



STATES OF DELIBERATION

HANSARD UNEDITED TRANSCRIPT

**Royal Court House, Guernsey,
Wednesday, 24th May 2023**

PLEASE NOTE:

As this is an unedited transcript, direct quotes may not be used, as corrections will still be made before the final Hansard report is published.

States of Deliberation

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

[THE DEPUTY BAILIFF *in the Chair*]

PRAYERS

The States' Greffier

EVOCATION

CONVOCATION

- 5 **The States' Greffier:** Billets d'État VII, 2023. 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 24th May 2023 to consider the items listed in this Billet d'État which has been submitted for debate.

A tribute to former Deputy Peter Bougourd

- 10 **The Deputy Bailiff:** Thank you Greffier, Deputy Dudley-Owen do you wish to be relevé?

Deputy Dudley-Owen: Yes please, madam.

- 15 **The Deputy Bailiff:** Members of the States of Deliberation on the 24th April last former St Samson's Deputy Peter Bougourd died. Peter Bougourd was born in Guernsey on 6th March 1934. At his father's insistence in 1940 six year old Peter was evacuated along with his mother to the mainland. They left without a penny as his mother's handbag fell into the harbour as they boarded the boat that was taking them to England.

- 20 His father remained behind as he was one of the Island's policeman but was killed only days later when the White Rock was bombed by the Luftwaffe whilst he was attending a wounded man. Peter was not told about his father's death, as was the way back then, for almost two years.

 Peter and his mother returned to Guernsey in 1946, Peter with a Yorkshire accent and initially homesick for his Huddersfield friends but he soon settled back into Island life and became a fisherman where he learned his seaman ship skills, later a fishmonger on the Bridge. He married Annie Smale in St Martins' Parish Church on 28th April 1960.

- 25 He put his knowledge of the sea and boats to the greater good by being a lifeboat volunteer for 25 years. In 1981 he was awarded the RNLI Bronze Medal for his skill and courage during the rescue of the ship Bonita which ran into trouble in the Channel in hurricane force winds and 50 foot seas.

He was the second coxswain on the lifeboat the Sir William Arnold whose crew helped to save 29 people, including four children.

30 If you want to get a sense of what they achieved on that December night and the challenges they faced, if you have not already seen it, I recommend you watch the You Tube video where Peter vividly recalls what was happening in the driving sleet and snow, the shrieking force 12 winds and the three storey waves.

It was in those horrendous conditions that one of Peter's jobs was throwing the line to the ship
35 because he could throw the line the furthest, so the people could tie themselves' on to it, jump into the sea and be pulled aboard the Sir William Arnold. Again and again he did this saving the lives of the petrified crew and their families.

Of the exhaustion afterwards Peter described his wife saying, in typical Guernsey fashion, "he was not worth a brass farthing in the garden for a fortnight after the rescue" (*Laughter*).

40 Peter was elected to the States at the 1985 General Election, his reputation for hard work and commitment as well as the esteem in which he was held was reflected in the number of Committees he sat on throughout his tenure as a Deputy. He was immediately elected onto the Public Thoroughfares Committee and served on it during his entire time as Deputy, including serving as its President from 1994.

45 In 1985 he was also elected to the Gambling Control Committee, the Water Board and the Island Development Committee. At varying points in his long States' service he also served on the Police Committee and the then Committee of Home Affairs which took over its responsibilities. He also sat on the Legislation Committee, the Electricity Board, the Board of Admin and the States' Education Council.

50 Although perhaps best known for his Presidency of the Public Thoroughfares Committee his first Presidency was in fact the Cadastre Committee to which he was elected in 1991 and retained until he left the States. He was also, for a short time, the President of the Traffic Committee.

Having notched up 90 years as a Deputy he lost his seat in lost his seat in the 2004 General Election but nevertheless remained a well recognised face on the Island, a man whose wisdom
55 continued to be sought out and respected. Peter was pre-deceased by his wife Annie and his daughter Marianne but leaves his children Jennie and Martin along with grandchildren and great grandchildren as well as his wider family to all of whom we extend our sincere condolences.

Members of the States will you now please join me in rising for a period of silence to honour the memory of the former States' Member Peter Bougourd.

60 Thank you.

Statements

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

General update –

Statement by the President for Employment & Social Security

The Deputy Bailiff: I will now invite Deputy Roffey as President of the Committee for Employment & Social Security to give a general update statement.

Deputy Roffey: Thank you, madam.

65 To most people's minds the introduction of secondary pensions probably is not the sexist project that ESS are involved in but it is certainly one of the most important for the long term welfare of

our Island community. Even though I suspect that few current Members will still be in this Assembly when those benefits are fully recognised.

So I am glad to report that the Secondary Pensions Project is moving forward well and we are delighted that Alderney has decided it wants to participate fully. The States' contract with the provider, Sovereign, is expected to be signed within the next couple of months and the Your Island Pension Scheme, or YIP, is due to be launched on 1st January next year.

At first it will be an entirely voluntary scheme, then from July next year onwards employers with 26 or more employees will have to auto enrol their employees into an approved pension scheme, that can either be the YIP or another approved scheme. Those employees will, of course, have the right to opt out if they so wish. Auto enrolment will then be rolled out to all employers over a 15 month period.

The minimum contribution rates for employees and employers will gradually increase over the next seven years but the minimum employer contribution will remain very modest compared to the amount that many employers choose to contribute to their workers occupational schemes. So it is hoped that many employers will choose to pay in more than just the required minimum in order to enhance the employment package they offer and to attract and retain staff.

One law which is due to come into operational even earlier than Secondary Pensions is the Prevention of Discrimination Ordinance which goes live on 1st October. This too is making steady progress and ESS will soon be submitting a policy letter proposing the first appointment of a Director of the Employment & Equal Opportunities Service.

Since last autumn a great deal of training has been offered to allow employers, service providers and others affected by the new law to fully understand it. Anyone still wanting to take advantage of that free training on offer can access it at www.consortium.gg under the training tab.

One live issue at the moment is the revision of Guernsey's minimum wage. In keeping with the States' direction to move the minimum wage to 60% of median earnings based on a 40 hour working week, ESS is currently consulting on a proposal to increase the minimum wage from £9.55 per hour to £10.65 per hour. Subject to the results of that consultation we plan to ask the States to implement such an increase from 1st October. The States meeting that we are targeting for debate of that policy letter is the early July meeting.

That will leave just one more year of the States median term plan on the minimum wage to be implemented so next summer we may well be asking the States what, if anything, it wants to do next.

The Affordable Housing Development Programme or AHDP is always an absolute top priority for ESS and it has been a source of deep frustration that a lacuna in available sites led to the AHDP slowing right down over the past few years. It must now become super charged. To do that we are going to need a lot more money, the current allocation of £36.2 million agreed in 2021 will enable us to deliver about 415 homes, this falls far short of being sufficient to deliver, even on the old targets for the number of new affordable homes and that is largely due to building inflation which Members do not need me to tell them about.

On top of that the States recently set a new Affordable Housing Indicator which identified that if the projected housing needs within the social rental and partial ownership tenures are to be met over the next five years we will need an additional 721 units of accommodation just for those two tenures alone. Once you factor in urgent and needed key worker housing and specialised accommodation needs as well the number of homes we need to build is close to 1,000.

Heaven knows if we can even grow the capacity of the local construction industry sufficiently to deliver on that or if we can find sufficient sites to build on, but one thing is certain, without a lot more capital funding we stand absolutely no chance at all (**Several Members:** Hear, hear). Without that additional allocation we will not only fail but fail badly delivering only 40% of what the Island needs over the next five years. That will be tragic, not only for the issue of housing but for just about every other priority facing this Assembly because Guernsey's current lack of affordable housing is a major aggravating factor in nearly every challenge that the States needs to address.

So it will not just be a crude question of hospitals or schools that Members will have to address in July the AHDP is just as crucial, if not more so as it underpins Government's ability to deliver its critical services. How much more money does it need to deliver on the targets agreed by the States, probably around £45 million to £50 million.

Now the good news is that we do not need it right now, we have sufficient funds allocated for the seven developments that we have prioritised to be carried out over the next couple of years. But it is absolutely crucial that we know that more capital is coming because unless that happens we will not be able to commit any funding to things like buying new sites or paying for architects' plans for medium term pipeline developments. Such expenditure would be reckless if we did not know whether such projects could ever be bought to fruition. So unless a medium to long term funding programme is agreed there is a real risk that the AHDP could become briefly very active for a few years only then to sink back into a semi dormant state. That would be a complete disaster for Guernsey, its community and its economy.

I will now focus briefly on some of the projects which will be going forward soon within the existing funding. Firstly the former CI Tyres site, now renamed Domaine de mola in recognition of the areas historic use. The site was bought to deliver much needed key worker housing being not too far from the hospital and its initial attraction was the speed at which this can be delivered because it already had planning permission for residential developments.

However, while ESS is chomping at the bit to deliver on this site, and indeed many others as quickly as possible, it was important to take a step back and consider whether it was possible to increase the density of units to maximise the development potential of this site. This was supported and indeed encouraged by colleagues on the DPA and while a planning application will still need to be submitted and considered formally early indications are that a large scheme will be agreed.

We are now looking at delivering around 54 units on the site, more than double what the original plans would have provided and we believe this outweighs the impact of the delay of around 12 months in delivering the completed scheme. ESS understands the importance of delivering key worker housing urgently and with our development partner, the Guernsey Housing Association, we are also pursuing another site that would be perfect for key workers and I hope to be able to say much more on this very soon.

Another key scheme is La Vieille Plage, a small development of 14 units of specialised housing for adults with learning disabilities. The capital grant requirement for this scheme has increased substantially since its original business case was prepared due to build cost inflation but it is hoped that work can start on this site in the next few months. It is very important to ESS that we recognise the housing needs of all Islanders and ensure we deliver new homes across all affordable housing tenures, so we are delighted that work on this project will be underway soon.

Finally, in this section I want to mention Fontaine Vinery and Parc Le Lacheur, two of our largest sites that are prioritised for development as soon as possible. I think Members will probably be aware that planning applications in respect of these sites at open planning meetings have been delayed for a few months. This is in order to ensure that the tenure mix and design of the sites are reconsidered following the States decisions to set the net migration target of +300 which in turn fed through to the SSHI figures and the impact of build cost inflation having reduced the number of large mixed tenure sites that can be delivered within the current capital allocation.

I cannot stress enough how critical it is that we get this right and ensure that the north of the Island remains a pleasant place to live (**A Member:** Hear, hear). I also want to reassure Members that this short planning delay actually will not impact on when the building work will start on these two sites, that is because they were both planned to start in quarter one 2025 in order to align these large building projects with construction industry capacity alongside the States other large planned building projects, assuming that those other large projects go ahead more of which we will hear on shortly I guess.

Whilst on the subject of housing Members will be aware that P&R and ESS have agreed that stock transfer of States owned social housing to the GHA will not now go ahead. This is because P&R deemed the capital gain to the States insufficient to compensate for the loss of the rent roll.

170 ESS can fully understand that but it does leave one elephant in the room. The firm that carried out the valuation of our stock reported that it was generally very well maintain but much of it was of an age where things like its thermal insulation were very much in need of upgrading. Well this came as no surprise to ESS and we had hoped that such work could be expedited through the stock transfer exercise. Now we will have to find another way forward as we are sure no one in this
175 Assembly would want us to neglect our duties as a good landlord. So, we will be bringing a policy letter to the States addressing this matter before too long but I can warn you it is bound to involve retaining more of the rent roll for a number of years in order to reinvest in our stock.

Before leaving this subject I would just observe that the last year or two has been a very unsettling time for our superb teams in the tenancy and property sections and in the key worker
180 accommodation service. They have maintained their usual professionalism throughout and I thank them publically for their tireless service through what has been quite a fraught department, during the current housing crisis (**A Member:** Hear, hear).

Moving on, ESS is fully engaged in the multi-committee SLAWs investigation into how to both provide and fund the growing amount of social care needed in an aging population. Good progress
185 is being made but I warn it is inevitably that the choices the States will be presented with will be neither easy nor popular ones.

Members will also know that ESS is leading on the Supported Occupation, Health and Wellbeing Programme or SOWELL and will be fully aware of the significant challenges for Guernsey and indeed for Alderney in maintaining and growing a healthy and sustainable workforce for the future. We
190 know that incapacity related absence is expensive and can be detrimental to a person's wellbeing. Only recently it has been reported in the UK news of record numbers of people who are not in work due to ill health. Thankfully our numbers are nothing like the UK but in the current environment it is even more important that we continue to focus on this key area to prevent people from falling out of the workplace.

I hate to remind Members but we did not really agree on a tax strategy in February, however, ESS was greatly encouraged that there seemed to be universal support for moving to a reformed and fairer system of social security contributions and as a result, depending on developments elsewhere, we are going to be bringing forward proposals on this matter, quite possibly as soon as
195 part of the October Updating Report.

ESS is completely committed to the work of ensuring we maximise the economic participation of our existing population, à la the Leadbeater Amendment, and we look forward to working closely with P&R on this matter as it is vital to Guernsey's economic prospects.
200

Finally we have commissioned a full review of Guernsey's legal aid system, indeed this is the first such review since the current system was first set up and it is due to commence very shortly. Madam
205 I have only been able to touch on a few aspects of ESS's massive mandate during this statement but, of course, I greatly look forward to fielding questions on whatever aspect of our mandate may be of interest to Members of the States.

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

Deputy Inder: Thank you, Deputy Roffey for your update.

The President has made reference to the dire need for housing across the Island indeed he was a member of the Housing Action Group. Would the President commit to writing to himself as President to STSB requesting Guernsey Electricity to release the seven or eight units on the GL land
215 to ESS for immediate use for either temporary or emergency accommodation?

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Well there is no need to do that because when I was on HAG we made sure that
220 we had actually contacted Guernsey Electricity to see what the prospects are there and I do not think the block here is Guernsey Electricity, I think it is Environmental Health Department insisting

that they are not able to be used. There might be some loop hole if it was employees of Guernsey Electricity I understand although I am not positive about that but I will look at that because obviously the whole housing market is inter-connected so if people employed by the firm that would be housed elsewhere are then housed there. I do not quite understand how that works as far as Environmental Health is concerned but I am told there might be an opportunity so we are looking at that.

The Deputy Bailiff: Deputy Trott.

Deputy Trott: Thank you, madam.

I congratulate Deputy Roffey on the excellent job that he is doing as President of ESS. There is a perennial view in some quarters of our community that our social welfare systems supports people who are, and I quote, 'too bone idle to work'. Now I do not believe this to be the case, what does the President of ESS believe?

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: I believe that Deputy Trott is right in believing that that is not the case, if that is not too convoluted. Our experience is that the work ethic amongst most of our claimants, I cannot claim universal application, is strong. Indeed very often they are seeking to earn more money when there is a direct correlating reduction in the amount of income support that they get and I would stress that income support, by and large, is not a benefit that is there for people who will not work, very often it is there for families with significant outgoings because they have large rents and children where both parents may be working full time in relatively low wage but very important jobs for our community and it provides a top up. So, yes, is there nobody bone idle in Guernsey who is trying to play the system, I would be stupid to say that that is not the case but I think our staff are pretty alert to it.

The Deputy Bailiff: Deputy Queripel.

Deputy Queripel: Thank you, madam.

I believe I am right in saying that we are still in the position that whenever a tenant moves out of a social housing property carpets are replaced and sometimes even kitchens and bathrooms are renewed. So my question is, 'is there really a need to go to that extent, cannot carpets simply be cleaned and kitchens and bathrooms repaired wherever possible?'

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: There is a difference between kitchens and carpets. Carpets are the property of the outgoing tenant and they have every right to take them with them if they so choose and in many cases when those floor coverings are still in very good condition that happens. When they are left in situ our staff make an assessment on whether or not it is possible to retain them and wherever it is they do that, they get commercial cleaners in and assuming that the new tenant actually wants those floor coverings we will retain them in situ.

But as far as bathrooms and kitchens are concerned it depends how many years since they were last replaced. Obviously after a really extended period there does need to be a replacement and it makes sense to do it when the property is vacant wherever it is possible to do so.

The Deputy Bailiff: Deputy de Lisle.

Deputy de Lisle: Thank you, madam.

Deputy Roffey mentioned employment a few times; there is concern over the rationalisation and reduction in numbers employed in the finance sector, a drop of 1,000 since 2016. What initiatives
275 are being put forward by Employment & Social Security with Economic Development to assist and address these concerns to attract and retain staff in the finance sector?

The Deputy Bailiff: Deputy Roffey to the extent you can answer that question.

280 **Deputy Roffey:** I think it falls largely outside our mandate. Any individual that may lose their job in the finance sector obviously we will assist into fresh employment either in that sector ideally, if that is where their skills lie, or elsewhere but the macro issue of trying to boost employment in the finance sector really is not within the mandate of ESS.

285 **The Deputy Bailiff:** Deputy Blin.

Deputy Blin: Thank you, madam.

I would like to thank the President for his statement there and I would like to ask will you have another increase on the minimum wage coming through and as part of the series, which I have
290 supported? I would like to ask the President, through you madam if there is a correlation between as the minimum wage increases periodically as we go along if there is a correlation against the demand on Income Support and others and if there is something material that can be seen on a statistical or other way?

Thank you.

295 **The Deputy Bailiff:** Deputy Roffey.

Deputy Roffey: The correlation is weaker than you would think because I think firstly we do not know how many people are paid the minimum wage which is an important gap in our statistics
300 which we are pressing to be addressed as quickly as possible. But when I was on the In Work Poverty Working Group of SMC it was quickly established that the majority of people who were paid minimum wage tend to be young, single people without dependents who, by and large, will not qualify for income support. So that typical Income Support recipient may be in low paid work but generally above the level of minimum wage but have high outgoings in terms of dependents and
305 housing costs.

So, yes, there will be some correlation and obviously the higher the minimum wage goes the more it will relieve the need for Income Support but I cannot claim it is a straight correlation in the way one might think.

310 **The Deputy Bailiff:** Deputy Gollop.

Deputy Gollop: Good morning madam Deputy President.

Of course, I am a member of ESS so I should know the answers or I have asked them at the time, but never mind. In some ways we lost something when we lost the Housing Ministry Department
315 **(A Member:** Hear, hear!) despite Deputy de Sausmarez and Deputy Roffey doing great work for us. How can we ensure that we can go cross the States from what ESS says to ensure we have got the capacity in the building industry as well as the budget because I agree that housing is our biggest single challenge?

320 **The Deputy Bailiff:** Deputy Roffey.

Deputy Roffey: Again, growing the capacity of the building industry is broader than ESS's mandate but I think it is one of the biggest issues for this Assembly over the next few years because there is no doubt we need a lot more housing and that has come just at a time when we are trying

325 to fix the neglect to our more broad infrastructure like health and education. So the demands are going to be great and as Deputy Trott keeps warning us if demand outstrips the supply then all you are going to get is very elevated costs.

So I do not believe ESS alone can address that, but I do agree with my Member for questioning me and raising the fact that capacity is a big issue and we really need to put our brains together as
330 an Assembly and see how that can be ramped up (**A Member:** Hear, hear).

The Deputy Bailiff: Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: Thank you, madam.

335 Over the last 15 years the money spent on the Incapacity Benefit and the Sickness Benefit nearly doubled. This is significantly higher than the rate of GDP growth or inflation and that means that one in 10 people of working age, that could be working right now, are basically out of work. Is this an area of the Committee's mandate that the Committee is aware about and has looked into because it probably presents the there is either a health or stress epidemic happening and we are
340 not really on top of it?

Thank you.

The Deputy Bailiff: Deputy Roffey.

345 **Deputy Roffey:** Yes indeed, we are very concerned about that hence the SOWELL Project that I referred to in my statement which is basically looking at the occupational health side of trying to keep people in work. I think there is a number of aggravating factors, I think the COVID epidemic did not help and the long waiting lists, in some areas, of health care obviously do not help and the fact that the age profile, even though Deputy Kazantseva-Miller is talking about working age
350 population, more of our working population are towards the top age of that working age than used to be the case and that is where these instances tend to be more prevalent although it is not universal.

But, yes, it is a matter of deep concern and it seems to be happening everywhere in Western Europe. We are not as bad as the UK but that is no reason for complacency and SOWELL is designed
355 to address exactly this.

The Deputy Bailiff: Deputy de Lisle.

Deputy de Lisle: Can I ask Deputy Roffey, how successful Employment & Social Security have
360 been in getting people off welfare and into productive employment like finance?

The Deputy Bailiff: Deputy Roffey.

365 **Deputy Roffey:** I think there is a misunderstanding at the heart of that question. I think we are very successful in getting people into productive employment that does not necessarily mean they will be of welfare. Income Support, which is our largest benefit after the pension, is an in-work benefit. So somebody may be got back into work but it does not mean necessarily that they do not need any benefit depending on their family circumstances, their housing costs, their number of children, etc.

370 But are we successfully getting people back into work? I think greatly, I think when you look at the unemployment rate in Guernsey it is incredibly low but referring back to the last question I think the more concern is people who are out of work because they have been signed off work by their doctors and that is something that, in a way, is even higher up our agenda.

375 **The Deputy Bailiff:** Deputy Moakes.

Deputy Moakes: Thank you, madam.

I am standing up really because of a couple of things that the Deputy over there has just been talking about, and that is the finance sector. There may have been some shrinkage in people in the finance sector but the biggest problem the finance sector, and other sectors, face at the moment is the lack of housing. They cannot fill the jobs because they cannot find houses for the people that they want to employ to put them into. So, the sooner we can get on with building the more houses we produce, the more people we can employ and they will then have homes to live in, be it the finance sector or any other sector for that matter indeed.

The Deputy Bailiff: Deputy Moakes you are supposed to be asking a question.

Deputy Moakes: Does Deputy Roffey agree with me? *(Laughter)*

Deputy Moakes: More houses, good, yes I think I do agree with that. Obviously the private sector has a big role to play in that but so does the Affordable Housing Programme and the two are inter-connected. I think the lesson we must learn is never to get back into the situation I inherited at the beginning of this term where the Affordable Housing Programme had just run out of anywhere to build. We need a conveyor belt, I am not saying we need a massive land bank, but we need to have an idea years ahead going forward. It is not like a hospital or a school where you may have one big project every few years and then there is a gap, we need a continuity of being able to produce houses year in, year out going forward hence we need the money, hence we need the sites and we certainly need the political buy in, which I think we have got.

The Deputy Bailiff: Deputy Haskins.

Deputy Haskins: Thank you, madam.

The President told Members here that an estimate of 1,000 affordable homes are needed in the not so distant future. Could the president give an estimated figure for the capital he believes is needed over the medium term for these 1,000 homes?

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: So, was that question how much we need for the Affordable Housing Programme over the medium term? Yes, I think I did in my update statement we already have about £36 million we will need about another £45 million to £50 million in order to deliver on the targets inside the States Housing Indicator.

Obviously, even with that money, there are other capacity issues that may stop us delivering, but that is the financial requirement. It is an estimate, I mean who knows what is going to happen with construction inflation over the next few years, but that is our best estimate, something like another £45 million to £50 million for the next five year target.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Yes, recently I had the pleasure with several other more senior board members, of attending an inspirational talk organised by Guernsey Chamber featuring Price Waterhouse Cooper professionals Leyla Yildirim and Evelyn Brady. They very much made the point that if the States improved training, parental leave, incentives to work and affordable child care and the employees were perhaps less prejudiced, more open minded and more recruitment focused on older people or young families or people with disabilities or young parents we could achieve productivity growth by maximising our own population. Would the President agree that many of those are initiatives, working with other Committees, ESS can pursue over the next year or two?

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Yes I do, and thinking back to the population debate I was like a broken record saying the first thing we have to do is optimise and maximise the economic participation of the people who are already in Guernsey and there were some graphic examples of other territories that have invested in doing this, particularly perhaps in affordable childcare, and has aptly transformed their economies as a result. I think Luxembourg and Quebec in Canada were the two classic examples and, rather tongue in cheek, I am very happy to go on a fact finding trip if Members wish me to do that (*Laughter*).

The Deputy Bailiff: Deputy Dyke.

Deputy Dyke: Thank you, madam and I thank Deputy Roffey for his presentation.

