



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 23rd November 2022

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Present:

Ms J E Roland, Deputy Bailiff and Deputy Presiding Officer

Law Officers

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

People's Deputies

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

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

Absent at the Evocation

Deputy T. L. Bury (*indisposée*); Deputy M. A. J. Helyar (*indisposé*);
Deputy H. L. de Sausmarez and Deputy A. C. Dudley-Owen (*relevée à 9h 34*)

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States of Deliberation

*The States met at 9.30 a.m. in the presence of
His Excellency Lt Gen Richard Cripwell
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE DEPUTY BAILIFF *in the Chair*]

PRAYERS

The States' Greffier

EVOCAATION

CONVOCATION

The States' Greffier: Billet d'État XX of 2022. To the Members of the States of the Island of Guernsey, I hereby give notice that a Meeting of the States of Deliberation will be held at the Royal Court House on Wednesday, 23rd November 2022 at 9.30 a.m. to consider the items listed in this Billet d'État which have been submitted for debate.

Welcome to Alderney States' Members – Mr Abel and Mr Carter

The Deputy Bailiff: Thank you, States' Greffier.

Before we start, can I take the opportunity to welcome the Alderney States' Members who are here with us today. Mr Abel and Mr Carter, welcome. I do not know at what point we will get on to the Alderney Runway, which I am sure is why you are here, but we are glad to have you with us.

States' Greffier.

Statements

COMMITTEE FOR HEALTH & SOCIAL CARE

General update – Statement by the President of the Committee *for* Health & Social Care

The States' Greffier: Yes, Madam. The next item is a Statement from the President of the Committee *for* Health & Social Care. The update Statement.

15 **The Deputy Bailiff:** I am just going to, before Deputy Brouard steps forward to give this statement, Deputy de Sausmarez, do you wish to be relevéed?

Deputy de Sausmarez: Yes, please, Madam.

20 **The Deputy Bailiff:** Deputy Dudley-Owen, do you wish to be relevéed?

Deputy Dudley-Owen: Yes, please, Madam.

The Deputy Bailiff: Thank you.
Deputy Brouard.

25 **Deputy Brouard:** Thank you, Madam.

I will start, as I often have done over the past couple of years, with an update on the COVID-19 pandemic. Whilst it has generally been quite stable these past few months in terms of case numbers, public health services continue to monitor the situation and are prepared to act if things do change.

30 We have shown that we will move quickly if needed in a proportionate and effective manner as has been seen recently with a short-term reintroduction of mask wearing and lateral flow testing at the Hospital when it was necessary to do so.

This Autumn booster programme continues to progress well with some 15,000 doses being delivered in this programme for front line health and social care workers, for carers and those in clinical at-risk groups. Those eligible are also able to access flu vaccines free of charge which should help to ease some of the anticipated winter pressure.

35 HSC has been preparing for what is anticipated to be a potentially challenging winter. Public health services are keeping a close surveillance on respiratory viruses, not just COVID-19, so that measures can be taken early to address infections and are working closely with colleagues to monitor service provisions in the Hospital and other healthcare providers so that any knock-on effects can be identified early and minimised.

40 We are working to ensure that we have contingency plans in place in the event that there is a new variant or outbreaks that need rapid response. We do know, however, that our winter pressures are likely to be complicated by the cost of living crisis and rising fuel costs and such that difficult times can have a knock on effect on people's lives.

45 Whilst HSC will do what it can, everyone has a part to play in stopping the spread of viruses. Please continue to practise good hand hygiene, continue where possible to test yourself before going to crowded or large scale events and please – *please* – stay at home if you are unwell. Nobody wants to hear coughing and spluttering through their carol service.

50 We are also aware of the impact that COVID-19 pandemic has had on how we deliver our services, particularly on our waiting list for surgery and we recognise the impact that delays and postponements have on those effected and their families. Demand on services generally mirrors the experiences and challenges witnessed in the UK, which is also experiencing high demand and large waiting lists. According to the BMA, 7.1 million people are on the waiting list for treatment in the UK with similar challenges in respect of gastroenterology and orthopaedics.

55 However, we are hopeful that with the support of the Medical Specialist Group and the recent opening of the new De Havilland unit at the Hospital which consists of nine beds ring-fenced solely for orthopaedics surgery, we are now in a position to be able to begin to tackle that particular waiting list head on.

60 The MSG have also been working very hard to recruit a full-time gastroenterologist. They have employed several locums to cover the services over the last six months and have two full-time locums during December, that it is hoped with be able to see more patients and reduce waiting times.

65 More broadly, phase 1 of the Hospital Modernisation Programme continues to progress as planned and construction is well underway for completion towards the end of 2023 before it is

commissioned for early use in 2024. As a reminder, phase 1 will deliver a new purpose built critical care unit to support additional surgery, a new post anaesthesia recovery room. Your support so far has been essential and it will continue to be so as preparations continue for phase 2 beginning in 2024.

70 This project will increase hospital capacity and directly help to improve waiting times. Similarly, contracts for the supply of new electronic patient record system were completed in May this year and the delivery phase went as planned, which has enabled us to map out the specific requirements for the new system, working alongside clinicians to understand their processes. A full business case of the EPR project has been developed and the first elements are scheduled to go live from
75 Quarter 4 next year.

I would like to take the opportunity to add that whilst work to develop the facilities and system that HSC has available to it can continue to progress well, it must be emphasised that these projects are nothing without the skilled staff who know how to make these things work. I have spoken in this Assembly on several occasions about the need for key workers and whilst we are taking steps
80 within HSC to develop our own staff through Grow Your Own programme, we continue to require staff from outside the Island to provide effective and safe delivery of services.

The position is quickly becoming unsustainable with staff vacancies adding further strain to our existing workforce. HSC has said consistently that a new facility akin to John Henry Port on the PEH campus could be filled without delay. The demand continues to be there and we are not able to fill
85 some of the roles because staff would not have anywhere suitable or affordable to live. We are looking at ways we can provide such key worker accommodation but in order to deliver our services, knowing that demand will only increase, we need the support of this Assembly to do so.

We have recently had to change our model for domiciliary care in part as a result of issues relating to the recruitment and retention and I hope that we can work together to help to resolve
90 that this does not happen in other areas.

Moving now to mental health, which I know is something that our community and indeed many in this Assembly are rightly passionate about. We have recently published in full a review of the mental health and well being services. This review took into account the views of a range of stakeholders and I hope that those Members that wish to do so were able to participate.

95 The review noted that, whilst we are well resourced and compare very well to the UK equivalents, Guernsey is fortunate to have a rich network of voluntary sector organisations and States provided services. There remain gaps that need to be addressed. I wish to thank Mr David Gedze for his work and for all of those who have participated in the review. And HSC can now focus on working with key partners in Guernsey and Alderney to implement recommendations.

100 In terms of other legislative work, it has now been six months since the introduction of Lasting Powers of Attorney under the Capacity in the Bailiwick and update so far has been good. Since 1st April 2022, The Greffe has received a total of 332 LPA applications and as at the start of November, 255 have been registered. Work is now continuing on the implementation of the rest of the Law.

105 We have also completed the first phase of the review of Children's Law which is due to be debated this session.

The Committee were also proud to have seen the signing of the reciprocal health agreement between the Bailiwick and the UK in August this year. This will enable Islanders to travel to the UK, safe in the knowledge that they will be able to receive free health care if they suffer serious injury or illness whilst there. Work is ongoing to implement this arrangement, not just in Guernsey, but in
110 Alderney and Sark as well so that they can enter into force on 1st January 2023.

With regard to Alderney, while the public challenges in respect of health and care provision in Alderney over the course of this year have related to services which fall outside the transfer services, States of Guernsey officers have been providing advice and support throughout to the States of Alderney and facilitated additional support from Guernsey-based partners. It has highlighted the
115 challenges providing healthcare to such a small jurisdiction and the need to consider what is proportionate and sustainable for the future.

Deputy Matthews and I were pleased to meet with Alderney politicians along with Deputy Helyar in the new forum, the Alderney Care Board, and additionally with the Alderney health and care providers. Politically, we have agreed a programme of work which recognises the anticipated expenditure for 2023 is unsustainable and a more effective delivery and funding model needs to be found as a priority.

As a final point, looking ahead to 2023, the Committee will continue to focus on and prioritise the work of the Government Work Plan. In addition to what we have already mentioned, this will include our Category 1 actions, such as phase 2 of the Children's Law review and options for long-term care – SLAWS – together with the review of the implementation of NICE TAs and the next steps in this area. We also have on the books to finalise the legislation around the reform of Adoption Law and the primary legislation on the Regulation of Health & Care.

It has been a busy few months, as always in Health & Social Care and I do not doubt that it will also be a busy winter and beyond. But we have been able to put measures in place to tackle some of the key issues, and despite the challenging environment we are working in, I do not doubt that our ever dedicated staff will continue to do all they can over the coming months to provide safe and effective health care services for you.

Thank you.

The Deputy Bailiff: Thank you, Deputy Brouard.
Deputy St Pier.

Deputy St Pier: Thank you, madam. I declare an interest in this question.

Last week, the President chaired a very positive meeting, also attended by Alderney Representative Snowdon and Deputies Leadbeater and Matthews, in relation to the implementation of the recommendations from last year's learning report into safeguarding processes and this was attended by four families whose concerns had led to the learning report. They welcomed the agreement that the families should be represented on the delivery group being formed to implement the recommendations.

Having regard to the proposal in the Children's Law policy letter to put Safeguarding on a statutory footing, and as it has been over a year since the learning report was submitted, if – if – the President agrees with me that it is now in all stakeholders' interests to get the agreed recommendations implemented as swiftly as possible, will he use his best endeavours to ensure that the delivery group is formed and meets as soon as possible?

Thank you, madam.

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you.

Following the meeting with many stakeholders which we had, as Deputy St Pier refers to, there is a meeting which I think has been arranged for December, arranged by our Director of Operations; and that hopefully will take place and then take forward the matters in this very sensitive and delicate issue.

Thank you.

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Thank you, madam.

May I preface my question by saying I have got the greatest respect for the supremely difficult task that HSC do in trying to live within a finite budget with infinite demands. But, nevertheless, can I ask the President if his committee with reconsider its recent decision to start charging for out-of-hours cancer care? And in respect to that, in relation to equity between conditions, will he agree with me that cancer treatments such as chemotherapy are uniquely likely to cause unforeseen side

170 effects which may cause patients to seek urgent care at times when they are unable to receive it through the Bulstrode Unit.

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, madam.

175 I think I may have to ask Deputy Roffey if he wants to do a supplementary because I think my answer will be quite long.

180 I think first of all we need to preface that we have a system which is neither fish nor fowl. It is not free for everybody for everything and it is not 'pay for' everything for everybody; so we have this line that runs and it moves and it is complicated between services that are free and services that people pay for.

Now unfortunately, there has been some very poor media reporting. Some of it has been good, some of it has been extremely poor. They have not fully understood the answers that we gave them.

185 With effect from May 2022, HSC introduced a charge at ED in respect of the attendance charge to support individuals with life-limiting chronic conditions. How can I put this? We have had ... There has been ... Let's go back to an easier way of doing it. There has been a charge at ED for people who go there and there are two parts to the charge. One is an attendance charge and one is a charge for the consultation fee.

190 So there are these two charges that everybody pays for when they go to A&E. For a reason, the cancer patients did not pay any charges when they went to A&E but if you have a life limiting other disease like heart disease, kidney failure, respiratory disease, you would pay half the charge. You would pay the medical treatment fee. You would not pay the attendance fee. So what we did to make it fairer, we made everyone who now pays the fee for the work done, nobody –

195 **The Deputy Bailiff:** Deputy Brouard, do you want to ask Deputy Roffey to ask the supplementary question because you are running over your minute and a half.

Deputy Roffey: Okay, I will try to think of one.

200 In that case, well, my supplementary question is, is achieving equity through levelling down the best way to approach the perceived inequity that was there before?

205 **Deputy Brouard:** Like I am trying to explain, probably rather badly, is that for a lot of people, we have reduced their charge; for those people who had kidney failure, heart disease, respiratory disease, their fee has now dropped because we have made everyone have the same. Everyone now pays the fee for the medical services that they are provided and nobody pays the attendance fee for going to the Hospital.

210 We would love it everything was free but of course that will add and if we do everything in ED free, we will add another £2 million to our budget. But can I also make it clear that if you have been to the Hospital and you have had one of these treatments, within 48 hours after the treatment, again, it is all free at the Hospital. Again, if you are a child it is free at the Hospital. Again, if you are on Income Support, again, it is free at the Hospital. And again, some people may well have insurance cover to pay for it.

So what we have done is to give equity, we have ensured that cancer patients are treated the same as those others with life limiting or chronic diseases including heart disease, kidney failure etc.

Thank you.

215

The Deputy Bailiff: Thank you, Deputy Brouard.
Deputy Prow.

Deputy Prow: Thank you, madam Deputy Bailiff.

220 First of all, I thank the President for his informative Statement.

Following on from the answer to the last two questions, and following the primary care survey carried out by Global Research which highlighted the financial vulnerability as an inhibiting factor on out of hours for GP cover and Emergency Department and bearing in mind the long answer he has given to the last two questions, does he believe that Health & Social Care should, and do they intend to, review the charging policy he has just outlined?

Thank you, madam.

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, Deputy Prow.

We have reduced the fee for other treatments so other people have had their payments reduced and also, as I mentioned, if anyone has had a recent operation either here or in Southampton, they can go to A&E and it is still free for the first 48 hours after that and there are no charges applied at all at ED for that.

So we have got no intention at the moment of reviewing the policy. These policies are reviewed from time to time but again I would love it if all of our treatments for everything that we do is free and it is very easy and very sensitive to pick up one particular person in one particular condition. But we cannot work like that, we have to work for the majority of people. And unfortunately, we charge in this Island for some of our medical services. However, and I cannot stress this enough, your secondary healthcare for your cancer treatment or your bowel treatment or your leg is all free at the MSG. That system is what we pay for through our taxes.

The Deputy Bailiff: Deputy Inder.

Deputy Inder: Madam Deputy Bailiff, thank you, and Deputy Brouard.

We hear from HSC there are issues around staff and I think it is well understood on all areas. I assume HSC carries a risk register and over the last couple of minutes we have heard where there are stresses. So the questions are: are there any other areas of care and treatment that are at risk of collapse or failure or where there is greater patient risk because of the inability to staff certain areas?

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you for those questions. Those questions are very difficult questions to answer.

We run with risk every single day and it is managed by a very good team of professionals. We have got risk areas where we have shortages of staff. We could do with more people in domiciliary care, we could do with more social workers and we also have issues in other places around the Hospital. I am probably not best placed on the floor of this Assembly on my feet to give you that answer, but if you would like further information, I am very happy to provide that to you and other States' Members.

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, madam.

I thank the President for his informative Statement and update. I absolutely understand the complexities and the conflicts of having to manage a budget and to provide really high quality healthcare.

I declare an interest in this, having been a cancer patient myself – I still am. And I would suggest that the numbers of cancer patients are on the increase, though, of course, I do not have evidence for that. Certainly with the condition that I suffer from, breast cancer, there seems to be an increase in younger females, taken out of the workplace and often having lost their jobs as a consequence, or having to step away.

275 It is interesting, and I would like to have the President's view on whether it is fair, it is equitable, to levy additional charges on people who are not in the workplace as a result of treatment that they have just received in the form of chemotherapy which may preclude them from actually continuing with that chemotherapy treatment which is life saving.

The Deputy Bailiff: Deputy Brouard.

280 **Deputy Brouard:** Thank you.

That is exactly one of the dilemmas we have because you could also have a respiratory illness that keeps you out of the workplace but nobody was shouting for that to be changed until we reduced it. No one was shouting for us to change for people with kidney failure who may well also be out of the workplace.

285 We are trying to put a level of equity into the system and it is not something that the board drew up, this came from the professional people on the staff on the ground, who felt that this was an unfair anomaly. Therefore we have made it that everyone who attends A&E after 48 hours after their treatment will pay the consultation fee and everybody in that position will no longer pay the attendance fee which ranges from £70 to £190. So we are trying to make it fairer. I would love to have it all free and if anybody wishes to bring a requête or a motion at Budget time to do that then please find the money and we will gladly introduce it. But I appreciate the dilemma.

290 Thank you very much.

The Deputy Bailiff: Deputy Queripel.

295

Deputy Queripel: Thank you, madam.

In his update, the President referred to departments now progressing the recommendations made by Mr Gedze in relation to improving our mental health service, but is he confident that Mr Gedze's recommendations will be progressed sufficiently bearing in mind resources are scarce in every department?

300

The Deputy Bailiff: Deputy Brouard.

305 **Deputy Brouard:** Yes, I am. Because one of the main conclusions we took from Mr Gedze's report was that we needed a mental health champion. Someone who wakes up in the morning and that is their job for the day. We have also then, through Public Health and under our Director there, we are setting a team up whose main focus will be on mental health and trying to close the gaps. They have done the mapping exercise. We know where we have got some gaps and they will be working to close it. And I think at some point in time, Deputy Queripel may well be invited to come along and help and advise on that particular group. But no, very much so.

310

Thank you for the question.

The Deputy Bailiff: Deputy Soulsby.

315 **Deputy Soulsby:** Thank you, madam.

I would just like to move questions along a bit. There has been focus on treatment and Deputy Brouard spoke about the backlog in operations, but as the President will be aware, prevention and early intervention is the best way to keep the rising costs of health and social care to a minimum. So can he assure this Assembly that the bowel cancer screening programme is working to plan and that there are no delays in that service provision?

320

The Deputy Bailiff: Deputy Brouard.

325 **Deputy Brouard:** I think the Deputy asking that question already knows the answer but I will try.

The FIT test, I believe, has been suspended at the moment because we are unable to work our way through the backlog fast enough. So we want to make sure that the people who are seen are those who are symptomatic at the moment. So that is where the issue is focusing at the moment, so we do not want to add ... and worry people unnecessarily by having the FIT test which of course may well be positive because of piles or something completely different. And therefore, we are concentrating and working through ... We have got some 400 people on the waiting list and we need to work our way through those. As soon as we feel comfortable, the team will then put back into operation the screening programme.

335 But, obviously, I totally agree that it would be far better that we were not in this position. Gastroenterology, because it is an aerosol generating procedure, suffered really badly across the country and here during COVID. We have got a backlog. Gastroenterologists can almost charge what they wish at the moment and we have got a team in place now working over January, well, December. And then we have got a new programme which we are hoping to start early in the New Year to bring some more people over to get through the ... But at the moment, I understand that the FIT test is being held back because we just cannot process the numbers who are showing signs. And obviously, we want to get through to those people who are most at risk.

The Deputy Bailiff: Deputy Trott.

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

Firstly, I apologise to the President for not giving him advance notice of this slightly operational question but I am experiencing connectivity difficulties. Madam, St John's Residential Home at Saumarez Park, I am told, has had a non-functional lift for over two months. Now as a consequence, many residents are having to live, due to mobility issues, exclusively on the ground floor. I shall not go into any detail as to what difficulties this causes but apparently it is significant. So I am asking the President if he is aware of this issue and whether he is in a position to provide an update; and if he is not, if he could look into the matter on behalf of one of my constituents and report back in due course.

355 **The Deputy Bailiff:** Deputy Brouard.

Deputy Brouard: Thank you very much, Deputy Trott.

No, I was not aware that the lift has broken. That had not reached me but I am very happy to take that forward. In fact, there is another situation in the Island where also a hoist is damaged and a new bath needs to be put in place. So, no, we will take that forward.

360 Thank you.

The Deputy Bailiff: Deputy Cameron.

365 **Deputy Cameron:** Thank you, madam. I thank Deputy Brouard for his update.

It has become increasingly noticeable when using the Island's convenience stores that the sale of vaping devices is highly lucrative. These devices are often stacked high near the check out, usually within very close proximity to the sweet selection. These devices are supplied in sweet associated flavours such as Rainbow Drops, Fruit Pastilles, Strawberry Ice Cream, attracting sales from younger customers.

370 We currently have a significant percentage of our primary school children trying these devices. By the latter years of secondary school, the majority of girls have tried vaping with many of them using them regularly. Can the President of HSC tell me what is being done to stop the sales of these highly addictive nicotine devices to children?

375 Thank you, madam.

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, Deputy Cameron, for your question. Thank you also for the advanced notice so I am going to cheat here.

380 There is an extant Resolution that directs the Committee to develop a work programme to move forward the regulation and control of electronic cigarettes and the Committee has very recently agreed in principle that it would wish to move towards greater regulation through legislation.

385 In the first instance, this regulation would include how these products can be promoted, or not as the case may be; and also any age restrictions, and the idea is to ban sale to under 18s. And we are aware that most shops are already behaving responsibly. Whilst officers have scoped the legal work required to implement these changes, it is not currently possible to confirm the time-scale for taking a policy letter to this Assembly as this work needs to be prioritised along other work streams in the Government Work Plan. But a very good point well made.

Thank you.

390

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Thank you, madam.

395 Deputy Brouard has spoken in his Statement about the challenges within gastroenterology both here and elsewhere. It has of course been reported that as of 31st October 2022, 66% of those on the outpatient waiting list and 89% of those on the inpatient waiting list have been waiting more than eight weeks, that is anticipated under the secondary health contract with the Medical Specialist Group.

400 And my question, madam, is, how comfortable is the President and the Committee with these extending waiting lists that private patients are able to obtain treatment within a week or two?

The Deputy Bailiff: Thank you, Deputy Brouard.

405 **Deputy Brouard:** This has always been our dilemma in an Island where we have private and contract patients. We work very closely with the MSG to try and work our way through the backlogs both for this, orthopaedics, general surgery and gastroenterology, and that is why we have got a programme in place to speed matters up because it is not a sustainable position that we are in now so we are very conscious of this fact.

410 And of course, it is not us holding MSG to account or anything of that sort; we are working in partnership with them. At times, one of our theatres may break down; that is our fault. At times they may not be able to provide a particular surgeon. So it is a partnership and we are working together and the more we can work together, the better outcomes it is for patients. But I do take his point about private patients. It is one of those interesting dilemmas we have in this Island.

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

Deputy de Sausmarez: Thank you, madam.

420 The President referred in his speech, which I thank him for, to the Grow Your Own initiative, and I wondered if he could expand on that slightly and let us know, first of all, the kinds of roles that are being grown locally, to use the same terminology; and secondly, a rough idea of the kind of numbers that we are seeing coming through that scheme.

Thank you.

425 **The Deputy Bailiff:** Deputy Brouard.

Deputy Brouard: Thank you.

I probably will not; I will provide a written answer to you. But I think about one third of our nurses, or at least one third of our nurses in the Hospital, have come locally and worked their way through. I think we have 70 at the institute at the moment. We are working through a new programme for social workers. There is a lot going on and we are very grateful to the support of Education, Sport & Culture, where they have taken over the institute. We have got a lot of data on it. I just feel uncomfortable trying to reel off numbers at this moment in time but we are happy to get that information.

The Deputy Bailiff: Alderney Representative Roberts.

Alderney Representative Roberts: Thank you, madam.

I too have had some treatment from cancer and I would just like to thank, if you permit me, madam, to praise all the staff at Bulstrode clinic who deal with the cancer up there. I have been a patient there for quite some time, since 2013, and they are absolutely excellent.

But would the President of HSC explain the cost of these new charges against vulnerable people of the Bailiwick, at the darkest time of their lives?

A Member: Yes.

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, Alderney Representative, and I appreciate your comments about the treatment that our staff provide.

A lot of people have darkest times. We do not have an NHS free service for everything for everybody. If you wish that, that is not a problem. I would happily, probably, support it. But it will cost.

So what we have at the moment is a tariff system. All secondary care is free. However, if you do need to go to Accident & Emergency which was a service that we took over that was privately run – we are now running it – the attendance charge would be waived, and the attendance charge varies at different times of the day. I think you wanted to have some for indication. So if you go between 11 p.m. and 8 a.m. at night, the attendance charge of £190 is waived. But if you need to go earlier, your attendance charge would be £70 and that would be waived. You will only pay the consultation fee with the professional. And that could be, if it is a minor incident, it could be just £50. If it is a major critical incident, it could be up to £380. Some people will have insurance. Some people will be wealthy enough to afford it and other people will have the support from ESS on Income Support.

So that is the system we have at the present time. To run A&E costs us something like £4.5 million. I believe we have about half that sum we get in income. So we would be very pleased if we did not have to charge, but unfortunately that is the reality of the system that we have. As I said, it is neither fish nor fowl and we have these very awkward, very sensitive lines that run all the way through from different charges for nurses, bloods are charged at a different place from the doctor.

Thank you for the question, but it is one of those unfortunate things.

The Deputy Bailiff: Thank you. I know there are more people who want to ask questions but that is 20 minutes and we have got a very busy Order Paper.

OVERSEAS AID & DEVELOPMENT COMMISSION

**General update –
Statement by the President of the
Overseas Aid & Development Commission**

The Deputy Bailiff: So, we are now going to move on to the Statement from Deputy Blin.

475 **Deputy Blin:** Thank you, madam Deputy Bailiff.

Firstly, and on behalf of the Commission, I would like to give a sincere thank you to States' Members for approving an uplift in the Commission's funding as part of the Assembly's recent consideration of the 2023 States' Budget. As Members will know, there is an extant States' Resolution which directs that the States of Guernsey should adopt a target for its overseas aid a giving of 0.2% of GDP by 2030. Although a comparatively modest target, the increased funding for 480 2023 is the first step towards this figure and it is very much welcomed.

Of course, the Commission fully appreciates that the world as a whole is currently facing difficult economic times and this includes Guernsey. However, I think it is wise to remind ourselves of the fortunate position the developed world is in compared to the developing world. The United 485 Kingdom is ranked 18th highest out of 191 countries and territories on the United Nations Human Development Index and, by association, Guernsey must at least be at a similar level. The Commission generally supports projects in countries which are ranked lower than 143 on the Human Development Index – the lowest quartile. This includes such places as Malawi at 169, Burundi at 187 and South Sudan at 191, and many others.

I also make no apology to highlight that anyone living on more than £26 per day, so £9,500 a year, is in the top 15% of the world's population, and conversely, the World Bank states that there are 689 million people living on less than £1.65 per day or £600 per year. Based on this global context and as a mature international jurisdiction, we have a moral duty to help those less fortunate than ourselves.

495 In 2022, the Commission was able for the first time to provide Multi-Year Grant Aid Awards. Whilst Single-Year Awards have always been at the heart of the Commission's work, it was previously recognised that projects over a longer period can often have a greater sustainable impact on the future of developing communities.

Six awards of up to £150,000 each over three years have been made. All of these projects relate 500 to the themes of 'reaching the furthest first' or mitigating the impact of climate change. The former means that the majority of beneficiaries of the projects are from a marginalised group. The latter relates to protecting agricultural land from desertification, land irrigation and the use of solar energy. The funded projects include, but are not limited to: climate-proof food production in Ethiopia, benefiting 50,000 people; solar irrigation in Malawi; and education for adolescents from 505 lower castes in Nepal. The uplift in the Commission's budget for 2023 will allow it to launch a further funding round for multi-year projects, building on the above work stream.

The Commission has also this year funded 58 single-year projects of up to £50,000 out of a total of 138 applications. Unfortunately, our funding rounds are always over subscribed. Seventy-five per cent of the approved projects are located in Africa with the remainder in Asia and the Middle East; 510 34% of the approved projects are for water, sanitation and hygiene which is the most basic of human needs; while 23% are for education, 20% for agriculture, 18% health and 5% for multiple elements. All of the charities we fund have to be regulated by one of the charity commissions of Great Britain or be registered in the Channel Islands.

To give you a small insight into what can be achieved with a Single-Year Grant Aid Award, in the 515 Democratic Republic of the Congo we have funded a project by Guernsey grown charity, This Is Epic, to start 50 village saving and loan groups which will build local wealth and finance for 510 men and 2,040 women. These saving groups enable those in extreme poverty to find their own solutions

to financial exclusion and social discrimination, including gaining sustainable livelihoods, especially for women who are vulnerable to abuse.

520 In Nigeria, nearly 70,000 people will benefit from access to water and sanitation. Three communities and an orphanage will each be provided with a solar powered borehole and pit latrines. The Commission funded a similar project for the same charity, Transfer of Appropriate Sustainable Technology and Expertise (TASTE) in 2021. This charity has shared a video on the 2021 project which I will encourage you to watch as it is a life affirming testament to the difference
525 Guernsey can make and I will email you the link.

The Commission also assists when disasters occur in the developing world. Earlier in 2022, this included £25,000 each to the British Red Cross operating in Tonga and to Guernsey charity, Hope For A Child, working in Malawi, to help alleviate the effects of a volcanic eruption and tropical storm, Ana, respectively.

530 Extreme monsoon floods then came to Pakistan when a third of the country was under water at its peak. The Commission initially made a £20,000 award to the UNHCR and then a further donation of £46,000 to the Red Cross who were delivering kits to prevent the spread of disease. However, it was in the last few months that the Commission has received an unprecedented number of applications in a very short time. And this included assistance for Myanmar refugees, floods in
535 Yemen and South Sudan and droughts in Somalia.

It is a sobering thought that a significant factor in the vast majority of emergency aid applications to date in 2022 has been climate change. Climate change is exacerbating summer heat and autumn rains, leading to droughts and floods, even in the same regions. For example, East Africa as a whole is in the grip of the worst drought in 40 years and is on the edge of famine. But South Sudan has
540 recently experienced devastating floods. I am pleased to say that projects relating to climate change resilience and mitigation measures have been funded by the Commission since at least 2015.

The Commission also continues to offer matched funding community partnerships to local organisations who are fundraising for projects in the developing world. In 2022, this has included our long standing collaboration with the World Aid Walk as well as support for local charity, The Eleanor Foundation, who are rebuilding a girls' school dormitory in Tanzania following a devastating
545 fire.

The Commission, for several years, has had a community partnership with a French Department of Ille-et-Vilaine which emanated from an overarching States of Guernsey agreement. This year, I and some of the Commissioners were fortunate enough to meet with Rennes based charities we
550 have jointly supported with the Department. This included Association Ille-et-Vilaine Mopti which is providing potato seed tubers to farmers in central Mali after their previous crop failed due to drought.

The agreement Ille-et-Vilaine also provided an exciting opportunity for two former six former centre students when one of the French charity's the commission has previously supported, Jeunesse et Developpement, kindly offered Channel Islands youngsters voluntary work on a project
555 in Senegal.

Leon Russell and Tarek Pledge answered the call of the Commission which was even more impressive as the trip was entirely self funded by them, or perhaps their parents. As well as the charity and the Commission, this initiative was facilitated by Ille-et-Vilaine, Bureau des Iles Anglo-Normandes and Jersey Overseas Aid, and is a good demonstration of how partnership with our
560 neighbours can provide international opportunities. And by all accounts, Tarek and Leon had an adventurous and enjoyable time and gained a new perspective and understanding of the world which can only be positive.

I have not touched on Fairtrade, the Impact Investment Fund or the Guernsey International Development Network but I can assure you that this work continues. And indeed, the Network is
565 due to be relaunched in 2023, following the COVID-19 pandemic related hiatus.

Madam Deputy Bailiff, finally, I would like to thank the three established and three recently retired Commissioners for their voluntary contribution over a number of years. I have relied on their

570 expert advice and I am in their debt. I would also like to give a warm welcome to the three new Commissioners who are already proving their worth.

In addition, I would like to thank the Bailiwick population as a whole for their generosity, whether it be by supporting the Commission, working overseas on projects or donating directly to charities. Over the last two years or so, I have met many local organisations and individuals supporting work in the developing world and have been impressed by the real difference they are making on the ground. They are literally improving the lives of thousands and sometimes even saving their lives. And working with such people in our own community is an absolute privilege for me to be President of the Commission.

The Deputy Bailiff: Thank you, Deputy Blin.
580 Deputy St Pier.

Deputy St Pier: Thank you, madam.

The conflict in Ukraine is obviously ongoing and is likely to continue, one anticipates, for some time. But of course, Ukraine does not meet the normal criteria for the Overseas Aid and Development Commission in terms of support in terms of the size of its economy and the state of poverty in that country. However, of course, there are emergencies which do receive the support of the Overseas Aid and Development Commission normally if they are supported by others.

