



To All Members of the States of Deliberation
via e-mail

18th February, 2021

Dear Member of the States

Matters arising from the 1st February Meeting of the States of Deliberation

The Committee is responsible for advising the States and developing and implementing policies in relation to the procedures and practices of the States of Deliberation and committees of the States, as well as the practical functioning of the States of Deliberation.

The Committee received questions from a couple of Deputies regarding matters that arose from the 1st February, 2021 Meeting of the States of Deliberation on:

- States' Resolutions; and
- 'Question Time' (Rule 11)

The Committee agreed it would provide information to all States' Members on these important matters relating to the States of Deliberation and publish the response on the www.gov.gg website so that it is in the public domain for future reference.

A. States' Resolutions

In some of the debates that have taken place since the October 2020 General Election, some Members have suggested that the States are not 'bound' by or required to deliver the decisions of a previous States of Deliberation.

The Committee thought it would be useful to set out what States' Resolutions are, the role they play in Guernsey's system of Government and their status.

(a) What is a States' Resolution?

A 'States' Resolution' is, in simplest terms, a decision of the States of Deliberation. Some Resolutions take immediate effect, some do not need implementation whilst others require further action:

- **Resolutions which take immediate effect:** This might include the appointment of a person to a role where the resolution states their appointment will take immediate effect,

amending the Rules of Procedure of the States of Deliberation and their Committees, rescinding an existing extant resolution etc. There are also many Resolutions that have immediate effect as a matter of law. For example, Resolutions of the States made under the Income Tax (Guernsey) Law, 1975, can give immediate effect to the amounts of personal and other allowances to which an individual is entitled by way of relief from income tax and the conditions applicable to those allowances.

- **Resolutions which do not need implementation:** There are Resolutions where no further action is required, for example the States simply notes a particular matter or policy.
- **Resolutions which require further action:** A number of Resolutions require further action to be taken in order to give them effect. In particular there are Resolutions which "direct" or "agree" the carrying out of a specific action by a named Committee of the States. When considering such resolutions, it is necessary to look at their precise terms and in particular whether or not there are time limits by which any direction is to be complied with.

(b) The role Resolutions play in Guernsey's system of Government

The importance of the Resolution in Guernsey's constitutional system is plain to note. There is no separation of powers in Guernsey. The States of Deliberation is Guernsey's parliamentary assembly in which executive powers is vested. This means that the States of Deliberation is effectively both the legislature and government of the Island (through the States of Guernsey acting by and through its various Committees) and subject to the exercise of any delegated executive authority that the States may have conferred on any other body. Therefore it is possible to argue that Guernsey is simply governed ultimately by its Parliament. [The Reform \(Guernsey\) Law, 1948 \(as amended\)](#) sets out the constitution and quorum of the States of Deliberation and other general provisions. Article 7.(1), 'Procedure' states that:

"The States of Deliberation may by Resolution decide the Rules of Procedure to be applicable from time to time in and in relation to assemblies of the States of Deliberation or of the States of Election, and may likewise at any time vary, revoke or suspend such Rules or any of them".

[The States Committees \(Constitution and Amendment\)\(Guernsey\) Law, 1991](#) states that the constitution of any committees may be prescribed by Resolution of the States and lists what the 'constitution' includes. Both items of legislation can be found in the '[Blue Book](#)'. **Guernsey's system of government therefore relies heavily on Resolutions of the States in order to function effectively.**

(c) The status of Resolutions

Until a Resolution of the States of Deliberation (other than a Resolution which does not need further action to give it effect) is either implemented by a Committee or amended or rescinded by a Resolution of the States of Deliberation, the Resolution remains extant. This means it exists, in many instances with an expectation that the relevant Committee (in a case where it has been directed to do so) will carry it into effect, as set out in the Committee's mandates and in Annex One to the Mandates of Committees of the States.

