



**OFFICIAL REPORT**

**OF THE**

**STATES OF DELIBERATION**

**OF THE**

**ISLAND OF GUERNSEY**

**HANSARD**

**Royal Court House, Guernsey, Friday, 30th September 2022**

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**Present:**

Ms J. E. Roland, Deputy Bailiff and Deputy Presiding Officer

**Law Officers**

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

**People's Deputies**

S. E. Aldwell	C. J. Le Tissier
C. P. A Blin	J. P. Le Tocq
Y. Burford	M. P. Leadbeater
T. L. Bury	D. J. Mahoney
A. Cameron	A. D. S. Matthews
D. de G. de Lisle	L. J. McKenna
L. de Sausmarez	C. P. Meerveld
A. C. Dudley-Owen	N. G. Moakes
J. F. Dyke	R. C. Murray
S. P. Fairclough	R. G. Prow
S. J. Falla	L. C. Queripel
P. T. R. Ferbrache	P. J. Roffey
A. Gabriel	H. J. R. Soulsby
S. P. Haskins	G. A. St Pier
M. A. J. Helyar	A. W. Taylor
N. R. Inder	L. S. Trott
A. Kazantseva-Miller	S. P. J. Vermeulen

**Representatives of the Island of Alderney**

Alderney Representatives S. Roberts and E. A. J. Snowdon

**The Clerk to the States of Deliberation**

E. J. Atkinson (H.M. Deputy Greffier)

**Absent at the Evocation**

Deputies V. S. Oliver and C. N. K. Parkinson (*absent de l'île*);  
Deputies A. H. Brouard and J. A. B. Gollop (*relevé à 9h 52*);

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# States of Deliberation

*The States met at 9.30 a.m.*

[THE DEPUTY BAILIFF *in the Chair*]

## PRAYERS

*The States' Greffier*

## EVOCATION

# Billet d'État XVII

## Procedural – Shorter lunch break

**The States' Greffier:** Billet d'État XVII, Article 5, Amendment 8, the continuation of the debate.

5 **The Deputy Bailiff:** Deputy Prow.

**Deputy Prow:** Thank you, Madam Deputy Bailiff.

I just wonder if I could lay a motion asking if the Assembly would be prepared to forgo half an hour of their lunch break on the grounds that we are only halfway through the legislation item.  
10 There are other items that are urgent and perhaps I would ask the Assembly if they would be prepared to, say, reconvene at two o'clock.

Thank you, madam.

15 **The Deputy Bailiff:** Thank you, Deputy Prow.

The motion is that we start after the lunch break at ... Yes, Deputy Leadbeater?

**Deputy Leadbeater:** Ironically, I have got caring responsibilities at lunchtime, madam, so if we could come back, maybe, at 2.15, that would give me a better chance of getting here than two o'clock.  
20

**The Deputy Bailiff:** Deputy Leadbeater, if we went to quarter to one and finished at 2.15, would that ...?

25 **Deputy Leadbeater:** That would be suitable, madam.

**The Deputy Bailiff:** Yes. Deputy Prow, with your permission, the motion I will put to the Chamber is that we continue until 12.45 and come back at 2.15. Those who support the motion, say Pour; those against.

*Members voted Pour.*

**The Deputy Bailiff:** The motion is passed.

**Welcome to Louis Jean,  
former Alderney Representative**

30 **The Deputy Bailiff:** Before we commence debate on the Amendment 8, can I just welcome Mr Louis Jean from Alderney. Good to see you.

**Several Members:** Hear, hear.

**COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY**

**5. The Prevention of Discrimination (Guernsey) Ordinance, 2022 –  
Debate continued**

*The States are asked to decide:-*

*Whether they are of the opinion to approve the draft Ordinance entitled "The Prevention of Discrimination (Guernsey) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.*

[Amendment 8](#)

*At the end of the Proposition add: "; subject to the amendment indicated below".*

*After paragraph 22 of the Schedule, insert:-*

*"Small employers.*

*23. (1) This Ordinance, so far as relating to the protected ground of carer status, does not apply to any employer of five or fewer employees.*

*(2) No employer of five or fewer employees is under a duty to make reasonable adjustments for a disabled person under section 32 or 33.", and renumber subsequent provisions and amend relevant cross-references accordingly.*

**The Deputy Bailiff:** Deputy Queripel.

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**Deputy Queripel:** Madam, thank you.

I am really not sure which way to vote on this amendment at the moment. I could quite easily go either way. I can see reasons to vote against it and I can also see reasons to vote in favour of it, and I will come on to those reasons in a moment. But first of all, I want to say I deprecate wholeheartedly the manner in which some members of our community have reacted to Deputies Blin and de Lisle, (**Several Members:** Hear, hear.) for laying this amendment in front of us, and I think those Islanders should be thoroughly ashamed of themselves. (**Deputy Inder:** Hear, hear.)

40

They profess to be anti-discrimination and anti-harassment, yet when it suits them, they indulge willingly in discrimination and harassment. I think that sort of behaviour is totally unacceptable. (**A Member:** Hear, hear.) They really need to take a long, hard look at themselves, and I hope they do for the future. Because lobbying Deputies does not mean you have to be abusive and disrespectful. Lobbying your Deputies means trying to put your point across in a civilised and dignified manner, not castigating them for something they believe needs to be addressed.

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And it is ironic. On Wednesday, the motion was passed in this Chamber to make belief a protected ground, and yet here is a perfect example of two Deputies being discriminated against

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and *harassed* for having a belief. Apologies do not cut it with me. People should not be behaving in such an abusive and disrespectful manner in the first place. (**A Member:** Hear, hear.)

55 Moving on to the amendment, I want to say I have the utmost respect for Deputy Blin and Deputy de Lisle, and I hold them in the highest regard, as I do all of my colleagues in the Assembly. They are concerned about the impact on small businesses if this Ordinance succeeds in its current form, so they have laid an amendment to try and protect those businesses, and I applaud them for doing that. As I said, I am undecided at this stage. I ran my own small business for almost 30 years. I had one full-time employee and two part-time employees so I know only too well about the need to keep costs down. I had to keep on top of things all of the time. I found myself working between  
60 50 and 60 hours a week, often over the whole seven days of the week.

I had to deal with all sorts of problems in those 30 years. Problems with staff, problems of getting materials, problems with works vehicles, problems with getting enough work to stay in business, problems with other contractors playing dirty tricks on me, saying one thing to my face and doing something completely different behind my back in an attempt to undercut me; problems with  
65 clients not paying their bills; problems with what we used to call the 'rollercoaster ride', the peaks and troughs of having so much work that you take on other employees to keep up and then have to reluctantly dispense of their services when you find yourself scratching around for work.

All of that and more is what you have to deal with when you run a small business, and you either accept it or you get out and go and work for somebody else. It took an awful lot of effort and  
70 commitment, and at times it could be incredibly stressful, especially when clients did not pay their bills and I took them to court. But once I had set up in business, I never wanted to work for anybody else. So whatever problem was thrown at me when I was running my own small business, I dealt with it. It was all part and parcel of running the business.

If I was still running a small business, I would like to think I would be safe in the knowledge that  
75 any adjustments I would be asked to make would be reasonable and proportionate. I think I would be safe in that knowledge, but I do not actually know. I might be really stressed out about it because I have no idea what 'reasonable and proportionate' means.

Some time ago, during a States' debate, I asked H.M. Comptroller for the legal definition of the word 'reasonable', and as I recall, he said in response, 'that which isn't excessive or extreme'. And at  
80 some stage during this debate, madam, I would like H.M. Comptroller or H.M. Procureur to please verify or clarify that, because I might be wrong and I think we do need to know what the legal definition of the word 'reasonable' is.

Of course, it could be said that the word 'extreme' is subjective, and I just want to cite an example of where I think it would be extreme. Because if an employer employing five employees operating  
85 from a three-storey building with no lift and not a single doorway wide enough to allow a wheelchair to pass through, in my view, it would be extreme to expect that employer to install a lift and widen every single doorway for them to be able to comply with the Ordinance. But would that be viewed as extreme in a court of law? (**Three Members:** Yes.) Once again, madam, I would like to hear H.M. Comptroller's or H.M. Procureur's view on that, please.

90 Just because an employer runs a small business does not mean that they are struggling to survive. I know some employers who run small businesses and their businesses are flourishing. But I also know some employers who run small businesses who are really struggling to stay in business. (*Interjection*) I very much appreciate that those are the businesses Deputies Blin and de Lisle are trying to protect, and as I said, I applaud them for that.

95 What I really need to hear one of my colleagues say in a speech is something that really nails the whole issue, to then enable me to make up my mind which way to vote. If I do end up voting against it, it will not have anything whatsoever to do with the psychological *bullying* that has been going on, because I have never given in to bullies, never will do – not even when I was at school and the school bully dislocated my shoulder because I would not submit. I deplore bullies and  
100 I deplore bullying.

So when it comes to time to vote, I will do what I have always done: I will look at both sides of the argument and make a judgement call on what I think is best for our community. Of course there

will be, as there always is, members of the community who will be really happy with the way I voted and there will be members of the community who will be really angry with the way I voted. And those are the ones who could probably harass me out in our community and insult and threaten me; may even put excrement on my doorstep, (*Interjection and laughter*) as somebody did recently on Deputy Oliver's doorstep, because of the way she voted on an issue. But my conscience will be clear. I would have voted for what I think is best for our community.

I think it is important, at this stage, madam, for me to point out that I have been surrounded by disability all of my life. Both of my parents were disabled. They were absolute heroes, as far as my two brothers and I were concerned. My father was born disabled. He was born with what was then referred to as a 'clubfoot'. His foot was turned inwards so he walked on his ankle, as opposed to his heel and the sole of his foot. He had to wear a leg iron when he was a boy and a special shoe when he became an adult, and he struggled to get through every single minute of the day. In fact, the first time I ever heard a grown man cry was when I heard my father crying because he was in so much pain. I was about four years old at the time.

My dear late mum was rendered disabled by a school bully who kicked her off the school swing when she was ten years old. The doctors said they thought she would have to have her leg amputated, but my grandparents said they would rather wait and see what happened as she grew older. What happened was, she did not lose her leg but she had a terrible limp for the rest of her life and the scars from the kick went all the way down the front of her shinbone. But she was grateful to have kept her leg despite the fact that every minute of the day was also a struggle for her, just like it was for my dad.

In my capacity as a complementary therapist, I have treated many a disabled person over the years. I have also worked in a care home here in the Island, caring for disabled Islanders, and also for a little while on the mainland. One of my dearest friends had a stroke several years ago and has been disabled ever since. My eldest brother has had not just one, but two strokes, as well as a heart attack in recent years. My younger brother has had a breakdown. And I am also one of the Island's disabled. I have two visible disabilities and four hidden disabilities, and I have to manage those disabilities every single minute of the day, just like every other disabled person has to do.

So I know only too well what a disabled person has to go through every day in order to survive, and I also know what somebody who runs a small business has to go through every day in order to survive. I have personal experience of both. For years now, the song I find myself singing at some stage every day is a song called 'I Will Survive'. It was a big hit for Gloria Gaynor back in the 1970s. In fact, it is the song that the gentleman sitting behind me in a wheelchair sung outside this very Chamber on Wednesday morning. Okay, he changed the lyrics a bit, but he was making a point and I have every admiration for him for doing that. For the benefit of Islanders listening on the radio, the gentleman I am referring to, of course, is Mr Aindre Reece-Sheerin, a long-time campaigner for the rights of disabled Islanders.

Moving towards a close, madam, this issue before us, as we all know, is an extremely serious and sensitive issue. As I have already said, I have personal experience of living with disability and also of running my own small business. As with every issue, we need to do our utmost to attain balance, so the way in which I vote will be the way in which I think we can attain that balance. Either way, I upset some and please others. I am the one who has been elected to make that judgement call. And to those Islanders out in our community who constantly criticise the States, I say, *you* stand as a candidate in the next election and let's see if you can do a better job than me if you get elected.

One thing I know I can take comfort from is the fact that neither Deputy Blin or Deputy de Lisle will take it personally, should I decide to vote against their amendment. Both of them are consummate professionals who realise the value of being professional at all times. We often have lunch together, and I am safe in the knowledge we will continue to do so, even if I do vote against their amendment. Every single one of us in this Assembly is doing what we think is best for the people of the Bailiwick.

Thank you, madam.



155 **The Deputy Bailiff:** Thank you, Deputy Queripel.  
Can I just first ask Deputies Gollop and Brouard, if you wish to be relevéd?

**Deputy Gollop:** Yes, thank you, Madam Deputy President.

160 **Deputy Brouard:** Please, madam.

**The Deputy Bailiff:** Thank you.

His Majesty's Procureur, Deputy Queripel posed you two questions; I do not know whether you want a little bit more time to consider them. The first was whether there was a definition of 'reasonable' and the second related to whether or not, and he posed a hypothetical scenario, in a three-storey building with no lift, an employer or the occupier of that building would be obliged to widen the doors and install a lift in order to accommodate somebody in a wheelchair. Would you like a little time to consider that?

170 **The Procureur:** Thank you, madam, but I can answer those now.

**The Deputy Bailiff:** Right, thank you.

**The Procureur:** Thank you.

175 So madam, in respect of the legal definition of 'reasonable adjustment', the draft Ordinance before Members deliberately does not define 'reasonable adjustment', and the reason it does that is because what is or is not a reasonable adjustment is a fact specific situation. So in essence, it depends upon the circumstances. Members may be thinking, 'That's quite frustrating. What exactly does that mean?' but by way of assistance, perhaps, there has been ... because this definition of reasonable adjustment is largely taken from the UK Equality Act 2010, which in turn is also influenced by EU case law which has been around for decades.

180 It will not assist those outside the room, but just by way of illustration, there has been this sort of length of case law on what does or does not constitute a reasonable adjustment – it is just a thick file of papers – because it very much relates to particular facts. But there has also been a bundle of guidance. There is a statutory code of practice in the UK published by the Equality and Human Rights Commission with detailed guidance on what is and is not a reasonable adjustment. There is also guidance from Acas, the union-related advisors in the UK, and I have spoken with officers of the Committee, I know that the Committee will be preparing similar guidance for Guernsey to cover what may or may not be a reasonable adjustment.

190 But just by way of illustration, the kind of factors that need to be taken into account in the guidance are questions such as is the reasonable adjustment practical; is it affordable; will it harm the health and safety of others; will it remove the disadvantage for the person with the disability? Those are the fundamental issues that the facts must turn on.

195 So as I said, there is a host of guidance and code of practice, and it is also worth bearing in mind that the duty will not arise unless the employer or the person concerned knows or ought reasonably to know that the individual is disabled and is likely to be placed at a disadvantage because of their disability. In the event of a dispute about what is or is not a reasonable adjustment, the matter would go to the Tribunal.

200 So it is a matter which very much depends on the facts of the case. For example, somebody with a reading disability might be given extra information in different format for them to look at; somebody with a physical disability, it might be a question of widening door premises. But there is deliberately not one definition of reasonable adjustment because it is so fact-specific. I hope that assists in some ways. If any Member wants to look at examples of cases, I am very happy to chat outside the Chamber later or discuss or show them those examples.

205 In relation to the particular question, number two, madam, that you helpfully summarised for me about the lift and the building, again, that very much depends on the facts of the case. As stated,

lift building, I would assume is very expensive. One might say that is a disproportionate and prohibitive expense for the employer, but if the employer is Google and has a huge sum of money, you might say that that could be proportionate and something that they could remedy. But it is very much related to the particular disadvantage that the individual says they are subject to as a result of their particular disability.

I hope that assists the Chamber, madam, but I am happy to take questions –

**The Deputy Bailiff:** Thank you, Madam Procureur.

Deputy Le Tocq.

**Deputy Le Tocq:** Thank you, Madam Deputy Bailiff.

I thank His Majesty's Procureur for that because I think that is very important information, which in fact, had that sort of information been available in the past at various other iterations of this.

Madam, I believe that this Assembly prides itself in being an ancient democratic assembly. I believe the majority of us would count ourselves as democrats. If democracy means anything, then it means that we do listen to all sides of debate and even minority views, or what might be considered or perceived as minority views. I hold what might be considered, perceived as, minority views on a number of issues and it is important, in a democracy, that we listen to those who hold such views and come to our conclusions having done so in an appropriate manner. So I think it is totally appropriate that we are debating this particular amendment.

Having said that, I am wanting to do so in order to put it to bed. In order to, I think, deal with the fears that have generated such views, and there are fears in our community. There are fears because, to a certain degree, Guernsey is entering into the unknown here. We have not had the sorts of legislation that is being proposed on our statute books before. But madam, I am also concerned because I ... in fact, I think I was sitting in this very seat nine years ago when I first initiated the Disability and Inclusion Strategy. At that time, we thought that it would take two to three, perhaps four years before we saw a law coming into effect.

I am exceedingly disappointed that we have let down Guernsey's disabled community particularly, and to some degree, that this legislation has been – I cannot think of a better term – hijacked by a number of other issues that have complicated matters. Because our community includes a number of disabled people who otherwise, if this had been in place, might now be able to help fulfil some of our employment crisis that we have got, which again is going to take a long time to deal with. And I know I have personal experience of people who have contacted me, or indeed in my own family, who would be able to have gainful employment in certain areas were there more reasonable – and I will come back to that point in a moment – approaches by employers. I am using that as an example because I think the fears are largely around that sort of issue and that is why this amendment is here.

I do not think you need to go very far in this world, to travel very far, to see other jurisdictions that have legislation similar to this, that apply to small businesses as well, and in some instances – in fact, in many instances – are more hard-bearing upon small businesses than our own. I was in Europe recently and in two particular countries I noticed that small businesses operating in the service industry – restaurants and the like – did not seem to have adjusted in the way that one might think that would be imposed upon them. And that is quite simply because it was not *reasonable* for them to do so because perhaps their turnover, their profits were not that big, or perhaps because the relationship with other things, like the landlord, were different, and I would not have known that. 'Reasonable' is the most important word here.

I think there is a lot of fear around that the legislation in front of us is going to impose *unreasonable*, heavy burdens upon small businesses. There is no evidence in countries that have had this legislation – and as His Majesty's Procureur said, some for decades – have had that sort of thing imposed upon them. In any case, with the Tribunal in place, there will be our own case law in due course.

I believe, madam, that it is important that this Assembly passes this legislation unamended, because we are at a stage now where, I think, the vast majority of employers, large and small, are already doing this. They already realise that this is the world we live in today, the culture has changed, and they want to do that because in fact it encourages employment, it encourages a good relationship with customers and with clients, and I think we have already heard today that because of the length of time that it has taken to come to this point, many of them have already put this sort of thing in place.

What we are dealing with is perhaps a very small number who are still in that position of being fearful because they do not understand or they are fearful of what the implications might be and think it might be too burdensome for them and they will go out of business. I really do not believe that is the case. At one point, many years ago, I might have done so, but I have seen the evidence for that, I have researched it, and that is why I felt very strongly nine years ago that we needed to initiate that. I give my apologies to the disabled community in Guernsey that we have not been able to do this quicker. I really do believe, madam, that we now need to press ahead and I will be supporting this unamended.

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

**Deputy de Lisle:** Thank you, madam.

This amendment is all about small business interests and I would like to make quite clear that *all* interests have to be debated in this place; interests of business besides the interests of carers and the disabled. This is fairly late in coming forward. We have heard that from different Members. The legislation on discrimination is something that, as Deputy Le Tocq was saying a moment ago, has taken quite a number of years. Other jurisdictions, though, have placed the legislation and have gone through the process with this law and there have been calls –

**Deputy Taylor:** Point of order, madam?

**The Deputy Bailiff:** What point of order do you have, Deputy Taylor?

**Deputy Taylor:** Rule 17(15), madam. I believe Deputy de Lisle is a small business owner (**Deputy de Lisle:** Yes.) with a shop in Town.

**Deputy de Lisle:** I was getting to that point and I do not need to be reminded –

**The Deputy Bailiff:** Deputy de Lisle –

**Deputy de Lisle:** Yes, thank you.

**The Deputy Bailiff:** – please address your comments through me.

Thank you, Deputy Taylor. I believe Deputy de Lisle is going to get to that, he has just indicated. Yes, Deputy de Lisle.

**Deputy de Lisle:** I was making the point a moment ago that there have been calls consistently by these other jurisdictions with respect to adjustments to be made for small business. Yes, I have interests in small business and I put those forward to the Assembly. But I have also been asked to speak for other Islanders running small businesses.

Adjustments have to be made; this is important. When we bring in new legislation, we have to look at that legislation in the round, we have to look at the implications that that legislation might have on the system as a whole. And we know that small businesses with five employees or fewer are small and in many cases unable to absorb the impact of these changes and costs. Therefore, we

have to be cognisant of that fact and we have to make adaptations within our legislation for that particular fact.

Deputy Blin was reminding everybody yesterday that in fact some jurisdictions have extended the time period for small business to make adaptations, to make adjustments. In fact, the UK, he said, made adjustments for quite a long period of time. As a result of that, (**A Member:** Point of ...) Deputy Blin did make the point that he had asked to have an extension of time with respect to small business. Some time has already been given for business – about a year – but he was asking for an additional year so that there would be two years for small business. That was rejected.

It is also important to stress, at the current time, not only that adjustments have been made in other jurisdictions for small business – in the UK, nine years, I think it was – but it is important also to stress that small businesses are working under difficult economic circumstances currently, and placing more challenges on them at this time is damaging and is going to detract from encouraging new business to enter and come in. Therefore, we have to be willing to consider small businesses and their interests.

The concern I have also is that the law may discourage employers from taking on employing disabled persons and that would be very unfortunate indeed. I would worry about that, particularly in terms of section 32 of the proposed Law, where there is a duty to make reasonable adjustments for disabled people. It is of concern to small businesses, whether you like it or not, it is there in their minds: 'a feature arising from the design or construction of a building', access/exit of an approach feature to a building. Avoiding any substantial disadvantage means removing the physical feature, altering it or providing a means of avoidance.

Although in section 33 I must say that there are amends to say that there is no contravention in circumstances where to do so would be a disproportionate burden to the employer. The question is what disproportionate means, because there are costs to adjustments to buildings, particularly where there are steps or stairs, entry issues. Small employers in 19th-century buildings could be caught up with excessive costs unless a very substantial grant from the Government is made to compensate for changes that have to be made.

Madam, it is reasonable to argue that it is unfair for a very small business with limited resources to have to operate under the exact same circumstances as a large organisation with greater resources. That point has been argued time and time again in other jurisdictions when this particular legislation has been brought forward.

I will not be entertaining ...

The requirement is to make reasonable adjustment, but that alone is subjective. What it means to one person may be very different to another's interpretation, and reasonable adjustment may lead a company to close its doors and new entrants deciding against entry; the larger company gaining control of the market share of the smaller. That has been a particular issue in Guernsey.

Madam, did we not put in competition legislation to avoid large companies monopolising sectors, swallowing up the weaker, smaller businesses by taking over controlling interest of sectors of the economy? We must guard against this law working against that embedded principle in our competition law. Proposing giving leverage to the larger and stronger, allowing discrimination activity to play amok in the marketplace and working against the Government's intention in competition law. Here we will have two Government laws, basically, working against one another instead of providing consistency in the Government's forward direction. In one, we are protecting small business employers; in the other, we might be very open to competition.

There has been some indication that small businesses have not come forward with their concerns, but a number of small businesses have written their concerns, even over this week, and I quote bits and pieces from the correspondence that some of them write. 'The cost of these measures make Guernsey unattractive to business', was the way one person put it. Another writes, 'As a small business, if we are required to alter our premises for staff and clients, by law, then there is every possibility that we would not be able to continue to function.'

Another states concern about the cost to small business of these measures in the Law, and another states, 'We simply do not see a problem at the moment and we are concerned about

excessive costs of implementation and possible penalties.' These comments have come through over this week, despite all the assurances provided by Deputy Roffey and his Department, small businesses worried of the consequences of implementation of the law. All that is being said here is that we need to consider that, consider those concerns, and to make adjustments, if we can, accordingly. It is not a big ask and it is an ask that has been prevalent in whatever jurisdictions this particular law has been introduced. So I ask for the indulgence of Members to consider adjustments be made for small business.

Thank you, madam.

**The Deputy Bailiff:** Thank you, Deputy de Lisle.  
Deputy Falla.

**Deputy Falla:** Thank you, madam.

There is nothing proportionate about this amendment. It is the saddest of amendments that pretty much rips the wheels off the legislation. It undermines the purpose and objectives of the law and, if successful, will debilitate anti-discrimination legislation to the point that it will hardly be worth having. Many Members who have spoken in debate have said that they want this law, so let's not dilute it at this late stage by accepting an amendment which one eminent third sector spokesman has said, 'drives at the heart of the new law'.

When the policy proposals were approved in July 2020, there was no call for businesses employing five or fewer employees to be exempt, nor has this ever been raised in the intervening period until very recently. I accept the views that were expressed to Members which have been referred to by Deputy de Lisle, but I personally have heard from no small businesses asking for this – none. There have been just three emails, to my recollection, to all States' Members – *three* – in support of it. It has come to a head at a very late stage and to some extent has the appearance of a wrecking amendment, excluding 65% of employers from being subject –

**Deputy Dyke:** A point of correction? The Confederation of –

**The Deputy Bailiff:** Deputy Dyke, (**Deputy Dyke:** Sorry, madam.) you do have to wait until I let you put your point of correction –

**Deputy Dyke:** Yes, I understand.

**The Deputy Bailiff:** – with your keenness. Anyway, what is your point of correction?

**Deputy Dyke:** My point of correction is that the CGI did write to Deputy Roffey in February of this year on this issue, amongst others.

Thank you.

**The Deputy Bailiff:** Thank you, Deputy Dyke.

**Deputy Falla:** An amendment that would exclude 65% of employers from being subject to the provisions of the legislation.

The Ordinance in respect of carers is not designed to catch employers out. Rather, it allows employers to make adjustments to help an employee to both work and carry out their role as an informal carer without the risk of being accused of positive discrimination, for example, by allowing flexible working hours to suit the needs of carers.

There are around 6,000 carers in Guernsey and many of them are also employees. They are a significant and important part of the Island's workforce and never more so than now that we have a staffing crisis. Carers deserve special consideration by their employer. In some ways, they are

doing two jobs: one at home and one at their place of work. And as a result, they are often extremely focused and very hardworking. Members of the States, they have to be. It is not a lifestyle choice.

415 I refer to a letter to all Deputies from Peter Harwood, the Chair of Carers Guernsey LBG, in which he states:

By seeking to exclude small business from any obligation to make reasonable and proportionate adjustments in support of those with carer status, the amendment drives at the heart of the new law.

He says:

The definition of small business, as used by Deputies Blin and de Lisle in their amendment, would exempt over 65% of employers in the Island from any obligations owed to carers. Carers already face huge difficulties in balancing their financial needs with the need to provide care and support to their loved ones. The lack of any meaningful financial support from the States of Guernsey means that carers need employment, but at the same time need to be assured that their employer is able to offer a degree of flexibility in their working hours in order to cover their caring obligations. It is the interests of the Island and the States of Guernsey to encourage and enable as many people as possible, including carers, into employment. Perversely, the amendment proposed by Deputies Blin and de Lisle, by allowing small businesses to discriminate against carers, will act as a deterrent to many carers from taking up employment with those small businesses that are the bedrock of the Guernsey economy. The Island needs to do all it can to support the band of between 4,000 and 6,000 informal unpaid carers in our community.

420 Madam, when it comes to reasonable adjustments, all we are asking is for a similar provision to that which exists in other jurisdictions, like Jersey, the Isle of Man, England, Scotland, Wales, the Republic of Ireland, where no business is exempt but the expectations that apply to large and small businesses are different. The size of a business would be taken into consideration by the Tribunal, which would note that small businesses often behave less formally than larger ones. The duty of the small business would also be informed by disproportionate burden, financial or otherwise, where less would be expected from a small business than from a larger organisation. So we are not asking for the same to be applied to all.

425 Most reasonable adjustments are actually procedural and do not involve financial lay out at all. And where they do, it is often relatively modest: perhaps a couple of hundred pounds. If the employer genuinely cannot afford that, then they can claim disproportionate burden.

430 Furthermore, an access to work scheme is to be made available to employees needing to fund adjustments where they are a disproportionate burden on their employer. In Jersey, such an access to work scheme began with a one-year pilot in 2018 with a budget of £100,000. This budget was based on the forecast of a minimum of 20 applications a year if funded to the capped amount of £5,000 for each grant. However, in its pilot year, only 12 applications were received, eight of which were approved. As such, since 2019 and to date, the budget has been set at £15,000 per annum.

435 Madam, while its intention might be seeking to support small businesses, I find this amendment to be somewhat patronising to such organisations. I know many businesses that fall into this category and I speak to them and to their employer representative organisations regularly. In my experience, the only disquiet they feel has been fuelled by scaremongering from those who, for whatever reason, do not wish to see this legislation come to fruition as intended.

440 Like Deputy Blin, I ran a small business. In fact, it celebrates its 26th birthday this very day – albeit in the hands of capable new owners. The small businesses I know are among the best employers you could meet. Small businesses have a can-do attitude. They are versatile, flexible, and fleet of foot, with a palpable human touch. They care about their staff and they go out of their way to look after them.

445 Members, please reject this ill-conceived and misplaced amendment, which seeks to pull the rug from under long-awaited and overdue legislation. Mrs Diane de Garis, President of the Chamber of Commerce, posted on social media in her own capacity this week:

We are civilised here in Guernsey and we need to catch up and have our own anti-discrimination legislation to prove it.

And she is a small business owner. Madam, I implore Members to vote in a civilised manner today and reject this amendment.

**The Deputy Bailiff:** Thank you.

450 Deputy Leadbeater.

**Deputy Leadbeater:** Thank you, madam.

455 Since leaving school at Easter in 1986 as a fresh-faced 15-year-old, I have either worked for and helped run my father's businesses or, for the last 20 years or so, run my own. Because of this association with small- and medium-sized businesses, my default position is always to consider any potential negative impact that any new legislation may have on the success and viability of local businesses as my starting point. That said, however, I am also one of the thousands of unpaid carers in the Bailiwick. But my association with caring does not go back as long as my association with business because I have only been caring for the last 24½ years.

460 So being involved with business for around 35 years and a carer for nearly 25 probably gives me a better understanding of both perspectives than most. And I will declare my interests in both now, madam, before I continue. (**The Deputy Bailiff:** Thank you.)

465 I am not simply going to bang on about my personal experiences, either as an employer, or indeed, as a carer for an adult with disabilities. But what I am going to do first is read out an email that all Members will have received from a local person living with disabilities. I have the author's permission to read this out and I will be careful not to reveal the author's identity.

The letter begins:

Good evening, Deputies. You will receive a lot of emails on this subject I'm sure, but I am hoping that you will read mine, which expresses my views, my point of view. Apologies for the length of the email. Life can change in an instant. In a split-second, you can become disabled through no fault of your own. I was just 16 years of age when a hit-and-run accident left me with a spinal cord injury, leading to my future life as a wheelchair user. In that moment, everything taken for granted was gone. I could no longer access my family home, my friends' homes, shops, my school, my youth club, etc. Upon returning to the Island after a long period of recuperation, I had no choice but to face these hurdles and many more. The Island has become more aware of the needs of disabled Islanders and those that care for them, but there is still so much that could be done. I still, all these years on, in 2022, have to consider every single personal or work invitation I receive and check that I can access the venue. Is there accessible toilets, is there accessible parking, etc. Believe me, there's a lot of reasonable changes that can be implemented with a bit of thought and not a huge amount of money. I'm not one to sit and count the things I can't do. I'm one who counts my blessings and gets on with things. But when the only cinema on-Island has two inaccessible screens out of four, when nearby Bailiwick Islands Herm, Sark, and Alderney are completely inaccessible to me, when a well-used Town concert hall on a steep hill refuses to allow blue badge parking, when a refurbishment of a local pub and restaurant takes place and access for all is not even a consideration in the refurb, when you're having to stay in hospital and the accessible bathroom isn't actually accessible – the list goes on – this is when you realise that things must change and that legislation is needed to support this. I feel judged on a daily basis and I'm sure many other Islanders feel the same, that they are not included, that they are made to feel different, from the people that outright stop and stare to the people who avoid conversation with me and talk to anyone else with me, but not me. The only way this will change is through educating others that discrimination is unacceptable. I'm not saying that, for instance, Castle Cornet should be accessible for all. Of course not. It's recognised that this is unreasonable and that the building was built hundreds of years ago. But where reasonable changes can be made, surely these should be supported? With regards to employment, opportunities need to be as equal as possible for all within reason. By supporting Amendment 8, you support a high amount of small businesses having no legal requirement to make any reasonable adjustments for someone like me. I might be the best candidate for the job, but there's no law to support me in requesting a parking space or a ramp or an accessible toilet. In an Island where we are struggling to fill jobs, surely we need to support everybody into employment wherever possible? Please do not support Amendment 8. As a voter, I voted some of you into our Government and request that you listen to the people that have been campaigning on behalf of people like myself, those Islanders currently being discriminated against for so long. Please do the right thing during this debate. I refer to my words above: disability can happen to anybody at any time. Let's work together to make a better place for everyone to live wherever possible.

**Three Members:** Hear, hear. (*Laughter*)

470 **Deputy Leadbeater:** Madam, like all Members, I have read all the correspondence we received from members of the public, business owners, etc., but that one really struck a chord with me. In discharging my duty as a carer, I have experienced and witnessed the kind of judging of those with disabilities by ignorant members of our society that the author of the email refers to and it is abhorrent, in my opinion. But it still happens in the Bailiwick in this day and age, believe me.

I do not know if these people are simply afraid to engage with those living with disabilities or that maybe they view themselves as somehow superior. I cannot say. But what I can say is it is my absolute opinion that living in Guernsey ... currently, more reasonable adjustments are made for people with dogs than there are for people living with disabilities.