I am wondering if the President, madam, could give a little more colour as to what the criteria would need to be met for further support to be provided to that ongoing European crisis?

590 **The Deputy Bailiff:** Deputy Blin.

Deputy Blin: I thank Deputy St Pier for his question and it is a question that has been discussed many times, especially in February at the very beginning of the war and the troubles.

595 As we have explained, we as the Commission have always looked at the lowest quartile of the UN index and that leaves us in an interesting situation compared to our neighbours on Jersey who did open up and give more support there.

Our budget and funding is a lot more reduced than in other jurisdictions. And as you can see from the 40 or 50 projects we do fund, there are still over 100 we cannot. And we know that there are countries in plight, whether it be drought or famine in other countries, that a decision has to be made. During this period, we did endorse all the work and I know personally I got involved in helping some of the projects there. This was discussed. It was discussed with the Chief Minister, the Commission, how we could do it. But we came to that conclusion, that unless a change in mandate was made, we still have to take the approach of trying to help the poorest countries where there is a huge demand. And we must also accept the fact that actually a lot of the diversion of interest is so focused onto Ukraine, it left a large gap and a large hole of the other countries not having an opportunity to get support.

610 **The Deputy Bailiff:** Deputy Burford.

Deputy Burford: Thank you, madam.

I thank you President for his Statement and congratulate the Commissioners and all involved for their work in the last 12 months.

615 Would the President agree with me that the next funding and investment plan in the next situation of the GWP should have a clear strategy for how we are going to reach the 2030 funding target?

Thank you.

620 **The Deputy Bailiff:** Deputy Blin.

Deputy Blin: I thank Deputy Burford for the thanks for the Commission's work and also for the point made regarding the GWP.

625 It is based on a percentage increase going on right through in tranches right up to 2030 so the figures were placed on that calculation and taking into account any inflationary rises; so from my understanding it has always been in tranches going through equally measured until 2030.

The Deputy Bailiff: Alderney Representative Roberts.

Alderney Representative Roberts: Thank you, madam.

630 While I have every sympathy with struggles around the world and I do applaud Deputy Blin in his efforts, why is such an emphasis put on overseas aid? As you have heard this morning, we are charging cancer patients here in Guernsey because of a lack of funds in these very Islands.

The Deputy Bailiff: Deputy Blin.

635

Deputy Blin: I thank Alderney Representative Roberts.

And this is a point you make which is felt by *many* people. When we see on the one hand, suffering within our own community against the other side. The best response I could give to Alderney Representative Roberts is the fact that, as Deputy Brouard explained, whether it not be taken on the equity, there is a constant jiggling and a balance to try to balance out what is required within the Budget and the constraints of HSC. And here it is really like small drops falling in trying to help on large groups of people we are helping, as in 50,000 or 60,000, to get just the very basics.

640 So I appreciate the sentiment and the comment but it is almost, we are working on the lowest basic survival levels to help those people not only survive but in some cases live.

645

The Deputy Bailiff: Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: Thank you, madam.

650 I had a chance to listen to the Jersey Overseas Aid head at a Jersey Chamber of Commerce event in the summer and I was struck by the strategy that they take in terms of overseas aid which was about leveraging some of the USPs that Jersey has in helping provide tools to developing communities around the world. For example, their dairy and farming communities. So they have a different kind of partnerships in Africa where they help African communities with dairy farming. And I thought that was such a smart way to leverage really those unique points of the island and have other advantages such as diplomatic external relations etc.

655 The question is whether Deputy Blin is in touch with Jersey Overseas Aid and whether he may be thinking about such types of strategies to develop what might be Guernsey USPs in promoting overseas aid and whether closer co-operation with Jersey on overseas aid will be possible as we have approved at the last States' Meeting, scoping work to do more with Jersey.

660 Thank you.

The Deputy Bailiff: Can I remind Members that it is a minute to put a question, so think about that when you are doing your preamble.

Deputy Blin.

665

Deputy Blin: Thank you madam Deputy Bailiff.

I would like to thank Deputy Kazantseva-Miller for that point and question. First of all, it is worth noting that our average spend on each project is circa £50,000 and the average spend on each project in Jersey is £500,000. I have met with our counterparts with Jersey Overseas Aid on several occasions – or the team of Jersey Overseas Aid which is quite a substantial team, I believe six or eight people, compared to our one FTE resource.

670

675 The strategies that are mentioned by Deputy Kazantseva-Miller are very interesting. For example, dry powdered milk from Jersey is sent off to Africa; working within the finance sector. So actually during the Statement made earlier, I referred to the work with Jersey Overseas Aid and is also actually with MOPTI which was working on the potatoes. So there are aspects like that we are trying to do. We do not have the full ability to divest ourselves to work on specific projects like that. With the new Commissioners, we are already looking and talking about different ways we can approach this.

680 **The Deputy Bailiff:** Deputy Matthews.

Deputy Matthews: Thank you, madam.

685 The President mentioned that the cause of an awful lot of the issues, the disasters that have been funded, has been climate change and I wondered if there was any scope within the Commission's activity to looking at funding climate change alleviation efforts directly which would address the root cause and which may well have a greater impact than efforts that we might make here in Guernsey.

The Deputy Bailiff: Deputy Blin.

690

Deputy Blin: Thank you for that question.

695 It is particularly relevant because all of the work that we are currently doing, bearing in mind the percentage focus, whether it be sustainable or on climate change, all of the charities that approach us with their projects, they are making their direct request or requirement for their area. And that leads to the reason the Commission is particularly, I would say, overjoyed now on the basis that to do multiple year projects we can have a bigger impact on that. We are not working with global organisations in the sense to have the full effect towards that or governmental but we are working with the NGOs and the charities specifically on projects. But now with a multiple year grant we can take more action in those specific areas.

700

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: I think, madam, Deputy Blin will be able to answer this question, yes. And I really rise to my feet because of the comments made by our able colleague, Alderney Representative Roberts.

705

710 Would Deputy Blin agree with me that, with the majority of people in the world having an income of less than £10,000 a year, and hundreds and hundreds of millions of people in the world not having adequate water supply, that still a relatively affluent community like Guernsey should do all that it can to provide for other communities. And when times are better in these Islands, should do considerably more than it is presently doing.

The Deputy Bailiff: Deputy Blin.

715 **Deputy Blin:** I would totally concur with Deputy Ferbrache's points. It would still take into consideration that difference but we are talking about the basic ones and that factor of the very small amount of hundreds of pounds in a year to live off and for a family does show the difference and correlation between what we have and what the rest of the world will be helping.

The Deputy Bailiff: Deputy de Sausmarez.

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Deputy de Sausmarez: Thank you, madam. I too thank Deputy Blin for his update.

Would he agree with me that in terms of some of the projects that the Commission has funded in response to the question put by Deputy Matthews. It does not just look at ameliorating the affects

725 of climate change. But actually many of these projects have indeed sought to address the cause of those problems as well. So there have been some direct mitigation or projects that include mitigation activities or interventions such as changing to more sustainable farming techniques, changing to more sustainable fuels, to actually minimise the source of those problems as well as ameliorating the effects.

730 **The Deputy Bailiff:** Deputy Blin.

Deputy Blin: I will literally agree 100% with Deputy de Sausmarez because that is what we are doing and we can see from the Statement speech the percentage of work we are doing in this area is greater than the other areas and will continue to increase.

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

Deputy de Lisle: Thank you, madam.

740 Can a higher proportion of overseas aid budget be allocated each year to emergency disaster relief, given the extreme nature of global disaster needs?

The Deputy Bailiff: Deputy Blin.

745 **Deputy Blin:** I thank Deputy de Lisle for his comments and I was not expecting that question but I was half prepared.

So the way that the budget is calculated for the overseas aid, we take it for the multi-year grants, we take it for the single year grants, and then we have the other areas which is a percentage. It is not a clear percentage but there can be a shift from some of the projects.

750 Now, as we know and mentioned in the Statement, we have had more emergency and disaster relief in the last few months than we received in the whole year. So that proportionate spend, we can adjust as we go and we always ensure we keep reserve or a budget for that which was used mostly or almost in its entirety, so we are always looking at that. And to add to that, we also have to take into account inflationary costs. All of these things are going up so we moderate the spend and how we allocate money as we progress.

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

Deputy Gollop: Thank you, Deputy Blin for the update.

760 But I wanted more details really on the progress of Fair Trade which I attended an international talk and breakfast on earlier this year. And also more knowledge ... He mentioned a young Mr Pledge and his companion but why don't Overseas Aid Guernsey have a policy of sending out more volunteers with the kind of skills, abilities and transferable ideas that maybe Deputy Kazantseva-Miller and others referred to.

765 **The Deputy Bailiff:** Deputy Blin.

Deputy Blin: I thank Deputy Gollop for both of those points.

770 The first point I will refer to, that is within ... is on the Overseas Aid & Development Commission. We sit on the steering committee for Fair Trade. Some of the projects we work with and we are supporting are directly linked with Fair Trade so that helps to focus us and also the link between the Fair Trade and actually Guernsey with the extant Resolution also existing for the States of Guernsey to support Fair Trade.

775 On the second point that Deputy Gollop raised regarding the two students who went overseas, going back 20 or 30 years there was more of a case of actually individuals going over, maybe helping

the foundations of building and building things etc. It was, over a period of time, identified that that work can be done by people who are skilled in the labour and do that out there. And yet this opportunity now for the two young students was actually based on the overseas joint work with Jersey Overseas Aid on projects where we can do that. And we are looking to repeat this exercise and do more.

780

The Deputy Bailiff: Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: Thank you, madam.

785

In additional to the direct Overseas Aid budget, the States also allocated about £2 million into impact investment as part of our investment portfolio. That strategy was developed in the previous political term by Policy & Resources in co-operation with Overseas Aid.

My question is whether Deputy Blin is in the loop of that work stream and the impact it is generating, and also the thinking to extend that strategy so that as part of the investment portfolio we can allocate more funding into impact investment so we can walk the talk of green finance; whether that is being considered as part of strategy development.

790

Thank you.

The Deputy Bailiff: Thank you.

795

Deputy Blin.

Deputy Blin: I thank Deputy Kazantseva-Miller for that.

Towards the end of my Statement there were a number of items which we could not focus on given the time for the Statement and that included the International Development Network and the Social Impact Investment Fund. The Social Impact Investment Fund was initially brought in by a previous President of Overseas Aid & Development Commission and it was a small tranche, it is part of a larger social impact investment fund organised by a specific investment company and vehicle in the region of £250 million or so. Our tranche is a very tiny tranche which takes a while. One of the benefits of this work is how it is spread across a wide range of sustainable renewable projects. And also going into the tier or section which is not the lowest quartile which gives us a chance to invest in other areas.

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The return or the process, because it is part of a very large one, it ends up that we have got a small part of it. What I will say to Deputy Kazantseva-Miller and to other Members of the Assembly, I will get the most recent report showing the work and progress that has been done to share amongst there. Because this is in unison, let us say, with all of the very specific projects the Overseas Aid & Development Commission undertake.

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The Deputy Bailiff: Deputy Dyke.

Deputy Dyke: Thank you, madam.

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A question occurs to me arising from something that Deputy Blin mentioned earlier concerning milk powder. It seems that we in Guernsey may have an ongoing surplus of milk which is likely to grow in the future as people move toward almond milk and all of that sort of thing. Is there scope for him to talk to the Dairy to see if there is any way that we could set up a regular supply line of powdered milk to one of those places that suffers from chronic malnutrition, Yemen and South Sudan? I just wondered if that might be something worth looking at that would kill two birds with one stone.

820

The Deputy Bailiff: Thank you.

825

Deputy Blin.

Deputy Blin: I would like to thank Deputy Dyke for that comment.

830 To be fair, very early on, it was a thought that would have been interesting to almost emulate the model there. It is a lot more complex because as Deputy Kazantseva-Miller explained earlier, like the Jersey Overseas Aid, it is not just specific areas they are working on. They are connected within the finance to the promotion of dairy and international overseas etc. but should Deputy Roffey see an angle where we could have that conversation to talk about it, I would be more than delighted to do so.

835 **The Deputy Bailiff:** Deputy Le Tocq.

Deputy Le Tocq: Thank you, madam.

840 Would Deputy Blin agree with me that the partnership with Ille-et-Vilaine which is unique to us in Guernsey has had side effect benefits of encouraging trust and further development with our Bretton neighbours.

The Deputy Bailiff: Deputy Blin.

845 **Deputy Blin:** I would 100% agree with that comment and not only within the remit of the overseas aids work it was mentioned that we had the pleasure to attend a presentation of a number of French charities within Ille-et-Vilaine which was very exciting. They saw not only the support we are giving them and from other areas. It was a very effective one. Beyond that, it extends on to, in effect, some support for external work because from that there were some links coming back to the Island of interest of how they would like to work with us in other areas. So these opportunities do
850 go beyond just the funding and support for the overseas aid.

The Deputy Bailiff: Thank you.
Deputy Burford.

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

Given that the UN target for overseas aid is 0.7% of GDP and our current contribution is just marginally over 0.1% increasing to 0.2% in 2030, would the President agree with me that we are currently really doing the least we can and that the money goes to help people who live lives of a kind of hardship that most of us could not imagine?
860

The Deputy Bailiff: Deputy Blin.

Deputy Blin: I would like to thank Deputy Burford for that and, yes, that is the case. The target is 0.7%. We are literally reaching 0.2% and that is *by 2030*.
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It is a very difficult subject. We know where we should be compared to other countries. Even within the UK, it was dropped considerably but we need to keep on working and demonstrating and showing the work that we could do and the change we could make to lives. And it is not a light subject, it is such a large difference. It would be great if, as an Assembly or as a community or an economy, we could do more. But I am very aware that given the position of the times that we are
870 in now, it may be harder to see. But we should remember that is why, for example, Jersey Overseas Aid and other jurisdictions have a lot larger input and funding for overseas. And it would be of great help to be able to do that but we have to take into consideration the other aspects of our economy.

The Deputy Bailiff: Thank you. I am afraid that questions in relation to Deputy Blin's Statement
875 have now been completed.

Questions for Oral Answer

STATES' TRADING SUPERVISORY BOARD

Pool Marina – Members' workshops and presentations; consultation of environmental stakeholders and authorities; analysis of blue economic impact and holistic effect

The Deputy Bailiff: We will move on to Questions from you, Deputy Gollop.

880 **Deputy Gollop:** I thank the STSB for answering my questions and you, madam Deputy Bailiff, in my excitement, I did not necessarily put the full subject, but the context was obvious when I explained.

Question 1, apart from the public displays and consultation process relating to the Pool Marina now in play, will there be specific workshops and presentations prior to a formal debate and 2023 policy letter submitted for all States' Members to attend as soon as practicable?

885

The Deputy Bailiff: Deputy Roffey.

890 **Deputy Roffey:** Madam, before launching the public consultation, the project team gave updates to all of the Principal Committees whose mandates includes some aspect relevant to the potential new marina development, namely P&R, E&I, the Committee for Economic Development, Education, Sport & Culture, as well as the DPA.

895 We have since published the results of our investigations to date. I stress this is not a final proposal, simply the findings of the work that has been done around technical feasibility and the potential benefits of such a scheme. Nevertheless, there is sufficient detail, we believe, to ask Islanders for their views on the general principle of a new marina along the lines that we have outlined. In doing it at this stage, which should put us in a position to progress a future development more swiftly should the States decide in principle to proceed with such a scheme, and in directing the STSB to undertake this work in 2021, States' Members arguably have already indicated that they are not against the principle of such a development.

900 Besides the engagement there has already been with Principal Committees, there is currently no plan to do a separate presentation to States' Members on the work to date. Of course we are very happy to provide one if that proves to be of interest, but we will be presenting recommendations to the Assembly in due course and we will be providing presentations to States' Members in the first quarter of next year.

905

The Deputy Bailiff: Do you have any supplementary questions?

910 **Deputy Gollop:** Yes, in thanking you for the answer, I am aware there are presentations to interest groups going on as we speak, but will we see more details by March 2023 as I did hear that is the likely time of a policy letter but I was not sure if it just referred to the marina or was more larger relating to the waterfront development as a whole?

The Deputy Bailiff: Deputy Roffey.

915 **Deputy Roffey:** *[Inaudible]* ... yes, you will see the details by March and, yes, you will be relation to the Pool Marina. I think the wider context was touched on in Deputy Gollop's ... *[Inaudible]* Yes, I think the wider context is going to be touched on and in the future questions.

The Deputy Bailiff: Any other supplementaries? Deputy de Lisle.

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

There are questions being asked as to why that marina development is so costly, in that I think some explanation is required for the public because there is support out there but the costing is such that people are flabbergasted with respect to the numbers.

925 **The Deputy Bailiff:** Deputy de Lisle, what is the question?

A Member: Why is it so expensive?

930 **Deputy de Lisle:** The question is simply an explanation of why the cost is so high.

The Deputy Bailiff: Thank you very much.

Deputy Roffey.

935 **Deputy Roffey:** Well, the final costings will not be known until we have refined the scheme but what we have put out there is the estimate of professionals in the area of what it would be likely to cost to do the scheme as set out. Like Deputy de Lisle, I would love it to be half the amount, but that is not what I am advised by the engineers and professional experts in the area. And therefore we have to be candid that the cost is circa £90 million. We will value engineer the project to try to get that down as much as we can but I can make no promises.

940

The Deputy Bailiff: Deputy Falla.

Deputy Falla: Thank you, madam.

945 Given that I believe the first that the States' Members knew of the latest developments in this process was on the front page of *The Guernsey Press*, would the President agree with me that great attention needs to be given to the way in which this is communicated with all stakeholder groups going forward?

The Deputy Bailiff: Deputy Roffey.

950

955 **Deputy Roffey:** I think, quite rightly, the DPA have asked us to make sure because we are doing this ahead of the action area plans for the two St Sampson's and St Peter Port Harbour areas that public consultation was front and centre of what we were doing. This is not a final proposal. When we get to something that might go in a Billet that might come forward to the Assembly, I absolutely agree that States' Members have the right to know about that before they read it in the media. We are nowhere near that stage ... Well, we are getting nearer to that stage but we are not at that stage yet.

The Deputy Bailiff: Deputy Vermeulen.

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Deputy Vermeulen: Thank you, madam.

Would the President be aware that the Isle of Man are progressing a marina at present, similar size to Pool Marina and the cost of that, ironically, is £50 million and there is a further £50 million allocated for infrastructure, for buildings, commercial buildings and housing around that marina.

965 Could he confirm why the money does not seem to go as far in Guernsey as it does in the Isle of Man, please?

The Deputy Bailiff: Deputy Roffey.

970 **Deputy Roffey:** Oh, if I could answer why it is so expensive to build anything in Guernsey, I would be able to solve a lot of the States' problems because it is not just in respect of this project. It seems to be in respect of a lot of projects. And yet, when we bring forward a keenly priced extension to Alderney's runway, I am told by everybody, that is far too cheap. It is going to cost you a lot more than that. So we really cannot win.

975 All I can say is that the estimates for this project are really provided on the basis of absolute expert opinion. And I am not, as a lay person, going to say, 'Oh, I have heard that they are going to do something cheaper somewhere else,' and therefore pretend that it is going to cost a lot less than it is. We will get that price down if we can. But this is clearly just a guesstimate at the moment based on that the design for the breakwater has not even finished yet. So that is probably the biggest cost element – the breakwater – in the whole scheme. So £90 million is an honest estimate but we will try to get it down.

The Deputy Bailiff: Deputy Gollop, is this another supplementary question?

985 **Deputy Gollop:** Yes. Returning to Deputy de Lisle's supplementary point, I agree and I personally believe that we, the Members, including myself, support the general principle of a new marina but we would be more interested in looking at the cost options rather than just having a media figure of £90 million. So can that be provided at the next stage?

990 **The Deputy Bailiff:** Deputy Gollop, I will allow Deputy Roffey, if he wants to, to answer this question. But we are now straying beyond the supplementary questions to the question that you asked originally. But if Deputy Roffey is willing to answer it.

Deputy Roffey: I am not sure what 'cost options' mean. I wish there were a whole range of options and maybe a few value engineering ideas to try and get it down. But the idea that you can have this for £20 million, £40 million, £60 million, £80 million, £100 million is just fantasy. That is not the case.

1000 I have to say, I have yet to make up my mind whether I support the scheme. I think it is a very good scheme and I think it is a very good use of St Peter Port Harbour, but as somebody responsible for taxpayers' money, knowing only 50% of the cost, circa, can be recovered through mooring fees, I need to lean on the expertise of P&R, Economic Development and others about whether the rest of the cost is justified on the broad economic benefit to Guernsey. So all we are doing at this stage is actually telling it as it is. We are not trying to sell anything.

1005 **The Deputy Bailiff:** Deputy Inder. And can I remind you that we are still dealing with a supplementary question which is about public displays and consultation process! (*Laughter*)

Deputy Inder: I will sit down, then. (*Laughter*)

1010 **The Deputy Bailiff:** Thank you.
Deputy Gollop, your second question.

Deputy Gollop: Yes, well actually it is another display type question. I am more interested in that than anything else.

1015 Will environmental stakeholders and authorities like the parish of St Peter Port Douzaine and Constables be formally consulted?

The Deputy Bailiff: Deputy Roffey.

1020 **Deputy Roffey:** Madam, there has already been engagement with various stakeholders, including through presentations to various industry bodies and community groups, prior to the

start of the public consultation. That included commercial and leisure port users, recreational bodies, marine traders, the Chamber of Commerce, retail and hospitality representatives, States of Guernsey service areas and indeed environmental groups including La Société.

1025 The St Peter Port Douzaine was offered a separate presentation at a time of day that best suited them but they were unfortunately unable to make the proposed session. However, we are still liaising with the Constables to try and find an alternative convenient time. All of these parties have been encouraged to provide feedback through the current consultation. Should the project proceed, then there will be further consultation with all stakeholders at various stages, both in
1030 developing the more detailed proposals and as part of any future formal planning process.

The Deputy Bailiff: Deputy Gollop, is this a supplementary question?

Deputy Gollop: Yes, I hope so.

1035 I am always in inclusivity as well as the costs of this and therefore my question is: I regret that the first attempt to meet with the Constables and Douzaines did not quite materialise but would the President of STSB not agree that it would be very useful at this stage, prior to a States' debate, that the Town representative authority and indeed more generally retailers and environmentalists are brought in at the earliest possible stage?

1040

The Deputy Bailiff: Deputy Roffey. (**Deputy Roffey:** Yes.) Deputy Oliver.

Deputy Oliver: Thank you, madam.

1045 Would the President also agree with me that it is not just the relevant stakeholders, it is also the public that can get in touch? There is a link that they can give their opinion on as well.

The Deputy Bailiff: Deputy Roffey.

1050 **Deputy Roffey:** Yes, I do. As I said earlier, I think quite rightly, the DPA have encouraged us to make sure that a public consultation lies at the heart of formulating these proposals which, as I say, are not yet a firm proposal. They are very much still in the formulation stage.

The Deputy Bailiff: Deputy Inder.

1055 **Deputy Inder:** I think that Deputy Roffey has probably answered the question. He can probably just say yes to it. But would he agree with me that the project is important to Guernsey, not just to the Constables and Douzaines; it is important to the retail group, Islanders, boaters and the whole of the marine industry, so any engagement will be public wide as he has already stated?

1060 **The Deputy Bailiff:** Deputy Roffey.

Deputy Roffey: I do agree. As I listed earlier, we have already tried to engage with as many of those bodies as we can and we will continue to do so throughout the project.

1065 **The Deputy Bailiff:** There are no more supplementary questions.
Deputy Gollop, can I ask you to pose your third question?

Deputy Gollop: Thank you.

1070 Will the blue economic impact and holistic effect upon the eastern seaboard overall development project, including other harbour and Town requirements, be analysed prior to final presentation and approval, including the ratio of visiting boat moorings to local residential usage?

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Thank you, madam.

1075 The specific remit of this budget is to consider a potential new marina in St Peter Port and as part of that work of course we have looked to assess the economic and social benefits that such a development could deliver. Any wider development opportunities along the eastern seaboard really now sit with the Development Agency. Similarly, other harbour and Town requirements are subject to other work streams. For instance, the future harbour requirements that has been led by P&R.

1080 Following on from that, local planning briefs for the two harbour action areas will be drawn up. These really are outside the scope of this specific project. **(Two Members:** Hear, hear.) In terms of the ratio of visiting and local boat moorings, the initial concept design provides sufficient space for those currently on Guernsey Ports' waiting list and, as an absolute minimum, maintains the current provision of berths for visitors. However, the make up is incredibly flexible and through active management Guernsey Ports would be able to ensure the needs of local boat owners are met and, at the same time, accommodate any potential increase in visitors.

1085 Incidentally, the new breakwater would also provide far more sheltered water year-round, including within the existing facilities of St Peter Port which would enable the current season to be extended to encourage a greater number of visiting boats and yachts.

1090

Deputy Gollop: Thank you –

The Deputy Bailiff: Deputy Gollop, supplementary question.

1095 **Deputy Gollop:** I have seen some of the drawings at one of the presentations. I believe there might be another one tonight for engineers etc. And I am impressed with the detail, but I gather or surmise that there will be more opportunities for larger boats which will be good but will those spaces be for local sailors or visitors or perhaps people encouraged to move here as high net worth nautical enthusiasts?

1100

The Deputy Bailiff: Deputy Roffey.

1105 **Deputy Roffey:** All three of those and more. We know there is a demand from the local boat-owning fraternity for more and more larger boat moorings so it would be able to accommodate that. It would also be able to accommodate larger visiting yachts. Yes, it may play a role ... it is not what it is designed to do, but it will play a role in making it more attractive, to attracting high net worth individuals – as some people call them, I call them very rich people. And there might even be a fourth category of people who do not want to live in Guernsey but actually want to put their boats in Guernsey and travel here to collect them.

1110 These sort of details or how to optimise the economic benefit for Guernsey really is part of the work that still needs to be done. That expertise is really not sitting within STSB. The physical creation of the marina is, but we need to discuss that with other bodies.

1115 **The Deputy Bailiff:** Deputy Inder.

Deputy Inder: To assist Deputy Gollop, will Deputy Roffey agree with me that I think the consultancy firm, Marina Projects, along with the officers, is talking on a regular basis with Guernsey Marine Traders Association, who will then confirm that part of the value of this was allowing people who actually want to get into the industry, transfer up into larger boats of which ... when the policy letter comes out, that information and the benefit to the economy will be laid out for all to see?

1120

The Deputy Bailiff: Deputy Roffey.

1125 **Deputy Roffey:** Yes, I can confirm that. Marina Projects have proved to be excellent consultants assisting on the demand side of, and indeed the design side of, this project and I think they do give

us considerable reassurance that the demand is certainly there and probably more than there in order to make full use of this facility if it is created.

The Deputy Bailiff: Deputy Inder, second supplementary question.

1130

Deputy Inder: It is supplementary, madam, and it does touch on the engagement I have had with the officers who have done an exceptional job as Marine Projects. And I never thought I would say that a consultant was doing a good job in Guernsey, but I genuinely believe they have!

1135

Would Deputy Roffey also agree with me, this is not just about the Pool Marina itself; it is about landside and the economic benefits of turning St Peter Port into a real visitor destination?

The Deputy Bailiff: Deputy Roffey.

1140

Deputy Roffey: Well, I do agree with that but I would give this warning that, unless this Assembly is able to make a firm decision on what to do about commercial ports provision, we are going to be quite stymied as far as really realising the potential benefits of landside development between the DPA will not be able to get on with the plans to facilitate that until that decision has been taken.

1145

The Deputy Bailiff: Deputy Gollop, your second supplementary question.

Deputy Gollop: Deputy Inder forgets that two thirds of us States' Members do not know what is going on at the highest levels, but that is another topic.

1150

My supplementary here is that although the answer makes clear that why the development opportunities along the eastern seaboard now sit with the Development Agency, there will be knock-on effects even from the marina. For example, around Victoria Pier and that kind of area, and to a certain extent, the Careening Hard. That will require change and that change will then have to be looked at environmentally. So will the President agree that we actually need details of those kind of changes before we get onto the bigger issues with the Development Agency and hopefully approving the Pool Marina.

1155

The Deputy Bailiff: Deputy Roffey.

1160

Deputy Roffey: But the Careening Hard does form a part of this budget, in fact it is a part that could be brought forward ahead of the main part, because before putting in the large new breakwater you could actually put a seal to make a better use of that Careening Hard area whilst still allowing it to remain as a spending beach at the same time.

1165

But, yes, this is all interconnected but if we wait to do work on any aspect of our marine facilities until everything has been decided, particularly with the lack of appetite that has been displayed so far to make big decisions, I think we would be waiting here until Doomsday; so I think we are absolutely right to press on to this, which is a big project in itself. And, yes, I mean, where is the parking going to be for boat owners? All sorts of things that will have to be solved. But this is really looking at the technical aspects and the economic benefits of a possible new Pool Marina which in itself I think is a discreet project.

1170

The Deputy Bailiff: Thank you. That is the end of Question Time.
States' Greffier.

Billet d'État XXI

ELECTIONS AND APPOINTMENTS

1. Election of a Member of the Policy & Resources Committee – Debate commenced

Article 1.

The States are asked:

To elect a sitting Member of the States as a member of the Policy & Resources Committee to complete the unexpired term of office, that is to the 30th June 2025, of Deputy H.J.R. Soulsby MBE who has resigned from that office, and whose notice of resignation is appended hereto, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation and their Committees.

1175 **The States' Greffier:** Billet d'État XXI of 2022. Article 1, Election of a Member of the Policy & Resources Committee.

1180 **The Deputy Bailiff:** Members, as the States' Greffier has indicated, this is the election of a Member of the P&R Committee. I am sure that you have studied your Rules, but just to set out the process, the first thing I am going to do is ask Deputy Ferbrache, as President of P&R, to put forward who he proposes and then establish who seconds it. Then I will ask if there are any other proposals and if we have more than one candidate then there will be an opportunity for the proposer and the candidate to speak. So I shall first turn to Deputy Ferbrache.

Deputy Ferbrache, who do you propose?

1185 **Deputy Ferbrache:** Madam, I propose Deputy Robert Murray.

The Deputy Bailiff: Thank you. And who seconds that?

1190 **Deputy Mahoney:** Me, madam.

The Deputy Bailiff: Thank you. That is Deputy Mahoney who seconds that. And are there any other people being put forward for this role?

1195 **Deputy Burford:** Yes, I would like to propose Deputy Gavin St Pier.

The Deputy Bailiff: And who seconds that?

Deputy Leadbeater: I second that, madam.

1200 **The Deputy Bailiff:** Thank you, Deputy Leadbeater. I would then ask Deputy Ferbrache to speak about his proposed candidate for five minutes.

Deputy Ferbrache: Thank you very much, madam.

1205 Before that, I would like to take just a few of those seconds available to me to thank my very able and now former colleague, Deputy Heidi Soulsby, for all of her services as Vice President of P&R and advisor to the CCA during my time. Her intelligence, tenacity, ability and judgement were, and are, very much appreciated by me. She will be an asset in whatever capacity she serves during the remainder of this term. So thank you, Heidi.

1210 But now to Deputy Bob Murray. I always try and sum people up in two or three words and Deputy Murray I would sum up as being a person of action, experience and integrity. He has now been a States' Member for just over two years and in that time he has hit the ground running. He is Vice-President of one of our senior committees, namely Education, Sport & Culture – a Committee which has a large mandate which it is attacking with ferocity. And his duties in real vigour in that regard are much appreciated. He is also a Member of the DPA.

1215 He is a person who has shown that he is well able to make decisions. He is a team player which is extremely important and it is clear passionately that he believes in all the important issues that we have to resolve. (**A Member:** Hear, hear.) Although he has not been in the States as long as Deputies Trott and Gollop, and even Deputies Trott and Gollop will still need to learn, as we all do every day, it is a continuing process, Deputy Murray has already had a very decent apprenticeship which can and now merits very serious consideration for his candidacy for this role.