Could I ask if he could remind us of the breakdown in the types of affordable housing within the definition that he is thinking of in terms of the 1,000 houses that we need between partial ownership, pure social housing, retirement housing and those figures generally to the extent that he has got them. Would he agree that the more we can get built in the private sector the less that will be needed for certain types of affordable housing, in particular the partial ownership schemes, in that the more pressure we can satisfy in the private market the more that will reduce demand for the various types of housing in the social market?

Thank you.

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Yes, two very separate questions here so I do not if I get three minutes to answer or not but I will try one and half. 721 was the target that was set by this States for the mix of social rental and partial ownership of which about 80%, I imagine, would be social rental. On top of that, of course, we have the key worker housing that we have heard so much about, particularly from the Health Department but from others as well and I do not think we should forget the specialist housing like the housing at La Vieille Plage we are about to build for people with learning disabilities or learning difficulties. There will be a number of projects like that.

As far as private sector housing, yes of course, the whole housing market has to work together but I think there is a wrong assumption in Deputy Dyke's statement because however many houses we build in the private sector unless the price of housing plummets in Guernsey the people that are allowed, you are only allowed to go on the partial ownership list if you can demonstrate you are not able to afford to buy in the private market, you know the whole of the equity. So unless the price of that plummets, which I think will raise issues for many people in Guernsey, not for me I will be quite happy, then yes it is important but it will not reduce the need for the Affordable Housing Programme one jot.

The Deputy Bailiff: Deputy Trott.

Deputy Trott: Madam, thank you.

Following on from that answer and answers that have been given before, Deputy Roffey will be as aware as anyone in this Assembly that it is important not to over promise and under deliver. With that in mind, and I do not say this tongue in cheek, with that in mind is it now time to change our description from affordable housing (**A Member:** Hear, hear) to less expensive housing (**Several Members:** Hear, hear!) because the chances realistically of us being able to make housing affordable, whilst we have a multiple of 17 times median earnings for average house prices, is probably unachievable?

Thank you, madam.

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Well, affordable with a capital A is a term used internationally for certain tenures and we are just using that to compare like with like. However, the idea of making 100% purchase of equity affordable for ordinary families, I think, is completely out of the question at the moment. It saddens me to say so having been bought up in an Island where there was predominately home ownership that was the normal tenure to go in.

However, we are looking at ways of making access into the housing market easier. For instance, we have told the GHA we would be very happy if their minimum equity purchase in partial ownership came down from 40% to 30% in order to make that first step easier for families. So, we are doing our best to address this but Deputy Trott is right, affordable is a relative term in our Island at the moment and not many people are finding either purchasing or indeed renting properties particularly affordable.

The Deputy Bailiff: Deputy Haskins then Deputy Queripel and that will be the last question.

Deputy Haskins: Thank you, madam.

The President mentioned that the figures in the SSHI have been used to inform the requirements for the affordable housing. The SSHI did not include key workers so, can I ask what the President what research has been done regarding key workers and whether the £45 million to £50 million extra he believes is needed for the next five years covers key worker accommodation?

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Sorry, I did not quite catch that question. Did it include key worker? Yes, it does include key worker. We are estimating that, the SSHI suggested 721 of partial ownership and social rental, we have taken the other tenures that come into the Affordable Housing Programme, we make that about 1,000, a figure actually coincidentally I have been using throughout this term as a guestimate and that has been stacked up by the research. The £45 million to £50 million though comes with a health warning, that is our best estimate at the moment and we think it is reasonably accurate but it could be out by several million in either direction, usually upwards.

The Deputy Bailiff: Deputy Queripel.

Deputy Queripel: Thank you, madam.

Would the President agree with me that any Islander who is struggling to survive financially need not be embarrassed or ashamed to apply for income support because there is no need to be ashamed or embarrassed? Every application is treated on a completely confidential basis and staff are compassionate and understanding and professional at all times.

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Yes, I totally agree and I think maybe our Department needs to be more proactive in promoting what people's entitlements are. I know that may not please Policy & Resources particularly, but I think sometimes people do not understand. For instance, the medical only benefit is applicable for people whose household income is above the income support requirements, so you may not qualify for income support but you may still qualify for free medical care if you on a modest income. So, I would encourage anybody who either thinks they might qualify for Income Support or who knows they do not but may be just above that and may qualify for Medical Benefit to contact our Department. Our staff are very professional, they are always happy to check, if the answer is no then I am sorry but it may just be yes, so always find out.

COMMITTEE FOR HEALTH & SOCIAL CARE

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

The Deputy Bailiff: Thank you. If any Members wish to remove their jackets they may do. Can I now invite the President of the Committee for Health & Social Care, Deputy Brouard, to give us the general update statement?

Deputy Brouard: Thank you, madam.

I am sure, every Member in this chamber is expecting me as President of the Committee for Health & Social Care to speak about the importance of Phase 2 of the Hospital Modernisation Programme (**A Member:** Hear, hear) following the recent announcements regarding the capital portfolio and I will come to this shortly.

Firstly I would like to update you on the Waiting List Initiative now in place to address the waiting times in gastroenterology which have increased month on month since the start of the pandemic when aerosol generated procedures were stopped due to the COVID-19 risks. Following a long and thorough tender process HSC is partnering with UK Company Medinet to run weekend clinics to reduce the waiting list for endoscope procedures.

Health & Social Care is in the process of contacting eligible patients who will be offered a pre-assessment appointment. Weekend clinics will start on 1st June and will run from Thursday to Sunday with 12 sessions scheduled over those days and plans are in place for nine weekend sessions to be held over a 12 week period. Depending on the procedures required these additional clinics will result in around 50 patients per weekend being seen.

I need to register my thanks to the team for getting this initiative off the ground and for the support of the States in allocating the additional funding needed through the Government Work Plan as a recovery initiative. As a Committee we are also aware of the impact on those waiting for procedures and I would like to thank everyone for their patience.

As we have previously committed as soon as progress is made on the waiting list for gastroenterology procedures the bowel cancer screening programme will restart. There is also an ongoing initiative to tackle the waiting times in orthopaedics through the new dedicated nine bedded de Havilland ward in the PEH and this is working well. However, those Islanders who are receiving their procedures and coming off the waiting list are more often than not being matched by a slightly higher number or equal number being added to the waiting list and the complexity of cases is also increasing.

Our plan to invest in the ongoing modernisation of the hospital is crucial to a long term management of waiting times. While bed capacity issues were historically linked to winter pressures we are now seeing increasing capacity issues within the PEH hospital all year round. Although I would like to emphasise that anyone in need of care in hospital will be admitted if this is clinically necessary.

Before saying more about the Phase 2 investment it is important that I echo the sentiments of Deputy Dudley-Owen's recent update statement to the Assembly that I am also keen to avoid a position where the debate about the future of the Capital Portfolio is offered as a choice between two important and once in a generation investments in our essential infrastructure. These key areas of work are usually important to our respective Committees and I know we feel equally passionate about being able to proceed, however, if forced to choose I and my Committee will put all our weight behind hospital modernisation.

I would like to take this opportunity to reflect on one particular misunderstanding that has evolved recently which relates to the independency between the two programmes in the relocation of the Institute of Health & Social Studies to the new education facilities at Les Ozouets. It has been stated that it is not feasible for Phase 2 of our Hospital Modernisation to proceed before the Transforming of Education Programme due to the relocation of the Institute of Health & Social Care

Studies to Les Ozouets Campus and the way this has been reported in the media is not an accurate reflection of the position.

There are three elements; there is the accommodation in the PEH utilised by the Institute which comprises 16 team members requiring office accommodation and teaching space and there is a library. In addition, HSC has a team of staff delivering mandatory training, specifically for our own staff. The important distinction is that although the Institute and the HSC training team currently share some facilities our mandatory training staff working specifically within Health are not part of the Institute and they will remain on the PEH campus both during and after completion of Phase 2.

We recognise there is a particular need to relocate the library facilities from the PEH Hospital. Approximately 12 months into Phase 2 build to allow this space to be developed into a new private ward. Office accommodation would also need to be found for the 16 staff working for the Institute but there is some flexibility about where this is provided and we could accommodate these staff elsewhere on the PEH campus if necessary.

We have already started to look at contingency arrangements for the library and this is certainly not going to prevent the Committee from pushing on with the plans for Phase 2 and the delivery of a full range of facilities that we know are crucial to the future of our Health & Care Services.

The Committee is grateful to all States Members who attended the recent presentation and I hope this has helped to paint a clearer picture of the day to day operational challenges of running a hospital but also the difficulties and risks that will be mitigated by a well designed facility to be delivered in Phase 2.

As a reminder Phase 2 of the Modernisation Programme delivers a mix of new build and refurbishment of existing spaces. The new build would include a new maternity ward and neo natal intensive care unit, a new paediatric ward, private ward facilities, an admission and discharge unit, an outpatient unit and four additional theatres.

The refurbishment plans follow on from the main development works and include facilities of refurbishing the four existing theatres, sterile services, a new orthopaedic ward, new facilities for the breast unit, a newly configured emergency department, fracture clinic and overnight accommodation.

These new spaces have been carefully designed, with the staff, to enhance patient experience, better management flow and for greater efficiency and working practices and reduced clinical risk. We also have learnt from the pandemic experience to ensure our resilience on Island. The plans are being carefully considered, clinically evaluated and independently challenged and we had the benefit of full planning permission in place.

The risks of further delay cannot be understated. Waiting times will rise, particularly for gastroenterology and orthopaedics in line with the forecast demographic demands. We will run into risks that are mitigated by Phase 2. Incidents of last minute surgical cancellations will continue to increase; we will need to refer more patients off Island, at significant cost, and with no guarantee of off Island capacity in a post code environment.

Recruitment and retention issues due to poor working environment and suboptimum patient flows we feel that modernisation is our recruitment USP. We have recruited staff with the modernisation plans asking as a push factor for working here and we run the risk of staff leaving and increased agency spend due to an inability to recruit staff into an aging hospital with associated risks and issues.

While we have emerged from the winter months the operational pressures that were previously associated with the colder, darker days have yet to ease. Many States Assemblies before us have talked about the demographic changes on the horizon, be under no illusion they are already here. The Committee is unanimous in its view that if we are to move to a sustainable future for health and care we must not delay the investment in Phase 2.

It would be remiss of me not to mention another important investment which we welcome, the inclusion of the Children and Families Hub into the Capital Portfolio and I would emphasis the many benefits for children and their families and for staff which are afforded by this investment by bringing these important services together.

While the review of the Capital Portfolio and Government Work Plan has been consuming much of our time we have other key priorities to mention. The Committee has successfully implemented a two year drug funding programme making drugs and treatments with a technical appraisal from the National Institute for Health & Care Excellence, known as NICE, with an ISA value of up to £40,000 available to Islanders.

As required by resolution the Committee recently agreed the terms of reference to review this programme securing the services of an external provider to undertake the review and I am pleased to say this is now underway and we will be considering both the implementation of the programme so far and examining options for future drug funding policy. Communication events setting out the findings of the review will take place before the Committee brings the policy letter to the States in the autumn to enable decisions on future drug funding to be made.

Smoking is still an important cause of ill health and death amongst Islanders, for example data from Public Health Services to be published shortly has shown that between 2019 and 2021 10% of deaths in people aged 35 and above were estimated to be smoking attributable. This equates to 175 deaths over the three year period or approximately 58 per year. Simply instructing people to stop smoking is not effective we need to continue to work towards creating an environment for health through an integrated programme of health in all policies.

The Committee has recently consulted on the draft Code of Practice for Capacity Law and I wish to thank those who provided their valuable feedback. The Code is vital in underpinning the law and sets out the practical details and duty of those affected by it whether they are workers in health care, a family member or the person who lacks capacity.

Furthermore as approved by the States Assembly through the Government Work Plan the Committee is progressing with the work required to implement a fair and proportionate system of health and care regulation for the Bailiwick. While the practice of many health professions in the Island is overseen by the UK Regulator with the support of local legislation, regulation generally has developed in bits and pieces over many years resulting in a fragmented approach. The Committee is aware of regulatory gaps that exist and the draft enabling legislation that will give the States powers by ordinance to regulate both health and care professions and the provision of care has been prioritised and is being progressed.

Given the current known difficulties being experienced in the care home sector and the knock on effects on bed capacity in the PEH Hospital the regulation of care home provision and those of providing care those settings and in the community has been identified as a priority area for the subordinate legislation once the primary law is in place. As part of the Supported Living and Aging Well Strategy resource has been allocated to scope the requirements for this work to ensure that ordinances can be made in a timely way following the enactment of the enabling law and I am using my update statement as an opportunity to inform States Members on this work but wider communication and engagement activity is planned later this year.

The first phase of the review of the Children's Law was approved by the States in November 2022 and work has been ongoing to implement various recommended legislative and operational changes to reduce delay and duplication in determining the outcome for children and young people. This work is being supported by a cross committee and cross agency implementation group to ensure that actions are supported and delivered as directed by the States.

Madam, times are changing in health and social care as mirrored in other jurisdictions. All of the work that we are doing now will help ensure that our hospital services remain fit for the future and that the policy approach support a sustainable and affordable model with a future and is in line with the strategic direction of the partnership of purpose.

I have not even touched on the elephant without a room, key worker housing (*Laughter*) which is essential if we wish 21st century care. This is with others in this Assembly but I would have done it yesterday.

Thank you, madam.

The Deputy Bailiff: Deputy Inder.

685 **Deputy Inder:** Deputy Brouard, thank you for the update and I think is the last sentence which is important actually. He made reference to Phase 2, big capital projects, a lot of work being done unto it. Faced with the DHSC requirement for an extra 180 staff upon completion therefore capital costs and recurring revenue costs, what are the costs of the extra 180 staff needed to run the PEH, where those 180 staff going to be accommodated.

690 **The Deputy Bailiff:** Deputy Inder, just the one question please.

Deputy Inder: Oh, what are the costs of the extra staff in terms of accommodation and salaries and where are they going to live? *(Laughter)*

695 **The Deputy Bailiff:** Deputy Brouard.

Deputy Brouard: Thank you Deputy Inder for the question. Your figure that you mentioned I think the other day at the workshop of about £9 million is not far away. The issue is this, if you do nothing and do not build the hospital or the extension to the hospital we reckon we will need about 92 staff extra just to cope with the demographics coming through, working in the cramped facilities that we would have then. That would be about £4.5 million worth in staff and about 92 staff, also at that point we will then be exporting our patients to the UK at a cost of about £3 million, we estimate, and we would be losing out on revenue from the new Vic wing of about £1.5 million.

700 So, if we then build the hospital we would use the money, or the extra staff then another 92 basically, which would be needed to accommodate or use the larger facilities that are there. I hope I am making that clear. So we are going to need 92 anyway and it is going to cost about £4.5 million and we will also be spending another like sum on trying to get other people in other countries to do our work for us and we will be losing out on Vic wing.

710 **The Deputy Bailiff:** Deputy Falla.

Deputy Falla: Thank you, madam.

715 I wonder if the President would be kind enough to clarify his comments about the Institute. On the surface they appear to contradict the aspirations of ESC to draw together the different elements of post 16 education including health. So what exactly would health use the new ESC facility for?

The Deputy Bailiff: Deputy Brouard.

720 **Deputy Brouard:** The issue here is in the health facilities that we have now for training we have a core number of staff who are doing training well beyond that of getting a nursing qualification, etc. So those staff do the mandatory training, the health & safety all those issues that you would expect in a modern hospital. Those staff remain with us and will be accommodated within our site.

725 What we are hoping to have looked after by Education is the training of people coming through who wish to be a nurse, who wish to be an associate professional in a more of a school type issue or a college type issue, those are the staff that would move to Education and those are the new nurses coming through, the 13 or 14 we get each year, those are the ones that will be trained at Education. So there are two separate pieces, we would not necessarily need our training team to be based at Education to train about the fire exits at the PEH but we do need people on the PEH site to train everybody on the fire exits because that is one of our major concerns obviously that there would be a fire.

The Deputy Bailiff: Deputy Vermeulen.

735 **Deputy Vermeulen:** Thank you, madam.

I thank the President for his excellent address and I was very interested to note his stance on anti smoking in Guernsey. I understand to help quit smoking people have been given vapes and vapes at the moment in the UK are under investigation proving that a lot of under 18 school children are using these and there has been detection of lead, chromium and nickel deposits found in the vapes. Can I ask what his Committee are doing to test that these are indeed safe for all people to use on the Island?

Thanks you.

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you and I feel another Deputy was also going to ask a very similar question so that you very much Deputy Vermeulen. The Tobacco Control Strategy for Guernsey and Alderney 2015 to 2020 as agreed by the States put forward the need to move forward with the regulation of e-cigarettes. It is very much on our radar, we have recently had a committee paper on it and we hope to be able to publish a policy letter later this year. The gist of it will probably be no sale to under 18's, there will be restrictions with regard to marketing, and there will be restrictions with regard to the constituents in it.

We are quite fortunate that a lot of our vaping products come via the UK which do have regulations and obviously, as we have heard in the newspapers, disposing of certainly disposable vapes with their battery in is another issue and again they should be taken to Longue Hougue and disposed of properly.

So it is on our radar, it is a piece of policy work, we unfortunately do not have as many policy officers as I would like and it is a matter of prioritisation but we are hoping to bring a policy letter to this States for you to decide later this year and we very much look forward to your support in that.

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Thank you, madam.

Could the President please provide an update on progress on implementing the recommendations of the Learning Report on safeguarding which has not yet been published?

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you.

Yes, we set up a Task & Finish Group following the report that was produced, that group is made up of health care professionals as well as representatives of the four families who were involved. So, we have got effective representation across health care and from the families. There is good communication between the different parties and agencies to progress actions. The Task & Finish Group has adopted a co-productive style approach and the views of the families are taken into account by the family representative and the views of the families contribute to the shaping and discussion of actions which in turn influence service delivery and service design.

In terms of safeguarding training, 1,500 staff undertook training within the safe guarding board in 2022. Safeguarding leads are in place across Health & Social Care including MSG and this includes a designated safeguarding doctor and a designated safeguarding nurse role. These roles have a lead to play in relation to complex safeguarding.

Complex Case Supervision Group Forum, which acts as the multi agency supervision forum, is in place and meets on a monthly basis. I could go on but there is a lot of work by a lot of people to address the particular issue that Deputy St Pier raises.

Thank you.

The Deputy Bailiff: Deputy Burford.

Deputy Burford: Thank you, madam.

790 In the UK the total costs associated with type 2 diabetes are round about £20 billion a year, forecast to rise to £40 billion a year by 2036, so clearly in Guernsey terms that is £20 million and £40 million. Diabetes UK says at least half of diabetes type 2 cases are preventable. Are HSC doing enough for prevention?

795 **The Deputy Bailiff:** Deputy Brouard.

Deputy Brouard: When we say we are doing enough I do not think we can ever probably do enough on health in all policies and this is something that the whole States and everybody have a responsibility for. Individuals also have a responsibility for their own health. I have not got the details; we have had it literally come through our Committee within the last three months with regards to our diabetes programme. I will gladly pass on more information I just do not want to get into too much doctor detail because I will not be able to answer your question. I will come back to you.

Thank you.

805

The Deputy Bailiff: Deputy Gabriel.

Deputy Gabriel: Thank you, madam.

810 I was pleased to hear in the President's update that he was able to quantify the effects that smoking has on his Committee in that about 10% of his patients are treated for the effects of smoking and, I think I was right in saying that he wanted to create a healthy environment. Would he agree with me that that healthy environment could include the banning of tobacco products in Guernsey either out rightly or on a sliding scale as New Zealand has done and could he commit to be working with other committees to implement that?

815

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you.

820 We have discussed that particular issue, especially the issue of the sliding scale. We do not think it is appropriate at this present time but it is being kept under review, the Public Health Department is keeping an eye on that. There are all sorts of issues with regard to people who wish to smoke and have a perfect right to at the moment, whether we as a legislator wish to take that away that will be one for the States but there is further work in progress on this area and thank you for raising it.

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

Deputy de Sausmarez: Thank you, madam.

830 Following on from Deputy Burford's question and to an extent Deputy Gabriel's as well, the President did a very, very good job, I think, of outlining the significant pressures in part caused by our demographics, and there is no getting away from those, on our health care system but of course the issues that he rightly outlined in terms of the costs and the practical implications of acute care can only be ameliorated by a greater emphasis on preventative health care which is so much more economically cost effective. But of course the problem is the best time to introduce preventative measures was several decades ago, it is a little bit like pensions in that respect.

835 So, with the understanding that there is no time like the present and appreciating that the Committee is doing an admirable job and has a lot on, can the President commit to having a strategic look at the broader suite of preventative health measures that will help us meet the challenge of the demographic and health care issues that the Island inevitably faces both in terms of the well being of Islanders and cost?

840

The Deputy Bailiff: You are way over your minute.

Deputy Brouard: Thank you.

845 Absolutely I can commit to that, that is part of our *raison d'être* and it is part of our day job. However allowing people, which is great, to live longer and healthier is good; it is not necessarily going to be cheaper (*Laughter*). So when I am 90 and I am going to need by third knee operation that is going to cost (*Laughter*) (*Interjection*: How many legs have you got?), well because the one I had when I was 70 has worn out.

850 Our demographics will mean that we will have, with good health prevention from the care point of view, we will have people living healthier and living longer but it will not be cheaper because you will need several interventions throughout your life and you will be living with several co-morbidities all of which will need to be managed with either drugs or treatment, etc. So I fully appreciate what Deputy de Sausmarez is saying but as long as you realise that there will be a cost to us as a society to be able to afford the health care that those people will need.

855

The Deputy Bailiff: Deputy Gollop.

860 **Deputy Gollop:** Following on from Deputy de Sausmarez's question, we had a little lecture on the smoking but in relation to diabetes and other issues is the Health Improvement Commission and the Board committed to looking at ways in which you would have perhaps more of a sugar tax or at least ensuring various retail outlets do not put all the crisps and the sweets and the soft and sugary drinks right by the till? How far is Health Improvement going to actually rebalance the way we live?

865

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you.

870 Health Improvement are doing an amazing job in trying to highlight the areas and they are probably working in an area which Deputy Gollop does not see because they are mainly working a lot with the young people in the schools and the college of FE to have a canteen that gives healthy options, etc., etc., but he is absolutely right. We as a society can do far more to be healthier. The trouble is we probably all know what we need to do, we probably do not always get round to doing it.

875

The Deputy Bailiff: Deputy Trott.

Deputy Trott: Thank you, madam.

880 I think we ought to have Deputy Brouard allowing us to answer questions for him more often. I have been up and down so many times I have almost hit my healthy living quota for the morning. (*Laughter*) I do not want to sound sycophantic by also complimenting him and his team on the very good job that they are doing but I feel I need to because it is a tough job.

And on the question, generally speaking how do our waiting lists for medical interventions compare to those of both the UK and Jersey? It is important that we keep a sense of perspective in terms of the national and global health care issues that the world faces.

885

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, Deputy Trott and thank you for your kind comments.

890 To give some perspective I have actually got the today's inpatient waiting list here in front of me, we have about 2,700 patients waiting for inpatient treatments. To give some example, the UK is somewhere between 9 million and 7 million which would be equivalent to about 7,000 to 9,000.

So we are significantly in a far, far better place than our colleagues across the road and I do not say this lightly because we need their services, we use their services in their hospitals over their so we need to keep having access if we can into those facilities. I do not have a figure or Jersey of the top of my head but we have actually asked the staff to look at what Jersey's position is and if I get that I will pass that on to him.

Thank you.

The Deputy Bailiff: Deputy Dyke.

Deputy Dyke: Thank you, madam and I thank Deputy Brouard for his presentation and all his hard work on this.

My question is, given the background of the difficulty we have in recruiting nurses and housing nurses are the economics of outsourcing some routine operations, orthopaedic surgery maybe some routine cancer treatments, are the economics turning toward doing more of that either to the UK or France or other parts of Europe which have very good health care systems?

Thank you.

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: There is one thing as an Islander I always cherish is my independence and my resilience to do everything myself and the more we end up relying on other countries to do it the more we are held accordingly, hence we have ended up with an airline, we have now got a share in a boat, we are doing things to protect our position. So the more we can do on Island that increases our resilience for ourselves.

