words to use, but human capital, the human part of our economy, the very people that actually serve the economy and take the benefit from the economy, we just do not always invest in that. Probably, sir, because it makes it a little bit immeasurable. But I think that is the problem I have.

3165 So obviously I will support it unless there is something that I hear that completely throws me. But I think and I appreciate why ESS were cautious. I do understand that. I mean, some of the polarised views quite astounded me, to be honest. I was quite surprised. I was surprised – disappointed and surprised. But when you actually dig down and really engage with those people, you can understand where it has come from. You can get to, 'Oh, right, okay, because of this. Oh  
3170 right, okay' and you can talk to people. It is not to change their view, I just want to understand their view, to be honest. I am not there to lobby their views. And I just think that this is a small price to pay for what could have a significant response for our community and help with the prevention in the first place.

3175 Actually, I think it would cost less doing this than trying to deal with some of the cases of discrimination as and if or when they come forward, and therefore I do commend this amendment to the States, sir.

**The Bailiff:** Deputy Oliver.

3180 **Deputy Oliver:** Thank you, sir.

I actually agree with the amendment in principle. I think there should be more education. I think that if you get the education right then there is no need actually for all the problems that occur later with the legislation.

3185 However, I am really concerned about this amendment in as much as we vote this through and then people get a change of heart when it is a main Proposition and then I assume that ESS actually end up with no money whatsoever, because the £45,000 will also be gone as well if they vote this down. Because, let's be honest, within the States I have known many amendments go through and then when they become the substantial Propositions they then get voted against. I would much prefer if this amendment had been almost in two categories that if, say, the £45,000 and then  
3190 actually £150,000, so if the £150,000 gets voted off there still is that £45,000 in the main Propositions.

I am really concerned and I just do not know really which way to vote on this in case people have a change of heart, which has not been unknown in this States.

3195 **The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Thank you, sir.

The Policy & Resources Committee, to respond to Deputy Le Clerc, are not able to support this amendment and I probably need to explain why.

3200 Deputy Le Clerc is quite right that it has been a significant challenge for her and her Committee in engaging with Policy & Resources, in relation to the access to resources. That is of course what we are there to do: to provide a challenge and push back and to test and to probe all those proposals that come to us. She will know from her previous experience, and no doubt from accounts from other Members, that her experience is not unique. I think we do seek to treat all Committees  
3205 without fear or favour in relation to that challenge.

So the issue here really is what is the right amount to spend or to commit to spend at this stage? Again, I think we have to go back to first principles. The Committee *for* Employment & Social Security have done a lot of work as a result of over the last few years, including in relation to the engagement with P&R, and they have come up with this proposal which we endorse.

3210 The real challenge is really how long is a piece of string, in relation to this piece of work. I think it is incumbent perhaps on Deputy Hansmann Rouxel to explain why £105,000? Why not £155,000 extra or £55,000 extra? There is no clear explanation in the explanatory note or indeed when she spoke on what this additional funding will be used for, other than more of the same, as set out in the policy letter.

3215 Clearly things have got worse rather than better since the Committee *for* Employment & Social Security engaged on this matter in relation to funding for the States generally, so I think it would be bizarre for the States in the light of the worsening financial position to agree to this amendment simply because it feels good to do so without a very clear rationale, which has not been set out either in the explanatory note or in the debate so far.

3220 We know things have got worse because the States are seeking to contain expenditure across the *piste* and all Committees are in the process of doing that. I think the right approach for this area of spending very much is, as it often is, an incremental one in that the Committee *for* Employment & Social Security should move ahead with their plans as set out and they should return to, no doubt the next Policy & Resources Committee, with a case for more funding in due course. That is what  
3225 happens across the States when new services begin and more funding is required. That does enable proper governance and control of spending with ... of course, resources are always limited, but I would counsel Members that they are of course more limited now than they were at the time this policy letter was published.

3230 With that, sir, I would encourage Members to stick with the original Proposition and therefore reject this amendment.