1220 But more important than the time served, you look at the individual, you look at the experience in life. Bob Murray came to Guernsey as a little boy in 1960 on the old rust bucket that those of us used to travel on known as Patricks with his dinky toys. His dad was an electrical engineer and at that time our main industry was growing and it was moving from coal to oil. It was moving in a way that needed to be forwarded. And Deputy Murray's father was very important in that regard. His aunt was already here married to a local man. And he was moving from Glasgow. And who would not move to Glasgow to Guernsey, even in 1960? And in relation to that, the family came here, his father, they bought a property, they built a property, they did things. They moved to Grande Havre He went to Hautes Capelles and the Boys' Grammar School and his life prospered.

1230 Now of course he lived in an area when he first came to Guernsey, that I recall, be it, I lived in St Peter Port, where you had the independent grocer who would come and sell your mum her groceries. You would have the fisherman coming saying, 'Mackerel, Mackerel', and you would buy them. And in the summer, a lot of people decamped to tents and where ever else, sometimes even Herm, so that they could rent out their properties to the visitors, because there were not 3,000 rules then. We had more people and fewer rules.

1235 Deputy Murray actually smelt Guernsey because those of us who are a certain age remember steaming in Guernsey and he remembers that. And that entered your nostrils as you walked past the vineries early in the morning. So he did all of that. He experienced all of that. He is a Guernseyman, albeit, not by birth. He is a Guernseyman by spirit. And Guernsey also benefited in the sense that after he left school ... His family built a bungalow. They actually built a bungalow. That is what people did in those days. After he left school, he went to *The Guernsey Herald* for an apprenticeship and one of his daily trips was to the Bailiff's office delivering proofs of Billets and now he is here uttering about the content of those Billets.

1240 He then worked for *The Guernsey Press*. Also for Bordeaux Bakery and picking tomatoes. And he literally, in 1976 or thereabouts, built his own bungalow. He is still there today so well done to him. In 1981, he spotted an opportunity and set up his own type-setting company and design agency and served clients here, in Jersey, in the UK and elsewhere. Also, he entered the computer world – IBM computers in those days. Goodness me. And his clients included the legendary Sir Clive Sinclair.

1250 But there was a downturn in Guernsey in the late 1980s and in the UK and those of us remember it. So that did not prove insurmountable to Bob. He joined Specsavers and set up there in-house marketing studio and subsequently became their first marketing director. And created TV commercials for the likes of Nicolas Parsons and Eddie the Eagle. There you go.

1255 By the mid-1990s, Bob had become increasingly interested in the emerging World Wide Web and joined Guernsey Telecom as their sole sales and marketing director and a board that then consisted of people like Michael Burbridge, Ivan Rihoy and Deputy Gabriel's father, Deputy Brian Gabriel. I think it was just post my time on Guernsey Telecoms.

1260 He was tasked with spearheading a joint offering with JT of a brand new internet provision. So he has worked through from the old days of printing all the way through to modern internet technology. He became Guernsey Telecom's first economic director and spent his time working for the board of industry as the Islands first envoy.

1265 So he has had commercial experience and States' experience at a high level. He then left to join one of the early crypto providers. A house in a purpose built secure vault under a Swiss mountain. That congers up images, does it not? But commuting to and backwards from Geneva, became torturous for Bob and his family so he decamped to the UK for a time. He realised the error of his ways. He had left a property in Guernsey in any event. He took a career break and gained an MSc from Brunel University in multi-media computing and commerce.

1270 Then he joined up with an old colleague from his Specsavers days and that caused the creation of a unique marketing partnership aimed at independent opticians and their clients. I wonder where they got that idea from? This quickly mushroomed into online marketing with a print franchise and he supplied the needs over of 14,000 clients in the UK and Ireland and he left that only to join the States.

1275 He is a person of passion. He is a person of ability. He is a person that will be collaborative. He is also not a person of fixed views because his views can be persuaded by evidence, by experience and by debate.

I very much commend Deputy Bob Murray to this Assembly.

The Deputy Bailiff: Thank you, Deputy Ferbrache.

Deputy Burford. You need to put forward your five minutes on Deputy St Pier.

1280 **Deputy Burford:** Thank you, madam.

Okay. About a fortnight before the last Election, I asked Deputy St Pier what his contingency plan was if he did not succeed in being elected to the position of President of Policy & Resources. He replied that he had not allowed himself to consider that possibility. That was clearly a significant error and the ripples from that error played out over the ensuing weeks as not only did Deputy St Pier not secure his hoped-for role, but he also failed to inspire the Assembly to grant him any of the other positions he subsequently stood for and I can understand why.

1290 My job today is to persuade Members to vote in favour of Deputy St Pier. So why am I bringing up this perhaps less than edifying tale? Well, it is to observe that things change and people move on. After a period of licking his wounds, a little too publicly and for a little too long, some might say, Deputy St Pier settled down to back bench life and set about occupying the role of scrutineer which of course is the duty of every single Member in our Government. But it is hardly a full-time or comprehensive use of his undeniable skills and talents.

1295 The cohort of Deputies that arrives in any given Assembly is not the result of any planning whatsoever as to the mix of skills, experience, interests, work ethic and more that one would ideally have to ensure success. It is a random assortment of individuals voted in for a variety of disparate reasons and from that random mix we do the best we can. My theory is that within reason the more Deputies the better chance of covering all the bases. But we are down to just 38 and therefore we simply cannot afford to leave experience, talent, knowledge and a strong desire to contribute constructively unutilised.

1300 The opportunities to take on committee roles do not come along that frequently and this one is tailor made for Deputy St Pier. We are just about half way through this political term and there is now no longer any justification as to why, when there is an eminently suitable vacancy for which Deputy St Pier is one of the top two qualified Members in this Assembly, the other of course being Deputy Trott, that his skills should continue to remain largely untapped.

1305 And there is, in my view, another reason as to why Members should seriously consider supporting Deputy St Pier's candidacy. This Assembly seems to have lost its way a little on the meaning of consensus government. I am not pointing the finger at anyone here. To quote Sartre, 'We are all half victim, half accomplice like everyone else.' But at some point, and sooner rather than later, we really need to embrace consensus where we can find it. And I believe that bringing together what could be viewed as opposing cohorts has the strong potential to heal some of the rifts that have developed in this Assembly over the last two years whilst at the same time, providing healthy and constructive challenge that all effective boards and committees need.

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1315 P&R have rightly been stressing the depth of the financial demands facing Guernsey today. And therefore it is our duty as States' Members to make that most important of committees the strongest that it can be. A committee of all the talents.

Deputy St Pier has been a Member of this Assembly for the last decade. Four years as Treasury Minister were followed by four as President of Policy & Resources. The phrase, 'hit the ground running' is a total understatement where Deputy St Pier is concerned.

1320 There has never been a more important time to put as much significant financial hands-on experience and know-how as possible on our senior committee. We also know that P&R want a Member who can step into the role and responsibilities so ably discharged by Deputy Soulsby.

When my committee put together a panel to specifically scrutinise the Government Work Plan, we recruited Deputy St Pier to that panel and as such he has been forensically examining the Plan which stands him in further stead, were it needed, to step into the role.

1325 Members will shortly be invited to vote in a secret ballot. The role of the secret ballot is crucial. It recognises we are all human. That what we truly think and what we want to be seen to do does not always coincide as neatly as we might hope. The ballot is Members' opportunity to make what is the right decision, not just for this Assembly, but for the community and the future of our Island at this incredibly difficult time.

1330 I am convinced of Deputy St Pier's commitment to this role and I ask Members to vote today to appoint him as a Member of the Policy & Resources Committee.

Thank you.

The Deputy Bailiff: Thank you, Deputy Burford.

1335 Deputy Murray, you now have 10 minutes to speak about your candidacy.

Deputy Murray: Thank you very much, madam.

1340 I wonder if any Member of this Assembly feels everything is going okay for Guernsey at the moment. Things are a bit tough but maybe it is only temporary. I guess what I am seeking here is the level of confidence the Assembly has because it will undoubtedly influence who Members feel might be best placed to replace the very capable Deputy Soulsby.

1345 In short, what is it that our senior Committee needs to help navigate the increasing challenges that our community is facing? Without a doubt, if you simply want someone who has closer match of skills to Deputy Soulsby, who is a closer replication to her level of States experience generally, and of course actually having occupied a place on P&R, then Deputy St Pier is the choice for you. But is that what P&R needs? Is that what the Island needs, particularly at this point in time?

1350 Well, one could articulate a number of things, perhaps, depending on your point of view. But at this point in time, with the very difficult decisions that must be made, I would suggest that courage is a prerequisite. The courage not to walk away when things get tough. The courage to make decisions that should have been made several decades ago. **(Two Members: Hear, hear.)** And just consider the decisions that must be made that we know about, let alone what might yet materialise without warning, like the war in the Ukraine, for example.

1355 So, here is our biggest problem. The sums do not add up. In simple terms, there is not enough head room in the income generated on the annual basis to cover our outgoings, including investing in necessary infrastructure annually, to be able to build up depleted reserves for some very expensive bills coming towards us.

1360 The more worrying issue, however, is the future, and how that known situation becomes far more exacerbated due to the inescapable impact of our demographics. Two manifestations of that are the known expiry date on the tin marked States' Pension, and the other issue is the future substantial increases required in health and social services. And to the credit of Deputy Brouard and his committee, he has already begun a process of rationalisation, trying his best to maintain the essential services we all depend on, but at the same time, having to admit defeat on some that are essential to some individuals but are perhaps not as needed by the community at large. And there is pain there.

1365 So it takes courage to make those decisions and I have a great deal of respect for him because he knew when he took on the presidency – and let's be honest, nobody else was prepared to – that this circle cannot be squared. Although, I do suspect insurance will have a future role to play. But those challenges have actually multiplied and he will know full well that even if – *even if* – we had enough money available, we would never source enough of the skills he needs to come and work here because our cost of living is too expensive. And in any event, we do not have the means to house them.

1370
1375 Courage. We all participate in the very fractious requête in which the central issue of how to help that housing problem uncovered deep divisions amongst us. It could be easy to classify that polarised debate into two camps; pragmatists trying to find an effect solution, putting immediacy of a very real and unrelenting problem at the top of their list; but on the other side of that divide, it would also be easy to assume that being custodians of the Island's current and future environment, we have a duty to utilise our limited land in the very best way possible. Essentially, idealism perhaps, but by no means any less important by being so.

1380 But the real reason that requête did become so fractious was because we simply do not have a vision, let alone an agreed vision for what we want our Island to be. Something that might provide context for decisions of this nature. It seems to me that it will take quite a bit of courage to find that middle ground. But I cannot see progress on this divide without finding that courage to do so.

1385 Courage. We do live in this beautiful Island and it stands to reason that if we want to preserve it, even if the cries of, 'Mackerel', are now only a distant echo. Indeed, many Guernsey folk took considerable advantage of travelling to Alderney during our COVID experiences and fell in love with that Island. It was a win-win for the residents of Guernsey and for Alderney, for the Bailiwick. We are undoubtedly going to have another uncomfortable and difficult debate about what we do about the Alderney runway because we have not seriously addressed the relationship opportunities that might be prosecuted to mutual advantage.

1390 How many times was the 1948 Agreement mentioned in this debate? Where is the vision of a Bailiwick in which each Island plays to its relative strengths for the benefit of all? We are in a fiscal union. Why should we not want to maximise it? There is a real opportunity here, particularly when Alderney's population growth, probably even more than our demographic dictates, and we have a huge amount of job vacancies, but have grave misgivings over land use. Alderney used to be commutable. It could be again on a far more effective scale if we have the courage to break out of the entrenched silo thinking that we all know exists right across and probably exacerbated by the committee structure under which we function.

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1400 Courage. Moneyval. The importance of ensuring that our financial regulatory apparatus is world class cannot be possibly underestimated. (**A Member:** Hear, hear.) The role that financial services plays in our economy is hugely significant but it comes at a cost. Perhaps the most difficult challenge for us to accommodate is the brain drain that accompanies it. And by that I mean, it has a voracious appetite for personnel. It employs people the more successful it is. The cost of that is not surprisingly that it does absorb those individuals living and working here from other industries and enterprises.

1405 The further cost beyond that is the absolute necessity to attract skilled individuals from all over the world which may not be readily available locally, who then need to be housed. That impacts both the house availability and, naturally, prices. That phenomenon tips the balance of affordability in favour of even greater participation in the finance sector by our younger people who find themselves with few other employment opportunities that can permit them to gain entry onto the housing ladder. And sadly for an increasing amount of those very important young people, that we need to address our forthcoming demographic. They increasingly choose to simply leave altogether instead. This is not sustainable. There is a balance to be struck in terms of strengthening the industry that generates the lion's share of our essential tax revenues and ensuring that same contribution does not denude other industries and essential services of much needed skills.

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1415 This of course is where our human capital development project interfaces with population management. But in my opinion, without some indication of that Bailiwick vision at least, it is too blunt an instrument. There are other elements that can be considered going forward to address this

1420 such as protected employment status which could provide some attractive advantages and of course the very necessary evolution of tech to complement the productivities such as fintech and blockchain. We have some very able people within this Assembly and a pool of expertise without to draw on but we need the courage to recognise that we need a more creative solution to manage what is nonetheless a tremendous successful story for Guernsey.

1425 Courage. It is not in the nature of government to think about market advantage but if I am honest, I think our Jersey competitor has until recently been far more proactive and market minded than we have. Which is not to say that they have got it right by any means. But the point is that it certainly used to be the case that their government was very much more committed to enabling enterprise than we have been. I had personal experience with that with Guernsey Telecom years ago. So perhaps the antithesis of Courage is risk aversion.

1430 Now there are good reasons why we may have a proclivity towards caution. I am not going to try to minimise, for example, the considerable losses that Aurigny has made over the years. Although, it is now looking probably in one of the most healthy positions we have ever seen it. COVID notwithstanding. But then counterbalance that experience with the considerable success of Guernsey Post. And it is amply evident that with the right management and the right leadership, Government can make a success out of its assets and thereby open up opportunities for the private sector as a consequence.

1435 Now, for example, we have heard Deputy Kazantseva-Miller talk on occasion about enterprise zones and I too feel that there is mileage in exploring what there might be available to us to try to incentivise business development. Now as it happens, and it is very appropriate ahead of our coming debate, the Members of the DPA were given a presentation on the possible future development of our Airport and its environments. And it occurred to me that maybe we are not thinking sufficiently big picture. By that and by means of illustration, I would cite both the Vatican and the City of London, cities within cities with different rules in some respects to their donor city. It does seem to me that the Airport could become just such an enterprise zone, perhaps operating under even different tax arrangements. Business could be transacted within its confines with some travellers not even necessarily visiting any other parts of the Island. Now I am having the courage to fly a kite here. But what I am trying to indicate is that yet again are we not failing to consider the possibilities that a different vision might enable?

1440 So to conclude, in my own humble opinion, there are other attributes that P&R needs beyond someone who may have previously worn the t-shirt. In order to address the financial and societal problems we increasingly face, courage to make tough decisions and creative and visionary thinking might be just as important, indeed a necessity. I believe I have a track record in these capabilities and a strong technical, enquiring and entrepreneurial background to be able to make sound judgement.

1450 Over particularly, the only other issue I have not had time to touch on today ... Now I was always taught to leave your audience wanting. So suffice it to say, the one industry which is as fundamental to our Bailiwick future as finance – indeed I think finance will rely upon it – is energy. And that is another area in which a strong partnership with Alderney will deliver, in my opinion, in the future a more reliable possibility in renewables.

And, so on that note, to be continued, perhaps.

Thank you.

1460 **The Deputy Bailiff:** Deputy St Pier.

1465 **Deputy St Pier:** Madam, on 4th November 2020, Deputy Ferbrache, when advising the Assembly that I had agreed to assist in finalising the policy letter to establish the States' Investment Board, very generously said, 'Indeed, it is a waste of his talents not to use the same in full. It is like having Gareth Bale on the substitutes' bench and not calling him on'. (*Laughter*) For those who do not know, Bale is a winger who plays on the right. Now to be clear, that is *the right*, not *the far right*. I do not want to trigger any more codes of conduct. (*Laughter*)

1470 Deputy Ferbrache, no doubt, had in mind that Bale had just come off the bench three days before to score the winning goal for Deputy Ferbrache's beloved Spurs in a 2-1 home win over Brighton & Hove Albion. **(A Member:** Hear, hear.) And Deputy Ferbrache may even remember the game. I do not know. But rather like me, after the initial outing, Gareth Bale has had a somewhat lower profile and arguably been underused since Deputy Ferbrache's speech. Although, certainly in his case, that would be correlation rather than causation.

1475 Now Bale is currently experiencing a temporary form of exile, having signed in June this year a 12-month contract to play for Los Angeles FA. This contract is a professional footballer's equivalent of being signed as a columnist for *The Jersey Evening Post*, respectable and worthy work, but it may not be the best use of talents. *(Laughter)*

1480 Madam, before I go further, let me say this. Rightly or wrongly, I do not lobby for votes but I know that some have been whispering about the codes of conduct against me, so I will address that head-on. There are four. They all stem from naming an individual in this Assembly in April. I take the complaints incredibly seriously and I am very confident that if all of those who are required to do so engage objectively in hearing the evidence and studying the evidence, then I will be cleared in all four complaints.

1485 Two years ago, I declined Deputy Ferbrache's offer to nominate me as a member of P&R. Having just vacated the role, I felt it was right to give him the time and space to demonstrate the serve and leadership for which Deputy Dudley-Owen had nominated him as President, without me breathing down his neck. And I have no regrets of that decision. I continue to believe it was the right think to do for Deputy Ferbrache and myself.

1490 After the States had decided that it did not wish me to serve as the President of the States' Trade and Supervisory Board or the Scrutiny Management Committee, without any committee positions, I have sought to carve my own path as an active backbencher, a Member without portfolio, if you like.

1495 I have been trying to give purpose and make real the mantra that we all trot out, that in our system of government, we are all scrutineers, holding each other to account. Now, in doing so, I know that I have not made myself popular with some Members. But I have not picked on anyone. I have laid questions without fear or favour to all of the Principal Committees, both oral and written. And working right across the Assembly, I have lead and seconded amendments, motions to annul and motions to debate. All things which I had very little experience of doing whilst leading two senior committees in the previous eight years.

1500 And I have happily offered my advice to those Members elected in 2020 for the first time who have sought it from me. I have taken on constituency work, of which I had very little in my prior term. And having previously been the subject of scrutiny hearings, I was pleased to accept the Scrutiny Management Committee's invitation to serve on their scrutiny panel for the Government Work Plan.

1505 I have done these things because it is the way that I felt I can best serve those in our community who entrusted me with their votes. And I would very happily have served out the remainder of this term in that role. I have thoroughly enjoyed the role that I have created and I have also gained from the experience. I have a very different perspective of being on the outside looking in, staring down the other end of the telescope. It has been a valuable experience which I never gained when first elected to the States but which will now enhance my contribution if I now return to P&R.

1510 Madam, I am sorry that Deputy Soulsby has decided to resign from the Committee, but I respect that decision. Having done so, it for the States to determine who it believes is best placed to fill her considerable boots. Frankly, I would rather have been invited to go through the Committee's front door as their nominee than seek to batter down the back door by standing in opposition to Deputy Murray as their preferred choice. But this is a decision for the States of Deliberation, not the committee alone.

1515 As the most senior committee, it is not only responsible for advising the States on many issues, but also co-ordinating the work of the States as a whole. So it would be wrong for me to simply sit this one out in order to avoid this election. I not only have the requisite experience, having led both

T&R and P&R, but I have also demonstrated a willingness to work hard and to scrutinise and challenge. And it is important on committees to challenge – not just each other, but also the Civil Service, Law Officers and other advisors to the committee. And I will offer a different perspective. There was a time, actually like Gareth Bale, I used to be considered a right-winger, until I was

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outflanked by fresher players on the pitch. Albeit, not necessarily younger and fitter. *(Laughter)*

Diversity of thought is especially important in our committee system of government. Deputy Soulsby has done a great job with the Government Work Plan. But I would like the next iteration to evolve from being more than just a corporate to-do list. As our community faces the highest inflation of 40 years, we need to give more than warm words to the very many who are working so

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hard to only just get by each month. It is a fact that we are in an incredibly strong position by comparison to so many jurisdictions around us. But we need to talk ourselves up, not down. We need less self-fulfilling doom and gloom about how little we can do and we need to inject vision and a more optimistic and ambitious tone into the GWP process.

Madam, of course, I know I am not everyone's cup of tea. Who is? But I would hope that anyone

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who has ever worked or dealt with me, even if they do not like me, would describe me as professional, courteous and, importantly in our system of government, a consensus seeker – accepting that consensus cannot always be found. And my track record over 10 years working with Members right across the Assembly on different issues is evidence of that. I may be competitive but I am a team player. I may be proud but I do not have a big ego. I may disagree with you but it is never personal.

1540

I hope those who have previously served with me would testify to those attributes. I often disagreed with the late and great former Deputies Dave Jones and Roger Perrot. The latter once infamously told me I was acting like Nkrumah, the first post-independent leader of Ghana who was prone to authoritarianism. But then, he also described his former partner, Deputy Ferbrache, as a psychopath! *(Laughter)* So he might have been prone to hyperbole. But Deputy Perrot served on Treasury & Resources for most of the 2012-16 term – a position he thoroughly enjoyed. Former Deputy Hunter Adam and I seriously disagreed at a policy level when he had resigned as a Minister for Heath & Social Services, but I went on to nominate him as a member of T&R and the Committee worked well together for the remaining three years of the term.

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Deputy Trott and I clashed repeatedly during that term but went on to work very closely and effectively together in the 2016-20 States. And Deputy Brouard was not my nominee for P&R in that term but the States put him there and we worked, not always, I would say, in agreement but always harmoniously, respectfully and courteously for the whole term.

1550

So, can I work with Deputies Ferbrache, Helyar, Mahoney and Le Tocq? Yes, I firmly believe I can. Can they work with me? Sir, that is a question for Members to determine.

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I may not be the servant leader that Deputy Dudley-Owen was seeking two years ago, but this election is not for such a position. This election is about who is best placed to serve the States now. If elected, I will work hard in the best interest of the States as a whole and I will serve the States on the Committee with an open mind, good humour and humility. If the States does not elect me, then I will continue to serve in my current role, unless or until the States wants me to serve in another way.

1560

Madam, Gareth Bale was once the world's most expensive footballer with a record transfer fee of €100 million. And in an article two years ago, he was listed No. 3 out of the seven greatest right-wingers of the decade. He is now the Captain of Wales' first World Cup Final's team for 64 years, and having scored a late penalty for his nation against the USA on Monday, he may yet bring more glory to his team and nation.

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It is very flattering that Deputy Ferbrache should have drawn any comparison between me and such talent, but it is for this Assembly to decide if it agrees with Deputy Ferbrache that it is a waste not to use my talents in full and whether today is the right time to call me off the substitute's bench. I very much hope it will and I will be grateful if colleagues give me their vote in this election.

1570

Thank you, madam.

The Deputy Bailiff: Thank you, Deputy St Pier.

1575 You should all have some white paper before you. Please write the name of your preferred candidate legibly on that piece of paper and His Majesty's Sheriff will be circulating with an envelope where you can put your nomination in and then the votes will be counted by Deputy Greffier Atkinson along with her colleague, Deputy Greffier Gallienne, to ensure that she gets her figures right, and His Majesty's Sheriff will also accompany them to ensure that it is all in order.

Billet d'État XX

POLICY & RESOURCES COMMITTEE

1. Re-election of Baroness Couttie as an Ordinary Member of the Guernsey Financial Services Commission – Proposition carried

Article 1.

The States are asked to decide: -

Whether, after consideration of the Policy Letter dated 27th September, 2022, of the Policy & Resources Committee, they are of the opinion:-

1. To re-appoint Philippa Marion Roe (the Baroness Couttie) as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 1st January 2023.

1580 **The Deputy Bailiff:** The next matter is the re-election of Baroness Couttie as the ordinary member of the GFSC. Whilst the counting is happening, I think we should progress onto that due to our full Order Paper. And, therefore, I would ask Deputy Ferbrache to address the Assembly.

1585 **Deputy Ferbrache:** I will be very brief, madam. She has served with distinction before. She is a person of real and considerable integrity and ability and I ask for her appointment.

The Deputy Bailiff: Does anybody wish to debate this Proposition? No. In that case, we will use our SEV for the first time in this Assembly.

Greffier, would you open the voting on this Proposition, please.

1590

There was a recorded vote.

Carried – Pour 37, Contre 0, Ne vote pas 0, Absent 2, Did not vote 1

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	None	None	Deputy Parkinson	Deputy Bury
Deputy Blin				Deputy Helyar
Deputy Brouard				
Deputy Burford				
Deputy Cameron				
Deputy de Lisle				
Deputy de Sausmarez				
Deputy Dudley-Owen				
Deputy Dyke				
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				

Deputy Gollop
Deputy Haskins
Deputy Inder
Deputy Kazantseva-Miller
Deputy Le Tissier
Deputy Le Tocq
Deputy Leadbeater
Deputy Mahoney
Deputy Matthews
Deputy McKenna
Deputy Meerveld
Deputy Moakes
Deputy Murray
Deputy Oliver
Deputy Prow
Deputy Queripel
Alderney Rep. Roberts
Deputy Roffey
Alderney Rep. Snowdon
Deputy Soulsby
Deputy St Pier
Deputy Taylor
Deputy Trott
Deputy Vermeulen

1595 **The Deputy Bailiff:** There voted for 37, there was 1 absence and did not vote and there are 2 absences from the Assembly today. Therefore, the outcome is that the Proposition is passed.

**Guernsey Legal Aid Service 2021 Annual Report –
Motion to debate carried**

To resolve, pursuant to Rule 20 of the Rules of Procedure of the States of Deliberation, to debate the Appendix Report to Billet d'État No. XX entitled 'Guernsey Legal Aid Service – 2021 Annual Report.'

The Deputy Bailiff: The next motion, States' Greffier, could you read out?

The States' Greffier: Guernsey Legal Aid Service – 2021 Annual Report in motion to debate.

1600

The Deputy Bailiff: Yes, Deputy Leadbeater.

Deputy Leadbeater: Thank you, madam.

1605 It is just an opportune time, really, with the President of ESS informing the Assembly that there is due to be a review of Legal Aid. It seemed like the perfect opportunity to have it debated so the President and his Committee can gather the Assembly's thoughts.

The Deputy Bailiff: Thank you. Is that formally seconded by you, Deputy St Pier?

1610

Deputy St Pier: It is, madam.

The Deputy Bailiff: Deputy Roffey, in relation to the motion to debate the Legal Aid Report, what do you say here?

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Deputy Roffey: ESS have absolutely no objection to this being debated. It would be useful to know in his summing up, though, whether this is just a general feeling that the issue ought to be

debated as a matter of principle or whether there are any specific and technical questions that are going to be raised because they might get better answers out of me if they are able to flag those up in advance.

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The Deputy Bailiff: There is not actually an opportunity for Deputy Leadbeater to respond, but no doubt, as it will be happening right at the end of the Order Paper, if the motion is passed, then that would give you an opportunity to speak with one another.

1625

So in relation to this motion to debate – this is a motion aux voix – those who support the motion, say Pour; those against ... I am terribly sorry. I am just being informed by States' Greffier that I have got it wrong. This does need to be voted on by SEV, so you will see before you the proposal.

Deputy Greffier, would you open the vote.

1630

Deputy Greffier: Yes, madam.

Carried – Pour 33, Contre 1, Ne vote pas 1, Absent 2, Did not vote 3

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

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The Deputy Bailiff: There voted: Pour, 33; against, 1; there was 1 abstention; there were 5 absences. I therefore declare the motion passed and therefore the debate will occur towards the end of the Order Paper after Article 11. I make no prediction when we will get to it.

Billet d'État XXI

Election of a Member of the Policy & Resources Committee – Debate continued – Deputy Murray elected

The Deputy Bailiff: I now have the results of the Election for a Member of the Policy & Resources Committee.

1640 The number of eligible voting Members was 38. Deputy Bob Murray received 20 votes. Deputy Gavin St Pier received 17 votes and there was 1 spoilt paper. I therefore declare that Deputy Bob Murray has been appointed as a Member of the Policy & Resources Committee. (*Applause*)

Billet d'État XX

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

2. Secondary Pensions: Implementation of Your Island Pension – Propositions carried

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Secondary Pensions: Implementation of Your Island Pension', dated 7th April 2022, they are of the opinion:

- 1. To rescind resolutions 6, 7 and 9, made by the States of Deliberation on 5th February 2020, following consideration of the Policy Letter entitled 'Secondary Pensions: Detailed Proposals for the Introduction of Automatic Enrolment into Private Pensions and the Establishment of "Your Island Pension"' (Billet d'État IV of 2020, Article II).*
- 2. To agree:*
 - a. that Your Island Pension be established as a private trust, managed by a trustee appointed by the Committee for Employment & Social Security, and for which the States of Guernsey would act as settlor, as set out in sections 4, 5 and 6 of that Policy Letter; and*
 - b. that the Committee for Employment & Social Security be given authority to determine the terms of the trust instrument and the Rules of Your Island Pension, and to amend either if/when considered necessary.*
- 3. To agree that the compliance measures, including the enforcement regime and anti-avoidance measures described in section 7 of that Policy Letter, should be specified in legislation.*
- 4. To direct the Committee for Employment & Social Security, following consultation with the Revenue Service and the trustee of Your Island Pension, to report back to the States during 2027 with an update on the introduction of these proposals, and proposals for the introduction of a pension saving regime for self-employed and non-employed people.*
- 5. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.*

The Deputy Bailiff: States' Greffier, if you would not mind calling out the next Article.

1645 **The States' Greffier:** Article 2, the Committee for Employment & Social Security, Secondary Pensions: Implementation of Your Island Pension.

The Deputy Bailiff: Thank you.
Deputy Roffey.

1650 **Deputy Roffey:** I have a slight feeling of déjà vu, and I do not want to repeat everything that I
said when opening on this matter six months ago because I am absolutely sure that my wise words
from back then are still engraved in Members' minds. But I do want to just re-stress some of the
key bullet points.

1655 This scheme will open up the possibility for all Guernsey employees to save for their retirements
in a way that only a minority can do today through an occupational pension scheme. It will be
entirely voluntary for employees but from experience elsewhere, we are confident that the auto-
enrolment provision would lead to a high participation rate. We know that this will prove to be an
attractive option for most due to its tax efficiency and the modest but required contribution from
employers. And as a result of that, the community as a whole will see a massive increase in the
amount that people save for their retirement. And as result of that, over time, pensioner poverty
1660 will be greatly reduced.

Pensioner poverty is far more pronounced amongst those who do not have an occupational
pension and instead rely just on the state pension. So as a result of that, Income Support payments
to pensioners will be far lower in future than they would be without this scheme. Even more
importantly, future generations of pensioners will have far more disposable income to allow them
1665 to enjoy life through discretionary spending and that is important in two ways: it will make their
quality of life an awful lot better; but as a result of that extra spending power in an ageing
demographic, the economic future for those providing goods and services in Guernsey will also be
greatly improved.

That is the upside. Of course, there is a downside. In the short term, it will take some spending
1670 power out of the economy. But, madam, all saving does that. But we still rightly regard it as a good
thing and encourage it. States' revenues will also take a moderate hit because the money put into
occupational pension schemes is tax deductible with the tax only being realised when that pension
is paid. But that is true now for everyone who has access to an occupational pension scheme. Those
people who are currently saving for their retirements through occupational schemes cost the
1675 revenue of this Island in the short term. But we do not discourage it. We do just the opposite. We
encourage it as a highly desirable sign of self-reliance. So we really have to be consistent. If it is a
good thing for those with access to an occupational pension scheme in their job at the moment,
then it must be a good thing to open that up to everyone. And anyway, the objective research in
the policy letter shows clearly that the hit to the exchequer while real is relatively modest and will
1680 moderate over time.