There are some operations that can be done in the UK using private hospitals. When we did the last exercise, I think it was in 2014, of 100 people only 50 chose to go off Island and by the time it actually came for them to go it was down to 25 people out of 100 and it was extremely expensive and, of course, the hospitals in the UK who we were using then were cherry picking the easy ones and leaving us with all the complex cases still behind.

So there is a trade off between the two. We have specialists coming over, as I said, for gastroenterology next week so we will use specialists where we can and if there was an easy way of using UK hospitals we obviously would but we do then lack the resilience on Island.

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: Thank you, madam.

Thank you ever so much for the presentation that you gave on the modernisation hospital. I do understand that there is an increase in patients and particularly on the ambulance service; I believe the numbers have doubled almost of people coming in.

First of all, my first question is do we have enough ambulances to actually service that need or do we actually need to look to more and secondly I would like to thank the ambulance service they did a fantastic service on Saturday.

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, Deputy Oliver for that question.

I have not got the stats, we do work with our partners, St John's, very, very well and we have provided ambulances, I think two years ago we provided two more ambulances to them and we will continue to support our partner in the fantastic work that they do. But, just to give you an example, just a few weeks ago we have five ambulances stacked outside A&E which is unheard of because of the number of people coming through with different conditions. So it is an area where part of Phase 2 will assist with but it is very much that we need a holistic health care and it is something that we

are almost trialling with Alderney Care at the moment where we are bringing together the ambulance, the hospital and probably looking at their care requirements for old age as well there.

The Deputy Bailiff: Deputy Queripel.

Deputy Queripel: Thank you, madam.

Agency nurses are currently occupying rooms at St John's residential home, with that in mind can the President please tell me how many nurses are occupying those rooms, how many rooms are occupied and are they occupying rooms that would normally be occupied by residents?

The Deputy Bailiff: There are three questions in that one question Deputy Brouard if you can answer it within the one and a half minutes answer all three but if you can only answer one just answer the first one please.

Deputy Brouard: This is chickens coming home to roast. I have said for the last two and a half years we need staff accommodation, we need staff accommodation, we need staff accommodation. It is in the gift of the people in front of me to do that. We reluctantly have taken the position of looking after a care home because it was unable to continue and one of the reasons was the staffing issues that they faced. We have had to use some of the rooms in the care home, I think it is five and we have tried to use the ones that are least, least good to use because we are working in an old listed building basically. We do not want to be doing it, we would much rather have the care workers there living locally and being part of the community that way. It is something that we are forced to do and it is something that we are grateful that we can do it but otherwise we would be starting to close the home and we cannot afford to have another 40 care home beds lost. It is very much part of necessity of what I have been saying for the last two and a half years.

The Deputy Bailiff: Deputy Soulsby then Deputy Meerveld then that will be the end of questions.

Deputy Soulsby: Thank you, madam.

I would just like to ask a follow up question to those that have been asked on obesity. The Committee has rightly identified the importance of dealing with obesity on the Island and has done so by submitting a work programme within the current Work Plan looking at tier three and tier four weight management. Tier three being intensive community based programmes and tier four possible surgery.

Given the cost of obesity to the Island, well it is certainly more than tobacco and probably more than the cost of abuse of alcohol, does he agree with me that that programme, the programme of work which is with the GWP, should be retained and not crossed out as part of any future process?

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Thank you Deputy Soulsby.

I am very sorry my mind has gone blank I just do not have that information in from of me so I will do a written reply if I may.

Thank you.

The Deputy Bailiff: Deputy Meerveld.

Deputy Meerveld: Thank you, madam.

One of the major failings of the States, I think, in looking at projects like this is the way they value it in the commercial terms. Deputy Brouard in his answer to Deputy Falla earlier mentioned about the fact that it cost maybe £3.2 million to send customers off Island and that the new wing

would generate £1.2 million in private patient revenue. But, what business case has been done for that and does it include the cost of capital over time, the staffing and maintenance of that building because if you save say £100 million by not doing part of that extension the reduced cost of capital overtime would add millions in reduction to those costs and, of course, we also do not look at the associated costs, if we need additional staff that is additional staff housing that has to be paid for somewhere.

So my question, Deputy Brouard, is has a business case been done, does it include the cost of capital over time and if not can it be done and shared with the Assembly before the July debate when we will be talking about allocation?

The Deputy Bailiff: Again, Deputy Brouard, we have got three questions in one, you are only required to answer the first question but you can answer all three if you can fit it in in a minute and a half.

Deputy Brouard: Thank you, madam.

Private offering is an interesting one. I do not think the States has ever done this capital over time that Deputy Meerveld talks about but I will say this, if we want to have the top consultants coming over here to work for us they want to do private work so we need to be able to facilitate both private work for them but also for our Islanders who also wish to go private and have a reasonable offering.

The Vic wing does return a very useful sum of money back into the general pot to help everybody in the Island so it is more than self financing from that point of view, but it also allows the consultants who are at the top of their game to be able to work here and work in a private capacity which is one of the conditions some of them put as part of their reason for coming here in the first place. So if we want to be a centre of excellence we need to be able to have a private offering, if we need to have a private offering we need somewhere for that to happen and the hospital is the most logical place to do it.

Thank you.

The Deputy Bailiff: Thank you, Deputy Brouard.

Questions for Oral Answer

COMMITTEE FOR EDUCATION, SPORT & CULTURE

Island Games – Promotion of sport, cultural celebration and adequate funding

The Deputy Bailiff: Can I now invite Deputy Gollop to put his questions to Deputy Dudley-Owen in her role of President of Education, Sport & Culture?

Deputy Gollop: Hello, I got distracted then because they are chatting away (*Laughter*). Thank you very much and I do thank Deputy Dudley-Owen and the Committee for the very full and helpful answers that they gave me. I will ask them supplementaries though. The Island Games is a brilliant show case and sporting community event for Guernsey and the Bailiwick. Will Education, Sport & Culture be making every effort to use the opportunity to promote sport for young people and the whole community?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Sir, madam, I am so sorry. I am grateful to Deputy Gollop for his questions. Inspiring Islanders is the tag line for the 2023 games and young people have been at the heart of that. Jethou or Jet, the puffin mascot has excited children at many primary school assemblies and Jet also attended last weekend's Youth Games centred around the participating Islands. Sixth form students produced a brilliant resource pack of 20 activities based around the games and participating islands which has been given to our schools and to member islands and looks set to feature in future Island Games.

Plans are in place for our students to attend some of the sporting events and there are opportunities for young people to get directly involved as well as assisting at sports venues and acting as medal mates for the medals ceremonies, there are several work experience opportunities in place.

So the games are as accessible as possible. The sporting events are free and open to all. There has already been increased awareness of the 14 sports involved and they will continue to build on this. The public opening ceremony will be held along the town seafront featuring all of the participants and show casing the benefits of engaging in sport.

We have over 1,200 fantastic volunteer games makers, training sessions including first aid and the adoption of an act supporting the recruitment accreditation and training of volunteers is very likely to encourage people to continue their volunteering efforts after the games.

The Deputy Bailiff: Deputy Gollop, do you have a supplementary question to your first question?

Deputy Gollop: Well, two actually. The first is I am aware through various groups that the Island Games will be a unique opportunity for cycle races and also for perhaps travelling free on the buses and for people enjoying walking around the Island. Will Education, Sport & Culture be very much working with E&I and other Committees to help those initiatives?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, madam.

We are always very open, receptive and proactive in working with other Committees in relation to areas of our mandate and certainly have thrown more than 100% of our support behind the Island Games as you would expect, (*Interjection Deputy Gollop: Yes*) so any initiative coming from the games and legacy absolutely has our entire support.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Well, perhaps in a more light hearted vein, will there be opportunities for States Members to have our own games as I could perhaps enter volley ball or we have had States Members in the past winning medals, one did for shooting, the late Deputy Quinn. Will there be political participation as well to a degree?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, madam.

Well I know that many States Members have already put their names forward to volunteer and active volunteers and obviously there will be participation within the games in terms of ceremonial participation and support I am sure. But, why don't we get together Madam and see what we can sort out in terms of a Deputies games, (**Several Members:** Hear, hear) would that not be good?

The Deputy Bailiff: Are there any more supplementary questions? No. Deputy Gollop, would you pose your second question please (*Laughter*)?

Deputy Gollop: Thank you, madam Deputy President.

Will there be opportunities for the fine arts, music and literary communities to share, celebrate and commemorate the special events as has happened in Gibraltar and other places as part of our cultural history?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Yes, our Arts Commission has created a cultural programme of engagement which will stimulate a lasting legacy across the creative communities of the 24 participating islands. Projects include the poetry open which invited island communities to respond to 'A View of My Island' as a theme and the Island Digital Arts open for all art forms that can be replicated digitally. We have had an impressive 135 entries which will be reproduced onto booklets; an exhibition at the George Crossan Gallery displayed on screens in some of the sports venues and shared digitally with the participating islands.

For children the Island Games postcard competition was designed to give insight into how they view their islands and some entries will be produced both digitally and as postcards for visitors to send home. Relaxation spaces for visiting athletes with a focus on the arts and cultural activities are being set up in Market Square and St James. Guernsey Museum's foyer display will celebrate the story of the Island Games in Guernsey by commemorating the years 1987 and 2003 when we also hosted the games as well as anticipating this year's games.

It will emphasise the games legacies including the achievements of athletes, organisers and volunteers as well as focusing on how the 2003 games served as a catalyst for improvements to our sports facilities and the reorganisation of sports administration through the formation of our Sports Commission.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: The President has happily and knowledgeably outlined many activities I was not aware of, but I hope in addition to those there can be opportunities for disabled people, people who know sport to be a therapy as well as a past time and artists and photographers to paint and record the events in a special way. Will the Committee continue a course to be open to legitimate artists and people who wish to enjoy the activities?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Yes, Madam of course we will.

The Deputy Bailiff: Are there any more supplementary questions? No, then I will ask Deputy Gollop to pose his third question.

Deputy Gollop: After the success of this special event in July will the Education, Sport & Culture Committee ensure adequate funding from both the States and the private and the third sectors is made available to develop our sporting talents, sporting careers and wellness as a society?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: The Committee met with members of Sports Commission last week to discuss ongoing funding and we remain committed to supporting the Commission's work to increase participation in sporting activities at all levels within our community from primary school

1140 children to those wanting to stay active in retirement and from grass roots to elite professionals. We absolutely recognise the valuable role sport and being active plays in our physical and mental wellbeing which has been brought into even sharper focus both during and since the pandemic lockdowns. We remain committed to the objectives of the Activate Sports Strategy and championing appropriate investment in sport from Government via the Government Work Plan
1145 process, via corporate and individual fund raising activity and via philanthropic benefactors.

The Deputy Bailiff: Supplementary question, Deputy Gollop.

Deputy Gollop: At a time of financial economy would the Education, Sports & Culture
1150 Committee be prepared to work with other States' Members and especially Policy & Resources to maybe look at our charitable giving, gift aid, tax rebates could be channelled into sport or maybe even arts as well as a way of topping up sports funding in a different format?

The Deputy Bailiff: Deputy Dudley-Owen.

1155 **Deputy Dudley-Owen:** Thank you, Madam.
I think Deputy Gollop comes up with some creative ideas just at the drop of a hat and I am always very receptive to working, as I have said before, cross the States and with other Committees in order to find creative ways of maintaining our support and funding where necessary for all areas
1160 of our mandate including sports and arts.

The Deputy Bailiff: Deputy Gollop, second question.

Deputy Gollop: Yes, and will Education, Sport and Culture be making every effort when the
1165 Island Games is finished, as the success we all trust it to be, to ensure that the legacy of the games will continue to ensure there are similar, if not higher, overall funding to support Island games events because only this morning we heard of a champion saying they could not afford the travel fare to participate without public support. So my question is, can we build on this by ensuring budgets remain healthy?

1170 **The Deputy Bailiff:** Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, Madam.

Yes, to Deputy Gollop's point. We will absolutely be working to ensure that the legacy and the
1175 multiple benefits that the games bring to the Island and the community last for many years and contributes to inspiring and encouraging Islanders of all ages to stay active and remain engaged in sport and actually to become involved in sport and obviously how this is done in the straightened financial circumstances that we currently find ourselves in needs some creative thinking, but we hope we will find a way through as a body corporate being the States Assembly and find some
1180 solution to our funding issues.

The Deputy Bailiff: Deputy Soulsby, supplementary question.

Deputy Soulsby: Thank you, Madam.

1185 As a trustee of the Sports Commission I am delighted to hear from the President that negotiations have begun with the Commission about future funding but can she say in those negotiations where the Committees starting point has been? Is the funding below, the same or above the current funding level?

1190 **The Deputy Bailiff:** Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, Madam.

I am afraid I am not able to give that level of detail to Deputy Soulsby. We have had a conversation with the Sports Commission and the Committee have not taken the results of that conversation back into consideration. There is obviously a process to go to and this is the first stage of that process in terms of listening and discussing the matters with the Sports Commission and we still have some distance yet to go in terms of coming to a settled position.

The Deputy Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Thank you, Madam.

I am also a trustee of the Sports Commission along with my colleague Deputy Soulsby so I have got an interest in this. I would just like to ask a straight question, does Deputy Dudley-Owen think that there will be a reduction in the grant to the Sports Commission, yes or no please?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, Madam.

I really do not want there to be any reduction in any of the funding towards the Sports Commission but we live in straightened circumstances and this matter will be coming back to the States in terms of the GWP.

DEVELOPMENT & PLANNING AUTHORITY

Island Development Plan – Review; protection of wildlife and biodiversity; GP11 and housing development

The Deputy Bailiff: If there are no more supplementary questions I will then invite Deputy Gollop to pose his questions to the President of the Development & Planning Authority.

Deputy Gollop: Thank you again, madam Deputy Bailiff.

My first question is to Deputy Oliver, will the Development & Planning Authority be making strong recommendations to the Policy & Resources Committee and the wider States on the significant need to facilities resources, financial, professional and human resource time, for a timely review of the Island Development Plan?

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: Yes, it is already in the GWP and it is resourced and it has commenced.

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

Deputy Gollop: It is hard for these questions as they are not very complete.

The Deputy Bailiff: Is this a supplementary question Deputy Gollop?

Deputy Gollop: Yes, is the resourcing sufficient in the Development & Planning Authority's view point that has been commenced?

The Deputy Bailiff: Deputy Oliver.

1235

Deputy Oliver: Yes.

The Deputy Bailiff: Deputy Gollop.

1240

Deputy Gollop: Question two then. Will such a review consider much heightened protection for wildlife species and conserving bio diversity and habitats?

The Deputy Bailiff: Deputy Oliver.

1245

Deputy Oliver: It has been agreed that this will focus review on the policies relating to housing land supply and the delivery and employment land supply which are identified priorities of the States. However, we will also take the opportunity to add two updates, the areas of bio diversity importance in accordance with the surveys previously undertaken for us by Environmental Guernsey.

1250

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

Deputy Gollop: Yes. Environment Guernsey is mentioned but will work go on too with the nature conservation group that Environment & Infrastructure have recently set up?

1255

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: With the review we will take on board a lot of comments provided to us including all of the local La Société environmental groups that will actually comment on the revised plan so, in theory, kind of. *(Laughter)*

1260

The Deputy Bailiff: Deputy de Sausmarez, supplementary question.

Deputy de Sausmarez: Thank you, Madam.

1265

Will the President agree with me that while the DPA has got an important role to play in this respect it is not the only nor necessarily the most direct way of protecting the natural environment and wildlife and there are other measures, for example wildlife legislation that the Committee for Environment & Infrastructure is prioritising through the GWP that can play a potentially bigger and more direct role?

1270

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: Yes, of course, but that legislation has not actually happened yet and the IDP is in place. If that legislation is finished before the review then as the strategy for nature we will also include it within the IDP.

1275

The Deputy Bailiff: Deputy Burford, supplementary question.

Deputy Burford: Thank you.

1280

The President mentions the areas that will be looked at as being bio diversity areas and housing but does the Committee also intend to look at ways that housing development can be made more bio diversity friendly?

The Deputy Bailiff: Deputy Oliver.

1285

Deputy Oliver: Thank you for that question. Yes, we have the Strategy for Nature which looks at the bio diversity net gain and that is currently in play, it is a Supplementary Guidance Notice to all developers and to everybody who changes use of land as well.

1290 **The Deputy Bailiff:** Deputy Gollop, is this a second supplementary question?

Deputy Gollop: Yes please, thank you.

1295 The president has answered that there will be a focused review on housing with an opportunity taken on bio diversity. But would the President agree that it is a priority, our wildlife species, conserving bio diversity and indeed the lack of legislation we have over species protection?

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: Thank you.

1300 The reason why we are doing this focused review is so that we can get it done by the end of term but one of the important pieces of work that we are doing during this review is actually looking at how to streamline, to change the IDP so the next Government will be able to progress things much quicker where needed to and will keep the IDP much more up to date. So, for instance, when the legislation from E&I is completed if that comes in after the focus IDP it can then be changed at a later date much more easily.

The Deputy Bailiff: Deputy Burford, second supplementary question.

Deputy Burford: Thank you.

1310 The President referred to consultation more widely but also including environmental groups, could she advise when that consultation will commence?

Thank you.

The Deputy Bailiff: Deputy Oliver.

1315 **Deputy Oliver:** I have been given the timeline and I am rapidly trying to think about it in my head. I cannot remember of hand, I will have to get back to you. I will email to the whole States when it will be available.

1320 **The Deputy Bailiff:** Deputy de Lisle, first supplementary question.

Deputy de Lisle: Thank you, Madam.

1325 I see another two applications for extension of curtilage into open agricultural land in the recent list of applications. That is despite efforts to impact bio diversity net gain. Will the review consider stopping the extension of curtilage in these, somewhat frivolous ways in future?

The Deputy Bailiff: Deputy Oliver.

1330 **Deputy Oliver:** The Committee has already tried to address this issue as Deputy de Lisle well knows. We have made sure that they submit, along with their application, a bio diversity net gain. Within this focused review it will not happen, however, it is possible that after the evidence has been gathered from E&I that that will happen at the next stage with the streamlined approach.

1335 **The Deputy Bailiff:** There are no further supplementary questions and I will invite Deputy Gollop to put his third question to Deputy Oliver.

Deputy Gollop: Thank you very much, Madam.

1340 Will the review or accelerated special review consider issues relating to GP11 to ensure the policy is more effective including covenant conversion of sites eligible for GP11 provision into cash alternatives to stimulate housing development?

Deputy Oliver: Yes.

1345 **The Deputy Bailiff:** Deputy Gollop, do you have any supplementary questions.

Deputy Gollop: Deputy Oliver is copying Deputy Ferbrache in giving short answers, *(Laughter)* never mind. My question is, it is given the reference earlier to the streamlined focused reports, does that indicate that we will now have a two stage process firstly in this term a focussed review of some elements of the Island Development Plan and secondly the new Island Development Plan draft?

1350

The Deputy Bailiff: Deputy Gollop, is that linked to the questions about GP11.

Deputy Gollop: Indirectly. *(Laughter)*

1355 **The Deputy Bailiff:** Perhaps you could redress your supplementary question directly referring to the question which you have posed as item number three.

Deputy Gollop: Yes, my supplementary is, presumably GP11 will be included in the initial, accelerated, streamlined review before the end of this term. Is a timeline available for that of when we can expect to see it in the States or a planning enquiry beforehand, should that be necessary?

1360

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: We are hoping for it to be in the States, I want to say February 2025, before the next election, however, again with dates I just want to make sure that I am saying the right thing so I will double check with you but I am 90% sure it is that date.

1365

The Deputy Bailiff: Thank you. Deputy Leadbeater, supplementary question number one from you.

1370

Deputy Leadbeater: Thank you.

I just wanted to know, does the DPA have any indication on how many sites would have been forward under the IDP in the absence of GP11 and how many units would have been developed since 2016 if we had not had that policy in place?

1375

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: No.

1380 **The Deputy Bailiff:** If there are no more supplementary questions I will ask Deputy Gollop to put his fourth question to Deputy Oliver.

Deputy Gollop: Thank you.

Last one. Will the DPA, Development & Planning Authority, be able to advise the Assembly as soon as possible on any necessary changes to policy or law to stimulate further house building especially key worker, social, first time buyers and aspirational family housing, including the potential use of suitable green house sites?

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The Deputy Bailiff: Deputy Oliver.

1390

Deputy Oliver: Housing land supply is part of the focus review and will be delivered to the States in this political term.

The Deputy Bailiff: Deputy Gollop, first supplemental question.

1395

Deputy Gollop: That does not entirely answer my question in that we would like to know whether the DPA is able to accelerate any development frameworks for green house sites that are clearly useful for the building of housing that are not in key, green or nature conservation sites that might, under current rules, be eligible in any way for light industry?

1400

The Deputy Bailiff: Deputy Oliver.

1405

Deputy Oliver: At the moment we have the local centres and the main centres, that is generally where you can build. The focused review will look at if we have enough housing in that area in lines with the SSHI, I am assuming we do not, so it will look at new areas. We cannot accelerate everything because the States have been bound by this law that needs to go through a 15 stage process and I am going through that so it cannot accelerate anything because it has got to go through this plan. However, the next term, the next States will be able to streamline it much more quickly and be able to keep it up to date with new legislation that comes out from either ESS or E&I and then we can update it as and when we need to.

1410

The Deputy Bailiff: Deputy Gollop, second supplementary question.

Deputy Gollop: Thank you.

1415

Sorry if I am exasperating the President but it goes back to my first question all round in a circle, does the Development & Planning Authority have sufficient resources to accelerate this process so we no longer have a 15 stage plan to wade through every time we need to change for society's benefit?

1420

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: Deputy Gollop, you used to be President of the DPA.

The Deputy Bailiff: Deputy Oliver, can I remind you, you are supposed to answer questions.

1425

Deputy Oliver: Okay, I will start again, hold on. We have a process which we have to go through, it does not matter how many staff get thrown on to this it is a process that you have to go through, it is 15 steps including an external examiner, various consultation periods, you cannot accelerate it unfortunately. However much I have tried to, I cannot, so we are just going through the process and we are making sure that the streamlining next term will be in place so people can change the IDP, not at the drop of a hat, it will be evidence based but it will be much, much quicker. We have the resources necessary, it is within the GWP, I am assured it is within the next GWP and we do have the resourcing.

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1435

The Deputy Bailiff: Deputy de Sausmarez, first supplementary question.

Deputy de Sausmarez: Thank you, Madam.

Would the President agree with me that actually Deputy Gollop's supplementary questions, and perhaps even the original question, are slightly misplaced because I think many of the issues that he is clearly concerned about will be addressed in the forthcoming report that E&I will be publishing which does look at these issues in the round and so perhaps he might like to look for some of the

1440

answers in that before focusing his fire on the DPA which, in the context of the much more focused IDP review, has a much narrower remit?

1445 **The Deputy Bailiff:** Thank you, Deputy Oliver.

Deputy Oliver: Yes, I agree.

1450 **The Deputy Bailiff:** Deputy Trott, your first supplemental question.

Deputy Trott: Thank you, Madam.

In the question that Deputy Gollop posed he used the word stimulate. So I ask Deputy Oliver whether she believes that, bearing in mind the current capacity issues facing our construction industry, that any further stimulation by Government is either needed or indeed at this time desirable?

1455

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: I totally agree with that and it goes back to the length of changing this IDP. We are where we are with it. I would like to be doing a lot, lot more with changes to the IDP but we have to go through this review, it is going to be focused to make sure that it comes back this term so that the next term actually are more geared up to building.

1460

Thank you.

1465 **The Deputy Bailiff:** Deputy Falla.

Deputy Falla: Thank you, Madam.

What changes to policy or law might be needed to bring selected derelict glass house sites into scope for housing development?

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The Deputy Bailiff: Deputy Oliver. I think given the reference to suitable green house sites I think that is area at which it is aimed, but if you would like Deputy Falla, to rephrase that to ensure it does come within question number four posed by Deputy Gollop of which this is a supplementary question.

1475

Deputy Oliver: Glass houses currently are roughly, do not hold me to these figures, around 75 hectors of agricultural land. Now if all glass houses are taken out of that I can assure you there would be absolute uproar from the agricultural side of it not having enough agricultural land in it. The problem is is there are so many glass houses that, to say okay then even if you say half of them could be used for housing you would dramatically change the spacial planning of land use and therefore you cannot.