I have no issue with dogs. My family had dogs most of my childhood. Some dog owners I have a problem with, but that is for another day. *(Laughter)* But many people living with disabilities are terrified of dogs, and these days it seems that every man and his dog has a dog. *(Laughter)* The restaurants that my son can enjoy are getting fewer and fewer because more and more are becoming dog-friendly. I have never seen a single restaurant or establishment advertise their premises as being 'people-friendly' – or should I say *all* people-friendly'. There is a section of our society today that cannot even go to a restaurant without wanting to take their little Shih Tzu with them and it is having the effect of squeezing people like my son out and away from enjoying eating out at nice restaurants or visiting their favourite places.

Madam Deputy Bailiff, the point I am making here is that in an attempt to satisfy some – in this case, dog owners – people living with disabilities consistently get overlooked and even further disadvantaged. We cannot continue to discriminate against people who have to live with disabilities. They do not *choose* it, they *have to* live with disabilities. And we cannot send the message that any further delay is acceptable. I urge Members to join me, someone with many years of lived experience in business and in caring. Join me in voting against this amendment and sending a clear message to those living with disabilities that we are with them, we are by their side, and we will fight for their rights.

I will end by repeating the final sentence of the message that we received that I read out just before, because I could not put it better: 'Let's work together to make a better place for everyone to live wherever possible.'

Thank you, madam.

**Several Members:** Hear, hear.

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

**Deputy Inder:** Deputy Bailiff, madam, I would like to move a guillotine motion, please.

**The Deputy Bailiff:** Those who wish to continue to debate this motion, please stand in – sorry, I phrased that wrong, I am terribly sorry. Those who still wish to put forward a view in this debate, please stand in their places. Deputy Inder, do you still wish to ...? *(Interjection by Deputy Inder)* Okay.

Those who support a motion to guillotine the debate on Amendment 8, indicate Pour; those against Contre.

*Members voted Contre.*

**Deputy Inder:** Close! *(Laughter)*

**The Deputy Bailiff:** We will continue with debate.  
Deputy de Sausmarez.

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

I certainly do not question either the right or the integrity of the proposer and seconder to lay this amendment, but I do again question whether it may perhaps be based on some misunderstandings.



When he opened in debate on this yesterday, Deputy Blin said something along the lines of, that we are not adopting well-established legislation from the UK or Jersey, and when he was interviewed on the BBC a few days ago, he said:

You have to take into consideration the fact that some of the changes we're undertaking here are kind of beyond other countries or islands.

525 And I think this is the first misunderstanding. Our proposed legislation does *not* go beyond other countries. There are equivalent provisions in all comparable jurisdictions, including the UK, Jersey and the Isle of Man. These provisions are absolutely standard. They *are* well-established and they *are* tried and tested. And the sky did not fall in for small businesses in those places when the legislation was introduced.

530 To be clear, and to correct the impression Deputy de Lisle might have inadvertently given a little earlier, the UK's Equality Act does not exempt and never has exempted smaller businesses or phased them in after larger employers. The policy in the Disability Discrimination Act that Deputy Blin referred to in his opening speech yesterday that exempted businesses of less than 20 employees was scrapped nine years after its introduction as it proved unnecessary and discriminatory and it was clear that it would never achieve equality of opportunity, which is what this is all about.

535 The DDA was replaced by the Equality Act in 2010 and that applies – and always has done – to all businesses, with the same safeguard embedded in it as ours: that we do not expect the same kind of adjustments from small businesses with few resources as we do from a large business, for example, with more resources, as very well explained by Deputy Falla just now.

540 The proposer and seconder's main concern seems primarily to be the impact on small businesses of reasonable adjustments and how reasonableness can be objectively determined. The answer is quite straightforward, I think: we need to look at whether the adjustment would be effective, whether it would be practical, and whether it would be affordable. If it is not practical, if it is not affordable, if it is in any way a disproportionate burden – as explained, again, by Deputy Falla – then it would not be considered reasonable and it would not be expected.

545 I am just going to very quickly share some real-life examples of reasonable adjustments that I heard when I attended a GDA meeting on Tuesday lunchtime, and these were given to us by local people here in Guernsey. Just so we are clear about what kind of reasonable adjustment is encompassed in that term. For an office worker with mobility issues, moving a desk five feet so that she did not have to weave through other desks to reach it. In a barber's, for a customer with a range of disabilities, including autism, offering to turn the music down and not engage in small talk. For a wheelchair user, a rubber-tipped pointer costing 25 p that enabled her to reach all of the lift buttons. Is it really reasonable to exempt 65% of our businesses from the duty to make such reasonable adjustments?

555 Deputy Blin in his opening speech argued that this 65% figure skewed the picture because it represents a lower proportion of the total workforce, but it is important to remember that this does not just relate to the workforce. For services, it relates to service users as well, so it actually impacts anyone who might want or need to access those services being provided by smaller businesses.

560 However, if the proposer's and seconder's concern relates primarily to the most costly physical alterations that could fall into 'reasonable adjustment', notwithstanding the aforementioned safeguards around reasonableness, there is already baked into this legislation a five-year delay on that requirement. Also, it is worth noting that this is on top of the effective year's delay from now before any employer is under any kind of requirement under this legislation, a reasonable adjustment that the Committee made to accommodate feedback from employer groups to give them more time to prepare.

565 In both his BBC interview and his opening speech, Deputy Blin has alluded to the idea that this exemption need not be permanent and that really what he is seeking is a delay of perhaps a couple of years. So I have two questions for him on this issue that I ask him to address when he replies to debate. First of all, if what he hoped to achieve through his amendment was a delay, rather than a permanent exemption, then why did he not draft the amendment to that effect? And secondly, if

570

he is satisfied with a delay, does he really believe that a five-year delay to the most material changes on top of the delay until October next year – this legislation coming into effect in the first place – does he believe that that delay is insufficient? If so, how much longer a delay does he think there should be? Does he not think that people with disabilities have been waiting long enough already?

575 There is one other important question that I hope he can answer when he replies to debate, and it is this. Why does he seek, through this amendment, to exempt small employers so far as relating to the protected ground of carer status? I just cannot understand the rationale at all. Under the legislation as drafted, no employer is under any specific duty to make reasonable adjustments for carers. The legislation simply gives them more protection to do so. So why include a clause in this  
580 amendment that removes them from the obligation to not directly discriminate or indirectly discriminate without good reason, or harass a person, on the grounds of carer status? I am at a loss and I would like to understand the reasoning – and I am sure the estimated 6,000 carers in the Island are also keen to hear an explanation.

I have now lost count of the number of Members making arguments in this debate as a whole  
585 in favour of weakening this legislation on grounds of our economic competitiveness. I said yesterday that I thought that was an odd argument to make, and we have heard some excellent reasons, such as those put forward by Deputy Bury, as to why this legislation in fact strengthens our position with respect to attracting the best talent in the Island. Deputy Leadbeater just now made exactly the same point when he was reading out that very moving letter – and I must commend him on an  
590 excellent speech. Nobody questions the need for high standards when it comes to issues like Moneyval or GDPR, so why would we not look at this kind of legislation through the same lens?

One of the next items of business that we are due to debate in this States' Meeting is an important policy letter being brought forward by P&R on future trade agreements. I am familiar through my E&I role of the need to comply with some baseline standards that relate to various  
595 different areas. So I asked our Director of International Relations and Constitutional Affairs for a steer on whether Amendment 8 could affect our position in this important respect. He replied as follows:

The States are about to be asked to join the CPTPP, the Trans-Pacific Partnership, which has the following labour standard:

"1. Each Party shall adopt and maintain in its statutes and regulations, and practices thereunder, the following rights as stated in the [International Labour Organization] Declaration:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour and, for the purposes of this Agreement, a prohibition on the worst forms of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

That is the key one.

With regard to the line that having lower standards helps employment from the regulator, which  
600 is a more general point than Amendment 8, CPTPP says this:

The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in each Party's labour laws.

So what message does it send out if we carve out small business from this? This is an agreement that covers goods and services and the trade with a significant proportion of the world's high-value, wealth-generating economies.

Further, the agreement with Japan, which we are in for goods but could extend to services, and  
605 is a valued trade partner already, would require the same:

The Parties reaffirm their obligations deriving from the [ILO] membership. The Parties further reaffirm their respective commitments with regard to the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up. Accordingly, the Parties shall respect, promote and realise in their laws, regulations and practices the internationally recognised principles concerning the fundamental rights at work, which are:

- (a) the freedom of association and the effective recognition of the right to collective bargaining;

- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

Plus, it requires parties not to lower standards to seek competitive advantage, and that:

... each Party shall strive to ensure that its laws, regulations and related policies provide high levels of environmental and labour protection and shall strive to continue to improve those laws and regulations and their underlying levels of protection.

Any trade agreement will have a similar provision. What does this suggest? If we want the protection from economic discrimination in the global economy, we need to maintain a high standard of protection in respect of employment and occupation in the domestic economy. Amendment 8 would undermine that in these important areas of protection. This is an area that we need for the agreements, and we are playing catch-up with the rest of developed economies.

The UN Convention on protection from discrimination also requires equal protection, as set out in Article 5:

In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

And finally, we should expect any back-tracking on the previously agreed extent of protection from discrimination to be questioned by the UN and the ILO as progress on the development of this Ordinance has been referenced by the States of Guernsey in numerous periodic reports over recent years.

I will remind Members that this is not my interpretation. This is the advice that I have been received from the Director of International Relations and Constitutional Affairs. So if for no other reason – and there are many other reasons to reject this amendment, but – I expect any Member who cares about our economic competitiveness in this very real respect to reject Amendment 8, and I hope P&R will lead the way on that.

Thank you.

**The Deputy Bailiff:** Deputy Le Tissier.

**Deputy Le Tissier:** Thank you, madam.

I know it is a cliché, but I really was not going to speak on this Amendment 8 until yesterday evening. I was willing to be persuaded by the arguments and I had no fixed view – and I still do not really have a fixed view. I am still willing to be persuaded. I am slightly on the side of supporting it, but that is not definite.

But before addressing the amendment, I would just like to say that I have become increasingly disturbed, as Deputy Queripel mentioned earlier, that the tone and the level of insults and prejudicial comments which have sent into my inbox by so-called 'keyboard warriors'. I find it is really ironic that those who preach tolerance do not think it applies to them (**Deputy Queripel:** Hear, hear.) when they are being rude and aggressive to Deputies.

I have been called an old, white male. Now, old, that is still legal at the moment until Phase 2, because that is age; but 'white', that would be covered; and 'male', that is another one – sex discrimination. And a 'gammon', would you believe? I have not googled it yet but I think it is probably not complimentary. (*Interjection*) Thank you.

Yesterday, and again today, Deputy Queripel told us that he had been subjected to much worse. Deputy Bury yesterday told us, I think what we knew, that being a Deputy was not a protected class of person. That is true. However, what Deputy Queripel said was that he had been attacked for his beliefs that he had held in past debates. As we voted in for Amendment 2, of course, beliefs are capable of being protected. So there is no argument, I think, that this is prejudice. Whilst of course age, strangely, is not one of the protected characteristics just yet, gender, race, and beliefs are.

As a slight digression, someone sent me some screen prints of a very prominent anti-discrimination campaigner who was caught out trying to defend age-based prejudicial comments about supporters of this amendment. This was only two or three days ago. I have those to refer to. So this is the context that I come to look at Amendment 8.

As I said, I am willing to be persuaded either way. However, I wanted to make some points. Firstly, I think it can be said that this legislation is disproportionately unfair on small firms. There is no getting around it: we are in very difficult economic times and they are probably going to get worse before they get better. This is especially true for small businesses that do not have huge reserves to see them through. Having to pay immediately for adjustments and compensation for hurt feelings and so on may well bankrupt them. And if they go bankrupt, of course, we are not going to get any more taxes, and we need taxes to pay for our services.

Obviously I would rather that no firm, whatever size, was allowing discrimination to take place. However, larger firms are more likely to be able to take financial hits, not only in compensation, but for things like legal costs, as some of these provisions will no doubt get tested through tribunals and ultimately the courts. The largest firms, the firms that ... I have never worked for a small firm, but I have worked for large firms, and I know large firms have HR departments and legal departments, and they are capable of navigating this new legislation in-house. But smaller firms of five and under will very highly likely have no HR or legal department, so they are going to have to consult with an advocate.

As Deputy Blin mentioned yesterday, I would rather have had some provision to suspend some parts of this legislation for smaller firms to allow them time to prepare and to let things settle in. I think a couple of years would be sufficient. Deputy de Sausmarez wanted to know why this amendment did not ask for a two-year delay. I think it is because ESS did not agree to consider a delay, it was all or nothing. Even at this late stage, I would urge them to consider this because I think a two-year delay, most of the supporters of the amendment would happily agree to.

So unfortunately, it means it is a binary choice. If we vote for Amendment 8, I think and I am confident that in very short order the States can introduce further provisions to delay this business applicability to five and under sooner rather than later. But it is not an ideal situation, having a binary choice.

So I do not know. Am I going to support the amendment or not, vote against it? I do not know yet. But I just wanted to say that what concerns me is that Deputy Blin detailed the headline figure which everyone quotes, this is 65% of businesses, and it has been bandied about in the media and on social media, actually translates to only 10% of the workforce. So it is not a huge number of people. This has given me some comfort, although obviously I would like to see protection from discrimination for all. But I do not want the rush into it to hurt the Guernsey economy, because we need to be protecting all sectors of the economy at these difficult times.

I am not going to go on much longer but I just wanted to say that, in closing, I want to congratulate Deputy Blin for bringing his first – I believe it is his first – amendment and continuing with it in the face of such opposition from some sectors of the public. For these reasons, I am minded to support it, but my mind has not been totally made up. So I am going to listen to the rest of the debate and come to a decision.

Thank you, madam.

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

**Deputy Prow:** Thank you, Madam Deputy Bailiff.

For me, there have been two stand-out speeches: yesterday of Deputy Aldwell and today of Deputy Leadbeater. And I think there is a measure of support for what I have just said because both drew a round of applause. I think those speeches were both balanced and from the heart. Deputy Leadbeater, this morning, has demonstrated that he has looked at both sides of the argument and he can see the view from both sides. So I thank them for those speeches, and

certainly, I think they reflect where my bottom-line thinking is around this and my support overall for discrimination legislation.

I am going to speak briefly and I am going to stick to the amendment as best I can. I also want to mention around the campaign to withdraw this amendment – and Deputy Queripel and others have raised this – and the manner in which that campaign to withdraw it was held. Much has been said and I am not going to add to that. But I would just like, perhaps, people to think around the fact that we are, happily, a democratic society.

We do not live in Russia, we do not live in China and the human rights records of those sorts of countries. We live in a democracy. This has already been referred to in a previous debate. Deputy St Pier said democracy is under threat; I agree with him. In an earlier debate, Deputy Le Tocq said there is a crisis in free speech, and I agree with him. A lesser-known philosopher, Voltaire, said, 'I do not agree with what you have to say, but I'll defend to the death your right to say it.' **(Two Members: Hear, hear.)** That, I think, is very important.

Turning specifically to Amendment 8, I also thank Deputy Blin and Deputy de Lisle for bringing this amendment. This is difficult, complex stuff, and it impacts upon business and it will impact upon small business. I did not enjoy so much the speech made by Deputy Falla, where he was talking about the amendment driving a coach and horses through the whole discrimination legislation. I do not think that is a fair comment. Having said that I am not going to support the amendment, I think I can safely point out that, as I understand it, the UK legislation had a nine-year moratorium, and if there had been ...

I will give way to Deputy de Sausmarez.

**The Deputy Bailiff:** Are you asking to be given way to, Deputy de Sausmarez?

**Deputy Prow:** Well, she was, she didn't stand up.

**Deputy de Sausmarez:** Yes, just to clarify, there was no such moratorium. I thought I had explained it when I spoke, but perhaps not.

**Deputy Prow:** Okay, as I understand it, the positions that related to small business was brought in in an incremental basis.

I give way to Deputy Roffey.

**The Deputy Bailiff:** Deputy Roffey.

**Deputy Roffey:** Thank you to Deputy Prow for giving way.

The UK's Equality Act was brought in, I think in 2010, and all businesses were included from day one. Although obviously with very different requirements, as has been explained, on small businesses, then on large ones, but there was no delayed application of the Equality Act to small firms.

**Deputy Prow:** Thank you. That is very useful and that is what I was alluding to.

I think it is absolutely right and proper for Deputy Blin and Deputy de Lisle, who have been listening to small businesses, to outline to this Assembly that there are implications for them, there are costs for them. I think what we need to be satisfied around this amendment, and the crux of it for me, is are we prepared to trust that the reasonable adjustments for small businesses are reasonable? Do we believe that the legislation as framed can properly discharge those reasonable adjustments? I think it is a proper and reasonable debate to have.

The only other point I think is worth mention is I agree with what Deputy Le Tocq has said around compliance with the Convention and the really woeful time that this has taken to bring it to this stage. But to be fair to Deputy Blin, that is not his fault. He has come into this Assembly and he has

put forward a view, a reasonable view, a reasonable argument why we should consider this, and I am very glad that we have been able to debate Amendment 8.

Thank you, madam.

**The Deputy Bailiff:** Thank you.

Deputy Gollop.

**Deputy Gollop:** Thank you.

We have gone down various, I will not say red herrings, but interesting. I listened carefully to Deputy Le Tissier and appreciated some of what he said. I would probably say we should not overdo the arguments about the so-called keyboard warriors, because in the vast majority of cases, the people who have contacted us or have put things on social media are not invisible. They are very much visible and they have been very much to the fore of the campaigns. The three letters somebody – I think Deputy Falla – mentioned that were for the amendment, as distinct from the many against, at least two were from people involved with bigger business than those under consideration.

I was intrigued by Deputy Le Tissier's definition of 'gammon'. It is a phrase that has been used about football managers and so on. It has been condemned as potentially a bit racist, but I think a lot of it is relatively anodyne. It defines those men of a certain age who are interested in politics, especially the political right, and have strong opinions and who rise to the occasion when they speak. I think in that sense, it could be seen as moderately positive, (*Laughter*) for certain kinds of people. (*Interjections*)

Deputy de Sausmarez made an excellent and well-researched speech as always, making very interesting arguments about ESG and the need, when we as an evolving community in international affairs make, not treaties, but agreements and free-trade agreements and mutual reciprocities, that actually we do need to be on the top deck of standards.

She could have mentioned actually another policy letter I do hope we will get to as soon as possible, very important from Deputy Prow and Home Affairs that His Majesty's Comptroller, probably His Majesty's Procureur, have contributed to about many changes, some of which are a little bit scary, but they are necessary for Moneyval and other reasons. But they are, in some cases, legislation that matches Jersey or the United Kingdom. In one case, they go further; they are cutting-edge. And that is an example of how, on one level, Guernsey realises it has legislation issues to fulfil and exceed expectations, and I think one can make the same argument for this.

I thought Deputy Le Tocq made an excellent speech, but like Deputy Aldwell yesterday, who made an outstanding speech which was really heartfelt as well, they both referred to the fact that we have had delays partly due to us bolting on other elements of equalities. Yes, that has made the process more onerous and led to a deeper Committee look and legislation, but I would argue that is only one aspect of the delay.

The real delay unfortunately occurred shortly after I was Disabled People's Champion – and it is good to see other people involved in that era around today – when the Policy Council politically were given responsibilities for this. And for some operational or other reasons, there were delays in appointments, delays with staff, and then we had a reshaping of Government and it all went to Employment & Social Security. Again, I would commend the then Deputy Michelle Le Clerc and Deputy McSwiggan especially for the work they did. But we did go through a year or two of reconsideration of what it meant. And I suppose I would admit that for the first year of that Committee, we were more interested in the income support reforms, which were very important as well. So that is the picture there.

'Reasonable' is what it says. It is not about disproportionate. And again, when we first approved this legislation in principle as a social model *nine years* ago, I was under the understanding from the in-house civil servant team I sat on, that there would be funds, perhaps up to £100,000, that would be available from the States to support small businesses. That fund is still there. It is being

worked on but it is a small amount. I think that kind of work, to assist and engage reasonable adjustment, is just what we need.

I have got the greatest respect for Deputy Blin, Deputy de Lisle, Deputy Meerveld and others, and people regularly see me lunching with them or combining on other amendments or issues or supporting their views on other issues. And I agree they have every right to bring this amendment. Where perhaps I am a bit more miffed is that it did come up at the earlier iteration of this a year ago or at the consultation phases. I would have been more sympathetic, especially if we had got to this part, say, in the last term rather than this term, to an amendment that gave a one-year or whatever delay for the smaller businesses. But that is not the amendment we got today, as Deputy de Sausmarez ... and that is why I wish to reject the amendment, amongst other reasons.

Deputy de Lisle made a point that there might be some disincentives to employ people with disabilities; I think Deputy Dyke made that. Well, I hope not, because Guernsey already has one of the lowest unemployment totals ever, virtually in the Western world. We know we need more productivity, we know we need to maximise the potential and opportunity of every person on the Island, as Education, Sport & Culture have said as part of their message as well, and therefore everybody should be given a chance.

But I would argue that the Deputy Blin–Deputy de Lisle amendment could have an unforeseen consequence of a reverse disincentive, because if the figure is set in stone for a while of five, then as soon as an organisation – could be a kiosk, could be a small carrier of taxis, could be anything – went to six employees, then that would immediately take them into a different category. So I actually think that would potentially confuse people and stifle ... disincentivise.

Therefore, I very much feel that we should reject this amendment today. I think my main line has come out of the past week of attending the Disability Alliance 15th birthday party, like Deputy de Sausmarez did, and many other events. There has been, very sadly, quite a feeling of devastation, upset, emotional distress, almost that of a wake, rather than a celebration. That has happened because of reactions to some of the amendments, some of the speeches, some of the mood music and a feeling that people are being let down.

As always, I appreciated the extraordinary honesty, candour, and sincerity of Deputy Queripel's speech. The fact he mentioned that close relatives of his were disabled and in pain and even were there because of bullying in a different era, certainly must make us think to really work on all those things.

But he also brought in a musical, song, poet, as he always does, 'I Will Survive'. But actually, the song of the week, for me, has been the Diana Ross classic, 1971 number one, 'I'm Still Waiting', because that has been the single reason, the most important reason, why an amendment like this that might have been tolerable 10 years ago or in the 1990s, when the John Major and the Tony Blair governments allowed delays before the Equality Act, this kind of thing, if we had progressed at an earlier stage, might have been okay. But as organisations have had nine-plus years to prepare, we need to very much acknowledge everybody should be included, everybody deserves a better future.

And however well-meaning the amendment is, to pass that and weaken, at least for a year or two or three or four, the legislation would devastate people who feel that for far too long States' Members and other opinion-formers and movers and shakers in society have not been inclusive, have not been listening, and have not been doing enough. So we really have to make a stand today and support the legislation as written, rather than the amendment, despite my sympathy for small business.

**The Deputy Bailiff:** Deputy Dyke.

**Deputy Dyke:** Thank you, madam.

I will start by thanking Deputies Blin and de Lisle for bringing this amendment and would echo my distaste for the nonsense that has been thrown at them on the inter-Twitter, which I do not follow too much myself. I do think that some of these people must lack a sense of irony: we are discussing legislation that centres around consideration, and yet, at the same time, they throw

vituperation at two Deputies who are here to serve them, two of the nicest, most hardworking Deputies in the States here.

855 I have listened carefully to the great speeches that Deputy Aldwell, Deputy Leadbeater, and Deputy Queripel has made, taking us through the experiences they have had very eloquently, and I am glad they have managed to blow through them to be able to serve this Assembly as well as they do.

860 Before I go on to this amendment proper, Deputy de Sausmarez has just said something that I knew was coming eventually and scares me to death, to the effect that, because of this or this or that international treaty, on a point of detail, like the one we are discussing now, we must vote in a certain way. I knew this was coming. It is the most horrific wedge in the door to the end of this country's democracy. My point is, we must be incredibly careful as to what international treaties we sign up to before we end the power of our people to decide anything. We will come to this States  
865 being told, 'You must vote for this, you must vote for that, there's no choice' we might as well not be here. And they might as well not vote for anything. It is very scary. I just wanted to put that pointer down, although it is slightly off-point.

Back to this amendment. A few Deputies have made the point that it is perfectly right and proper for this amendment to be brought; obviously it is. I wonder if it is perfectly right and proper to vote  
870 in favour of it, if that is permissible. But before I go on, I have a sense that there might be a sensible compromise here which his seconder might consider. I think it is in their mind that this delay would only be for a period of two years. Is there any possibility – and I think I need the Bailiff or the Procureur to help me out –

875 **The Deputy Bailiff:** I am afraid you have only got the *Deputy* Bailiff today, Deputy Dyke.

**Deputy Dyke:** Oh sorry, Madam Deputy Bailiff, I have promoted you. (*Laughter*) Would it be possible to consider another amendment which is the same as this one but with the fixed two-year cut-off, which I think is what Deputy Blin intended but did not get drafted? Would that make sense  
880 to anyone?

**The Deputy Bailiff:** Deputy Dyke, it is a debate at the moment, so if you want to discuss this afterwards with Deputy Blin or ... but at the moment, you are just debating this amendment. That is what is 'on the books', so focus on that.  
885

**Deputy Dyke:** Yes. Okay. Thank you.

On the subject matter, there has been a lot of misinformation and confusion about it, in particular as to how much it affects and the number of employees it would affect – approximately 10% of the employees in the Island, not 63%.

890 To go back to the point of this relatively ... I am surprised it is so controversial, to be honest. The concerns expressed by a number of small businesses, which we have now seen, and by the CGI, is not so much the drafting of the Law, but how it applies in practice. Obviously it is full of reasonableness and proportionality, and that is fine. But you always get the difficult case or the difficult employee who brings an unmeritorious case, and to deal with it, you will have to engage  
895 lawyers, you will have to fight it out in the Tribunal, possibly the Court, lawyers costing – I am reliably informed in this area – around £650 an hour. So the sums add up massively for small businesses.

This is not an amendment designed to drive a coach and horses through the Ordinance at all. It is an amendment to try to even things up a bit for very small businesses that are not really able to cope with this sort of thing. Most people out there cannot read all this stuff or understand it; there  
900 are probably some Deputies as well who are confused by it all, it is hundreds of pages. That is probably why they have been quite slow off the mark in dealing with it and getting back to us and making comments. Although, as I did mention, the CGI raised the point a long time ago.

So what is happening now? Why is there this screaming need immediately to impose the great weight of this Law immediately on the smallest firms in such a way that could quite possibly crush



905 them? And what is the evidence of the need for that? What is the evidence that they are discriminating? We have already discussed the fact that we have a crisis in employment in terms of there being no one available to be employed.

So nobody is going to have an incentive to discriminate. All of the small businesses will want to try to keep their staff happy, engaged, and to keep them on board. That is basic humanity in an area where you have got an employer and possibly two or three employees. You are not going to treat them roughly. I have been an employer myself, 40 years ago. I personally treated myself very well – *staff* very well (*Laughter*) – and myself! Oh, God! (*Laughter*) No, I am in the habit of treating my staff very well and I think most people are. (**A Member:** Hear, hear.) You do not discriminate.

I think I am one of the few Deputies that actually attended ... in fact, when I was there, I do not know whether they put on another presentation, there are ladies already who I met at the information centre at an office there putting on a presentation as to making reasonable adjustments and the process that they go through with companies and employers already in the Island, are already doing this. So people are mindful of doing it. They seem perfectly reasonable and the system seems to be working. What Deputy Blin is suggesting, and I think his basic intention, is that there should be a delay for two years instead of one year, which I would support. And if we cannot do a different amendment, then we can come back in a year and change it back.

Could I speak also to unintended consequences of this? As well as threatening small businesses and putting them relatively at a disadvantage to bigger businesses ... and we have seen this in the finance sector: the great flurry of regulation that the finance sector has been put under has closed many of the smaller businesses. They have been absorbed into the bigger ones. Your choice goes. You have fewer financial services companies to choose from because the smaller ones have given up and sold out. That has happened across the board in the finance sector and it could have the same effect here in the more general business sector.

Unintended consequences. I think we are seeing them in the context of another Law, the Consumer Credit Law which has just been passed, which regulates the provision – it is not directly relevant to this, but the point is – of consumer credit if you are buying a car or your three-piece suite and various other things. The effect it seems to be having is that providers of consumer credit are pulling out of the market. It is going to be something for Economic Development to look at.

So that is an unintended consequence: you go into a Law intending to help in the consumer credit area, and what do you do? You may help a bit, but then you reduce the choice of providers, which inevitably puts up costs. So at the end of the day, for those people in Guernsey who need consumer credit and want consumer credit for whatever they are buying, they may well now be paying higher interest rates than they otherwise would do because of this legislation. That is something to be looked at, it is an unintended consequence.

The unintended consequence here – and others have alluded to it – is that if you have got a very small business with a couple of staff, you are going to be very nervous about employing disabled people and carers in circumstances where the Law bears down on you in this area, whereas you are probably less nervous with the Law as it is, and yet still inclined to make reasonable adjustments. Because reasonable people always make reasonable adjustments; it is just what we do.

So I do think we need to be rather careful with this and not criticise people who worry about this area, because small businessmen are part of our community and their *employees* are part of our community; we do not want to lose their jobs. We want them to flourish, we want them not to discriminate and to bring people on board. But I think the proposal of Deputy Blin, with the gloss of putting a termination of two years at the end of it, is perfectly reasonable and it does not make you a bad person to agree with that.

Thank you.

**The Deputy Bailiff:** Deputy Soulsby.

955 **Deputy Soulsby:** Just before I start, I just declare having an interest in businesses which would be affected by this amendment; I purposefully did not say 'benefit' because I think that would not be the appropriate word.

I think it is a shame, madam, Deputy Gollop is not here, but I thought he was really on form. He has been really on form over the last few days, the comments he has been making and I was just thinking about Deputy Gollop because he does like to talk about history a lot, because he has been in the States a long time and he knows a lot of what going on. Excellent: Deputy Gollop has arrived, and I am pleased to see him there. He is a font of huge knowledge of what has gone on in the States and does like to give us a history. But I thought I would take a leaf out of his book, very briefly, to do the same today.

965 I would like to take Members back to 2013. That was the year Nelson Mandela died and Prince George was born, Alex Ferguson retired and Andy Murray won Wimbledon. That year, the previous-but-one States, the so-called 'Sarnian Spring States', agreed in principle to the enactment of legislation under the Prevention of Discrimination Law to prevent discrimination against disabled people and carers and provide equality of opportunity. As part of the same policy letter, it directed the then Policy Council to seek the extension of the UN Convention on the Rights of People with Disabilities to Guernsey at the *earliest* opportunity. Neither have yet happened.

970 I remember that debate well. We had a packed gallery, like we have had this week. When he spoke, Deputy Le Tocq did not say much about his contribution then, but I do remember it. As the then Deputy Chief Minister, he opened debate, and I remember him talking about not just inflexible ways of doing things, but inflexible ways of thinking. Members at the time were all effusive with praise about the policy letter. More than one Member mentioned how it was a fine example of Government and the third sector working together – a big pat on the back. But I do not think everyone heard everything that was said. He said:

This is a far-reaching Strategy that will affect everyone in the Island – all employees, employers, every organisation and every provider of goods and services, including all States Departments.

He went on to say:

... we do not want a copy of UK legislation. We want something that is straightforward, pragmatic and proportionate to the Island's needs. It is intended that this will be based on the principle of reasonable adjustment and which balances the need of the disabled person with the resources of the business or organisation concerned.

980 So it is very clear, nearly 10 years ago, what was expected. It was always about legislation for all disabled people and carers, not just those working for organisations above a certain size. Legislation makes it clear to everyone what is expected. If we say only big organisations are subject to the Law, then what message is that giving out? Legislation is about changing attitudes so it is never used. Deputy Queripel at the time – and sadly, he is not in the room to hear, hopefully, he can hear it on his radio – commented about concerns over small business but said he was reassured by the fact sheets provided at the time. There is nothing that has changed materially in those intervening years.

985 I am all for supporting small business. It was one of the reasons why I stood for election 10 years ago and I have championed them in this place. I am concerned that we have Laws which place burdens on small businesses which have a disproportionate impact compared to larger organisations who have the resources to manage the red tape. However, when it comes to discrimination and how we treat people, I do not believe anyone should be considered above the law. And unlike other legislation, this Ordinance actually deals with proportionality in the form of reasonable adjustments. It is because of that I do not understand this amendment.

990 Picking up Deputy Blin's opening speech, he says the legislation is unprecedented, but that is not true! Guernsey is far behind other so-called advanced nations by not having this legislation. And I have to say I was confused by his opening speech where he talked about delaying for two years. That is nothing to do with this amendment. It is all or nothing. And like Deputy de Sausmarez, I do not understand why, if that was his intention, it is not in this amendment. But actually, even if it was, it makes no difference to what it will do. I will go further on that in a minute.

1000 I would just like to cover Deputy Dyke there, who says there are cases that may result in lawyers getting involved and very expensive, and we hear there are cases that get to court. But I would say, as of the well-worn phrase, hard cases make bad laws. I think that is a point: we hear all these bad cases to stop us doing things, but actually, this is legislation that will help the vast majority of people.

1005 I would just like to pick up on a comment made by Deputy Bury yesterday on an earlier amendment. The debate we have had is bad it is for people running small business; it will make them less competitive. But this really is nonsensical. Basically, the impact of this amendment is to tell disabled people, 'You're a headache. You're not really up to the job. You'll cause us problems. You're not like us, you're *other*.' That is the message that will go out if this amendment is passed. People with a disability are not 'them', they are 'us', whether born with a disability or becoming disabled for whatever reason.

1010 Any business worth its salt will want to embrace those with a disability because we have a workforce full of talent we are not embracing. At the same time, we are struggling to recruit across the economy. Why on Earth would we not want to do something about that? Why would we not want to do what we can to help people to get into the workplace when they are capable of doing the work? More than capable, probably.

1015 We are told countless times we have an ageing population. Apparently, we need a 300 net migration because of this. But we are not doing enough to help Islanders of working age get into the workplace or lead productive lives *at* their workplace. Deputy Le Tissier says it could cause small businesses to go bankrupt. Well, they may not be able to operate at all if they cannot get the staff they need, which is why the idea of having a year's or two's delay makes no sense either.