If approved today, the scheme will take many years to be fully introduced. It will first come in, in
the policy letter is still says October next year. Because it is a sursis policy letter, there was no chance
to update it, it has to come back as was. That is not going to be the case. It is now going to come
in on 1st January 2024 but only for larger employers. It will then take quite some time to roll out in
1685 tranches to smaller employers. And even when that has happened, the initial contributions will be
extremely modest and will crank up over the years. So it will only be seven years after the Law is
operational that it is fully implemented. So more than eight years from today.

And this is important because I have heard some people say, this is the wrong time to bring it
in. Well, madam, it is always the wrong time to bring it in, but we are talking about an eight-year
1690 implementation period and we are talking about a scheme that is designed for the next 60 years; a
scheme that has to fly in times of high inflation, low inflation, economic boom and economic
recession. The only good time to ever bring in such a scheme is 20 years ago. Whenever it was, it is
always 20 years ago that you wish that it had been brought in.

What is in it for employers? Well actually quite a lot. Many employers are telling us they really
1695 want to offer their staff a pension scheme as part of their remuneration package. But in order to do
so, they need one which is cheap, simple and involving an absolute minimum of administration. The
Your Island Pension (YIP), which is the default scheme under these proposals, ticks all of those boxes.

1700 Members, the benefits of doing this hugely outweigh the dis-benefits. It is encouraging self-reliance through personal savings and as a result it will reduce pensioner poverty in future. To my view, it is a no-brainer and I really hope that all Members will support it today.

The Deputy Bailiff: Deputy Ferbrache.

1705 **Deputy Ferbrache:** Madam, I was one of those that a few months ago who voted to defer this. I believe it was the right decision because since then we have had the population debate. We know we are going to have the tax debate late January. We know which way we are going. I unreservedly will support these proposals this time. People should look after themselves but they often do not. We get people who perhaps when they are young could be described as psychopaths but they then move forward through their lives and then turn out to be moderate, reasonable and balanced politicians (**A Members:** Hear, Hear) and will have a gentle disposition.

1710 But in relation to that, this clearly is something. As Deputy Roffey says, there is never a good time. In three years' time, it will not be a good time. In 10 years' time, it will not be a good time. We should have done something like this a long time ago, but I do not think anybody really foresaw the population demographic challenges that we should have faced. We walked into it without really considering it. We are not the only jurisdiction. But I unreservedly – *unreservedly* – support these Propositions and I ask that we adopt them.

1715 **The Deputy Bailiff:** Thank you.
Deputy Queripel.

1720 **Deputy Queripel:** Thank you, madam.

Deputy Meerveld said on the news this morning that now is not the right time to introduce secondary pensions. It seems to me that there will never be a right time. Because turkeys do not vote for Christmas, as the saying goes. Of course, employees can always opt out if they want to. I understand that employers cannot opt out and that there may be a danger that it will possibly pass on any additional cost to the customer but I think the balance is right with everything taken into consideration.

1725 Some of my colleagues may think that this is a difficult decision. I do not see it as that when we look at the bigger picture. Because in my opinion, the time is now for the focus to be put on people taking responsibility to save wherever possible for their retirement. But the reality is there will not be enough money left in the States' pot anyway to provide them with the quality of life they would like when they do retire. So in essence, this would be a wake up call for our working community. The message being, the more you save then the better your retirement will be.

1730 Thank you, madam.

1735 **The Deputy Bailiff:** Thank you.
Deputy Gollop.

1740 **Deputy Gollop:** I have been interested in this project for many years and remember sitting on the committee that Deputy Langlois headed up, indeed, and he was Deputy Chief Minister too, who supported the project, as did people from the private sector, and also as we remember today, the late and great advocate, Roger Perrot, who was an enthusiast of the project which in some ways was unusual because he believed people should be very much self-reliant, (**A Member:** This is.) that this was a scheme that would help people in the longer term and indeed the economics of having a nest egg through shrewd investments through an approved scheme has never been greater at times of economic uncertainty.

1745 It is not completely without pain. I think it is a good thing it will be locally managed with Sovereign; and had it been introduced, funnily enough, on 1st October 2022, it would have coincided with the introduction of the Disability, Anti-Discrimination and Quality Law. But now it

1750 will be a few months later. But I think Members should be aware that this is an example, almost as
Deputy Bob Murray said, of proactivity, of prudence, because it is a policy that will probably ensure
we have a more happy 2040s and 2050s and a slightly tighter 2020s and 2030s because the BWCI
helpful report that accompanies it makes clear that it could cost on 2018 figures £30 million a year
to the economy in terms of spending that might be deferred from our economy and saved instead.
1755 And of course, on top of that, you have to put in company amounts and what would be an inflated
example.

So it is a shrewd move, but it is one that will hopefully be boiler plating our economy down the
line because the argument is made clearly in the report that pensioner poverty runs the risk of
increasing indeed because a high percentage of people already in receipt of Income Support, even
1760 though some are home owners, are old age pensioners. Deputy Queripel, amongst many others,
has always said already there are issues of, 'Do I heat or do I eat?' in some cases. Although Social
Security will help those, a secondary pension, especially for younger people, will very much be
investing in the future.

1765 **A Member:** Hear, hear.

The Deputy Bailiff: Deputy Dyke.

Deputy Dyke: Thank you, madam.

1770 In the spirit of consensus and harmony, I am delighted to agree with Deputy Roffey on this one.
I think it is something we have to do. It probably should have been done 20 years ago. I do not
know who in this Assembly is to blame for that, but be that as it may, I think we have to do this
going forward. Pretty much all other jurisdictions do something similar. There is no such thing as a
free lunch. There will be some down sides. It is going to be slightly inflationary, I imagine, as
1775 employers are going to have to pay out their share. It will also probably slightly depress wage
increases as employers will have to take all things into account. And I guess it will defer expenditure,
as it is intended to do. It is a pension scheme.

So subject to those minor statements of the obvious, I think we have to do this and I thoroughly
support it.

1780 Thank you.

The Deputy Bailiff: Deputy Blin.

Deputy Blin: Thank you, madam Deputy Bailiff.

1785 I fully also support this. In fact, I supported it the last time. One of the reasons to support, that
is small businesses, of which we know there is quite a large number in the Island, and especially
those of five people or less, have been approached many times by companies saying, 'Look, here is
a pension scheme,' and the problem they have is they are not sure if they can afford to set up the
structure or if they will have the member of staff there a sufficiently long enough time. So in the
1790 end, they just keep putting it aside.

Now this being done, this is one of the excellent reasons where government is best in this
instance because actually we can do this. We can set up a structure. We are using local
establishments to do so. Every penny that they put in there, they know is going to be invested for
the longer term. It is going to grow in value. So small business employees, yes, you can say well we
1795 are taking some of the money away because some of it is going into the pot as well as for the
employer. Well, yes, but at least it is going to go to a better place. It is going to have a higher value.
And the sooner we start, the more efficient this is going to be in the long term. So this is something,
as everyone says, long overdue. I am really pleased it is being brought to the table now. And as I
said last time, it seemed to be, 'It is not quite right, let's wait to hear about the Ukraine. Let's wait
1800 to hear about energy.' All of these things there. But either way, even with lesser money in the pocket,
now is the time to make that money work for us and for the States.

Thank you.

The Deputy Bailiff: Deputy Kazantseva-Miller.

1805

Deputy Kazantseva-Miller: Thank you, madam.

I attended the presentation that was organised by ESS in October with Helen Dean who is the CEO of NEST, which is the UK's auto enrolment provider. And I thought it was an absolutely excellent presentation in terms of the opportunity to actually look at some of the specifics and numbers and I also asked quite a number of questions that I just wanted, for the benefit of the community and Assembly also to be surfaced in this debate because I think this is new and relevant information.

1810

It is probably worth noting that the UK process was started in about 2002, so it has been a very long process; and the UK has been really the pioneering country with pension auto enrolment. And NEST, when it was created, was the pioneer in terms of providing digital e-pension solutions. So I think that this is a really great example of financial innovation and really providing affordable products and services in the 21st century.

1815

So some interesting statistics that I thought were worth surfacing today. When the scheme was drawn, the expected opt out rates of the scheme was about 28%, so the expectation was that nearly 30% of people would opt out of the scheme. The reality is that it has fluctuated between around 8% to 14% over the scheme life so far. So much lower statistics for opt out.

1820

We obviously have a cost of living crisis and the challenges with household expenditure. The surveys undertaken this year so far have not shown that there has been an effect on households choosing to opt out of the scheme on that basis. I think obviously perhaps you could say it is early days but so far the evidence does not suggest that consumer behaviour has changed.

1825

I then followed up with a number of questions which I thought would be quite interesting. So one of them was in relation to ... so employees can choose to opt in and out a number of times, so if you have opted out you can opt in again, and if you have opted in you can opt out again. So it is reasonably flexible solution. So in case your circumstances do change there is definitely flexibility in this scheme.

1830

There are other countries that are now increasingly adopting auto enrolment solutions. So I think it is really interesting to see that while the UK was a real innovator, auto enrolment is being adopted in other countries.

The other interesting part I discovered was that when you auto enrol, there will an opportunity for you to choose different fund products. So for example, if you wanted to invest in a slightly riskier fund profile, you will have the opportunity to do that. As well as, if you wanted to invest in more ESG and impact type of fund profiles, there will also be the opportunity to do that. So I thought that was quite interesting. So you are not just given a blank solution. You can tailor your investment criteria with the pension according to the profile you adopt.

1835

The other interesting part of it was that really the core principle of it is about behavioural change and by creating the nudges that it is auto-enrolment that it is a digital first solution, you are really changing those consumer behaviours in terms of helping consumers to save, helping Islanders to save which otherwise would not have happened. And it is just that the ability to start saving is the critical part of the scheme.

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And while the first product is all about the pension, it is your pension pot and what you will be able to access upon retirement only, actually NEST in the UK is already looking at additional products such as an emergency fund. I think they have also been looking, I believe, in the responses I received from the committee, at a saving spot, for example, for buying a car etc. So we could see this as a financial product which can innovate over its lifetime so that there will be other pots that you can save your money to that can be used, not just at pension time but for other purposes. And I thought that was something, I know that is not something that is being considered right now, but I believe that is something that absolutely should be considered down the line, depending obviously on the demand of the market.

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1855 So again, I thought that is quite interesting. So what we are proving today is almost that first step of getting the 10,000s of Islanders who currently do not have the ability to buy into the pension products on the market, to establish a very cost effective digital first solution that can actually allow your YIP to innovate down the line.

1860 So I thought it was important to talk about some of those specific details and in terms of that, this is really a cost effective, really fantastic financial platform to enable that consumer behaviour and change which at the beginning we are really talking about reasonably small amounts of what those savings will be.

Thank you.

The Deputy Bailiff: Thank you.

Deputy de Lisle.

1865

Deputy de Lisle: Thank you, madam.

1870 Secondary pensions will be placing another burden on business and individuals at the most challenging of times. Being in the retail trade, I worry about the impact on the High Street because consumer behaviour has changed on the High Street and now is not the time for increased pressure on business and individuals at a time of rising inflation with the States seeking to take more tax from individuals through various routes: Brexit, COVID, Ukraine war and associated pressures on prices, and the pockets of local families; and the threat of higher taxes and perhaps even a new GST.

1875 There is a hint of resistance to the proposals. This resistance is that it is taking more out of the economy at a very difficult time. This is the last thing that we should be doing right now: taking more from individuals; taking more from businesses, small businesses particularly. And it takes another toll on disposable incomes: there will not be the money out on the street that there was, as a result of this coming in. So there are implications for both the employee and the employer from the introduction of Your Island Pension. Soon, all employers will have to offer staff a pension scheme; employers will immediately take a 1% hit on salary costs, rising to 3.5% over the years as the total contributions rise to 10% and the individual will be contributing 6.5% eventually. So a number of businesses will not welcome that extra financial pressure at this particular time. Neither will individuals as it means a hit on earnings rising to 6.5%.

1885 So in all, my feeling is that it should be deferred to a time when the economy can support it. I think that Deputy Gollop was talking about a £30-million-a-year hit on the economy, which is huge at this particular time when we do not know what tomorrow will bring in terms of increased challenges and increased pressures. But we do know that the economy at the current time will be hit hard by such a pension scheme. So I ask that people consider very carefully the effect on the economy generally and also on disposable incomes.

Thank you, madam.

1890

The Deputy Bailiff: Thank you.

Deputy Meerveld.

Deputy Meerveld: Thank you, madam.

1895 Deputy Ferbrache earlier referred to the sursis that was placed in May and I was the proposer of that sursis, to delay the debate to this date. The original intention of that sursis was to delay this debate until we had the tax debate and would know the impact on the spending power of our Island or the potential cuts we might introduce.

1900 Some weeks ago, I was asked if I would lay another sursis to delay because we have not had that debate yet. But I said no. Enough time had passed so that other elements we were also concerned of at that time – the impact financially of COVID, Brexit and the Ukraine war – could become better known and we do now know the impact that those are having. And we also, as States' Members, have been briefed on the paper that will be published in the next few days on the proposed tax

1905 increases and if those tax increases are not approved, the potential cuts that may have to come as a consequence. So I think we are in a position where we can make a more informed decision.

As I say, we now know: hopefully, COVID we are now looking at in the rear view mirror but it has left us with significant costs; Brexit continues to affect particularly our hospitality industry and our ability to hire people to work in Guernsey; and the Ukraine war is ongoing and has caused global inflation. The combination is resulting in what the Bank of England is now predicting to be the largest recession possibly in history, looking at recoveries possibly not coming until 2025.

1910 Back in May, I mentioned that I thought we were going to a stagflationary environment. I remember some people being quite mocking of that at the time. But with a recession and the inflation we are facing, stagflation is becoming a real threat and a potential return to the incredibly difficult economic environment following the oil crisis in 1973-79, where England's inflation rate peaked at 25% a year.

1915 What all of this is doing is causing, again, a record decline in the spending power of the individual. We are looking at the largest decline in living standards since the Second World War. So while I recognise all the benefits of secondary pensions and the need in the long-term, I do have issues with introducing it now.

1920 Deputy Roffey said, 'There is no right time to introduce something like this', and he is right in the sense that whenever Government brings in new measures that reach into other people's pockets and withdraw cash from the individual or businesses, even when it is in their own best interest, it will hit some resistance. But there are worse times to introduce something. And I personally think that this, like Deputy de Lisle, is a very bad time to be introducing something like this that reduces the spending power of the individual, the increased cost to business and loses tax revenue in a very difficult and unpredictable economic environment. The Deputy is right that it should probably have been introduced 20 years ago and it would be having great effect if it was. But I think introducing it now, as we are talking today and scheduling this, I think it will add to the woes of businesses, individuals and even the States with its own loss of revenue.

1930 I think, unlike Deputy Ferbrache who said that he was going to approve this without reservation, I am going to vote against it. I do so with great reservations. But on the balance of considerations, I think it is better not to introduce other measures on top of potential tax increases or spending cuts that we will be discussing in January on the economy at this time. Therefore, I will reluctantly be voting against it.

1935 Thank you, madam.

The Deputy Bailiff: Deputy Inder.

Deputy Inder: Only briefly, madam.

1940 I am just going to reflect on something that Deputy Meerveld said. It is that we are not really in the business of guess work any more and I am fairly sure if there was that stiff business resistance, as President of Economic Development and other Members, we would have heard about it by now. We have had no such letters with exception of someone who is probably going to find I basically mislead the Assembly because someone has written to people. We have no representations that I am aware of that show any significant concern about the ESS proposal. They either have not come to us –

I think I will give way.

The Deputy Bailiff: Deputy Blin.

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Deputy Blin: Thank you very much, Deputy Inder, for giving way.

It was just to add to that point. I am in agreement with him about that point. But there is one point to note which is the hospitality sector which we have raised in the past. And that issue is, for the short-term workers coming on the one, two or three years, there is a potential issue there if they

1955 have to opt out. Whereas the employers, the hotels, would have to be automatically opting in. and it would be interesting if that could be considered in what Deputy Inder is saying on the subject.

The Deputy Bailiff: Deputy Inder.

1960 **Deputy Inder:** Thank you, madam.

Well, I will leave that for Deputy Roffey to respond. But as the Guernsey Hospitality Association seems to be the representative body, again, to my memory, we have had nothing of late asking us to reject this in any way, shape or form. But equally, we have had nothing supporting it either; but no news is good news sometimes.

1965 The reason I supported the sursis back in May was largely around the tax debate. And those of you will know that myself, Deputy Moakes and Deputy Vermeulen wrote a letter regarding the tax debate effectively saying that our view is that things should be done in order of importance. We wanted to know about where housing was going, we wanted to know where population was going and similar, and I apply the same principles here.

1970 Okay, it is accepted through you, madam, to Deputy Meerveld, that we have not necessarily had that debate and agreed it, but we are far more informed than we were in May. Back in May, we did not have a clue which way the tax strategy was going and it is not for me to discuss it because effectively we know that very quickly it is going to come out in the public domain and there is a communication programme around it so I will not be ... But it feels to me slightly more progressive and slightly better than the last iteration, and I was only really dealing with the information that I had at the time which was the previous tax strategy. So to that end, and the end of the sursis, written by Deputy Meerveld and seconded by Deputy Dudley-Owen:

If this tax debate has not taken place by 23rd November 2022 there may be need for a further deferral.

1980 I do not agree. I am fairly satisfied. And I think I said to Deputy Roffey at the time that I was behind it, as was mentioned in the sursis, inasmuch as I did not think it was time. I am not entirely convinced this is the exact time right now but we are in Government. Doors never open at the right time, hinges get stiff and we can only deal with the information we have got.

To that end, madam, Deputy Roffey, as I said in the last meeting, when it comes back in what will be November, I will be supporting it and I will continue and I will support it today.

1985 **The Deputy Bailiff:** Thank you, Deputy Inder.
Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, madam.

1990 I rise briefly just because I seconded the sursis and to clarify that I will give the policy letter and the proposals my support today, with some reservations because of the financial dire straits that we are entering into, the doldrums potentially.

1995 The purpose of the sursis was not to kick the can in any way, shape or form; it was to allow Members to have a proper 360 view of what those doldrums would inevitably mean for the Island and I think that we have got a much clearer idea so I am really pleased that delay has happened.
2000 We have got a better idea of what the tax view is going to present to us. We know the effects of inflation and the war in Ukraine, to a larger extent, and still obviously dealing with the after effects of COVID and the difficulties getting people back into the workforce. We know that people will reign in their spending and it is very likely that we will have a severe contraction of the economy and how we have got used to things over decades of growth which was possibly unsustainable in the situation – well it certainly is going to be unsustainable in the situation – as we are entering into it. It is going to be hard. It really is going to be hard but many Members of this Chamber will have experienced hard times and austerity before and we will navigate it again.

I do feel concerned about certain members of our society, younger members, who will not have experienced austerity, who will have grown up in much easier times and will have hard lessons to

2005 learn. But I think with some of the wisdom that hopefully older members of the community can impart to them about how to be more frugal with their money and make it last longer and go further, I hope that we can navigate the storms ahead which I think we have got to be realistic will be coming towards us.

2010 But, as I say, it was never a good time to introduce this other than I think that Deputy Roffey is absolutely right, pearls of wisdom: 20 years ago was the right time, we should have done it then, we did not. It has got to start somewhere and I will support him today.

The Deputy Bailiff: Thank you.
Deputy Moakes.

2015 **Deputy Moakes:** Thank you, madam.

2020 I will also be supporting this Proposition. We have known about the demographic time bomb for years. In theory this actually should have happened many years ago. A couple of people have said it is all about the timing and we should discuss things in order. Well timing is everything but that is usually in comedy; it is not always the case in reality. So this is a really difficult decision to make. It is not necessarily the best of times to do it but, frankly, nothing has really changed and we do not really know what might or might not change in the future. But we cannot delay forever. So something has to give and I think that this should be introduced and approved hopefully today.

Thank you.

2025 **The Deputy Bailiff:** Deputy Le Tocq.

Deputy Le Tocq: Thank you, madam.

2030 There are two sorts of timing, in my experience. One is to do with financial issues and whether it is affordable. When we delayed this from some months ago, it was debatable as to whether we would find a better time when people felt it was more affordable than not. In my experience, this is a matter that goes back at least 10 years and I remember former Deputy Alastair Langlois having a long discussion about how this might be implemented.

2035 However, I do believe it was not a good time to debate it earlier, because the other type of timing is when the penny drops, politically, and particularly in this Assembly, and we realise we really do need to do so. And the penny is beginning to drop on a number of issues and I believe this is one. We have got to press ahead with this today. I urge people to vote for it.

The Deputy Bailiff: Alderney Representative Snowdon.

2040 **Alderney Representative Snowdon:** Thank you.

2045 I will just be very brief. Just to say that Policy & Finance fully supports this and I would also like to thank the Civil Service for coming us to Alderney and giving the presentations – it was really good – to our community, and the members and also the Deputies coming up and I think we do have to take this step and urgently move forward with this. There is some concern about how much money we are taking out of people's pockets but I think that is probably for the January debate with the tax review but this we have to push forward with.

And thank you very much for the support you have given Alderney.
Thank you.

2050 **The Deputy Bailiff:** Deputy McKenna.

Deputy McKenna: Thank you, madam.

2055 Well, it is obvious this looks like it is going to go through on a landslide because I have been told obviously the situation has changed. Well since Deputy Meerveld brought the sursis things have changed. The Governor of the Bank of England has said we are in the worst recession in history.

2060 What has changed is, when Deputy Meerveld brought the sursis I think the mortgage rate was around about 2.23%. now there was a boast today in media saying, 'it is going to drop below 6%. it is 5.95%.' There are members of our community that, as has been pointed out, maybe live slightly beyond their means, where they are now bringing their children out of private education because they cannot afford it. And with the increased mortgage rate, some are having to find an extra £25,000 or £30,000 a year. They have not got it. Food has gone up unbelievably, where I hear some mothers particularly who do the shopping, say maybe up to 50% more. So electric has gone up, oil has go up, gas has gone up.

2065 The disposable income of our community is crippling so to say the situation has changed, yes, it has traumatically changed: it has got worse. So it is all great, us standing here today and saying, 'Secondary pensions, yes, we need that. You can opt out.' Where do you expect a lot of our community to find the money because they are already literally crying and in desperation and saying, we have no money? That is the problem. They are worried about the continued increase of the cost of living. Well, we have a generation, including my children, who are saying, 'We are off.' I said, 'Where are you going?' They said, 'Well we cannot afford to live in the Island that we were born.'

2075 So you can put your secondary pensions on and you can put your proposals for GST on because there is going to be a community here that are going to be no longer living in Guernsey where they belong, where they were born. And so you can all congratulate yourselves over a nice lunch, wherever you are going, and say, 'We got it through.' So good luck to you. I will be voting against it because I am voting for the generation that is coming that cannot afford to live here as we are. Do secondary pensions need to come in? Absolutely. Deputy Roffey is right. It does need to come in but not at this time.

2080 Thank you.

The Deputy Bailiff: Deputy Matthews.

Deputy Matthews: Thank you, madam.

2085 Like Deputy McKenna, I recognise all of the cost of living issues that are facing people in the Island. They really are acute and it really is a problem where many people simply cannot afford to live in the Island. It especially affects young people. I will be supporting the Proposition because I think people who work do need to have the option to be able to have a pension available for them and there is never going to be a good time. It is never going to be a time where you think well everybody has got plenty of money, we can do what we like.

2090 We need to introduce this. We need to give people the option for it but we cannot forget about the very difficult times that people are facing and that we have this demographic challenge where people are leaving the Island. And many of the people who will be signing up to this pension will not be in the Island to claim it because they will be leaving the Island because they just cannot afford to live in the Island. That is the primary thing. That is the most important thing that this Assembly needs to address because that is an existential issue for the Island. It just cannot continue in the way that it has. But I will be supporting the motion and the secondary pensions because I just think the people who work need to have the option for a secondary pension.

2100 Thank you – **(The Deputy Bailiff:** Deputy –) I will give way to Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: I just want to clarify – I think this was also brought up by Deputy Blin – if a worker works in Guernsey and contributes to the pension, if that person leaves the Island, they are still entitled to claim the pension wherever they will be based. So if they go and live in Timbuktu, as long as the Your Island Pension Scheme still contains your details, you will be able, post retirement, official retirement age, to still claim those benefits. So the pension is not lost if you leave Guernsey. So I just thought it was worth contributing.

The Deputy Bailiff: Thank you. Deputy Matthews.

2110 **Deputy Matthews:** I thank Deputy Kazantseva-Miller for that point about the operation of the pension and being able to claim it even if you are not resident in the Island.

I think the point I was making was more a rhetorical point about the number of young people leaving the Island than the operation of the pension scheme, but I thank Deputy Kazantseva-Miller for that point.

2115 **The Deputy Bailiff:** Deputy Oliver.

Deputy Oliver: Thank you, madam.

2120 I actually listened to Deputy McKenna's speech with real interest and I do understand where he is coming from. However, I also think the most powerful thing that I actually saw with the secondary pensions presentation was the amount of money that you could accrue over time – so if a 40-year-old started their pension now as to a 20-year-old – and the end results were absolutely staggering and I could not believe the difference that 20 years of paying into a pension could actually make at the end.

2125 I think, as hard as it is, that actually we do need to start thinking about our future because if we think it is tough ... and it is tough now and I completely agree with you. My food bill has gone up at least 50%. I have got three children. Childcare is an absolute nightmare and, to be honest, with interest rates, my bank rate has just gone up because unfortunately it came to an end this term, so I am paying an extra £1,000 per month which is difficult to find. However, I also realise, if it is difficult now, what is it going to be like in 20, 40, 50 years' time when I do not have any pension to rely on and I am saying to the States, 'Oh, is there any pension?' because there 'ain't gonna' be one in that time. It is not going to be there.

2130 So I would prefer to have it hard now to know that it might not be as hard in the future. So that is why there is never going to be the right time for this. There are always going to be obstacles in its ways. I just think that actually unfortunately we all just need to tighten our belts and put some money aside for the future.

2135 **The Deputy Bailiff:** Deputy Roffey, would you like to reply to the debate?

Deputy Roffey: I would indeed.

2140 I thank Deputy Ferbrache for his support.

Deputy Queripel said employers cannot opt out. That is true but their contribution level under the YIP, even in eight years' time when it is fully worked up is going to be really very modest compared with most occupational pension schemes.

2145 Deputy Dyke says he is pleased to be able to agree with me for once. I agree. I think that is good that he agrees with me for once and I hope it may be habit forming.

Deputy Blin is quite right as this is not necessarily an imposition on small employers; many good small employers really want as part of their package to offer a pension, but the existing products are not necessarily suitable for those small employers. This very simple and easy-to-administer scheme will really be opening up that possibility for them.

2150 He also raised the point, I think, at some stage during debate about people who are here for a short time. Well the employers can defer up to three months, allowing their employees to opt in, but if somebody is here for three or four years, it would be their choice. If it is all about optimising their earnings then and maybe to do something back home – maybe a worker from Africa or somewhere that really wants to buy a house – they can opt out.

2155 Also, Deputy Kazantseva-Miller is absolutely – sorry, I am trying, I really am; *Kazantseva-Miller*, is that any better? – is quite right, that they can either transfer it to another scheme when they leave or they can just leave it there and get the – when they reach 65 years old or whatever age it is – access to their benefit.

2160 Deputy de Lisle says that this will be a burden on businesses. Well, I do not know. And he is also worried about the amount of money that is going to be taken out of spending power. The logical

extension of that, if we are really worried about not enough spending power in our community, is that we should scrap tax relief on existing occupational pension schemes, because that tax relief encourages savings and it reduces the immediate spending power in the shops of St Peter Port.

2165 But if we are not going to do that – and we are not because we think that it has always been a very good thing – why would you not want to open it up to people who do not have current access to occupational pension schemes? We have to have a level playing field here. What is sauce for the goose has to be sauce for the gander.

2170 He was the first to talk about this being an incredibly bad time. But as I explained in the opening, it is an eight-year [*inaudible*] period. What has changed between now and when we debated it six months ago? One of the things that has changed is that the forecast then – now they proved to be all too true – was for spiralling inflation rates.

2175 Forecasts are forecasts and they are not certain to happen, but all of the forecasts now are for the second half of next year, a very considerable drop in interest rates ... sorry, inflation rates – and interest rates but inflation is what I am talking about – down to way below where it is at the moment. So when we are talking about an eight-year introduction, we cannot just say what is happening today and say it is a bad thing to do.

2180 Deputy Meerveld talked about the tax debate. Well, I we are all in purdah so I am not going to give anything away, but I do not think it is too much of a plot spoiler if I say that actually a lot of the people who would benefit from secondary pension schemes who are households who are on the lower half of the income scale. And we know the message from P&R throughout is that they are actually trying to, as far as possible, ensure that under the tax proposals, those are the households that will actually be better off in future than they are now. So I do not think that is a particularly strong argument.

2185 Deputy McKenna, I say to him through you, madam, nobody is going to be forced to do this. If they really cannot afford to put food on the table or keep their house warm, they will opt out. I hope as many people as possible do not because they would be forgoing tax benefits, foregoing assistance from their employers but they will not be forced to do so. So to make it sound like we are somehow putting the last brick on the back of people who are crying as they go down to the ferry because they have to leave, we are not. It is entirely voluntarily for employers.

2190 But I do agree with Deputy Kazantseva-Miller that actually the presentation that we had – and we were really lucky I think to get the CEO of NEST, a very high power person to come across to the Island – shows that actually people do – once they get the idea – prioritise this sort of saving in all economic weathers because they realise that sticking with it is entirely sensible.

2195 I will just say that, yes, people can opt in and out but of course there are restrictions on that because it would not be fair on employers if they could just do it at the drop of a hat. So we are talking about once a year that they are actually able to do that.

2200 I am not going to go on, (a) because it is lunchtime, and (b) because I am getting the message that there are a few people here who just think it is the wrong time to do anything. But I am absolutely sure and I am delighted that the vast majority are going to put this through because I think this is going to be one of the biggest strides forward in social policy. We have talked about it for 10 years. People on the left and right have supported it. It is right to credit Deputy Alastair Langlois, who I think was really the brains behind this concept that we ... Oh, sorry, and Deputy Brouard of course who was equally pestering P&R back then, so I will credit them as well.

2205 But this is going to be an enormous step forward in social policy. Yes, we will not notice it next year. Yes, we will not notice it in this political term or the next political term, but our children and grandchildren will really thank us for this. So I thank all of those Members who I am sure are going to vote in favour.

The Deputy Bailiff: Thank you.

2210 There has been no request to separate up the five Propositions, States' Greffier, so would you start the voting on all five Propositions, please.

Carried – Pour 34, Contre 4, Ne vote pas 0, Absent 2, Did not vote 0

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

2215 **The Deputy Bailiff:** There voted Pour 34, Contre 4, and of course there are 2 absences. So therefore I declare the outcome as the Proposition has been passed – all five Propositions.

**Procedural –
Order of business**

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Yes, madam Deputy Bailiff.

2220 Before we go off for lunch, can I make a procedural motion to move Item 7 up to be debated next? It just makes absolute logical sense to me while we are dealing with secondary pensions to deal with the legislation that is also on the Order Paper for today.

The Deputy Bailiff: Thank you, Deputy Roffey.

2225 Members, you will see at Article 7, on the third page of the Order Paper, there is the legislation in relation to this Proposition you have just passed. And so Deputy Roffey is asking for a motion that that be brought up so that will be the next item that we will debate, imposing itself between the Propositions we have just passed and the review of the Children Law and outcomes.

2230 This is an aux voix vote, so those who support the motion to move that matter say Pour ; those against. The motion is passed. Therefore, on our return, we will be debating Article 7.

Thank you. We will see you all at 2.30 p.m. We adjourn for lunch.

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

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

7. The Secondary Pensions (Guernsey and Alderney) Law, 2022 – Proposition carried

Article 7.

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Secondary Pensions (Guernsey and Alderney) Law, 2022", and to authorise the Bailiff to present a most humble petition to His Majesty praying for His Royal Sanction thereto.

The States' Greffier: Article 7, the Committee for Employment & Social Security, The Secondary Pensions (Guernsey and Alderney) Law, 2022.