**The Bailiff:** Deputy Gollop.

3235 **Deputy Gollop:** Sir, I know we as a Committee have not as a Committee sought extra funds because we have been minded to work collectively where we can with Policy & Resources and we have, as a Committee, even recently since Covid lockdown – especially since Covid lockdown – worked quite hard as a Committee, actually, to try to provide savings in some of our areas that come under our mandate, from staffing, to housing, to doing things better.

3240 So we are mindful the financial situation in many respects has got worse over the last winter; although, hopefully, there is buoyancy in the economy too.

But I support this amendment too because the thing is, I sat there eating my sandwiches, I did too, at a lot of these presentations that various members of the community who support equalities, Liberate, disability issues and so on, and nobody worked harder than three or four of our senior and fairly senior – they should be senior – civil servants, and Deputies Le Clerc and McSwiggan especially,  
3245 but sometimes Deputy Langlois too.

They did a roadshow last year to meet people and many business organisations and events, and it is fair to say there was a degree of pushback. In fact, Deputy Merrett and others will remember that some of it was a little bit intemperate, some of it was measured, some of it was not, and some of it was perhaps more rhetorical than real. I think the work we as a Committee have done in the

3250 past year has reassured many people that we are not trying to create ludicrously expensive bureaucracy or a culture of litigation or whatever.

I stand here, sir, looking across. Good to see Deputy Laurie Queripel here today, and he was not here yesterday, but he is renowned for always questioning the budget intensely as a scrutineer and as a representative of the people. We found yesterday that Health had increased by £8 million, blah, 3255 blah, blah, and that there were significantly more senior officers being paid larger salaries. Now, if just one of those positions could be replaced in a re-organisation that gives the money in the context that Deputy Hansmann Rouxel and Deputy Merrett are putting across in this amendment. So I make that point.

But going back to my lunches, when I was having those sandwiches, listening to Deputy Le Clerc 3260 and Deputy McSwiggan in summer and subsequently many of the business representatives, predominantly the more open members of the business and commercial community, maybe the younger ones, maybe sometimes the more female ones, maybe those people who were more switched on to the zeitgeist, they were supportive and sometimes the leading figures in the organisations did not always reflect that. But one thing that they were doing, and they came to 3265 other Deputies to make their point, was they said, rather than a heavy-handed legislative bludgeon, because they were scared of case law from other jurisdictions, what they *really* wanted was a cultural change, an attitudinal change of reasonable adjustment, of working with people.

I sat as Deputy Le Pelley reminded us, in his excellent speech, of the days when I had a team. I wish I had a Team John now, but that is another story. I do a bit. We worked together in Frossard 3270 House and elsewhere looking at these questions and back at that time I attended, as I said, meetings with senior civil servants who were working in those days, not on legislation, but on the Disability Strategy which we approved, and we expanded it to equalities as well.

The officers and the people on that Committee, they wanted cultural change. And leading members from the GDA said, contrary to scare tactics and popular belief, it was sometimes just 3275 figures like £30,000, £40,000, £50,000, £60,000 – and those were figures 10 years ago, really – make the difference in advertising, in promotion, in marketing and assisting small businesses, which might just be ... Well, we know that certain members of the disabled/disability voluntary community went over and beyond the call of duty in providing iPads for lonely and vulnerable people during the lockdown, for example. Those iPads had a cost, they were given perhaps, that is the kind of thing.

3280 We need to assist these small businesses. We need to do it in an unbureaucratic kind of way. We need cultural change. We need the kind of quality and effective advertising that Deputy Inder has delivered in a political SACC capacity and a private capacity in other times, and I believe a far more realistic budget will be £150,000 than £45,000. Goodness me, we have spent over £100,000 in the past on getting people to enrol for the Electoral Roll, for example, going back a few years.

3285 So I think that in order to make this strategy small scale but relevant, rather than being too heavy in terms of court costs, employing staff, we actually need to start more quietly in a better way and the better way is using persuasion, attitudinal change, education and the resources that I am sure Deputy Hansmann Rouxel will develop in her summing up.