1480

Some of them are clear that they will be changed eventually but at the moment it cannot be. We will look at the main centres and where it is obvious that some can be included, they will be, where not it just has to go through its process and I would just beg that you please let the DPA do the process it is meant to do on an evidence based decision and go through there.

1485

The Deputy Bailiff: Deputy Roffey, you first supplemental question.

Deputy Roffey: Will the President agree with me that because of their designation as temporary structures on agricultural land many vineries were permitted to be constructed in sites where housing would absolutely never have been conceived of and therefore any presumption that derelict glass house sites should automatically be able to be available for housing would be extremely dangerous from a planning point of view?

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1495 **The Deputy Bailiff:** Deputy Oliver.

Deputy Oliver: Yes, I think that is what I said before but you said it much more succinctly. I just think that everybody wants glass houses, there are some that might but there are a lot that just should be actually returned back to agricultural land.

1500 **The Deputy Bailiff:** Deputy Matthews.

Deputy Matthews: Thank you, Madam.

1505 I would like to ask the President, the DPA is often the subject of being a bottleneck on construction for house building in the Island and following on from Deputy Trott's question I would like to ask, does the DPA have a view about how much of a bottleneck Planning is and how much the construction capacity of the Island limits the amount of houses that we are able to build?

1510 **The Deputy Bailiff:** Deputy Oliver, please answer that in relation to Deputy Gollop's question which is the one that this should be a supplemental to and not to Deputy Trott's.

Deputy Oliver: I do not quite know what you are asking me.

1515 **The Deputy Bailiff:** Would you like me to ask Deputy Matthews to rephrase it?

Deputy Oliver: Is Planning a bottleneck, i.e. should Planning actually exist or are you saying.

The Deputy Bailiff: Deputy Oliver, I will ask Deputy Matthews to reframe it.

1520 **Deputy Oliver:** Thank you.

The Deputy Bailiff: Please make sure it is a supplemental to question number four of Deputy Gollop's questions.

1525 **Deputy Matthews:** Yes, I would like to ask what changes to planning law could enable to DPA to be less of a bottleneck and is that necessary or what effect that might have given the constraint on the construction capacity that the Island currently faces?

1530 **The Deputy Bailiff:** Deputy Oliver.

Deputy Oliver: I still do not think this has anything to do with question four.

The Deputy Bailiff: I do not disagree, Deputy Oliver and the Presiding Officer.

1535 **Deputy Oliver:** That is fine. We have done the most we can to become not a bottleneck, we have done exemptions which will free up the planning officers to actually look at more of the bigger sites, so we are not so much of a bottleneck. What would really help is if IT actually improved and we could get our platform so people could actually submit the applications on line rather than it taking three weeks, at the moment, to register them.

1540 **The Deputy Bailiff:** Thank you. Deputy Leadbeater.

Deputy Leadbeater: Thank you.

1545 I think from the last annual monitoring review that I read there was about 200 acres of redundant glass and about 50 odd in commercial use so that gives us an indication of how much glass we have

on the Island. But would the President agree with me that it would be impossible to cherry pick our favourite vineyard sites, agricultural land with temporary structures on as Deputy Roffey points out, for housing if they are not in a local area or a main centre and if some of these sites were to come on they would have to be inside a new or expanding local area?

1550

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: They would have to be within a main centre or local centre to be able to build on housing, yes.

1555

The Deputy Bailiff: Right I think that is the end of the question time. *(Laughter)* States Greffier.

Billet d'État VII

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

1. The Legal Aid Service – Appointment of the Legal Aid Commissioner – Propositions carried

Article 1.

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled "The Guernsey Legal Aid Service - Appointment of the Legal Aid Commissioner", dated 6th April 2023, they are of the opinion:

- 1. To appoint Advocate Lisa Claire Evans as the Legal Aid Commissioner, with effect from 1st June 2023, pursuant to section 16(1) of the Legal Aid (Guernsey and Alderney) (Schemes and Miscellaneous Provisions) Ordinance, 2018 ("the Ordinance"),*
- 2. To note that the Committee for Employment & Social Security has agreed with Advocate Evans that she will hold office for a period of five years, with effect from that date, pursuant to section 17(1) of the Ordinance,*
- 3. To agree that the Ordinance be amended to enable the Committee for Employment & Social Security to appoint one or more Deputy Legal Aid Commissioners to carry out the functions of the Commissioner when the Commissioner is not available or is unable to act for any other reason, and*
- 4. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.*

The Deputy Bailiff: Deputy Roffey.

1560

Deputy Roffey: I really have nothing to add. We were delighted with the interest in this particular post, we had several quality candidates and we are delighted to propose the appointment of Advocate Evans.

1565

The Deputy Bailiff: Does anybody wish to comment in general debate? No. There are in fact four Propositions Deputy Roffey, is there any reason why we cannot have all four Propositions answered together? States Greffier if you would not mind bringing together all four Propositions and they can be voted for at the same time. Let us open the voting now please on this first matter of the Guernsey Legal Aid Commissioner and the four Propositions.

There was a recorded vote.

1570 *Proposition 1*
Carried – Pour 39, Contre 0, Ne vote pas 0, Did not vote 1, Absent 0

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|--------------------------|---------------|--------------------|---------------------|---------------|
| Aldwell, Sue | None | None | Queripel, Lester | None |
| Blin, Chris | | | | |
| Brouard, Al | | | | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dudley-Owen, Andrea | | | | |
| Dyke, John | | | | |
| Fairclough, Simon | | | | |
| Falla, Steve | | | | |
| Ferbrache, Peter | | | | |
| Gabriel, Adrian | | | | |
| Gollop, John | | | | |
| Haskins, Sam | | | | |
| Helyar, Mark | | | | |
| Inder, Neil | | | | |
| Kazantseva-Miller, Sasha | | | | |
| Le Tissier, Chris | | | | |
| Le Tocq, Jonathan | | | | |
| Leadbeater, Marc | | | | |
| Mahoney, David | | | | |
| Matthews, Aidan | | | | |
| McKenna, Liam | | | | |
| Meerveld, Carl | | | | |
| Moakes, Nick | | | | |
| Murray, Bob | | | | |
| Oliver, Victoria | | | | |
| Parkinson, Charles | | | | |
| Prow, Robert | | | | |
| Roberts, Steve | | | | |
| Roffey, Peter | | | | |
| Snowdon, Alexander | | | | |
| Soulsby, Heidi | | | | |
| St Pier, Gavin | | | | |
| Taylor, Andrew | | | | |

The Deputy Bailiff: Therefore, I declare the outcome as passed. Thank you, everybody. States Greffier.

PRESIDING OFFICER

2. The Election of Members of the Ladies College Board of Governors – Debate commenced

Article 2.

The States are asked to decide:-

- (1) To re-elect Deputy H. J. R. Soulsby MBE as a member of the Ladies' College Board of Governors, who has been nominated in that behalf by the Chairman, the two States-appointed Governors and the two Governors appointed by the States on the nomination of*

the Committee for Education, Sport & Culture, on the expiry of her current term of office on the 31st May 2023.

N.B. Nominations cannot be made from the floor of the Assembly.*

- (2) *To re-elect Mr Brian Acton as a member of the Ladies' College Board of Governors, who need not be a member of the States, on the expiry of his current term of office on 31st May 2023, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation, as set out in Section 1 of The Rules of Procedure of the States of Deliberation and their Committees.*

N.B. Nominations may be made from the floor of the Assembly.

1575

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Madam, it says it is Presiding Officers, but so there is no doubt if it is required to nominate somebody I am delighted to nominate Deputy Soulsby.

1580

The Deputy Bailiff: States Members, as you will have seen this item is in two parts, the first is to re-elect Deputy Soulsby, M.B.E. as a Member of the Ladies College Board of Governors and she has been nominated on behalf of the Chairman, the two States' appointed Governors and the two Governors appointed by the States on the nomination of the Committee for Education, Sports & Culture on the expiry of her current term which is next week from the 31st May 2023.

1585

Due to the nature of the voting this will need to be a secret ballot (*Interjection A Member: no, it won't*) therefore I will ask the officers to kindly walk around with the envelope in order that you may cast your secret ballot for this one person who has been nominated.

1590

Deputy Kazantseva-Miller: Madam, may I seek clarification on the rule where it says it has to be a secret ballot.

Thank you.

1595

The Deputy Bailiff: I can assure you, Deputy Kazantseva-Miller I looked very carefully at this because it did seem rather a nonsense but nevertheless (*Interjection: A Member Pour*) I can say that it does require a secret ballot because it does not provide for otherwise. So, we need a secret ballot and we will deal with the second part of this election as a second secret ballot.

The Deputy Bailiff: Yes, Deputy Matthews?

1600

Deputy Matthews: Do we just write Pour or Contre on the piece of paper or do we write the name of the candidate?

1605

The Deputy Bailiff: You can write yes, or you can write no, or you could write Deputy Soulsby's name.

Deputy Matthews: Thank you.

1610

The Deputy Bailiff: As long as it is a clear indication of voting that is the important factor Thank you, has everybody who wishes to vote provided their vote? Yes. Would you kindly retire to count the votes?

1615

We then have a second election in relation to the Ladies College Board of Governors, this is to re-elect Brian Acton as a Member of the Ladies College Board of Governors. This person need not be a Member of the States, this is also on expiry of the current term of office next week, 31st May and in accordance with Rule 16 of the Rules of Procedure of the States Deliberation as set out in Section 1 of the Rules of Procedure of the States of Deliberation and their Committees and this is proposed by you, Deputy Soulsby.

Deputy Soulsby: Correct, Madam.

The Deputy Bailiff: And who seconds this?

Deputy Ferbrache: I am the seconder.

The Deputy Bailiff: Deputy Ferbrache seconds this. Again this will need to be a secret ballot although it is possible for there to be nominations from the floor of this Assembly, as nobody has circulated any information about an alternative nominee we will proceed on the basis that only Mr Brian Acton has been put forward to be re-elected and so we will once more go round with the envelope and please provide your votes as soon as possible.

Are there any more votes that need collecting in relation to the second election? Thank you, would you kindly withdraw to count them.

Whilst we wait for the results of those votes we will proceed to the next item please, States Greffier.

COMMITTEE FOR HEALTH & SOCIAL CARE

Motion to debate an Appendix Report – Responsible Officer for the Bailiwick of Guernsey – 2022 Annual Report – Motion not carried

The Deputy Bailiff: Yes, Members as you will have noted Deputy St Pier, who I will turn to shortly, has put forward a Motion to Debate. Can I just remind you of the rules in relation to a Motion to Debate which are found under Rule 24, the Proposer of the Motion will speak on the Motion to Debate, the seconder of the Motion will not speak but nevertheless will second it and the President of the Committee concerned will then also speak on the matter but it is in relation only to the Motion to Debate not to the substantive report itself.

Deputy St Pier.

Motion to Debate

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. VII 2023 entitled 'Committee for Health & Social Care - Responsible Officer for the Bailiwick of Guernsey – 2022 Annual Report.'

Deputy St Pier: Thank you, Madam.

The Case to debate the Responsible Officers Annual Report is simple and I will make it briefly. Before doing so and for the avoidance of any doubt I will not be referring on this occasion in this Motion or indeed in any subsequent debate to matters of concern that are raised in the Assembly on last year's report, those matters are ongoing and Deputy Brouard touched on them in responding to a question on his statement. Those issues are not directly pertinent to this particular report before us.

The Annual Report is a relatively recent development it follows the introduction of the regulation of Health Professional, Medical Practitioners Guernsey & Alderney Ordinance 2015. This legislation mirrors similar 2010 provisions in the UK and deals with the revalidation of medical practitioners. In other words it is narrow and specific. The state of the regulation of health and care sectors was set out in a lengthy policy letter from HSC in January 2019, indeed Deputy Brouard touched on it during his statement.

The 2019 policy letter drew attention to what it called a fragmented and deficient system and I will not set out in this motion a fragmented system described in that policy letter suffice to say that

it summarised some of the deficiencies as follows. The absence of regulation of home care services and the majority of States of Guernsey services, an insufficient emphasis on safeguarding, a lack of regulatory independent and the lack of flexibility to respond to developments in health care provision.

So, the annual report before us is, as Sherlock Holmes observed in the Silver Blaze, like the dog that did not bark in the night. *(Laughter)* It is not so much what is in it but what is not in it that should concern this Assembly and is worthy of debate. We should keep in mind that as we all know HSC is the largest spending Committee of the States but on top of that there is much private expenditure too funded by insurers and households not only in the primary care sector of which some medical practitioners will be covered by this report but also the care sector more generally and with many other professionals.

By comparison with our well regulated largest economic sector, financial services, regulation of health and care services is, as the 2019 policy letter advises, deficient. Madam, in 2019 on the back of that excellent policy letter the Assembly resolved among other things to agree that there should be a phased establishment of a structured independent and proportionate statutory regulatory regime of health and care for the benefit of Guernsey to direct the Committee for Health & Social Care to begin work on a prioritised programme to develop regulatory standards and or identify designated accreditation schemes for health and care services as appropriate and, sensibly, to agree that all reasonable opportunities should be pursued to achieve a joint commission with Jersey. All of this was to have been completed by the end of 2022.

Now this States has resolved through the Government Work Plan process to de-prioritise and slow that implementation timetable but a debate on this annual report is an appropriate juncture and opportunity for this States to consider the issues of regulation in the round of which this annual report is a part. With that in mind I hope that Members will support this Motion to debate.

The Deputy Bailiff: Deputy Queripel, do you second the Motion.

Deputy Queripel: I do, madam.

The Deputy Bailiff: Thank you, Deputy Brouard.

Deputy Brouard: Thank you.

I am going to oppose the motion. The premise that Deputy St Pier uses is that this particular report is about health and care generally but it is not it is a very narrow focus that was basically about doctors, it was created well before the States debated the Health & Care Regulations in the Bailiwick which was in February 2019. This legislation was in place from the Ordinance in 2015 creating the post of the Responsible Officer and the Responsible Officer's post is to look at the appraisals and the fitness of doctors to practice and it has got nothing to do with the general health and social care regulation that Deputy St Pier wishes to dip into as that is a separate issue and as I mentioned in my address this morning, that is already taken care of and we are working already on the 2019 resolutions, I have them here, and that will be progressed with an overall arching umbrella piece of project and under that will hang various ordinances and we have chosen, at the moment, to work in tandem with the umbrella for the first ordinance which will probably be relating to health care with regard to those practitioners who will be working in care homes, etc., etc., as part of the SLAWs programme which is essential for our community going forward.

So there is nothing, nothing in the Responsible Officer's report about general regulation or what is coming down the tracks which I said there will be more communication about it later this year. The also unfortunate bit I will mention now, one of the media outlets decided to scaremonger unfortunately by saying something like that there was, I think something like, and two doctors put on the remedial plan could not be revalidated as fit to practice by the General Medical Council. Absolutely nothing of a grain of truth in that, it was very poor reporting. I would just actually pick up on that particular point if I may. Of the doctors who are up for the their five year revalidation

1710 four of them had a deferral and the reason for the deferral and I am going to give you the secret, one of them had been working in another country and missed the appraisal there. Perfectly fit to practice.

Deputy St Pier: Madam, point of order.

1715 **The Deputy Bailiff:** Yes.

Deputy St Pier: Deputy Brouard does indeed appear to be speaking to the report rather than the Motion.

1720 **The Deputy Bailiff:** Yes, Deputy Brouard, that is a fair point. I think you are drifting into the report substance rather than the motions. I understand why.

Deputy Brouard: You are absolutely right, madam, thank you, I will be very brief on this but I was ready to use 17(6) on Deputy St Pier anyway so. Two of the doctors also were waiting for patient feedback to complete their report and one of them was going to retire. *(Laughter)*

1725 So there is nothing in the report that Deputy St Pier is looking for, there is nothing in the Responsible Officer's Report that goes into the general Health and Care Regulation that this Assembly approved in 2019 and is progressing as provided by the resources through the Government Work Plan. So for what Deputy St Pier is looking for in the report it is not there, I would urge Members do not debate the report. It is just a pure piece of statutory information that the Responsible Officer is required by law to provide to this Assembly and it is just a plain reporting of the issues over the last year.

1735 **The Deputy Bailiff:** Members will note that there is already an SEV proposition reference which is Motion to Debate an Appendix Report. I believe there are a number of IT issues but we will open the voting now and ensure that any IT issues are resolved before we close the voting.

There was a recorded vote.

1740 *Motion to Debate*

Not carried – Pour 13, Contre 25, Ne vote pas 2, Did not vote 0, Absent 0

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|--------------------------|---------------------|--------------------|---------------------|---------------|
| Burford, Yvonne | Aldwell, Sue | Bury, Tina | None | None |
| Cameron, Andy | Blin, Chris | Oliver, Victoria | | |
| De Sausmarez, Lindsay | Brouard, Al | | | |
| Fairclough, Simon | De Lisle, David | | | |
| Gabriel, Adrian | Dudley-Owen, Andrea | | | |
| Gollop, John | Dyke, John | | | |
| Kazantseva-Miller, Sasha | Falla, Steve | | | |
| Parkinson, Charles | Ferbrache, Peter | | | |
| Queripel, Lester | Haskins, Sam | | | |
| Soulsby, Heidi | Helyar, Mark | | | |
| St Pier, Gavin | Inder, Neil | | | |
| Taylor, Andrew | Le Tissier, Chris | | | |
| Trott, Lyndon | Le Tocq, Jonathan | | | |
| | Leadbeater, Marc | | | |
| | Mahoney, David | | | |
| | Matthews, Aidan | | | |
| | McKenna, Liam | | | |
| | Meerveld, Carl | | | |
| | Moakes, Nick | | | |
| | Murray, Bob | | | |
| | Prow, Robert | | | |
| | Roberts, Steve | | | |

Roffey, Peter
Snowdon, Alexander
Vermeulen, Simon

The Deputy Bailiff: Therefore, the Report will not be debated.

Question under Rule 12

POLICY & RESOURCES COMMITTEE

Condor Islander – Purchase; £26 million loan and £3 million equity stake

The Deputy Bailiff: I will now ask Deputy St Pier to pose his question under Rule 12 to Deputy Ferbrache as President as Policy and Resources.

1745

Deputy St Pier: Thank you, madam.

Given the Chief Executive of Condor confirmed in the Guernsey Press on Monday that Condor was ready, willing and able to complete the purchase of the Condor Islander with bank finance, what were the reasons for the States of Guernsey providing £26 million loan finance and £3 million for a 50% equity stake in the vessel?

1750

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Madam, I am very grateful for the opportunity to be able to answer this question and what I can say at the outset is this, that neither the Policy & Resources Committee nor the Civil Contingency Authority are responsible for any comments a representative of Condor may have made to the media.

1755

What I can say, without breaching my legal duties as Chair of the CCA and President of P&R, is that Condor were not ready, willing and able to finance the purchase of the vessel within the very strict time constraints that existed at the time. I understand that now, belatedly, a statement has been put out by Condor seeking to correct the confusion which arose solely from their comments made earlier this week. This statement makes it clear that Condor was unable to complete on the vessel in the required timeframe.

1760

The Deputy Bailiff: Deputy St Pier, supplementary question.

1765

Deputy St Pier: I do, I have two madam. Perhaps Deputy Ferbrache could advise did any Member of the Committee ask Condor or ask any officers to ask Condor to issue last night's media statement clarifying their previous position?

1770

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Yes.

The Deputy Bailiff: Second supplementary question.

1775

Deputy St Pier: Thank you. My second supplementary is, is it the case that the Guernsey Investment Fund was not able to progress to completion in a timely manner because the States

1780 were either unable or unwilling to agree a guarantee in a form acceptable to perspective commercial members?

The Deputy Bailiff: Deputy Ferbrache.

1785 **Deputy Ferbrache:** The Guernsey Investment Fund is independent of P&R or any States' body or Committee and made its own decisions in the light of the circumstances then believed at the time.

The Deputy Bailiff: Deputy Trott, your first supplementary question.

1790 **Deputy Trott:** Thank you, madam.

Deputy Ferbrache is a man, in my view, unimpeachable integrity, so the question I ask is this when will P&R bring the report to this Assembly on this matter in the same way, there is precedent, in the same way that the then Policy Council did following the emergency purchase of the two fuel tank ships that we know now as Sarnia Liberty and Sarnia Cherie?

1795 **The Deputy Bailiff:** Deputy Ferbrache.

1800 **Deputy Ferbrache:** I am very grateful for Deputy Trott's introductory remark, of course he bought two vessels we only bought one. But in relation to that I cannot say frankly because the powers that were exercised were under the Civil Contingencies Law of 2012 and the Civil Contingency Authority can only act if, having received legal advice, which it did able legal advice given on a timely basis, that there was an emergency existing or about to exist, within the terms there is a wide definition under the 2012 law. So I would like to be able to tell Deputy Trott, and the world at large, all that existed, all that could have existed but I cannot say to him that there will be such a report by P&R because the decision was made by the Civil Contingencies Authority.

The Deputy Bailiff: Deputy Trott, your second supplementary.

1810 **Deputy Trott:** Yes, I asked the supplementary question because I was very careful in my introduction to refer to the precedent that exists. The predecessor to the CCA, the Emergency Powers Authority, made a very similar decision and yet it had no difficulties in bringing a report to this States. I would, respectfully, ask Deputy Ferbrache to refer to that precedent should there be any legal advice to the contrary.

1815 **The Deputy Bailiff:** Deputy Ferbrache.

1820 **Deputy Ferbrache:** Well I do not know if it creates a precedent because I have not read it, and people often say they create a precedent and then I read it, I have read lots of precedents in my professional life and some of them are not very convincing. But let us just say Deputy Trott is right, I am not saying he is and I am not saying he is wrong, we will take advice from the law officers, if the advice is that we can make more available without breaching our duties or the provisions of the Civil Contingencies Law then clearly we would do so. There is no wish to be anything other than transparent so I am grateful to him for raising that point.

1825 **The Deputy Bailiff:** Deputy Gollop, your first supplemental question.

1830 **Deputy Gollop:** Yes, would the President of course agree with me that following the most recent Condor ferry statement that the possible probability of the vessel would have been acquired by one of the other bidders would have been a strategic problem for Guernsey given our reliance for both passenger and freight in having a new up to date ferry?

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Yes, madam.

1835

The Deputy Bailiff: Deputy Le Tissier.

Deputy Le Tissier: Thank you, madam.

1840

Now I do understand the requirements of the CCA law and maybe that needs to be changed, maybe not. But it is frankly improbable that P&R were simply told to just do it with no briefing or discussion. Now given that assumption is correct and, of course, it may not be and given anything said to P&R by the CCA was obviously in accordance with the CCA law please can Deputy Ferbrache tell us what was said to P&R as part of the instruction to arrange the transaction with Condor?

Thank you.

1845

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: I do not think I can add anything to that than what has previously been in the public domain madam.

1850

Deputy Trott: May I now raise what I believe to be a point of order?

The Deputy Bailiff: You can raise it, Deputy Trott.

1855

Deputy Trott: It seems to be that we have the benefit of Her Majesty's Procureur with us today, her understanding of the CCA law would be far greater than any Member of this Assembly with the possible exemption of yourself Madam, (*Interjection: One Member, yes*) and it seems to be that it would be appropriate to ask her if there is any reason why the same precedent cannot be followed that existed when the two fuel tanker ships were bought in 2011, I think it was.

1860

Deputy Ferbrache: I would endorse that approach, madam.

The Deputy Bailiff: Madam Procureur, are you able to answer the question that Deputy Trott has posed in relation to the precedent or not nature of the two issues?

1865

Madam Procureur: Madam, I can say that the precedent referred to in 2012 pre-dated the 2012 law and the conditions which are set out in the Sub-Contingencies Legislation. I think that is a factor, that is an off the top of my head answer, I am happy to reflect further if Members require further advice, but whilst there were similar circumstances the 2012 law was not in existence at that time.

1870

The Deputy Bailiff: Thank you. Deputy Kazantseva-Miller, your first supplementary question.

Deputy Kazantseva-Miller: Thank you, madam.