2235

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Thank you, madam Deputy Bailiff.

2240 I have very little to say on this. It is simply just putting into law what we have just decided on the other side of the lunch break.

2245 The only thing to do I suppose is to explain how comes the Law is ready to go when normally we have a policy letter and then we draft the legislation up following those drafting instructions. And the answer is, actually, all of the ideas for a secondary pension scheme were passed at policy letter stage a long time ago. Really the only reason it has had to come back again is to change the provider and therefore a slight change in the governance mechanism as well. So the legislation was effectively already drafted.

You overwhelmingly passed instructions that would have led to this legislation. You have got it super quick and I suggest that Members now vote in favour of the legislation.

2250 **The Deputy Bailiff:** Deputy Trott.

Deputy Trott: Thank you, madam.

2255 I rise primarily, and entirely actually, to declare an interest. Two of the businesses that I have an interest in may end up providing secondary pension administrative services.

The Deputy Bailiff: Thank you.

If nobody else wishes to speak in debate – I presume you do not want to reply to Deputy Trott – then, Greffier, would you open the voting on Article 7, Secondary Pensions.

2260 Carried – Pour 33, Contre 2, Ne vote pas 1, Absent 2, Did not vote 2

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

The Deputy Bailiff: In relation to the legislation for Secondary Pensions, there voted Pour 33, Contre 2, there was 1 abstention and there were 4 absences. Therefore, I declare that the Proposition has passed.

COMMITTEE FOR HEALTH & SOCIAL CARE

3. Review of the Children Law and Outcomes – Debate commenced

Article 3.

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Review of the Children Law and Outcomes, dated 19th August 2022, they are of the opinion:-

1. To agree that the family care and justice system should be improved to reduce delays in determining outcomes for children and to remove duplication within the system and that these improvements will be delivered through amending the Children (Guernsey and Alderney) Law, 2008 ("the Law"), as set out in Propositions 3 – 20 below and through changes to be made by all agencies operating within the system.

2. To agree that the policy principles underpinning the family care and justice system agreed by the States of Deliberation in 2004 ("the 2004 policy principles") and set out in the Law, remain valid.
3. To direct that the Law and the Children (Miscellaneous Provisions)(Guernsey and Alderney) Ordinance, 2009 ("the Children Ordinance") should be amended, as set out in paragraphs 6.4 – 6.6 of the Policy Letter, so that the Law includes the duties of the States of Guernsey currently set out in the Children Ordinance, provides for the details of the duties to be set out in secondary legislation, and provides greater clarity on the duty on the Committee for Health & Social Care to investigate where compulsory intervention may be necessary.
4. To direct that the Law should be amended, as set out in paragraphs 6.7 – 6.14 of the Policy Letter, to better reflect the 2004 policy principles relating to the 'duty to co-operate', so that the duty to co-operate is applicable to all agencies when assisting children and their families who are in need of help.
5. To direct that the Law should be amended to include a Commitment to Safeguarding, as set out in paragraphs 6.15 – 6.19 of the Policy Letter.
6. To direct that the Law should be amended to enable cases to be remitted from the court to the Child, Youth and Community Tribunal in appropriate cases, as set out in paragraphs 6.20 – 6.22 of the Policy Letter.
7. To direct that the Law should be amended to empower the court to retain and dispose of cases where it determines the facts on referral from the Children's Convenor, in appropriate cases, as set out in paragraphs 6.23 – 6.26 of the Policy Letter.
8. To direct that the Law should be amended to enable the Child, Youth and Community Tribunal proceedings to be paused or stopped when a Community Parenting Order application is being made to the court, and to avoid concurrent proceedings in these instances, as set out in paragraphs 6.27-6.29 of the Policy Letter.
9. To direct that the Law should be amended to place an obligation on relevant responsible adults to attend hearings of the Child Youth and Community Tribunal, unless excused or where their attendance is not considered necessary, and to confer a power on that Tribunal to fine those who fail to attend without a valid reason, as set out in paragraphs 6.30 – 6.39 of the Policy Letter.
10. To direct that the Law should be amended on the basis set out in paragraphs 6.40 – 6.43 of the Policy Letter, to:
 - a. Require the Committee for Health & Social Care to notify the Children's Convenor within a defined timescale when it has made an application to court to remove a child from its carers;
 - b. Require the Child, Youth and Community Tribunal to notify the Committee for Health & Social Care within a set timescale if a case it is considering passes the threshold for a court order; and
 - c. Prohibit the Children's Convenor, on being notified, from undertaking any investigation or action in relation to a case, unless the Children's Convenor has evidence or information that might be relevant to the case that should be disclosed.
11. To direct that the Law should be amended to remove the requirements for applications for adoption and special contact orders to be notified to the Children's Convenor, as set out in paragraphs 6.44 – 6.47 of the Policy Letter.
12. To approve the changes set out in paragraphs 6.48 - 6.84 of the Policy Letter, in relation to the legal orders and order thresholds, and, for the purpose of giving effect to those changes, to direct that the Law should be amended to:
 - a. Provide for separate legal thresholds for referrals to the Children's Convenor and legal orders made by the Child, Youth and Community Tribunal, and the court;
 - b. Confer power on the court to make a 'Supervision Order' placing a child under the supervision of the Committee for Health & Social Care while the child still lives in the family home (or is placed with a relative);
 - c. Confer power on the court to make a 'Child Assessment Order', including providing for the court having the power to treat the application as one for an Emergency Child Protection

Order if the application for the order is not complied with by those with parental responsibility for the child concerned;

d. Introduce new threshold criteria for making a Community Parenting Order ("CPO");

e. Make such further amendments to the provisions in respect of CPOs to ensure they are consistent with the revised threshold criteria and the purpose of the order as envisaged in the 2004 States Report;

f. Introduce statutory criteria for the making of an interim Community Parenting Order in line with the amended test for the CPO;

g. Remove the provision that a Parental Responsibility Order is automatically discharged by the making of a CPO; and

h. Remove the provision that an Emergency Child Protection Order is automatically discharged when the Child, Youth and Community Tribunal first sits to consider the child's case.

13. To approve the changes set out in paragraphs 6.85- 6.102 of the Policy Letter, and, for the purpose of giving effect to those changes, to direct that the Law should be amended to bring the thresholds for making an Emergency Child Protection Order and an Exclusion Order, and the exercise of Police Powers (to protect a child), in line with comparable jurisdictions, including consequential changes in respect of Recovery Orders.

14. To direct that the Law should be amended where it relates to care requirements, as set out in paragraphs: 6.3; 6.103-6.118 of the Policy Letter, to:

a. Replace the term 'compulsory intervention' with 'care requirement' in the new threshold criteria for the Children's Convenor and Child, Youth and Community Tribunal;

b. Clarify the purpose of making a care requirement with the intent that it is used only in cases where there is a reasonable prospect of positive change, so that the child can either continue living within the family or be reunited within a relatively short period;

c. Remove the requirement that "there is no person being able or willing to exercise parental responsibility..." from the list of conditions that form part of the threshold for both the temporary intervention of the Child, Youth and Community Tribunal through a care requirement and the more permanent intervention of the court through the making of a CPO;

d. Rename the 'conditions' for a care requirement as 'grounds'; and

e. Update the list of such grounds as set out in Appendix G; and f. Remove the 28-day review requirement for renewal of a care requirement and establish a requirement for a review at a minimum of six months in its stead.

15. To direct that the Law should be amended to enable the involvement of Family Proceedings Advisers pre-proceedings where required for the welfare of the child, as set out in paragraphs 6.119-6.123 of the Policy Letter.

16. To direct that the Law is amended, as set out in paragraphs 7.22-7.25 of the Policy Letter, to reflect changes to the names of the statutory agencies as follows:

a. The Safeguarder Service to be known as the Family Proceedings Advisory Service;

b. The officers appointed as Safeguarders to be referred to as Family Proceedings Advisers; and

c. The 'Islands Child Protection Committee' to be known as the 'Islands Safeguarding Children Partnership'.

17. To direct that the Law should be amended to provide greater clarity as to its legal effect and intention in relation to information sharing, including the ability to capture and share information, between relevant agencies, relating to improving the welfare of the child, in line with the Data Protection (Bailiwick of Guernsey) Law, 2017, as set out in paragraphs 6.124-6.130 of the Policy Letter.

18. To note the establishment of Information Sharing Protocols, and to direct all relevant responsible Committees to ensure these are maintained and complied with.

19. To direct that the Children (Consequential Amendments etc) (Guernsey and Alderney) Ordinance, 2009 be amended so as to include persons who have care of a child but do not hold

parental responsibility within the scope of the child cruelty offence in the Loi ayant rapport à la Protection des Enfants et des Jeunes Personnes 1917, as set out in paragraphs 7.26 – 7.28 of the Policy Letter.

20. *To agree to amend the Children Ordinance as set out in paragraphs 7.3 – 7.21 of the Policy Letter, to:*

- a. Ensure the relevant sections are referred to in the Law;*
- b. Enable the Children’s Convenor to suspend part of the conditions of a CR;*
- c. include a power for the Tribunal, to adjourn a CR hearing and make an interim variation of a CR;*
- d. Introduce a power for the Convenor to transfer a case to Her Majesty’s Procureur;*
- e. Amend the terms and conditions of the appointment of the President of the Tribunal;*
- f. Include an additional power for the Convenor to withhold information to protect any person from harm;*
- g. Recognise a wider range of family members as a party to proceedings, irrespective of their existing parental rights and responsibilities;*
- h. Grant discretion to the Tribunal to recognise wider persons who have had significant involvement in the child’s upbringing as parties;*
- i. Enable the Convenor to make the decisions in relation to parties who can attend at the Convenor’s Meeting, subject to a suitable right of appeal being established; and*
- j. Removal of upper and lower age limits for Tribunal member appointments.*

21. *To direct the Committee for Health & Social Care, in consultation with other relevant Committees, to scope the requirements of phase 2 of the Review Children Law, including the resource requirements, for consideration for inclusion in the 2023 Government Work Plan.*

22. *To direct the Committee for Health & Social Care, in consultation with the Committee for Home Affairs and the Committee for Education, Sport & Culture and all relevant agencies, to review operational procedures to ensure proportionate monitoring and reporting that will assist in determining the effectiveness of these changes on the family care and justice system and outcomes for children, as set out in section 9 of the Policy Letter.*

23. *To direct the Policy & Resources Committee to co-ordinate the work of the Committees for Employment & Social Security, Health & Social Care and Home Affairs, to:*

- a. Frame and commission the review of the legal aid service set out in the Government Work Plan to also give due consideration to the systemic issues relating to the availability of Advocates and the use of alternative dispute resolution including mediation in the family care and justice system; and*
- b. Scope the resourcing requirements to respond to the recommendations of the review, for consideration for inclusion in the 2023 Government Work Plan.*

24. *To direct the Committee for Health & Social Care to establish a cycle of independent reviews of the family care and justice system, no less than every three to five years, starting from 2025, or a year after the commencement of the amended legislation, whichever occurs sooner.*

25. *To direct the preparation of such legislation as is necessary to give effect to the above decisions, including any necessary consequential, incidental or supplementary provision, and engagement with the court as to possible Practice Directions.*

2265 **The States’ Greffier:** Article 3, Committee for Health & Social Care, Review of the Children Law and Outcomes.

The Deputy Bailiff: Deputy Brouard.

2270 **Deputy Brouard:** Thank you, madam.

On behalf of the Committee for Health & Social Care, I am delighted to present to Members today a suite of proposals seeking much needed improvements to parts of our Children Law. Unfortunately, I am presenting it this afternoon. Our Vice-President who was going to be presenting

2275 it, who was part of the Children and Young People board, unfortunately cannot be with us today and would have been, I think, honoured to have brought this to the States.

The Committee is grateful to the Assembly for recognising and giving this important work visibility and resources through its prioritisation in the Government Work Plan as a top ten action.

2280 I do wish to thank Deputy Bury for leading this work on behalf of the HSC Committee and the other Members of the cross committee Children and Young People board who looked at this important and complex work. That is Deputy Le Tocq, the Chair, and Deputies Aldwell and Haskins. I cannot thank them enough. These things take a lot of time to do and it is out of a busy day so I do thank them for their time that they have put in and they have steered this important complex work all of the way through. (**A Member:** Hear, hear.)

2285 I would also like to thank the committees and their supporting officers who have been helping with this work. I also want to thank those who have actively contributed to the proposals whether through the recent impact assessment, wider test and challenge or their engagement with the different reviewers or the committee's own consultations in 2019. It has been a collective effort, resulting in a suite of inter-related proposals which are specific to our unique model of family care and justice.

2290 Particular thanks goes to the Youth Forum and their representatives who were able to provide essential input from a young person's perspective and openly share examples of first hand experience, which I believe members of the board found insightful and invaluable.

2295 This will be slightly a double act today because we have the benefit, at least until later this afternoon, of Deputy Le Tocq who chaired the board so he will help in answering some of the questions that we may have put forward.

Turning to the proposals in front of Members, it is important to note that these proposals focus on addressing the primary objective of removing unnecessary delays from decision making in the lives of some of our most vulnerable children and where the States intervenes into their welfare.

2300 The changes also address areas where improvements can be made to smooth the workings of the Family Care and Justice System to improve the well being of children and their families. It is important to be clear that these proposals are improvements to a system that works for the majority and are not major reforms. These proposals align to the underpinning principle of the law which puts the child's welfare at the centre of all decision making.

2305 The 2004 reform's intentions were on which the law is based and the international obligations that we must meet for human and children's rights. The Children Law has now been in place for 12 years. The 2004 reforms were substantial, progressive and created a system unique to Guernsey and Alderney's needs. These reforms tailored certain aspects of the different English and Scottish systems to fit our purposes and our community's values. It was not a copy and paste of each part of the two systems.

2310 The 2004 reforms moved us away from a solely court based process to one which introduced a tribunal approach to work with and support families. And this will happen much sooner allowing courts to manage any emergency child protection situations and more permanent and longer term arrangements for children, such as adoption.

2315 It has been widely recognised that while the current system works for the majority of children, certain improvements have been needed for some time, particularly in the more complex cases which although small in number can have very significant and long lasting implications on the children and families involved.

2320 Most of the changes set out for Members considered today will impact very few children, but they are some of the most vulnerable children, so it is imperative that these changes are taken forward for their benefit without further delay. We know that unnecessary delay occurs in making decisions for children's welfare, as has been recognised by several reviewers of the system since 2015. And that collective response to this issue by Government and all but those involved is needed. The formative Norgrove Report in 2011 evidences clearly how detrimental delay is to children in these circumstances.

2325 The proposals before Members today have been informed by extensive consultation and engagement with *all* the agencies and practitioners who operate in these parts of the system, by several experts, independent reviewers and those with direct experience of our family care and justice system since 2010.

2330 These changes are not about copying or favouring either the Scottish or English approaches over the other, but to draw on those jurisdictions' collective experience and our own to address the needs of our children and their families.

2335 The majority of practitioners have told us that enhancing the system through these improvements will enable them to work more closely together earlier in the process to make it more efficient and to help to remove delays. Members will be aware there are some strongly held views in some areas on some of these proposals. We know as we have been told directly through, for example, the consultation responses and the separate briefings to Members provided by the Convener & Tribunal Board.

2340 This candour and openness is very much welcome by the committee as it was the test and challenge that these discussions provided. In my view, this has resulted in a much more regular set of reasons to support the changes put forward. But it is important to take into account all views of those working in this area. Social workers, families, courts and not just one specific part. The committee remains of the view that the impact of these changes proposed have been thoroughly tested with practitioners and can, in the main, be achieved within existing resources. In fact, changes in some areas have already been made, such as the filling of social worker vacancies and the restructure of the social work teams, and I commend those who have been able to progress these improvements alongside the other demands on their time.

2345 Capacity has been an important point to consider and it is expected that communicative effect of the changes will free up capacity as it streamlines steps and processes and it will improve clarity and understanding of how the system works. This will result in reducing delays in decision making in many more cases than currently.

2350 The changes aim to provide more flexibility through the introducing of new decision making tools and refining existing tools to enable a more tailored approach to be taken for each child while ensuring suitable safeguards are in place, all in line with the underpinning principles of the Law which align to our human and child rights obligations.

2355 Madam, the majority of the decisions in front of Members today, if approved, will address the main reasons for unnecessary delays in determining the outcomes of children and where State intervention is required, regardless of whether those interventions are temporary, more permanent or ensconced to an emergency situation.

2360 The first two Propositions ask Members to agree the objectives to be met in this phase of the work and how they will be delivered and confirmation that this Assembly agrees with the original policy principles of 2004 which underpin the system today.

2365 The objectives and principles are the framework within which the proposals before you have been assessed and only those that align have been put forward. The committee and the Young People's Board are of the view that the policy principles remain valid and appropriate for our unique system that fits our, and Alderney's needs as well, as well as modern best practice and the ambitions of Union Nations Convention on the Rights of the Child.

Propositions 3 to 20 relates to specific amendments of the Law with the exception of Proposition 18 which asks that the intentions to establish information sharing protocols. It is noted and directs all committees involved to take these forward.

2370 The information sharing protocols will include consideration of what information can be shared, when and how and with whom, in line with the Law and data protection. In establishing these, other matters to be notified to the Children's Convener, not already considered, will be looked at in detail and any required changes taken forward.

2375 The remaining Proposition 21 onwards directs the committee to work with other relevant committees in the next phase of the work establishing a proportionate approach to monitoring,

introduce a regular independent review cycle along with informing the inter-related actions to review the legal aid system and draft the necessary legislation.

2380 In presenting these Propositions to the Assembly on behalf of the committee, I want to reiterate and urge Members to put the welfare of children in Guernsey and Alderney at the centre of their decision making and to remember that any unnecessary delays in this system could be significantly detrimental to their well-being.

2385 While detailed and complex, this suite of inter-related changes to the Law are seen as the most appropriate and effective set of changes to remove unnecessary delays, to provide more clarity in some areas and enable better collaborative working, to ultimately improve the welfare of those children who come into contact with the system.

But this is by far the end and more work is needed to ensure that these changes are implemented and the recommendations not yet to be considered are also taken forward. This, in my view, is an excellent start and puts the programme of working ahead on a strong footing, whilst focusing on the most pressing areas to improve outcomes for the most vulnerable children.

2390 There are several amendments and I hope Members have got the committee's position on the amendments and I think that might be helpful as we work our way through.

Madam, I commend the policy to the States.

The Deputy Bailiff: Thank you, Deputy Brouard.

2395 Deputy Roffey, Amendment 1 is your amendment. Would you like the States' Greffier to read the amendment?

Deputy Roffey: No thank you. I think Members have had it for quite a long time now.

2400 **The Deputy Bailiff:** Thank you, yes. Please go ahead.

[Amendment 1](#)

1. To delete proposition 7 and substitute therefor: "7. To direct that the Law should be amended to empower the court to make an interim care requirement where it is seized of a matter further to a referral for determination from the Children's Convenor."

Deputy Roffey: Thank you.

2405 I am actually laying three amendments and seconding one proposed by Deputy Brouard. I will not be laying Amendments 3, 4 or 5 after helpful discussions with Heath & Social Care which has allowed us to move a bit closer together.

2410 Madam, before focusing specifically on the first of these amendments, I would like to make a few generic comments about my reasons for laying all of them. I hope that you do not actually deem this, this sort of scene setting comments, to be my general speech on this policy letter, but I am willing to take that risk because none of these amendments will really make any sense at all without first setting out the context.

2415 The first thing to say is that I really welcome 95% of the contents of this policy letter and the attached Propositions. I have got a really deep interest in this subject. As President of the then HSSC, I shepherded the current Children Law through the States and for various reasons that some Members will be aware of, I was both enormously emotionally and intellectually invested in the vast amount of policy work which led up to the policy letter resulting in that Law.

2420 It was a seismic step forward in this area of legislation and in social policy within our Island. Of course, it can be improved further, and that is why I am so supportive of this policy letter and I warmly congratulate those who have worked on it over the scale of the task that they have completed or at least have partially completed. Just as Deputy Brouard said at the end, there is more work still to be done. I also compliment them on their level of consultation and compromise but there are a few details that I simply cannot agree with.

2425 Both as part of the work I did back then and from watching the system in action since, I have come firmly to the conclusion that in all but the most extreme situations, the tribunal system has several inherent advantages over a court setting for making decisions about children's lives. Firstly, it is simply less intimidating to most families. I know our courts do their level best to overcome this issue but I am afraid it is inherent in the court system that the level of anxiety does tend to be much higher than in a tribunal setting.

2430 Secondly, partly because of this but also due to the structure of procedures, families including extended families are far better able to engage and explain their own views over what should happen within the tribunal system.

2435 Thirdly, the tribunal can take a much wider view, one which goes way beyond the set of circumstances which gave the immediate cause for concern. It can take a real holistic look at a child's life and therefore can be much more flexible than a court. It can convene at a time that is convenient for working parents and for school age children and, perhaps most importantly, it can monitor ongoing progress to make sure that the arrangements that are in place for the child and family are having the desired effect and if they are not, modify them.

2440 Everybody's life, including those of children, are complex mosaics and they need to be seen through a very wide lens indeed. And frankly, no amount of court reports can compete with the tribunal's ability to do just that.

It is not just me that realises the advantages of the tribunal system over the court system when considering the lives of children. I was speaking to a former Bailiff just the other day who had spent a lifetime in court settings and told me he was astonished when he first attended a tribunal sitting to see what they could do that a court could not. And I believe that he has actually written to all Members in the last 24 hours.

2445 Fourthly, less importantly but still a very material factor, is that the use of tribunals over courts significantly reduces expenditure in two ways. Courts are very expensive to run; tribunals are very cheap to run. And secondly, it reduces expenditure on legal aid. So any significant 'recourtifications' if there is such a term, of Guernsey's Children Law, will inevitably drive up costs.

2450 So, in short, what I am trying to do is maintain the principle first agreed by this Assembly back in 2004, that the court's role should be restricted to making orders for a child's permanent removal from their family. And I know that we all hope that those instances will be as rare as possible. But the best body for other compulsory interventions in relation to children within a family setting should be the tribunal, for all of the reasons that I have just mentioned.

2455 I have got to honest, my main worry with these proposals is that they do involve a small but potential creeping movement back towards a greater use of courts. And my main worry about that possibility is not actually the financial impact, real though it would be; no, my biggest concern is that we might slip backwards from the huge stride forward we took in the noughties.

2460 Members will be aware, or I hope they will, that I am not usually given when speaking in this Assembly to being over nationalist. Not part of my make up. But on this occasion, I want to state unequivocally that the legal system in Guernsey for making decisions about children and young people, is light years better than that in England and Wales. So why would we want to regress, even by a small amount, back towards the English system?

2465 Now, I genuinely thank HSC for engaging with Deputy Burford and I, and I think that as a result of the compromises reached, that regression will be lessened, but it is still going to happen to an extent. Incidentally, the Guernsey Law is also far better than the Scottish law. It may have some common features, but as Deputy Brouard has rightly said, it is no copy and paste job from Scotland. It was drafted in Guernsey, incidentally by a none voting Member of the Assembly who is in the Chamber today. And it was drafted for Guernsey. There was no copying or pasting from elsewhere.

2470 It is better than any equivalent legislation anywhere else in the British Isles and by some distance. It is not just me saying that as a lay person. I refer Members to the comments of Professor Marshall when reviewing the implementation of the Law in 2015. And to paraphrase, she said, 'This Law is a really good one, so why don't you just get on and fully implement it?' She was right. That has been the real issue. Our superior system has been working and working pretty well, but it has never really

2475 been fully embraced as it should have been by some professionals in the field. Now, I know there
are a lot of reasons for that: the churn of social workers, perhaps more used to the English system;
perhaps inadequate induction with the stresses and strains on the children's services. The list goes
on. But that is what needs fixing. That is the problem and HSC assure me they fully recognise that
and they are absolutely committed to addressing it and I really thank them for that and I have no
2480 doubt that they are going to do it. So why then? This is surely a supremely bad time to regress
towards the expensive and less fit-for-purpose court-based English system when we are about to
make our superior system work at full tilt in the way that it always should have done.

So to draw my focus more narrowly down on Amendment 1. Sometimes the tribunal is accepted
by all concerned as the best place to make decisions about a child but it finds itself unable to
2485 proceed simply due to a dispute over facts. Now in those circumstances, a court does need to rule
on the facts because it is the right body to determine disputed facts. That is what courts do all of
the time. That does not, I repeat *not*, make it the ideal body to decide on the outcome, particularly
when the right outcome is not the permanent removal of a child from its family.

One of the key features of the current system is that it allows both the court and the tribunal to
2490 do what they do best: the testing of evidence and making a finding on undisputed matters. That is
things courts do every day. But once those facts are established, the tribunal's role is to decide how
to respond and what help and support the child and family need and what form this should actually
take. I am not saying that the court could not possibly make that decision. I am just saying that they
could not make it as well. And of course, how they will go about it would be entirely different.

2495 Proposition 7, which is what this amendment relates to, will not – read my lips, *will not* – remove
delay or reduce the time it takes to reach a final decision for the child. Why? Because once the court
has decided on the disputed facts, it would then have to adjourn to get the information it needs to
rule in a totally different mode on what the outcomes should be for that child. So the process, if
done properly, will take just as long.

2500 The Proposition assumes that the child and their family would prefer to return to the court rather
than be referred back to the tribunal to determine the best outcome. I have heard comments about
being bounced between systems. Well I very much doubt that. From my experience, I think the vast
majority of families would far prefer that an outcome was agreed inside the tribunal system.

2505 So, for all of the reasons I have explained, I think it is far better for all concerned, including
importantly the families and most importantly of all the child themselves, that the holistic approach
of the CYC tribunal can be applied to the decision about what needs to happen next. The tribunal
has the time to sit around the table with the family and those key individuals in a family's life. It
does this in an environment that is less formal than a court and where the language used is really
accessible to children and young people and where they are able to participate directly. And I am
2510 told that very many young people take this opportunity, participating in ways that might be difficult
to accommodate within the normal conventions of a court environment. I am told that this is really
where the magic of the tribunal happens in those conversations that take place around the table.
This amendment seeks to maintain this clear separation of the different roles of the court and the
tribunal. And maintaining that separation is entirely practical.

2515 Now some Members, not everybody but some Members, will have attended presentations by
retired Scottish Judge, Alan Miller, regarding this legislation. I first got to know Alan when he was a
consultant to HSSD on the introduction of the Law back in the noughties. And he has got a really
unique insight into these matters because on one hand he spent many years as a judge and on the
other hand he has also spent many years overseeing the Scottish equivalent of our tribunal system.
2520 So he has seen it from both sides of the fence. And he tells me without hesitation that in 40 years
of experience, he cannot think of a single case where a judge has expressed the opinion that the
court should have had the power to dispose of cases referred for the court to consider disputed
evidence rather than referring it back to the tribunal for disposal. And that is what Proposition 7 is
all about.

2525 So not withstanding that, Amendment 1 does recognise that in some cases the court's findings
may indicate a different level of risk to that assessed by the Convener or tribunal. And therefore

there could be benefit in the court being able to make an interim – I stress *interim* – order to cover the period from the end of the court hearing to the start of the tribunal hearing. This would mean that the tribunal would still make the final decision but it would avoid the need for any additional
2530 interim tribunal hearings while assessments were carried out or reports completed.

There is a lot of emphasis on speeding up processes in this policy letter and I agree that is very important. In fact, the main delays have not been in relation to this sort of situation under Proposition 7, they have more been about when you can refer the threshold for referring likely permanent removal situations to the court in the first place. And I will be supporting later on an
2535 amendment which allows that to speed up because I can understand the genuine case in that particular situation. But in this situation, as I have said, it will not speed it up. It will still need to wait for the reports to be drawn up if they are going to go on to make an order for a care requirement.

So referral back to the tribunal will not take any longer and I am convinced it has the best chance of achieving the best outcome for the child by using that holistic approach that the Children and Young People's Tribunal can bring to bear. And the best outcome for the child, as Deputy Brouard has said, is everybody in here's, everybody in the community's, I hope, sole priority. I am convinced that this amendment would help bring that about and I commend it to the Assembly.

The Deputy Bailiff: Deputy Burford, do you formally second the amendment?

Deputy Burford: I do, madam.

The Deputy Bailiff: Deputy Aldwell.

Deputy Aldwell: Thank you, madam.

We now have eight amendments before us today having lost some along the way. Oh heck. Oh no, sorry.

Deputy Gollop: Not the only thing lost along the way!

Deputy Aldwell: We will try again. Sorry about that.

So, madam, we now have eight amendments before us today, having lost some along the way and we start with Amendment 1 which HSC has laid a counter amendment in Amendment 8.

I shall not be supporting Amendment 1. Proposition 7 empowers the court to retain and dispose of cases where it determines the facts on referral from the Convener in appropriate cases. It will provide a more formal decision route for those cases where removal is an issue and where parties do not agree with a Convener's statement.

Amendment 1 replaces Proposition 7 to limit the power of the court, making of the interim care requirement only as opposed to a care requirement and interim care requirement and where a case is referred to the court for a findings of facts.

The whole point of this review was to see how the process could be speeded up as that would be in the best interest of children. This amendment does not minimise the number of times a case changes forum which can add to the time in disposing of the case, not shorten it.

Madam, I have been fortunate to have had a good overview of the Family Care and Justice System, having worked on the Justice Review and the Domestic Abuse and Sexual Violence policy letter in Home Affairs, working through the Education Law in ESC which has proved to be quite technical over the past year, alongside another technical piece which is the Children's Law Review lead by HSC which I represented Home Affairs on this cross committee working party with Deputies Le Tocq, Bury and Haskins.

Having been part of this process over the past year, with the opportunity to attend a full day workshop earlier in the year which was invaluable and I am sure Deputy Haskins would agree with me, having joined me for the afternoon session, the workshop involved judges, the Children's Convener, social workers, probation, FPAS, Children's Services, Director of Education, Head of Law

2580 Enforcement, Law Officers, a wealth of professional understanding from every area of the Family
Care and Justice Review. And I came away with a good understanding of the problems which they
face and how they could be tackled.

We also had advisors attend our meetings with the teams working on the front line. One of the
groups which made an enormous impression were a group of young people from the Youth Forum,
2585 some of whom have been through the process. They gave us a true insight into the process
difficulties and we were told about the number of postponed tribunal hearings. It is not until you
hear how someone's life has been affected time and time again when paperwork is not ready or a
key person does not turn up. But that young person has turned up. That young person has been
waiting many months and has turned up at the allotted time. We heard of their frustrations which
we have wholeheartedly taken on board. And when we asked how many adjournments had taken
2590 place, we heard on average over the past few years, 25% of the tribunals had been adjourned which
was confirmed to Deputies in a shared document from the Convener to all Deputies on Tuesday
afternoon.

We also know that unnecessary delays occur in all parts of this system which the court and
tribunal processes take on average of 42 weeks to complete, often much longer, even much longer
2595 which set the proposals in front of you today seek to address.

Madam, the conclusions of the board we have come to have not been taken lightly, and as we
have listened to all of the experts who work on the front line or have used the process, we have
worked methodically, line by line, through the process with officers and advisors and so have felt
confident in our judgement, putting the child's welfare at the centre of all that we do.

2600 Deputies, you have been given details of each amendment from HSC with the reasons why they
are supporting or not supporting a particular amendment.

I will not be supporting Amendments 1 or 11 and I would ask the Assembly that they are guided
by the direction given by Deputy Brouard and HSC with regard to all of the amendments.

Thank you, madam.

2605

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: All I would ask you, madam, is would it not make sense to deal with
2610 Amendment 8 at the same time because they are an alternative really. I hope that does not count
as a speech. But it seems to me that would be the best way of dealing with it. *(Interjection and
laughter)*

The Deputy Bailiff: Well that is very much for Deputy Brouard. It is something that had been
discussed about whether we start moving around the amendments to put one against the other.
2615 But I think the conclusion that the committee did come to was that they will just leave them as they
are but I am quite happy to move Amendment 8 after we have dealt with Amendment 1 if that is of
assistance.

Deputy Ferbrache: Well, can I speak then madam, if he is not going to move it?