1020 Anything that helps change attitudes and supports people into work is a good thing at the best of times, but at this place and this time, it is absolutely essential, both for those with a disability or a carer, employer, or society as a whole. But fine words butter no parsnips – and that was something Deputy Harwood, who was the then Chief Minister, said during that debate in 2013. There was huge applause at the end of that debate, but after nearly nine years, only today is that legislation being brought here.

1025 But it has got here through hard work, research, and consultation. Changes were made to the proposals over that time after listening to individuals, organisations and businesses big and small. There cannot be a piece of legislation that has had such work put in over such a long time. I know the amount of time and effort put in by then Deputies McSwiggan and Le Clerc at the time. It was exhausting. But ESS then and now have listened. As Deputy Roffey said in his opening speech, changes have been made, compromises have been made. That is democracy. It is about working together and reaching consensus.

1030 This is a wrecking amendment and needs to be consigned to history today. By rejecting it, we are sending a message, both within the Island and internationally, that we are a grown-up community, an inclusive community, and a community open for business. For our community, please reject this amendment.

**The Deputy Bailiff:** Deputy Meerveld.

1040 **Deputy Meerveld:** Thank you, madam.

1045 I have not written a speech for this amendment because I struggled with how I was going to approach it. I was originally going to write quite a technical speech addressing each of the issues and trying to explain the justifications for it being approved. But instead, I have decided to discuss something much more personal, something that I have only started admitting in the last few years, actually, since being a Deputy, about some of the difficulties I have faced, because it is pertinent to this debate.

1050 I have received, as I know Deputy Blin and Deputy de Lisle have, a number of quite hateful emails over the last week or so, prompted by what I described as a harassing and intimidating campaign by some of the lobby groups behind this legislation. One of the more mild accusations in those emails directed at us was, taking Deputy Soulsby's point, the 'them and us' approach. Apparently,

I was the 'them' and did not understand the 'us'. I was accused of not understanding how people with disabilities struggle in life and how they face discrimination. The facts could not be further from the truth.

1055 I am severely dyslexic, something I have told Members on a number of occasions. I also suffer from prosopagnosia. My dyslexia was such that I was in, back in the days of streaming at Hautes Capelles, the lowest class. I could not read and write. I faced sitting the 11-plus, where I could write my name at the top and the only questions I could fill in were mathematical questions that included numbers but no words. So 'If you take the train that takes 20 minutes to get ...' I could not read that.

1060 I was put in the d stream of St Sampson's School and I was excluded from History, Geography, and ... there is one more. Anyway, I was excluded from three lessons I would love to have taken because I was not considered intelligent enough to do so and I used to be sent out to weed the garden, the flowerbeds of the school during those lesson periods, along with my classmates.

1065 I tried to sit my English O-level – 'GCSE', these days – three times; I failed it three times. To this day, I suffer severe stress if I have to fill in the simplest forms because it reminds me of the feelings I had when sitting exams, desperate to perform but unable to ever achieve the results I should have been capable of. Remembering every school report where, basically, you could summarise the comments from each of my teachers in one of two classifications. 'Carl's not clever enough to achieve any better than this. This all you can expect of him.' That came from the teachers who really were not interested in me. I had been put on the discard pile because I was not capable of passing exams.

1070 Ironically, the teachers who did care about me, did pay attention to me, and realised I was more intelligent than was being indicated by the exam results potentially put down comments that were even more hurtful. Their comments were 'Carl's capable of much more, you should push him harder. He's being lazy.' And that was what I suffered throughout my education.

Despite that – or maybe because of it – I came out fighting to prove myself. I went into the finance industry, luckily got a job – because in London, I would not have been accepted without a GCSE in English. But luckily got in and proved myself through hard work, working harder than other people, and some ability.

1080 I eventually moved out to Asia, where I got recognised as a world-leading expert in my field, working in Hong Kong, Singapore, New York, but still faced prejudice. When I applied for a job with a major bank, a senior position, I was told, 'How can we employ you? You don't have a degree' because I left school at 17, because I could not pass exams – not at least to the level I should be able to.

1085 In Japan, I remember one of the largest stockbroking companies, their American operation recommended me for a job, a senior management position in Tokyo. I went in to see their Japanese board of directors and they said, 'Why do you think you can come here and manage Japanese staff? You're not Japanese.' I was told not to bother applying for certain positions in Hong Kong because I was not Chinese.

1090 When I was second-in-charge of Standard Chartered Bank's investment services operations worldwide and moved into Singapore to help set up that operation from their global headquarters, Standard Chartered Bank had to apply for a work permit for me *three* times, it being rejected the first two times on the basis that, 'He hasn't got a degree, why wouldn't you employ a local with a degree? How can he do a job that they can't?' And they had to go back with evidence to prove that I was an expert in my field and justified a work permit.

1095 I leave it to those who have said that I do not understand discrimination or overcoming disabilities to contemplate how hard it is to rise in the finance industry and become recognised as a world-leading expert in Hong Kong and New York whilst battling against both a hidden disability and prejudice over race and discrimination on that basis.

1100 Prosopagnosia – people may not recognise that. That is face blindness. I cannot remember names and faces. I will get to know people. If I know them in a context, I will get to know them and I will recognise them in that context. So in the most recent election, one of the security guards in this building put a comment on social media about the fact that he would not vote for me because

I did not acknowledge him when he was walking into work, although I passed him on the street. I responded and explained I would recognise him if he was wearing his uniform and standing at his usual position, but I could walk past him on the street and not recognise him.

I can know people for years but I am used to seeing them in a suit in an office. They walk passed me on the street in casual clothes, I will not recognise them. It is a horrendous disability that causes me incredible embarrassment and is a massive, obviously, negative for a politician because people think I am snubbing them when I just do not recognise them. They will come up and talk to me and I will go, 'Where do I know them from?' and I will struggle to try and remember the context. The classic, I think, was the 2016 election, when I stood as a candidate –

**Deputy St Pier:** Madam, point of order?

**The Deputy Bailiff:** Yes, Deputy St Pier.

**Deputy St Pier:** Yes, Rule 17(6), relevance to the matter before us. It really is very interesting but is not relevant to the amendment. If it could be more targeted, it would be appreciated.

**The Deputy Bailiff:** Deputy St Pier, whilst I do have some sympathy, we have given a number of Deputies quite a wide discretion to talk about their challenges in life and some might say they were not particularly relevant to this actual amendment, so I am going to allow Deputy Meerveld to continue, with the understanding that we are going to get to the point –

**Deputy Meerveld:** I am bringing it back very firmly to the amendment shortly.

Yes, as a candidate in the 2016 election, there was a gathering of candidates. A very kind woman, an existing Deputy, came over to me and starting explaining to me what it was to be a Deputy and wishing me well with my campaign and everything else. And at the end of the conversation, I said, 'Thank you very much. Sorry, who are you?' Of course, that was former Deputy Mary Lowe. And despite the fact I would have been seeing her face on the TV and in media for years, I did not recognise her meeting her in person because of prosopagnosia. So it is very hurtful to be accused of not understanding the struggles that people with disabilities or facing discrimination have because I have done both.

So then the question arises – and this is where I bring it back into context – why am I supporting this amendment? Because I am supporting it. It comes back to our roles as Deputies. We are here to represent our entire community, to raise the concerns brought to us by them and if we think they are sufficient, to bring them to this Assembly. Small companies and organisations have approached me. Apparently, they have not approached all Deputies. Potentially, they are approaching the ones that they think are more likely to hear their issues.

The lobby groups behind supporting this Ordinance and opposing this amendment demanded to know who they were. 'Give us their names!' I can know now very well why they did not want their names given or did not want to approach those organisations directly, considering the harassment and intimidation that I have received, simply for doing my job as President of SACC and helping people co-ordinate their amendments, which I have done on virtually every debate since I got elected as President of SACC. So I can understand why they would not want to raise their heads above the parapet, considering the bricks that have been thrown at myself, Deputy Blin and Deputy de Lisle.

But I am supporting this amendment because this is a very complex piece of legislation. It has been a long time in the making. It has morphed from something fairly simple proposed in 2003, to something all-encompassing now. It borrows sections and principles, not from one jurisdiction that we could mirror, but from multiple jurisdictions, as has been admitted. This legislation is not mirrored anywhere else in the world.

So whilst other jurisdictions have precedent that we can draw from, we do not have precedent in Guernsey; nothing has been based on this Ordinance. And also, our local precedent might be

influenced by that in other jurisdictions but is down to how our local Tribunal, in whatever form it takes, ends up, with whatever members it has ... it decides to interpret this legislation. I suspect, despite the fact that 65% of companies will be affected – as Deputy Blin has pointed out, that is only 9% of employees – the Tribunal will not be populated by members that are 65% drawn from management or employees at small companies.

So there are concerns out there. Those concerns have been raised, maybe not with all Deputies, but certainly with selected Deputies. Those Deputies, Deputy Blin and Deputy de Lisle, are to be commended for facing the onslaught and bringing these things to the Assembly, should and could and can be raised in this Assembly and should never face threats to withdraw – ‘You’re not even allowed to discuss something if you do not agree with us’ type of attitude. No, I support this.

I was part of the conversation with Deputy Blin offering to ESS, ‘If you will allow a two-year delay’ or effectively a one-year delay from large companies ‘we will withdraw this amendment.’ The intention has only ever been to obtain a short delay, it was never anticipated to be long. The fact that the amendment was not worded that way is possibly because the amendment was not expressed in the right way to the Law Officers or was not expressed when it was drafting. But that was always the intent and was made very clear in the conversations with ESS. The fact that ESS declined to accept that, what I consider to be an eminently reasonable compromise, now brings us to having to vote on this amendment as it is, which I will do. And I suspect it will lose, but, as Deputy Prow pointed out, I will fight to death for the right for it to be debated.

Thank you.

**The Deputy Bailiff:** Deputy Burford.

**Deputy Burford:** Thank you, madam.

I believe Deputy Blin has laid this amendment in good faith, but I am not entirely convinced that he has taken into account or correctly assessed all of the issues. Deputy Blin is fearful of too heavy a burden being placed on small businesses, but the legislation already fully anticipates this in section 32(6), where it says that discrimination does not occur if there would be a disproportionate burden placed on the business.

I do not agree with the calls that were made for this amendment to be withdrawn. It is a legitimate secondary Proposition and I do not think it is right to try and stifle debate, a point of view that will have been obvious from my speech on Amendment 2. And although I consider the H8TE hashtag to have been an error by some campaigners, it was withdrawn as soon as it was pointed out to them that it could have been misinterpreted. In truth, I think it was entirely clear that it was directed firmly at the amendment itself and not at the proposer or seconder or, indeed, the new-to-me role of amendment co-ordinator on my left.

However, on the matter of what campaigning tactics are acceptable, there is a large part of our community who, due to circumstances often beyond their control, find life quite a bit harder than others might and they have been waiting at least nine years – longer, in truth – for their elected representatives to enact some very reasonable and modest measures which at no great cost, expense, or inconvenience to others, would make their lives better. And with the clock hands having reached one minute to midnight, all of a sudden there was a risk of so much of it slipping through their fingers again.

I can imagine the crushing disappointment and I can understand that they wanted to deploy all legitimate means at their disposal to avoid that happening. In their shoes, Members, wouldn’t you? We need this debate to examine the effects that the carrying of this amendment would have on Islanders with disabilities and carers here in our own community and we also need to bust the myth that this legislation is bad for small business.

I am also highly perplexed by Deputy Blin’s claim that he is only proposing a temporary change – a touch of can-kicking, if you will – despite there being absolutely no mention whatsoever of this in his amendment or even in the explanatory note. To be fair, it would certainly fit in with what we have been advised about Deputy Meerveld’s role, for, from past experience, whenever anything

arrives in this Assembly that relates to a sursis or other delay, there is an odds-on chance that Deputy Meerveld has been somehow involved.

1210 It really is quite extraordinary that Deputy Blin seems to think that the Committee would simply come back with the same proposals in a year or two in the absence of any formal direction from this Assembly so to do. And even if they did, all the same arguments would be raised by the proponents of this amendment because we would still have no evidence of how the Law was affecting small businesses with five or fewer employees, because no small business with five or  
1215 fewer employees would have had to be bound by it in the interim. It would just be another opportunity for more can-kicking.

Let's wind back to 2013, which seems a world away from today. That year, the States debated the Disability and Inclusion Strategy. In the lead-up to that debate, Aindre Reece-Sheerin arranged for Members of the Assembly to attempt to take a trip up the high street in a wheelchair, putting  
1220 oneself in another's position. Of course, metaphorically being in someone else's shoes for 15 minutes cannot convey how it is to live that person's life day in, day out. But it can give a glimpse, and in that particular moment, I am sure, make one feel extremely grateful when back on one's feet, strolling effortlessly past Creaseys.

I have quoted the late, great philosopher John Rawls twice before in the States Assembly and it  
1225 is fitting to make it a hat trick today. It was John Rawls who coined the thought experiment known as the 'original position'. The thought experiment is about how we should structure society, a heavy responsibility that in part falls to Members of this Assembly.

In the original position, people are asked to consider which principles they would select for the basic structure of society, but they must select them as if they had no knowledge ahead of time of  
1230 what position they personally would end up having in that society. In other words, this choice is made from behind a 'veil of ignorance' as to their future position, which prevents them from knowing their ethnicity, social status, sex, physical ability, wealth, and crucially, in Rawls' formulation, theirs or anyone else's idea of how to lead a good life. Ideally, this would force participants to select principles impartially and rationally, leading to a just and fair outcome for all.

1235 I would ask Members to consider how they would vote to set up society if they did not know where they would end up in it. Perhaps one might end up with limited vision or with significant caring responsibilities or with mobility issues. None of those things of themselves would make one any less desirous of getting a job or availing oneself of a service, but they would make it more difficult, and just a little adjustment from others could make all the difference in the world. In my  
1240 view, it is part of our responsibility as elected Members to make life fairer for members of this community to the extent that we can, and that is the essence of this legislation.

To finish, I would like to relate a short story which might not seem relevant to start with, but please, bear with me. When my son was quite little, he developed an overwhelming dislike of being in a car seat, fighting and screaming whenever I tried to put him in the car to the point where  
1245 I started to go out only when absolutely necessary.

To overcome this phase, one sunny day, I decided to take the bus from near my house to the beach with him. I had not used the bus in years, but it was a revelation. No packing up the buggy and wrestling it into the car and out at the other end. No child screaming at the top of their lungs. No having to find a parking space at the destination, and no sand in the car – the list went on. From  
1250 that day, we became regular bus users. The relevance of this story is that without a significant trigger – in my case, an extremely disgruntled child – I would never have tried the alternative. I would have said if asked, 'It won't work for me. It won't fit in with how I do things.'

Many Deputies will, I am sure, make the point that any small business wanting to adopt the reasonable adjustment measures of the legislation can do so without the legislation having to be  
1255 in place. And they are not wrong in saying that; it is clearly unarguable. However, there will be many other small businesses who do not adopt such measures for exactly the same reasons that I did not take the bus: they do not think it will work for them or they think it will all be too difficult, so best stick to the *status quo*.

1260 While it is not our role in this Assembly to base our votes purely on the number of emails we have had for each side of the argument, I wanted to mention that I got into a discussion with the sender of one of the vanishingly small number of emails we have had in support of this amendment, and that person subsequently, and graciously, admitted that he had not actually understood what it was about.

1265 We have got the population review coming up. It is being driven in large part by the fact that we do not have enough people to fulfil all the job vacancies that exist in this Island, and surely, before growing the population, with all the attendant pressures on housing, traffic, schools, services, we need to maximise the employment potential of the people who are already here, and that includes a large number of people with disabilities and people who have caring responsibilities. And requiring businesses to make reasonable, proportionate adjustments for these members of our  
1270 community will significantly enhance the employment opportunities and economy of this Island without being detrimental in any way to the business.

So that is why this part of the legislation is so vital and that is why we cannot just rely on a handful of small businesses to take it up voluntarily, and that is why this amendment is detrimental to our Island, to our economy, and to thousands of our residents. Because it takes away the trigger,  
1275 the spur to each and every business which has not previously considered the valuable and underutilised resource that exists amongst those Islanders with disabilities and with caring responsibilities, who are a part of our Island community and who want to be able to play their part in its success.

If Members want to see our community thrive, if Members want less spent on welfare, if  
1280 Members want more people to enter the workforce and to enhance our economy, then madam, they must vote against this, no doubt well-intentioned, but thoroughly misguided amendment and allow this part of the legislation to stand unamended.

Thank you.

1285 **The Deputy Bailiff:** Deputy Mahoney.

**Deputy Mahoney:** Thank you, madam.

Before I speak, I will note that I am a small business-owner, although I am the only employee, so I think I am okay, especially as, like Deputy Dyke, I treat myself very well. (*Laughter*) I would also like  
1290 to thank Deputy Dyke for introducing us to the 'Inter-Twitter' (**A Member:** Yes!) and I definitely think we should use that going forward. (*Laughter*)

But, joking aside, let me make it clear from the outset that I admire Deputies Blin and de Lisle for in the first instance bringing this amendment and, secondly, for sticking to it, despite the entirely undemocratic calls for its removal. It has already been noted many times, but I would add my voice  
1295 to those condemning the way that the '#H8TE' campaign has been run by interest groups and groups that held themselves out to be paragons of virtue and inclusion, but in fact prove no better than good old bully boys hurling insults and acting in a way they should know better. Something like. 'Physician, heal thyself.'

But, Deputy Bailiff, whilst this person will never mention it themselves, because frankly they are too nice, on Wednesday morning, as they entered the building, one of our representatives was  
1300 subject to a slur which the Rules of this Assembly preclude me from saying. What makes this worse is that it was made by a former Member of this very Assembly from last term. And the public wonder why people do not stand as Deputies.

On Wednesday we had a crowd of people outside the building carrying a variety of placards  
1305 urging rejection of most of the amendments, amendments which I suspect most had not read. I base this on contacting various people who had emailed to ask them what specifically about some of those amendments they did not like. With a couple of exceptions, which I will admit, there was no reply from the majority, maybe because no one had actually read them, nothing received. Maybe no one had filled out a *pro forma* for them: 'Cut and paste these words and send them to all



1310 Deputies.' I know I am not alone in this, as other Deputies challenged some of the people on the steps and up the road and received the same: 'I don't know why these things should be rejected.'

It would be easy to be angry about this, but I am not. It is just disappointing. Everyone wants proper debates and all 40 Members of this Assembly are open to a reasoned argument, but that involves a two-way understanding of the issues that we are talking about. People urging us to vote  
1315 against something because someone else told them to just does not really cut it.

This amendment of course has taken on a life of its own and has been singled out. Deputy Blin highlighted the deliberate misinformation that has been spread and is being spread, so I will not repeat all of it, I am sure he will, if he chooses to, in his summing-up. If this short amendment is actually read by everyone in its fullness, and reading it together with the legislation, it is actually  
1320 pretty reasonable. I know that that holds no water with most of the people sat here today. In vain, all I ask is that Members have a read again and see what they think. It is a proportionate response, in my view, to an issue that Deputies Blin and de Lisle feel needs looking at, and on that basis, I will be supporting it. I know I am in a minority.

I urge others to also set aside the scaremongering over the past few weeks and, in fact, this morning from Deputy Falla. He tells us he has not been contacted by local small businesses, but can it really be his view that the hardworking and sometimes struggling small business-owners of this Island have the time or expertise to read each piece of legislation that is laid before this Assembly? I struggle to believe that anyone in this place believes that. They would need a firm of advocates on retainer that tips them the wink each time something comes before us that may affect them.

The truth, of course, is that many small businesses will be looking to their elected representatives to take care of them. If this amendment is rejected – which I am pretty sure everyone in this room knows that it will be – then reject it in your mind for the right reasons. Let's not blame the small business-owners for not reading the legislation, hundreds of pages of legislation.  
(**Deputy Vermeulen:** Hear, hear.) They are too busy out there working, paying taxes that will pay  
1335 for the consequences of this legislation.

It is *not* a doomsday amendment, it is *not* a wrecking amendment, and it does *not* green-light discrimination by small businesses.

Thank you, madam.

1340 **The Deputy Bailiff:** Thank you.  
Deputy Dudley-Owen.

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

I would like to start by thanking Deputies Blin and de Lisle for challenging the legislation before  
1345 us, because it is their right to challenge – it is actually our *duty* to challenge in this Chamber. It is, after all, a debating chamber. That is what we do: we challenge, we test. We want to see whether what we are discussing, what we have proposed in front of us, is going to be fit for the purpose for which it was designed.

It is absolutely their right and duty to have challenged and I applaud that. And I applaud all the amendments brought forward. Whether or not I agree with them is irrelevant, because we will sort that in this Chamber. But it is absolutely their right to lay amendments and we should actually be encouraging that, which I am really pleased that so many people today have also agreed with that, whether or not they will agree with the substance of the amendment.

I am also going to add my voice to those who have denounced the approach of some of the  
1355 lobbyists. Passionate though they are, there is no excuse for some of the behaviours and verbal abuse that has taken place in the last week – *absolutely* none. (**A Member:** Hear, hear.) There never is, no matter side of the debate you are. You might find it heartening that you have people on your side, but actually, it really muddies clear water when those people are slinging that mud.

It does not feel good to be supported by people who are inciting aggression on your behalf.  
1360 And I think it does a real disservice to all of the professional campaigning that has been done for many years, the professionalism that has been displayed by a lot of individuals who have thrown a

huge amount of their own personal time, efforts and energies and emotions into changing the way that we think and view people in our community who maybe have not had a voice for a very long time. It is now the time that we need to be listening to that voice and embracing everybody in our community.

This well-intentioned amendment has really got me thinking around how this particular legislation has been put in front of us over the last two years and I think that that is really where the issue is. I will make a declaration: my husband is a small business-owner, therefore I do derive benefit from that income. (**The Deputy Bailiff:** Thank you.) I have been also a small business-owner myself. I have come out of working in the finance industry, in the corporate, I set up small businesses – really enjoyed running small businesses. But it is not easy, actually.

One thing I will pick up on that Deputy Mahoney has said is the time that a small business-owner has to be able to devote to different regulation and legislation and policy changes that are coming down the line is minimal to almost none. Speaking to other small business-owners who I have been over the last few weeks, the time that it takes out of their day from actually delivering the services that their business is set up to do, to get into the detail and the complexity and the nuance of this particular legislation, they just do not have that time.

They did not set the business up for any other reason than to make an income and a livelihood for themselves so that they could afford to eat and to live. That is why they set the business up. In the hope of making a profit, maybe getting a little bit rich, a bit of Richard Branson aspiration there, but it is unlikely, isn't it? They are there to make a living. The time out of their busy day to get their head around actually what is expected of them in the coming weeks and months after the commencement of this legislation has come forward, it is a tall order.

I would suggest that, rather than us using words like 'misunderstanding' and 'confusion' all the time, levying this at fellow Members of this Assembly or small business-owners or business-owners in general out in the public sphere, we need to acknowledge that there is a *lack* of understanding of what is coming down the tracks. And I do not blame people, because I personally feel that in the last two years, we have not been given the understanding and the information that we needed as Deputies in regard to this particular piece of legislation – and I will cover this more in general debate if and when we get to that this week or on another occasion – to be able to talk about the lack of information that we have from analysis that has been done on this legislation.

I know there has been some internal work done, but we really do not have a proper, informed view of what the impact of this legislation is going to be beneficially and also on the downside. Therefore we are not able to quantify the risk that this legislation imposes on our community. And please, any listeners to this, do not take that the wrong way, because risk is impact and also probability of impact, and risk can sometimes be good.

This is not about negativity surrounding this legislation, because I know no one who disagrees with the principle of this legislation. I know no one who does not want this legislation. But I know plenty of people who do not understand the risk and do not understand what is going to be expected of them in the near and far future. Therefore, it is incumbent on the proposing Committee to ensure that all the organisations that they are tightly linked to – Consortium Guernsey, the equalities group, etc., the law firms who have been signed up, plenty of those who have got representatives on a lot of the groups that have been cited in the Chamber over the last couple of days as supporting this legislation – those groups need to go out and they need to be not just inviting employers to come to them, but they need to be making visits into those employers. They need to be going into the shops and doing in-house training.

That will come at a cost to the States, because whilst we have been told that it is free, it is not free. Someone is paying for that somewhere. There is going to be a cost and there is going to be a burden on employers, small businesses especially, in having to take time out of their working day to get their heads around what 'reasonable adjustment' is; what is expected of them; the case scenarios that they need to understand, how it has a practical impact on their particular business.

Because it was Deputy Helyar who introduced me to a phrase earlier in this term: the mischief in the law. That is what small employers will be looking for. 'What happens if someone wants to take

1415 advantage of me? What happens if I do something wrong? If I do have a vexatious complaint, where do I stand?' Because it can ruin businesses – absolutely can ruin businesses – (**A Member:** Hear, hear.) and I think that is really where Deputies de Lisle and Blin are coming from with this particular amendment. They are not trying to rip the guts out of this legislation, they are trying to understand what the ramifications are for small businesses. I completely understand where that comes from.

1420 However, I do also see the other side of this argument insofar as this legislation is intrinsically about the delivery of goods and services as well as employment and education, and therefore, to carve out businesses of any size for a period of time is almost illogical, because it is about those very businesses that this Law is about. But I do hugely sympathise with the fact that there is a lack of understanding. I think that, really, the ESS Committee, and I do not want to criticise them too much, but a constructive critique could be that in the last two years more work could have been done. I know that there has been a huge workload; I really do appreciate that. I sit on a Committee 1425 which has also got a huge workload. But in large part, there are many amendments that have been brought here today, testing this legislation, because of a lack of understanding, because possibly, the delivery of the legislation has been very high-brow.

1430 Certainly in the last term, we were often subject to a lot of very high-brow theoretical lecturing, I would hasten to say, or not hasten to say, but I am almost ... Again, I do not want to be coming across as rude, but where we get a lot of academic delivery, it is not what we need. We are laypeople as well in this Assembly. Many of the Assembly are small business-owners, given the declarations that have been made today. We need to know what this looks like in practice and we have not had enough of that practical applications, possible mischief in the law, what interpretation actually looks 1435 like when it hits the ground.

So I do apologise if my comments have landed badly in terms of being critical. I do mean to help because I think that this legislation is extremely important, but I do not think that we have helped ourselves in this instance in terms of enhancing understanding in the community, but also in this Chamber. We are actually victims of that, in a way, today.

1440 So I will be continuing to listen to the debate with interest – unless, obviously, Deputy Inder seeks to guillotine it again. He has held himself back, so thank you very much also. I will just end this debate by saying that my view on this is that I do not think that I am going to be supporting this amendment, but I am really very pleased that it has been brought today and I commend (**The Deputy Bailiff:** Deputy Trott.) the bringers of the motion.

1445 **Deputy St Pier:** Madam, I –

**The Deputy Bailiff:** Sorry, Deputy Dudley-Owen, I was a bit forward there, I did not realise you had ... winding down. (*Laughter*) Deputy –

1450 **Deputy St Pier:** Madam, I would like to move a motion under Rule 26(1).

**The Deputy Bailiff:** Right, there has been another request –

1455 **Deputy Queripel:** Madam, that is not permissible under the Rules: you had already called Deputy Trott to speak.

**The Deputy Bailiff:** Fair enough, Deputy Queripel. You have a point. I had said 'Deputy Trott'. Admittedly I was speaking over Deputy Dudley-Owen at the time but I will allow Deputy Trott to give his –

1460 **Deputy Trott:** No, I shall be very brief, madam. (*Interjection*) So it is okay for me to speak? (**The Deputy Bailiff:** Yes.) Yes, right, very briefly. (*Interjection and laughter*)

These days, I do need to declare an interest because the businesses that I am involved with are large enough to fall outside of this category, but it was not always the case. Twenty-five or so years

ago – 28 years ago – I had a small business with my father which was a fishing business. There is no question that it would have been completely unreasonable then, as it would be today, for someone like my friend Mr Reece-Sheerin to join us and work in that environment. It simply would not have been safe, and reasonableness would prevail again today, I am sure.

1470 The reason I mention Mr Reece-Sheerin is I remember fondly the last time we debated this matter; it was 17th July 2020. And towards the end of the debate – that happens to be my birthday, I should add – there was a rendition of happy birthday, which I thought was very good of the 200 people or so who were on the steps, and I considered that my re-election prospects were favourable. (*Laughter*) I realised a few moments later they were in fact singing happy birthday to Mr  
1475 Aindre Reece-Sheerin, who is, I think, a few years younger than me.

There were three or four reasons I wanted to speak and the first is for a shout-out, really, to someone who will not hear this – that is my father – but hundreds of others like him will. He will not hear it because he will be too busy looking after my mother, who has dementia. Nearly 85 years old himself, he is her full-time carer, and with the exception of a little bit of help that comes from my  
1480 sister and I and our respective partners, he looks after her 24 hours a day. He does not ask for any help and he does not receive any funding. He is representative of hundreds, if not thousands, (**A Member:** Hear, hear.) of people in similar positions and I salute them all.

Madam, I do not like being critical. Well, with one exception: I am often critical of Deputy Ferbrache, (*Laughter*) but that has absolute justification, as I know he will agree. (*Laughter*)  
1485 But I am going to be critical of somebody who I know quite well and who I sit on a board with. I am going to come to that in a moment, because I want to echo all of the comments that have been said about Deputy Blin's and Deputy de Lisle's rights to bring these amendments. Some of the calls for it to be withdrawn were completely misguided. Debates like this have a cathartic part to them. It is important. They are healing, very often, as opposed to the opposite.

1490 They had every right to bring it. And it *really* does not help when the Dean of Guernsey in particular made public the fact that he believed it should be withdrawn because it had *offended* a number of people. (**A Member:** Hear, hear.) Well, what next? We do not bring an amendment on tax because people are offended at the prospect of their taxes going up? It really does have to be nipped in the bud, (**A Member:** Hear, hear.) and I do say to the community that this is their elected  
1495 parliament and this is where, as others said – Deputy Dudley-Owen just a few moments ago – these sorts of debates should be carried out.

I had not appreciated the extent of my friend Deputy Meerveld, the level of his dyslexia, and I wish I had because I think our relationship would have been very different. Because I do not know if he will recall – he will not recall – but the very first note he sent me in this Assembly, within a few  
1500 days of his election: he transposed the letters 'ro' in my surname with a 'w'. (*Laughter*) And I have to say, our relationship has been compromised ever since! (*Laughter*) I think we can now reset that button and move forward in a more positive way.

Madam, having listened to this debate, I shall vote against this amendment. It appears, notwithstanding my defence of the right of the proposer and seconder to lay it, to be misguided  
1505 on many levels, but in particular has been shown to be unnecessary by every jurisdiction that has introduced discrimination legislation before us – and in most cases, many decades before us.

It is clear to me that it makes no economic sense, as others have articulated well. Our population is forecast to decline in the longer term. Our tax system relies on the tax derived from employment, namely through ETI receipts. We have a structural deficit of *at least* £80 million year-on-year going  
1510 forward and our dependency ratio is increasing. Those aged 85 or over will have doubled in the next 20 years and trebled in 40 years. Net migration of 300 is required just to maintain the workforce at current levels.

The percentage of the population by gender in every age group above 20 years old shows fewer females than males employed. Why is that? It is simply they are usually our carers. My father is  
1515 unusual in the sense that he is caring for my mother. It is very often and in the majority of cases the other way round and one in five of us, at some time, will be managing a disability.

Almost every sector – finance, education, health, tourism and construction – is struggling to recruit. Where are those staff going to come from? This amendment sends the wrong message to carers and people with a disability looking to return to work or find employment for the first time. It sends the wrong message to our community and it does our business sector a disservice, because it diminishes our hard-won international reputation.

Thank you, madam.

**The Deputy Bailiff:** Thank you.

Deputy St Pier.

**Deputy St Pier:** Rule 26(1), madam.

**Deputy Inder:** Pour!

**The Deputy Bailiff:** Deputy St Pier has called for a guillotine of the debate on this amendment. Those who still wish to speak in the debate, please stand in your place. Do you still wish the vote to be called?

So the motion is that the debate be guillotined. Those who support it, say Pour; those against.

*Some Members voted Pour, others voted Contre.*

**The Deputy Bailiff:** I am going to ask for an 'SEV vote', I suppose we call it now.

*There was a recorded vote.*

*Carried – Pour 20, Contre 15, Ne vote pas 3, Absent 2, Did not vote 0*

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	Deputy Blin	Deputy de Sausmarez	Deputy Oliver	None
Deputy Burford	Deputy Brouard	Deputy Gabriel	Deputy Parkinson	
Deputy Bury	Deputy de Lisle	Deputy Trott		
Deputy Cameron	Deputy Dudley-Owen			
Deputy Falla	Deputy Dyke			
Deputy Gollop	Deputy Fairclough			
Deputy Helyar	Deputy Ferbrache			
Deputy Inder	Deputy Haskins			
Deputy Kazantseva-Miller	Deputy Matthews			
Deputy Le Tissier	Deputy Murray			
Deputy Le Tocq	Deputy Queripel			
Deputy Leadbeater	Alderney Rep. Snowdon			
Deputy Mahoney	Deputy Soulsby			
Deputy McKenna	Deputy Taylor			
Deputy Meerveld	Deputy Vermeulen			
Deputy Moakes				
Deputy Prow				
Alderney Rep. Roberts				
Deputy Roffey				
Deputy St Pier				

**The Deputy Bailiff:** On the motion to guillotine the debate, there voted Pour 20, 15 Contre, there were 3 abstentions and we have 2 absentees. Therefore, the motion has been carried, so the debate has now been guillotined. So I return to Deputy Roffey, as the President of the Committee.

**Deputy Roffey:** Thank you, Madam Deputy Bailiff.

To be honest, I am slightly confused about what amendment I am trying to respond to here, because I see the amendment that clearly has been laid, which is a permanent removal of all firms with five employees or fewer from the sections of the Law. But, almost, the debate has been about

whether there should have been some form of delay or phased implementation. If that is what the proposers want, that is what they should have put.