1875

Given the sensitivity of the timing of this transaction which coincides with the sensitivity of the timing in relation to the States' decisions on the capital portfolio and the importance of the reserves including the bond reserves we have available, would the President indicate that the loan rate agreed with Condor has been above, equal or below the availability of potential commercial loans that might have been available via gift of the market?

Thank you.

1880

The Deputy Bailiff: Deputy Ferbrache, your opportunity to answer but I would just remind Members these are supposed to be supplemental to the question that was asked so it is important that the focus of the original question is kept to.

1885 **Deputy Ferbrache:** I am grateful but I would not want any undue, and I am grateful for that ruling, but I would not want any undue restrictions because there is the intent to be as open as we can be. What I can say is that the loan was obtained on good commercial terms, what I would regard commercially I am sure others with commercial experience would regard them as generous commercial terms, but because of commercial sensitivity I do not believe I can say anything more
1890 at this stage. If circumstances arise when I can then that will be said.

The Deputy Bailiff: Deputy Matthews.

Deputy Matthews: Thank you, madam.
1895 I think I am right in remembering that during the COVID emergency there was some discussion around a similar topic and whether or not the CCA itself, not necessarily an individual member of it or the President, but the CCA would be able to release information and it would then be in the public domain and people would be able to discuss it. Does the President recognise the frustration that Islanders must feel, to some extent, that they voted for all of us Members of the Assembly and
1900 without regular information available to us we are not able to very easily scrutinise the decision that the CCA has made and does the President agree with me that that is not an entirely satisfactory or democratic arrangement, as it would currently stand?

The Deputy Bailiff: Deputy Matthews, I would like to say again that this is in relation to the
1905 supplementary questions in respect of each principle question that the supplementary questions are supposed to be about, Deputy Ferbrache to respond.

Deputy Ferbrache: Thank you, Madam.
1910 Madam the Civil Contingencies Law was enacted to give confidentiality in relation to certain matters. Now in the last five years the only other instance where the Civil Contingency Law has been exercised is on COVID related matters. I am not aware of it being used otherwise. Deputy Trott, from this considerable experience related to the previous law and that may have been similar, it may have may have had some differences, frankly I do not know.

1915 But in connection with this all I can say is that every government should be as transparent as possible, every States' decision should be as transparent as possible (**A Member:** Hear, hear) but there is good reason under the 2012 law for certain things not to be transparent. I cannot say any more than that and I do not believe we have, we the Civil Contingencies Authority have any discretion in this matter to release information.

1920 **The Deputy Bailiff:** Deputy Roffey.

Deputy Roffey: Thank you.
While I fully understand that there may be good reasons why the nature of the emergency of potential emergency cannot be made public, the financial arrangements surely are a different
1925 category (**A Member:** Hear, hear) both the terms of the loan and what Guernsey gets for, I think, the £3 million that is not a loan, that has just been put into the purchase. So, would P&R at least be able to publish that element even if they cannot, for good reason perhaps, explain what the nature of the emergency was?

1930 **The Deputy Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: If P&R can publish information which is not commercially sensitive and which does not breach the terms of the Civil Contingencies Law it will do so.

1935 **The Deputy Bailiff:** Deputy Leadbeater, supplementary question.

Deputy Leadbeater: Thank you, madam Deputy President.

1940 My understanding is that the CCA instructed P&R to progress with the deal. Would P&R not have been able to progress with the deal without instruction from the CCA, could it not do it independently?

The Deputy Bailiff: Deputy Ferbrache.

1945 **Deputy Ferbrache:** I am glad Deputy Leadbeater asked that question because I think he knows the answer to the question but I will answer it publically, actually not. Without the direction from the CCA P&R could not have proceeded in the circumstances that it did.

The Deputy Bailiff: Deputy Gabriel.

1950 **Deputy Gabriel:** Thank you, madam.

In relation to giving the loan to Condor and I understand the commercial sensitivities around any repayment arrangements, the question is would the States of Guernsey be in a better position, a worse position or an equal position had the loan not been given and bearing in mind the repayment terms?

1955 **The Deputy Bailiff:** Deputy Ferbrache.

1960 **Deputy Ferbrache:** Let me just say this in relation to it, the Civil Contingencies Authority would not have acted unless there was an emergency like under the terms of the 2012 Law. It can only make that decision if the terms of the Law are so met. It would not have made that decision if it was not in the best interests of the Bailiwick of Guernsey.

The Deputy Bailiff: Deputy Trott, you have had two supplemental questions.

1965 **Deputy Trott:** No.

The Deputy Bailiff: Yes, you have. (*Laughter*) Deputy Kazantseva-Miller, your second supplementary question.

1970 **Deputy Kazantseva-Miller:** As part of the decision that was.

Deputy Ferbrache: Sorry, can I just ask Deputy Inder to stop talking I cannot hear you Deputy Kazantseva-Miller. Sorry, apologies.

1975 **Deputy Kazantseva-Miller:** As part of the decision that was directing P&R to effectively buy a boat, did P&R consider various financial and commercial forms how effectively that direction from the CCA could be supported?

1980 **The Deputy Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: P&R's role was very limited in these circumstances, as I say the funding was originally going to be provided through the Guernsey Investment Fund, that collapsed at a very late

hour that is why the Civil Contingencies Authority ambient law provisions were engaged. I do not think I can say more than that at the moment.

1985

The Deputy Bailiff: Deputy Taylor.

Deputy Taylor: Thank you, madam.

1990

In regard to the original question Deputy Ferbrache advised Members that the Policy & Resources Committee and the CCA members were not responsible for comments that were made by Condor or their representatives. Would Deputy Ferbrache be able to give any comment on any conditions that were applied to Condor as part of this deal to stop them from commenting publically given the strict conditions under the rules of the CCA that prevent him from providing us States' Members with any comments?

1995

Thank you.

The Deputy Bailiff: Deputy Ferbrache.

2000

Deputy Ferbrache: I do not think in any free society, say to Condor or anybody else, you could say this you could say that, we all have to comply, we all as citizens of the Bailiwick have to comply with the provisions of any law that may be applicable. What I can say, it may not be in direct answer to Deputy Taylor's question but it gives me the opportunity to say it and I am grateful to him, is that I was very surprised when I read the comments in the Guernsey Press in Monday of the senior representative from Condor, very surprised indeed.

2005

The Deputy Bailiff: Deputy Parkinson.

Deputy Parkinson: Thank you.

2010

The President has said that the terms of the loan for the purchase of this vessel were on commercial terms as regards interest. Can he also confirm that the security arrangements for the loan were on normal commercial terms?

The Deputy Bailiff: Deputy Ferbrache.

2015

Deputy Ferbrache: I do not want to die a death by a thousand cuts in relation to it and then find that nothing is really secret anymore but that is a fair question and the answer is yes.

The Deputy Bailiff: Deputy Gollop.

2020

Deputy Gollop: Does the President have any indication as to why the media or press conveyed that the vessel could have been expeditiously acquired in a different way when in fact we have had a clarification today and yesterday that indeed had it not been for P&R and the CCA we would have been under severe danger and probability of losing the opportunity to acquire the vessel?

2025

The Deputy Bailiff: Deputy Ferbrache.

2030

Deputy Ferbrache: I do not think I can answer that, I think we are going round in circles I have already answered the question. There was an emergency, the CCA acted within the terms of the emergency, they were very clear within the time constraints and they were very, very pressing time constraints. If the CCA had not acted in the way that it did the vessel would not have been purchased.

The Deputy Bailiff: Deputy Burford.

2035 **Deputy Burford:** It appears from what has been stated by various parties so far that there was possibly a timing issue in terms of securing this vessel. Was a bridging loan to Condor considered at any stage until such time as they could obtain commercial finance?

Deputy Ferbrache: Sorry I did not hear the question, could you repeat it?

2040 **The Deputy Bailiff:** Would you mind repeating it Deputy Burford.

Deputy Burford: Yes, there seems to have been a timing issue in terms of securing this particular vessel, was a bridging loan to Condor from the States considered at any time until such time as they could secure their own finance?

The Deputy Bailiff: Deputy Ferbrache.

2050 **Deputy Ferbrache:** I do not think P&R would have been empowered to make a bridging loan of circa £25 million, £30 million or whatever the exact arithmetic conversion to Euros would have been. So the answer is no.

The Deputy Bailiff: If there are no more supplementary questions we will move to the next item which is, in fact, the results of the elections.

**2. The Election of Members of the Ladies College Board of Governors –
Ballot results –
Deputy Soulsby and Mr Brian Acton elected**

2055 **The Deputy Bailiff:** In relation to the nomination of Deputy Soulsby I can confirm Deputy Soulsby was duly elected with 28 votes, there were 9 spoilt papers and 2 blank papers but nevertheless she has achieved re-election to the Ladies College Governors.

In relation to the second election which is the election of the member of the Ladies College Board of Governors and the proposition was Mr Brian Acton, I can confirm there were 37 votes, no spoilt papers and no blank papers.

2060 Thank you. Deputy Greffier.

LEGISLATION LAID BEFORE THE STATES:

**The High Hedges (Guernsey) (Amendment) Regulations, 2023;
The Land Planning and Development (Immunity Certificate Fee) Regulations, 2023;
The Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions)
(Amendments) Regulations, 2023;
The Reform (Guernsey) (Amendment) Law, 2022 (Commencement) Regulations 2023;
The Income Tax (Pension Amendments) (Revocation)(Guernsey) Regulations, 2023;
The Parochial Elections (St Peter Port) Regulations, 2023**

The Deputy Bailiff: Thank you, States Greffier. There are no motions to annul in relation to that legislation. Next item please.

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

**3. The Social Insurance (Rates of Contributions and Benefits etc.) Ordinance, 2022
(Amendment) Ordinance, 2023 –
Motion withdrawn**

Article 3.

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Social Insurance (Rates of Contributions and Benefits etc.) Ordinance, 2022 (Amendment) Ordinance, 2023", and to direct that the same shall have effect as an Ordinance of the States.

2065 **The Deputy Bailiff:** Deputy Roffey.

Deputy Roffey: Thank you, madam Deputy Bailiff.

I have a motion to withdraw this piece of legislation and it is the first of five such motions so I think perhaps I need to explain the background of exactly what is going on.

2070 Normally in this Assembly we take policy decisions first and then once that policy decision has been taken legislation is drafted to enact it. That is for two reasons, not to be presumptuous about the outcome of a States debate on a policy letter and secondly to save redundant work in drawing up legislation that will not later be needed if that policy is not endorsed.

2075 However, for very many years there has been a different practice in relation to up-rating of social security rates and benefits rates for the simple reason that timing would not allow that sort of process and therefore the legislation is drafted in advance on the presumptuous that the States will approve the proposals going forward.

2080 However, it is not that presumptuous because if they do not then normally the legislation is just amended when it is laid before the States to fit in with any amendment that has been put to the proposal to up-rate but in this particular case by a vote of 18 to 18 the States voted to leave the legislation exactly as it was, in other words concerning the changes in legislation of the numbers and therefore no new legislation is required, the old legislation is still fit for purpose and therefore the five bits of legislation that were drafted in advance of our debate at the last meeting are not required and we will be asking the States leave to withdraw all of them.

2085 **The Deputy Bailiff:** Thank you, is that first one seconded by you Deputy de Sausmarez?

Deputy de Sausmarez: Yes, madam.

2090 **The Deputy Bailiff:** Does anybody wish to debate the first Proposition in relation to the social insurance rates of contribution benefits motion to withdraw? No, then I will ask the States Greffier to start the voting on that.

There was a recorded vote.

Carried – Pour 38, Contre 2, Ne vote pas 0, Did not vote 0, Absent 0

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|-----------------------|------------------|--------------------|---------------------|---------------|
| Aldwell, Sue | Gollop, John | None | None | None |
| Blin, Chris | Oliver, Victoria | | | |
| Brouard, Al | | | | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |

Dudley-Owen, Andrea
Dyke, John
Fairclough, Simon
Falla, Steve
Ferbrache, Peter
Gabriel, Adrian
Haskins, Sam
Helyar, Mark
Inder, Neil
Kazantseva-Miller, Sasha
Le Tissier, Chris
Le Tocq, Jonathan
Leadbeater, Marc
Mahoney, David
Matthews, Aidan
McKenna, Liam
Meerveld, Carl
Moakes, Nick
Murray, Bob
Parkinson, Charles
Prow, Robert
Queripel, Lester
Roberts, Steve
Roffey, Peter
Snowdon, Alexander
Soulsby, Heidi
St Pier, Gavin
Taylor, Andrew
Trott, Lyndon
Vermeulen, Simon

2095

The Deputy Bailiff: Therefore, the motion to withdraw has been passed.
Deputy Roffey.

2100

Deputy Roffey: Well I do not think there is any need to continue to get up the next one is in relation to what would have been the changes to Income Support, the one after than will be Long Term Care, etc. none of those changes are now needed to be embodied in legislation. So, I think we can just go for all of the votes on the next four items without me opening. Although of course I will reply to any debate that may occur.

2105

The Deputy Bailiff: Are those all formally seconded, Deputy de Sausmarez?

Deputy de Sausmarez: Yes, madam.

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

4. Income Support (Implementation) (Amendment) Ordinance, 2023 – Motion withdrawn

Article 4.

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Income Support (Implementation) (Amendment) Ordinance, 2023", and to direct that the same shall have effect as an Ordinance of the States.

2110 **The Deputy Bailiff:** So I will first ask does anybody wish to debate the withdrawal on Income Support implementation Ordinance. No, then we will formally go to the vote please, States Greffier.

There was a recorded vote.

Carried – Pour 38, Contre 0, Ne vote pas 1, Did not vote 1, Absent 0

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|--------------------------|---------------|--------------------|---------------------|---------------|
| Aldwell, Sue | None | Gollop, John | Leadbeater, Marc | None |
| Blin, Chris | | | | |
| Brouard, Al | | | | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dudley-Owen, Andrea | | | | |
| Dyke, John | | | | |
| Fairclough, Simon | | | | |
| Falla, Steve | | | | |
| Ferbrache, Peter | | | | |
| Gabriel, Adrian | | | | |
| Haskins, Sam | | | | |
| Helyar, Mark | | | | |
| Inder, Neil | | | | |
| Kazantseva-Miller, Sasha | | | | |
| Le Tissier, Chris | | | | |
| Le Tocq, Jonathan | | | | |
| Mahoney, David | | | | |
| Matthews, Aidan | | | | |
| McKenna, Liam | | | | |
| Meerveld, Carl | | | | |
| Moakes, Nick | | | | |
| Murray, Bob | | | | |
| Oliver, Victoria | | | | |
| Parkinson, Charles | | | | |
| Prow, Robert | | | | |
| Queripel, Lester | | | | |
| Roberts, Steve | | | | |
| Roffey, Peter | | | | |
| Snowdon, Alexander | | | | |
| Soulsby, Heidi | | | | |
| St Pier, Gavin | | | | |
| Taylor, Andrew | | | | |
| Trott, Lyndon | | | | |
| Vermeulen, Simon | | | | |

2115 **The Deputy Bailiff:** Therefore I declare the motion to withdraw passed.

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

**5. The Long-Term Care Insurance (Guernsey) (Rates) Ordinance, 2023 –
Motion withdrawn**

Article 5.

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Long-Term Care Insurance (Guernsey) (Rates) Ordinance, 2023", and to direct that the same shall have effect as an Ordinance of the States.

2120 **The Deputy Bailiff:** The next one is in relation to Long Term Insurance Guernsey Rates Ordinance, 2023 as this has been formally opened and seconded by the President and Deputy de Sausmarez, does anybody wish to debate the withdrawal of this particular Ordinance? No, therefore I would ask you to open the voting please, States Greffier.

There was a recorded vote.

2125 *Proposition 3*

Carried – Pour 39, Contre 1, Ne vote pas 0, Did not vote 0, Absent 0

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|--------------------------|---------------|--------------------|---------------------|---------------|
| Aldwell, Sue | Gollop, John | None | None | None |
| Blin, Chris | | | | |
| Brouard, Al | | | | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dudley-Owen, Andrea | | | | |
| Dyke, John | | | | |
| Fairclough, Simon | | | | |
| Falla, Steve | | | | |
| Ferbrache, Peter | | | | |
| Gabriel, Adrian | | | | |
| Haskins, Sam | | | | |
| Helyar, Mark | | | | |
| Inder, Neil | | | | |
| Kazantseva-Miller, Sasha | | | | |
| Le Tissier, Chris | | | | |
| Le Tocq, Jonathan | | | | |
| Leadbeater, Marc | | | | |
| Mahoney, David | | | | |
| Matthews, Aidan | | | | |
| McKenna, Liam | | | | |
| Meerveld, Carl | | | | |
| Moakes, Nick | | | | |
| Murray, Bob | | | | |
| Oliver, Victoria | | | | |
| Parkinson, Charles | | | | |
| Prow, Robert | | | | |
| Queripel, Lester | | | | |
| Roberts, Steve | | | | |
| Roffey, Peter | | | | |
| Snowdon, Alexander | | | | |
| Soulsby, Heidi | | | | |
| St Pier, Gavin | | | | |
| Taylor, Andrew | | | | |

Trott, Lyndon
Vermeulen, Simon

The Deputy Bailiff: Therefore I declare the motion to withdraw has been passed.

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

6. The Severe Disability Benefit and Carer's Allowance Ordinance, 2022 (Amendment) Ordinance, 2023 – Motion withdrawn

Article 6

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Severe Disability Benefit and Carer's Allowance Ordinance, 2022 (Amendment) Ordinance, 2023", and to direct that the same shall have effect as an Ordinance of the States.

2130 **The Deputy Bailiff:** The next one is in relation to Severe Disability Benefit and Carers Allowance Ordinance. The President has formally opened this and Deputy de Sausmarez has formally seconded this, does anybody wish to debate this Motion to Withdraw? Deputy Gollop.

2135 **Deputy Gollop:** Well, I know that one or two of these things may return but this one is particularly disappointing that the States in a sense did not actually vote against it, it was an equality of votes of Members absent and it is, I think, regrettable that we are not increasing Carers Allowance and Attendance Allowance or rather Severe Disability Benefit at this time and I feel unhappy. I will give way to Deputy Roffey.

2140 **The Deputy Bailiff:** Deputy Roffey.

2145 **Deputy Roffey:** I thank Deputy Gollop for giving way. I understand, in principle, the feeling that he has but this piece of legislation says the States in pursuance of their resolution of April 2023 they made no such resolution, therefore it would be absurd to actually pass a bit of legislation that pretended it did. However, if he feels strongly about Carers Allowance he could, of course, seek to amend the limited policy letter that is coming next month simply on Income Support.

The Deputy Bailiff: Deputy Gollop.

2150 **Deputy Gollop:** Deputy Roffey suggests a possibility or one that other States' Members can consider too about the upgrade potentially next month. It is a curiosity and we found this at Legislation & Scrutiny Panel to.

2155 **The Deputy Bailiff:** Deputy Gollop can I just remind you that this is supposed to be a debate on the Motion to Withdraw. I understand why you are making the comments you are but nevertheless the focus of debate is on the Motion to Withdraw not on the underlying Ordinance itself. *(Laughter)* **(A Member:** Hear, hear)

2160 **Deputy Gollop:** Yes, I agree with your ruling of course but I would say that in a way we are wasting our time with all this *(Laughter)* and I am wasting your time *(Laughter)* but I can add to that and say why when the States automatically reject it on April did this not disappear from the order paper and we needed to put this at all because it was so linked intrinsically with the decision or non

decision of last month that it should have fallen to the ground automatically arguably (**A Member:** Hear, hear) as a matter for SACC.

2165

The Deputy Bailiff: Thank you, Deputy Gollop. Deputy Roffey, do you want to exercise your right to reply?

2170

Deputy Roffey: Only to say my understanding of the rules and I look to SAC is that once something has been submitted to propositions as these pieces of legislation formally had then they cannot just fall by the wayside there needs to be a Motion of Withdrawal for them to disappear as it were.

2175

The Deputy Bailiff: Thank you. States Greffier, would you open the voting on the Motion to Withdraw the Severe Disability and Carers Allowance Ordinance, 2022 (Amendment) Ordinance, 2023.

There was a recorded vote.

Carried – Pour 39, Contre 1, Ne vote pas 0, Did not vote 0, Absent 0

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|--------------------------|---------------|--------------------|---------------------|---------------|
| Aldwell, Sue | Gollop, John | None | None | None |
| Blin, Chris | | | | |
| Brouard, Al | | | | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dudley-Owen, Andrea | | | | |
| Dyke, John | | | | |
| Fairclough, Simon | | | | |
| Falla, Steve | | | | |
| Ferbrache, Peter | | | | |
| Gabriel, Adrian | | | | |
| Haskins, Sam | | | | |
| Helyar, Mark | | | | |
| Inder, Neil | | | | |
| Kazantseva-Miller, Sasha | | | | |
| Le Tissier, Chris | | | | |
| Le Tocq, Jonathan | | | | |
| Leadbeater, Marc | | | | |
| Mahoney, David | | | | |
| Matthews, Aidan | | | | |
| McKenna, Liam | | | | |
| Meerveld, Carl | | | | |
| Moakes, Nick | | | | |
| Murray, Bob | | | | |
| Oliver, Victoria | | | | |
| Parkinson, Charles | | | | |
| Prow, Robert | | | | |
| Queripel, Lester | | | | |
| Roberts, Steve | | | | |
| Roffey, Peter | | | | |
| Snowdon, Alexander | | | | |
| Soulsby, Heidi | | | | |
| St Pier, Gavin | | | | |
| Taylor, Andrew | | | | |
| Trott, Lyndon | | | | |
| Vermeulen, Simon | | | | |

2180

I therefore declare the Motion to Withdraw has been passed.

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

7. The Family Allowances Ordinance, 2023 – Motion withdrawn

Article 7.

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Family Allowances Ordinance, 2023", and to direct that the same shall have effect as an Ordinance of the States.

2185 **The Deputy Bailiff:** The final one is in relation to the Family Allowances Ordinance which has been formally proposed by Deputy Roffey and seconded by Deputy de Sausmarez. Does anybody wish to speak on debate in relation to the withdrawal of this motion? No, in that case I will ask you to open the voting please, States Greffier.

There was a recorded vote.

2190 *Proposition 5*

Carried – Pour 40, Contre 0, Ne vote pas 0, Did not vote 0, Absent 0

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|--------------------------|---------------|--------------------|---------------------|---------------|
| Aldwell, Sue | None | None | None | None |
| Blin, Chris | | | | |
| Brouard, Al | | | | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dudley-Owen, Andrea | | | | |
| Dyke, John | | | | |
| Fairclough, Simon | | | | |
| Falla, Steve | | | | |
| Ferbrache, Peter | | | | |
| Gabriel, Adrian | | | | |
| Gollop, John | | | | |
| Haskins, Sam | | | | |
| Helyar, Mark | | | | |
| Inder, Neil | | | | |
| Kazantseva-Miller, Sasha | | | | |
| Le Tissier, Chris | | | | |
| Le Tocq, Jonathan | | | | |
| Leadbeater, Marc | | | | |
| Mahoney, David | | | | |
| Matthews, Aidan | | | | |
| McKenna, Liam | | | | |
| Meerveld, Carl | | | | |
| Moakes, Nick | | | | |
| Murray, Bob | | | | |
| Oliver, Victoria | | | | |
| Parkinson, Charles | | | | |
| Prow, Robert | | | | |
| Queripel, Lester | | | | |
| Roberts, Steve | | | | |
| Roffey, Peter | | | | |

Snowdon, Alexander
Soulsby, Heidi
St Pier, Gavin
Taylor, Andrew
Trott, Lyndon
Vermeulen, Simon

I therefore declare the Motion to Withdraw has been passed.

2195 **The Deputy Bailiff:** States Greffier, the next item please.

COMMITTEE FOR HOME AFFAIRS

8. The Criminal Justice (Defence Case Statements) (Bailiwick of Guernsey) Ordinance, 2023 – Approved

Article 8.

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Criminal Justice (Defence Case Statements) (Bailiwick of Guernsey) Ordinance, 2023", and to direct that the same shall have effect as an Ordinance of the States.

The Deputy Bailiff: Deputy Prow.

Deputy Prow: Thank you, madam Deputy Bailiff.