3290 **Deputy McSwiggan:** Rule 26(1), if it is needed, please.

**The Bailiff:** Deputy McSwiggan, Members of the States, is seeking to test how many people want to speak in debate on this amendment 5 prior to considering whether to invoke Rule 26(1). Will those Members who have not yet spoken and who wish to speak on this amendment please 3295 stand in their places?

In those circumstances, I will simply turn to the proposer of the amendment, Deputy Hansmann Rouxel, to reply to the debate.

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

3300 I think the point raised by Deputy Inder regarding small businesses is a fair observation and just to explain why I mentioned small businesses, larger business have already got, especially the

multinational ones, that cultural change embedded in what they are doing. And right from the beginning of the process, I have had conversations with people who do run their own businesses or work as self-employed or work in a small business, and the concerns raised are real and they do not have a big department around them to help them understand what slight adjustments can be made.

It is difficult because it does separate out from, as Deputy Le Clerc did mention, there are specific funds for the education and awareness to begin with and this does not form directly part of the nitty-gritty raising guidance, but I think it does provide more ability for the Committee to change those attitudes. As Deputy Le Clerc said in her speech, £45,000 is the *absolute* minimum – absolute minimum.

I appreciate Deputy St Pier sticking to his guns and he makes a fair point. It will be a recurring cost and yes, we could just not agree the extra funds and leave it to the next Committee to eventually come back with a clear, 10-point business case explaining exactly which sense and then get it looked over and checked by an external consultant who will look at the business case. (*Laughter*) I jest. I understand that there are processes, but actually, the process of asking for the money in the first place has gone through a rigorous contraction and when I hear the words from ESS *absolute* minimum necessary means that ... it is going to be tough, and actually, if we can put more money into this, then there will be more opportunity to do this. In fact, we should have been doing this 10/15 years ago (**Several Members:** Hear, hear.) and putting money into this. So to say that we can wait a little bit longer, actually, no. This is the part that is actually going to start changing peoples' lives.

I thank Deputy Merrett for her support in the amendment.

Deputy Oliver: it is a fair point, but do not vote for something that you know will have a difference on the off chance that the States will act badly and vote it out? It is her choice if she wants to support the States in making bad choices like that. If we vote for this, please vote for (b) in the substantive Propositions. It would be churlish to then change your vote.

Yes. So I think I have dealt to some degree with Deputy St Pier's points and the idea of committing to spend at this stage. I am not deaf to –

Oh, I give way to Deputy Roffey.

**Deputy Roffey:** I just wonder whether Deputy Hansmann Rouxel would agree with me that this funding, if approved, could, if P&R sees through on their promise to look at setting up an independent rights organisation, be transferred as part of the core funding of that organisation when it is their job to implement their work instead of ESS's.

**Several Members:** Hear, hear.

**Deputy Hansmann Rouxel:** I think Deputy Roffey raises a very good point there. (*Laughter and Interjections*) Exactly, this would be work that would have taken place from an equality and rights organisation. This attitude and awareness raising is one of the core functions of an ERO, so those funds would not be permanently used in that way.

It is a call for Members, whether they want to frontload this part of the work in the current proposals. So I commend you to vote in favour of it.

**The Bailiff:** Members of the States, we come to the vote on amendment 5 proposed by Deputy Hansmann Rouxel and seconded by Deputy Merrett. I do not recall there being a request for a recorded vote, but maybe there was.

**A Member:** I am standing, sir.

**The Bailiff:** Deputy Lester Queripel.



**Deputy Lester Queripel:** Sir, I did ask for one yes, in my speech.

3355

**The Bailiff:** Did you really? *(Laughter)* Therefore, Greffier, we will have a recorded vote on this one as well, please.