Yes, they did say to us, when we passed the point for submitting amendments, would ESS submit their own amendment to delay the implementation for small businesses. We discussed it and we do not believe there is a case for doing so, so it would be perverse for us to put forward an amendment that we absolutely did not believe in – and I will get on to why we do not believe in that later on. But if that is what Deputy Blin and Deputy de Lisle wanted, that is what they should have asked for. I certainly defend their right to bring any amendment, I do not defend their right for their amendment to mean something different to what is written on the paper that is circulated to States' Members.

But if they really wanted delay, if that is what they wanted, in order to have time for small businesses to prepare, well, they have had a lot of time to prepare. There will be another year. And yes, of course, we are going to do that simple guidance note to explain, particularly for small employers, exactly what it means in layman's terms. But no, of course, before the States approve the legislation, imagine the outcry if we had spent all of the money actually preparing material and doing that training. We have got it cranked up and ready to go the minute that this legislation is approved.

So they have got that year, and then, as far as any expensive changes, they are likely to be physical changes. That will be another *five* years down the road, six years from this legislation coming into play. No employer, large or small, will be expected to change any physical feature of their premise for six years from now. So the suggestion ... although the amendment is not about delay, a lot of the debate has been about delay, the time is absolutely there.

Deputy Blin says this Ordinance is unique. I suppose every bit of Guernsey legislation is. I do not think we ever exactly copy and paste. We maybe take inspiration from other legislation, but Guernsey laws are Guernsey laws. But the types of discrimination it prohibits, the conduct, the fields of operation, the defences, all of the tests in here, are absolutely standard. There is nothing novel in it at all.

Deputy Blin said as a result of what he saw as being unique, we cannot adopt precedents from other places. We can. The Tribunal will be able to use as persuasive – I am sure that they will – Jersey and UK case law. It will not be binding, but that is not because the legislation is different; it is not binding because we are separate jurisdictions and precedent from other jurisdictions is not binding.

Deputy Blin said smaller businesses can be particularly vulnerable to abuse of process. I do not think so. I think that is a fairly warped view of human nature, to be honest. We have a sex discrimination Law now and have had for the best part of 20 years. I am not aware that uniquely in small businesses people are abusing that and actually taking forward vexatious cases just because they work for small employers.

And actually, if we are trying to protect those that can least afford to do things, just a cut-off at five employees is entirely the wrong way to do that. You could have a firm of international lawyers employing four people making turnover of £10 million a year and £2 million profit – I do not work in the world of lawyers, so I am not sure if those figures are realistic, but somewhere around that –

**A Member:** A bit lower.

**Deputy Roffey:** – and they would be *far* more able to do a particular type of adjustment than a firm of six artisans perhaps doing some kind of run-of-the-mill activity. What this legislation does, with the concept of proportionality and disproportionate burden, is a far better protection for those firms and companies who will not be able to afford to do things. This is not a leap into the unknown. I have said persuasive case law can be taken from elsewhere.

I have had people coming to me and saying, 'I really worry for small employers, what will this mean?' and in a couple of cases, I knew that those people were well known and had contacts in Jersey. And I said, 'Go and speak to your contacts in Jersey: has this really been an issue for small firms in Jersey?' They have come back to me and said, 'No, I've spoken to my contacts and

absolutely, it's no problem at all.' So why is it Members think it will be any different here? But it would be sending out, I think, a very bad message.

Deputy Blin said most businesses are helpful and sincere, and that was a message from Deputy Dyke as well. Absolutely. This legislation is not needed for most businesses. Most laws are not needed for most people or most businesses. This is about those businesses that do not fall into that category, but not just the nasty ones that really are wilfully trying to not adjust their practices to help their staff. It is exactly like Deputy Burford says: it is that little tipping point, the fact that they have to look at these things. Most of them will find out that, actually, the burden is very little indeed and they actually get economic benefit from employing people who they might otherwise not have employed.

Deputy Aldwell said the only way to change mindsets is education, and I think she is absolutely right. By 'education', I do not just mean schools, I mean it is the way we all interact, the way we all change our approach. Education is absolutely essential and this is central to ESS's role as well, our Disability Officer's role, and we have included a budget for the work to change attitudes in that £400,000 budget that I referred to the day before yesterday. But I do believe that sometimes a law helps in changing attitudes as well. In fact, I know it does because I have seen it work elsewhere.

I do not really agree with Deputy Aldwell that adding grounds led to delay. I think Deputy Gollop was absolutely right. The delay really came at the beginning. This was passed unanimously in 2013 and then that strange creature, the Policy Council, really did nothing with it for years, really went nowhere. It was only when it was passed across to ESS in the last term that the work really started in earnest. And actually, the last year or two, getting it to this stage, the pushback has been almost entirely on the disability grounds. Arguments about what the definition of disability should be and how the law should actually treat disabled people. The other grounds have hardly ... I am not saying they have not had any area for discussion that may have slowed things down by a month or two, but I do not think that making it a multi-ground Law has been the main reason for delay at all.

Deputy de Lisle was saying this is skewing the playing field so that we are seeing small firms disappear and it will all merge into big firms. Actually, this legislation is unique, because *most* regulatory requirements – most red tape, as he may see it – whether it is health and safety or whatever it is, just applies in the same way to small undertakings and large undertakings. This one puts far greater burden on bigger undertakings with deeper pockets because it is realised that what is reasonable for them to do is in a different scale than what is reasonable for a smaller firm to do. So if anything, I think it is the other way round. This is actually putting more of a burden on large firms.

Deputy Dyke, we spoke a couple of times. He came in a point of correction, when I think it was Deputy Falla had said that really no employer groups had come to us and said they wanted to see a delay – although why are we talking about delay? That is not what he amendment says. He is quite right: the CGI did say that. But they said they would like to see a delay because small employers were not covered in the legislation in England, and we went back to them and explained that was not the case. I think that is the only thing that was actually brought up.

Deputy Dyke is worried that when we sign up to international trade deals, we will lose a slight bit of our autonomy because we will be expected to stick to certain standards. We will not be expected to race to the bottom in order to be competitive. Well, fine, he can vote against those trade deals and forgo the benefits they bring. But the real world is that is the choice we are going to have to make.

We are either going to have the benefits of being in those trade deals – and we know that P&R want us to look at moving towards delegating the power for them to do it – and if we do, some responsibilities, if you are in the club, you will have to sign up to some very basic shared things, and one of those is getting rid of discrimination in the workforce. We have been told by our external unit that the UN will look very carefully if this amendment passes because they will see it as backtracking on the previous undertakings that we have reported to them the States have made. That does not stop somebody voting for Amendment 8 if they feel strongly they need to. But there

are consequences and to protest about the fact there are consequences, you can all you like, but there are consequences, and not consequences that I want to see.

Let's put this in context: the vast majority of adjustments that are made are really cheap. Deputy Falla referred to the Access to Work scheme. In Jersey they have it and the average adjustment that the application ... I think it is £106, the average that they have had to fund. And many of them cost nothing. What did we do today, Madam Deputy Bailiff? You suggested that we came back at two o'clock, somebody in this Assembly said they had a caring responsibility, we all said, 'Well, yes, we don't want to impinge with that' so we found a different solution. Finding a different solution: that is what it is all about in 90% of these cases. I think it is wrong to suggest that it is somehow all about big, expensive adjustments. And anyway, physical features will not be covered for another six years.

Deputy Le Tissier has gone out of the Chamber. That is a shame, because I was really bemused. Deputy Le Tissier does not like keyboard warriors! Was I the only one who found a certain irony in that! (*Laughter*) But there we go. He was one of many to complain about the behaviour of campaign groups, and I will come back to that.

Deputy Meerveld, I learnt that we have got two things in common: both dyslexia and the fact that we both failed English O-level on numerous occasions and do not have it now. I think that is probably where the similarities end; (*Laughter*) certainly politically, I do not think we go any further!

Deputy Meerveld also went on about the membership of the Tribunal. Of course, the membership of the Tribunal is approved by the States; the initial one has been approved by *this* States. This States have approved the membership of the Tribunal and it was the result of an open recruitment exercise.

I think I am coming towards an end. A lot has been said about whether or not campaign tactics have been acceptable. I must say, I have never sent a text or received a text, so when I saw something that said 'H8TE', maybe I was the only Member of this States who had absolutely no idea that that was meant to be 'hate'; I just saw it as an impenetrable code.

I think it was unfortunate and that those who did that realise it was unfortunate. Like Deputy Burford, I have no doubt what they were trying to convey was hate for the amendment, rather than for the people bringing it, but it was co-joined with some photos of three Deputies. I think in retrospect they would absolutely dislike that. I think they realise what they did was misguided, unfortunate and probably, in the context that that could be interpreted that way, should be apologised for. I cannot do it, I was not involved in that in any way, I was not really aware of it.

But what I do know is that the vast majority of campaigning that is coming to me has been respectful. Most of it, unlike Deputy Mahoney's claim, has not been cut-and-paste. There has been original letters with original content. Of course there has been a few cut-and-paste; actually, there is probably a few people who care about this who would, because of the nature of their disability, find it quite difficult to write their own letters. But most of it has been original and decent stuff.

And yes, it has got a bit angry at times. When people campaign for something they feel desperately strongly about for many years and then feel, because they do feel, that this amendment will water it down really considerably, not for a couple of years – read the amendment, forever – they are going to get angry. When people get angry, they say things they should not do. But I think, actually, the spirit of the 99% of the people campaigning ... I think it has been overdone, some of the protests, to be honest, in this Assembly today, because the spirit, by and large, has been good.

I can tell Members, and certainly Deputy Blin and Deputy de Lisle, that I do not hate any Member of this Assembly. The degree to which I love them varies considerably, (*Laughter*) but I do not hate any of them. However, this amendment, it is ... And the idea that we will bring it straight back in a year or so's time. We were hearing in this Assembly today and every other day 'Don't revisit the same things! When the States have made a decision, don't bring it back, certainly to the same Assembly, maybe to the next one!' Deputy Burford got grief over trying to put back in the – (*Interjection*) Sorry? (**A Member:** Belief.) Beliefs, yes, because it had already been decided. I cannot see it coming back to this Assembly if this goes through today. I hope it would be revisited soon.



Who knows? We may have to look at other ways to tackle that unfortunate situation if this goes through, but I do not believe it will.

1700 We have only got 10 minutes for lunch, and I am sure we will all stay, despite Deputy Leadbeater, until 10 to or five to, if that is what is needed for Deputy Blin's summing-up, but I would say: *please* do not pass this. It really is significant, it really would be watering down the Law, it really would be letting down people we have made promises to, it would really look bad in the outside world, and it is just a really bad amendment – not bad people bringing it, but a bad amendment.

1705

**The Deputy Bailiff:** Deputy Blin, can I ask you, in a very respectful way, how long you think you might take in ...?

**Deputy Blin:** Madam Deputy Bailiff, I am aware of the time, I am aware of the fact we are coming  
1710 back early after lunch. If I could suggest that I would need maybe around less than 10 minutes or ...

**The Deputy Bailiff:** You need to take the time you need to take, Deputy Blin. It is your opportunity to reply so I do not want to cut you short. What I want to know is, if you were going to go on longer, whether I would put a motion to the Chamber that we extend our original plan and not make it quarter to one, but maybe five to one, to allow you to complete your response and also  
1715 **(Several Members: Pour.)** – I have not put the motion yet *(Laughter)* – vote so that we can leave this Assembly knowing how this amendment is going to be dealt with.

So if I can put to the Chamber that we continue until five to one, those who support the motion; those against.

*Members voted Pour.*

1720 **The Deputy Bailiff:** We will carry on, then.

**Deputy Blin:** As Deputy Le Tissier pointed out, madam, it is my first amendment, and I am realising when I have reached the 10th page I maybe should have been more careful.

I do think this is an amazingly important amendment. I am really grateful that it has been  
1725 debated clearly, concisely and properly, with differing opinions from all sides. I am grateful also for the lobbying groups. In spite of the fact that this was meant to have been cut or removed or dropped or not laid, actually, I hope that there is an appreciation that this is a better way of doing it, because we have heard clearly from everybody their intense personal views on all aspects of this. I really thank all Members of the Assembly and thank all the lobbying groups and I hope that they  
1730 see that, actually, this is a democratic way of doing this and I hope that this will prove more concise and part of, whatever the result may be, demonstrate that it has been done the way we intend it to be.

I am not going to go through every single one, if that is okay, although I would love to recognise every Deputy who spoke. But I am also aware that we do need to get to a conclusion and all the  
1735 aspects there.

It was Deputy McKenna who spoke at the beginning. I have just got a little bit of disappointment there, that I appreciate that all Deputies can have their reaction and their view, but turning to the Gallery to demonstrate it, again, for me, does not feel as diplomatic or as parliamentarian as we wish. But I appreciate the strong sentiment he had.

I was amazed, as usual, by the speech of Deputy Aldwell. I have a great respect for her pragmatic approach and the emotive relaying of her personal situation and how it affects. I appreciate that this makes it a very different point, as I see from Deputy Aldwell aspects over things such as carer status is extremely important. I will reiterate that my point is not that I or Deputy de Lisle are against protecting carers. It is the situation of the pragmatic situation of some exemptions for small  
1740 business.  
1745

Deputy Queripel, I have always, maybe not teased, but had the fond name for Deputy Queripel as 'the Conscience of the House'. We have the Father of the House and the others, and Deputy Queripel has always struck me, and once more, he has done this. In fact, I wanted to share words about what he spoke about, but actually he took that out. He was very balanced. I appreciate very much, and I am sure, likewise, Deputy de Lisle and Deputy Meerveld, the way that he reminded everybody within the Assembly and – I am going to use the term not disparagingly, but – lobby groups or social media, that it is not fair, the way that maybe some of this was done, and he has explained in very good words this.

But also, he talked about business owners and small business owners and those small businesses and the balance, and we need to trust our local businesses. Then he spoke about the 'reasonable adjustment', how open is it. And I would bring in statutory codes. Do we have things like that? One of the concerns that we have always had in this is if there was total evidence, has been explained by others, then we would have been more comfortable knowing that this would work in the long time.

Deputy Le Tocq: again, very balanced. He raised the point the little questions are over the 'reasonable adjustment'. I appreciate Deputy Le Tocq will not support this amendment, but I appreciate that he explained reasons and logics why. I also appreciate his comment of there is this fear, and there is this fear of entering into the unknown. I will accept that actually that is one of my concerns: the fear of relying on a Committee putting together the work there. It does not mean that I will not accept anything, I just want to see the evidence. I have been in business for too many years and seen too many things happen where you rely on the fact of, 'It will be okay, reasonable adjustment is fine' but there are so many areas where this can change.

Deputy de Lisle, thank you for seconding this amendment and being pragmatic about it. I feel in this Assembly and in the speeches, there have been almost two categories of speeches: one is of emotion, discrimination, and if anyone does not go against this amendment, you are discriminating everyone. And the other balance is there is a pragmatist approach of saying we just have to understand that businesses have a different one. There is not one person I have spoken to, probably in my life, let alone outside of this Assembly or anywhere else, who actually wants to discriminate. I have never tolerated discrimination. To be fair, as a Deputy, I have dealt with one case of discrimination, and I actually helped it, including with a lawyer who assisted, and it was resolved very well.

Besides that, I know that the Chamber of Commerce and IoD have talked about all the cases as an executive decision, that it is all okay to support this. I am a member of the Chamber, I have never been consulted, or the IoD. Also, I have never heard, through the Chamber or through the colleagues or of any of my businesses of cases of discrimination. I am not saying it does not exist, but I am also curious in what is the level of discrimination currently. I know that is not sufficient for certain aspects of the disability category, or the carer status, etc., but it is just a point of a bit of pragmatic common sense. We have good businesses, good people and we have not got an overriding, overarching amount of discrimination.

I say that why? Because everything is, 'We must have the Law in place to stop all these bad things happening' and in my 35 years in business – and others have spoken about small businesses – they have been remarkable. Businesses here *are* remarkable. I love the businesses in Guernsey, the people I have worked with in associations and areas down there. They are all willing to make adjustments. And remember, this was only about the legal obligation of adjustment, not actually taking a single business away from following the words of the Law.

Deputy Falla: this speech is probably the one I struggled with a little bit in the fact that he talked about the 'wrecking amendment', and I do believe there was another Deputy on this, and the emotive element and the fear and the fact that other businesses have not complained, as if it does not exist. Deputy Falla sits on Economic Development. I do not sit on Economic Development. But I have been involved directly, as Deputy Falla has – he has had his business there – but I am still involved with my businesses here, very small ones and a larger one. Therefore, I do not know what the difference is. But I do talk to businesses and I do hear lots of aspects of it.

I have still been receiving even right of this morning, which I am going to just mention now. From a large business owner, but who was a small business owner, who just said: 'Please remind the Assembly and the audience that we are talking constantly, purely about the discrimination, but let's bring it back to what the purpose of that amendment was: it was just to help the businesses, to remind them.' This is something that I have been asked, Deputy de Lisle supported, Deputy Meerveld helped. Lots of conversations happened on trying to understand that our job in spite of – I am going to use the term – flak, it was very important to bring this and to talk reasonably with people. It was very hard to talk reasonably with some groups because they will not be listening. But I appreciated talking with everybody.

Particularly, I am going to make a comment on yesterday, after the Assembly. I had the opportunity to engage with some, I will call them lobby group leaders. But that was appreciated because it is to say that I stand as a compassionate human being, I stand in honouring the fact that I am going to stand. Nothing would stop me from trying to represent small businesses. But I also appreciate the side of all the people I have been speaking to.

Continuing on a little bit here, also on the opportunities of the access to work scheme; I think that is really good. I think that when it comes in, it is going to be really good, but all I was hoping to see was the scheme in place, the statutory code in place, all the pieces in place so that there is literally a perfect transition there.

Deputy Leadbeater, again, I understand. His speech was not only emotive, in my opinion, but was very strong and very good. I cannot challenge any of the aspects there because I believe, especially the reading of the letter of the constituent there, that is powerful. Again, this is not about targeting or stopping a disability or a person. This was about this tiny group of businesses – and I know the answer will be 'But one person counts', but – having the opportunity to be able to not have the legal obligation, but still use its moral precedent, every single person I know wants to help, and just not have that extra element of the paperwork, the training, the time to go out, etc. to deal with that.

Deputy de Sausmarez: again, as usual, and something I appreciate of Deputy de Sausmarez's, she is very technical, very constructive with the elements there and explaining all the paths. I am trying to go through this as quick as I can, but I want to respond to the question. The care status was the main question: 'Why, Deputy Blin, are you targeting specifically the care status?' Just to pick up on one note, there is no specific duty mentioned to make adjustments to help an employee to both work and carry out their role as an informal carer. But rather, the Ordinance was aimed, will just simply allow an employer to make such adjustments by allowing flexible working hours based on their carer needs, etc. That was the note.

That was actually the aspect of just saying, where there may not be flexibility for a tiny business, let's say it is a three-person business and the third person is the main person working there, but actually, with carer status, does need that flexibility to go and look after family member X or person X. But by taking that out, it means that business will not be able to function because of the key situation, should that person have to leave and, let's say, the owner has to replace or find someone else, and lets the carer, unfortunately, go and the carer has to then take it to a Tribunal or something. It was just those aspects of let people work it out without the legal obligation. In other words, they can work it out, but if not, let's not put them with the incumbence of the legislation of the groups, etc.

Deputy Le Tissier with the points ... I am going to keep moving on. I would like to thank Deputy Le Tissier and thank Deputy Prow. Again, I feel that, as I mentioned, there was emotive and pragmatic, and I feel Deputy Prow is on the pragmatic side, and questions and shared the concerns of reasonableness in his views, and that is what is appreciated.

Deputy Gollop sits next to me in the Assembly – very close. From many years ago I have known him. I love the way he has this amazing abundant knowledge, and historical knowledge. And actually, again, it was interesting to hear his comment about the delays from the beginning – and those delays at the beginning, actually, it is frustrating for everyone here to know that for years and

years this has not got into place. I can see this added frustration why suddenly, it looks like today, we are delaying it further, or it has been delayed by this amendment further.

I did look up 'gammon' – quite shocking. So are other aspects of the 'colour-plushed cheeks' and everything there, but I will leave that for now. I am just going to move on. I am struggling with the writings of some of these.

Deputy Dyke, again, taking a pragmatic aspect. There are a lot of things he raised, and similar concerns that were raised by the CGI, similar concerns that were raised when I referred, with permission, from Lord Digby Jones, similar to comments from other businesses. So I appreciate a lot of these people, including Deputy Dyke, have a legal background. They look at it from that perspective as well. But that is equally important, because it seems to be distant from the compassion on discrimination. But the point is *caveat emptor*. That there is this element of 'Beware, things can go wrong.' Because it is going to be just legislation to protect everyone, there are going to be difficult situations there. And if it is one person affected, that is one person too many, in the same way we believe this for discrimination: no one should be discriminated against.

There was a point I thought from Deputy Dyke as well: that reasonable people make reasonable adjustments and they will do that without the Law as well. I do not know many of these people ... Some of the really concerning stories I think shared by Deputy Kazantseva-Miller and Deputy de Sausmarez, they were horrific stories. I would not wish that on anyone. I think it was Deputy Moakes whose response was, 'Look, we can't even cap the *[inaudible]*' And we would all agree with that, but the point being that we have to have this level of balance.

Also, I just want to keep referring back to this pragmatic sense of the small businesses. Every time it is mentioned, whether the figure is disparaged on the 65%, which actually is between 9% and 11% if we include both the one man, plus the two to five. But irrespective, this group of small businesses who are in the hardest, most difficult space, if you just watch the news on cost of goods and all the things there, they are in that harder space. But at no point were they beyond the Law. It was just to have the exemption for the legal obligation. I know this will be a perpetual circle there, but that is what the *[inaudible]*.

Deputy Soulsby, again, like Deputy Gollop, has a 10-year knowledge of the history and explained again, really bringing up the point of how long we had been waiting for this and how we should have done more. Have I crossed the time –?

**The Deputy Bailiff:** Yes, you have, but you must finish, Deputy Blin; it is your right. (**Deputy Blin:** Okay, right.) I just wonder if it is necessary to repeat what everybody has said. (**A Member:** No.) Just bring up the points that you need to reply to.

**Deputy Blin:** Yes, okay. Look, I am going to, with real respect, shorten this through. There are small comments but the reality is this ... Well, I will thank Deputy Meerveld for speaking, Deputy Burford, Deputy Mahoney, and Deputy Dudley-Owen.

I am going to stop a little bit on Deputy Dudley-Owen's because actually, I really appreciated that. And again, that pragmatic, balanced approach covers all of it; believes that it has to be aired, has to be spoken; talked also of actually the concerns that businesses have. Maybe we have to take a bigger interest in understanding the businesses and engaging.

I am going to summarise up from here. The point is, I have hopefully shared with you, as the Assembly, for everything that you have all said. I have enjoyed the engagement with the lobby groups, but I am going to reiterate one really strong point: having my son concerned about receiving messages at school, having these emails and messages there which made it very difficult, it is unacceptable. And if one thing can be picked up from this, *please*, to lobby groups, no specific areas, to be told that not to vote for me because I stood up to do this or to be told not to vote for the supporters or anyone who is going to vote in the next few minutes on this is unacceptable.

Where we have others policies coming in in the future, following on this topic, please do not continue with that strategy and let's respect everyone. We respect the lobby groups; respect the people laying these amendments and respect all of the speeches made in this Assembly.

And I thank you –

**A Member:** Hear, hear.

1905 **The Deputy Bailiff:** Thank you very much, Deputy Blin. (**Deputy Dyke:** Hear, hear.)  
States' Greffier, would you open the vote on Amendment 8?

**The States' Greffier:** Yes, madam.

*There was a recorded vote*

*Not carried – Pour 9, Contre 26, Ne vote pas 1, Absent 2, Did not vote 2*

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Blin	Deputy Aldwell	Alderney Rep. Snowdon	Deputy Oliver	Deputy Dudley-Owen
Deputy de Lisle	Deputy Brouard		Deputy Parkinson	Deputy Le Tissier
Deputy Dyke	Deputy Burford			
Deputy Ferbrache	Deputy Bury			
Deputy Helyar	Deputy Cameron			
Deputy Mahoney	Deputy de Sausmarez			
Deputy Meerveld	Deputy Fairclough			
Deputy Murray	Deputy Falla			
Deputy Vermeulen	Deputy Gabriel			
	Deputy Gollop			
	Deputy Haskins			
	Deputy Inder			
	Deputy Kazantseva-Miller			
	Deputy Le Tocq			
	Deputy Leadbeater			
	Deputy Matthews			
	Deputy McKenna			
	Deputy Moakes			
	Deputy Prow			
	Deputy Queripel			
	Alderney Rep. Roberts			
	Deputy Roffey			
	Deputy Soulsby			
	Deputy St Pier			
	Deputy Taylor			
	Deputy Trott			

1910 **The Deputy Bailiff:** There voted Pour 9, Contre 26, there was 1 abstention, and there were 4 absences. I declare the amendment not passed.

Thank you, everybody. We will now adjourn until 2.15 and I would be grateful if the Presidents of the Committee who I have contacted to talk about the remaining business of the day, please join me in my chambers.

Thank you.

*The Assembly adjourned at 12.55 p.m.  
and resumed its sitting at 2.15 p.m.*

1915

**Procedural –  
Order of business**

**The Deputy Bailiff:** It is a shame all Members are not here yet because I was going to just flag something up, but I will tell those of us who are here. There are a number of items on the order paper that are ones where the Presidents of the Committee have informed me that it is really quite imperative that the matters are heard today. I am not going to field any motion yet to rearrange, but just to flag up: there are two matters after we have dealt with general debate on discrimination. Those are the P&R Committee's The Bailiwick's Further Participation in UK Free Trade Agreements and also Home Affairs' Amendments to the Criminal Justice Framework; both Committees are anxious for those matters to be heard today.

I just wanted to mention that before we start, as we will now, on Amendment 9.

**The Prevention of Discrimination (Guernsey) Ordinance, 2022 –  
Debate continued –  
Proposition carried as amended**

**The Deputy Bailiff:** Deputy Matthews.

**Deputy Matthews:** Yes, madam. I wish to lay the amendment.

**The Deputy Bailiff:** Yes, please go ahead, unless you want the Greffier to read out the amendment. Do you?

**Deputy Matthews:** No, I do not think that is necessary.

**The Deputy Bailiff:** Please go ahead.

[Amendment 9](#)

*At the end of the Proposition add: ", subject to the amendment indicated below".*

*In the Schedule, after paragraph 4, insert:-*

*"Freedom of Expression*

*5. (1) This paragraph does not apply to victimisation under this Ordinance.*

*(2) This paragraph does not apply where the conduct of a person ("A") amounts to harassment under this Ordinance of another ("B") and -*

*(a) A's conduct has the purpose of –*

*(i) violating B's dignity, or*

*(ii) creating an intimidating, hostile or degrading, humiliating or offensive environment for B, or*

*(b) occurs in circumstances where it would appear to a reasonable person that it would have the effect referred to in subparagraphs (i) and (ii) of paragraph (a).*

*(3) For the avoidance of doubt, an expression of an opinion, political view, religious belief or any implied or actual view or position on any subject does not by and of itself constitute an act of discrimination prohibited by this Ordinance.",*

*and renumber subsequent provisions and amend relevant cross-references accordingly.*

**Deputy Matthews:** Thank you, madam.

All people have a right to protection from discrimination. In proposing this amendment, the initial reactions were, 'But there was no point in adding a specific exemption for freedom of expression as it's already fully guaranteed by international conventions of the United Nations.' Article 19 of the Universal Declaration of Human Rights states, 'Everyone has the right to freedom

of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.'

1945 This is echoed in the European Convention on Human Rights, to which Guernsey has been a party for more than 60 years, and has been incorporated in Guernsey law since 2006. Article 10 of the Convention sets out the right, and in its second paragraph, sets out where restrictions to freedom of expression can be lawful. Paragraph 2 reads:

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society ...

It goes on. One such restriction to the freedom to the right to freedom of expression is contained in this law.

1950 The human right to protection from discrimination is held by most European countries as having equal status to the right to freedom of expression. Article 14 of the same Convention sets out the prohibition of discrimination:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

1955 The intersection of these two fundamental rights to protection from discrimination and freedom of expression is a weighty subject. This is a profound matter. It surprises me that this fundamental issue has not had a higher profile. Much of this has been lost in the noise of more practical concerns around the cost to businesses of installing wheelchair ramps and the like.

1960 But clearly, some forms of expression can constitute discrimination. Many people will have felt discriminated against not by actions, but by words. Words do matter. This Ordinance seeks to address the very serious issues of harassment and victimisation in respect of five grounds that are protected: disability, race, carer status, sexual orientation, and religious belief – 'religion *and* belief', I think it has been amended to.

1965 But where exactly is the line drawn? What counts as harassment and what does not? And when is it acceptable to restrict an individual's freedom of expression if it crosses the line from acceptable discussion and into harassment? The line is not defined in this Ordinance. We effectively import existing decisions and case law from the UK to guide our own Tribunal in its decisions. Some of these decisions may be controversial; that is inevitable. Arriving at a common understanding of what is allowed and what is not is no simple task. There will, of course, be divergent views on our Island about what should be allowed and what should not; not everyone will agree.

1970 Make no mistake: this Ordinance fires the starting pistol on the culture wars in our legislation. These are the issues that increasingly divide free societies around the world: the struggle between an increasingly liberal, secular society that pushes for progress against a conservative opposition that roots its world-view in tradition, values, beliefs, and moral absolutism and regards these as degraded in modern society. In each decision, there will be a winner and a loser.

1975 At the same time, any restriction on freedom of expression must not be taken lightly. It is essentially the defining characteristic of a free society. Totalitarian countries do not have freedom of speech. It is this freedom that underpins our democracy. Without it, we simply would not be here in this Assembly and able to discuss ideas on fundamental human rights; indeed, free and critical thinking in open debate is the soundest way to ensure a fair and just society. It is this paramount importance of the right to freedom of expression that justifies, in my view, special consideration at any point where restriction is to be considered. This is so self-evident that it does not merit a long speech: freedom of expression is exactly what it says it is. I therefore do not see this amendment as  
1980 at all controversial: who would oppose freedom of expression?

1985 I will go on to discuss the concerns raised by ESS, who very kindly set out their comments in a draft briefing note which has been sent to all Deputies. Overall, the ESS Committee position is neutral. This is described as such since, in the Committee's view, 'It adds unnecessary complication in detail. Nothing in The Prevention of Discrimination (Guernsey) Ordinance restricts freedom of

speech except when it constitutes harassment or victimisation’ – which is a little like saying, ‘It doesn’t restrict freedom of speech except when it does.’ Any occasion on which freedom of speech is restricted should not pass by without challenge.

In my view, exactly what constitutes harassment is likely to be a subject of some controversy. In many ways, I would prefer a more sophisticated definition than the ‘purpose or effect’ form of words which mirrors the UK Equality Act 2010. By way of example, the United Nations’ Office of the High Commissioner for Human Rights offers up a six-part threshold test in the Rabat Plan of Action on the prohibition of incitement to hatred which could help differentiate between speech that intends to discriminate from that which is merely offensive but not necessarily harassment. However, incorporating this into an exception which aims to provide clarification on the position of freedom of expression was beyond the scope of what could be achieved in an amendment to an Ordinance. I would be grateful if the President could provide, in his summing-up or speech, a position on whether the Committee is willing to consider this further.

The comments go on to say, ‘These types of prohibited conduct are carved out from the proposed new exception because its proponents recognise that it is right to curtail freedom of speech if it amounts to harassment or victimisation.’ This is entirely fair. Freedom of expression must, by necessity, be curtailed if it amounts to harassment or victimisation. However, the extent of that curtailment is something that should, in my view, be the subject of debate here.

Finally, the Committee is concerned the proposed exception introduces a slightly different ‘reasonable person’ test than is set out in section 11. I will summarise the final paragraph: ‘In a verbal harassment case, the Tribunal would need to determine whether the harassment has taken place, in line with the test in the Equality Act, and then separately, whether it falls within or outside of the exception, and then a differently-worded ‘reasonable person’ test based on Jersey’s test. The Committee’s view is that the tests should be the same.’

I just take a different view here. In cases where a person is expressing an opinion or a political view or a religious belief, many will regard that as entirely legitimate. These decisions could be highly consequential. It does no harm at all to have a double-check on whether the conduct could amount to harassment or not. And not forgetting, in the majority of times when this legislation is referred to, it will not be in a court of law or a tribunal, but in an internal company procedure – such as disciplinary hearing organised by an employer, for example. There are numerous unfortunate examples from the UK where organisations have taken an overzealous interpretation of the law, often wanting to avoid the effort, expense, or reputational risk of going to Tribunal.

There is a phrase in carpentry, ‘Measure twice, cut once,’ which I believe is very wise advice. For these reasons, I urge Members to accept the amendment.

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

**Deputy Queripel:** I do, madam, and may I speak now, please?

**The Deputy Bailiff:** Yes, you may.

**Deputy Queripel:** Thank you.

Madam, I have made 436 speeches in this Chamber in my 10 years as a Deputy, (*Laughter and interjections*) and not once have I had anyone else to help me or to write my speeches. History is about to be made, because the speech I am about to make has largely been written by Deputy Matthews. I say that because all I am going to do – it is not a very long speech – is just repeat a couple of the crucial points he made in his speech in case Members missed them the first time round – and of course, Members have been walking in as he was speaking, so they will have missed these crucial points.

Deputy Matthews said:

It does no harm at all to have a double-check on whether the conduct could amount to harassment or not. And not forgetting, in the majority of times when this legislation is referred to, it will not be in a court of law ...



I give way to Deputy Roffey.

**The Deputy Bailiff:** Deputy Roffey.

2040 **Deputy Roffey:** I thank Deputy Queripel for giving way.

One thing that Members may have missed if they were late was your remarks at the beginning, Madam Deputy Bailiff, that there is other business that desperately needs to be done today. I wonder if it would help Deputy Queripel to speed up the process if I say that my Committee is not going to be objecting to or resisting this amendment in any way, and therefore, we do not need a lot of persuasion.

**The Deputy Bailiff:** Deputy Queripel.

2050 **Deputy Queripel:** That is fine, madam. My point is, there were Members who were not in the Chamber when Deputy Matthews was making his speech and all I am trying to do is pick out a couple of crucial points.