2620

The Deputy Bailiff: No, no. I think Deputy Brouard is willing to deal with Amendment 8 and
Amendment 1 at the same time. Is that correct, Deputy Brouard?

Deputy Brouard: I think it would be preferable if we just carry on with Amendment 1 and then
2625 if Amendment 1 is successful number 8 can knock it out or will not be successful.

The Deputy Bailiff: Thank you, Deputy Brouard. Well, I am content to carry on with that. so we
will deal with Amendment 1 now and we will immediately afterwards deal with Amendment 8.

Deputy Ferbrache, are you now going to want to –?

2630

Deputy Ferbrache: I appreciate that but I am disappointed by Deputy Brouard's comments because he said if this amendment was successful, Amendment 8 could knock it out, and I think that is the last thing we want to do in the sense of ... Although I am a lawyer with lots of experience, I have got no experience at all of appearing before these tribunals. I have appeared before courts in relation to findings and fact hearings in matrimonial type situations rather than these situations and they are painful. They take forever, they cost a fortune. They are ... Deputy Trott is going ... but it is the last thing that you want. You really do not want it because you are dealing with human beings and you are dealing with children and young people and I do not know any lawyer or any judge that enjoys that. I certainly do not, in my experience. But I have got no experience of the tribunal.

I accept totally 100% what Deputy Roffey has said. What was created X years ago is a tremendous advantage over what they have got in England and Wales. And from, I attended the presentation and heard the professor speak and I also heard the judge speak and I was impressed by what those two people said.

But what concerns me though, and it is a concern, is the speed, because reading paragraphs 6.23 to 6.26 of the policy letter, what that says is the proposal, i.e. the current Proposition, the one that would stand in its place if it was not amended by either this one or Amendment 8, the proposal would see any cases appearing before the court to determine the facts on behalf of the Convener to continue to be disposed of by the court rather than the tribunal for the facts we have established. It could be achieved through providing the court with the power to make various orders with any necessary relevant conditions as is currently permissible in appeal proceedings from decisions at the tribunal.

In some instances, the case could be referred back. Now the way that it is sold to us is that in paragraphs 6.23 to 6.26, this would be quicker. And I am in favour of anything that would be quicker as long as it does not do an injustice to the families or to the individuals involved. And I do not believe it would do an injustice to them because the people who would be dealing with the instance, the particular matter before them, are all people of integrity and ability. So it is the speed element that I have got to say attracts me to keeping the current proposal.

But I thought Deputy Roffey made, and I do not praise him very often, an excellent speech and made very good points. So it is a difficult decision and I am at a loss because although I cannot speak about Amendment 8, I cannot put Amendment 8 out of my mind. And that talks about exceptional cases. So it seems to be a bit of a mishmash and I would like to hear ... what I do not want to do is vote out this amendment, which at the moment I might well do, and then we come in with Amendment 8 which seems to be contrary to the Proposition that is currently before the States in the proposal.

So I can only say I am disappointed with Deputy Brouard. I cannot. I am not often disappointed but I am disappointed by Deputy Brouard –

I give way to Deputy St Pier. I apologise.

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Madam, I am grateful to Deputy Ferbrache for giving way because I sense that he was moving towards conclusion and I wanted to try and draw out from him from the benefit of his experience, accepting that he says that he has not necessarily worked on these type of cases. But in particular, I was struck by the former Bailiff de Vic Carey's email to us all. And I wanted to put some of that to Deputy Ferbrache for his comment on whether it had any resonance with him when Sir de Vic Carey says to us that:

With all respect, the fact finding judge is not equipped to work through the details of what should happen in the future. Beware of the suggestion that this power will only be used in exceptional circumstances. Political intention cannot bind the judge in interpreting what his duties are. There is a real risk that a judge who has conscientiously sat through a lot of disputed factual evidence between the parties will consider himself best suited to take the case to conclusion.

2680 My question, madam, for Deputy Ferbrache, if he wishes to respond before he concludes his speech, is whether those words have any resonance and whether from his extensive experience over 40 – (**Deputy Ferbrache:** Fifty years. I am old.) X number of years?

Thank you, madam.

The Deputy Bailiff: Thank you. Deputy Ferbrache.

2685 **Deputy Ferbrache:** I very much respect Sir de Vic Carey. I have read the email he sent us all today or whenever it was. I very much respect his judgement in this particular matter and that sways considerably with me and there is great resonance in what he says. The only difference I may have – and as I say, I have not worked with a tribunal at all; I have got no experience at all of working with the tribunal system – is that ... but of course I have worked in the courts system in this
2690 jurisdiction for a mere 40 – how many years is it now? – 41 years, so it is a long time. And I have been involved in lots of these findings and fact hearings in relation to children etc. in that context.

There are so many decisions that take so long and a decision delayed ... There is the old thing, a decision made is ... and all that kind of stuff, it is justice not done and all that. But it is particularly applicable with children and young people. I do find this very difficult, I have got to be honest. I find
2695 this very difficult because although I considerably respect the judgement of Sir de Vic Carey in relation to this particular matter, or indeed generally, but in this particular matter, and I do resonate with the speech made by Deputy Roffey, I do not want any delay. That is the point I am really trying to make. I do not want any delay. That is the point I am really trying to make, I would rather ...

I want the proper decision made and I believe that the court could make the proper decision if
2700 it has all of the facts. Ideally, these matters should be dealt with as much as possible by a tribunal because people can sit round a table and confrontational ... I have made my living out of being confrontational – not psychopathic but confrontational! – in relational to litigation. I have made my living out of doing that and this is not the way to do it with these kinds of disputes. It should be a talk resolution of disputes, trying to bring together people to compromise things, and where there
2705 is not, and there has got to be findings and fact made they should be done.

It is the delay point that bears with me. So that is the best I can do.

The Deputy Bailiff: Deputy Inder.

2710 **Deputy Inder:** Only briefly, hopefully.

Deputy Roffey has obviously, with I think it was Deputy Burford ... or is likely to make her case to support Deputy Roffey's case. And it is often the case, Members, that in reality, very few Members have been ensconced in this process. Deputy Aldwell tells us that they have had hundreds of meetings, Deputy Brouard says he wishes Deputy Bury was here and Deputy Roffey is not entirely
2715 sure and equally most of us, or at least some of us have, been to a presentation by effectively, for want of a better word, the Scottish contingent of the tribunal who do not think it is as perfect as it should be.

Now only a couple of minutes ago, Deputy Ferbrache believed that Amendment 1 and Amendment 8 should be combined. Deputy Brouard says he is happy for it to carry on as it is. So
2720 we have kind of got three Propositions in front of us. So the Proposition as it is, looks like the intent is to amend it in some way. So Deputy Roffey has probably done some sort of job as he has turned the head in some way of HSC who are probably going to amend it if this actually fails. So it looks like, to try and help this simpleton standing up here who does not understand the full details of this, it looks like HSC are not entirely happy with their original policy letter. So they accept that it
2725 needs changing.

Deputy Aldwell may shake her head but Amendment 8 is going to change to Proposition 7. So that is an established fact, for want of a better word. No one seems particularly happy with Proposition 7. So I understand that because I do not entirely understand the intricate details of this

2730 policy letter because it is not my area ... and even Deputy Ferbrache who said he has been in areas of establishing facts and probably charging for it, this is not his area either.

So in this job, at some point, the reality is that we have to kind of outsource our decision making to ... Well it is not particularly easy for us to make reasonable determinations with the information in front of us because some of them are so damn nuanced, it is probably ... someone like me, I have said it before, there are times when I outsource my decision making to the committee.

2735 So I think what we know is Proposition 7 as designed is not great. We also know that Deputy Roffey and Deputy Burford along with the Scottish contingent seem to have turned the heads of HSC which have now got us to Amendment 8. I thought this was going to be a short speech, but I am not entirely sure it is actually.

2740 So in all likelihood, unless there is something fundamental that I have missed here, I think HSC have moved on the basis of Amendment 1 because they have created Amendment 8. I am likely to put my trust in HSC because on one side Deputy Aldwell gets up and says that she has had hundreds of meetings with people, mentioning judges and the like – all of the same people that Deputy Roffey mentioned who were in a different room saying ... mentioning. So, surprise, surprise, we have got two lawyers in a room that might argue black was white when it is actually green. I mean, what is
2745 the actual surprise? So they appear to be dancing on a pinhead to me.

So right now, I am likely to accept that the original Proposition is not right. I accept that Deputy Roffey and Deputy Burford have turned the head of HSC and in all likelihood, I am likely to –
I will give way.

2750 **The Deputy Bailiff:** Deputy Le Tocq.

Deputy Le Tocq: I thank Deputy Inder for giving way and I am sorry to interject. If I could help because I do believe he is painting a slightly incorrect picture. I do not think that – and I accept that it is a very complex issue for people to grasp – HSC have changed their minds on things. I think
2755 Proposition 7 refers to paragraphs 6.23 and onwards from there and what they have sought to do all along and when I speak I will speak to this as well, is to try and make Proposition 7 reflect more clearly what that intention is, but the intention is no different than it was originally.

The Deputy Bailiff: Deputy Inder.

2760 **Deputy Inder:** Okay. I accept that. Maybe I was dancing on a pinhead myself but in short there has been a change. Deputy Le Tocq has told us that HSC – and he was fairly key to this, as it effectively said, that what Amendment 8 does is seek clarification as a consequence of Amendment 1. So before I bore myself which probably happened about five minutes ago, the second I stood up,
2765 and the rest of the committee, I hope that it has helped in some way, that is my interpretation of it. I am not an expert in the area, so in all likelihood I am going to back HSC on the matter and this will mean defeating Amendment 1 and supporting Amendment 8.

Thank you.

2770 **The Deputy Bailiff:** Thank you, Deputy Inder.

Deputy Brouard, are you exercising your right to speak now rather than at the end?

Deputy Brouard: I am, thank you.

Partly so I do not have to sum up (*Laughter*) and I will leave that to Deputy Le Tocq as Chairman.
2775 Just picking up the point from Deputy Ferbrache, he is absolutely right, we did mention to the Greffier that we were happy for Amendments 1 and 8, which was our suggestion, to be run together. The trouble is, once we started, I felt I just could not start to change tracks again but it was a suggestion that we did make.

2780 Deputy Inder was absolutely right. He actually gets it spot on. The original Proposition was to introduce some new tools in the box for the court by way of disposal. This is for an instance where

the tribunal refers a matter to the court to have the finding of facts and then the court finds the finding of facts and passes it back to the tribunal and the tribunal does what the tribunal does.

I give way to Deputy Ferbrache.

2785 **The Deputy Bailiff:** Deputy Ferbrache.

2790 **Deputy Ferbrache:** Could I just ask, because it is a point that Deputy Roffey made in his comments in the amendment – and I am not questioning anybody’s good faith, by the way – that it is not intended to water down the current system in any material way, because although I have got no experience of it, people have talked to me about the system and I have had presentations etc. and it works very ... well as well as it can in situations such as these that are very difficult? Can Deputy Brouard assure the Assembly, but in particular, me, because I have got to vote on my own conscience, that this is not in any way going to do that?

2795 **The Deputy Bailiff:** Deputy Brouard.

2800 **Deputy Brouard:** Deputy Ferbrache is absolutely right. The intention is in no way to water down or to remove the tribunal system in any shape or form. It is just that where – and I have got quite a speech, but I will not do that – it has gone to the tribunal and the tribunal then have a dispute on their hands between the people, so they then apply for facts to be heard in the court and it is also the first time that those parents or guardians have sought legal representation. The nature of the case has therefore changed as the parties have contested the findings of the Convener and applied to have those facts determined by a court. At that time, once the court has made the ruling, the case returns to the tribunal who then may make a care requirement etc. but if the tribunal then
2805 decides that they want to make a permanent order, if they want to make a community parenting order, then it has to go back to the court again.

So this is for very rare cases. It will allow the court – if they are happy to; they do not have to, we are not forcing the court to, but just on those very rare occasions, probably looking at one or two a year – they may decide actually, in the best interest of the child and for expediency, they will take the case and make the decision. And it is just for those very rare occasions where the court feels that they are comfortable in doing so.
2810

If the court feels that they have not got enough facts or it is the wrong judge or it is raining then it can go back to the tribunal. I cannot really talk about Proposition 8 but that is basically clarifying the position, as Deputy Le Tocq said, that it is on very rare occasions, exceptional cases. And the default position is always – not always – in normal circumstances, it would go back to the tribunal. But there are very rare occasions where, for very vulnerable people, it is in fact better for the court to cease it at that time and then go for disposal.
2815

So that is the nuance of this particular ... and the original Proposition was to give judges and the court some extra tools for when they need it but they do not have to use them and it is on a very rare occasion.
2820

So that has summarised quite a complex matter. I hope that helps.
Thank you.

2825 **The Deputy Bailiff:** Deputy Queripel.

Deputy Queripel: Thank you, madam.

When he spoke, Deputy Ferbrache referred to the need for people to talk to each other in an attempt to resolve family disputes. What he was referring to of course was mediation. Mediation is not compulsory, unfortunately. One of the reasons why Deputy Prow and I laid an amendment to bring more focus on mediation in a recent debate, was simply to bring more focus to mediation.
2830 And I take the opportunity to thank the Assembly for supporting that amendment unanimously.

2835 Once again, madam, the Assembly are being asked to decide upon an issue that even the professionals cannot agree on. Leading up to this debate, we have heard from professionals who say, 'Vote against the amendments and support the Propositions'. We have heard from professionals who have said, 'Support the amendments, but it is the Propositions that are not as comprehensive or as far reaching as they should be.' So it is up to us, the politicians, to listen to both sides and make a judgement call come the time to vote. So we will please some people and upset others, as we always do. Whichever way you vote, you are never going to please everybody.

2840 Now I have never been bothered about pleasing or upsetting anyone in my 10 years as a Deputy. What I am bothered about is doing what I think is right for my fellow Islanders. (**A Member:** Hear, hear.) So after listening to both sides of an argument, I then make my judgement call with the utmost sincerity in the belief that I think it is the best way to go for our community. In relation to this amendment, I am going to support it.

2845 Now I need to give my reasons for doing that – put my reasons on record. Before I do that, I want to put my thanks on record to Deputy Roffey and Deputy Burford for laying this amendment in front of us and for all of the hard work they have put into this whole issue over the last few weeks. I commend them for providing us with such an informative explanatory note, because that is always extremely helpful and there is some vital information in that note we all need to know to enable us to say we are on the way to being fully informed.

2850 I can see why some of my colleagues would choose to vote against this amendment because they think HSC have this covered in paragraph 6.25. Because that paragraph tells us that the introduction of Proposition 7 as it stands could risk cases taking much longer to dispose of through the tribunal.

2855 However, data from the Convener suggests a low number of additional cases per year could be retained for disposal by the court and this is understood as being manageable by the judiciary, seeing as we are only talking about one or two cases a year.'

2860 Now paragraph 6.26 tells us that the impact of the change and all of the other changes agreed on case disposal times will be captured through the monitoring and reporting approach and remedial measures will be considered under phase 2. So the whole process is going to be monitored and reviewed.

2865 However, as the explanatory note of the amendment tells us, it is not clear how Proposition 7 would reduce the time it takes to reach a decision because once the court has determined the facts, it would require further reports and further information to enable them to reach a decision and therefore would need to adjourn to obtain these.

2870 So seeing as though the whole purpose of this review and upgrading is to reduce as much delay as possible, it seems to me we need to support this amendment. But in my experience, it is delay that causes the vast majority of the problems when it comes to resolving cases of parental and family dispute.

2875 In an attempt to persuade colleagues to support this amendment, madam, I am just going to spend a moment relaying what my actual experience is.

2880 Starting with the fact that I was one of the two Deputies who instigated the Marshall Review back in 2014. The other Deputy being my brother Laurie, former Vale Deputy. We were both members of the Scrutiny Committee at that time and when the Chairman of the committee, the late and much missed Alderney Representative, Mr Paul Arditti asked the committee if we had any suggestions for our forward work programme, Lawrie and I said that the Children Law was desperately in need of review.

2885 The reason we said that was because we had been approached by 33 families with reports of unprofessional conduct within Children's Services during the previous six months. We had both taken on one-to-one cases and got absolutely nowhere. So we had come to the conclusion that the whole issue was far too big for two Deputies which is why we suggested Scrutiny undertake the review. We were delighted when the majority of the committee agreed to undertake it. Professor Kathleen Marshall undertook it and she produced a report that contained 21 recommendations – many of which sought to reduce delay and prevent children becoming at risk.

2885 Getting back to my experiences of trying to encourage colleagues to support this amendment,
my brother Lawrie and I had witnessed and experienced delay in every single one of those one-to-
one cases we had taken on and the word delay appears 56 times in this 64-page policy letter and
25 times in the appendix; that makes a total of 81. That is why we need to reduce delay. Delay
causes unnecessary additional stress, trauma and heartache and pain to children and families who
are already in crisis. Delay hinders progress and consequently hinders outcomes. That is why we
2890 need to eliminate as much delay as possible from the current system because the delays are a
cancer at the current time.

This amendment seeks to improve on the opportunity to reduce delay. And we are not just
talking about weeks and months, we are talking about years. I worked on a case that took three
years to resolve. I am currently working on a case that has dragged on for four years. So eliminating
2895 delay is an extremely serious business. Once those years have gone they are lost years to a family,
and trauma and the pain of separation can mentally scar those children for the rest of their lives.
And of course it is the children that need to be our main concern here.

If we look at page 71 of the policy letter, we see that as a result of pursuing a recommendation
made by Professor Marshall, it was discovered that all agencies across the Family Justice System
2900 contribute to delay and that the average time for a case to be resolved is 18 months. As I have
already said, madam, it is several years in my experience.

Moving towards a close, madam, having worked with Professor Marshall back in 2015, I hold her
in great esteem. And when I attended the presentation at St Pierre Park Hotel recently, I asked her
if she supported the Propositions or the amendments as they stood at that time. And she said she
2905 would support the amendments and that said it all for me. She went on to explain that she very
much appreciated that the Propositions were well intended but she was concerned that they would
result in even more delay if they succeeded. And she said, on balance, she did not have the same
level on concern about the amendments. This amendment was in the frame then and it is still in the
frame now, so ...

2910 Professor Marshall was not the only professional who was in favour of the amendments at that
presentation. There were other professionals there who also said they favoured the amendments
over the Propositions.

In closing, madam, I want to take the opportunity to put on record that I think undertaking the
Marshall Review is the most effective and most influential piece of work that Scrutiny have ever
2915 undertaken. And as well as thanking Deputy Burford for all of the work she has put into this
amendment, I want to thank her for approaching Professor Marshall on 24th August, as we are told
on page 2 of Professor Marshall's response, to ask her for her views on the Propositions in the policy
letter. Because that request resulted in the Assembly being provided with Professor Marshall's
response, and that response is extremely informative. I am sure all of my colleagues have read that
2920 response, but if there are any who have not, then I would urge them to do so because there is
information in there they really do need to read.

Thank you, madam.

2925 **The Deputy Bailiff:** Thank you, Deputy Queripel.
Deputy Matthews.

Deputy Matthews: Thank you, madam.

I think this amendment has an awful lot of merit. Now looking through my committee notes – I
am a member of the committee for Health & Social Care, although I was not on the working group
2930 that looked at the Children's Law – and the advice that I have got is that the position that we arrived
at was that the committee does not support the amendment. But in discussion, my impression was
that it had been the result of a very finely balanced view. There were different views about which
would be the most effective way to proceed; and the view that prevailed was the view that resulted
in Proposition 7 but it was very fine. It is a very finely held balance.

2935 I think part of that is partly because a lot of the decision making about which would be the most
effective route ... and this does affect a very small number of cases per year; I think we are talking
about only a handful of single digit numbers per year where it would go to the court and then
potentially stay with the court or go back to the Convener. And I think the reason why it is so finely
2940 balanced and why on balance the working group's view, which the committee supported, that
Proposition 7 was the right way to go, was just that it is very speculative about which is going to be
quicker and more effective because you have to think about, well, it is going to be different for
every single case, about which is going to be the quickest way to deal with it and which is going to
be the most effective way to deal with it. So in some cases, it may well be that it is quicker to stay
with the court.

2945 I do find that it is difficult to see how that can often be the case because the general description
is, well, if it is with the courts and it has gone there, it may as well stay there because that is quicker
than batting it over the fence back to the Convener. Having said that, it has also been with the
Convener, so it is going back to where it has been. So it is talking about a very small number of
cases where the thought is that it would be better to stay in the court. But as I say, it is speculative
2950 because there are so many factors that could be taken into account. One of which ... and I do not
know how much has really been given to forecasting things like that because one of the factors that
really does affect things is: what is the availability in the Island of the number of family law lawyers
to be able to deal with this and social workers to be able to deal with it? And that a very small
change in what happens in the future can affect which would be the fastest route.

2955 One thing that I would say and I would absolutely support the process and the work that
happens through the Convener, because one of the cases that I have been involved with on a one-
to-one basis have nothing but praise to say about the Convener process and how they felt that they
were very involved, they were able to state their case, they understood what was happening. And
they felt that the court case that they went through was a very baffling, very difficult process to go
2960 through. They did not really understand what was going on. They had to talk to a lawyer and then
the lawyer would talk and then ... You can understand that that is much less useful process to have
got to go through if you have got the Convener as another option.

Also, I have seen the presentation by Alan Miller and I have seen the email by Sir de Vic Carey. I
think they present very convincing cases. I also notice that, as Deputy Ferbrache said, it is a very fine
2965 balance between which is going to be the quicker process and which is more likely to lead to a
correct result. You certainly would not want to trade speed for less accurate or less correct results.

As I said, I think that the conclusion that had been reached by the working party is a very finely
held balance about which one is likely to be quicker. And certainly I think there is a very strong case
that the Convener process has some very strong supporters. So we have these esteemed supporters
2970 in Alan Miller and Sir de Vic Carey. I think I have also got experience from the parents of people
who have been through those cases and have also spoken very highly of the Convener process as
well. So I think that the amendment has a great deal of merit.

Thank you.

2975 **The Deputy Bailiff:** Deputy Le Tocq.

Deputy Le Tocq: Thank you, madam.

I am going to speak now because unfortunately I will have to leave just before 4 p.m. to take a
ministerial call with the UK. But I think enough has been said for me to respond to and I want to
2980 make some points now just in case there are any other areas that are asking the same sorts of
questions.

First of all, it has been a privilege to be involved in this process of review because I was in the
Assembly at the time when the new Children Law came in. I was a great supporter and I remain a
great supporter. Our system is infinitely better than the system we used to have and the system that
2985 England and Wales still have that has been recently reviewed and criticised, by the way. So I remain
of that view.

2990 Deputy Roffey said in laying this amendment, and I quote, 'In all but the most extreme situations, the tribunal system is better than the court'. And I think we as the Children and Young People Board, and certainly I personally, totally agree with that. So, let me just say to begin with, the intention here and this alludes to some of the phrases that Deputy Matthews was saying before.

2995 The intention here from our recommendations to HSC was that this proposal in Proposition 7 should be used in only the exceptional cases and it refers to paragraphs 6.23, 6.24 and up to 6.26. And that goes to show that we would be talking about one or two cases maximum per year that this could be used for. In fact, for the intentions, the objectives or the outcomes that Deputy Roffey and Deputy Burford want to see, I totally agree with. The question is, how do we get there? And when we are dealing with so few cases, it is fortunate that we have so few cases, but they are very serious cases. The intention of the Children and Young People's Board, in reviewing all of this and in listening to all of the stakeholders that Deputy Aldwell so ably alluded to. The intention was to focus on what were the best interests of the child. Now that will depend on each case because every
3000 case is different.

3005 So we are not saying this is the simple solution to all delay problems. We are effectively recommending that this tool should be in the tool box of the court. Now if you look at my tool box, madam, I have a lot of ... (*Laughter*) which I have in my garage at home, (*Laughter*) I have a lot of tools that I hardly ever use. There is a very odd looking, I do not know if you call it an Alan key, it is like an Alan key but it has far more sides to it. You can only use it with certain sorts of weird Scandinavian type of furniture and that is something that I will rarely use but it is useful when I need it. Very useful.

3010 So our intention is to say that the court should have the ability when it is dealing with the finding and fact in cases to be able to deal with interim care and permanency care orders and care requirements. In certain circumstances, not necessarily all circumstances. We do not want to change the culture that is predominantly that the best forum is in the tribunal. But we believe that it may help and we have looked at, and we have been given evidence of the few cases that we have had where there have been delays. And we were just saying that there is not enough flexibility in the system.

3015 So the intention here is to say there should be a tool in the box that is available when necessary to be able to do that. And those paragraphs that I will read from because I think it is important are: in paragraph 6.23 it states that this tool that we want to put in effectively is currently permissible in appeal proceedings already from decisions of the tribunal. So when there is an appeal from decisions of the tribunal, it goes to the court and they already have the capacity to deal with it in
3020 this way.

3025 And of course as Deputy Brouard was referring to before, once it moves out of the tribunal into the court for the finding of fact for many of the individuals involved, the parents, the guardians and for the child themselves, that is the first time that they are in different sort of environment, a different context, a different culture in the court. The culture is adversarial. And so in certain circumstances it is possible that that would be best if it was dealt with quickly so that there is no delay rather than going back and yet having to wait and there have been a few – *very few* – cases where that has been the case. We do not imagine that it would be used very often at all, but it is a tool that would be available to be used.

3030 So Deputy Matthews is right. It is difficult to see which way is best but we spent months and months looking at the cases, looking at the situation, listening to the different stakeholders and the different views; and it was our view that this tool should be in the box. Now it might not be everybody's view but it is our view having done all of that in a very complex situation where every case can be different and difficult in different ways. It is important, we think, that there is flexibility in the system.

3035 So that is the primary reason and I hope that addresses some of the questions that have been raised already. But I want to be clear that our intention is exactly the same as those who are laying the amendments. We want in the end the best outcomes for the children concerned and we want to minimise delay.

Thank you.

3040

The Deputy Bailiff: Deputy Burford.

Deputy Burford: Thank you, madam.

3045 As Scrutiny President, my interest was immediately drawn when reading the policy letter shortly after its release to a number of references in it citing the 2015 Scrutiny Report and recommendations produced by Professor Kathleen Marshall, one of the leading voices on children law rights in the last 20 years and the former Children's Commissioner for Scotland.

3050 The policy letter indicated that some of the recommendations outlined in Professor Marshall's landmark report would be fulfilled by the Propositions contained in it. It is clearly important that scrutiny recommendations are progressed by committees or that reasons for not progressing them are given. So I was keen to investigate the progress that had been made on the outstanding Marshall recommendations.

3055 The matters analysed in the Marshall Report represent an area of legal complexity. Therefore, as a first step, I sought an opinion from Professor Marshall herself asking for her view on whether she believed that the outstanding recommendations outlined in her report would be satisfied by the Propositions contained in the policy letter. Her views which she graciously provided pro bono were published in full on the scrutiny website in September and they make interesting reading. Professor Marshall believes that a number of her outstanding recommendations could be satisfied by the new proposals. However, in other areas the policy letter contained insufficient detail to determine if her requirements would be met by the proposed changes. She indicated that she had significant concerns with a small number of the recommendations being made.

3060 Having read the concerns outlined by Professor Marshall, I then investigated further and spoke to the Child, Youth and Community Tribunal board, the organisation most directly impacted by concerns highlighted by Professor Marshall and an organisation with a detailed understanding of the impact of the proposals. It became clear to me that it was important that the Assembly should be made aware of the possible impact of some of the proposals.

3065 At the same time as all of this, Deputy Roffey who has considerable interest in, and a great deal of background knowledge of this matter, particularly through his late wife's involvement, was also becoming concerned about certain Propositions in this policy letter. So after working together and with the invaluable support of senior staff from St James' Chambers, we produced six amendments, five of which were submitted at the time.

3070 During the process, I was also in touch with HSC through Deputy Bury and the Children and Young People's Board through Deputy Le Tocq. This Assembly ran out of time to debate the policy letter in September and it was deferred to this month. This opened up the opportunity for further discussions and also for a presentation to Members by the tribunal board. It also gave us the opportunity to have further valuable discussions with HSC and with Deputy Le Tocq as Chair of the Children and Young People's Board.

3075 The distilled position from those events is that Deputy Roffey and I are now only laying three amendments together, one of which, Amendment 2, HSC will be supporting. The remaining two amendments, 1 and 11, do not imply any criticism whatsoever of those Members who have led this process thus far and who have done an excellent job. And I echo Deputy Roffey's support for the vast majority of this policy letter.

3080 However, there are a few points that need addressing. Perhaps most unfortunately in my view, the policy letter itself seems to have benefited from very little input from the actual children and young people and families and those who have experienced the care system. Indeed in this supporting document to this policy letter produced by the Children & Young People's Board, it states that:

The views of families, parents and carers were not captured directly as there is no existing forum for this to happen.

3090 My personal view is that I continue to support the findings of the 2008 policy letter which lead to the introduction of the current Children Law and which firmly believe that in most cases the tribunal was the best and most appropriate setting for dealing with these matters. It reduces costs and vitally it allows children and families to participate much more freely in the process than a court can possibly do.

3095 And I do have concerns about the potential for an ongoing increase in legal aid funding which seems inevitable if more cases find their way to court. And I am not persuaded that will not be the case. This analysis is largely absent as we have only a commitment to review the current legal aid system via a fleeting reference in section 3.32 which states:

It is further recommended that any resourcing requirements identified are captured in the 2023 GWP prioritisation considerations.

Simply adding costs to the legal aid budget does not seem sensible at this time when increasing fiscal restraint is being sought across Government.

3100 I also wish to raise a point which appears at several junctures in the policy letter. One example being at paragraph 6.59, where it says:

There was majority support for this proposal from those consulted.

This style, using the term 'majority support', does not aid transparency. Indeed straight away, it wants me to ask the question, 'Who dissented?' and more importantly, 'Why?'

3105 To be clear, we are not talking here of a majority in a survey of thousands of people, we are talking of a majority in a limited number of agencies and direct stakeholders. Saying who dissented and why would have added to the overall picture and would have promoted transparency. So although we are told in the policy letter that the majority of agencies support the policy being proposed, it became apparent that on occasion the part of the organisation that was actually opposed to a specific proposal was the tribunal system.

3110 One of the arguments advanced on more than one occasion by HSC is that all stakeholders have had an equal say. But you do not make the best policy by simply averaging out views of the stakeholders; you make the best policy by doing what will give the best outcomes – in this case, the best outcomes for children.

3115 Another point raised was that it could be deemed unfair that the tribunal put on a presentation for Members when other stakeholders did not. Well other stakeholders could have done so had they wished and perhaps the reason that they did not is that they were the stakeholders who are completely happy with the policy letter.

3120 You cannot just average out views and use something from every participant and say therefore you have arrived at the right outcome. Some Members might feel that passing this amendment today would mean that the Child, Youth and Community Tribunal will have had too much of their own way when compared with other stakeholders. However, when both the needs of children and the financial costs to the community are taken into account, I believe that this amendment to an otherwise productive and useful policy letter is necessary in order to arrive at the best outcome for children and I ask Members to wholeheartedly support it.

3125 As to the specifics of the amendment, there is little for me to add to what is in the explanatory note and the details that Deputy Roffey has explained at length, so I would ask Members to support Amendment 1.

Thank you.

3130 **The Deputy Bailiff:** Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: Thank you, madam.

I am finding myself in the position of Deputy Inder a little bit. This is obviously a highly technical policy paper and a lot of us are coming to it completely new with no background. So I am going to

3135 try to stick to the wording that is in front of us on the original Proposition, the policy paper and then the amendment.

So the original Proposition 7 says:

To direct that the Law should be amended to empower the court to retain and dispose of cases where it determines the facts ... in appropriate cases, as set out in paragraphs 6.23 ...

So the original Proposition says, ' in appropriate cases. I now refer to section 6.23. Section 6.23 goes to say the following:

This proposal would see any cases appearing before the court to determine the facts, on behalf of the Convener, to continue to be disposed of by the court rather than the Tribunal ...