*There was a recorded vote.*

*Not carried – Pour 13, Contre 22, Ne vote pas 2, Absent 2*

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Le Pelley	Deputy Trott	Deputy McSwiggan	Deputy Ferbrache
Deputy Merrett	Deputy St Pier	Deputy Le Clerc	Deputy Leadbeater
Deputy Meerveld	Deputy Stephens		
Deputy Fallaize	Deputy Inder		
Deputy Hansmann Rouxel	Deputy Lowe		
Deputy de Sausmarez	Deputy Laurie Queripel		
Deputy Roffey	Deputy Smithies		
Deputy Oliver	Deputy Graham		
Deputy Tindall	Deputy Green		
Deputy Tooley	Deputy Paint		
Deputy Gollop	Deputy Dorey		
Deputy Parkinson	Deputy Le Tocq		
Deputy Lester Queripel	Deputy Brouard		
	Deputy Dudley-Owen		
	Deputy De Lisle		
	Deputy Langlois		
	Deputy Soulsby		
	Deputy Prow		
	Alderney Rep. Roberts		
	Alderney Rep. Snowdon		
	Deputy Brehaut		
	Deputy Mooney		

**The Bailiff:** Members of the States, the voting on amendment 5 proposed by Deputy Hansmann Rouxel and seconded by Deputy Merrett was as follows. There voted Pour 13, Contre 22, 2 abstentions, 2 Absentees and therefore I declare amendment 5 lost.

Members of the States, the next amendment, both in terms of numbering and to be taken, is No. 6, to be proposed by Deputy Merrett, if she wishes to lay that amendment.

**Deputy Merrett:** I do, sir, and may I have it read?

[Amendment 6](#)

*To insert the following wording at the end of Proposition 17: “, and specifically to agree:*

*a) that the birth registration process in Guernsey:*

*Should be capable of recognising and giving equal treatment to diverse family types, including same-sex couples, unmarried couples and single parents, as well as married opposite-sex couples; Should be consistent with the child welfare principles of the Children (Guernsey) Law, 2008;*

*Should not include the concept of “illegitimacy”; and*

*Should not discriminate between parents on the basis of sex or on any other basis;*

*b) that the Policy & Resources Committee, in consultation with the Committee for Employment & Social Security and the Committee for Health & Social Care, should prioritise work to modernise the existing birth registration legislation, and return to the States with proposals no later than December 2021; and*

*c) that the Policy & Resources Committee should consult with the States of Alderney to explore whether they would wish these proposals also to extend to Alderney.”*

**The Bailiff:** Greffier, can the amendment be read, please.

3370 *The States Greffier read the amendment.*

**The Bailiff:** Deputy Merrett.

3375 **Deputy Merrett:** Thank you very much, States' Greffier, for reading the amendment. I thought it was quite important to have it read, to actually have it on *Hansard* for future generations if they ever wish to read it.

3380 Sir, I am going to put to Members that our almost a century old Birth Registration Laws need revisiting. That is what this amendment recognises and it highlights that need. So this amendment calls for a fair, modern and equitable approach to issuing birth certificates which ensures that *all* family types are treated the same.

Now, the current law in Guernsey was written in the 1930's and it is still in French. I was going to say some French to you, sir, but actually I am not going to because it would be *je ne vote pas* and it would have been *parlez vous Francais? Mais oui*, I am not going to do that, although clearly I just did.

3385 It is based on the old-fashioned concept of what a traditional family should look like. So what as a community we believed was acceptable I hope has arguably changed. So hopefully we have progressed and hopefully we are a more inclusive community almost 100 years on.

3390 Now, right now, the Law does not really acknowledge unmarried couples or same-sex parents. It still includes the concept of illegitimate children, and I believe that is completely inappropriate in the 21st century.

So Birth Registration Laws are complicated because that is what we do. In Guernsey, as in many other countries, the Birth Registration Law interacts with other pieces of legislation relating to parenthood and to the rights of the child or children. Because of that, I believe the States have put this on the too hard pile for too long and I believe it is time to change.