Deputy Matthews said:

... it will not be in a court of law or a tribunal, but in an internal company procedure – such as disciplinary hearing organised by an employer ... There are numerous unfortunate examples from the UK where organisations have taken an overzealous interpretation of the law, often wanting to avoid the effort, expense, or reputational risk of going to tribunal.

He went on to say:

It surprises me that this fundamental issue has not had a higher profile. Much of this has been lost in the noise of more practical concerns around the cost to businesses of installing wheelchair ramps and the like. But clearly, some forms of expression can constitute discrimination. Many people will have felt discriminated against ... by words. Words do matter. Freedom of expression must, by necessity, be curtailed if it amounts to harassment or victimisation. [And that] ... the extent of that curtailment is something that should ... be the subject of debate here.

2055 – and I concur with him. I absolutely resonate with that point he made because actually, as the explanatory note says:

This amendment emphasises the concept of freedom of expression which is not explicitly stated within the ordinance.

I have got lots of notes here, madam. I could make a really long speech; I am not going to – except to say that obviously, I am all in favour of freedom of expression, but there has got to be a limit. If someone discriminates when they do express themselves, then they have to realise they will pay the price for doing that.

2060 Moving to a close: Deputy Matthews covered a lot of ground in his speech, so I ask colleagues who intend on voting against this amendment and those who are undecided to please, listen very carefully to what he says when he responds to the debate, because he may just say something to persuade you to change your mind or help you make up your mind.

Thank you, madam.

2065

**The Deputy Bailiff:** Deputy Inder.

**Deputy Inder:** Rule 26(1), please, madam.

2070 **The Deputy Bailiff:** Deputy Inder has asked for a motion that the debate be guillotined. Those who still wish to take part in the debate on Amendment 9, please stand in your places. Deputy Inder, do you still wish me to go ahead with the motion?

**Deputy Inder:** I do, madam.

2075

**The Deputy Bailiff:** The motion is to guillotine the debate on Amendment 9 –

**Deputy Roffey:** – on free speech?! *(Laughter)*

2080 **The Deputy Bailiff:** – the irony not being lost that it is on freedom of speech! Those who support the motion; those against.

*Some Members voted Pour, others voted Contre.*

**The Deputy Bailiff:** I am going to ask for an SEV vote, please, because that was very close.

2085 **The States' Greffier:** Do you want to start the voting, madam?

**The Deputy Bailiff:** Yes, please.

*There was a recorded vote.*

*Carried – Pour 19, Contre 16, Ne vote pas 0, Absent 2, Did not vote 3*

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	Deputy Brouard	None	Deputy Oliver	Deputy Cameron
Deputy Blin	Deputy Burford		Deputy Parkinson	Deputy Le Tissier
Deputy Dyke	Deputy Bury			Deputy St Pier
Deputy Falla	Deputy de Lisle			
Deputy Ferbrache	Deputy de Sausmarez			
Deputy Haskins	Deputy Dudley-Owen			
Deputy Helyar	Deputy Fairclough			
Deputy Inder	Deputy Gabriel			
Deputy Le Tocq	Deputy Gollop			
Deputy Leadbeater	Deputy Kazantseva-Miller			
Deputy Mahoney	Deputy Matthews			
Deputy McKenna	Deputy Queripel			
Deputy Meerveld	Deputy Roffey			
Deputy Moakes	Alderney Rep. Snowdon			
Deputy Murray	Deputy Soulsby			
Deputy Prow	Deputy Trott			
Alderney Rep. Roberts				
Deputy Taylor				
Deputy Vermeulen				

**The Deputy Bailiff:** On the motion to curtail the debate on freedom of speech, *(Laughter)* there voted Pour 19, Contre 16, and there were 5 absences. Freedom of speech has now been guillotined. *(Laughter)*

2090 Deputy Matthews, as Deputy Roffey is not going to reply.

**Deputy Matthews:** I think there is very little left for me to say on this. I would like to thank Deputy Roffey for not opposing the motion. I would commend everybody who has not been able to speak to support freedom of speech.

2095 Thank you. *(Laughter)*

**The Deputy Bailiff:** States' Greffier, would you open the voting on Amendment 9, please?

*There was a recorded vote.*

*Carried – Pour 33, Contre 0, Ne vote pas 2, Absent 2, Did not vote 3*

<b>POUR</b>	<b>CONTRE</b>	<b>NE VOTE PAS</b>	<b>ABSENT</b>	<b>DID NOT VOTE</b>
Deputy Aldwell	None	Deputy de Sausmarez	Deputy Oliver	Deputy Cameron
Deputy Blin		Deputy Roffey	Deputy Parkinson	Deputy Le Tissier
Deputy Brouard				Deputy St Pier
Deputy Burford				
Deputy Bury				
Deputy de Lisle				
Deputy Dudley-Owen				
Deputy Dyke				
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				
Deputy Gollop				
Deputy Haskins				
Deputy Helyar				
Deputy Inder				
Deputy Kazantseva-Miller				
Deputy Le Tocq				
Deputy Leadbeater				
Deputy Mahoney				
Deputy Matthews				
Deputy McKenna				
Deputy Meerveld				
Deputy Moakes				
Deputy Murray				
Deputy Prow				
Deputy Queripel				
Alderney Rep. Roberts				
Alderney Rep. Snowdon				
Deputy Soulsby				
Deputy Taylor				
Deputy Trott				
Deputy Vermeulen				

**The Deputy Bailiff:** There voted Pour 33, there were 2 abstentions, and we have 5 absences.  
The amendment is passed.

Rather than turn to Amendment 10, I am going to turn now to Amendment 15, as Deputy Haskins has indicated that if Amendment 15 is passed, he will not be laying Amendment 10.

#### [Amendment 15](#)

*At the end of the Proposition add: “, subject to the amendment indicated below”.*

*In paragraph 43 of the Schedule—*

*a) at the end of the subparagraph 2(b) for “house of multiple occupation”, substitute - “house in multiple occupation.”, and*

*b) for subparagraph (3) substitute—*

*“(3) In this paragraph—*

*(a) “close relative” has the same meaning as in section 3, and*

*(b) “house in multiple occupation” means a dwelling comprised of accommodation for three or more households, in addition to A or A’s close relative, where the accommodation for each household is let, or available for letting, on a separate tenancy or similar agreement.”.*

**The Deputy Bailiff:** Deputy Roffey.

**Deputy Roffey:** Thank you, Madam Deputy Bailiff.

First of all, can I say thank you to Deputy Haskins, through you, for drawing to our attention our omission in terms of properly defining what a ‘house in multiple occupation’ is in the legislation.

We are very grateful to him. However, his Amendment 10, which will be discussed if this amendment fails – which I do not think it will – we could not really go along with it because it treats Open Market properties different to Local Market properties in this respect and, frankly, that is discriminatory. It would be odd to put that into an anti-discrimination Law.

What we are talking about here is the exemption for somebody having to allow a reasonable adjustment for a tenant when they are living in the house that is their own home; therefore, they should be able to have their home the way they want it. This is not if it is divided into flats or separate facilities, it is not if it is a commercial boarding-house; it is just where somebody lets out one or two rooms to other people.

We looked at other definitions from other places – actually, Deputy Haskins referred us to some of those other definitions – and I could give a complicated, technical explanation, but basically, you can have up to two other households in the property with you and you are then exempt from the requirement to allow somebody to make a reasonable adjustment to what is actually your home, but as soon as it becomes three or more households, that exemption will lapse because then it becomes, really, a commercial boarding-house arrangement.

I do not think there is any controversy with this. It is really a technical correction to the fact that we had not put the definition in the Ordinance as drafted.

**The Deputy Bailiff:** Deputy de Sausmarez, do you second this?

**Deputy de Sausmarez:** Yes, madam.

**The Deputy Bailiff:** Deputy Haskins.

**Deputy Haskins:** Thank you, Deputy Bailiff.

One slight point of correction, there, which I appreciate I am not doing as a point of correction. The definition says:

"house in multiple occupation" means a dwelling comprised of accommodation for three or more ... in addition to A or A's close relative ...

I am grateful to the Committee for laying this amendment after having received mine and Deputy Mahoney's amendment. Our amendment sought to clarify what a house of multiple occupation (HMO) is – or 'in multiple occupation' now.

The legislation, as it stands, would mean that all houses that are HMOs would be included in this legislation because it did not define what a house of multiple occupation is. It is defined in The Housing (Standards and Regulation) (Enabling Provisions), approved in 2021, as 'rental housing that is occupied by more than one household'. Using this definition, it would have meant that anyone who has a lodger or simply renting to a friend would be subject to this Ordinance; they would, after all, be more than one household. It was never the intention in the Ordinance to affect the private life of families if they chose to rent a room or two in their family home. The first sentence of the exemption in the 2020 policy letter states it is proposed:

... that if a person is providing accommodation in a premises where they or a near relative live (i.e. where this would affect their private or family life) then they are exempt from this legislation and may choose who they wish to accommodate.

Deputy Roffey and others have time and time again explained how wide the consultation has been and the many years that have gone into this Ordinance. He states that this has been and is a robust process. This Assembly, who represent the very people this Ordinance will protect and affect, is the final part of that process. We check that the legislation requiring approval is exactly what we, as an Assembly, are expecting and wanting. We should not just nod it through, as our extremely well-respected colleague, Deputy Trott, has told us we often do; we should scrutinise it. That is the very reason we are discussing it now.

I would also like to highlight that Deputy Roffey has said time and time again that his Committee has followed the policy letter to the letter and that the Ordinance does reflect the full intention and decisions of this and previous Assemblies. My point in highlighting this is that, under scrutiny, we have found that the Ordinance does not fully reflect the intent as outlined in the policy letter.

But to the amendment: in my mind, we need to ask ourselves two questions. Is this Law or amendment currently doing what it is meant to do? And do we think that this Law or amendment is what we should be doing or what is best for Guernsey as a whole? Is it doing what it is meant to do? Deputy Mahoney and myself believe that this amendment brings the Law to a state where it matches the policy letter, so yes. Do we think that this is what we should be doing? I will not speak for Deputy Mahoney, but in this particular area, yes, I believe it does. Although, I do have concerns about some of the terms: for example, what exactly constitutes a 'separate dwelling'? Is it a chalet in a garden or a wing in a shed with shared access and a shared garden? Does a shared garden constitute as separate? However, I am hopeful the future guidance will make this clear.

Now, I am sure Members have heard the saying 'A Guernseyman's home is his castle.' Again, I am hopeful that this amendment will ensure that this continues to be the case. I believe that a householder should have the ability to choose who they feel safe and comfortable with, to choose lodgers who will not have needs that affect their own needs, and of course, be able to choose who they think they will be happy to share their homes with. None of this releases anyone from their absolute moral duty not to discriminate. I would gently remind Members and our community that we have a duty to ask ourselves and the rest of the Assembly if we think all parts of this Ordinance are correct, fit-for-purpose, and of course, highlight any potential unforeseen consequences or risks and attempt to offer solutions to mitigate against them. This duty to question from Deputy Mahoney and myself has led to this valid clarification amendment from Deputy Roffey and Deputy de Sausmarez and I am sure Members will agree just how important this process is.

This Assembly is carefully and diligently doing what it thinks is best for Guernsey. We do not want anyone in our community to be discriminated against. We are all trying, using each of our perspectives, to make sure that we implement this Ordinance into Guernsey law in the way that each of us thinks is the best and most responsible way. Contrary to local social media and other lobbyists, there are no enemies here, no 'haters'; there are only slightly different points of view. I respect yours and expect you to respect mine and those of my colleagues. (**A Member:** Hear, hear.)

In closing, Deputy Bailiff, I very much support this amendment. It clarifies the original intentions and continues to allow householders the choice of whom they want and would like to share their castles with.

I ask this Assembly to support this amendment.

**The Deputy Bailiff:** Thank you, Deputy Haskins.  
Deputy Leadbeater.

**Deputy Leadbeater:** Rule 26(1), please, madam.

**The Deputy Bailiff:** Anybody else who wishes to speak in the debate in relation to Amendment 15, please stand in your places.

Are you content, Deputy Leadbeater, that I do not put the motion to the Chamber?

**Deputy Leadbeater:** Yes, I am.

**The Deputy Bailiff:** I simply turn to Deputy Roffey to respond.

**Deputy Roffey:** Thank you, Madam Deputy Bailiff.

Just to clarify one thing: the exemption is, as I said in introducing it, for a situation where you have the owner's household and up to two additional households. The 'up to three' mentioned in the amendment is where the exemption falls away and it becomes a house in multiple occupation

2205 and then is covered by the requirement to allow the tenant to make a reasonable adjustment at their own cost. Up to two on top of the actual household that owns the property, it will be exempt in future. That is just a minor point.

I think there is no real debate and we all want to crack on, so let's go for it.

2210 **The Deputy Bailiff:** States' Greffier, would you open the voting on Amendment 15?

*There was a recorded vote.*

*Carried – Pour 35, Contre 0, Ne vote pas 0, Absent 2, Did not vote 3*

<b>POUR</b>	<b>CONTRE</b>	<b>NE VOTE PAS</b>	<b>ABSENT</b>	<b>DID NOT VOTE</b>
Deputy Aldwell	None	None	Deputy Oliver	Deputy Cameron
Deputy Blin			Deputy Parkinson	Deputy Le Tissier
Deputy Brouard				Deputy St Pier
Deputy Burford				
Deputy Bury				
Deputy de Lisle				
Deputy de Sausmarez				
Deputy Dudley-Owen				
Deputy Dyke				
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				
Deputy Gollop				
Deputy Haskins				
Deputy Helyar				
Deputy Inder				
Deputy Kazantseva-Miller				
Deputy Le Tocq				
Deputy Leadbeater				
Deputy Mahoney				
Deputy Matthews				
Deputy McKenna				
Deputy Meerveld				
Deputy Moakes				
Deputy Murray				
Deputy Prow				
Deputy Queripel				
Alderney Rep. Roberts				
Deputy Roffey				
Alderney Rep. Snowdon				
Deputy Soulsby				
Deputy Taylor				
Deputy Trott				
Deputy Vermeulen				

**The Deputy Bailiff:** There voted Pour 35 and there were 5 absences. I declare the amendment passed.

I now turn to Amendment 16.

[Amendment 16](#)

*In the draft Ordinance entitled "the Prevention of Discrimination (Guernsey) Ordinance, 2022" (Article V of Billet d'Etat No. XVII of 2022) -*

*At the end of the Proposition add: "; subject to the amendments indicated below".*

*1. In section 55(4), for ", save where" to the end substitute "save where there is a complaint, or complaints, of victimisation as part of the joined complaints, in which case the maximum award limits in paragraph (a) and (b) do not apply to the victimisation complaint, or complaints as the*

*case may be, in respect of which (regardless of how many victimisation complaints are made) the appropriate limit for a single claim as set out in sections 50, 51 or 52 would apply."*

*2. In section 56, for subsection (3) substitute—*

*"(3) Where there is a complaint or complaints of victimisation under this Ordinance made by A as part of the joined complaints, the maximum award limits in subsection (2) do not apply to the victimisation complaint, or complaints as the case may be, in respect of which (regardless of how many victimisation complaints are made) the appropriate limit for a single claim as set out in section 50 would apply."*

**The Deputy Bailiff:** Deputy Roffey.

2215

**Deputy Roffey:** Thank you, Madam Deputy Bailiff.

This is a bit like the amendment we put – I have forgotten which day we put it on – about what constituted a contract of employment. This is an amendment to put something absolutely beyond doubt which we thought was beyond doubt in the Ordinance, but it has been pointed out that it could be argued that it is not.

2220

Just to take a step back: we, at the request of the employer organisations, have put a cap on the amount that somebody can get as an award for discrimination under different heads. Six months is the normal pay, the normal award, but if we get awards under multiple heads, because the employer organisations were worried that would add up, we have said nine months is the maximum, however many heads it has been brought under.

2225

We said on top of that, we wanted to make sure that did not mean that there could be no payment for victimisation. 'Victimisation', in the context of this Ordinance, means one thing only: somebody being victimised for resorting to the anti-discrimination process. It is not any other victimisation; it is their employer taking it out on them and victimising them for using this process.

2230

We said that ought to be sat outside because that clearly is over and above. In fact, if it is was not over and above, you would have the bizarre situation where somebody who was the most egregious example of discriminatory would go up to the nine months' limit on the award for discrimination, would be free to victimise happily because they would know they could not get any additional penalty for doing that; whereas bizarrely, somebody who had mildly discriminated against and had the lower-tier settlement would still be able to have awards put against them for victimisation.

2235

However, we always meant that on top of that nine months, the absolute maximum that you could get for victimisation on top would be the six months that is covered by victimisation. So if you were to give the worst possible offence you could imagine on multiple grounds, then it would be technically possible to go up to fifteen months. The way we worded that in the Ordinance was that the victimisation awards sat outside the nine months limit. Now, it has been Deputy Dyke, I think, saying that that means if it is not subject to the limit, any amount of money can be claimed for victimisation. That was never ever our intent. This amendment is to make it absolutely clear that, yes, it will not be subject to the nine months, because that would produce perverse results. But on top of that, victimisation would still only have a maximum award and it is one lot of victimisation that sits elsewhere in the legislation which is six months.

2240

I hope that is clear. I know people have said it is a complex area and it is a complex area. If somebody has not been following it carefully, that might sound confusing, but it is to make sure there is not unlimited liability, that it is strictly limited to the nine months, however many grounds you have discriminated on, plus the six months if you victimise. As I said, that was always our intent. This makes it absolutely beyond doubt that that is the maximum level of award that can be made.

2250

**The Deputy Bailiff:** Deputy de Sausmarez, do you second this? (**Deputy de Sausmarez:** Yes.)  
Deputy Dyke.

2255

**Deputy Dyke:** Thank you, madam.

Just to clarify how this amendment – 16, I think it is – relates to Amendment 11, proposed by myself and seconded by Deputy Aldwell: I think the filing of my Amendment 11 has prompted this Amendment 16. The problem – and I think Deputy Roffey and I are pretty much agreed on this – was that with the current drafting of section 55, where you have joint complaints in the sphere of employment, the maximum penalty or compensation is nine months plus the £10,000 for hurt. But for some reason, in the drafting, victimisation was excluded from that. There was no particular reason, in my mind, why victimisation should not be included, hence my Amendment 11.

To my mind, Deputy Roffey's amendment half-fixes the problem so I will vote for it, but I will still plan to put forward my Amendment 11 later, because I think that fully fixes it, so I think that is what ...

Thank you.

**The Deputy Bailiff:** Deputy Roffey, anything to say in response?

**Deputy Roffey:** No, only Deputy Dyke has spoken and I think his comments are better tackled when we get to Amendment 11.

**The Deputy Bailiff:** States' Greffier, can we start voting on Amendment 16, please?

*There was a recorded vote.*

*Amendment 16:*

*Carried – Pour 33, Contre 0, Ne vote pas 2, Absent 2, Did not vote 3*

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	None	Alderney Rep. Roberts	Deputy Oliver	Deputy Cameron
Deputy Blin		Alderney Rep. Snowdon	Deputy Parkinson	Deputy Le Tissier
Deputy Brouard				Deputy St Pier
Deputy Burford				
Deputy Bury				
Deputy de Lisle				
Deputy de Sausmarez				
Deputy Dudley-Owen				
Deputy Dyke				
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				
Deputy Gollop				
Deputy Haskins				
Deputy Helyar				
Deputy Inder				
Deputy Kazantseva-Miller				
Deputy Le Tocq				
Deputy Leadbeater				
Deputy Mahoney				
Deputy Matthews				
Deputy McKenna				
Deputy Meerveld				
Deputy Moakes				
Deputy Murray				
Deputy Prow				
Deputy Queripel				
Deputy Roffey				
Deputy Soulsby				
Deputy Taylor				
Deputy Trott				
Deputy Vermeulen				



2275 **The Deputy Bailiff:** There voted Pour 33, there were 2 abstentions and 5 absences. I declare the amendment passed.

We now turn to Amendment 11.

**The Deputy Bailiff:** Deputy Dyke.

[Amendment 11](#)

*In the draft Ordinance entitled "the Prevention of Discrimination (Guernsey) Ordinance, 2022" (Article V of Billet d'Etat No. XVII of 2022) -*

*At the end of the Proposition add: ", subject to the amendments indicated below".*

*1. In section 55(4), delete from ", save where" to the end.*

*2. In section 56, delete subsection (3).*

2280

**Deputy Dyke:** Thank you, madam. It is a busy day.

Amendment 11: we are discussing the same point that we were with Deputy Roffey's amendment, the point being that the Ordinance as previously drafted – and now, as I would put it, partially fixed – did not bring victimisation into the joint complaints limit at all, so it was completely unclear as to where you could go with that. Deputy Roffey's amendment, that we have just passed, puts a cap of an additional six months.

To put this in context – and this is, I think, a pragmatic amendment – where you have a complaint – typically, it is in an employment circumstance: you have a disgruntled employee who does not get a pay rise for whatever reason and you end up with a discrimination complaint. And you might have other complaints. You might have sex discrimination, race discrimination all added up. The basic rate for an employment case per single claim is six months plus the £10,000 hurt. Under section 55, where there are multiple claims in respect of the same facts, there is a cap – or there *could be* a cap if they are joined – of nine months plus the £10,000 for hurt. To my mind, all of those figures apply equally, including to victimisation.

As I said, with joined complaints, the maximum compensation, as we now have it, if you exclude victimisation, is nine months for multiple complaints plus the £10,000. With Deputy Roffey's amendment which we have just passed, it is six months if you have a victimisation complaint amongst them all, plus the £10,000, plus another six months – sorry, it is *nine months* plus £10,000 plus another six months; so that is 15 months, which is a year and a quarter's salary. On a pragmatic basis, that is too much, the limit is simply too high. I think the nine months for co-joined complaints, whatever they are, is entirely appropriate with the add-on of potentially, another £10,000 for hurt. Hence, if you agree with that, you would vote for this Amendment 11. If that is not clear, then can somebody raise it in their speech?

Thank you very much.

2305

**The Deputy Bailiff:** Deputy de Sausmarez.

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

I am not going to use any numbers; I think this is a matter of principle, actually.

Victimisation, as Deputy Roffey explained when he opened on the last amendment, is very specifically, in this context, about people being victimised for falling back on this piece of legislation – which is there to protect people; let's not forget that. Now, victimisation can only be deliberate; that is what it is all about. Its intent is to undermine the effectiveness of this very legislation. I do not think it is in any way right to bundle that in just because we are worried that businesses that are discriminating against people in the most egregious way – because that is the only way in which this example would kick in – should be excused from paying that. Actually, if we flip that on its head, what it says to employers who realise that they are probably going to have to be hit with the highest possible penalty is that there is absolutely nothing left to disincentivise them from victimising that person for rightly using this legislation for its intended purpose.

2320 So I think the numbers are irrelevant. I think it is as simple as that matter of principle. If we want to have an effective deterrent to dissuade people from victimising people for using this legislation in the way in which it is intended, then we need to reject this amendment. We have sorted out the problem with the previous amendment, 16. This amendment undermines the principle at the very heart of what this legislation is trying to do in the first place.

2325 I would urge Members to reject it. Thank you.

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

**Deputy Aldwell:** I do, madam.

2330

**The Deputy Bailiff:** I am sorry I did not ask you before.  
Deputy Gollop.

2335 **Deputy Gollop:** I have been a bit of an outlier on this, in a way, because I did support the last amendment and I will not support this, really. I supported the last one almost reluctantly. I have been sitting on the Committees and Disabled Working Parties and groups for about 10 years and I really wanted deep down – yes, we do need a balance; that message has come up very strongly from States' Members in the last few days – slightly more the – what do you call it? – punitive approach on certain businesses or organisations who might victimise people or discriminate against them in any way – sort of a deterrent effect.

2340 We were talking about the scale. We had that long debate yesterday: £5,000, £10,000. I will have a little go at Economic Development now because I am sorry I missed the Sure breakfast yesterday; it escaped my calendar, but there are several telecoms firms operating in the Channel Islands. In our wisdom – and I am not necessarily sure that wisdom was huge – we created a regulatory framework which has been costly – and perhaps, at times, counterproductive, but there it is. I read on my little phone – I remember the news story – in July of this year, the Guernsey Competition Regulatory Authority fined two telephone companies – I am not going to name them. One of them was fined £439,000 for breaking competition law, the other one £2,962,632. Now, that kind of payment could affect divestment, could go to the consumer. What a huge fine: nearly £3 million!

2350 The kind of penalties we have been talking about for a different kind of offence is not going to be £3 million, it is not going to be £500,000; it is going to be comparatively small. So I want to give the Tribunal – and I do hope we will have a mixture of people from across the community with all kinds of social and business experience and so on participating – flexibility.

2355 I understand the worries business might have. But I think, as you can see in other areas – data protection being another – fines can be rather punitive, perhaps too punitive. I do not see why we have to have such lower levels and standards for this piece of legislation.

**The Deputy Bailiff:** Nobody else appears to be rising to speak. Therefore, I will turn to Deputy Roffey, on behalf of the Committee.

2360

**Deputy Roffey:** Thank you, Madam Deputy Bailiff.

2365 I think the main point that Deputy Dyke put forward in support of his amendment was that the maximum – and do not forget, that is only the maximum in the most egregious cases – of 15 months was too much. If he believes that, I respect that view because that is subjective; but it would be far better to bring down the combined maximum of nine months for the discrimination awards than say that when that maximum is used – and it is only in the worst cases that it will be used – there can be no penalty at all for victimisation. This is what that amendment would do in those circumstances. It could have brought down the ceiling of 15 to 12, to nine, whatever; but the way he has done it means that the worst discriminating people will get no penalty at all for victimisation.

2370 'Victimisation', as I said, is only – it is not general victimisation – victimising your employee for having the temerity to actually make use of the legislation which I hope we are going to pass later

on this afternoon. There is no excuse for that. We cannot send the message out that you can victimise your staff scot-free. That would be the upshot.

Now, I understand the reason it was first brought, because Deputy Dyke has said, the amendment we just passed has basically drawn a line around the amount that can be passed in total. But this is not to do with 15 months, 12 months; it means that once the maximum has been reached for discrimination, basically, victimisation comes scot-free. That is not a message we want to send out this afternoon.

Please reject this amendment.

**The Deputy Bailiff:** Deputy Dyke.

**Deputy Dyke:** Thank you, madam.

Good, only three Deputies to answer.

Deputy de Sausmarez has said this is a matter of principle, end of subject, money does not matter. I think on all of this, there has to be a combination of principle and pragmatism. And I would disagree: money *does* matter to the smaller- and medium- ... it even matters to the big firms; but at these levels, not so much. What Deputy de Sausmarez has said is victimisation is for the most egregious cases, the most terrible cases, the most awful things, dreadful things, but that is not how it is defined.

**Deputy de Sausmarez:** Point of correction.

**The Deputy Bailiff:** Yes, Deputy de Sausmarez.

**Deputy de Sausmarez:** I did not say that at all.

**Deputy Dyke:** You used the word 'egregious'.

**Deputy de Sausmarez:** Yes, I did use the word 'egregious', (*Laughter*) but not in the context that Deputy Dyke is describing.

**Deputy Dyke:** I wrote it down.

**Deputy de Sausmarez:** I said that obviously, this would only apply in the most egregious cases because that is the context in which this kicks in.

I also did not say that money does not matter, incidentally; the money definitely *does* matter. That was the whole point of my argument. I was explaining that it is only in the most egregious cases, where the maximum award for discrimination is awarded, that this amendment is relevant.

**The Deputy Bailiff:** Thank you.

Deputy Dyke.

**Deputy Dyke:** Okay, perhaps the word 'egregious' was just an unfortunate word and possibly slightly more pejorative than it should be. The definition of 'victimisation' – section 10(1):

10.

- (1) A person ("A") victimises another person ("B"), if A subjects B to a detriment because B has -
  - (a) made a complaint ...
  - (b) brought proceedings ...

So it is a pretty mild thing. You could do something quite mild and be guilty of victimisation. So to talk about the 'most terrible cases', 'egregious problems' is probably slightly over-the-top in terms of use of language. I would just make that point.

2420 Deputy Gollop mentioned that these were smaller sums than in some of the other types of case that we see; indeed, they are. Bear in mind, we are not –

**The Deputy Bailiff:** Deputy Inder?

2425 **Deputy Dyke:** I will give way.

**Deputy Inder:** Thank you, Deputy Dyke.

I was going to do it when Deputy Gollop mentioned the GCRA and Sure. What he incorrectly said is that, effectively, the fines are finished. It is fairly clear and it is well known that Sure are going to the Royal Court to appeal that; that is all I can say on the matter. To make that comparison – I think it was £2.9 million plus £400 or £3.5 million – the end result is just incorrect and he should know that before he starts drawing in completely irrelevant points in this Assembly.

**The Deputy Bailiff:** Deputy Dyke.

2435 **Deputy Dyke:** Thank you, Deputy Inder.

I was going to say, this is not so much comparing apples with oranges as apples with elephants; *(Laughter)* we are in a different ballpark here.

He mentioned flexibility; and yes, flexibility is a good thing.

2440 Deputy Roffey said if we make this amendment, then there is no penalty for victimisation. Well, no. No, no. If you have got a case of, in the employment context, racial discrimination, the Tribunal could make a determination that the penalty should be five months plus the £10,000 for hurt – that could be it – and then they could make a determination that the penalty for victimisation, if there has been some victimisation – as I said, victimisation can be a very mild thing; it is not attacking the guy and pushing him into the cupboard and all that sort of thing – they could make an additional award of four months onto that. So you would have added the two claims and the maximum would be nine months if their claims are joined. So it is not correct to say that there will be no penalty for the victimisation: they can be added together, calculated separately, added together with a maximum of nine months. I think I have answered that point.

2450 The question the Assembly has to ask itself is: in this context – and bear in mind that this applies from the little shop on the high street with two employees and not much money –

**Deputy Roffey:** Point of correction?

**The Deputy Bailiff:** Deputy Roffey.

2455 **Deputy Roffey:** I am sorry, I know we are trying to crack on.

That is not the point I made; the point I made is that in particularly egregious – sorry that the word is coming up again – cases of discrimination where you have reached the nine months on multiple grounds, in those circumstances, if this is passed, there will be no ability to award a single pound for the victimisation on top of that if this amendment is passed. That is what I said and that is correct.

**The Deputy Bailiff:** Deputy Dyke.

2465 **Deputy Dyke:** Well, yes and no. It depends on how you are looking at these things. What I am saying is that if you add the two together – as a pragmatic matter, as you are dealing with small, medium, big firms – to go to nine months plus £10,000, which is the standard – and the Assembly will just have to decide in a pragmatic way how they think about this – nine months and £10,000 is quite a lot of money, especially for the smaller firms. I do not see any need to go to 15 months by

2470 treating victimisation differently to all the other hits. That was my reasoning in bringing this amendment.

Thank you.

**The Deputy Bailiff:** Thank you, Deputy Dyke.

2475 States' Greffier, would you open the voting on Amendment 11?

*There was a recorded vote.*

*Not carried – Pour 15, Contre 15, Ne vote pas 4, Absent 2, Did not vote 4*

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	Deputy Brouard	Deputy Queripel	Deputy Oliver	Deputy Cameron
Deputy Blin	Deputy Burford	Alderney Rep. Roberts	Deputy Parkinson	Deputy Le Tissier
Deputy de Lisle	Deputy Bury	Alderney Rep. Snowden		Deputy St Pier
Deputy Dudley-Owen	Deputy de Sausmarez	Deputy Taylor		Deputy Trott
Deputy Dyke	Deputy Fairclough			
Deputy Haskins	Deputy Falla			
Deputy Helyar	Deputy Ferbrache			
Deputy Inder	Deputy Gabriel			
Deputy Mahoney	Deputy Gollop			
Deputy Matthews	Deputy Kazantseva-Miller			
Deputy Meerveld	Deputy Le Tocq			
Deputy Moakes	Deputy Leadbeater			
Deputy Murray	Deputy McKenna			
Deputy Prow	Deputy Roffey			
Deputy Vermeulen	Deputy Soulsby			

**The Deputy Bailiff:** There voted Pour 15, there voted Contre 15, there were 4 abstentions and 6 absences. So the outcome is the amendment has not been passed.

We will now turn to general debate.

Deputy Kazantseva-Miller.

2480

**Deputy Kazantseva-Miller:** Thank you, madam.

It has been a long few days but this is probably the most important piece of legislation and ordinance that actually has come across our desk. I want to bring a few points that have not been, really, properly, I think, surfaced.

2485 One of the biggest challenges businesses face right now is a labour and skills shortage. Guernsey has one of the lowest participation rates in the whole of the OECD: it would rank number 35 based on the 2021 participation index, with its participation rate being 79%. Compare this to Sweden, whose rate is 89%. This means one out of every five people in Guernsey of working age – between 20 and 64 years old – are not engaged in the labour market. The largest chunk of Islanders in that group are classified as 'non-employed', and that is just over 4,000 people in 2021. By far, women represent the largest proportion of that group. It is not a coincidence that women also take the majority of caring roles, as Deputy Trott said earlier. As women age, more and more drop out of the employment market and many take more and more caring responsibilities for ageing family members and those with disabilities.

2495 We have heard time and time again that the lack of flexibility on discrimination protection is one of the reasons why carers are not able to be more economically active. In simple terms, it is just to get into the labour force or be more actively employed. This has a direct link to Guernsey's chronic labour shortages. We are not as good as we think we are in using the invaluable human capital we already have. Bringing just 25% of those non-employed right now into jobs will solve the job crisis we have.

2500

The Discrimination Ordinance in front of us is absolutely an enabling tool for a large proportion of Islanders, such as carers and those with disabilities, to enjoy more of the basic rights and to enable them to be more economically and socially active. In fact, this forms one of the key pillars of

the Human Capital Development Plan, a category 1 action item under the Government Work Plan, and a framework for human capital development that was produced by the Skills Guernsey sub-group between Economic Development and Education has been unanimously approved by all members of the Committee for Education, Sport & Culture and Economic Development in the August meeting of this year.