3140 So we already have, I think, an inconsistency between what the original Proposition is currently saying which is saying only in some cases, and then the rest of the policy letter saying any case will now continue to be determined by the court. And within the same paragraph it also says that only in some instances it could potentially go back to the tribunal. Okay. So I think there is already an inconsistency which makes me feel that Proposition 7 is probably not appropriate, so it is not something to vote for.

3145 I then look at Amendment 8 that is being laid against Amendment 1 which we are discussing. And Amendment 1, and I have to go on to say that, it now says, '... direct Law Officers,' blah, blah, blah:

That in exceptional cases where it is for the child's welfare for the process to be continued to be determined by the court.

3150 So we have three, I think, quite different interpretations of what Deputy Le Tocq previously said is just one established position. So is it in appropriate cases? Is it in all cases? Or is it now in exceptional cases? So I think from just where we are, the wording I am hearing from the committee, I am hearing actually different views. Which is in debating this amendment, what it is making me think is the original Proposition is not suitable for being voted.

3155 So I think we need to be looking at either the amendment or Amendment 8 to actually determine which is better. And given that obviously we are not fully debating Amendment 8 but we are on Amendment 9, I think we have to allow for Amendment 1 to be actually led and whether Amendment 8 is then successful, we can then vote on both in the final debate.

3160 But I think really the difference in interpretation that we have seen from the committee in three different instances is making me realise that there is clear ambiguity. And if there is a ambiguity in the process, then there will be ambiguity in interpretation. Who will decide what is an appropriate case? Who will decide what is an exceptional circumstance? I do not know who will decide and I do not think that the committee actually fully understands who will decide, which is what then makes the current amendment quite interesting because it says that it is the tribunal that is in the best position to decide whether the proceedings should be referred back to the court for determination.

3165 So I still want to hear the debate on Amendment 8 but I think, with this in mind, we must be voting for this amendment because actually Proposition 7 is not suitably worded, and then wait for the debate on Amendment 8.

Thank you.

3170 **The Deputy Bailiff:** Thank you.
Deputy Gollop.

Deputy Gollop: Yes, thank you, madam Deputy Presiding Officer.
I always in enjoy sitting on Deputy Dyke's legislation committee. I have sat on them over the years and we do have interesting discussions, sometimes about the nature of revising legislation.
3175 And we kind of almost, on a different matter, came to the view that the Deputies themselves have

limitations in what we can do unless we are top advocates like obviously Deputy Ferbrache and other Members with legal experience, Deputy Parkinson, Deputy St Pier, Deputy Dyke and so on.

3180 But the problems we have in the era of increasing specialisation is getting to grips, as Deputy Inder reminded us, about these issues. And I have done a degree in Law and found that one reason I was put off was the sheer complexity of some of the work and this is of the outer limits of what we could do.

3185 Sometimes I wonder how long our current system of Deputies will last because we are being asked to make decisions on something that is extremely technical and complicated. We have had advice from professionals of diverse experience. We have had people at the top end, from Scotland and the United Kingdom as a whole and a well-known retired Bailiff and judge from Guernsey and it does not make some of us the wiser. What is it? I am none the wiser, but I think I am better informed. Well even that is challenging. Because if one looks at the original Proposition here:

To direct that the Law should be amended to empower the court to retain and dispose of cases where it determines the facts on referral from the Children's Convener, in appropriate cases ...

3190 Now that is very technical language even, because retention and disposal is used in a particular way. It is not about holding something in my carrier bag and then chucking it. And the amendment is perhaps even more subtle:

To direct that the Law should be amended to empower the court to make an interim care requirement ...

– whatever that means –

where it is seized of a matter further to a referral for determination from the Children's Convener.

And then when you get into the weeds of this, you begin to learn that the tribunal is not there, nor is it empowered to be, nor is it really qualified to be a judge of facts because that is a specific legal role in identifying what needs to be done. But we have certainly had urgings towards us.

3195 I agree with so much of what Deputy Burford said, that it is not just a case of keeping people out of court, it is about finding the right way forward and I think that we run the risk of significantly increasing legal aid and legalisation in a system of justice that, although it is very compact and highly disciplined and where we know and trust the lawyers that work on the Island, the downside is that it is a relatively expensive system. We will get to debate the legal aid report at some stage
3200 but at one point the legal aid rate per hour was higher in Guernsey than anywhere else in the British Isles, just to give an example.

I am concerned about the over legalisation of these cases. I think we have found a way to adapt the Scottish system to Guernsey ways and I would prefer, I think, to listen to the expertise of the people connected with the Office of the Children's Convener – which includes Professor Marshall,
3205 Sir de Vic Carey to a degree, the specialist judge that was brought over to Guernsey, too – and go with the amendment, because I think the amendment is more likely to preserve the spirit of what we are doing and not perhaps bring the court into the face ... Well obviously they should be there to make certain orders and decide the facts, especially where people are at risk, but what we are looking at here is a longer term future and the court may be tempted to make decisions in a fairly
3210 formal environment which is legalised rather than a more holistic approach that the lay tribunal would adopt in looking for more effective futures of families and children of risk.

So I am much more sympathetic on this occasion and I think the body of the other amendments with the approach taken by Deputy Roffey and Deputy Burford.

3215 **The Deputy Bailiff:** Thank you, Deputy Gollop.
Deputy Leadbeater.

Deputy Leadbeater: Thank you, madam Deputy Bailiff.

3220 The Committee for Health & Social Care and the Children & Young People's Board do not support this amendment and both do not support it for the same reason. And that is because it will not minimise the number of times a case changes forum in these circumstances which can add considerably to delays in disposing of such cases.

3225 Equally, as the committee's proposal is seeking to enable the court to retain a case to disposal when it determines the facts, it does not mean that all cases in these instances will remain with the court. But should the court view it as appropriate, it will have that option available to it, which is currently not the case.

3230 Paragraph 6.25, referred to in the explanatory note, refers to the risk relating to the capacity of the court to hear more cases. But as the subsequent sentence sets out, the estimated number of only one to two cases per year are viewed as being manageable by the court. So that stated risk is managed. The inference that this amendment will better enable the child's views to be taken into consideration is not necessarily accurate because in court a family proceedings advisor may be appointed to represent the child's views, if not already appointed by the tribunal, and the child may also have legal representation. This provides a greater level of advocacy for the children and their voices than is currently available to all children in the tribunal.

3235 Granted, the tribunal is viewed as a far more informal and less adversarial forum than the court. However, the cases affected here and where there is a dispute and a dispute in respect of the decision of the Children's Convener, applying for facts to be heard in the court is often the first time that the parents or guardians have sought legal representation. The nature of the case is therefore changed as parties have contested the findings of the Convener and then applied to have those facts determined by a court.

3240 The current proposal therefore seeks to reduce the number of times a case changes forum and so to reduce time frames and minimise stress to all of those involved. Albeit, the court may need to adjourn to gather wider information and reports but this can be dealt with relatively quickly and in most cases, for example, it is possible that the court can quickly adjourn for a short period such as an hour.

3245 So to conclude, the committee does not support this amendment as it will not minimise the number of times a case changes forum in these circumstances, which can add to delay and indisposing of the case. It therefore does not increase the system's flexibility to respond to the child's needs in these circumstances.

3250 I ask Members, please do not support this amendment. The committee is laying a counter amendment, Amendment 8, which I would urge Members to support.

Thank you, madam.

3255 **The Deputy Bailiff:** Thank you.

Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, madam.

3260 Following on from Deputy Kazantseva-Miller and Deputy Gollop, I have similar concerns as they have already articulated. And the key question ... I mean, I fully accept that the political intent here, as expressed by all those who have spoken on behalf of the committee and all of those who have been involved, is that the intention is quite clearly that this is only used in the most exceptional cases and the figure of one to two cases a year is being suggested. But the key question really is who decides and it is not us, is it?

3265 I understand that it is the judge who decides and I think to follow on from an intervention made by Deputy St Pier earlier, this did have alarm bells ringing for me by someone with very relevant experience of the court system in an email sent to us, who says that it is absolutely right that the responsibly does not sit with a lay tribunal in cases of determining fact because that is an issue for experienced judges of the court and lay people are not trained to establish facts to a legal standard of proof. So that is undisputedly the right place for the determination of fact.

3270 But Sir de Vic Carey did go on to say:

However, what should be done with the case after that is for the tribunal alone to decide, fortified with the advice of social workers and other professionals. With all respect, the fact finding judge is not equipped to work through the details of what should happen for the future. Beware of the suggestion that this power will only be used in exceptional circumstances. Political intention cannot bind the judge in interpreting what his duties are. There is a real risk that a judge who has conscientiously sat through a lot of the disputed factual evidence between the parties will consider himself best suited to take the case to a conclusion.

So I did not think I was going to talk about Deputy Le Tocq's tool box, but it does seem to me that it is not so much about the tool, it is about who is using that tool and who decides about the tool to be used. And so for me, I do think this amendment presents a more appropriate avenue than either the original Proposition or indeed Amendment 8, and for that reason, I will be supporting it.

3275

Thank you.

The Deputy Bailiff: Thank you.

Deputy Roffey, just before I ... Oh, Deputy Taylor, just before I turn to you, then, Mr Comptroller, in sight of what Deputy Kazantseva-Miller said about the effects of the votes on the various amendments, could you just explain what your view is of what would happen if there was a positive vote for Amendment 1 and then a positive vote for Amendment 8?

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The Comptroller: Thank you, madam.

Yes, I think in those circumstances, Amendment 8 would become Proposition 7. It would be the only Proposition in play.

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The Deputy Bailiff: Thank you.

The Comptroller: Thank you.

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The Deputy Bailiff: Thank you for that confirmation.

Yes, Deputy Taylor.

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Deputy Taylor: Thank you, madam.

Just to state a declaration of interest. My mother is one of the CYCP members. I have not had much more involvement other than that except when the tribunal was first established and as a younger man I took part in the mock hearings. I actually represented the part of a troubled child and I think I did it pretty damn well! *(Laughter)*

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What I would say about that experience though, in comparison to having been in a court setting just for a traffic infraction when I crashed the car, the tribunal was far more approachable as a situation. I knew I had not actually done anything wrong, I was not going to be taken away from my family or anything but there was still something quite concerning about being in that scenario and if you are much younger and you were faced with some of these potential outcomes that are very serious, to be in that more informal situation, I cannot stress how important that actually is. So even if we are only talking about one or two cases a year, to have that final determination made in the setting of a tribunal, I think, is absolutely what we should be striving for. So I will be urging Members to support Amendment 1.

3305

And I just want to pick up again on Deputy Le Tocq's toolbox, because he is right, it is a tool that is there, but – I have probably got a much better toolkit than Deputy Le Tocq but I am always still missing tools. And the trouble with these hex keys, which I think is what he was referring to, is there are so many different sizes and different shapes that you do not necessarily have the right one but you have got something that is close and it will kind of do the job, if you stick it in and bash it with a hammer and then put a bit of superglue on it, you can just about undo what you are trying to undo. And you do get a result but it is really not the way that you should be doing it.

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So let us all support Amendment 1. Let us do as much as we can to keep these difficult decisions within the tribunal setting and then we can get on with the day.

Thank you.

3320 **The Deputy Bailiff:** Thank you.
Deputy St Pier.

Deputy St Pier: Thank you, madam.

3325 I have an interest to declare. My wife is the Chair of the Children Law Convener & Tribunal Board but that interest does not give me, like Deputy Inder, any more experience or expertise in making judgements around these issues than any other Member in the Assembly. Indeed Deputies Le Tocq and Aldwell have quite rightly referred to the amount of time which has been spent by them and their colleagues looking at all of these issues, but with respect, madam, even those who have immersed themselves in the details of this, as Deputies Le Tocq and Aldwell and their colleagues
3330 have done, are not the experts in the field either.

I think actually Deputy Queripel very much hit the nail on the head and I think others have spoken about the influence of Professor Marshall here, who of course does not have an axe to grind in being part of the system but has expressed a view in relation to her support for Amendment 1.

3335 Deputy Kazantseva-Miller asked the question about who was going to make the judgement in relation to some of the ambiguities, and Deputy de Sausmarez has very much stolen my thunder in addressing that point and in particular referring to the comments from the former head of our judiciary, Sir de Vic Carey, in his email so I will not repeat those comments.

3340 I think one thing I would like to do actually is – and Deputy Queripel is not in the Assembly now but I know he often is outside listening – and I think actually it is incumbent on us to note and thank Deputy Queripel and indeed his brother, former Deputy Lawrie Queripel, for triggering the Marshall Report in the way that they did and the way that he described when he spoke; because I think that report has very much been the butterfly effect, the ripples, if you like, that have brought us to today. And of course, as Deputy Roffey said, paraphrasing the Marshall Report back from 2015, ‘You have got a very good system. Just get on and implement it and put the resources in to making sure it
3345 works.’

Now a lot of time in this debate, Deputies Brouard, Leadbeater, Le Tocq and Matthews have all noted the fact that this is only going to affect a very small number, or it is estimated a very small, number of cases – only one or two, as quoted in paragraph 6.25 which has been referenced a number of times.

3350 It is self evidently a small number but we need to keep in mind, as others have, that these are individuals who will be affected and their families, and actually I think it is easy to dismiss the issues because they are a small number of cases. But I want to draw attention to the next paragraph which Deputy Matthews referenced – I think it was Deputy Matthews, it might have been Deputy Queripel; forgive me if I have misattributed the comment – around the process for reviewing the impact of this change. Paragraph 6.26:
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The impact of this change, and all the other changes agreed ... will be captured through the monitoring and reporting ...

And then the important sentence:

Remedial measures will be considered under phase 2 if the impact of the changes inhibits the welfare of the child.

3360 That concerns me, madam. Again, there are many people in this Assembly who have stood in my spot where I am today, or indeed in many other places, to note how notoriously bad we are at actually delivering on subsequent follow-up work and reviews. In particular, the fact that phase 2 is –

I will give way.

The Deputy Bailiff: Deputy Matthews.

3365 **Deputy Matthews:** I thank Deputy St Pier for giving way.

I think it was Deputy Queripel, actually, who made that point about monitoring, and I think that is a very good point to make. Actually, I did also want to say, although I did mention about the small number of cases, it is a very valid point that Deputy St Pier raises. And the fact that it is a very small number of cases I think means that that is a double edged point. It also means that it does not have the same sort of impact in terms of greatly speeding the cases for the majority of cases either. (Deputy St Pier: Yes.) So I think people who are wanting to vote for the amendment should do so in the knowledge that it is not going to delay large numbers of other cases.

3370 **Deputy St Pier:** Absolutely.

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The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: I thank Deputy Matthews for that intervention, which of course is one of the key things which is bothering Deputy Ferbrache in his consideration of this matter, it is the impact on speed and I think Deputy Matthews' point is excellent.

3380 But I think the point I was going to make is phase 2 is subject to it being prioritised under the Government Work Plan and we know that we are repeatedly being told that we are constrained by resources. I think it was Deputy Murray during the Budget debate who made quite a strong plea and case for the fact that the GWP still had too much in it and needed to be scaled back.

3385 So I would suggest that it is reasonable standing where we are today to say phase 2 and the delivery of phase 2 on a time-frame which might be anticipated today has to be something which we need to consider to at least be at risk. Now if that is the case, I would suggest that the better way to deal with this is the other way around. In other words, to accept Amendment 1 and if, when we do finally get to phase 2 at some point in the future, we find that we still think that there are concerns around it, that is the point at which to make the change rather than making the change now or find it is not working, having a negative impact on one or two – *only* one or two – cases a year, and all of the damage that is done with that and then having to try and reverse it at a later date. I think that would be a far safer way to deal with the matters and the concerns that have been raised.

3390 I think really just drawing out that actually deciding on disputed facts is very different to deciding the outcome, and to suggest that the court is a more appropriate place to decide the outcome in some cases does show a misunderstanding of the distinction between the two tasks and undermines the decision-making in the tribunal. And that, of course, was what was described by Sir de Vic Carey in his email as being the genius of the Scottish system, and why create the tribunal and then give some decision-making powers back to the court.

3400 I mean, providing an option for the court to make the final outcome, of course, where legal aid is available, does run the risk of increasing the number of cases where parents may end up disputing the facts and those professionals and individuals who are either directly or indirectly motivated towards decision making by the court may encourage parents to dispute the facts to open up the possibility of the court making the final decision. And I do not think that the risk of that has necessarily been factored into the estimate of one or two cases. If that scenario were to prove to be the case, of course it could be a larger number of cases. At the moment, the number of cases where the facts are disputed is very low, about 6% in 2021.

3405 So I think that the idea of the unamended Proposition is unlikely to reduce delay or lead to a timely intervention as the court will still have to adjourn to obtain the information it will need to determine the outcome, so the idea that it is going to consider a determination of fact and then immediately make a decision on a final outcome, I think is unlikely. Again, Deputy Ferbrache may have experience of this in other fora where similar processes may be run.

3415 So it is in all likelihood that the court would want to adjourn for updated reports and
recommendations to the terms of proposed care. And to think that they might just adjourn for an
hour or so for that to happen is disingenuous and does not understand the complexity and the
requirement that would be required.

3420 Deputy Aldwell's comments about the speed, I do not think there is really any evidence
presented that the unamended Proposition will speed up the system; I think quite the reverse, given
the resource constraints and the legal system. The resource constraints are greater in the legal
system. We have got a fewer number of judges than we have tribunal members and the availability
of the tribunal to convene at short notice rather than trying to shoe horn it into the court's very
busy schedule. And the court will need, as I said, to investigate when facts are agreed or determined
by the courts, it will be doing so but without the advantages of the tribunal system.

3425 I think the court really is, I know this is a point that has been made by others, ultimately a binary
process and it is confrontational. And indeed, Deputy Ferbrache has referred to that. He has made
his career out of confrontation. Even if he is not, as he says, psychopathic, I think was the reference
he used! *(Laughter)*

3430 Whilst the tribunal is –
I will give way to Deputy Brouard.

The Deputy Bailiff: Deputy Brouard.

3435 **Deputy Brouard:** Thank you and I appreciate Deputy St Pier giving way since I have burnt my
bridges fairly early on.

But just to clarify, the information I have is that the fact finding judges are the same that
determine what happens in CPO hearings.

3440 **Deputy St Pier:** Thank you. And I am not disputing that fact.

Whilst the tribunal is a more conversational place, I would suggest, and it is more suitable to the
aspirations of mediation in a way that Deputy Queripel referred to, there is an assumption that
actually children, young people and their families would actually prefer for these matters to return
to the court and I think Deputy Matthews quite rightly identified that actually his experience from
those he spoke to is actually that families prefer the tribunal process rather than the more
confrontational approach of the court.

3445 But I think also, and this is a really key point, the whole rationale behind the original
recommendations in 2004 was to involve the family and, of course, in particular, the child – where
the child can have a voice. And I think the idea that that will simply be dealt with, 'Oh, it is fine. We
can just give them an advocate and they will be represented. They will get legal aid,' which I think
was Deputy Leadbeater's point, that they will have a voice in the court, ignores the fact that they
will not have the same direct involvement that they would through the tribunal process. And that, I
think, is a massive detriment to this recommendation in these exceptional cases.

3450 So I think, really, the idea that it is certainly not going to potentially save us any real time and
actually potentially it could well cost more, which again was a point which I think Sir de Vic Carey
made in terms of the resource requirements for putting something through the microscope of a full
court hearing. He said extra judicial staff, lawyers earning legal aid and hard pressed social workers
taken away from their work with families and having to prepare for cross examination under oath.

3460 Whilst the policy intentions states it does not wish to move more cases into the court, the Law
would inevitably leave discretion with the judge, which I think is Deputies Kazantseva-Miller and de
Sausmarez's point. A policy intention cannot bind the courts.

3465 So I really return to my central key points, madam, that I think by supporting Amendment 1, it
does not leave, does not close off the opportunity for Health & Social Care to come back in phase
2, as and when phase 2 does happen when it is prioritised under the Government Work Plan to
make changes if it is still felt to be necessary at that time, that would be a far safer process which
honours the spirit and intent of the original report and recommendations on the system that

Professor Marshall has said works very well. Professor Marshall supports the amendment and it would honour that and enable change at a later date if it is still felt to be necessary. And I urge Members to take that safer approach rather than the unamended Proposition that is before us.

3470 **The Deputy Bailiff:** Thank you.
Deputy Haskins.

Deputy Haskins: Thank you.

3475 So I shall start by just reiterating that the Committee for Health & Social Care and the entirety of the Children & Young People's Board does not support this amendment. Deputy Roffey believes that this amendment will decrease delay. I would highlight to Deputy Ferbrache that the Children & Young People's Board, after having considered all Stakeholder views, that it believes by supporting this amendment, that in certain circumstances, certainly where it believes that removal might be probable, the original Proposition would save time and this amendment would increase
3480 delay.

In response to Deputy Inder, I personally do not support Amendment 8. It either stands alone or in response to Amendment 1. I do not believe there is anything wrong with the original Proposition. The intention behind Amendment 8, as Deputy Brouard has already mentioned, is to clarify the intent of Proposition 7 in the policy letter.

3485 Deputy Queripel, who I am sure is listening, wants to reduce delay. Let me remind Deputy Queripel that this is the main objective of the Children & Young People's Board. That is why it was mentioned 107 times in the policy letter, why it has carefully considered all stakeholder views and why it has, on balance, come to a decision that in certain circumstances this amendment would introduce a delay. I would hate to think that Deputy Queripel would be voting to introduce what he
3490 refers to as a cancer.

Now, Amendment 1 seeks to limit the power of the court to making an interim care requirement only. As in, not give the courts the ability to make a care requirement. Well, so when those with parental responsibility disagree or dispute the facts or evidence set out in the Convener's statement, an application is made to the court for a finding of fact. So the court will here make a ruling in this
3495 instance. The court will normally refer it back to the tribunal. This will continue to be the case.

Proposition 7 introduces the power or ability to continue to dispose of cases should it believe it is necessary or right to do so to protect the young person from harm. This is, in my belief and that of the majority of the stakeholders, the most sensible approach.

3500 When the court has spent a huge amount of time considering the disputed facts and resolved what it believes, indeed, to be fact, it is believed that having gone through this process and in exceptional circumstances where the outcome may well be the removal of the young person, it is understood that the court might be in a better, more informed position to continue to dispose of the case rather than send it back to the tribunal where it believes this will just add a delay because the tribunal will of course need to take those findings back and reconsider the court's judgements
3505 on the court's findings and then come back to the court if it is seeking a Child Protection Order (CPO). This would, of course, introduce a delay.

I think I will end with: I urge Members not to support this amendment and give the court the ability to continue to dispose of the case where it believes that it would be beneficial to the young person involved, particularly in the interest of delay and only in exceptional cases where a Child
3510 Protection Order is probable.

Thank you.

The Deputy Bailiff: Thank you.
Deputy Roffey.

3515 **Deputy Roffey:** Thank you, madam.

First of all, I think it has taken quite a lot of debate but I believe that it is correct that we should do that and I suspect that debate on the other amendments will be slightly tighter.

3520 I do intend to go through all of the individual contributions, but first of all I want to focus on two things. I want to focus on tools and I want to focus on speed. The idea of tools and tools in the toolbox was first brought in by Deputy Le Tocq, but he was looking at it, I think, through the wrong lens. How many tools should the court have in their toolbox? I want to pose a different question. What sort of tool is the court and what sort of tool is the tribunal? And in what circumstances is the court that finely honed screwdriver or Allen key or whatever, and in which circumstances are they
3525 the hammer that Deputy Taylor uses whenever he has not got anything else to hand? And in what circumstances is the tribunal the finely honed and correct tool to use and in which cases is it not?

I believe that the tribunal is not the right place, the right tool. It would be the hammer. It would be entirely the wrong tool to try and use to determine facts, because that is what courts are set up to do; that is what they do all of the time.

3530 However, I have great respect for the Island's courts. I have to say that when the Deputy Head of the judiciary is also the Presiding Officer, but they function in a different way and I believe they are not as good – in fact, I am sure that Professor Marshall and others are right – they are not the right tool to use when trying to decide what order should be implied in the non-permanent removal of a child and how they should be governed within their family.

3535 So the basis of the 2004 proposals to the 2008 legislation that came in and it finally was active by 2010 was all about that separation and using both bodies to their best ability. That the courts determined fact but the tribunal is the right setting to determine the outcome. And not just determine it, to do what the courts cannot do which is to carry on monitoring it, adjusting it, tweaking it and looking after that situation thereafter.

3540 So, the other main thing, I think, was speed and that was done particularly at the beginning. I think Deputy Aldwell said this is about speeding things up and Deputy Ferbrache said he largely agreed with me but his concern was over speed. Well, I genuinely do not believe that giving these powers to the court will speed things up, because when things are being referred to the court, they are being referred to the court to determine fact. So has this neglect that is being alleged but is
3545 being denied by the parent concerned really occurred because it is a court that would determine that.

Once they have determined that, somebody then has to consider, okay, the facts are determined, what should be the outcome? And whether it goes back to the tribunal who I think have the best skill set to actually do that, or whether it is the court, things have to pause, there needs to be reports
3550 drawn up. If ever I was wavering – well, I was not actually – about whether to bring this amendment, Deputy Leadbeater convinced me that I was right when he said, 'The courts can just adjourn for an hour, come back and actually make a decision about where to go'. Because if it is going to operate like that then I am absolutely convinced that we should not be giving them the power to do that because that is not the right way to proceed.

3555 Now, Deputy Brouard says this is only going to be in rare occasions; he said only when the courts want to will it happen. I accept that, but I think that Sir de Vic Carey is right: Human nature is such that when you are engaged in something you think, 'I know the facts, I am going to discharge it.' And judges, much though I respect them, are human beings. I also have to say that back in the noughties, there were many members of the judiciary here who actually – Sir de Vic Carey was an
3560 exception – did not buy into this whole idea that the judges should not do everything and determine the future. They thought, 'We are judges, we must know best.'

I do not want to revert to that, and I think there is a danger of us starting to revert to that if we go down this route. So when Deputy Brouard says, well the judges will decide which cases they are going to determine, I think Sir de Vic Carey is right in saying, 'You may start off intending it to be
3565 one or two, but beware of slippage'.

Deputy Matthews says it is actually hard to tell which route would be quickest. I think he is right. In some cases it may be one, may be the other. There is not going to be a big bit of difference. So if it is hard to go, 'Which is the quickest?' then surely give it to the experts to do that determination –

3570 and the experts in the case of determining outcomes, not permanent removal, but other outcomes, is definitely the tribunal.

Deputy Le Tocq said that he sort of agreed with me because I had said in my opening, in all but most exceptional cases, the tribunal is better than the court for deciding about interventions with children. But I think what I meant by that is that in all except permanent removal from the family, because those are the most exceptional cases. This is not what Proposition 7 is dealing with. It would give the courts the power to dispose of it in whichever way they see fit which may not be permanent removal.

3580 Deputy Leadbeater – I think to some extent it has been answered by Deputy St Pier, but I think he made the point, ‘Well, the child might even be better represented in the court situation because they may have a counsellor, advocate appointed for them.’ That is really missing the point. That is so inferior. *So inferior!* That child at ease being able to speak for themselves ... their Auntie Flo being able to chip in, being able to say what they can do in the situation or whatever. Apart from the expense, which is not my main point here, although it is a valid one, appointing advocates to speak to somebody just moves them into the background. It puts an intermediary. Not the right way to go!

3585 I think I have really covered ... I think people have probably made up their minds. I am absolutely convinced that ... What I would say is I think if there is ever delay in getting a case back from a court that has been engaged to determine the facts back to the tribunal in order to get a final solution, that is the problem that needs fixing; not giving the court power, the wrong tool – the power to dispose of it. Let’s fix that delay because it should not be there. We have been told that in 1970, so 3590 52 years of experience in the Scottish courts, courts here have never felt a need or a desire to have the power to dispose of these cases. They trust the tribunals. They know that that system works and the judges there are not calling for this change. We should be proud of the system that we have got. We need to make it work and if one or two cases it has been too slow to get back to the tribunal for a final determination, that is what should be fixed. We should not be slipping back into the 3595 ‘recourtification’ of this whole system and I urge Members to vote for Amendment 1.

The Deputy Bailiff: Thank you.

States’ Greffier, would you open the voting on Amendment 1, please.

3600 *Amendment 1*

Not carried – Pour 17, Contre 19, Ne vote pas 0, Absent 2, Did not vote 2

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

The Deputy Bailiff: For Amendment 1, Pour 17, Contre 19, 2 Members did not vote and there are 2 absentees. So, the amendment was not passed.

We now turn to Amendment 8.

3605 Deputy Brouard.

[Amendment 8](#)

1. *To delete Proposition 7 and substitute therefor: "7. To direct that the Law should be amended to empower the court to retain and dispose of cases, through the making of a care requirement or an interim care requirement, in exceptional cases where it is for the child's welfare, where it is seized of an application from the Children's Convenor for a finding on disputed grounds for referral, but that the default approach will be to refer the case back to the Tribunal for disposal."*

Deputy Brouard: Thank you, madam.

3610 This Amendment 8 was a sort of compromised position which was ... it is not really a compromise, it is a clarification, I think, it is probably the best way of putting it. I have not got a great deal to say at this moment in time on it. Basically, it just reiterates that it is only in exceptional cases and that the default position remains that the case should return, in the majority of cases, back to the tribunal. It is just having this extra tool in the box and I would urge Members to accept the amendment.

Thank you.

3615

The Deputy Bailiff: Deputy Leadbeater, do you second the amendment?

Deputy Leadbeater: I do.

3620 **The Deputy Bailiff:** Thank you.

Deputy Dyke.

Deputy Dyke: Thank you, madam.

3625 I am inclined to support this compromised amendment which seems sensible. The only question I do have. We have said that the judge may give a care order or an interim care requirement in exceptional circumstances. And absent of those exceptional circumstances, the default position is that the matter will go back to the tribunal.

3630 Perhaps, in summing up, Deputy Brouard could give some idea of what those exceptional circumstances would be because the draftsman when he comes to draft this is probably going to need some instructions on it as to what counts as exceptional. That was the only point that I wanted to ask.

Thank you.

The Deputy Bailiff: Deputy de Sausmarez.

3635

Deputy de Sausmarez: Thank you, madam.

3640 Yes, of course, Deputy Brouard will be replying to this debate. I just hope that when he does, he can give us an indication or ideally an assurance about how this is going to be monitored because obviously the political intent is very clear, that we expect this only to be used in exceptional circumstances. I think Deputy Dyke's question is also interesting.

3645 I would like to understand how the committee intends to monitor what proportion of cases this avenue is taken for. So what proportion of cases are disposed of by the court rather than being referred back to the tribunal and at what point the committee might consider a trigger point to look again at whether the system is working; in other words, whether or not it is actually being used, whether the reversion to the tribunal is being used as a default or whether courts are increasingly inclined to dispose of cases there and then?

Thank you.

The Deputy Bailiff: Deputy Mahoney.

3650

Deputy Mahoney: Thank you, madam.

I may be alone in this, but I may not. I wondered if I could just ask for some clarity from those that have perhaps laid this, or HSC in general.

3655

It appears to me that Amendment 1 and Amendment 8 both are effectively talking about Proposition 7, and it looked on the first blush of it that Amendment 8 was a safety net amendment that should one pass then there was almost the safety net of Amendment 8 which changed it somewhat. But now that Amendment 1 has failed, I suppose I was half expecting Amendment 8 not to be laid. So I wonder if I could just get clarity when people are summing up about whether HSC are actually supporting Amendment 8 or not.

3660

Thank you.

The Deputy Bailiff: Deputy Leadbeater.

Deputy Leadbeater: I can confirm that the committee supports Amendment 8.

3665

The Deputy Bailiff: Thank you.

If nobody else wishes to speak, I will ask for Deputy Brouard to reply.

Deputy Brouard: Thank you, Members.

3670

I think I have got three people to reply to.

Deputy Dyke – with exceptional circumstances. I mean, that would be the decision of the judge and the team around. The consideration of the child’s welfare will be the main concern as to where it is best disposed of.

3675

Deputy de Sausmarez – the assurance. There is a three-year review which we are building into the system, so it will be picked up from there. If not already beforehand if there are any trigger points that people are concerned about the number of cases.