2200 At its meeting of the 28th September 2022 the States agreed the propositions contained in the amendments to the Criminal Justice Framework policy letter. Resolution 2 directed the introduction of a defence disclosure obligation which it was considered would be a benefit to all participants in criminal trials. As directed by the States this legislation to introduce defence disclosure obligations is modelled on the existing obligations in Jersey.

2205 One of the key benefits of the Ordinance to all involved is that it mandates the early identification of key issues in dispute allowing all sides to focus on those important areas which remain in dispute. This in turn should reduce the risk of unnecessary delays, wasted resource and equally importantly the requirement for witnesses to give evidence in person without proper reason.

2210 There is already an existing custom and practice recognised by case law obliging the prosecution to serve disclosure on used material on the defence. Disclosable unused material means any material in the prosecutions possession that might reasonably be considered capable of undermining or weakening the prosecution case or assisting the defence case. In other words the prosecution have a duty to be transparent. This Ordinance does not alter that existing duty but does recognise and make reference to it in section 2 as it forms part of the procedure preceding the defences' obligation to file the defence case statement.

2215 Madam, this approach will benefit all parties and all criminal courts irrespective of the subject matter and so this defence disclosure obligation will arise in all cases whether tried in a court of summary jurisdiction or an indictment. The obligation will apply to any contested criminal proceedings in the Bailiwick that commence after the Ordinance comes into force. I would ask the
2220 Assembly to support and approve this ordinance.

Thank you, madam.

The Deputy Bailiff: Deputy St Pier.

2225 **Deputy St Pier:** Thank you, madam.

I am pleased to see this legislation before us and will be voting for us and I would actually just like to take this opportunity to thank the President of the Committee for his willing engagement as he always offers with me on this matter. As he said in his opening speech by placing the prosecutions duty to disclose unused evidence which is the current practice and custom on a statutory footing and by introducing a requirement for a defence case statement this legislation will help improve the system of the administration of justice.

But I wish to draw the Assembly's attention to section 9 subsection 2(b) on page 16 and this enables the finder of fact, in other words the Magistrates in the Magistrates Court of the Jurats in the Royal Court, in certain circumstances where the defendant fails to comply with the requirements in relation to defence case statements to, and I quote:

draw such inferences as appear proper in deciding whether the defendant is guilty of the offence concerned.

This is introducing the concept of adverse inference in these circumstances into our criminal justice system. At first blush this is a pretty broad and substantial change in the duty on the prosecution to prove the defendant's guilt beyond a reasonable doubt. However, its practice is in fact much more limited not least because of section 9 subsection 6 on page 17 which provides that a defendant must not be convicted of an offence solely based on an adverse inference and indeed in addition it should be noted that similar provisions were introduced in England and Wales in 1996 by section 11 of the Criminal Procedure Investigations Act and so there is 30 years of practice and Jurats' prudence and precedent that will enable our criminal justice system to apply the concept of adverse inference with care in appropriate cases.

Now it should also be noted that in section 34 of the Criminal Justice and Public Order Act of 1994, the concept of adverse inference was introduced into a police caution to be issued on arrest and before interview and whilst categorically and rightly preserving and individual's right to silence it also allows the courts in similar limited circumstances to draw an adverse inference if the defendant relies on something as part of their defence which they could have mentioned at initial interview and as with defence case statements a defendant cannot be convicted on an adverse inference alone and that has actually been reinforced by the European Court of Human Rights which has stated that a conviction solely or mainly on silence or a refusal to answer questions would be incompatible with the right to remain silent.

Madam, when I have raised in this Assembly several times before in this term the need for our police caution to be updated in line with changes made in England and Wales 30 years ago, and I know that the President is personally sympathetic to such a change and I know he shares my view that such a change, whilst not a silver bullet, would assist at the margins in pursuing, in particular, some financial services and sexual offences.

Whilst I have raised the matter before, when I have raised the matter before, the criminal vagary of at least some Members of this Assembly have raised objections to the concept of adverse inference. However, if this Assembly is prepared, as it should be, with this legislation today to accept into the Criminal Justice System the concept of adverse inference in the context of defence case statements then there is no good reason not to extend that concept in due course to police caution, exactly as was done in the Criminal Justice Legislation in England and Wales in 1994.

The only impediment to now doing so is the completion of some of the strands of work under the Justice Review including the completion of the reviews and updating of our 2003 PPACE, Police Powers and Criminal Evidence and RIPLE, Regulation of Investigatory Powers Laws and I would be grateful if the President when responding to the debate could advise whether he agrees with me that this work is essential. I would like to know whether the President and his Committee are of the view that in the interests of the administration of our justice system this work must be resourced and prioritised and does he share my view that further delay will be short sighted by failing to address some of inherent inefficiencies in our current system of justice?

Deputy Gollop: We are busy bees on the Legislation & Scrutiny Panel and we have certainly seen if not this then something very, very similar because we are aware that there has been moves

to get the defence case statements on a par with the prosecution and for them to be prepared and not perhaps be used as an excuse by defendants saying 'ah well I did not get the defence case statement in time'.

Of course, what we wanted has been an appropriate time for defendants to achieve this and extensions where possible and for the legislation to be fair. I would actually, I think, agree which much of the thoughtful speech from Deputy St Pier about the need to modernise criminal justice and perhaps to add the issue of adverse inference because I would suspect that whereas Deputy St Pier accurately flexed a view generally of the Guernsey Bar about also people not incriminating themselves and so on and silence being a defence.

We are actually, and Deputy Prow is aware of this probably as much if not more than any other Member, we are at a time of enormous regulation and the importance of the Moneyval review and other things and they very much want these cases to be streamlined and for law to be as rigorous as possible and for the defence to be clear. Therefore, the courts to reflect maybe practice elsewhere such as in the United Kingdom and for there to be an important point in bringing forward urgent defence statements and if one has not been produced for the Jurats or the court to be entitled to take an adverse inference.

So, I think we have to approve this in the context of our regulatory standards and our modernisation of the system that maybe the next stage in the next few years will be to apply consistency to every other area of law.

Deputy Ferbrache: Well as somebody who has not just read from the text book but has actually operated in various jurisdictions as both the prosecution and the defence let me just say in the 1970s when I was in England the rules of disclosure for the prosecution were non-existent, defendants were interview in police stations at 11 o'clock at night often without representation, often in circumstances where the interviews were never, ever taped. Sometimes when you latterly saw, if you were there, the police officers note book of what had happened during the interview you would have thought you were in a different world, let alone a different cell.

So, let us just put these matters in context. The criminal justice system has evolved in the UK and what Deputy St Pier says is sensible. This is a sensible proposal and the proposal to alter the caution and then be able to draw adverse inferences, again is sensible. All of that should happen. But let us just say if you think this is going to streamline the process, it will not, it will add to cost because you will have to sit down at a much earlier state and term of your representation of the defendant to set out the defence case. You will do that and of course it will be appropriate and it should be done so that the idea is that people are not taken by surprise at a trial.

I actually, as a defence lawyer of a reasonable degree of experience, favour it because I have sometimes sat in court and when my client has gone up and said something thought 'well I have heard that for the first time, isn't it interesting' and hopefully this procedure will stop that but I wonder.

The Deputy Bailiff: No audio???

Deputy ???: Thank you madam.

In reply to Deputy St Pier I must also thank him for his engagement with this matter, this is a very important piece of legislation and perhaps to cut my closing relatively short I would say that I pretty much agree with him on every front and I thank him for his support. I welcome his engagement prior to debate and any other Deputy, so I thank him very much for that.

I think perhaps one thing I should point out is around prioritisation and as this Assembly is very aware financial crime legislation has taken priority for the reasons that I have explained many, many times in the Assembly and I am sure Deputy St Pier supports that, notwithstanding the comments that he has made.

He has rightly highlighted the process and we are governed by a Government Work Plan which is not yet complete and I do share and I know that the Committee shares the view that putting

resources into reviewing and updating key and fundamental legislation in the form of PPACE and indeed Regulation and Investigatory Powers Law needs recognition and I thank him for reinforcing this.

The Committee has previously given a commitment to review with regard to the adverse inference caution and perhaps I could just very quickly remind the Assembly what that commitment was, which is that we understand differences exist between our caution under the law of 2023 and the UK equivalent legislation. We are now in a position where we can take advantage of the experience in the UK where adverse inference cautions have been in use for a significant period and the Committee is in agreement that its potential inclusion should be revisited.

But, something I think Deputy Ferbrache has touched on is in considering any change to PPACE the Committee recognises it would be essential to seek the views of the judiciary, the Guernsey Bar and the courts so they might appropriate inform any legislative change. Indeed during the last political term the Bailiwick looked forward to identify the need for a full review of PPACE, so it is not just the adverse inference caution there are other matters that we need to review and update and as I said I alluded to the Government Work Plan and this all needs to be resourced, this is not so much a money issue but finding the resources to do that. That is a real commitment of the Committee and Deputy St Pier asked me to confirm that and hopefully that is what I have done.

Perhaps what I would say, and Deputy St Pier has alluded to this, the legislation before us does however take us much further forward on the issues raised through the requirement for a defence case statement. I thank Deputy Gollop for his supportive comments. I agree with him around timescales and I think what this legislation does is produce some certainty of what those requirements are.

I also thank Deputy Gollop for restating, but we cannot state it enough, the importance of this jurisdiction embracing and being compliant with the recommendations upon which Moneyval are going to assess us, so I thank him for that. Deputy Ferbrache, yes time has moved on and I think over the preceding years law enforcement and the introduction of PPACE and the Regulations of Investigatory Powers have ensured proper conduct by the law enforcement agencies, and long may that continue. I think, actually, it was very important to hear the view of a defence advocate but overwhelmingly he supports this Ordinance.

Thank you.

The Deputy Bailiff: States Greffier, would you open the voting on this Criminal Justice (Defence Case Statements) (Bailiwick of Guernsey) Ordinance, 2023 please.

There was a recorded vote.

Carried – Pour 39, Contre 0, Ne vote pas 0, Did not vote 1, Absent 0.

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|-----------------------|---------------|--------------------|---------------------|---------------|
| Aldwell, Sue | None | None | Snowdon, Alexander | None |
| Blin, Chris | | | | |
| Brouard, Al | | | | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dudley-Owen, Andrea | | | | |
| Dyke, John | | | | |
| Fairclough, Simon | | | | |
| Falla, Steve | | | | |
| Ferbrache, Peter | | | | |
| Gabriel, Adrian | | | | |
| Gollop, John | | | | |
| Haskins, Sam | | | | |
| Helyar, Mark | | | | |

Inder, Neil
Kazantseva-Miller, Sasha
Le Tissier, Chris
Le Tocq, Jonathan
Leadbeater, Marc
Mahoney, David
Matthews, Aidan
McKenna, Liam
Meerveld, Carl
Moakes, Nick
Murray, Bob
Oliver, Victoria
Parkinson, Charles
Prow, Robert
Queripel, Lester
Roberts, Steve
Roffey, Peter
Soulsby, Heidi
St Pier, Gavin
Taylor, Andrew
Trott, Lyndon
Vermeulen, Simon

2365 Therefore by a unanimous majority I declare that the Proposition is passed. And that seems an appropriate time to adjourn for lunch.

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

POLICY & RESOURCES COMMITTEE

9. The Royal Assent to Projets de Loi, Counsellors of States and other Constitutional Matters – Propositions carried as amended

The States are asked to decide: -

Whether, after consideration of the Policy Letter entitled 'The Grant of Royal Assent to Projets de Loi, Counsellors of State and other Constitutional Matters', they are of the opinion: -

1. To agree that Royal Assent for Projets de Loi approved by a Bailiwick legislature may be granted by His Excellency the Lieutenant-Governor of the Bailiwick, on behalf of the King-in-Council (as set out in Section 7 of the Policy Letter).

2. To direct the Policy & Resources Committee to liaise with the Lieutenant-Governor, the Bailiff, the Ministry of Justice and the authorities in Alderney and Sark on the practical and legislative arrangements that will be required to give effect to Proposition 1 and to authorise the Committee to agree to those arrangements on behalf of the States.

3. To signify their agreement to the substance of the proposed Order in Council required to implement Proposition 1, for the purposes of Article 72A of the Reform (Guernsey) Law, 1948, as amended.

4. In Resolution 1 of Article XV of Billet d'État No. 1 of 2016, relating to the Policy Letter entitled "Proposal to Achieve Greater Autonomy in the Legislative Process and International Affairs for Guernsey", to delete the words "the granting of Royal Sanction";.

5. To acknowledge that the Counsellors of State Act 2022, regarding the addition of further Counsellors of State, has effect in Guernsey (and the whole Bailiwick of Guernsey) by necessary implication.

6. To signify their agreement to the substance of the Counsellors of State Act 2022 insofar as it has effect in Guernsey by necessary implication, for the purposes of Article 72A of the Reform (Guernsey) Law, 1948, as amended.

7. To note the contents of the remainder of the Policy Letter.

The Deputy Bailiff: Deputy Ferbrache

2370 **Deputy Ferbrache:** It is Deputy Gollop, not Deputy Gollop I am sorry, Deputy Le Tocq. (*Laughter*) I apologise to both Deputy Le Tocq and Deputy Gollop.

The Deputy Bailiff: Deputy Le Tocq.

2375 **Deputy Le Tocq:** Thank you, madam and Deputy Bailiff.

I do not know what to say after that. (*Laughter*) Well it is the afternoon isn't it? I want to just give a rough outline of how we have arrived at the propositions before Members today. This policy letter covers several topics that were as a result of resolutions from a policy letter that was brought to the Assembly by the Constitutional Investigation Committee, which I remember very well because I
2380 chaired it during my time as Chief Minister and it was ably co-chaired by Deputy Perrot whose baby it really was, the late Deputy Perrot, and so I am sure he is listening in with interest to what we are looking at this afternoon.

The propositions cover several topics. The main focus is on the new proposals for the process for Royal Assent but it also includes issues relating to the appointment of additional Counsellors of
2385 State and updates on other constitutional matters that have arisen during that time. Propositions 1 to 4 deal with the process of Royal Assent, Propositions 5 and 6 are to acknowledge the addition of further Counsellors of State and Proposition 7 is to note the other constitutional matters outlined in the policy letter.

With regards to Royal Assent first, the proposals that we are bringing to the Assembly build on
2390 previous work, as I have mentioned before, that has arisen during the establishment of the Constitutional Investigation Committee and are reporting back to the Assembly in 2016 and subsequent States Resolutions on constitutional matters as a result.

It proposes a process that has operated in the Isle of Man for over 40 years now quite successfully but has been tailored for this Bailiwick. It is the result of a close working relationship with the
2395 Ministry of Justice and other stakeholders including the Lieutenant Governor, the Law Officers, the Bailiff's office and working with other Crown Dependencies as well.

So what is going to change and what is not changing? We will introduce a new process to give the Lieutenant Governor power to grant Royal Assent to primary domestic Bailiwick *Projets de Loi*
2400 on behalf of the Privy Council. That would operate alongside the current process of the King giving assent through the Privy Council. An Order in Council will introduce the new process by delegating assent to the Lieutenant Governor unless the *Projets* is reserved for the King-in-Council.

Now reservation to the King-in-Council will be determined by the Lieutenant Governor following advice from the Law Officers and consultation with the Lord Chancellor, this is the system that has worked fairly well for the Isle of Man. Such matters to be reserved to the Privy Council, in line with
2405 the same process in the Isle of Man, are likely to deal wholly or in part with defence, international relations, nationality and citizenship, powers and remuneration of the Lieutenant Governor, the constitutional relationship between the UK and the Bailiwick or any jurisdiction as part of the Bailiwick or any matters affecting the Royal prerogative or the rights of the Sovereign in their private capacity.

2410 As currently all Bailiwick *Projets* will undergo legal review on behalf of the Lord Chancellor for compliance with international obligations. There is no change as to how Bailiwick *Projets* are debated and how laws are registered and come into effect. There will be, however, some changes to internal processes to determine whether *Projets* will either be assented locally by the Lieutenant

2415 Governor or the King-in-Council. This means that the majority of Projets will be assented here in the Bailiwick.

In addition to asking the Assembly to agree to make the change we are also asking for the States to signify their views on the Order in Council which will have effect in the Bailiwick in accordance with Article 72(A) of the Reform Law 1948 (as amended). The effects of this change means the approval of Bailiwick legislation, known as Assent outside the Bailiwick or Sanction within the
2420 Bailiwick, will no longer be reliant on set Privy Council meeting dates. Privy Council does not meet during the summer months or in a period before a general election in the UK, as a result this does introduce flexibility and more convenient deadlines for us, especially for time critical legislation which is becoming increasingly the case and should lead to a faster process for achieving assent to that legislation in such conditions.

2425 Particularly, I think, it underlines and provides a greater example of our legislative autonomy and our international identity, things which are high objectives of the Government Work Plan and in accordance with the 2008 International Identity Framework because our legislative process will be largely on Island with the assistance of the Lieutenant Governor's office.

The next steps will involve the States of Alderney debating this policy letter at its meeting, actually it already has debated it on 17th May and made resolutions to introduce a new process and
2430 as I was meaning to say the Sark Chief Pleas will also debate this today. So, we are moving ahead as a Bailiwick united. There are tailored propositions, obviously for each Island. It is intended that these changes will be implemented later this year when all the processes are in place.

P&R has agreed a formal review in two years time after implementation and will liaise with the
2435 other Bailiwick authorities and stakeholders as part of this review in order to engage with the Ministry of Justice.

The second part of this policy letter deals with the appointment of additional Counsellors in State. These are to act in place of the King if and when he is temporarily unavailable. There is no proposal for separate domestic legislation on this occasion, it is not necessary, but there is an
2440 opportunity for the Assembly to signify their views on this proposal in accordance with Article 72(A) as the UK legislation introducing the change has affect by necessary implication.

With regards to other constitutional matters madam, the policy letter provides an update on such matters that were considered by the CIC Report in 2016 and by modernising processes and affirming and strengthening our constitutional resilience in developing new relationships post
2445 Brexit. It should be pointed out that that debate and the resolutions of the Constitutional Investigation Committee occurred before Brexit and if anybody feels this is a bit delayed in coming we have had both that and a small pandemic in the intervening years and our External Affairs team has increased three-fold from the three it was then to the nearly nine that it is now and this is an example of why we need to make some of these changes because there is greater scrutiny and
2450 greater need for us to legislate effectively and quickly sometimes in order to keep pace with change. So, I am very happy to answer any questions in debate madam, but I do commend these propositions to the Assembly.

The Deputy Bailiff: Thank you. (No audio)
2455 Do you wish the Greffier to read your amendment?

[Amendment](#)

To add a proposition:

8. To direct the Policy & Resources Committee to liaise with relevant parties, including the Lieutenant-Governor, the Ministry of Justice and the Government of Jersey in order to explore the viability of the Bailiwicks of Guernsey and Jersey having membership of the Privy Council and in due course representation on its Committee for the Affairs of Jersey and Guernsey.

Deputy St Pier: No thank you, madam I will deal with that when I speak. Firstly, I should like to thank Deputy Le Tocq for seconding this amendment and indeed before he agreed to do so I must

also thank him for the willing engagement with me of the External Relations team that he, of course, leads politically and I believe also to thank the Policy & Resources Committee for their support.

For the benefit of those outside the Assembly I will madam, read the amendment. It is to add a Proposition 8, to direct the Policy & Resources Committee to liaise with relevant parties including the Lieutenant Governor, the Ministry of Justice and the Government of Jersey in order to explore the viability of the Bailiwicks of Jersey and Guernsey having membership of the Privy Council and in due course representation on its Committee for the Affairs of Jersey and Guernsey.

By way of background, following the most recent appointment on 17th May, namely that of Humza Yousaf on his becoming the first Minister of Scotland, his Majesty's Privy Council in the United Kingdom, there are others in the United Kingdom, currently has 739 members. Its functions are, of course, largely ceremonial in the modern era and as the policy letter sets out its main functions in relation to the Channel Islands are discharged through its Committee for the Affairs of Jersey and Guernsey. And, of course, if everyone is doing their job properly any issues or concerns will have been ironed out long before any matter lands in that Committee's in tray.

So, why do I believe that it is appropriate that we should explore having our own Privy Counsellors? Firstly, those serving UK Ministers sitting on the Committee for the Affairs of Jersey and Guernsey may have little or no knowledge of the Islands. Further recent political turmoil in the UK has lead to unprecedented turnover in the UK of Ministers sitting on the Committee. They have included the Ministry of Justice Ministers for State responsible for the relationship with us, the Leader of the House of Commons and the Lord Chancellor, of whom we have had 10 in 10 years, including of course Dominic Raab twice and Liz Truss. I have no doubt whatsoever that the Islands are quite capable of providing individuals with the requisite gravitas experience and knowledge to act as Privy Counsellors and they would be able to ensure greater continuity than has been the recent experience.

Secondly we are, of course, the Crown's oldest dominions and that history alone warrants a review of our representation on the Privy Council. It would strengthen our relationship with the Crown and help emphasis that the relationship is and always has been a direct relationship not one dependent upon the United Kingdom, albeit that in the modern age that relationship is conducted through His Majesty's Government's Ministers in London.

Thirdly, representation would be an appropriate acknowledgement of our political maturity and autonomy in the 21st century and that is, of course, consistent not only with the whole purpose and rationale of the work of the Constitutional Investigation Committee that Deputy Le Tocq referenced in opening debate which has lead to this policy letter but also with the Government Work Plan's priorities to, and I quote, 'seek to further develop Guernsey's international identity and enhance the constitutional resilience of the Bailiwick'.

Fourthly, there is precedent for small jurisdictions to be represented in the Privy Council. Tuvalu with a population of 11,000 in 10 square miles has four current members and St Kitts and Nevis with a population of 53,000 has two members. It is, therefore, not a ludicrous suggestion that we should also be represented.

This amendment is not any kind of silver bullet it will strengthen but not change our constitutional position. Now I do not expect it to be acted upon immediately, it is intentionally drafted without a deadline this is to give the Policy & Resources Committee the maximum flexibility they will need to action it at the most appropriate time. Any change will need careful consideration with a number of interested parties including the Palace, the Ministry of Justice and Jersey and the choreography of those conversations will take care, time and preparation.

The purpose of this amendment is to give political heft and expression of political will and ambition of this Assembly that will, I believe, strengthen the hand of Policy & Resources in opening a dialogue at the right time rather than it just being seen as the whimsical wish or desire of one or two lone voices. So I hope that Members will support this amendment and indeed I can see no good reason actually not to support it and therefore I hope that actually it will be unanimously supported.

Thank you, madam.

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

2515 **Deputy Le Tocq:** I so do.

The Deputy Bailiff: Thank you. Deputy Gollop.

2520 **Deputy Gollop:** I support the amendment and if I stray into general debate that will cut down at least one speech because Members say they prefer shorter sessions in the afternoon. I have already intimated, I think to Deputy St Pier, that I support this in principle, yes I do and that it does provide protection and does develop our international identity and enhance our constitutional resilience.

2525 Whether we wish to proceed in concert, obviously the Bailiwick of Guernsey includes Alderney and Sark, whether we want to work with Jersey on this I suppose is more a matter for Jersey to consider than ourselves but I also accept that it does not necessarily change the relationship with the Crown it just evolves it. I mean back in 2014 to 2016 the Committee concluded that it did not see changing the role of the Lieutenant Governor in principle but it had no objection to there being different processes developed and how the constitutional relationship is delivered. We know and
2530 we recall that Advocate Perrot was a very distinguished lawyer and jurist and thinker he very much gave a lot of attention to the relationship with Europe and Britain and he intimated then that we could do with our own Privy Council.

At that time we had a coalition in power with some Liberal Democrat and Conservative voices who sometimes differed perhaps in their nuance and we may well see another change of
2535 government of some kind in the next few years, we have already had five different Prime Ministers in less than a decade. So this is an apposite time, I think, to move it forward.

I know Deputy St Pier has contributed in Jersey whether we should have an MP representing the Channel Islands, now I think if I was doing it people would not like that, but we can think of better candidates than me. But I am not sure that would work at all because we are not part of the United
2540 Kingdom, we are not involved in Westminster, we do not vote in referendum (**A Member:** Hear, hear). Our relationship is not, despite Oliver Cromwell, with the Parliament in England or the United Kingdom it is with the Crown.