The Human Capital Development Framework contains two pillars which have work streams directly linking to the enactment of the Discrimination Ordinance. Pillar A is about creating conditions for people to be economically and socially active. Pillar B is for business to have access to a diverse, healthy, and skilled workforce. So we have to see what we are doing today, this historic vote we are going to face, as really, actually, closing the circle in enabling some of the human capital aspirations we have.

We have talked at length about the potential cost to small businesses and other businesses. But what we have actually not talked about is the other side of the coin: the value to the economy of more Islanders being able to access those goods and services and being able to participate in employment. We have not talked about the power of what is called the 'purple pound', estimated to represent over £245 million for Guernsey. This is the spending power of Islanders with disabilities and employment potential if they had more access to be able to enjoy more of the local goods and services.

You will perhaps forgive me, as a member of Economic Development, for paying so much focus on jobs, businesses, and the spending power of the purple pound. Would it not be enough to see, just with our naked eye today, how much this Ordinance in this amended form will mean to literally thousands of Islanders? I have received many – and we have all received many – emails and continue to receive emails telling absolutely personal and really harrowing stories of what the lack of discrimination protection on the Island has meant to them. There are some who still continue calling anti-discrimination legislation a 'minority issue', and in fact, we have received emails saying just that this week.

This is where I do want to take the time to actually shout out the tireless work of many people over many years who have helped make today happen. The work to protect Islanders with disabilities started more than 15 years ago. It has touched the lives of thousands of Islanders and got many hundreds of passionate volunteers involved in the cause across many charities. There are many people, many of whom are today – they have not been driving this cause as some kind of pet project, something to put their name on a pedestal; they have been driving this work because they passionately believe it will make a huge difference to thousands of Islanders. And while some of the groups presented today have been called 'lobby groups' with a tone of derogatory tonality to it while we have held other stakeholders in the consultation process, such as the GFSC, somehow in much higher regard, I really want to put on the record how thankful certainly I am to those charities and to those people.

I do want to name some of those people: Dave Purdy, Rob Platts, Shelaine Green, Karen Blanchford, Carol Le Page, Ellie Jones, and many others. What they have put into this process and what today will mean for them, you cannot imagine.

So we have, at length, debated elements, obviously, of this Ordinance. But as we heard previously, this week was supposed to be about celebration and it has not really turned out this way. I think, with a largely unamended Ordinance, we are getting to a point where we can be happy with the result we achieve.

But, colleagues, I would like us to try to finish on this actually high. I would like us, whether your amendment has failed or not failed, to be proud of what you are going to be doing today (**A Member:** Hear, hear.) because this is literally the most important piece of legislation that is going to touch the lives of millions. So let's finish on that high, let's finish on that celebratory note, and let's celebrate the work of thousands of Islanders and charities that have made this happen.

I will leave you with a quote from our very beloved Victor Hugo, who wrote in 'The Future of Man':

Nothing ... in the world ... is so powerful as an idea whose time has come.

2555 It is truly the day to make that historic decision in a unanimous fashion, colleagues.

**The Deputy Bailiff:** Deputy Trott.

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

2560 It never ceases to amaze me just how well-researched some people in our community are. This morning, a friend of mine sent me an extract from *Hansard* which were the words that I spoke back in 2013. I want to make clear, in repeating those words this afternoon, that it cannot really be *tedious* repetition in the sense that it is some nine years or so ago. In delivering these words, I take absolutely no credit for where we are today – and Deputy Kazantseva-Miller mentioned some of  
2565 the prominent names in our community. But of course, it is people like Deputy Roffey and his team at ESS who have helped get us where we are today.

Nonetheless, madam, it is for posterity, if nothing else. This is what I said in 2013:

... for me, it is all about our reputation. We are reminded that 95% of the population of the world lives in countries that have signed the UN Convention on the Rights of People with Disabilities and Guernsey is in the remaining 5%. That is not good for our international reputation and it is something that needs to be remedied swiftly.

Equally compelling, although I have relegated this marginally to second place, it is good for our economy. Disabled people are loyal customers and loyal employees and Guernsey is currently losing out on talent and spending power. Carers are giving up work, unnecessarily, for lack of the right support – an issue of carers and right support I shall return to shortly.

Lastly in this trilogy, sir, –

– it was a man presiding at the time, Madam Bailiff –

– inclusive societies are happier societies. Peoples' attitudes can, often unintentionally, exclude disabled people from society. Communities that accept and include everyone are happier places to live.

For me, those words are as relevant and as poignant and as important today as they were nine years ago.  
2570

Thank you, madam.

**The Deputy Bailiff:** Thank you, Deputy Trott.

Deputy Ferbrache.

2575

**Deputy Ferbrache:** Let me just start by, again, I think, just mentioning one institution, and one person. Let me mention Dave Purdy. I was at Elizabeth College – he was just a few years older than me – when the Principal, Mr Day, announced that sadly, Dave – a bit like the point Deputy Mark Leadbeater made earlier about the 16-year-old who was hit and suffered a severe disability. From  
2580 an active young man, he then became a disabled young man. But he did not let it get him down. He campaigned for the rest of his life, until the day he died, for this kind of legislation, for this anti-discrimination legislation. He was a great Guernseyman. I knew him well and I missed him when he died – and he died too young.

The other – I do not think it is an 'institution' – the GDA. They have done tremendous work over many years and I doubt that we would be here today without them. I would like to publicly thank them.  
2585

I think it was a point made by Deputy Haskins earlier in a speech, that we are all going to come to the same conclusion. Every single Member who is in this Assembly will vote for these proposals as slightly amended – they have not been amended a lot. They will do so fulsomely and they will  
2590 do so with passion and integrity because these are the right things to do. We have no second-class citizens in this Island; we are all human beings. Deputy McKenna, I do not think he needed to remind us of the figures: we are just as passionate as him. He does not have the exclusivity in relation to

that. We all recognise, in relation to our disabled colleagues, they are Guernsey people, they are Guernsey residents, they are a full, valuable part of this society.

2595 In relation to the carers, I think he mentioned 6,000; I think it is probably more than that because there are lots of people who care who are not on any kind of official register or whatever. What a fantastic job they do. They might be, just for example, Deputy Leadbeater or Deputy Aldwell with their sons, they might Deputy Trott's father with Deputy Trott's mother – thousands of other people who, to a greater or lesser extent, provide caring facilities. Now, whether they are available for work  
2600 or not is irrelevant to a degree because they are there doing something that is valuable for our community. We have an ageing community. We will need more carers. Whatever we call them, we will need more carers, we will need more people.

We also have had – and other speakers have said in the various debates that we have had, various discussions that we have on this matter – a shortage of labour and any employer – big,  
2605 small, or in-between – would be acting just plain stupid if they did not do their best with reasonable people to adjust, to say, 'I know you can't come in until 11 o'clock and you've got to go at 3 because you've got to look after your mum' or 'your friend' or 'your sister' or 'your brother' or whomever it may be. And they will do that, because they will value the four hours that that person can give them and work for them on that particular day because that person will do their job conscientiously for  
2610 four hours and then go and do their caring duties.

So I thank them because most of them are not paid – or if they are paid, it is a relative pittance – for the work that they do and they contribute towards our society. Every single person is valuable, however long they live, whether they are able-bodied, whether they are not able-bodied. Every single person is a value to our community.

2615 Where I do take a little exception – and it is a headline and I know headlines are often wrong – is the headline I saw: 'About time Guernsey came into line with the rest of the civilised world'.

**Deputy Roffey:** [*inaudible*].

2620 **Deputy Ferbrache:** I appreciate that, I fully appreciate that because Guernsey is a very civilised place. I look round this Assembly: most people in this Assembly are indigenous Guernsey – or in the case of Alderney – they have just gone – people, and the others who are not are valuable contributors to our society, they are valuable to this Assembly. Everybody recognises they must have come here to live a better life from the places they came, whether it is from England or  
2625 wherever else. Guernsey is not *a* special place; it is *the* special place. Today, we are going to, at the end of this debate, put the *imprimatur* on the anti-discrimination legislation. I know it is only Phase 1 and there is going to be Phase 2 and Phase 3 – there might be Phase 4 and 5, I do not know – but at least it is a big start in relation to all that.

Most Guernsey people, like in most societies, are decent people, particularly the case here. I can  
2630 remember, when I first went off to law school, having been brought up in Guernsey, I thought, 'I'll walk down Oxford Street because I'll see all these famous people.' I did not see any famous people, but I saw lots of people. Not one single person smiled, not one single person acknowledged you. I was used to walking up and down High Street, Smith Street, and Charotterie, where I come from, and people would, even if they did not know you – 'Hello! How are you?', 'Who's he?', 'Who's she?'  
2635 That is the kind of society that we have always had in Guernsey, that is the kind of society I have known.

Let me give you a couple of examples. When I grew up in Guernsey, there were only two black families that I knew of: the Ogiers and the Duncans. I lived in Charotterie, they lived in Pedvin Street, just down the road. We used to play football together, we used to fight together, we used to go to  
2640 school together, we did all those kinds of things. I mention the colour of their skin: we did not think – I say 'we', we are all human beings. They were our community, they were our friends. We never said anything pejorative about them, we never said anything rude about them because they were equal and as good – and they were better footballers than most of us – as we were.



2645 In relation to that, I can remember Mrs Duncan then moved to College Road. I have always liked  
the colour of money and I used to be a paperboy. I used to deliver papers, amongst other things,  
to College Road Estate's houses. I can remember, because she had known me since I was knee-high  
to a grasshopper, that Mrs Duncan – because the papers came in at a regular time, you deliver them  
at 9.30, 10 o'clock on a Sunday morning, whatever – she would rush out every Sunday, give me a  
big hug and a kiss. Now, that was great until you got to puberty, you got embarrassed. (*Laughter*)  
2650 The point I am making is that that is the kind of community that we lived in.

Let me give you two examples, also. We did not have any prejudice. I know Deputy Taylor always  
likes my little homilies about my history; I am going to give him another one, I am afraid. I had a  
French grandmother who was a Catholic lady. She had 14 children between 1900 and 1928. I am  
glad she had 14 because my dad was the 14th who was born in 1928. (*Laughter*) My grandfather  
2655 went off in 1914 to do his duty – 'for King and Emperor', as it was in those days – and by that time,  
my poor grandmother had only had nine children. When my grandfather came back, his reward to  
her was my Uncle Basil, who was born in late 1919.

Now, Uncle Basil was gay. Can you imagine, in the 1920s and the 1930s, the 1940s in Guernsey  
being gay? 'Homosexual', it was called in those days. He was gay. He had a terrible life. And as my  
2660 father said, he was always the cleverest of the 14 children because even though there was a close  
community – 'a close *family*', I should say, in relation to the Ferbrache family – with my Uncle Basil  
– of course, I knew him because he was only nine years older than my father – when he was out in  
the world at large, he got abuse that he should never have had. For a time, he lived elsewhere other  
than Guernsey.

2665 I do remember, my father told me of one occasion where five of the brothers, including my  
father and Uncle Basil, went to Town on a Saturday and they dispersed and then they met up at the  
late bus, because there were buses that went over 10.30, 11 o'clock. Uncle Basil said to his brothers,  
'I have been abused' – mentally abused, not physically abused. He told them and he said who they  
were. And then these other lads walked towards the same bus that they were due to get on and my  
2670 father and his four other brothers stood in front of the bus and said – these chaps, they wanted to  
get on the bus – 'You can either walk home or you can go somewhere else, but you won't be getting  
on this bus.' It was a small victory over discrimination at that particular time. But you cannot act like  
that nowadays. There are not many Uncle Basils who have a number of sturdy brothers who could  
protect them.

2675 My uncle, who was a delightful man, very intelligent man, had a pretty awful life, being a gay  
man in the 1920s, 1930s, 1940s, 1950s, 1960s, etc., a pretty awful life. Thankfully, we have put a lot  
of that behind us now.

There is another gentleman I know who came to see me about States stuff and then talked to  
me about the Discrimination Ordinance not all that long ago; he might be in this room. He told me  
2680 about discrimination he had suffered at work. I do not actually think the employers realised it was  
discrimination; it was a more passive thing, but clearly discrimination. We had discrimination in the  
workplace by a big employer in relation to a person who suffers from a physical disability; we cannot  
have that. This will hopefully end it as much as it can.

Also, in relation to that, there was some clip on Channel TV some time ago about a partially-  
2685 sighted, visually-disabled person who could not get a job even though he clearly was an intelligent  
young man. I think he was then in about his late 20s or 30s. He was not employed because he could  
not see very well. Again, that is wrong. These are the kinds of adjustments that we can do, these are  
the kinds of things that should be done, this should not happen in Guernsey.

In relation to Guernsey as a special place, we have had people say, 'Guernsey is this on this list  
2690 of whatever it might be and that on that list of whatever it might be and has not signed up to this,  
that, or the other,' and of course, I value it very much indeed. We talk about quality of life, etc. I  
represented the last person charge with murder in Guernsey – an event that goes back to September  
2006. We do not have many places like in Liverpool, where a nine-year-old child was shot recently  
by one gangster firing at another gangster and another was wounded. We do not have towns like  
2695 London, where the Metropolitan Police gave up years ago investigating burglaries because it was

too difficult. We do not have that kind of society; we have a society where that kind of crime is almost non-existent.

We do not have societies like – we talk about Italy. I looked up Italy: it is in their constitution, they are against racial discrimination, etc. They have just elected a right-wing prime minister, and I see Mr Berlusconi – whatever his name is – he is coming out to be a part of the coalition. We look at France and all their laws and regulations: in the last two run-offs for the President of France, they have had a right-wing candidate who has got no interest in democracy, no interest in racial equality, no interest in any kind of decency at all – right-wing candidates. At both of those elections, that person got millions of votes, more votes this last time than the previous time.

Even Russia has signed up to the European Convention on Human Rights, and even Russia has in its constitution that you must not harass people, you must not put people in jail without good cause, you must follow due process. The thought that came into my mind is, 'Perhaps we should send some of our health and safety inspectors to Mr Putin to protect those people who've been falling out of balconies recently.' (*Laughter*)

Let's put it in perspective: Guernsey is a *very* decent place, (**A Member:** Hear, hear.) but this legislation is very important. Everybody is equal. We are all going to be born – we have all *been born*; we cannot be 'going to be born', I suppose – we are all going to die. We want to make sure that people's lives are as happy and productive from the early part of their lives to end of their lives, whether they are physically disabled, mentally disabled, whatever the colour of their skin.

I said yesterday in another part of the debate, one of my businesses ... all the institutions I have a beneficial interest in employ more than five people; therefore, the amendment that failed had no application there. I employ Kenyans. The business that my family has now, we employ Kenyans, as I said; we employ Latvians; we employ Poles; We even employ a lady from Rwanda; I was talking to her the other day. She was so pleased to come here because she could feed her family. Thankfully, because of modern technology, she can still see her family periodically, because of the internet, all that kind of stuff. They come here and they love it.

I remember walking down the Rohais – no walking *up* the Rohais – with my dog a few months ago. These two chaps ran across the road and I thought, 'Who're they?' They stopped me and they said, 'We've been here six weeks, we work for you' – and I recognised them; they were two Kenyan lads, they were out for a walk on a Sunday afternoon – they just said, 'This is paradise.' It is paradise which needs a tick in the box; it is now going to get that tick in the box, it is a very important tick in the box. We all, with acclimation, with 100% integrity, we are all going to vote for this legislation, we are all going to implement it, and we welcome its introduction.

I say to our colleagues who are disabled, who are prejudiced: you have never been a second-class citizen, this recognises formally that you are not.

**A Member:** Hear, hear.

**The Deputy Bailiff:** Deputy Brouard.

**Deputy Brouard:** Thank you, Deputy Bailiff.

I have not said much so far in this debate; in fact, I have not spoken. I have let my voting do the talking for me, as we have worked our way through the amendments. But I do have a few points, especially wearing my Health & Social Care hat, and also as a States' Member during the life of this Law from inception to birth.

Being gainfully employed, no matter what job, what career, what vocation – even a States' Member – that employment is a very powerful tool to one's well-being not only financially, which helps society, but especially for one's own well-being mentally. Being included in society, having access – whether it is hearing or physical or something else – is important and as a society, we are richer for it and – dare I say? – will avoid or lessen the cost to Government, who support our community. The more all members of society have the opportunity to contribute, either socially or in employment, and the opportunity to reach their potential, the richer we all are.

We as a society rely heavily on carers, who in many cases, look after their loved ones. We as the state do not have the capacity nor are we given the funding from our society to undertake the role of carer for everyone. That care that our society gives is done by carers day in, day out. If we can make a difference today to make carers' lives a little better, a little less stressful, a little bit more inclusive – carers who are daily trying to balance home, caring, and working life on a daily basis – that must be a really good thing. This new Law takes us forward on that journey because, as somebody said in debate – I think it was yesterday – we need a mindset change. Let's make this Island richer socially and financially.

Thank you.

**The Deputy Bailiff:** Deputy Inder.

**Deputy Inder:** Just briefly, madam.

I think it was Deputy Ferbrache, actually, who said the most. I think Guernsey is a far more decent place than some of this debate would have you believe. Sure, there will be pockets of discrimination; sure, there will be pockets of unreasonableness. But I think Guernsey has come down a long road before Government in prevention, if I remember some of the TV programmes of the 1970s and some of the attitudes of a previous age. Somebody is going to find an example somewhere where I am wrong, but I think society has moved on quite a lot.

Of the speeches I have heard over the last two or three days, I think Deputy Dyke has done a reasonable defence. And I will congratulate Deputy de Sausmarez for her counterpoint in one of Deputy Dyke's amendments this week; I think there has been exceptional work there and I am glad we actually still have a debating Chamber. Often it is the case, I am quite convinced, most people come into this Assembly knowing exactly how they are going to vote on every single item. Again, I have managed to prove myself wrong because I was swinging around all over the place.

I am only really going to talk to accessibility. What has reminded me is, we have Mr Reece-Sheerin in the Assembly. He may remember – but he will not be able to respond so I am going to talk about to him, talk to him, and no one will ever prove if I am lying or not – about six or seven years ago, we tried a little project with Visit Guernsey. He took me around and we met in a couple of the car parks and kiosks; as everyone knows, I just generally hang around the beach. There were some really quite ridiculous accessibility issues. He will remember one that stuck in my mind: there was one at Bordeaux where – I cannot remember the name; I think they are called 'RADAR toilets', 'R-A-D-A-R', which have disability access and I think you can get a general key and have access to it. It had a nice, smooth ramp around the toilet and, as far as I was concerned, a ramp up to the flat toilet, and everything was fine – until it was pointed out the ramp up to the toilet, there was not a flat area for the wheelchair to spin around in; Mr Reece-Sheerin is nodding his head away. So we do everything and we do nothing.

Recently, in another kiosk, one of them has actually dropped the counter height to reflect accessibility issues – fantastic; but you are not going to get down there in a wheelchair. In fact, I helped someone in that kiosk to get down to the actual kiosk. There are just basic issues that we can do. I would encourage anyone, as they hang around ... quite clearly, we do not want to see tarmac over every single cliff path in Guernsey. But there are daft things that this Island does. Simply regrading some of the car parks, possibly putting the odd stand somewhere so someone can actually manage themselves out of a car with disability access would be really quite simple stuff. And it is worth reminding – and again, Deputy Reece-Sheerin – maybe one day; *Mr Andre Reece-Sheerin (Laughter)* – will remember that actually, I was one of the first people in the Island to put disability guidance on my self-catering units. Unfortunately, it did say, 'Don't come here because you won't get any access,' but the guidance was there all the same.

So I do think we are on a different path. Some of this debate has been better than I thought it was going to be. It has been fairly fractious. I do not think Deputy Blin, Deputy de Lisle, and – I cannot believe I am saying this – Deputy Meerveld have been treated particularly well – though I often enjoy it when Deputy Meerveld does get treated quite badly. In the main, I think we are

2800 heading on a path – and I think Deputy Parkinson, who is not here today – I am of the view the Island has moved on and not having any discrimination law is not entirely helpful – and he is quite right in saying it is not a race to the bottom.

I commend the whole Ordinance, as amended, to this Assembly.

2805 **The Deputy Bailiff:** Thank you.  
Deputy Gollop.

**Deputy Gollop:** Thank you.

In relation to the previous mention, when I mentioned penalties for competition and regulation, I was not asserting any guilt; I was just reporting a news item. I am aware that appeals can be done.

2810 I will also refer to Deputy Inder: he talked about not going to the bottom. He also talked about toilets. I am wanting to think about toilets too because it makes me think of spending a penny – or a euro. I noticed to a certain extent in London and definitely in France, toilets you have to pay for. That can be discriminatory against people without money or people who struggle to find coins. (Laughter) But one trend that happened here: I want to go back into history about Advisory & Finance and Treasury & Resources. Treasury & Resources, in their wisdom, during the austerity period thought the best way of handling matters was closing toilets, whereas they could, of course, have converted more to be accessible, and they could have also found ways, either for coins or for cards, of people accessing them. That would have raised some money as well.

2820 When I was in London, partly to see the pageantry and events recently, a trend I have noticed there and in Paris and other places is, cafés and other franchises are able to take large, extensive sites in buildings and yet have no toilets available for anybody, not just people with disabilities. What does that tell me? That there are flaws sometimes in inclusivity and equality and looking after everybody. Just because we will pass this Law today does not mean to say the conversation ends. One noticed in the UK, for example, there was a significant broadcaster who perhaps was paying one gender significantly less than another for similar work despite being supposedly well-governed. There have been many cases that have come up post-COVID. There is always work to be done, as Deputy Dyke and others will realise, in case law and evolution of things.

2830 And I entirely agree with Deputy Inder, actually, that society changes. I was doing a bit of research last night and I came across the extraordinary story of three very well-known rock and roll pop stars – icons, really – some of whom are still being rewarded in modern times. Two or three of them said very unacceptable things about discrimination in the 1970s; this was specifically on race, for example. Now, we have not talked much about the full Ordinance; we have focused a lot on disability, and to a lesser extent, religious belief. This Prevention of Discrimination (Guernsey) Ordinance covers other protected grounds: disability, race, carer status, and sexual orientation. Attitudes have changed and they need to change and they should change. So I very much support the legislation. Deputy Kazantseva-Miller really made the same point: society moves forward.

2840 Going back to arguments, perhaps, Deputy Ferbrache made: he gave the always-interesting perspective that there are certain nations in the world and places which preach one doctrine and do another. We perhaps all do that to a degree; occasionally we do, I am afraid. Deputy Ferbrache was a member of the great Advisory & Finance Committee. I remember some of the titans of that era, their argument, whenever the perspective was 'Should Guernsey sign this treaty or agreement or introduce this legislation or policy?', they would always say, 'Guernsey is generally a very well-organised, well-run, and civilised and caring society,' and then they would read out – the more learned Members especially – a long list of countries and places that had signed the legislation and were very much found wanting.

I understand that argument, but I also appreciate the arguments Deputy de Sausmarez and others have put: that we do need to have the best possible international reputation for all of our work and our exports and our society.

2850 I too would thank very much the Guernsey Disability Alliance and many other organisations. Indeed, having been a past Disabled People's Champion and frustrated that I was being justifiably

criticised for not doing and achieving even more, this surely must be the day that Guernsey moves forward – perhaps not on everything everybody wants but we must make the commitment today to move on.

2855 I think one item that has come out of the debate – and probably, I do have a certain degree of sympathy with arguments Deputy Blin, Deputy Dyke, and others have raised – is that ESS and the groups have worked astonishingly hard on communication. And we have had so many things: we have had Guernsey Employment Trust (GET) – seminars; we have had workshops; we have had Walkers, the well-known law firm; we have had many training sessions and consultations. But  
2860 possibly, we have not had enough events that have been targeted at the lay-person – not those who are employed, perhaps, professionally in law management or human resources personnel, but in small business and possibly small organisations which may *[inaudible]*. Maybe that is something we can look at, or maybe it is something society needs to look at as well, so that when this gets going, everybody feels understood and everybody feels more empowered to think and make those  
2865 reasonable adjustments and care for others, do the kind of thing we have perhaps done today, rather than have a culture of litigation or frustration.

Thank you.

**The Deputy Bailiff:** Deputy Matthews.

2870

**Deputy Matthews:** Thank you, madam.

When I started looking at this Law, a friend of mine whom I know from a long time ago who had worked on the UK Equality Act 2010 and helped draft it and get it through Parliament, his main comment to me about that was that not everyone is equal under the Equality Act. I think we should  
2875 stop and bear in mind that that is sometimes the case, especially so where the discrimination Law that we are introducing here covers only a fairly limited subset of grounds; ESS will be bringing more forward.

One of the groups that can feel the most disenfranchised by some of this is people who do not fall into any grounds. One of the things that we mentioned in debate was the maximum levels of  
2880 awards and we talked about the amounts for hurt feelings. I think we should bear in mind that the Employment Law maximum remains at six months and many people who bring a case under Employment Law may well have experienced harassment and have hurt feelings and may well feel that they are not able to get the redress that they would like to get.

I think more than that, we need to bear in mind that there is still plenty of inequality *within*  
2885 groups. While we have been having this debate, mortgage rates have tripled, we are in a cost of living crisis, and I see a headline – it is not actually a new headline; it is a headline from quite some time ago – saying that the Island's income inequality is amongst the highest in the world. Passing this Law certainly does not resolve all of the problems that we have. It is certainly a step towards making the Island a fairer place, but it does not do everything.

2890 But it has been an interesting and enlightening debate. I think that most of the debate that came round the amendments brought forward some information and enlightened people in ways that I think that we might not have thought about or have known about much before. I was particularly impressed with the speeches on Amendment 8 from Deputies Aldwell and Leadbeater, who form part of the small army of unpaid carers who provide for their loved ones care that – as a member  
2895 of Health & Social Care – HSC would otherwise struggle to provide. I think that we ought to acknowledge the debt that we owe to people who provide that care, which we would otherwise be trying to fund through our health services, and of course, that there is not very much in the way of financial support for carers to do that; our Carer's Allowance is at a very low rate.

2900 There is certainly much more that we could do, but by passing this, I think we have made a big step towards making the Island a fairer place. Thank you.

**The Deputy Bailiff:** Deputy Gabriel.

**Deputy Gabriel:** Thank you, madam.

2905 I am going to remind Members of what I said on Wednesday morning – and that is this Wednesday; it seems such a long while ago now. From my understanding, this whole legislation is about being inclusive of our whole population, some of whom have put us where we are today: in this Chamber to represent them. We have a duty to those who are less able in Guernsey, those who are losing out. We need to demonstrate a volition on behalf of Government because no one else  
2910 will act on their behalf. As soon as we start by design missing or omitting different sections of our society from legislation, we have failed them. This Ordinance now does go a long way to rectify those previous failures. It does not matter the size of any employer or businesses that will be affected by this Ordinance, if they employ one or five or 5,000 employees, or even if the ‘goods and services’ are a 1p chew from the corner shop that I remember buying: it affects everyone.

2915 I question: why is the ‘reasonable adjustment’ phrase so important or scary to any potential objectors? I really do hope it is not a case of profit over people. Why wouldn’t an employer want to make a reasonable adjustment? If they do, it might make their business more attractive. Any adjustment will be, by definition, reasonable, as His Majesty’s Procureur described and backed up with reams of case law. I would expect that most businesses are agile enough to be able to diversify  
2920 and change and adapt. Those with a protected ground should still be able to access their services too; after all, they have money to spend too – the ‘purple pound’ that we heard Deputy Kazantseva-Miller describe.

We also had a very useful myth-busting series of documents from Employment & Social Security, which I thank them for. I do not remember if this particular myth was busted, but if an acceptable  
2925 reasonable adjustment involved a material change and that material change was not acceptable under the Planning Law, the Planning Law would trump that discrimination Ordinance. Essentially, it would not be a reasonable adjustment as it would not be practical to make that adjustment under the Planning Law, something I wanted clarification on so I sought advice from the very able Employment & Social Security Manager of Policy and Legislation and they confirmed to me that all  
2930 requirements of other Laws are accepted from this Ordinance under Exception 2 in the Schedule, ‘Act done under legislation or judicial authority’. So installing a lift or a side door, while reasonable to the size of the organisation, is *unreasonable* to the nature of the protected building, and the Planning Law takes precedence, which was very useful clarification to me.

I really do need to thank the third sector organisations for their engagement too. It has really  
2935 opened my eyes to the level of discrimination that has been previously portrayed in this Island. It is about time this has come before us. Previously, without this Ordinance, it would be like having a speed limit that applies to everyone except if you are circulating in an Aston Martin, Bentley, or Citroën: impossible to manage and discriminatory. Everybody counts, everyone matters. We really do need to be including them in our decision-making. Building on the sentiment that was in  
2940 Deputy Ferbrache’s excellent speech: it does not matter if you are a white king or a black pawn; we all came out of the same box, and when the game is over, we all go back in the same box.

We must not leave anyone behind with this Ordinance. I will be supporting it and I urge other Members to do so too.

Thank you.

2945

**The Deputy Bailiff:** Deputy Queripel.

**Deputy Queripel:** Thank you, madam.

2950 Taking up the baton from Deputy Le Tocq early on, I will start by repeating the apology I made to our community in the debate some years ago. Back then, I apologised for voting in favour of a motion to change our approach to the way we were going about compiling this piece of work. That was a big mistake because what we should have done, in retrospect, was bring in the Disability Inclusion Ordinance at that time and added on to it as the years went by, as and when the work was done. If we had done that, our fellow Islanders who are disabled would not have had to wait so long

for today. I apologise to them once again for my voting in favour of causing, inadvertently, that delay and for their having to wait so long.

We are now faced with another of those ‘gun to the head’ situations. As everyone knows, I am really concerned about the ramifications of the inclusion of the ‘religion or belief’ aspect of this Ordinance for all the reasons I highlighted in my 25-minute speech opposing the amendment that was laid by Deputy Burford and Deputy Ferbrache. I was pragmatic in my approach to that speech because as I said when I was making it, there was a lot more I wanted to say. In fact, I could have easily beaten Deputy Ferbrache’s 83-minute speech on education – and I was tempted to do that, but I saw the value in being pragmatic on that occasion.

I see the value of being pragmatic also on this occasion, because although there are parts of the Ordinance I am concerned about, there is far too much good stuff to throw the baby out with the bathwater, so I will be voting in favour of this Ordinance.

**The Deputy Bailiff:** Thank you, Deputy Queripel.

Deputy Murray.

**Deputy Murray:** Thank you, madam.

We are on the home stretch, thankfully. Given that I referred to our duty to be honest with the public following the Chief Minister’s update earlier in our sessions, I do want to raise an issue which might be an Achilles’ heel in the implementation of this legislation within the Guernsey context, but I can counterbalance that with some hope, too.

Statistics are not necessarily facts. They may therefore give some sort of guide, depending upon the degree to which they are projected or extrapolated and for whatever purpose. For example, yesterday, Deputy Blin quoted some actual facts about employee numbers and their associated employer numbers. By contrast, we know there are figures quoting disabled people in Guernsey at potentially some 13,700, but they are a projection; so it could be more, it could be less. Similarly, figures of some 6,000 carers are, of course, also a projection; they could be more or could be less.

Unfortunately, I think this has had two impacts. Firstly, it may portray a misleading understanding of the size of the challenge. Simultaneously, it has, I think, raised concerns about the costs of solving it – or indeed, the benefits that might actually stem from resolving them. All of these outcomes are regrettable; however, these are statistics, and on the face of it, they do sound alarming. I strongly suspect that is what has been giving many people rise for concern, but it is also maybe suggesting a distorted opportunity. I want to return to some further facts in a moment since Deputy St Pier raised the issue of evidence earlier in our session.

There were some other speakers who contributed too and it raised some thoughts for me on further reflection. This is where the hope bit comes in. The first of those was Deputy Bury. She reminded us that the number one issue for our Youth Parliament was inclusion. Inclusion and equality are not necessarily the same thing – but let me address that in a moment. I am of the opinion that the reason for our youth seeing inclusion as their number one priority is that they are taught that in our schools. Deputy Aldwell referred to how important achieving attitudinal change, which is long-lasting, is through education; I think Deputy Roffey also touched on that too.

Inclusion is a fundamental part of our educational system and to illustrate how we deal with it, with reasonable adjustment, I want to address a question to our ESC President that came up with Deputy St Pier; I am going to paraphrase. I am afraid he is not here to challenge me but I think I had the gist of it. How do we ensure that our higher achievers are achieving potential too? The answer is not to treat them differently; the answer is to *teach* differently in a manner which is accessible to all of the class. The point is that we promote *equity* for our students, not *equality*. That ensures students get what they need, not what everybody would get – appropriate or not – if we pursued equality.

The note of concern I have arose with Deputy Aldwell, when she explained, very poignantly and honestly, that as a carer whose son requires full-time assistance, she is able to fulfil her employment duties using Teams due to not having access on a particular occasion to her usual regular carer

support. This is the distressing reality of our Guernsey situation for which I am going to quote some other facts.

Our health sector currently has well over 400 vacancies at the moment. I suspect we are going to find shortly, when the Budget is announced, HSC is likely to have exceeded its budget by probably millions of pounds. Personally – and I am really sad that this is the case – I cannot see this getting anything but worse for some considerable time. The distressing result is that in approving this legislation, as I am sure we are about to, it will not generate any immediate additional help for the most vulnerable, disabled, and their carers. That is a really sad reflection on where Guernsey currently is at this point. This is a momentous moment, to be able to say that we have achieved the introduction of the outlawing, effectively, of discrimination. But in trying to address the problems that we have – our vulnerable carers particularly, and the disabled – we cannot guarantee that we can provide the people that we need to relieve carers, who can then contribute to our economy. Until we do that, unfortunately, we will not achieve the objective, which is to provide the equity that everybody needs. Even if we were to achieve our 300 potential additional people brought into the Island and if they were all in the health sector, it still would not be enough to service the need we already have.

So I think we have to start thinking very carefully about the priorities in our society and where we put our resources because actually just simply introducing legislation itself is not the full picture.

I do hope sincerely that this will give further impetus to deciding where we want to place our resources in the future and I will clearly support this legislation's introduction.

Thank you.