3395 Now, this amendment – I am going to use the word simply; I am going to be told nothing is simple, but anyway – simply directs the Policy & Resources Committee to do a piece of work with Health & Social Care and Employment & Social Security to look at all of these complex issues and then to make recommendations for modernising our Birth Registration Law. Now, this piece of work, I am going to be positive and say, will come back to the States. I think it should come back to the States in due course. But I just want to give some examples of the issues with our current Law which I believe desperately need to be tackled.

3400 So in international law, the primary purpose of birth registration is to give the child a status. From the status, the child can then acquire nationality. But different jurisdictions approach this in different ways. So the UK, just as an example, has a far more, in my opinion, inclusive approach than we do and one which properly reflects modern science and which respects diverse family structures.

3405 Now, our law was written before the days of IVF. In principle, it requires the biological parents of a child to be registered. Now, for a heterosexual couple, you can imagine it is pretty straightforward enough to register the actual parents instead. Now, that is not so easy in same-sex relationships for what I do hope are obvious reasons. So this Law hurts a same-sex couple who have conceived via IVF much more than it hurts their heterosexual counterparts who have done exactly the same thing – exactly the same thing.

3410 Now, I have been assured there are alternative legal routes for those who are not named as parents on the birth certificate to be formally recognised as the parent of their child. They can, for example, adopt their own child. Imagine that: adopting your own child. When you have conceived together through IVF, when there is no expectation that the donor would ever have any parental responsibility. When you have loved and parented this child together from the day it was born. Now, can we not, as a community in 2020, imagine a more humane Birth Registration Law that would allow both parents to be properly and equally recognised from the start?

3420 Now, these alternative legal routes are meant to have regard to matters such as the rights of the biological parents and the welfare of the child. But do they? Because child welfare principles – being able to be nurtured, loved by parents that are committed to a child’s upbringing – should be at the very heart – the *heart* – of our Birth Registration Law. The word ‘parent’ may have different meanings to different people or different laws. But ultimately, it is the people who decided to conceive a child in a loving, nurturing home who are the child’s parent or parents. And there is a difference: we have  
3425 a singular and we have a plural.

So, sir, not only has our culture changed, but also science has developed. But sadly and, in my opinion, inexcusably, our laws have not.

Now, Members should remember that the birth certificate or the registration is the first and everlasting document that identifies that person as being part of our community. It is our primary  
3430 form of identification. We use throughout our lives, to gain, for example, a passport, if we marry, to name but two.

Now, this is not a certificate of legitimacy. There is no DNA test involved, nor should there be and we should not conflate the two. At the moment the Birth Certificate Law presumes that the mother and father will be married, or will get married. As I said, science has moved on and I think  
3435 we can all agree it is actually possible to give birth out of wedlock. It is actually possible, sir. Now, that might be taboo for some and of course they are free to marry. That is their choice. Others may not wish to get married and that also is and should be their choice. You do not, or you should not, have to be married to have a child. The fact you are or are not married is totally irrelevant, in my opinion, for the registration of the birth.

3440 We also should recognise that pregnancy can be conceived by donated sperm or a donated egg or by IVF. So is the person registering the birth asked if the child was conceived by IVF or by donating sperm or donated egg? What relevance has this in certifying the fact that the birth has taken place? Because that is what the birth certification or registration does.

Now, Members may also be interested to know that only the father’s occupation is requested  
3445 and recorded. Now, Members may agree that mothers now may also decide to have a career or an occupation – who would believe it. Perhaps we should consider whether a person’s occupation is still relevant when registering a birth. After all, I put to Members, what is this data used for? Or it may be perhaps that it should be both parents’ occupations that are recorded. Food for thought isn’t it?

3450 So this Assembly by majority introduced same-sex marriage in Guernsey in 2016, and Alderney in 2017. It was an important turning point for the Bailiwick as an inclusive, welcoming community with an equity of able to form a family or a union.