The Committee wishes to bring Members attention to paragraph seven from Section B, 'The

General Responsibilities of all Committees of the States' which reads as follows:

7. to be aware that a committee of the States is in effect an agent of the States of Guernsey exercising functions conferred on it by resolution of, or legislation approved by, the States of Deliberation; and as such to respect that, save in specific circumstances where legislation provides otherwise, the States may at any time they consider it desirable issue directions to a committee and that committee shall be expected to carry into effect any such directions irrespective of whether that committee or any of its individual members agree or disagree with such directions: provided that the rejection by the States of recommendations or advice of a committee shall not *ipso facto* require the resignation of that committee.

The phrase that 'No States can bind a future States' is correct. It means that a future States of Deliberation is not bound **forever** by the decisions and actions of its predecessor. Any future States of Deliberation, as a Parliamentary assembly, is free to agree to change or rescind previous Resolutions of the States of Deliberation or to propose and approve legislation which may amend, modify or otherwise change or repeal extant legislation approved by a previous assembly.

In providing this information, the Committee acknowledges there will often be good or at least non-contentious reasons for a Resolution remaining extant (for example, other more pressing workstreams have had to be prioritised, the Committee lacks resources to deliver it at that time or circumstances have changed which diminish its relevance). However, if a Committee decides that a Resolution of the States is no longer relevant or a different approach is required, as a matter of good governance, it should return to the States of Deliberation to seek for that Resolution to be amended or rescinded.

The Policy & Resources Committee has responsibility to advise the States and to develop and implement policies and programmes relating to the leadership and co-ordination of the work of the States, including "requiring, and monitoring, the implementation of extant States' resolutions" which it does through its policy planning and reporting process.

There are no specific sanctions for Committees who fail to implement Resolutions. However, if a Committee fails to comply with a Resolution directing it to do something, the option of moving a motion of no confidence under Rule 21 of the Rules of Procedure can be pursued if there are seven Members who wish to do so. That procedure is an effective way of bringing the issue back to the States.

B. Question Time

The Committee was asked whether it was acceptable for a President or any other senior Member of the States of Deliberation to refuse to directly answer Rule 11 questions in the Assembly save where certain circumstances provided for in the Rules of Procedure are engaged (see in particular Rules 11.(1) (2) & (4)(d) and Rule 15).

The Committee reviewed the 'Question Time' session that took place on 1st February, 2021. In relation to the questions posed by Deputy Burford to the President of the Committee for Education, Sport & Culture, and the supplementary questions asked, the Committee noted that the President provided the answers to the supplementary questions that she deemed

appropriate and had provided an explanation as to why she would not provide further information at that time.

The question of whether it is acceptable for a President or any other senior Member of the Assembly to refuse to directly answer a question is largely a matter of political judgement though in some circumstances set out in the Rules of Procedure, the judgment of the Presiding Officer is also engaged (see for example, Rule 15). In the case noted above, some Members would argue that the President's responses were acceptable, others would argue they were not.

The Committee considered Rule 11 and concluded it was unlikely that the Rule could be strengthened to force a President to answer a question in the manner the questioner believes they should. The questions and answers are asked in the public domain, Members can ask supplementary questions, the President or other Member answers as they deem appropriate in the circumstances and Members and the public can take a view as to the appropriateness of the response and consider their next steps accordingly.

Further to the concerns raised, whilst such incidences are rare, the Committee can confirm that it will continue to monitor the use and operation of 'Question Time' as part of its standing agenda 'States' Meeting' item.

It would also strongly encourage all Members to attend the 'Questions Workshop' the Committee is organising, which will be rescheduled when physical meetings are permitted, where Members will be asked to work together to consider the use and operation of all types of formal questions - Rule 11, 12 and 14 - and to look at best practice. Further information regarding this session will be circulated to all Members in due course.

The Committee has consulted with the Law Officers of the Crown in drafting this response and is grateful for their advice.

Yours sincerely

C.P. Meerveld
President