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

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

Let me start with an acknowledgement of the immense efforts by many people to bring this piece of legislation to this stage. It is clear that there is a need for discrimination legislation locally for the many reasons that have been well-articulated throughout the years by those on all sides of the debate on this particular policy.

I want to be clear to listeners about two points. I absolutely and unequivocally agree with the need for anti-discrimination policy. I also believe very strongly that we need to apply robust and accountable processes in our decision-making. Our democracy, the integrity of our democracy, the credibility of our democracy requires us to respect challenge and allow the debate to roll out. That way, we can ensure that the proposals are robust and fit for the purpose for which they are designed. I am so pleased that we have had this challenging debate because the Law is different from that of neighbouring jurisdictions or those from where we would already align and we are not entirely clear on the impact.

What this debate has very helpfully exposed is a lot of the concerns around the introduction of the Law, but it has also been helpful in giving the Committee an opportunity to explain their position and the expected impact of some of the provisions of the Law. But for me, though, this has not been enough information and it has not been given early enough in the process.

Deputy Roffey said that the Committee was not prepared to contract out the work to do the impact analysis, citing a figure of about, I think, half a million pounds to carry this out. I do not know to what extent his Committee considered this workstream but I believe it would have been very useful investment for the States, as well as for employers and the wider community, because it would have rendered us better prepared for the potential consequences, both potential upsides and any downsides of the Law.

Analysis of policy proposals is an important factor in our decision-making – very much so, I believe. Members who were in the last Assembly will recall that along with Deputy Ferbrache, I prepared an amendment to ensure, madam, that we looked at the impact of the Law as it was introduced in a phased way and for that work to take place prior to the commencements of the Ordinance. Under our proposal, the Committee was required to take into account the impact



analysis and any guidance falling out of that. We proposed to bring employee, employer, and political representatives to analyse the impact of the Law together to inform its implementation as a basis upon which to develop guidance and interpretation for employers and other relevant organisations.

It is inevitable that there will be concerns when introducing novel legislation – and I use the term ‘novel’ because whilst the principle is well-developed and universally accepted, the Law that we have drafted here in Guernsey is taken from numerous jurisdictions and therefore, no precedence can apply. In addition, those jurisdictions are not comparative to ours in many ways. It is novel for Guernsey. We have created something unique and no impact assessment has been done. Therefore, understandably, there is a degree of anxiety about how the Law will work in practice and what, if any, the unintended consequences will be.

There is an absolute need for impact assessment in law-making where we know it is intended to have social and economic impacts to understand what those impacts are for small and medium enterprises and overall competitiveness, as well as for those who will be affected by the policy, and also to consult with stakeholders and understand the results from that.

Just a cursory glance at what other jurisdictions do is informative. I will read from the New Zealand government:

Impact analysis helps advisers and decision-makers to avoid the potential pitfalls that arise from natural human biases and mental shortcuts, and thus to make well-informed decisions. It includes analysis of those options for their potential impacts and assesses costs, benefits, and risks, and involves consultation, implementation planning, and arranging the plan for ongoing monitoring, evaluation, and review.

Let me just bring in one other matter that is very relevant to this point about the need for analysis. Let’s just step back a few days to Wednesday, when we were told by the President of the Policy & Resources Committee – and not for the first time, I might add; in fact, it has been something of a repeated refrain from his Committee – that we are in serious financial waters. This is not news for many of those of us who have joined the dots for many years. It has been on the horizon and it has been exacerbated by external events which we know all too well, pandemics and invasions amongst them.

How helpful might the information from any regulation impact analysis have been in the world in which we sit today, two-and-a-bit years after my proposal, a world different to that which we sat in in July 2020? Mortgage payments this week three times more than they were seven days ago, energy costs soaring outside of our hedged environment on-Island, cost of living increasing exponentially: a very different world. Having called for the work on secondary pensions to come back closer to the tax review work, it would have made the triangulation of research that would have been extremely valuable to us in our current circumstances where we are to forecast, to be financially straightened in the not-too-distant future, a situation Guernsey has not been in within my living memory.

I know that rather than impact analysis, *implementation* analysis is under way within the States, and I am so heartened to hear this. I know that many organisations this weekend and in the coming weeks will be sitting up and focusing on what this legislation means for them. But the shame is that we do not have the bigger piece of information that a piece of impact analysis research could have given us.

Deputy Ferbrache mentioned interpretation in his speech on Amendment 10 and he spoke about this in a really broad way because he had no idea how the words noted for deletion in his amendment would be interpreted – and that from a lawyer of many years of experience in practice – and he has been joined in this view by the two other professionally qualified lawyers in this Chamber. They have also struggled through the interpretation of various provisions within this Law, as have many in this Assembly. It is a really complex piece of legislation.

Regrettably, two years ago, I was subject to a hashtag campaign in the same way that Deputies Blin, de Lisle, and Meerveld have been, and Deputy Ferbrache and I were effectively ‘cancelled’. Unlike the three Deputies who I named before who brought amendments and worked amendments

this week, I caved. I was cowed by the pressure of the well-co-ordinated campaign at that time, which was very unfortunately misrepresenting the intent of my amendment, casting it as a 'delaying motion' as opposed to the true and very sincere intent, which was to help give stakeholders, including Deputies, the right amount of information to give proper consideration to this matter, having all factors in front of them, ensuring we were clear on what the issue was, the scale and consequence of the issue, the remedies proposed and the impact of those remedies on the community and economy, necessarily both the positive and the negative impacts.

It is interesting that in that amendment – coincidentally also numbered 8 – the then Committee advised that the cost of undertaking such work would be in the region of £50,000 to £100,000. I also enquired about the opportunities to undertake this work in-house as we do have professionally-qualified individuals who work within the States very capable of doing the work. Clearly, costs have increased since that time, but perhaps the work I was seeking to be undertaken was a little bit different than considered by this current Committee two years later.

We know the proposals that led to this draft Law as amended were the result of what has been suggested is the biggest consultation carried out in Guernsey. We know that many reforms to the proposals were made with compromise after compromise. But all this work done without the really important information that we need as parliamentarians in this Chamber: what about the impact of the Law? What would that forecast be?

I do acknowledge, though – and helpfully, for some balance for listeners – it must be noted that the Committee are under resolution to conduct a post-implementation review of the effectiveness of the legislation for individuals and employers and is provided no later than two years after the implementation of the final phase of the legislation. But that is a long time away – too long for me and, I think, too long to be helpful in navigating our way through the really strong currents of critical issues we are facing globally as well as locally.

For me, personally, it is very important to have this type of knowledge as part of my decision-making. It is common practice elsewhere, as I have demonstrated. But I do not make a judgement on those who do not need this extra information to make up their minds on this matter. Whilst I wholeheartedly support this discrimination legislation, I do not know if the approach that we have taken is the right one for the Island and this will have to be a leap of faith for me. I have been listening intently to the debate on each amendment and I have been making up my mind as I have listened to both sides of the debate.

It is also interesting that in the absence of any impact analysis as a whole, Members have sought to find answers themselves to questions which ordinarily would have been answered by such impact analysis. The risks, as I have mentioned, are unquantified, which is why we have had three days of debate, much of which has been about the possible impact and what the risks will be. Deputies have had to piece together the risk and weigh up the positive and negative impacts; we have had to do it on the hoof and we should not have been put in that position. Members have tested the legislation for any unintended consequences. Members have challenged this legislation for robustness. Members have sought confirmation of proportionality. It has been a grown-up debate, extremely helpful, and a reason for many to celebrate the democratic process that we are lucky to have here in Guernsey.

What I would like to seek from the President in his closing remarks – or from his Vice President, if she would like to comment – is more information about post-implementation analysis of the legislation and if there is any possibility of that being brought forward post-Phase 1 to reduce the scope of Phase 2 and the workload.

In closing, madam, I know that I have gone off on a slight tangent here and gone into our other responsibilities as parliamentarians, but I do endorse many of the comments that have been made in this general debate by my colleagues. I thank colleagues for their valuable participation in the debate as well as commending the Committee and also stakeholders for their very hard work on this legislation.

Thank you.

**The Deputy Bailiff:** Deputy McKenna.

3160 **Deputy McKenna:** Thank you, Madam Bailiff.

I agree with everything the Chief Minister says; I always agree with the Chief Minister. (*Laughter*)

If I may, with us in the Gallery, I am sure we all would like to thank Carol Le Page and Karen Blanchard for all their hard work in bringing this proposal through, which has taken many years – especially to Karen, who has now gone to Grow Limited: you are really such a valued member of this community.

3165 We have here with us Mr Aindre Reece-Sheerin. I have said before, he has a voice sent from heaven, and I am sure if you listened to him in the Sunken Gardens or at Beau Séjour in many of the shows he has done – he is a remarkable man who has raised countless thousands of pounds for local charities here in Guernsey. This man has done this himself, and to the detriment of his own health, this man has continued to raise money for local charities. So Aindre, I am sure we would all like to thank you for your efforts. With us here today, we also have Mike Read, a friend of mine. Mike is a great advocate for Ageing Well Guernsey and also health education assistance and loans, and also for Carers Guernsey.

3170 That is why I agree with everything Deputy Murray said – I do not have the eloquence of Deputy Murray – I do not think you can quantify how many people have disabilities in Guernsey, I do not think you can quantify how many people are carers in Guernsey. But I think everyone will agree that the carers who do claim money get £90 a week, which works out as about 50 pence an hour because you look after your loved ones 24 hours a day, seven days a week.

3175 This is day one and I am sure the Chief Minister, I am sure Deputy Roffey from Employment & Social Security will look at the Carer's Allowance again as we move forward. And I know we have said we have run out of money, but there are Deputies who do have ideas which will come in the tax review on how Guernsey can generate more money – not that we are mentioning wind farms or anything like that, but there are possibilities in the future. This is a day I think when we should be celebrating the wonderful work that the Disability Alliance and all the carers and everybody who supports the charities in Guernsey going forward. So I think this is a wonderful day and I agree with everything the Chief Minister said.

**The Deputy Bailiff:** Thank you, Deputy McKenna.

Deputy Roffey, would you like to reply on behalf of the Committee?

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**Deputy Roffey:** Thank you, Madam Deputy Bailiff. I do not think there is a lot to reply to, to be honest, but I will rattle through a couple of the individual comments and then just make some closing remarks, if I may.

3195 Deputy Kazantseva-Miller, I absolutely agree with her, in that I think that economic participation is something that the Island needs. This legislation is not so cynical as to be all about trying to maximise the workforce, but it is one of the very good benefits from it and it is something that Guernsey – the whole of the Western world, indeed, with what is happening demographically – has to focus on – and indeed, that will be absolutely the heart of the amendment that I am currently finalising to the population review that is coming to the States.

3200 Deputy Ferbrache took some objection over the headline about 'It is time for Guernsey to join the rest of the civilised world'. I will bow to no one in my love of my native Island, but in this particular respect, I absolutely stand by what I said. I think in this particular respect of discrimination legislation, it is fine for Guernsey to join the rest of the civilised world, and I think, in probably 10 minutes' time, we will have done it – actually, it will not come in until next year, I know, but we will have decided to do it.

3205 I also agree with Deputy Inder that Guernsey has come a long way. There has been a lot of focus on one or two of the protected grounds. One of them is sexual orientation. When I was first in the States, we were discussing legalising homosexual acts. At the time, in force was the Loi relative à la Sodomie 1890, whatever it was, with six months' imprisonment for any type of homosexual act. The

3210 grief that we got when we were proposing legalising it for consenting males over the age of 21 in private who were not members of the Armed Forces or the Merchant Navy, as I recall was the first liberalisation, you would think that the end of the world had come. We have come an awfully long way from that. Yes, I am old, but I am not *that* old. I think actually, I am quite encouraged with the speed of change; but we can never be complacent. We need to keep that momentum going.

3215 Deputy Dudley-Owen said that she thought that two years after the full implementation of the Law was far too late for a post-implementation review. I would remind her that actually, in the Government Work Plan that we have just approved, that included a review stage after Phase 1 and before the introduction of Phase 2, so I hope she takes some comfort from that.

3220 Deputy Burford – I have forgotten what it was in relation to, probably her amendment about ‘religion and belief’ – said she was going to sound a bit like an Oscars acceptance speech. I am sorry, Madam Deputy Bailiff, but briefly, I am going to do the same. There are a few people I really want to thank about the work – and believe me, the work has been colossal to get here.

3225 I do want to thank my Committee. I also want to thank the last Committee, under Deputy Le Clerc, who did amazing work to get us to this position. I am not allowed to name civil servants so I will not, but I think everybody knows that there are two or three civil servants in my department who have been with this from ‘ground zero’, if you like, and have done an incredible amount of work and are absolute lexicons of knowledge in this area and a great resource. If anybody still does have any doubt about what the Law is actually going to mean, please do make contact. We were not only offering to explain when we were lobbying for your support; we are still doing it now. We are really happy to make any explanations.

3230 And the consultees. This has been the most consulted-on piece of legislation – I stand to be corrected – that I can ever remember. Whether it is the employer groups or whether it is the campaign groups or whatever else, I think none of them would walk away thinking this is exactly what they wanted, but I think they will all be celebrating tonight on both sides that what we have finally come up with is something very good indeed.

3235 Finally, I am going to take my cue from the Chief Minister – I know he is not really the Chief Minister – President of Policy & Resources – I am slipping into that nonsensical title. I was going to say this even before he brought it up: when I was first in the States in 1982, there was not the GDA or Headway or most of these organisations. But my goodness, there was a one-man campaign group for making progress in this whole area – particularly, I am going into the grounds of disability – and that was Dave Purdy. Half of our building regs are only where they are because of his diligence and expertise in going through them and trying to make sure – they may not always be well-followed: the toilets at Bordeaux. It was just disregarded. Dave was a phenomenon. Not only was he relentless, but he was relentlessly polite – maybe at times, slightly too polite and not 3240 forceful enough. He was absolutely amazing. I am utterly secular so I do not believe that Dave is looking down on us; but if he was, he would be smiling. So I am always going to think about this myself – I am not trying to give it a name – I will always think of this as ‘Dave’s Law’.

3245 So thanks to him for setting us on the right path, and if it is not presumptuous, ‘Thank you’ to all of my colleagues who I think, in a few seconds, are going to make history, a red letter day, a great day, and I am delighted to have been associated with it.

**Several Members:** Hear, hear.

**The Deputy Bailiff:** Thank you, Deputy Roffey.

3255 States’ Greffier, would you kindly open the voting on the Prevention of Discrimination (Guernsey) Ordinance, as amended by amendments 1, 2, 3, 17, 14, 12, 7, 9, 15 and 16?

**The States’ Greffier:** Yes, madam.

*There was a recorded vote.*

*Carried – Pour 33, Contre 0, Ne vote pas 0, Absent 2, Did not vote 5*

<b>POUR</b>	<b>CONTRE</b>	<b>NE VOTE PAS</b>	<b>ABSENT</b>	<b>DID NOT VOTE</b>
Deputy Aldwell	None	None	Deputy Oliver	Deputy Cameron
Deputy Blin			Deputy Parkinson	Deputy Le Tissier
Deputy Brouard				Alderney Rep. Roberts
Deputy Burford				Alderney Rep. Snowdon
Deputy Bury				Deputy St Pier
Deputy de Lisle				
Deputy de Sausmarez				
Deputy Dudley-Owen				
Deputy Dyke				
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				
Deputy Gollop				
Deputy Haskins				
Deputy Helyar				
Deputy Inder				
Deputy Kazantseva-Miller				
Deputy Le Tocq				
Deputy Leadbeater				
Deputy Mahoney				
Deputy Matthews				
Deputy McKenna				
Deputy Meerveld				
Deputy Moakes				
Deputy Murray				
Deputy Prow				
Deputy Queripel				
Deputy Roffey				
Deputy Soulsby				
Deputy Taylor				
Deputy Trott				
Deputy Vermeulen				

3260 **The Deputy Bailiff:** There voted Pour 33, there were 7 absences. I declare by unanimous vote that the discrimination Law has now been passed. *[Applause]*  
Right, no time to wait.

## POLICY & RESOURCES COMMITTEE

### 6. The Bailiwick's Further Participation in UK Free Trade Agreements – Propositions carried

*The States are asked to decide:-*

*Whether, after consideration of the Policy Letter entitled "The Bailiwick's Further Participation in UK Free Trade Agreements" dated 19th August, 2022, they are of the opinion:-*

- 1. To approve in principle that Guernsey should seek to participate in the Comprehensive and Progressive Agreement on Trans-Pacific Partnership ('CPTPP') in its entirety (including provisions relating to trade in goods and to trade in services).*
- 2. To authorise the Policy & Resources Committee (in respect of Guernsey and, subject to the necessary authorisations from Alderney and Sark, in respect of those islands) to finalise negotiations and agree to the terms of the Bailiwick's participation in the CPTPP (or the relevant provisions of the CPTPP), and to signal such agreement to H.M. Government in the UK.*

3. To agree that the policy baseline in respect of Guernsey's participation in non-goods elements of any UK Free Trade Agreement ('FTA') (or other trade arrangement) shall be participation which is the same as, or is consistent with, that approved by the States of Deliberation in respect of the CPTPP.

4. To endorse the process and approach outlined in this Policy Letter regarding Guernsey's (and the wider Bailiwick's) participation in UK FTAs (or other trade arrangements).

5. To authorise the Policy & Resources Committee (in respect of Guernsey and, subject to the necessary authorisations from Alderney and Sark, in respect of those islands) to negotiate and agree to the Bailiwick's participation in UK FTAs (or other trade arrangements), or relevant provisions of them, in accordance with any policy baselines approved by the States of Deliberation in relation to Guernsey, the States of Alderney in relation to Alderney and the Chief Pleas of Sark in relation to Sark and to signal such agreement to H.M. Government in the UK.

6. To agree that there shall be implemented such measures (including legislative measures) as the Policy & Resources Committee thinks fit for the purpose of ensuring that Guernsey may comply and remain in compliance with obligations that arise from participation in any UK FTA (or other trade arrangement).

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

**The Deputy Bailiff:** Deputy Le Tocq, we are now going to the Bailiwick's Further Participation in UK Free Trade Agreements.

3265 **Deputy Le Tocq:** Yes, madam. Do we have to agree that that be taken next?

**The Deputy Bailiff:** No, we do not.

**Deputy Le Tocq:** Okay, fine.

3270 Madam, States, and States' Members, the Bailiwick has the potential of doing business on a much wider global scale through participation with numerous free trade agreements which are currently being negotiated and the many yet to be initiated. It was very interesting indeed to note at the recent Labour Party Conference, which we attended, how aligned a future Labour government would be to such new trade opportunities post-Brexit: some may say, even more so than the current  
3275 UK government, judging by the real business focus of the presentations and personal meetings we had with Shadow Ministers and frontbench teams. This is significantly important as these treaties establish a trusted relationship with international trade partner countries for the trade in goods and, in the case of the particular agreement this policy letter focuses on in the main, the trade in services and investment also.

3280 Additionally, FTAs clearly demonstrate on an international level that Guernsey is open for business and adheres to and participates in internationally-recognised trade arrangements, which is particularly important at a time when there is global uncertainty. FTAs provide business certainty, stability, opportunity, and protection. They allow commercial entities within each party to trade freely and fairly and provide a framework not only to allow outward trade and investment, but also  
3285 inward investment.

The new and important area which this policy letter covers is international trade in services as well as in goods, which will enhance Guernsey's trading position globally and futureproof its standing as a global trading partner. Our local economy, with its significant representation in financial services, as well as the smaller but important and growing manufacturing sectors, which  
3290 trade goods globally, will be set to benefit directly and indirectly from the main objectives of this policy letter.

This policy letter also paves the way for Guernsey's full inclusion – goods and services – in a new international trade agreement with an important bloc of countries, the Comprehensive and

Progressive Agreement for Trans-Pacific Partnership (CPTPP) – it really rolls off the tongue, doesn't it? – as well as other international agreements.

In September 2021, the States of Deliberation considered a policy letter about Guernsey's and our wider Bailiwick's participation in UK FTAs with other jurisdictions. These FTAs go beyond the World Trade Organization membership, of which the Bailiwick is already a member. As a result of that 2021 States' debate, a baseline was set for goods within FTAs and it was also noted that it will be necessary to return to the States in future to seek the States' approval to establish a baseline for Guernsey and our Bailiwick's inclusion in services, elements of FTAs, and international trade agreements. This policy letter is that return to the States which was proposed last year.

Since that original FTA policy letter was considered in the Assemblies of the three Islands of this Bailiwick, a considerable amount of work and months of negotiations have continued, with Guernsey's participation being secured within a wide range of the new UK FTAs, including Australia, New Zealand, and Japan, and as I mentioned earlier, with several more in the pipeline. The negotiations are often complex and are negotiated by our officers, who look to ensure the Bailiwick's interests are represented to international trade partners by the UK government Department for International Trade (DIT) and are extended appropriately through the UK's own involvement with the same agreement. In turn, Guernsey officials have continued to work closely with DIT counterparts so that the Bailiwick is fully prepared itself for its reciprocal responsibilities under any participation it wishes to engage in.

Participation in such trade agreements also demonstrates that Guernsey is an integral part of the British family in terms of international profile and trading, meaning that we do not lose out in new business environments by perceptions that there are major differences between ourselves and the UK in terms of our openness for business.

There are several such agreements in progress. One important one which is at a critical stage, as I have mentioned before, is this CPTPP. Guernsey has, through the UK, requested participation in the full agreement for goods and service elements from the date of the UK's accession to the CPTPP, anticipated to be Quarter 1 of 2023. As the policy letter outlines, the CPTPP is an FTA which encompasses various countries within the Pacific Rim region. Signatories to the CPTPP include Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. Other countries, including Costa Rica and Ecuador, have indicated their intention and desire to open negotiations in order to join very soon. The UK is in the midst of such negotiations in order to participate in the CPTPP and Guernsey is seeking to have this extended to it through the UK.

This policy letter is debated in the States' Assembly, it is being debated in the States' Assembly and has some important Propositions which are crucial to the continued high standing which Guernsey enjoys in its international trading arrangements. It sets the tone and direction for our future and enables us to continue to react to any potential new opportunities.

Madam, there are seven Propositions before us and I encourage the Assembly to vote for them and I will be happy to answer any questions.

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

**Deputy Dudley-Owen:** Thank you, madam, and thank you to Deputy Le Tocq for taking us through this policy letter.

One question that I have is in regard to paragraph 8.6 and the information that we have been given relating to resources. There has obviously been an acknowledgement that resources are going to be required in this particular area but I wonder if Deputy Le Tocq, in his summing-up, is able to give us a little bit of a better idea about what this really means in practical terms for the States, how many people it would take to administer the relationship, and any other ongoing compliance that might be required. Whilst it is always really rather exciting a prospect to be included in a lot of these arrangements, obviously, we need to know what the full picture is in terms of what the requirement

3345 is for us to comply with the partnership arrangements in addition to the costs that are going to be ongoing to support those arrangements.

Thank you very much.

**The Deputy Bailiff:** Deputy Dyke.

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**Deputy Dyke:** Thank you, madam.

I thank Deputy Le Tocq for his presentation on the paper.

3355 I would like to know more about what is exactly in these treaties. What is in it for us in terms of benefits? What are the downsides? What are the things that we are agreeing to do? And what are the termination provisions? I think that those are the key parts of any contract and I would be grateful if we could know the details of all that. As I mentioned earlier in a separate speech on a separate matter, I am becoming quite concerned as to what we sign up to and how much we are bound and for how long. Obviously, if you can get out of one of these treaties with a year's notice or something, it is not so bad. But if we are tied up forever, like signing up to the EU or something like that, then we need to know about it. I just wondered if we could have some information on these items.

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Thank you.

**The Deputy Bailiff:** Deputy Prow

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**Deputy Prow:** Thank you, Madam Deputy Bailiff.

3370 Just perhaps, to follow on from the questions around resources – which are, I think, well-laid out in 8.3 and 8.6 – I can perhaps add that I am very lucky to be a member of the Trade Policy Forum, which is a forum which basically represents all of the industries that are concerned with this, and also a non-voting States' Member of Economic Development. So the question of resources and the question of benefits and risks are very carefully analysed. But at this point in time, because this is a negotiation process, it is difficult to articulate them. But I will give an assurance that these matters are being dealt with. This is just the ability for P&R to facilitate this; the work is ongoing. I just wanted to add that.

3375 I think, at this stage, the majority of the work is in the negotiation and in the preparation. There will be compliance resources – and that is actually mentioned in 8.6. Say the resources needed in the customs compliance arena – they are already engaged in an increasing amount of work. This will not necessarily increase that work to a great extent but this is all in the risk assessment and in the process of looking at comparing the benefits that we will get from these trade agreements with the resources that they need. But I would like to assure the Assembly that they are not greatly significant. To repeat the point: this compliance work is already having to be undertaken. Okay, it increases, or it may increase, certain compliance aspects.

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I would just like to thank Deputy Le Tocq for his opening and certainly, from my position, I completely support this policy letter.

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Thank you, madam.

**The Deputy Bailiff:** Deputy Inder.

**Deputy Inder:** Thank you, madam.

3390 Just to answer some of Deputy Dyke's questions on what exactly the extent of get-ins and the get-outs. Just to read from a paper that we had back in April: 'Some of this follows the UK's strategic objectives. Accession could see 99.9% of UK exports being eligible for tariff-free trade with other CPTPP members. It greatly benefits Britain, the world's second-largest services exporter' – which obviously, we are going to ride on the back of. 'The more the CPTPP expands, the greater the benefits to the UK. The CPTPP has high environmental, labour, and other standards. CPTPP members' economies accounted for £110 billion worth of UK trade in 2019. From 2016 to 2019,

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annual growth in UK trade with CPTPP members was an average of 8% a year. Accession will only build on this and provide greater options for business through increased and more secure access to a diverse range of markets.'

3400 I think it was Deputy Prow who mentioned a couple of our NSM members on Economic Development; I will not go into detail, but they see significant marketing opportunities for the financial sector as well. As Deputy Prow mentioned here, really, this is just asking us to follow on through a process.

Thank you.

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**The Deputy Bailiff:** Deputy Taylor.

**Deputy Taylor:** Thank you, madam.

3410 I am brought to my feet with regard to Proposition 7 and some comments that were made earlier by Deputy de Sausmarez in the discrimination legislation. It was a comment relating to the advice that she had received from the gentleman whose title I cannot remember, but I can remember his actual name. I wonder if Deputy Le Tocq would be able to expand on Proposition 6, mainly:

6. To agree that there shall be implemented such measures (including legislative measures) as the Policy & Resources Committee thinks fit for the purpose of ensuring that Guernsey may comply and remain in compliance ...

3415 The first question is: using the example of the discrimination legislation – as was alluded to, we would need to have this in place to comply with those – would that have come back to the States as a decision? Or is it that, had we agreed on that Proposition 6 first, it would not have come to the States and it would have been agreed if Policy & Resources thought fit? That is the first part of the question.

3420 The second part is then relating to prioritisation of the legislation-drafting process. If this Assembly has prioritised certain pieces of legislation and they are expecting them to be in the queue for domestic issues as we see fit and something comes along that Policy & Resources see fit, could we get a bit of an explanation of the process of how it might be prioritised? What would be put to the back of the queue? My understanding is that the Law Officers are under a fair amount of strain so it would be interesting to know how that would be dealt with.

Thank you.

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**The Deputy Bailiff:** Deputy Moakes.

**Deputy Moakes:** Thank you, madam.

3430 I cannot answer all the questions that have just been brought up – that is probably not my role anyway; I will leave that to Deputy Le Tocq – but I can answer a few of them and perhaps provide a little bit more detail, if that helps.

3435 The Committee for Economic Development and PRC have had the benefit of the advice and experience of many stakeholders to form a conclusion which contributed to the policy direction in terms of Guernsey and international trade. Many of these stakeholders were on the Trade Policy Forum (TPF) which has already been referenced, and it includes: relevant Principal Committees and their officers; leading business representatives, importantly – and they come from across the Bailiwick; the GFSC, of course; and also, we pull in analysis by external consultants, such as Frontier Economics, Deloitte, etc. The overriding conclusion from all these stakeholders, sources, and our own analysis is that there are a number of potential benefits which will flow to Guernsey and the

3440 Bailiwick as a result of the participation in the FTAs – or international trade agreements.

3445 As Guernsey has an internationally-recognised financial services sector, it is vital that services are included in FTAs as well as goods, which is the significant focus of this 2022 policy letter. Guernsey seeks to participate in several such agreements so that the geographical reach of Guernsey is increased. The CPTPP is the start, with many other agreements which will also benefit Guernsey due to follow.

The benefits to the whole local economy, goods, and services from these international agreements such as CPTPP include providing stability and predictability in the rules governing trade between Guernsey and its partners and conditions of market access in each. This sends a strong signal to both businesses and investors, demonstrating Guernsey's compliance and approach to international economic governance and regulation, showing that Guernsey is an integral part of the British family in terms of international profile and trading, and indicating that Guernsey is willing to collaborate and participate within internationally-recognised trade rules.

This is increasingly important at a time of international economic fragmentation and increased sensitivity and selectivity by countries as to which jurisdictions they choose as partners for comprehensive economic relations – significant added benefits of being able to attract business into the Bailiwick from trading partner countries who, on a regional, reciprocal basis, will be assured that the Islands are stable and predictable jurisdictions to facilitate inward trade and investment. Trade security is becoming increasingly important for businesses in the current economic environment.

Guernsey is ready to participate in global trade and that is what this policy paper is all about. I commend it to you all.

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

**Deputy de Lisle:** Thank you, madam.

I had a question with regard to paragraph 3.4. There it makes the point that:

The Bailiwick's participation in the FTAs ... is presently restricted to the goods baseline ...

It also states that:

... in the future ... [it will] include preferential treatment for cross-border trade in services ...

– and also, further down in 3.5, for 'financial services, digital and e-commerce sectors'. I would like clarification from Deputy Le Tocq as to whether, in fact, we are talking at the current time of FTAs really in terms of the goods. When do we get round to inclusion in services and so on? Or is this package going to include us in everything from the start?

Thank you.

**The Deputy Bailiff:** Deputy de Sausmarez.

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

I certainly do not intend to speak for very long at all. Just touching on the point that Deputy Taylor raised – and I think his question is a valid one about how P&R intend to prioritise – I do not think I can answer it – that is Deputy Le Tocq's job – but I can perhaps provide a little bit of an insight. I know that officers at Committee level – and E&I is one of those that have been involved in that process – have been working really hard to identify the areas in which we think we are going to need to make more progress. Unsurprisingly, the minimum level of environmental protections in Guernsey is sadly one of those areas where we are playing catch-up to some degree.

I do not know if it helps reassure Deputy Taylor to any extent to explain that I know that our officers of the work that is already going on in this area have been working with External Relations and P&R officers to understand which are the ones that we most need to prioritise in order to demonstrate compliance. I believe – and I stand to be corrected by Deputy Le Tocq – that we do not need to wait until all those bits of legislation are necessarily in place; as long as we can demonstrate that progress is being made towards them, we have got a clear plan, I believe that is part of the compliance.

Thank you.

**The Deputy Bailiff:** Deputy Kazantseva-Miller.

3495 **Deputy Kazantseva-Miller:** Thank you, madam.

I think Deputy Dudley-Owen raised a very good point about resourcing. Different work streams, very serious and complex work streams like this actually are quite resource-intensive. I wanted to be on the record that actually, the Committee for Economic Development has lost two officers to this work stream and they are still currently actually being paid by Economic Development but they are not available within some of the core areas we have to drive, so this has resource implications – something our Committee will be considering. It is to show that we have not seen properly the impact analysis that, again, Deputy Dudley-Owen went to great lengths to emphasise the importance of – work has been done but has not been published because it is potentially commercially sensitive, to the point where Committees actually have not seen the details of it – but also that there are resource implications. This is, from what I have seen, a well-resourced area but it may have unintended consequences elsewhere because we have a limited pool of resources.

**The Deputy Bailiff:** Deputy Le Tocq.

3510 **Deputy Le Tocq:** Thank you, Madam Deputy Bailiff.

A number of good questions, a lot of them overlapping. I will try and handle them as best I can. Deputy Dudley-Owen began by talking about resources and referring to paragraphs 8.3 and 8.6. She is correct. I think Deputy Prow has really responded in the main to that: we have certain obligations under these that would particularly require, in the area of goods, resources to be expended at the border in terms of doing that. But the fact is, we are having to look at that anyway under the new TCA agreement between the UK and the EU. So to pick up Deputy de Sausmarez's point from just now, this is work already taking place. And yes, there will be new resources. What our teams, which have been working very well together, I think have been trying to assess is: is it work that is already included because of the new trading agreement between the UK and the EU that we are involved in or is it extra work? In the main, we have been given assurance that actually, it can fit within that work and we can cope with that.

With regard to Deputy Dyke's questions, he first of all discussed the issue of termination. I think he raised this last year when we brought the first policy letter, which focused mainly on goods. We are seeking – in fact, along with our other Crown Dependencies, because we are not, in the main, doing this alone, although there are different focuses from the different three Crown Dependencies in terms of what we are keenest on because our industries are slightly different everywhere ... but we are very much united in that we are asking the UK to work on a template to ensure that where possible, we can have termination clauses put in so that we can choose at any given point in the future not to continue in that area. That is not always easy, but in this instance, we are continuing to do that and we are aligned with them in that respect.

He talked about 'greater detail'. I could keep us here for a long time but I do not think it would be very helpful to do that. What I will try and do is give some illustration and some example of the areas where standards and negotiations have had to go into quite some detail to find out if we are compliant – and if we are not, can we get there efficiently and effectively and are there cost benefits of that for industries based in Guernsey? Deputy Moakes has mentioned the Trade Policy Forum, which has been very useful to us. In fact, a version of that forum predates Brexit because we pulled those various industries in Guernsey together and did an audit in order that we would have an understanding pre-Brexit of what our industry in Guernsey required. To be quite honest, madam, we discovered that Guernsey is actually richer in manufacturing industry than we thought we were and that has been an important part of it.