And Deputy Mahoney, this Amendment 8 grew out of discussions with Deputy Roffey and Deputy Burford and we really thank them for engaging with us. We thought this was a suitable one. In the end, it was not and the Amendment 1 was also debated. So please support this. We are very happy to go along with this.

3680

Thank you very much indeed.

The Deputy Bailiff: States’ Greffier, would you open the voting on Amendment 8.

3685

Amendment 8

Carried – Pour 33, Contre 4, Ne vote pas 1, Absent 2, Did not vote 0

POUR

Deputy Brouard
Deputy Burford
Deputy Cameron
Deputy de Lisle
Deputy de Sausmarez
Deputy Dudley-Owen
Deputy Dyke
Deputy Fairclough
Deputy Falla
Deputy Ferbrache
Deputy Gabriel
Deputy Gollop
Deputy Inder

CONTRE

Deputy Aldwell
Deputy Blin
Deputy Haskins
Deputy Mahoney

NE VOTE PAS

Deputy Oliver

ABSENT

Deputy Bury
Deputy Helyar

DID NOT VOTE

None

Deputy Kazantseva-Miller
Deputy Le Tissier
Deputy Le Tocq
Deputy Leadbeater
Deputy Matthews
Deputy McKenna
Deputy Meerveld
Deputy Moakes
Deputy Murray
Deputy Parkinson
Deputy Prow
Deputy Queripel
Alderney Rep. Roberts
Deputy Roffey
Alderney Rep. Snowdon
Deputy Soulsby
Deputy St Pier
Deputy Taylor
Deputy Trott
Deputy Vermeulen

The Deputy Bailiff: There voted Pour 33, Contre 4, there was 1 abstention and I therefore declare the vote as being passed. Thank you, the amendment is passed.

3690 We now turn to Amendment 2.
Deputy Roffey.

[Amendment 2](#)

1. To delete proposition 8 and substitute therefor: "8. To direct that the Law should be amended to clarify that a care requirement or interim care requirement made by the Tribunal shall have no effect insofar as inconsistent with the terms of any interim community parenting order in place for the time being."

Deputy Roffey: Thank you, madam.

3695 I can be relatively brief on this because it is supported by Health & Social Care. Proposition 8 is designed to stop or pause tribunal proceedings when an application for a CPO is made. That is in order to avoid decisions being made in two places at the same time and that is quite right. However, the policy letter does recognise in paragraph 6.28 that it would be appropriate for the tribunal to continue to deal with matters that are not related to the applications to the court. That is important because it would be wrong to assume that all of the children in this situation are babies or toddlers; many are older children and young people. Now, some get involved in offending or do not attend school, for instance, as a result perhaps of their experiences. And it is important to make clear that the Convener and tribunal can continue to deal with those matters without having to wait until the court case is concluded. So in other words, the tribunal will not be able to take any action in relation to the matter that is before the court because the court takes precedence there, but they will be able to deal with other aspects of the same young person's life if there is a need to do so. And I thank HSC for supporting the amendment.

The Deputy Bailiff: Deputy Burford, do you second this?

3710 **Deputy Burford:** I do, madam.

The Deputy Bailiff: Deputy Leadbeater.

3715 **Deputy Leadbeater:** I just rise simply, madam, to say that the committee supports this amendment. Thank you.

The Deputy Bailiff: Thank you.

3720 If nobody else wishes to speak on this amendment, Deputy Brouard, do you want to say anything?

Deputy Brouard: No, thank you, madam. My colleague has expressed our position and we are very happy with the amendment.

3725 **The Deputy Bailiff:** Deputy Roffey does not want to reply, so we will go straight to the vote, please, States' Greffier. This is on Amendment 2.

Amendment 2

Carried – Pour 38, Contre 0, Ne vote pas 0, Absent 2, Did not vote 0

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

3730

The Deputy Bailiff: There voted Pour 38. The amendment has been carried. Amendments 3, 4 and 5 are not being laid, and therefore, let us proceed to Amendment 6. Deputy Soulsby.

[Amendment 6](#)

After Proposition 24 insert new Propositions as follows:

1. *"25. To note that the Marshall report made 21 recommendations, one of which was consideration of setting up an independent avenue for complaints, such as an ombudsman.
26. To note that the Government of Jersey is currently progressing the establishment of a Public Services Ombudsperson to act as an independent arbiter to resolve complaints of maladministration or service failure across the public sector.
27. To direct the Policy & Resources Committee, on behalf of the States of Guernsey, to work with the Government of Jersey to investigate the establishment of a Channel Islands Public Services Ombudsperson and to report back to the States, before the end of July 2023, with a summary of the outcome of the joint working."*
2. *To renumber Proposition 25 as Proposition 28.*

3735

Deputy Soulsby: Thank you, madam.

I will not be very long because I understand that there is not objection to this amendment. But I would like to start with a couple of apologies with this amendment.

3740 Firstly, I do appreciate I have got two notes in there and I know that really does not go down well amongst some but I think that it was important to just lay the ground within the amendment about the reasons for the third element of this amendment. And secondly, the word 'ombudsperson': it is not my choice but it is the phrase and the term used in Jersey as they are trying to take this position forward – and more on that in a minute.

3745 So madam, the two amendments I am laying arise from recommendations in the report undertaken by Professor Kathleen Marshall who has been mentioned numerous times already during this debate.

3750 This one relates to her references to complaints handling which she did a number of times. She recommended an independent avenue for complaints be established; not for specific areas, but for public services generally. On page 17 of that report, she speaks of the perceived power of safeguarders, meaning clients of services are wary of making complaints as they feel they will work against them. Indeed, the number of formal complaints was noted as very small and significantly less than the number of concerns expressed to the review.

3755 A number of contributors to the review said they believe there should be an independent body and it should be an outside agency. Professor Marshall also referenced those services provided by what was HSSD, now HSC, and her clients would benefit from an independent person who could advise what happens when they make a complaint and/or helps them think and work through the process of making a formal complaint as well as more informal alternatives. Again, she said that this would be the best for Guernsey as a whole, rather than just for HSSD.

3760 Before I go any further, I know that the fantastic work that is done by the customer care team at HSC and they work very hard dealing with all manner of issues but I do not think that the issue here is about the quality of the service being provided. It is more about that independence that I think is very much appreciated and comes very much to the fore within Professor Marshall's report.

3765 Having considered all of these issues, it was Professor Marshall's view set out in Recommendation 21 that consideration should be given to setting up an independent avenue of complaints such as an ombudsman. Hence the wording within the amendment. That was seven years ago now and since then the new Chief Minister in Jersey – well she has been there a few months now but anyway relatively new – stated as one of the actions that she wanted to address in her first 100 days was to pursue the idea of an ombudsman in Jersey. Clearly, there would be advantages in the two islands working together on this with cost being shared and I understand
3770 that this is something that Jersey believe is worth pursuing, both at political and at officer level. Of course, it was only in the last debate that we agreed an amendment from Deputy Inder to pursue closer working with Jersey and this amendment itself is very much aligned to that desire.

Now we do have an administrative review process that was originally set up, as with Jersey, in the 1980s which, and I quote from the States' website:

... provides members of the public with a route through the "Review Board" process to challenge actions and decisions of a States' Committee or body. The purpose of a Review Board is to decide if something significant has "gone wrong"

when the decision was made or action taken rather than the lower threshold of "this would be the better decision the Committee or body should have made".

3775 It is quite a formal process, but at the same time, the review board cannot overturn the decision or act in question. It can only request the States' committee or body concerned to reconsider its decision or action with the relevant States' committee or States' body not bound to follow the findings of the review board.

3780 It is probably little surprise that according to the website, no cases have been completed since it was set up. It is very formal, not truly independent and has little teeth. It would be expected that this board would no longer be required should an independent ombudsman be appointed.

Madam, the purpose of this amendment is simply to give Policy & Resources the go ahead to work with Jersey with regard to the potential to set up a Channel Islands ombudsman and report back by July next year on its conclusions. And I ask Members to support it.

3785 **The Deputy Bailiff:** Thank you.
Deputy Burford, do you second this?

Deputy Burford: I do, madam.

3790 **The Deputy Bailiff:** Deputy Meerveld.

Deputy Meerveld: Thank you, madam.

3795 I fully support this. I am Chairman of the review board and the review board has reviewed some cases in the past and reached a conclusion, but they are few and far between. It is a very bureaucratic process, but worse than that, when I was doing the induction training, I think it was on day two when I pointed out to the people who were training me to take up the role, that I did not think I or any other Deputy should be in the room considering we are marking our own homework. And again, the review board is manned by civil servants who are then expected to pass judgement on their fellow civil servants. It does not even pass the basic sniff test of impartiality.

3800 Although, I believe it has been operated very well and there have been stringent efforts to try and maintain that impartiality. I have already suggested at the Reshaping Government Working Group that we should set up an ombudsman and I would encourage that very much. So SACC is working with the Jersey Commissioner for Standards. I think a joint venture with Jersey on this would be the right way to go, so I am 100% behind this and I would like to see an ombudsman taking over the role of the review board and really updating it to a process that is fit for purpose for today.

3805 Thank you.

The Deputy Bailiff: Deputy Le Tocq.

3810 **Deputy Le Tocq:** Thank you, madam.

How could one such as I oppose an opportunity to work more efficiently with Jersey? I totally agree with this. Although, I will insist if we get any further with it that it is not an 'ombudsperson' over here because that sounds a ridiculous contortion of the English language. But nevertheless.

3815 In terms of our involvement in the various reports as the Children & Young People's Board, I think it is clear that there needs to be a better opportunity for an appeals procedure. And whilst Jersey has had far more serious issues will regard to its childcare services over the years, we want to ensure that in the future we do not risk that sort of thing, so I would encourage others to support it too.

3820 **The Deputy Bailiff:** Deputy Gollop.

Deputy Gollop: I do not mind 'ombudsperson'. I suppose it could be 'ombudswoman', especially if a woman is appointed as chief ombudsperson. But I will support this amendment.

3825 There are a few more little bits and pieces, though. I mean Deputy Queripel was spot on in saying what an important ground-breaking exercise the review was of the Children Law in the term before last and of the impact the last Paul Arditti made on scrutiny.

3830 But actually, it was a classic example, as Deputy St Pier hinted, of many of the Resolutions and Recommendations not being fully implemented and there is always a danger of that happening. In fact, going back to the early days of scrutiny and public accounts, one of the leading members of the first Public Accounts Committee which was chaired by Deputy Aidan Matthews' father, was Deputy Brock, who had had a career in the senior Civil Service etc. And he was suggesting an ombudsman then. That is 15 years, so we are not going very fast on this and I think it is well overdue; and it would not just be useful in this area, there are many other areas.

3835 Just to talk about the administrative reviews for a bit. I had forgotten Deputy Meerveld was President of it because it is an even less active committee, I am afraid, than my Transport & Licensing Committee. But I just looked up the website and this is quite funny. It said on gov.gg website, all cases of the ... there is a lot of talk:

The decisions of Review Boards held during the past 5 years are available on this page.

And then there is a note afterwards:

Please note, no review boards have been convened to determine a complaint in the past 5 years.

3840 So that is the issue, it has had several Presidents and no meetings really. Well, maybe we do not have complaints, but we are always hearing people moaning on Facebook and other social media, so I think there are areas.

3845 The administrative review system, in a way, was set up with the best intentions to bring the wisdom not just to the senior States' Members but the people from parochial Douzaines and so on. And it perhaps worked in its day because there were a lot of cases in the noughties and the late 1990s. But it is not sophisticated enough for today's world, and it perhaps became difficult because the process involved quite a lot of filtering and shifting out of cases that did not go in categorisations. So we do need a review of this.

3850 Deputy Meerveld has not only supported this but he is in the vanguard of working with Jersey on standards commissioners and so on. So this is another one that we hopefully can gain traction on of working with the islands together in order not only to be effective but to save costs. And I will point out that we already work together on the financial ombudsman but that is a specialist niche for only specific kinds of cases. This hopefully will broaden the possibility of review.

3855 **The Deputy Bailiff:** Thank you.
Deputy Trott.

3860 **Deputy Trott:** I speak briefly, madam, because I want to pick up on that point that Deputy Gollop has made about the Channel Island's Financial Services Ombudsman. It has been a successful template. The current incumbent is male. He is based in Jersey and that is unsurprising in the sense that I am sure there are far more referrals to him, (*Laughter*) as a consequence of Jersey's financial services industry being a little bit larger than ours.

3865 But I also want to pick up on the point that Deputy Meerveld made about the current review system and whether or not it is fit for purpose. As he is aware, every time he declares an interest, they come to me and it has on occasions been fairly onerous over the course of the last few months. But I make the point that whilst it is imperfect, it is cheap, (**A Member:** Yes.) and absolutely everybody contributes their time for nothing. An ombudsman, ombudspersons even, are not cheap and I would ask Members of this Assembly to bear that in mind, as I am sure – well I can see the President of P&R is nodding sagely, as he should – because every time we do something like this,
3870 we layer an extra additional cost on our community. (**A Member:** Hear, hear.) It may be the modern way, but it is certainly an expensive way.

Thank you.

The Deputy Bailiff: Deputy Dyke.

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Deputy Dyke: Thank you, madam.

I am standing to say that I support this proposal in principle. I like the idea of proper review of administrative actions and the idea of sharing it with an arrangement with Jersey will presumably keep the cost down and also enable, if we have a set up with both representatives of Guernsey and Jersey, then they can look at each other's administrative problems so you do not have the Civil Service in Guernsey passing comment on the civil servants below them here. You can swap it across.

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But in terms of costs, I know what Deputy Trott has said and that is a point. We do have to keep costs down on everything that we do. I do not know whether we have to have a professional ombudsman or whether we could have a committee of 'ombudspeople' to share out the work who would do things without charge. I do not know. I suppose that is something to be looked into but in principle, it seems like a good idea to me.

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The Deputy Bailiff: Thank you.

Deputy St Pier.

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Deputy St Pier: Madam, I rise, as with others, to say I am content to support Deputy Soulsby's amendment. But I want to raise a couple of questions or observations which in fact she may not be best placed to respond to.

I think the question of ... well, first of all, the timeframe that is set out in the amendment to return by July 2023. Now I notice that Deputy Le Tocq is supportive of this amendment. He, I guess, was speaking in a personal capacity and perhaps as Minister for External Relations in his external capacity. But I would perhaps be grateful for Deputy Ferbrache's comments on the achievability of that, given again resource constraints and the existence of the Government Work Plan priorities. I am very content for P&R to be sent off to have this conversation with Jersey and for Deputy Le Tocq to negotiate with Deputy Ozouf on whether it should be ombudsman or ombudsperson. That undoubtedly is the work that can be done.

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But just building on Deputy Le Tocq's more serious point about the risks of poor practice, and I would counsel against us thinking that the ombudsman is the right place to address that. I think the biggest challenge we have, and this really is one for Deputy Brouard to respond to and indeed perhaps Deputy Soulsby will also have some observations on this, as the former President of Health & Social Care Committee. I suggest that the biggest challenge we have in preventing the excellent Law that we are talking about in being fully implemented is because of the operational challenges we have, with the shortage of social workers.

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And in particular, I think if we want to avoid the kind of risks that Deputy Le Tocq was talking about, we really do need to think about having an external inspection regime for our entire child welfare system, together with actually prioritising the proper resourcing leadership and governance and the quality assurance within that very stretched, what used to be called Children Services, that team. That, I think, is one of our biggest challenges and I would certainly welcome Deputies Brouard and Soulsby commenting on that.

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And I do not think that if Members feel that simply voting for this amendment introducing an ombudsman will mitigate against the risks that Deputy Le Tocq was talking about, either in a slightly more expensive way, as Deputy Trott has made, Deputy Dyke has observed, than the administrative review panel, I think we are kidding ourselves – we are hitting the wrong target.

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So I think it is a good amendment which needs to implement the Marshall Report. I would welcome any comments about the achievability of the July 2023 timeline. But I think that we need to really focus on the deliverability of the operational changes governance and oversight which is so critical to the adequate or the proper implementation of the Law, as identified by Professor

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Marshall in her report. And again, Deputy Soulsby may have some comments on that, having been familiar with that report.

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The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: I was not going to speak, but for a point very fairly made by Deputy St Pier, but before that ... Therefore, I would not have risen just to deal with the point made by Deputy Trott but I agree with it. Ombudsman do cost money. There is no such thing as a free ombudsman or ombudsperson or ombuds-whatever you may call them in relation to that.

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But the administrative decision to review the Law was in 1985; it has not been used for, as Deputy Gollop says, some years now. And I can remember, it was set up by the then Deputy Perrot who was behind it in that period of the States, and I both appeared in some in the early days – they were all pretty low level things and I think I was actually on one of the bodies at one time.

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I give way to Deputy Meerveld.

The Deputy Bailiff: Deputy Meerveld.

Deputy Meerveld: Thank you.

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I think it is worth pointing out that it does have dedicated officers and it does do a lot of work, but what usually happens is it ends up referring people back to other appeals processes within the States, so very few actually reach the board level. But also it is a very protracted and bureaucratic process that is not very user friendly for your average member of our community to use and it has this perceived conflict of interest, in that we are marking our own homework. So for all of those reasons, I think it has definitely had its day.

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But I thank Deputy Ferbrache for giving way.

The Deputy Bailiff: Deputy Ferbrache.

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Deputy Ferbrache: Well, it never used to be complicated years ago but the world has got more complicated nowadays.

But I think that is the point of having an ombudsman because otherwise I agree with sentiment raised by Deputy Trott in the sense that it was marking our own homework. This is a Channel Islands ombudsman. It also gives us the opportunity to work with Jersey constructively on something that is sensible. But Deputy St Pier's challenge, question, statement, whatever it may be, in relation to that is certainly a reasonable one. Where does it come in a priority list? In my view, it is not the highest priority but it is something that has a timeframe, a time zone, and we have got to look at it.

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The Deputy Bailiff: Deputy Taylor.

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Deputy Taylor: Thank you, madam.

On the face of it, as much as I do not like to note Propositions, I was drawn in by this one and I could have potentially supported it on the basis that we could separate them and then vote against the 'to note' ones afterwards.

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But the real concern I have, and it is a fairly small one, and hopefully Deputy Soulsby could allay it, is that this is an ombudsperson across the whole States. Have I interpreted that right? And it is not really just focused on children who have been badly affected by our poor service? So could she just put my mind at ease? If this was voted and it went through, it would really be able to make a difference, otherwise we are opening up the whole States' decisions and bits and pieces, and the way that people are treating across the whole States –

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I will give way to Deputy St Pier.

The Deputy Bailiff: Deputy St Pier.

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Deputy St Pier: Thank you to Deputy Taylor for giving way.

I just really wanted to address his first point before we sat down which of course is if he does vote for this amendment he will be in a position to vote against the new Propositions 25 and 26 if he so wishes and simply vote either for or against Proposition 27. So the amendment inserts the Propositions but he will still have that option and I just wanted to clarify that if he had any doubts

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The Deputy Bailiff: Deputy Taylor.

Deputy Taylor: I am grateful to Deputy St Pier for that. I think I was just practising my politics of asking a question that I knew the answer to. But thank you for the clarity there. If it is successful, if I could request now that we would vote on these separately when it comes to the final vote?

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So I think the question I was posing to Deputy Soulsby is does she really believe if this was put in place that, the ombudspeople, however many there may be, will not just get swamped with all manner of complaints – I am not suggesting that there will be complaints – that they would be able to actually concentrate on what this policy letter is really looking at and trying to achieve the best outcomes for children?

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Thank you.

The Deputy Bailiff: Deputy Inder.

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Deputy Inder: It is only briefly. I am going to support this because it reminds me very much of an amendment that we laid only last month, asking us to work with Jersey where practical and pragmatic; and it seems a fairly easy one to me. And ultimately, all it is doing is asking whether we can work with Jersey on something and if Jersey are down a path and they decide not to parle with us, guess what, it will not happen. So it is really quite simple.

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The Deputy Bailiff: Deputy Brouard to reply on behalf of the committee.

Deputy Brouard: Thank you very much, madam.

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We are pleased to advise that the committee has no comments or objections to this amendment at all.

Just speaking personally, I would just like to, Members, re-echo the words of Deputy Trott, that all of these new bodies that we create, especially if they are at arms' length, have a life of their own, and once they have become created it is very hard to restrain the size, the scope, the salaries and the position. And also when you are doing it pan-island, you multiply it by two.

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So it is just a word of caution. I will probably be supporting all of these but I just personally want to echo what Deputy Le Trott mentioned – Deputy Trott mentioned! (*Laughter*)

The Deputy Bailiff: Deputy Soulsby.

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Deputy Soulsby: Thank you, Madam.

I am on borrowed time. I know it because my computer is telling me that it wants to restart again so it is going to make the next amendment quite interesting, I think.

I do not think there are very many comments to respond to. I think that Deputy Ferbrache referenced what the Administrative Review Board used to be like in the 1980s but it was changed and I think it was last term new procedures were put in place. So I think that might possibly explain why it is a bit more complicated now. I think Deputy Meerveld cleared up the fact that it does not happen for free. So especially, as I said in my opening speech, the cost associated with the admin review board could be then absorbed into any ombudsman/person role.

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I do take Deputy Trott's point about cost, but this is about finding out what it might be and I am hoping with working with Jersey, we can have something that is pragmatic and practical. And on

4030 that, Deputy Taylor's point about opening up to all public services, well that is what the admin
 review board does now. We still cannot and must not forget that this will be areas of operational
 services and it will be those areas that are non-statutory services. And there are already means to
 go, if people feel comfortable, going into only, say the HSC customer care team and starting off
 there. But it would depend on what those complaints are, but clearly this around getting that
 independence and people who do and particularly in those very difficult personal cases where they
 are dealing day to day with somebody that there are really struggling with when it comes to
 Children's Services and very emotive and in emotional areas where they can feel safe, they can talk
 4035 to somebody who is not part of the system, as it were.

I note Deputy St Pier's comments about July 2023 being very tight, but I think Members need to
 know that Jersey are very eager to get on with this. I think they have delayed announcements on
 what they would like to do pending what we decide today, and of course this was originally meant
 to be September so that has tightened things somewhat.

4040 He made an interesting point about the regulation and making sure that we have a quality review
 and looking at our services. He mentioned Children's Services but that goes for the whole of Health
 & Care Services. And as he will know, there is an outstanding Proposition from the 2017 Partnership
 of Purpose policy letter on regulation and we did bring a policy letter last term on that, but this
 term it has been delayed through not being treated as a priority within the Government Work Plan,
 4045 so that is why we are where we are. So although people think there is too much in the Government
 Work Plan, a lot of the stuff which is probably quite valuable and would be valued by members of
 the community has been put by the wayside.

I think I have possibly answered everything on that and I would just ask Members to support the
 amendment.

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The Deputy Bailiff: Thank you.

States' Greffier, will you open the voting on Amendment 6, please.

Amendment 6

4055 *Carried – Pour 34, Contre 3, Ne vote pas 1, Absent 2, Did not vote 0*

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

Deputy Queripel
Alderney Rep. Roberts
Alderney Rep. Snowdon
Deputy Soulsby
Deputy St Pier
Deputy Taylor
Deputy Trott

The Deputy Bailiff: There voted Pour 34, Contre 3, there was 1 abstention. I therefore declare the amendment has been carried.

Let us turn now to Amendment 7. Deputy Soulsby.

[Amendment 7](#)

To delete Proposition 22 and substitute therefor:

"22. To direct the Committee for Health & Social Care, in consultation with the relevant Committees and agencies, to provide the necessary training and review and update operational procedures to ensure proportionate monitoring and reporting that will assist in determining the effectiveness of these changes on the family care and justice system and outcomes for children, and to effectively support the introduction of the amended legislation, prior to its commencement."

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Deputy Soulsby: ... [*Inaudible*] I will start again.

This really should not be a controversial amendment. Rather, it makes a lot of sense for anyone who knows the history of the introduction of the Children Law. The Law was groundbreaking and, as many Members have already said today, it really did make a difference and really brought Guernsey into the modern age, putting the best interests of the child at the forefront of decision making.

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Now, whilst it became a Law in 2008, it was based around policy decisions made in 2004 and was not introduced until 2010. So, a lot of time was spent on getting the Law right and anyone who has read it will know that it is a chunky piece of work. The main projet, the Children (Guernsey & Alderney) Law 2008 runs at 175 pages and there are a number of additional ordinances linked to it.

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But we have a hybrid system which mashes together the Scottish and English systems and it must be apparent to many Members reading this policy letter, attending the various meetings and reading the emails received from various stakeholders that is a complex and technical area. Reading it, there are so many different orders for a start, supervision orders, child assessment orders, community parenting orders, parental responsibility orders and emergency child protection orders.

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I know that when the last committee began the process of reviewing the Law and outcomes following the Marshall Report, when we first took office, it took time for us to get our heads around what is a complex system, not helped by the number of entities involved in it. We have Children's Services, Families Proceedings Advisory Service, Children's Convener, Child Youth and Community Tribunal and the courts. This was a new system introducing many new elements but despite all of the work that went into bringing the Law into effect, the guidance and training fell short. Indeed, this was made clear in the Marshall Report and a lot of work was undertaken to ensure that this was changed.

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The major problem was, and still is, the uniqueness of the system. Anyone recruited from off-Island is confronted with something which may have similarities to where they have worked before but is not the same. Without that guidance and training, issues have arisen and delay has occurred. Just to remind Members, delay and the reduction of it has been one of the drivers for the Propositions before us today.

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As Professor Marshall said in her 2015 report, much of the detail that was supposed to guide implementation and law in terms of regulation and guidance has not been produced. She concluded that there was agreement that the lack of secondary legislation, guidance and training for new staff had impeded the effective integration of the convener and tribunal system into the Guernsey landscape. She went on to say that she has been:

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... advised that there has been neither the funding nor the personnel to take these matters forward. The situation exacerbated by the rapid turnover of social work staff, mostly from England, who have no prior experience of this kind of system. In the absence of detailed regulation and guidance they understandably look to what they see as the English equivalent and follow English practice.

4095 Now, this comment actually post-dated a diagnostic report commissioned by HSSD a year before, known as the Parry Report, which led to the establishment of the MASH and more joined up working. And it stated that significant resources were expended on creating the new Children Law but the investment was not extended to the implementation of the Law in 2012. This led to mutual suspicion between Social Services and the tribunal process. Her conclusion was implementation of the public law parts of the Law was unfinished business. This was five years after
4100 the Law had come in and seven years after it was approved.

Since then, provision of guidance and training has much improved. However, my concern is that while the changes being proposed are not as far reaching as bringing in a completely new Law, it would be essential that they are clear, and guidance and training is comprehensive to prevent similar issues occurring in future. We do not want to repeat previous mistakes, particularly given
4105 these have been flagged clearly more than once.

So, madam, it is as simple as that, and I ask Members to support this amendment.

The Deputy Bailiff: Deputy Ferbrache, do you support this amendment?

4110 **Deputy Ferbrache:** I support it, madam, and I second it.

The Deputy Bailiff: Oh, jolly good. *(Laughter)*
Deputy Inder.

4115 **Deputy Inder:** Well, when I read this – I mean I am going to support it but it is worth commenting – I thought this was one of Deputy Gollop's questions; I did not understand a word it meant. But I am going to try and put it into what I think is English.

I think what it is actually saying is 'To direct the Committee for Health & Social Care along with other committees to provide training.' Stop. '... and to review operational procedures and reporting,'
4120 and that is about it.

I am going to support it but we seem to overcomplicate some of the wording in this (**Several Members:** Hear, hear.) where it makes no – We could have got this down into two or three sentences and the rest of it done by explanation. But if you actually read it, it does not actually make any sense at all. And this is coming from me! This is fat fingered Inder on his phone replying to emails. But I will support it but do wish sometimes, Members, a lot of this is just verbose nonsense and you could get this down into two or three sentences and just vote it through.
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The Deputy Bailiff: Deputy Dudley-Owen.

4130 **Deputy Dudley-Owen:** Thank you.

I have been listening where I can to the debate to try and follow what is really a technically complex and rather dry arena, but actually touches on an awful lot of lives and I think it is incumbent on us to try and make these amendments quite clear. (**A Member:** Hear, hear.) So I am seeking clarity from Deputy Soulsby that essentially this just adds the words 'to provide the necessary
4135 training' within an existing amendment.

So if that could be clarified that there is no other meaning to this because there is also an amendment to some of the wording. The original Proposition is explicit about which committees and the amended Proposition refers to 'relevant committees'. So really just to have that clarification that this is simple, there is nothing hidden in there and it looks, on the face of it, why wouldn't you have training? Of course, you would. So just so there is nothing there that is unforeseen.
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Thank you.

The Deputy Bailiff: Deputy Le Tocq.

4145 **Deputy Le Tocq:** Thank you, madam.

I will support this amendment because it is aligned with the intentions that are explicit in the policy letter but perhaps the Assembly prefers the wordings of this amendment. I cannot speak for HSC but it would certainly be the intention of the Children & Young People's Board in making recommendations that there should be adequate training, appropriate training.

4150 But I just want to flag a certain concern because in a sense this is what it all boils down to. One of the difficulties we have on this Island is training professionals, social workers, in our system which is different to the vast majority of places that they come from. There are very few that come from Scotland, sadly, but even then, there would be some differences there, but obviously, it is different to England and Wales. Plus, there is a huge lack of social workers, particularly at the moment, and
4155 care workers in general.

But there needs to be a big piece done on training, there is no doubt about that. What I would not want to see happen is that it delays the changes that are in the Propositions in this policy letter and therefore there are some resource implications and it will come down to a decision by HSC, primarily in the first instance at least, as to how they go about allocating their requirements for
4160 resources to ensure there is funding and appropriately resourced training before the legislation comes in.

The Deputy Bailiff: Deputy Haskins.

4165 **Deputy Haskins:** Thank you, Deputy Bailiff.

I echo Deputy Le Tocq's comments. I do seek clarification on one thing. Now, Rule 1(d): it is not considered that there will be any significant financial implications. Well, one person's 'significant' is another person's eye-watering, so if there could be some explanation about the amount of that, that would be great.

4170 Thanks.

The Deputy Bailiff: Deputy St Pier.

4175 **Deputy St Pier:** I am going to focus on some different words in the amendment that perhaps assists Deputy Inder in his challenges. I would like to commend – self-confessed challenges, I think I should add!

I would like to commend Deputies Soulsby and Ferbrache for bringing this amendment because I think it does draw attention to some key issues because most of the debate so far has been focusing on the necessary training. But actually for me, it is also ensuring proportionate monitoring and reporting. That is really key, actually: obtaining data and the key performance indicators that
4180 measure the effectiveness, as the amendment goes on to say, 'in determining the effectiveness of the system and the outcomes of children.'

I will give way to Deputy Leadbeater.

4185 **Deputy Leadbeater:** Thank you, Deputy St Pier, for giving way.

I mean, he raises a point but that wording on 'monitoring and reporting' was actually in the original Proposition.

4190 **Deputy St Pier:** I accept that, but I just want to draw attention to the fact that it sits in this amended Proposition together with, of course, the important point that this data is required to effectively support the introduction of the amended legalisation prior to its commencement and I think that is key that we actually do understand, as Deputy Le Tocq has said, the resource implications as referred to in the debate on the previous amendment.

4195 In a team that is stretched, that is experiencing significant turn over, the focus will always be on
doing the day job and actually developing a system that is sufficiently proportionate and to monitor
and report on the effectiveness of that team, the effectiveness of the system and the impact and
outcomes for children is really important stuff and we should not lose sight of that. And I think that
this amendment really draws attention to that. But the focus on the fact that actually it is prior to
4200 the commencement of the amended legislation is key as well. In other words, we need to have the
data to understand the impact of what it is that we are agreeing to today and that is what this
amendment helps achieve. And for that alone, it is well worth supporting, and as I say, I commend
Deputies Ferbrache and Soulsby for bringing it.

The Deputy Bailiff: States' Greffier, given the time, I think we will call today's session to a close
4205 and we will carry on tomorrow at 9.30 a.m.

The Assembly adjourned at 5.30 p.m.