Thankfully King Charles III, although we bless of course his mother's distinguished memory, and this perhaps is another reason for evolution now but I believe sometimes whether it be in taxation
2545 or policy we can learn from the other Crown jurisdictions or at least look at what they do and decide would it fit here and on the border issue we are clearly looking that the Isle of Man has had a successful relationship and we hopefully that serving the Lieutenant Governor will help us.

What I am not clear on though, there are a few things I am not clear on, is how would we select the Privy Counsellors that manifest for Guernsey, which is in Deputy St Pier's, would they be existing
2550 ones or a selection of all parties, or a selection of experts who might be jurists or people with special qualities? Or maybe in the fullness of time people will be nominated with a special link to the Channel Islands, we know we have Courts of Appeal Judges and so on, that is the first point.

The second point relating to the legislation that His Excellency the Lieutenant Governor might look at in future is, would there be certain kinds of legislation that we or Government Office would
2555 think advisable to also parley with let us say the Lord Chancellor or the Minister of Justice or some other United Kingdom part of Whitehall and what criteria would be used for that? Because I believe in the past it was not just a matter of Her Majesty or His Majesty sitting in concert with the Privy Council it was more a case of officials who would scrutinise what we did and if, for example, we had too many, I do not fully understand it, Henry VIII Clauses where we took power to ourselves to do
2560 things in a ministerial executive kind of way or presidential, that would be objected to. So, I want clarity about what would go higher and what would actually stay with the Governor but that would be something to evolve.

Finally, I will come at this from a slightly maverick angle, because yesterday I was a bit tired to do conventional work so I listened to the States of Jersey and I was shocked at question time there to hear a random question given to their Chief Minister, Deputy Kristina Moore, and she was asked 'why it was that Jersey had not acceded to a recent UK Internet Safety Bill which is the Online Safety Bill through the Parliamentary Bills and her answer, which might of course not be accurate but it was intriguing, was that the Isle of Man and Guernsey had effectively been assigned responsibility under the legislation, it has been devolved upon us whereas Jersey had resisted that and so the new Online Safety Bill will not apply to Jersey but will apply to us because, apparently, we agreed that we would be party to it. That suggests that perhaps we are not necessarily working in concert with our Jersey colleagues, but maybe that is a good thing. It was just an intriguing illustration of where perhaps we do not know everything about what goes on with delegated legislation.

The Deputy Bailiff: Deputy Trott.

Deputy Trott: Thank you, madam.

Madam, Deputy St Pier shared an early draft of the amendment with me, for which I am grateful. I served on the same committee that Deputy Le Tocq referred to earlier so my earlier knowledge of this is relevant. I asked him a question, the question is the principle of no taxation without representation and was Deputy St Pier able to give me a reassuring answer with regard to any precedent.

He was able to give me a most reassuring answer and I shall ask him to address this in his summing up and as a consequence of that madam, I shall be supporting this amendment unreservedly.

The Deputy Bailiff: Thank you. Deputy Le Tocq.

Deputy Le Tocq: Yes, thank you, madam.

Simply to say that this amendment I am very happy to second, primarily because it was already on the list of to do things, we had already committed under the resolutions as a result of the Constitutional Investigation Committee that this was a matter that needs to be looked into and in response to Deputy Gollop particularly I think, it is a fairly loose amendment in terms of asking P&R simply to explore the viability, not going into detail of how such Privy Counsellors would be chosen that is something for us to explore in line with those other relevant bodies mentioned in the amendment if it is passed.

With regards to Deputy Gollop's other questions, I would just refer him to paragraph 7.6 and in line with that and to speak more to the amendment itself I think there is a certain irony here in that if we pass the propositions to, effectively, reduce the role of the Privy Council and the Committee for the Affairs of Guernsey and Jersey then to explore putting Members onto the Privy Council seems a little bit counter intuitive. But at the same time I do think and agree with Deputy St Pier in terms of enforcing our international identity and I think anything we can do to help that will underline the case because at the moment one of the major difficulties, I will give way in a moment, that we have regularly is that the Lord Chancellor, the Ministers of the Justice Department, who effectively represent us, they do so as Ministers of the Crown not as Ministers of the UK government, that is often misunderstood not only by Parliamentarians in the UK but increasingly, sadly, by government Ministers in the UK and it is something that we have to work on, it is not just my role or P&R's role, I think we have to work at every engagement we have in explaining that role.

So, this could make a move to improve that understanding in an appropriate way but I certainly, and personally and I am sure my colleagues would agree, do not want to see an elected member of Parliament in the UK from here or the Channel Islands. I mean apart from no taxation without representation you put it the other way round and that is the issue. We certainly do not want to go there, we have never had that, we have never needed it, we do not need it now. I will now give way.

2615 **The Deputy Bailiff:** Deputy Inder.

Deputy Inder: Thank you, Deputy Le Tocq, for giving way. Just briefly, he has presented the policy letter and seconded this amendment in his role as External Relations. So, do we take from the 4(1) rule information in preparing the propositions consultation has been undertaken with Policy & Resources Committee, well done, but it does not tell us whether they agree or not (*Laughter*) so when he does respond could he give us some indication whether Policy & Resources are comfortable with this amendment.

2625 **Deputy Le Tocq:** Yes, I can do that now. Yes, my colleagues, as far as I understand (**Interjection One Member:** Yes) although I was at the Justice Select Committee yesterday, but I think they are not going to oppose it and will certainly support it. So I think, partly because as I said right at the start, this is something that was already on our agenda, it was not an urgent matter, we have dealt with the urgent matter which is the legislative changes to the process, we now have other issues to deal with of which this is one, we will be very happy to engage with Jersey and indeed the Isle of Man, we have already begun that and I had some discussions yesterday because it is a hot topic and we will see where we go with that. So, in a sense, this is something that was already ongoing but it helps to underline it.

2630 **The Deputy Bailiff:** Deputy Roffey.

2635 **Deputy Roffey:** I too support this and I actually do not see the contradiction between what we are going to do about bringing in house the functions of the Privy Council and investing them in the Lieutenant Governor and this proposal because the really big issues, I think, will still be the reserved issues which will go to the Privy Council in the UK and those are the ones where it is going to be absolutely crucial the understanding of the Channel Islands and their unique position is really well understood. It has long been a difficulty in getting UK Ministers to understand the Channel Island's position.

2640 I remember a long time ago, it was not the Ministry of Justice, it was the Home Office that had responsibility for the Channel Islands and I remember Deputy Le Brocq from Jersey coming back from a visit to the Home Office saying it was a massive building, so big they had colour coding in various areas. So they had the blue area, the red area and where were the Channel Islands, in the grey area. (*Laughter*)

2650 **The Deputy Bailiff:** Deputy Queripel.

Deputy Queripel: It is simply to seek clarification, madam. If this amendment succeeds is it going to delay proceedings in any way? I ask that question because paragraph 7.2 reads 'the Law Officers of the Crown have proposed appropriate modifications to the current order in Council for the Isle of Man which streamlined the process as much as possible and do not introduce any unnecessary additional procedures' and the last sentence of the explanatory notes focuses on resources and priorities, so that is why I ask the question. Is supporting this amendment and the amendment succeeding going to add to the time that is needed to bring this all into fruition?

Thank you, madam.

2660 **The Deputy Bailiff:** Thank you. Deputy St Pier.

Deputy St Pier: Thank you and thank you to those that have contributed to the short debate and it has raised some interesting, useful, additional points. Just dealing with Deputy Queripel's question there at the end 'will it delay that which has been presented in the propositions in the policy letter?' that is an emphatic no. This is additional work that will follow on from that which has already been proposed by the Policy & Resources Committee. As Deputy Le Tocq said I am

delighted to hear that this issue was on the to do list but I think emphasising, as he has done, that this underlines it and more importantly by having a vote, hopefully well supported in this Assembly, it will provide that very clear expression of the democratic political will of this Assembly which would not otherwise be there if it was merely on the to do list hence the importance of the amendment.

Deputy Le Tocq has made a very good point about the responsibility of Ministers to act as Ministers of the Crown not as Ministers of the UK government and that being a constant challenge and that, I think, is one of the issues with the volatility and the rapid turnover of Ministers is it is becoming an increasingly difficult message to communicate, but there is a separation of roles and they are wearing different hats in different rooms in discharging their responsibilities. So, I think he has spoken well to that point.

I think he also has addressed Deputy Gollop's question about the selection of Privy Counsellors, that is a detail that would clearly need to be thought about but as Deputy Le Tocq has said the open nature of the drafting of this amendment will allow that viability to be explored to consider how it would actually work in practice.

Then I think finally in relation to, I thank Deputy Roffey for his support, but finally in relation to Deputy Trott's question of the issue of no taxation without representation or of greater concern no representation without taxation, in other words if one becomes a representative in His Majesty's Privy Council of the United Kingdom would that in some way expose the Bailiwick to the risk of UK taxation and I think, again, there is an emphatic response to that which is no, it would not simply because we can cite the presence of all the other Commonwealth Nations amongst those 739 members. I have referred to two Tuvalu and St Kitts and Nevis, but there are some rather larger sovereign states, namely Australia, Canada, Papua New Guinea, Barbados and a whole range of others.

So I think it is quite clear there is a clear separation between the role of the Privy Council of the United Kingdom and the issue of no representation without taxation which is the issue about representation in the House of Commons which I think we are all, I suspect, of one mind that it is a daft idea which is not going to go anywhere. So, with that madam, I do hope that all Members are persuaded to support this amendment and then move on to the substantive debate.

Thank you, madam.

The Deputy Bailiff: Thank you. States' Greffier, would you open the voting on the amendment please. I think there might be a number of IT problems at the moment, myself included. We will just give it a few moments.

There was a recorded vote.

Amendment

Carried – Pour 39, Contre 0, Ne vote pas 0, Did not vote 1, Absent 0

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|-----------------------|---------------|--------------------|---------------------|---------------|
| Aldwell, Sue | None | None | Snowdon, Alexander | None |
| Blin, Chris | | | | |
| Brouard, Al | | | | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dudley-Owen, Andrea | | | | |
| Dyke, John | | | | |
| Fairclough, Simon | | | | |
| Falla, Steve | | | | |
| Ferbrache, Peter | | | | |
| Gabriel, Adrian | | | | |
| Gollop, John | | | | |

Haskins, Sam
Helyar, Mark
Inder, Neil
Kazantseva-Miller, Sasha
Le Tissier, Chris
Le Tocq, Jonathan
Leadbeater, Marc
Mahoney, David
Matthews, Aidan
McKenna, Liam
Meerveld, Carl
Moakes, Nick
Murray, Bob
Oliver, Victoria
Parkinson, Charles
Prow, Robert
Queripel, Lester
Roberts, Steve
Roffey, Peter
Soulsby, Heidi
St Pier, Gavin
Taylor, Andrew
Trott, Lyndon
Vermeulen, Simon

2705 Therefore, I declare the outcome is Pour and the amendment passed.

The Deputy Bailiff: We will now enter general debate on the Proposition. Who wishes to speak?
Deputy Prow.

2710 **Deputy Prow:** Thank you, madam.

I shall be very brief. The first thing I should say is that I thank P&R for the policy letter and I support every proposition including the one we have just added. I just have some observations I would quickly like to make around Section 6 of the policy letter, in particular 6.1 and 6.5. 6.1 deals with the process that is already in place in the Isle of Man and 6.5 recommends that the Isle of Man process be modified for Guernsey and the wider Bailiwick and Alderney in fact and indeed Sark.

2715 My comments and in making these comments I must stress I am not trying to be controversial as I said I am absolutely fully supportive it is just my observation is that the parliamentary processes in the Isle of Man and Guernsey are markedly different. (**A Member:** Hear, hear) They have a Tynwald which has a Legislative Council, the Presiding Officer is an elected Speaker and the
2720 Lieutenant Governor, as far as I am aware, does not attend their parliament meetings. Although I understand they do have a Bishop. Whereas in our system we do not mirror that and I do note that there is reference to if the Lieutenant Governor is not available, to grant rule of sense, that role is exercised by the Deputy Lieutenant Governor which I understand is actually the Bailiff who is our Presiding Officer.

2725 All I am doing is making the observation that the parliamentary systems of the Isle of Man and of those in the Bailiwick of Guernsey are markedly different but as I said I am not making a controversial point I am just making that observation.

Thank you, madam.

2730 **The Deputy Bailiff:** Deputy Trott.

Deputy Trott: Thank you, madam.

I am conscious of the fact that I have been up and down a fair bit today but what I am about to say, I think, is relevant to us all and it relates to the manner in which we all engage with
2735 Parliamentarians around the world. Now, Deputy Le Tocq and the External Relations team do a very

good job indeed of representing us overseas but then again, we all play out part and here is an example.

A few years ago a junior member of parliament, a very affable thoroughly likeable chap called Alex Chalk visited Guernsey as part, I cannot remember whether he was part of a CPA visit or an All Party Channel Island Group visit it was one of those opportunities that brought him to Guernsey. Fast forward a few years he was made Solicitor General of the United Kingdom, he is now called Secretary of State for Justice; he is the man whose department has responsibility for the good governance of Guernsey.

Now he was befriended back then by many of us, I am including myself who regards his father as a personal friend and his father is a man who has had business interests in Guernsey for a number of years. The point is whenever we are engaging with UK Parliamentarians always imagine where their journey will take them because I have personally on behalf of Guernsey Finance invested a fair amount of time in developing a relationship with Keir Starmer. Now when this relationship started a few years ago I do not think any of us imagined he was very likely to be the next Labour Prime Minister. So these relationships are of enormous value, I know Deputy Le Tocq and all members of the Policy & Resources Committee understand that, but it is just a gentle reminder to all Members, and indeed anyone who ever criticises the work of the CPA. It is a brilliant opportunity to get access to people who are at the start of their careers, in many cases, who go on to greatness and I hope that was a worthwhile intervention. *(Laughter)*

Thank you, madam.

The Deputy Bailiff: Deputy Queripel.

Deputy Queripel: Madam, one sentence nails this issue for me because I am all in favour of accelerating proceedings whenever possible. That sentence is the last sentence in paragraph 1.3 which reads as follows 'this alternative process, the granting of Royal Assent, should result in faster processing of legislation, would not be reliant on existing schedules for Privy Council meetings and would also underline the Bailiwick's domestic legislative autonomy and international identify'.

Despite my good friend Deputy Gollop expressing a wish that I should speak for a lot longer on particular issues as he expressed when I spoke on the operating benefits policy letter last month, I am not going to take the bait. I feel I have said everything I wanted to say and I have said it in less than a minute.

Thank you, madam.

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

Deputy Soulsby: Thank you, madam.

Just following up from what Deputy Trott just said I did meet Alex Chalk M.P. at a Tory party conference last year which shows how things move on. I did not get to meet Liz Truss or Kwasi Kwarteng but probably I got the right person at the time as it turned out. I will be as brief as Deputy Prow but probably allude to some of the same comments as him but from a slightly different angle.

I am pleased to see this policy letter today, it is disappointing it has taken so long but I do appreciate we have had a lot to do in between times. I was a member of the Constitutional Investigation Committee and I really find it absolutely fascinating, I really enjoyed that Committee, I learnt an absolute lot. The States' Greffier before you were States' Greffier provided us with a lot of useful information, not just on the prosecution of Guernsey but of other relevant small jurisdictions that we could use to learn about how we could develop what we wanted to do and that included, yes, obviously Jersey and the Isle of Man but also Gibraltar, we spoke about which has got an interesting parliament.

One jurisdiction which was surprising that we actually talked about, we thought had some relevance and we were thinking about whether we could incorporate was the Faro Islands and their relationship with Denmark and I do not think we ever got that far in the end but there was certainly

some useful points there we might want to consider in the future. But we did end up with the propositions that are mentioned within this policy letter, but as it can be seen the current propositions are different. I understand why and really it looks to me like yes what we produce is fine and certainly previous States approved it but I think really we are ending up where we are because it is simpler for the Ministry of Justice to deal with jurisdictions with a similar process than having to learn bespoke processes within the different jurisdictions.

So, I do understand and I hear that it may speed matters up a bit, I am not sure outside the election periods and the summer period, I do not know whether it will make much difference but of course it is about more than that and as Deputy Le Tocq referenced in his opening speech part of this is symbolic and really trying to enhance our international identity.

So, I am happy with what is proposed but I do believe this should not be seen as the end of the story, I think improvements can still be made and that we should always be striving to improve the system to strengthen our constitutional resilience. So this is on a journey but it is certainly not at the destination. **(A Member: Hear, hear)**

The Deputy Bailiff: Deputy de Lisle.

Deputy de Lisle: Yes, madam.

I am certainly supportive of the adoption of an alternative model for Royal Assent. Can I ask though that when summing up Deputy Le Tocq could provide a little more on Jersey's position with regard to adoption of an alternative model for Royal Assent. Jersey is not seeking, as I understand it, to adopt the Isle of Man process at this time and yet I would have thought that they would also be in favour of faster progressing of legislation because contrary to what the last speaker said waiting six months and very often a lot more than six months particularly if the legislation has to come back for further review and change and then go back again for approval it can take a lot more than six months.

So I would think that they would also be in favour of quickening the process and also recognise domestic legislation autonomy and further international identity that has taken process in that island as well. So perhaps he might provide a little more information on the discussions that have been had with Jersey and why perhaps they are not as enthusiastic as we are in moving forward on this.

The Deputy Bailiff: Thank you, Deputy de Lisle. Deputy Bury.

Deputy Bury: Thank you, madam.

It is just a few quick questions really and will probably highlight my newness in the Assembly. In terms of Royal Assent and Deputy Le Tocq is probably the perfect person to ask with his knowledge of these matters, I wondered if Royal Assent has ever not been granted by the Privy Council and if so, in what circumstances and what are opportunities for recourse, challenge, what happens next essentially and if moving to this new process those opportunities remain the same or change because while the appendix two flow chart is very useful for someone like me, that is how my brain works, there is nothing in it that explains what happens if the Assent is not given. So I would just be interested to know if it changes between the current process and the new proposed process and really to ensure that we still have what we need available to us to address those circumstances.

Thank you, madam.

The Deputy Bailiff: Thank you. If nobody else wishes to contribute towards general debate I shall ask Deputy Le Tocq to reply.

Deputy Le Tocq: Thank you, madam.

I will try and deal with the matters in order. There have been a few questions so I will concentrate on those. Deputy Prow raised the relevant issue that the Isle of Man has quite a different set up, a

2840 different system of government. For one it has a ministerial government with executive powers given to certain senior members but it also has what I might call a quasi bicameral system and so that is different, which is why we said it will have to be adapted for Guernsey and that is why our processes will not look identical to the Isle of Man. We have got different institutions and it needs to be appropriate to us but the principle is still the same. So I hope that goes to explain it. We have not got a bishop in a sense, although I would just like to point out that in my denomination I am the bishop so perhaps we have a bishop. *(Laughter)*

2850 Deputy Trott raised a very relevant point, tangential somewhat to this but it does reflect, I think, on the international identity and particularly the world we live in today. We are all members of this Government here in this Assembly and therefore whenever we come into contact with members of other jurisdictions, particularly where we have got an interest whether that is business or whether that is social, historical, it is important that we represent, we feel like we are all representatives of Guernsey's Government.

2855 To that end we have been having some discussions, particularly from my team and the States' Greffier and others, with regards to how we might do some more training and make clear to all Members of the Assembly how they can help when they travel, when they are involved in whatever it might be in terms of some of the training that is given at Westminster through the Commonwealth Parliamentary Association, etc. but I wanted to just put on record I am very grateful, it is not just members of P&R that have this responsibility, I am grateful certainly for the assistance that I currently get from Deputy Moakes with regards to trade deals and Deputy Blin whose French really helps as well with some of our contacts in France and the UK and France are two particular countries where our network does need to increase and develop. I was looking like I needed to give way and I will.

2865 **The Deputy Bailiff:** Deputy Trott.

2870 **Deputy Trott:** Only that there is arguably an even more immediate reference if you like to those relationships. Yesterday Deputy Le Tocq and colleagues in Jersey and the Isle of Man were up in front of Sir Bob Kneale. Now many, many years ago Sir Bob Kneale was a back bencher, again fast forward a few years and he is the Chairman of the Justice Select Committee. A man who knows Guernsey well which, of course, affords Deputy Le Tocq and colleagues' access to him in a way that might not otherwise be forthcoming. So two, I think, very good examples of how important that ongoing engagement is. I know Deputy Le Tocq agrees with me whole heartedly on this and he is making his points very well, but I thought that reference to Sir Bob Kneale was a relevant one.

2875 **The Deputy Bailiff:** Deputy Le Tocq.

2880 **Deputy Le Tocq:** I am very grateful to Deputy Trott's extensive network which I try to build on. Deputy Queripel gave his support and he particularly alluded to the fact that there is opportunity here for us to, in certain circumstances, speed up the process. I do not want to labour that point but it is an important point and it is becoming so because we are, with regards to the Privy Council and the sittings of the Committee for the Affairs of Guernsey and Jersey, we are limited to when they sit and so as a result of that there have been occasions where there could be delays that could affect us. This will certainly help and provide some flexibility from that point of view.

2885 Deputy Soulsby highlighted some points that I have made already, but I think her for her support. She said this is a journey, I completely agree, this is just a step but it is a significant step and that is why I hope that the whole of the Assembly supports this because in many ways we are agreeing to the fact that our international identity should be recognised as a mature modern democracy that is able to deal with its legislative process in terms of policy making, decision making and coming to the full extent of putting it into law on Island for the vast majority of the matters that come before us.

Deputy de Lisle asked a question, and I think him for his support, but it is a relevant question with regards to Jersey. In a similar way to the fact that the Isle of Man is different and their systems are different Jersey's system is different. For example, they have a ministerial executive system so they can move far more quickly than we can in terms of that side of things but also their assembly meets every two weeks. That is just two examples of how their system is different. Their relationship, I think and I do not want to go into detail on this, but with the Lieutenant Governor and with the Bailiff and the way in which that works in terms of the Royal Assent process has been different to ours. As a result at this stage they are certainly not interested in joining us in this, but they may be, they are open minded for the future but certainly, at the moment, it is not a priority for them. I hope that goes some way to explain where they sit in this.

Deputy Bury asked relevant questions, I think, has Royal Assent ever been declined? Well, I think it has but it certainly has been indicated that if we were to proceed in a particular direction it would be declined so we have taken, I know in my time, pragmatic decisions to say that is not wise to do because if we did so we would end up in a constitutional problem. But we normally get clear indication of that and so those matters can be discussed prior to them coming to this Assembly in the vast majority of cases, but it is a real issue.

Now, how would we deal with that, I think that was the second part of her question and I think I would refer to that point is that this does not mean that we are less in communication with the Ministry of Justice and with the Privy Council and particularly for those reserve matters obviously we would still need to deal with that in the normal process but there would still be consultation and advice given on matters that are for legislation here so that we would know well in advance and be able to make a decision.

We are an independent jurisdiction when it comes to domestic legislation so if we chose to take it to the extreme we have got the right to do so. Whether that is wise or not is another matter and so we need to take that into consideration as indeed any jurisdiction, particularly Crown Dependencies, would need to do. We are no different than others in that respect. I hope that goes some way towards answering her questions.

With that in mind madam, there are seven propositions before the Assembly and I do ask Members to unanimously support them that will really help us, I think, taking this forward.

The Deputy Bailiff: There are eight with the amendment.

Deputy Le Tocq: Yes, with the extra one. Thank you.

The Deputy Bailiff: So, is anybody petitioning me to deal with any of the propositions separately? No, in that case States' Greffier I would ask you to start the voting in relation to all eight propositions please.

There was a recorded vote.

Propositions 1-8

Carried – Pour 39, Contre 0, Ne vote pas 0, Did not vote 0, Absent 1.