However, since then the fact that Birth Registration Law does not recognise same-sex parents has been even harder to come to terms with for those who are affected by it. I believe there have  
3455 been an increasing number of complaints to the Greffe about the limitations of the current Law and there are parents in both Islands who are desperate to see this addressed. Of course, States’ Members have also received correspondence from members of our community who have been personally affected by this.

So, sir, if your relationship is recognised by the state, you would naturally believe your family  
3460 would also be recognised by the state. It is heartbreaking for families. And I am only sighing because I am trying to keep my emotions under control, because it really is heartbreaking. It is heartbreaking when families discover that this is just not the case when they come to register the birth of their child. It could turn a moment filled with – what should be filled with – joy and love into one of sadness. And I feel that; I do feel that sadness.

3465 Now, we know the Birth Registration Law has been really distressing for same-sex couples in Alderney and in Guernsey who cannot be properly registered as the parents of their children. Now, I think it is time for that to change. Parents of newborns have contacted us during this term and have asked us to sort this Law out. So we are asking the States to do this.

Now, Alderney Representative Snowden when he speaks will share some of the effects our  
3470 current Birth Registration Law has on our community. These are real people; these are real lives.

Now, in the last few months we have all been reminded of how important and precious our loved ones, our families, those we share our homes with, how precious they are. How the fabric of our community has been tested and how you pull together.

3475 Now, the coronavirus may have exposed our humanity, but it has been our consideration of others, our compassion and our love for each other which has defeated it in our community. Our families, our friends, kindness and support to those who we may not have even ever met, but who we are willing to sacrifice our liberty and even our livelihoods for, and that is notwithstanding the next weeks, months and potentially years will continue to test the strength of our community beyond anything I have seen in my living history.

3480 The States want the Bailiwick to revive and thrive. They want our community to revive and thrive. But our community needs to feel and be accepted in the various different permutations that human beings are, the various permutations that families consist of. I do not believe we can do that unless we put our community and all of our families first – *all* of our families first. So I believe we must make sure that we get it right from birth for every child in our community.

3485 Now, the States have tackled the long overdue reforms to our marriage and divorce laws this term, so to me, logically, updating our Birth Registration Laws is the next obvious step. Of course these are complex issues. They need to be worked through and that is exactly what we are asking Policy & Resources to do in committing to this piece of work and coming back to the States with proposals.

3490 The work we are asking Policy & Resources to do should enable it to make a firm recommendation in respect of each of the issues raised in the bullet points in this amendment. So Members have a choice, sir. They can put it back on the 'too difficult' pile, and I would count as at the bottom of the serious piles, certainly on social policy. But they can either put it back on the too difficult pile, they can keep their heads in the sand, because that is what we are doing. Or they can recognise that our community has evolved since the 1930's; that children born in our community may have been conceived through IVF, they may be born to unmarried parents and they may be born to same-sex couples.

3500 Now, I strongly believe that we need to recognise the need to change our Law and we need to start this today. But I will count it, sir, it might be tomorrow now, because I believe we should just vote Pour to this amendment and I thank Members for their patience in listening to me, because I am appreciative of that. But I would ask Members to support this amendment, sir.

**The Bailiff:** Alderney Representative Snowdon, do you formally second this amendment?

3505 **Alderney Representative Snowdon:** I do, sir.  
Thank you.

**The Bailiff:** Thank you very much.

3510 Well, Members of the States, it has gone half past five, so unless anyone wants to do anything different, I am going to suggest we adjourn now until 9.30 a.m. tomorrow morning.

**Deputy Oliver:** Sir, could we just try and finish this amendment? It might be then quicker.

3515 **The Bailiff:** Members of the States, can I just take an indication from those who would wish to speak on this amendment if they stand in their places, please, first.

Well, Deputy Oliver is encouraging me to put a motion to Members of the States that we continue sitting this afternoon, this evening, to conclude the debate on this amendment.

Those in favour; *(Laughter)* those against.

*Members voted Contre.*

**The Bailiff:** We will now adjourn until 9.30 a.m. tomorrow morning.

*The Assembly adjourned at 5.38 p.m.*