As is well-known to many Members here – and I am sure, to Deputy Dyke – financial services plays a huge part. But also alongside that, there is digital – and particularly, one area of intellectual property which Guernsey has been expanding into for some years. Our legislation is, in fact – it is always a bit worrying when you hear yourself in an echo (*Laughter*) – aligned with – and in some

3545 areas, ahead of – that which we are being asked, certainly compared to our other colleagues, to do. So we have been pleasantly surprised in certain areas that it will not be necessarily to put in new legislation. If, on the other hand, we *do* have to bring new legislation – to pick up Deputy Taylor’s point – it will be brought to this Assembly because this Assembly is our legislature and we have to pass legislation in that respect. So from that point of view, there will be an opportunity to scrutinise it and to look at it.

3550 But in the main, because we are already going along this path and there is further work to be done with regard to the TCA agreement with the EU, the consultation – and we have had extensive consultation with various Committees because my External Affairs team, which is fairly small, has to work with others in order to ensure that we are on the same page – we are certain that although it is going to be, in some cases, quite a lot of work, we can do that for the benefit that is perceived – and there are, particularly in financial services, strong views that this could be beneficial for us.

3555 To pick up on Deputy de Lisle’s point – and I am sorry if he missed it when I gave my opening speech – this is a follow-up policy letter to last year. Last year, this Assembly resolved to allow us, as P&R, to enter into negotiations for goods. We are now wanting to extend that to services because we have been made aware by our industry in Guernsey that it would benefit us hugely, particularly in the TCPC ... (*Laughter*) – in that one! – in the trans-Pacific deal that is before us to be able to enter into that for services, and after that, open the doors to potential bilateral agreements that the UK is looking to do with the individual countries that form part of that trans-Pacific agreement. So there are opportunities there beyond this. We are pleased to do that, which is why we are asking this

3560 Assembly today to allow us to move forward.

3565 I want, before I sit down, madam, to give thanks particularly to Home Affairs and Economic Development; Deputy Prow; Deputy Moakes, particularly, who has worked very closely with me on this – not just in terms of the staff team; if I did not have his support, we would not be where we are today.

3570 I will give way to Deputy Taylor.

**Deputy Taylor:** I am very grateful to Deputy Le Tocq for giving way.

Just seeking clarity again on, really, the word ‘implemented’ in relation to legislative measures. He said it would come back to the Assembly for scrutiny. Is that going to be at such a point where we do not really have any opportunity to make any changes or anything because it has to be implemented? I do not know if I am the only one thinking this, but if Policy & Resources are implementing the legislative measures as they see fit, is it absolutely sure that it is coming back to the Assembly for their approval?

3575 Thank you for giving way.

3580 **Deputy Le Tocq:** I stand to be corrected, but except *in extremis*, we would bring legislation to this Assembly to be approved. I cannot think of an example where, in this case, we would need to do that, but I stand to be corrected. I do not know if the learned Comptroller could confirm that.

3585 **Deputy Le Tocq:** I give way, then.

**Deputy Dyke:** I am grateful to Deputy Le Tocq.

Just to perhaps clarify the last question: can you confirm that this States’ Assembly, representing the people of Guernsey, will not find itself in a position where P&R have agreed that we will pass legislation saying A, B, C; it then comes to us being told that we must pass A, B, C when we might not want to? That, I think, was Deputy Taylor’s concern. You see the point, don’t you?

3590 **Deputy Le Tocq:** I do not know if I can confirm that because you are asking something ... This Assembly, ultimately, any legislation that is put in front of us it, it has the opportunity to say ‘no’ to and, as we have seen earlier, to amend where necessary; we can do that by various means. In this instance, I cannot foresee that sort of situation occurring. As I have said, there is legislation already

in the pipeline that we are going to have to deal with with regard to our commitments under the new agreement between the UK and the EU. Much of that is covered and that is going to come back to this Assembly. I do not think I can give much further assurance, madam, on that basis in terms of the future speculation; it is the normal procedure.

I think I was in the middle of saying at the beginning ... giving thanks to those who have been part of this because it is not just a P&R thing; this is something that we are working on together and it is something that industry here in Guernsey is very keen that we move forward with because of the opportunities that will be there for Guernsey business in the future.

So I again commend the Propositions to this Assembly.

**The Deputy Bailiff:** *[No audio]*

*There was a recorded vote.*

*Carried – Pour 32, Contre 0, Ne vote pas 0, Absent 2, Did not vote 6*

<b>POUR</b>	<b>CONTRE</b>	<b>NE VOTE PAS</b>	<b>ABSENT</b>	<b>DID NOT VOTE</b>
Deputy Aldwell	None	None	Deputy Oliver	Deputy Blin
Deputy Brouard			Deputy Parkinson	Deputy Cameron
Deputy Burford				Deputy Le Tissier
Deputy Bury				Alderney Rep. Roberts
Deputy de Lisle				Alderney Rep. Snowdon
Deputy de Sausmarez				Deputy St Pier
Deputy Dudley-Owen				
Deputy Dyke				
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				
Deputy Gollop				
Deputy Haskins				
Deputy Helyar				
Deputy Inder				
Deputy Kazantseva-Miller				
Deputy Le Tocq				
Deputy Leadbeater				
Deputy Mahoney				
Deputy Matthews				
Deputy McKenna				
Deputy Meerveld				
Deputy Moakes				
Deputy Murray				
Deputy Prow				
Deputy Queripel				
Deputy Roffey				
Deputy Soulsby				
Deputy Taylor				
Deputy Trott				
Deputy Vermeulen				

**The Deputy Bailiff:** There voted Pour 32 and there were 8 absences. I declare the Propositions passed.

**Procedural –  
Order of business**

Now, Members, it is five past five. (**Deputy Soulsby:** 'It's *Crackerjack!*') (*Laughter*) Unfortunately, it is not *Crackerjack!* – I am afraid that is showing our ages, Deputy Soulsby! (*Laughter*)

As you will see from the order paper, there is still quite a lot of business left for us to deal with. There is one matter, and that is matter 10, where Deputy Prow, as President of Home Affairs, has asked that we try and deal with today. In relation to the other matters: the Review of the Children Law and Outcomes, it is suggested that that be moved to the November meeting, and the matters involving environmental pollution and low value debt relief moved to the October meeting.

So the motion is that the order of today be reordered in that manner, so that what we will do now is move straight to number 10, Amendments to the Criminal Justice Framework. Those who agree the motion, say *Pour*; those against.

*Members voted Pour.*

**The Deputy Bailiff:** Thank you.

## COMMITTEE FOR HOME AFFAIRS

### 10. Amendments to the Criminal Justice Framework – Propositions carried

*The States are asked to decide:-*

*Whether, after consideration of the Policy Letter entitled 'Amendments to the Criminal Justice Framework', dated 25th July 2022, they are of the opinion:-*

- 1. To agree to the introduction of legislation creating preventive offences, as set out in section 3 of the Policy Letter;*
- 2. To agree to the introduction of legislation creating disclosure obligations in criminal cases as set out in section 4 of the Policy Letter;*
- 3. To agree to the introduction of legislation to enable deferred prosecution agreements as set out in section 5 of this Policy Letter;*
- 4. To agree to amend the Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007 to introduce a reverse burden of proof, a summary forfeiture procedure and protection against liability for the authorities, as set out in sections 6 and 7 of this Policy Letter;*
- 5. To agree that the amendments referred to in paragraph 4 should be included in the new legislation for civil forfeiture that is currently being drafted, as set out in sections 6 and 7 of this Policy Letter;*
- 6. To agree to amend the legislation governing confiscation in criminal cases to change the way that property subject to saisie is treated as set out in section 8 of this Policy Letter;*
- 7. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.*

**The Deputy Bailiff:** I will therefore turn to Deputy Prow in relation to the Amendments to the Criminal Justice Framework.

**Deputy Prow:** Thank you, Madam Deputy Bailiff.

I would actually like to start with thanking the people I think I need to thank. In particular, I would like to thank His Majesty's Comptroller and His Majesty's Procureur – and indeed, the Crown Advocate from the Chambers, who has advised us; I cannot name her by way of convention. I would also like to thank my Committee.

This is a technical paper in the sense that this is around the drafting of criminal legislation, but there are political implications of it. My Committee have worked very hard with the Law Officers

and put an appropriate challenge in understanding to make sure that we are very happy to be presenting it to you. One other person I should also thank who has been involved heavily in this piece of work is the Director of the Economic & Financial Crime Bureau.

3635 Madam, Members have heard me say many times in this Assembly that tackling economic and financial crime is a priority for Home Affairs and this work continues at pace. It is supported by the Law Officers, who have carried out a comprehensive review of the effectiveness of the Bailiwick's criminal justice framework for addressing economic and financial crime, taking into account operational experience within the Bailiwick and the comparison with similar jurisdictions.

3640 Madam, this policy letter recommends amendments to the Bailiwick's criminal justice framework informed by that review and also by engagement with industry and subsequent advice received from His Majesty's Comptroller. The amendments are primarily intended to improve the Bailiwick's effectiveness in dealing with financial crime but will have an impact on prosecutions of other offences. I shall briefly outline those improvements in a moment.

3645 The policy letter follows recommendations approved by the Assembly in November last year in respect of a number of technical amendments to legislation relating to money laundering, terrorist financing, cybercrime, and other such matters which have been identified in the review by the Law Officers. The Committee *for* Home Affairs supported a consultation process in respect of the more substantive changes to improve the effective implementation of the criminal justice framework identified in that review.

3650 The consultation sought feedback on the following matters, which are captured in the policy letter. They are, madam: criminal offences of failure by corporate entities to prevent certain types of economic crime; the introduction and scope of defence disclosure obligations and deferred prosecution agreements; shifting the burden of proof in civil forfeiture cases; introducing summary forfeiture in no-consent cases; and making changes to the effect of the *saisie* regime in criminal cases.

3655 Consultation responses came from individual businesses across the private sector and from one association. Some responses gave substantial feedback on all of the proposals, whereas some gave detailed feedback on specific proposals and expressed no opinion on the others. Where views were expressed, they were largely supportive of the proposals. The Committee is grateful for this constructive engagement from industry, which has been important in shaping the next steps. This policy letter is the result of extensive consultation with the private sector, shared with the Policy & Finance Committees of Sark and Alderney, the Director of the Economic & Financial Crime Bureau, and the Policy & Resources Committee. Following the conclusion of the consultation, His Majesty's Comptroller has provided advice on the findings and this informs the basis of the Propositions.

3665 The Assembly has asserted the importance of maintaining compliance with international standards on financial crime by continuing to identify this as a Government priority which remains front and centre in the Government Work Plan.

3670 The recommended amendments will be key to demonstrating both commitment by Government and effectiveness of criminal justice activity in combatting economic and financial crime. It is an imperative for this Bailiwick, whose economic engine is a well-regulated and quality international provider of financial services, and for Government and its independent operational resources to have the necessary tools in its armoury to combat money laundering, the financing of terrorism, financial and economic crime, and to seize and confiscate the proceeds of those crimes.

3675 I ask every Member of this Assembly to support this policy letter. Thank you, madam.

**The Deputy Bailiff:** Deputy Gollop.

3680 **Deputy Gollop:** Madam Deputy Bailiff, it goes without saying, as always, I support the work of the Home Affairs Committee, the very hardworking Deputy Prow, and the work of – it must be – *His* Majesty's Comptroller on all of this.

There are some innovations in this that I alluded to a little bit earlier. I quite like the idea, actually, of deferred prosecution agreements; perhaps that will take justice, in the long term, to new levels,

3685 but I know it is specifically focused. What is interesting about the Guernsey approach is, as I said, it will also be beneficial for individuals to be included within the DPA – not the Development & Planning Authority; *deferred prosecution agreements*. In the United Kingdom, it applies just to corporate organisations. So that is an example of Guernsey thinking outside the box.

We have had – not a sneak preview – we did our process on the Legislation Select Committee with Deputy Dyke and all of us and there were perhaps a few – not concerns – *intriguing elements*; 3690 for example, it does reverse the burden of proof in certain narrow respects – burden of proof in civil cases to do with civil forfeiture. This is, of course, a proportionate response to the increasing sophistication of international crime and our dedication to be one of the best-regulated places in the world. Nevertheless, from a jurisprudential point of view, that does mark a change.

I note in paragraph 6.4:

Under ... the Proceeds of Crime Act 2002 (POCA) ...

3695 – I believe this is the *UK* Proceeds of Crime Act –

... the court may make an UWO requiring a person to provide a statement setting out the nature of their interest in particular property specified in the order (which is subject to a £50,000 threshold) ...

We know in Guernsey, for certain proceeds of crime – to do with drugs and so on – we have a much lower threshold than that.

There is also a slightly harsher approach than the UK in terms of no consent because whereas the UK has addressed the consent to a deal or transaction involving property where there might be 3700 a suspicion, not proven, that the property perhaps has been acquired through money laundering or similar ways, the UK has addressed this via a moratorium approach whereby in the absence of a response content, it is deemed to be given over a period of time, but the article here makes it clear that this would not be considered to be a suitable approach for a jurisdiction such as the Bailiwick of Guernsey. The reasons given are, our position as an international finance sector with a low 3705 domestic crime rate means that inevitably, most requests involve cross-border requests and that reflects criminality elsewhere. We need more time and resources for the authorities to be satisfied about the legitimacy or otherwise of a proposed transaction. We are also clearly following Jersey in that respect.

I also support the *saisie* in criminal cases. I remember at the last election, the Citizens Advice 3710 Bureau marketed and gave their opinion to candidates that we need a thorough review of our current bankruptcy regime, and this would apply to *saisies* and indeed, other elements of that. What is interesting is, there are still differences between real property and other forms of property. What is intriguing is the view, which I am sure is correct, that there have been some people who have manipulated the *saisie* proceedings to continue to occupy property that would otherwise be 3715 potentially seized.

Also, I am interested that the defence disclosure obligations perhaps reveal that we have not necessarily followed modern practice elsewhere. I have seen too many of these courtroom dramas where a barrister produces some amazing revelation at the last minute, but it appears that is still possible in Guernsey in certain respects because there is not an obligation for the defence to 3720 disclose everything. This clearly will be useful and although seen as controversial in the UK, will have benefits here.

So I welcome this. We have already seen the legislation in some areas but not in every area. I wonder how far some of this legislation will expand beyond money laundering offences to other forms of offensives and also whether there will be further consultation with the Bar or civil liberties 3725 organisations who may put forward a counterpoint of view. I do hope that what we are doing is not only on a par with Jersey and the Isle of Man, but is even better and will prepare us for Moneyval. Nevertheless, these highly technical areas could do, perhaps, with more seminars for States' Members.



3730 **The Deputy Bailiff:** Thank you.  
Deputy Inder.

**Deputy Inder:** Motion to close debate, madam.

3735 **The Deputy Bailiff:** There has been the suggestion of a motion to guillotine debate.  
Those who wish still to debate this matter, stand in your seats.  
Do you wish me to put the motion to the Chamber?

**Deputy Inder:** Yes.

3740 **The Deputy Bailiff:** Thank you.  
The motion is that the debate on this matter be guillotined. Those who support this motion, say Pour; those against.

*Some Members voted Pour, others voted Contre.*

**The Deputy Bailiff:** I am going to ask the States' Greffier to use the SEV.

3745 *There was a recorded vote*

*Not Carried – Pour 13, Contre 18, Ne vote pas 2, Absent 2, Did not vote 5*

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	Deputy Blin	Deputy Burford	Deputy Oliver	Deputy Cameron
Deputy Falla	Deputy Brouard	Deputy Prow	Deputy Parkinson	Deputy Le Tissier
Deputy Ferbrache	Deputy Bury			Alderney Rep. Roberts
Deputy Haskins	Deputy de Lisle			Alderney Rep. Snowdon
Deputy Helyar	Deputy de Sausmarez			Deputy St Pier
Deputy Inder	Deputy Dudley-Owen			
Deputy Le Tocq	Deputy Dyke			
Deputy Leadbeater	Deputy Fairclough			
Deputy Mahoney	Deputy Gabriel			
Deputy McKenna	Deputy Gollop			
Deputy Meerveld	Deputy Kazantseva-Miller			
Deputy Murray	Deputy Matthews			
Deputy Taylor	Deputy Moakes			
	Deputy Queripel			
	Deputy Roffey			
	Deputy Soulsby			
	Deputy Trott			
	Deputy Vermeulen			

**The Deputy Bailiff:** For the motion to guillotine debate, there voted Pour 13, Contre 18, there were two abstentions, seven absences, so we will continue debate.  
Deputy Kazantseva-Miller.

3750 **Deputy Kazantseva-Miller:** Thank you, madam.

This is an example of the type of, I guess, necessary and frequent regulations that we have seen already coming from Deputy Prow and his Committee and we will, I think, see much more coming. We have spent nearly three days debating the minutiae of the discrimination ordinance and whether £200 at best might be a proportionate burden for businesses. But what I do not get any sense from this kind of document is how proportional the measures are that we are taking and whether there is any element of softening or watering-down, not watering-down, how some of these measures can be applied.

Just for example, I draw Members' attention to 3.7, which says:

The introduction of offences corresponding to the UK preventive offences outlined above would be unlikely to cause any significant extra work for the private sector.

3760 'It is unlikely to cause any *significant*,' but it likely to cause certainly *some*, levels of work. This is, again, for the finance sector and a lot of the regulated businesses who have so many different levels of regulation – due diligence, AML, and such – imposed on them, to a point where just recently, I was speaking to a trust company and the manager there said, 'I'm not in finance; I'm basically a forensic investigator.' Deputy Le Tissier is not here but I think he addresses that point a lot.

3765 We do not get a sense – and this is where I do not get a sense – when such policy letters are presented to us, of proportionality. This is what I would really like Deputy Prow to address. To me, we are putting burden after burden on our finance sector. I completely accept that we need a lot of it but I do not have any sense of proportionality. We have not had a chance to make minor amends to water it down, like Deputies had over the discrimination Ordinance; it is just given to us as it is, because it is obviously highly technical, and it is 'Take it or leave it.' But these are the kinds of things  
3770 that are really putting the burden on the finance sector, not the discrimination Ordinance. But again, this will be nodded through because we actually do not really have the chance or the details to make any amends to it.

3775 So I guess my question first is about the proportionality of these specific measures and whether there is any way, within reason, to make them less burdensome. But also, in the future, when such measures come to us, it is to understand what is really the impact on local businesses. When is enough enough?

**The Deputy Bailiff:** Deputy Dyke.

3780 **Deputy Dyke:** Thank you, madam.

I think the answer to Deputy Kazantseva-Miller's question – I will leave it to Deputy Prow but I think the answer to the question – is, with Moneyval, there is no proportionality. There just is not – unlike with Deputy Roffey, who is very proportionate.

3785 My question goes to one of the points: the reversal of the burden of proof in civil asset forfeiture cases. On the Legislation Review Panel, we have seen this and we seem to be pretty much *ad idem* as a bunch of libertarians. There is always a lot of concern about this constant shifting of the balance of power between the citizen and the state, and we are doing it again here with this reversal of the burden of proof. Is this something that we have to do for Moneyval or is it something we might choose not to do? It is a particular concern, I think, of everyone on the Legislation Review Panel;  
3790 they are all in here so they can comment as necessary.

Thank you.

**The Deputy Bailiff:** Deputy Trott.

3795 **Deputy Trott:** Thank you, madam.

My question is a catch-all that I will ask every time legislation like this comes before us between now and the middle of next year. We are now less than six months away from the data collection commencement by Moneyval. Is the President of the Home Affairs Committee content that he is receiving sufficient resources to ensure that he can meet all of his commitments and the  
3800 commitments of other departments of the States in order to give us the best possible chance of demonstrating what we are – that is, one of the cleanest financial services jurisdictions on the planet?

Thank you, madam.

3805 **The Deputy Bailiff:** Thank you.  
Deputy Queripel.

**Deputy Queripel:** Madam, this is the first time I can ever recall seeing so much advice from H.M. Comptroller – it features so heavily in the policy letter – in my 10 years as a Deputy. And I welcome it, every word of it, because we very rarely seen any. It is a 14-page paper and 10 pages of it are taken up by H.M. Comptroller’s advice. I appreciate it is a paper on the Amendments to the Criminal Justice Framework, which is all legal stuff, but every paper that is laid in front of us is all legal stuff and we hardly ever see H.M. Comptroller’s or H.M. Procureur’s advice in any of those. That concerns me because in my view, we should do. What we normally see in those papers is:

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

It is an issue I have taken up with SACC and my understanding is, though I stand to be corrected, that piece of work will be included in a review of the Rules. So I look forward to that piece of work.

Getting back to this paper in front of us: when I first saw it, I was delighted and daunted at the same time – delighted because it is such a short paper and it contains so much information, and daunted because it is all legal stuff. I was anticipating lots of legal and political speak, but this is written for the lay person and it is so easy to read and so easy to understand because of the way it is written. I commend H.M. Comptroller and Home Affairs for presenting us with a paper that is so easy to read and understand.

Obviously, I fully support the Propositions, madam.

**The Deputy Bailiff:** Thank you, Deputy Queripel.  
Deputy Matthews.

**Deputy Matthews:** Thank you, madam.

I was not going to speak, but as Deputy Dyke mentioned, we did have a look at this on the Legislation Review Panel and I think that there were a few questions about whether there could be any cases where the reversal of the burden of proof might not be what we might want to do. There might be instances where it could seem that it could have potential issues. I think that the answer, really, was that this is something that was required in front of the Moneyval inspection and that really, there was not an awful lot of leeway about changes that could be made – it was an anti-money-laundering measure that is necessary to be able to make recoveries from around the world – that there simply was not the prospect, really, of being able to change it.

I do not think I could really answer the question about, ‘How much could you negotiate that?’ or ‘How much could you change it?’ or ‘How much could it be done?’ Because Moneyval is such an important inspection for us to do, **(Deputy Trott: It is.)** I think the right thing to do is to take it as read that we have done what we have needed to do to comply and that there is not an awful lot of room to change the conditions that are there.

Thank you.

**The Deputy Bailiff:** Thank you.

Nobody else is rising so I will ask you, Deputy Prow, to respond.

**Deputy Prow:** Thank you, Madam Deputy Bailiff.

Could I just start this closing by suggesting, perhaps, to His Majesty’s Comptroller to listen carefully to my summing-up? If there is anything he wants to add or correct, I will be very quick to sit down and give him the opportunity to do that.

I thank everybody who has contributed to this debate. Perhaps, I am going to start in reverse order in the sense that Deputy Matthews spoke last. He spoke about reversal of the burden of proof and other Deputies have mentioned that so that is where I would like to start with this summing-up.

The first thing I would say and emphasise to Members of the Assembly: we are talking about civil cases; we are not talking about criminal cases. As an ex-investigator, there are two aspects to investigating money laundering: one is the criminality, the second is the actual proceeds themselves.

There are two ways of dealing with that: where you have the evidence to a criminal standard and you have the ability to arrest, investigate, and eventually prosecute, all that must be – and quite rightly – done to the criminal standard. Where you have, through the Suspicious Activity Reporting regime – which all the financial institutions and others are obliged to proceed with – it is often the case that the proceeds of crime are identified to a high level of suspicion, and that gets reported.

What this Bailiwick is faced with, along with the United Kingdom and the Bailiwick of Jersey, is how we deal with that, bearing in mind the Financial Action Task Force's 40 Recommendations. This is where the Moneyval review is very important, because they are looking to all those jurisdictions – not the ones I have just mentioned, but globally – as to how you perform and how your legislation allows you to attack those proceeds. Instituting reversal of the burden of proof is a tool in the box in other jurisdictions. What the review that was led by His Majesty's Comptroller has dealt with is looking at the most appropriate way of dealing with this. That, hopefully, gives a little bit of background.

I just will very quickly deal with – this all relates to Proposition 4, which is about shifting the burden of proof in *civil forfeiture* cases, not *criminal*. The Committee is in favour of requiring persons claiming the ownership of property to demonstrate its lawful origin if there are reasonable grounds to believe that the property is criminal in origin; that is the *property*. It is proposed that the burden of proof should be shifted for civil forfeiture cases, as in Jersey. This approach is considered a more proportionate and appropriate model for the Bailiwick than the introduction of unexplained wealth orders, which was referred to by Deputy Dyke when he referred to the section of the policy letter, which is the alternative model.

It therefore proposes that the States should enact legislation to amend the Bailiwick's current civil forfeiture legislation to address this. We are looking at the Jersey option, which is tried and tested. It is also further proposed that the States should agree that this should also be addressed in the new civil forfeiture legislation that is currently being drafted following a decision of the States in November 2021 to repeal and replace the current legislation. Hopefully, that will be helpful to Members in regard to shifting the burden of proof; that has been mentioned by several Deputies.

I will go back to the start of the debate. Deputy Gollop, I thank him very much for his support. He has taken a keen interest in the process of this and has also been able to scrutinise the legislation through that Committee. Yes, it is innovative. But again, we need to be innovative because we have to shape up against the 40 Financial Action Task Force Recommendations; we have no choice as a finance centre. Again, that is what we are assessed against: how we perform when the Moneyval inspection starts.

Deputy Trott is right: the first exploration by Moneyval will happen quite shortly. I also thank him for supporting deferred prosecution agreements. I and the Committee – and obviously, Her Majesty's Comptroller – are very supportive. Again, this is a mechanism used by the UK. I hopefully have dealt with the shifting of the burden of proof, which he mentioned.

Deputy Gollop mentioned the no-consent; again, this is dealt with by Proposition 5. Referring to my notes here: the so-called 'no consent' cases are those where the Financial Intelligence Unit has refused consent to a particular activity following a suspicious activity report from the finance industry. The significance of this is that if the Financial Intelligence Unit has given consent, this will provide a defence to money laundering or terrorist financing. The refusal of consent can result in a situation where assets that are the subject of no-consent may remain in limbo; in fact, this is exactly what happens. Consideration was given to either adopting the summary forfeiture procedure currently in place in Jersey, which applies to property which is the subject of a request for which consent to a transaction has been refused for at least one year, or the UK moratorium approach, whereby the absence of response of consent is deemed to be given after a period of time.

The Committee has concluded that it would be more proportionate and appropriate for the Bailiwick to follow the Jersey approach rather than introduce a moratorium period. In reaching this conclusion, the Committee has taken into account the fact the Bailiwick's position as an international finance centre with a low domestic crime rate means that a far higher proportion of consent

requests than in the UK involve suspected criminality committed elsewhere. That is the thought process and that is what I recommend in Proposition 5 that this Assembly accepts.

Deputy Gollop also mentioned the saisie process. The proposals in this policy letter are simply about amending that process so it cannot make that process open to money laundering. It is an anti-money laundering addition to that process. Any other revision of that process is not intended in this policy letter.

Deputy Gollop also spoke about defence obligations. Again, I think what I should do is refer to my notes. This is contained in Proposition 2. This is introducing the scope of defence disclosure obligations. The Committee is recommending the introduction of defence disclosure obligations, which would require defence in all types of criminal cases to clarify the issues that are in dispute in line with the position of the UK and other Crown Dependencies. These obligations will be modelled on the existing provisions in Jersey. This will benefit all participants in criminal trials by shortening the process and therefore reducing the stress and costs that can otherwise arise from protracted hearings about matters that are not, in fact, an issue. The disclosure requirements at the moment – and His Majesty's Comptroller I am sure would confirm – are a common law process, but this will clarify that disclosure obligation. We again, as a Committee, feel that this is the right way to proceed.

Deputy Kazantseva-Miller, I thank her for her interest and I thank her for her support. Can I just make one thing clear? We are not talking here about regulation. Yes, it does impinge upon the activity in the finance sector around their obligations they have to report suspicious transactions. That is what happens now, that is what will Moneyval expect us to do. They will be evaluating on our performance: not just that of the Financial Intelligence Unit, but the whole of industry. They will be looking to see that we have a robust system that produces the necessary results.

This policy letter is about criminal justice arrangements. Yes, it does deal with the civil process of forfeiture of the proceeds of crime, but this is not about increasing the burden. In fact, arguably, particularly around the no-consent regime, it could be argued that this would clarify the process. Certainly, for those money laundering reporting officers, it is much more likely to lead to some sort of better conclusion in some of the cases where they have done the work already and identified suspicious transactions which have already been reported. This gives the FIU the tools in the box to actually cease under the civil forfeiture regime those processes in a proportionate and fair and reasonable way by asking for an explanation as to – if the funds are legitimate or claim to be legitimate, asking for that explanation. I understand her comments around the burden on the finance industry, but this is about tools in the box for Law Enforcement to be able to bring either those guilty of offences to prosecution stage or better able to handle identified proceeds of crime.

Again, I thank Deputy Dyke for his comments. I hope I have given a sufficient answer already around the burden of proof. He is a lawyer and I can understand his concerns but I hope I have satisfied those.

Deputy Trott, again, I thank him for his contribution. I absolutely agree with him: we have an excellent financial centre which is very well-regulated. I think, to answer his question around preparedness, it is not just Law Enforcement; it is the Law Officers of the Crown, it is GFSC and industry itself that has got to be prepared. The best assurance I can give him is that myself and my Committee working with Policy & Resources, who have been heavily involved in this, Law Officers of the Crown, the Economic & Financial Crime branch of the FIU, everybody is absolutely aware. This is the underpinning reason why he asked these questions: to give him and this Assembly the assurance we are doing all we can. In this case, we have identified criminal justice legislation that we feel we absolutely need. I want to put tools in the box to satisfy a Moneyval evaluation. I give him my assurance that we work very hard, we are working together with all the agencies that I have mentioned, and I hope that satisfies him.

I am very happy to give way.

**The Deputy Bailiff:** Deputy Trott.

**Deputy Trott:** Thank you very much indeed, madam.

3960 That is a very reassuring answer – through you, madam – and I am delighted to hear it, but can I just ask a minor supplemental question? That is: is anything to do with this matter keeping the President of the Home Affairs Committee awake at night?

**The Deputy Bailiff:** Deputy Prow.

3965

**Deputy Trott:** I am very much hoping for a particular answer. *(Laughter)*

**Deputy Prow:** I thank Deputy Trott for his concern. I sleep very well, and I sleep very well because I know the commitment of the professionals and their determination. I do not think I can say much more than that. I hope I am moving to a conclusion here.

3970 Deputy Queripel, yes, I completely agree with everything he said and I thank him most sincerely. Yes, this is a legislative project and it is absolutely right and proper that His Majesty's Comptroller is able, in a policy letter ... and I thank him for the concise language he has used because underpinning all this is some very complex stuff and I agree with Deputy Queripel, this is written in a way that hopefully we can all understand.

3975 I started with Deputy Matthews and I am not sure whether I did mention this, but I thank him very much for his comments.

Madam, I commend very much this policy letter and all the Propositions that go with it to this Assembly. Thank you, madam.

3980

**The Deputy Bailiff:** Thank you, Deputy Prow.

There are seven Propositions, all to be voted on together.

States' Greffier, would you open the voting on the Amendments to the Criminal Justice Framework, please?

3985

**The States' Greffier:** Yes, madam.

*There was a recorded vote.*

*Carried – Pour 30, Contre 0, Ne vote pas 0, Absent 2, Did not vote 8*

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	None	None	Deputy Oliver	Deputy Burford
Deputy Blin			Deputy Parkinson	Deputy Cameron
Deputy Brouard				Deputy Inder
Deputy Bury				Deputy Leadbeater
Deputy de Lisle				Deputy Le Tissier
Deputy de Sausmarez				Alderney Rep. Roberts
Deputy Dudley-Owen				Alderney Rep. Snowdon
Deputy Dyke				Deputy St Pier
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				
Deputy Gollop				
Deputy Haskins				
Deputy Helyar				
Deputy Kazantseva-Miller				
Deputy Le Tocq				
Deputy Mahoney				
Deputy Matthews				
Deputy McKenna				
Deputy Meerveld				

Deputy Moakes  
Deputy Murray  
Deputy Prow  
Deputy Queripel  
Deputy Roffey  
Deputy Soulsby  
Deputy Taylor  
Deputy Trott  
Deputy Vermeulen

**The Deputy Bailiff:** In relation to the Amendments to the Criminal Justice Framework, there voted Pour 30, there were no votes against that, there were 10 absences. I therefore declare the Propositions passed.

## POLICY & RESOURCES COMMITTEE

### 11. Schedule for Future States' Business – Proposition carried

3990

*The States are asked to decide:-*

*Whether, after consideration of the attached Schedule for Future States' Business, which sets out items for consideration at the Ordinary States Meeting on 19th October, 2022, they are of the opinion to approve the Schedule.*

**The Deputy Bailiff:** Deputy Ferbrache.

**Deputy Ferbrache:** The Schedule for Future Business. Madam, I will be a little briefer than Deputy Prow with the States' briefing. *(Laughter)*

3995

**The Deputy Bailiff:** The Proposition is, as very briefly set out by Deputy Ferbrache – Greffier, would you commence the voting, please?

*There was a recorded vote.*

*Carried – Pour 30, Contre 0, Ne vote pas 0, Absent 2, Did not vote 8*

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	None	None	Deputy Oliver	Deputy Burford
Deputy Blin			Deputy Parkinson	Deputy Cameron
Deputy Brouard				Deputy Inder
Deputy Bury				Deputy Le Tissier
Deputy de Lisle				Deputy Leadbeater
Deputy de Sausmarez				Alderney Rep. Roberts
Deputy Dudley-Owen				Alderney Rep. Snowdon
Deputy Dyke				Deputy St Pier
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				
Deputy Gollop				
Deputy Haskins				
Deputy Helyar				
Deputy Kazantseva-Miller				
Deputy Le Tocq				
Deputy Mahoney				
Deputy Matthews				

Deputy McKenna  
Deputy Meerveld  
Deputy Moakes  
Deputy Murray  
Deputy Prow  
Deputy Queripel  
Deputy Roffey  
Deputy Soulsby  
Deputy Taylor  
Deputy Trott  
Deputy Vermeulen

**The Deputy Bailiff:** There voted Pour 30, there were 10 absences. I declare the Proposition passed.

4000      Thank you very much, Members. That brings us to the end of the order paper for this session of the States of Guernsey. I will ask the Greffier to close the States.

*The Assembly adjourned at 5.50 p.m.*