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|-----------------------|---------------|--------------------|---------------------|---------------|
| Aldwell, Sue | None | None | Snowdon, Alexander | None |
| Blin, Chris | | | | |
| Brouard, Al | | | | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dudley-Owen, Andrea | | | | |
| Dyke, John | | | | |

Fairclough, Simon
Falla, Steve
Ferbrache, Peter
Gabriel, Adrian
Gollop, John
Haskins, Sam
Helyar, Mark
Inder, Neil
Kazantseva-Miller, Sasha
Le Tissier, Chris
Le Tocq, Jonathan
Leadbeater, Marc
Mahoney, David
Matthews, Aidan
McKenna, Liam
Meerveld, Carl
Moakes, Nick
Murray, Bob
Oliver, Victoria
Parkinson, Charles
Prow, Robert
Queripel, Lester
Roberts, Steve
Roffey, Peter
Soulsby, Heidi
St Pier, Gavin
Taylor, Andrew
Trott, Lyndon
Vermeulen, Simon

Therefore, I declare all eight propositions passed.

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

10. Commissioner for Standards – Revisions to the Code of Conduct – Debate commenced

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'Commissioner for Standards - Revisions to the Code of Conduct' dated 17th March 2023, they are of the opinion:-

1. To appoint in accordance with paragraph 2(1) of the First Schedule to the Reform (Guernsey) Law 1948, Dr Melissa McCullough as Commissioner for Standards with immediate effect and for a term ending on 26th April 2028.

2. For Parts II, and III of and Appendix 1 to the Code of Conduct for Members of the States of Deliberation substitute the Part and Appendix set out in Appendix A to the Policy Letter; renumbering the subsequent sections of and cross references in the Code and amending the Table of Contents accordingly.

2935 **The Deputy Bailiff:** Deputy Meerveld.

Deputy Meerveld: Thank you, madam.

2940 I am very pleased to bring this policy letter to the Assembly today as it represents the culmination of a work stream that started in 2017 when the Policy & Resources Committee asked the then SACC to consider how the Code of Conduct for States' Members might be improved. The propositions before the Assembly today are seeking approval for two things, first the appointment of Dr Melissa McCullough as the Commissioner for Standards and second the approval of a revised Code of

Conduct for States' Members to reflect the fact that the States' Members Conduct Panel has been replaced with a Commissioner for Standards.

2945 As I explained in my statement in February we are very fortunate to have found an excellent candidate for the Commissioner for Standards role in Dr McCullough who is currently the Commissioner for Standards for the Northern Ireland Assembly and therefore has valuable experience from which we stand to benefit. Her career summary is attached at Appendix B of the policy letter and I am sure my colleagues will agree that it is very impressive.

2950 The appointment of a Commissioner for Standards is a significant step forward that will bring Guernsey in line with comparable jurisdictions. It is also a great example of us working co-operatively with Jersey as Dr McCullough will, if her appointment is confirmed by the Assembly today, work across both Islands having been formally appointed by Jersey with effect from 1st March 2023 to replace their outgoing Commissioner for Standards.

2955 Assuming the Assembly approves Dr McCullough's appointment today it will also be necessary to agree changes to the Code of Conduct for States' Members. The changes are all set out in the policy letter and I will not go through them all. Part 2 of the Code of Conduct has been deleted because it relates to the establishment and operation of the States' Members Conduct Panel and is, therefore, no longer needed with the introduction of a Commissioner for Standards.

2960 Other changes flow logically from the removal of part two and the establishment of the new role. As I said this is the culmination of a great deal of work and I hope my colleagues will today agree to put the final piece of the jigsaw in place to enable us to take this important step forward.

Thank you, madam.

2965 **The Deputy Bailiff:** Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: Thank you, madam.

Deputy Meerveld is absolutely right, there has been a lot of work that has been put into it and it is a very short policy paper but I hope Members will understand that obviously it is quite an important policy paper because it does regulate the conduct of Members of this Assembly and the implications of the Code of Conduct has very serious implications for the Assembly for the wider States of Guernsey. So, I think it is important that we consider the changes with scrutiny.

2970 I have a couple of fundamental issues right now with what is being proposed and I would like to comment what they are. So the policy letter in section 2.4 basically says that section 41 of the existing Code which relates to the appeals has been deleted as it is dependent on the existence of the Conduct Panel. Obviously we will not right now have a Conduct Panel so the appeals process has been completely deleted. There is no alternative that has been presented into how an appeals process might take place.

2975 I think to me this is a fundamental flaw in terms of what would be a natural justice process because I think a Member should have the right to appeal a decision, a report or whatever has been conducted by the Commissioner if they find that they do not agree with the decision. I think it is a very natural part of any natural justice process and we have appeals tribunals or appeals processes, as far as I know, pretty much with any kind of States' process.

2980 So I find this aspect, effectively just one person is adjudicating completely with no recourse to appeal, quite a serious reduction of the rights of Members to appeal. So to me this is quite a fundamental flaw with the process that is being proposed. Having said all that, it actually gets even worse a little bit because now with the Code of Conduct Panel the States Assembly Constitutional Committee cannot change the decision that is being recommended by the Conduct Panel. However, what is being proposed right now under point 30 what happens is that the Commissioner will bring a report with recommendations to the States Assembly Constitutional Committee, however, where the Committee does not agree with any recommendation of the Commissioner effectively the Committee could bring other recommendations to the States of Guernsey.

2990 So we are essentially introducing a process where five political Members will be adjudicating on a decision of the Commissioner and what is interesting is that there has been absolutely no

2995 guidance provided effectively in how a Committee will adjudicate on this process because it should involve, again in the matter of natural justice, a quite strict process where the Committee has to look again at evidence, probably meet with the Member with the Complainant and so on.

I have had a quick look at how the Complaints Procedures and Code of Conduct are conducted, for example in the UK, and they have a very clearly defined process that the Committee for example 3000 could not adjudicate on the case until they have heard the evidence, until they have look at the evidence properly, there is a transcript of the meetings held. So a quick decision against the recommendation of a Commissioner could not just be taken in camera by five political Members.

So, on this basis I think there are some very fundamental issues right now with the process which could potentially seriously put Members who might be subject to a Code of Conduct process without given recourse to natural justice and as it stands right now giving 5 political Members 3005 effectively rights to adjudicate on the decision of the Commissioner without a duly defined process. So based on that I am in a position where I cannot support the policy paper as it stands because I feel it needs quite a fundamental rethink, but I am very happy to listen to Deputy Meerveld in his closing remarks.

3010 Thank you.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Deputy Kazantseva-Miller has intrigued me. I am on SACC of course and possibly we could do with a recap from Deputy Meerveld, although we did discuss this at the last 3015 meeting and it is in the policy paper too, of the transitional arrangements because I gather this week in itself, should we agree it today and hopefully we will, our part of it and it is a significant change and I must point out that Deputy Kazantseva-Miller has made many challenging arguments but we should not confuse different elements, and the Code of Conduct which has been managed 3020 by the distinguished Panels until now and will in future go the Commissioner, a decision we have already made, is a different animal from the Privileges Panel which consisted entirely of longer serving States' Members. I would just make that point.

This particular role is exclusively, as I understand it, the Code of Conduct. Now in the past we had a situation where generally in the early days of the Code of Conduct, and I must admit I think I 3025 was in a minority who originally voted against it, not because I do not want high standards I like high standards, but because I knew it would be difficult to implement, there would grey areas, coming back to what Deputy Queripel said, between Members private behaviour and public behaviour, there would also be a politicisation of it, which we have sometimes arguably seen over the years (**A Member:** Hear, hear) whereby one Member or candidate or political activist would take 3030 another States' Member and you can see it as almost part of the to and fro of ideology or arguments or personality clashes rather than the Code of Conduct issues that we really want to focus on.

I think where I am coming from is in a case a few moons ago a perhaps less than lenient verdict, if I can call it that, or direction or recommendation was given by a Code of Conduct Panel and the Member concerned decided to appeal for a second panel that was marginally more lenient but the 3035 panel was just a different selection of the very good and able Members who sit on the Code of Conduct Panel within Guernsey. Now the nature of this process takes then out of the process and should we agree this today we will all wish them well, we will thank them warmly for all the hard work that they have done but they will, in a sense, will retire from this particular role and it will go to the Commissioner for Standards.

But I think Deputy Meerveld will argue and maybe other Members of SACC, hopefully I am on 3040 the right lines here, that the new process will involve a person who is more specialised in this kind of area, who will perhaps be less focused on maximise behaviour for Guernsey, which I think to be honest the Code of Conduct Panellists wanted the highest possible standards for our Island and many Islander's agreed with them but that perhaps has to be balanced by the human reality of 3045 Commonwealth Parliamentary practices elsewhere.

We are going towards, in that sense, a joint process with Jersey and a professionalised possibly speedier process in some instances. But the nature of it will be that the person who we appoint will make an adjudication, maybe reject some of the more frivolous or un-evidenced based cases and the jury who will then be for the appeal that Deputy Kazantseva-Miller mentions will not be, I do not think, the SAC Committee, or should not be, it should be if the adjudication is, well the Member may or may not accept it, but ultimately the decision will be used by SACC who will be, if you like a delivery agent, a post box, of the entire Chamber, all 40 of us. So the appeal that Deputy Kazantseva-Miller wants will actually be herself and the other 39 of us as I understand it.

Now maybe if she and other Members would like an intermediate level to this we would have to reconsider the Code of Conduct. I will give way to Deputy Kazantseva-Miller, can I give way to two at the same time?

The Deputy Bailiff: You can only give way to at one time I am afraid so we will start with Deputy Kazantseva-Miller. *(Laughter)*

Deputy Kazantseva-Miller: I thank Deputy Gollop. Would Deputy Gollop agree that an appeal process via 40 Members publically in the State of Guernsey may not be the best process for a natural flow of justice?

Thank you.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Well it happened before and my colleague over there, and if I can be very honest, I thought it was my duty at the time as a SACC Member to support the recommendation but I privately wished that I had been bolder and supported Deputy Meerveld's vote at the time because I thought that the penalty was on the harsh side of the road, but that is history now and we welcome us moving on.

As regards to the last point I think there are difficult debates when we have that and we may have such a debate in the not too distant future. Earlier today when we decided not to debate for example the medical bill, that sort of issue which is sensitive we can of course sit in Committee, we can off course sit in camera, I do not necessarily advise that but that might be a more appropriate way, in certain situations, of dealing with that issue. I will give way to Deputy Soulsby.

The Deputy Bailiff: Are you asking to be given way to, Deputy Soulsby?

Deputy Soulsby: No.

Deputy Gollop: I give way to Deputy Leadbeater.

The Deputy Bailiff: No, I think Deputy Leadbeater is just standing.

Deputy Soulsby: I was just waiting to speak, I thought Deputy Gollop had finished.

Deputy Gollop: No, I had not finished I was giving way to Deputy Soulsby. *(Laughter)* But maybe it is a good idea I do finish and Deputy Leadbeater can make his own speech.

The Deputy Bailiff: Deputy Gollop, have you finished?

Deputy Gollop: Yes.

The Deputy Bailiff: Right. I will go to Deputy Soulsby first. To be fair she did think he was finished.

Deputy Soulsby: Thank you, madam.

3100 I was just going to pick up on the appeals point. I might be wrong here but I do not think an
appeals process has been gone away with from this. I think the problem here is we originally
debated this back in the previous term, it was under Deputy Inder as SACC President and it talks
about a right of appeal but I think it is a different point, it is a different number. So I am sure Deputy
Meerveld will be able to clarify that but I certainly do not believe that the whole appeals process
3105 will disappear.

I think this will be an improvement to the current process which is not fit for purpose, that is
absolutely true, but I do not think we are really getting to the real issues we have got, all we are
doing is adding another formal process, changing a formal process. We are not really looking at the
issues behind it in terms of behaviours that we can address in possibly a less formal manner than
3110 this very public approach to putting somebody through a whole Code of Conduct and everything
done very distinctly in that way. I think something is still missing and we really need to think about
how we can develop that as a means of making things flow better and actually for us to really get
on and do our jobs in the most effective way.

3115 **The Deputy Bailiff:** Deputy Leadbeater.

Deputy Leadbeater: Thank you, madam Deputy Bailiff.

I was going to pick up on Paragraph 13 Appendix A as well that Deputy Kazantseva-Miller talked
of. I will read it out because I am a bit unclear exactly what it means. It says "where the
3120 Commissioners finds that a complaint has been substantiated and is of the opinion that the Member
should be formally reprimanded, suspended, removed from a particular office or expelled or where
a Member refuses to accept the caution in the circumstances set out in the previous paragraph he
or she shall report their findings to the States Assembly & Constitution Committee which, in turn,
shall submit that report to the Presiding Officer for inclusion in the Billet d'État with the
3125 recommendations of the Commissioner and where the Committee does not agree with any
recommendations of the Commissioner any recommendations that the Committee may have".

Is that saying that the Commissioner will report to SACC, SACC will produce a report, if it is not
happy with the recommendations it will add the recommendations that they feel are appropriate or
remove the recommendations of the Commissioner and I will give way to Deputy Meerveld.
3130

The Deputy Bailiff: I am sorry Deputy Meerveld, is it necessary for you to give way or can you
just deal with this in summing up? (**A Member:** Hear, hear)

Deputy Leadbeater: Well the reason I thought I would let him give way is because I have
3135 touched on this, Deputy Kazantseva-Miller has touched on this, and if it is something you can nip
in the bud without having too many questions on it.

The Deputy Bailiff: Okay, if you wish to reply now Deputy Meerveld.

3140 **Deputy Meerveld:** Thank you, madam.

Yes, the way it is envisaged is as you were reading out from the thing. If the person who has
been complained about, the Deputy who has been complained about, does not wish to accept
whatever the penalty or the caution as applied a report will be sent to SACC, SACC may add their
own recommendations if they do not agree with the conclusions of the report but the original report
3145 from the Commissioner we will act as a post box for, it is just something saying that the SAC
Committee may give it some consideration and add its own thoughts but the ultimate jury, the
ultimate jury of peers will be this Assembly and the right of appeal effectively is that person standing
up in front of their peers and putting their case for why they think that the punishment they have

3150 been handed is inappropriate and the Assembly itself gets to decide whether or not they agree with that, if it is contested.

Having said which, having talked through the process with Dr McCullough the actual process of the investigation will be an ongoing discussion with the Member and the Member will have the chance to suggest to Dr McCullough if the penalty is not appropriate and often talk it through with her before it actually comes to the report stage.

3155 What we cannot duplicate is the Code of Conduct Panel appeals process now where one Code of Conduct panel finds one way and then there is appeal and a new panel is formed. We only have one Commissioner for Standards, the Commissioner for Standards will be asked to re-judge their own work which I think everybody would agree is not appropriate. So that is the way it is intended to work. But there definitely would be a process of appeal and an ability for a Member who does
3160 not agree with the penalty to challenge the outcome.

Thank you.

The Deputy Bailiff: Deputy Leadbeater.

3165 **Deputy Leadbeater:** Thank you, madam.

Deputy Meerveld I am not the wiser but I thank Deputy Meerveld for that. *(Laughter)* I still cannot get my head around the Commissioner has got recommendations and then the Committee will have recommendations. I cannot see why the Committee should be able to trump the Commissioner, the Commissioners recommendations are what they are. But that aside I am going
3170 to support the policy letter, I think this is a grey area that needs attending to but I will support it.

Thank you.

The Deputy Bailiff: Thank you. Deputy Inder.

3175 **Deputy Inder:** Only briefly, madam. I think Deputy Soulsby got me to my feet and possibly Deputy Kazantseva-Miller and she is right I had forgotten it was our original policy letter but I think it was managed by myself, Deputy Ferbrache and Deputy Le Tocq. I think Deputy Soulsby has got a bit of a point when she mentions gate keeping and it twiggged a memory of mine. If one looks at the Code of Conduct and this guide proceeds here to the UK Parliament they have got something
3180 called a Speaker and the Speaker is supposed to act as a fairly neutral and impartial person and when an MP has a bad day and wants to throw his or her toys out of the cot about another member what they do not do is go onto Twitter, that is what they do not do. They do not go onto Twitter and say things like Code of Conduct to anyone which I have seen over these last two years and we do not hear as people walk out of the door, or we may do we probably just do not hear 'oh I think
3185 that is a Code of Conduct'.

So, I think the gate keeper element, because we do not have a Speaker, whether the President of States Assembly & Constitution Committee could be that gate keeper I have got no idea, but certainly that may answer the question why it is not there now because the Speaker acts as some
3190 type of great grandfather, great mother.

Deputy Kazantseva-Miller: Point of correction.

The Deputy Bailiff: Point of correction, Deputy Kazantseva-Miller.

3195 **Deputy Kazantseva-Miller:** There are different ways through which in the UK Parliament complaints can be made. The Speaker only deals with matters on the floor of the House of Commons. There is a separate complaints procedure for the Code of Conduct, there is separate privileges so what Deputy Inder said is only in relation to the matters that occur on the floor of the House of Commons where the Speaker may act as he calls it a gate keeper or whatever, but that is
3200 not the whole picture of how the complaints procedure works in the UK.

Thank you.

The Deputy Bailiff: Thank you, Deputy Inder.

3205 **Deputy Inder:** Okay, interesting stuff. The point remains that it is possible for us to have possibly
a gate keeper in some way, shape or form. What I find really odd about portions of this debate is
that it is a perception of behaviour and we have heard a lot of it over the last two years. Apparently
some people are tribal, not agreeing with someone does not make them tribal (Laughter) it just
means that they do not agree with them and we have heard toxicity, what is toxicity? Oh yes, I know
3210 not agreeing with them.

I have heard from a very close friend of mine, who I do get on very well with and who is also a
Deputy, and he is often telling me he said 'you do not listen Neil' and my response is 'I do listen, I
just do not agree with you'. So, in short and having been through a couple of Code of Conducts
myself of which I have won most of them, there is no two ways about it they were entirely
3215 weaponised.

There was one point and I do not know if it was funny or sad, I was accused of calling someone
an empty chair. It is a journalistic phrase for someone who never turns up. They thought I was
physically calling them an empty chair, I had to explain to the Code of Conduct Panel that I did not
call them a piece of furniture, I did not call them a wardrobe, I did not call them a dressing table
3220 and I did not call them a bedside table. That is how sad it got in the last term. There was so much
desperation to get certain people I got a Code of Conduct because they thought I called them an
empty chair. Anything can be better than what we have got at the moment. Guernsey is often too
close to Guernsey and that separation, for better or for worse, cannot be any worse than what we
have got now.

3225 But I do have one question for Deputy Meerveld, what I am not clear of is as we approve this I
would not mind hearing from him how many Code of Conducts are currently live, I think it was
Deputy Kazantseva-Miller who mentioned on the appeal process, how many are currently live and
once the current panel finish the determination if that Deputy then appeals any of the live where
do they land? I would not mind some advice, it seems rather odd to me if an appeal moved to
3230 England. It would seem to me that the current Code of Conduct Panel should at least finish the
current crop of Codes and any appeals and I would not mind hearing a little bit about that. But in
the main I will be supporting this policy letter.

The Deputy Bailiff: Alderney Representative Roberts.

3235 **Alderney Representative Roberts:** Thank you, madam.

In my view a Code of Conduct Panel should promote the highest standard of transparency and
good governance but you will also need an appeal process. Too long some of these Code of
Conduct charges are politically motivated (**Several Members:** Hear, hear!) and sometimes I am
3240 afraid constructed for political reason (**Several Members:** Hear, hear!).

Of course, some complaints are valid and these have to be dealt with with minimum delay
despite appeals. (*Interjection*) However, these codes should never be weaponised (**Several
Members:** Hear, hear) and to weaponise it should be a Code of Conduct in itself. (**Several
Members:** Hear, hear!)

3245 I would support the policy letter, however, we must remember to give support to Members
under these charges of Code of Conduct as this can be a most stressful time (**Several Members:**
Hear, hear!).

Thank you, madam.

3250 **The Deputy Bailiff:** Thank you. Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, madam.

I raised this issue in the questions following the general update statement from SACC, I cannot remember exactly when probably about a year, not February this year I think it was February last year. And the issue I raised was precisely this which has come out of the last two or three speakers which is there are many circumstances in which it feels as though a Code of Conduct is not the most appropriate course of action and I am thinking here particularly of politicians using it against fellow politicians where, there may be some circumstances where that is appropriate, but I can think of plenty where it is not as appropriate as other courses of action, in my opinion.

I am also thinking and particularly concerned about civil servants and their ability to address behaviour that should not have been directed at them by politicians because I think they are in a particularly untenable situation. I ask this question of Deputy Meerveld who, I do not know if his principle officer at the time thanked him for it but he did sort of leap on it with enthusiasm and alacrity and promised to progress it, which he did, and it created another work stream and I am very, very grateful to the officers that have worked on it. Due to unforeseen events that work has stalled a little I believe but basically in the UK Parliament there is something called a Behaviour Code, we already have a Dignity at Work Policy and a Whistle Blowing Policy here in the Civil Service but really there is nothing that addresses the level of incidents where behaviour probably falls short of that which we can all expect but it is not egregious enough to be considered proportionate for a Code of Conduct.

Unfortunately at the moment because the Code of Conduct is really the only avenue that Members have got if they choose to progress it and I think they are damned if they do and they are damned if they do not really. So I was very pleased that Deputy Meerveld agreed to progress that particular work stream. I know that SACC considered it, their officers put in a lot of good work. SACC considered it, I believe it is now sitting in something called the Reshaping Government work stream and so perhaps when Deputy Meerveld replies to debate he might be able to touch upon this but I do think that introducing a framework or a mechanism whereby political Members in particular but also civil servants do not feel as though they need to resort to the Code because there is a more proportionate and more appropriate mechanism available or framework available or whatever would deal with many of the issues that have come out or have been raised through recent speakers. So I hope Deputy Meerveld can address that when he replies but other than that I am supportive of the policy letter's recommendations.

The Deputy Bailiff: Deputy Bury.

Deputy Bury: Thank you, madam.

I too have concerns around the lack of appeals process, it seems quite messy and also the concerns that have been raised by others. But the question that I would just like to put to Deputy Meerveld, just for clarity, it is addressed in 2.3 but I am just struggling to get clear on it. So in terms of powers of investigation, I think I should probably be directing my question rather than explaining my confusion, what powers of investigation will the Commissioner have, will they still be retained similarly to the panel?

Thank you.

The Deputy Bailiff: Deputy Le Tissier.

Deputy Le Tissier: Thank you, madam.

I am not going to speak very long but I wanted to say that I am in total agreement with Deputy Kazantseva-Miller about the lack of appeal. It is incredible that there is no appeal. Now I am paraphrasing what Deputy Meerveld said, I think, that well you can speak to SACC or you can conduct your appeal during the Assembly debate. Well, one, the first thing is that there is no mention about you can appeal to SACC and if anyone thinks you can conduct an appeal in front of 40 people in the Assembly (**Several Members:** Hear, hear!) well that is cloud cuckoo land, you just

cannot do it. So, I would urge him to possibly withdraw this and put some of the corrections in that people are mentioning as unacceptable. (**A Member:** Hear, hear)

Thank you.

The Deputy Bailiff: Deputy Burford.

Deputy Burford: Thank you.

Yes, I think I have been sitting here thinking about this and again, the question of appeal I mean we have a new system replacing a panel by a single person who will make a decision and that is the end of it. I would just like to understand a bit more and again I realise that it then has to come to the Assembly but I do not think that that constitutes an appeal process.

My other confusion perhaps is what is deemed to be added by SACC, the five deputies who happen at any given time to sit on SACC, adding their opinion to the findings of the Commissioner, because presumably they are not going to review every part of evidence that went before the Commissioner. I am not sure if that adds anything to the process or indeed should be there.

Thank you.

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Madam, it is an interesting debate so far. I think Deputy Meerveld's intervention earlier suggesting that the process by which the Commissioner will undertake currently her work would enable some kind of appeal was the term he used, is wholly misleading and I think Deputy Soulsby should be under no illusions that Proposition 2 will remove the right of appeal under part two of the Code as it currently exists. I will give way.

The Deputy Bailiff: Deputy Soulsby.

Deputy Soulsby: I thank Deputy St Pier because I am now confused after Deputy Meerveld's intervention because what we are being asked to do goes against the original policy letter and that does actually concern me.

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: I would suggest that it is absolutely clear within the context of the revised Code as presented in the appendix of the letter that there no right of appeal if Proposition 2 becomes a resolution. Whether that is consistent with the original policy letter is another matter. Sorry, I came into this debate fully inclined to support both propositions but having listened to the debate I think I am inclined actually to vote against Proposition 2 now.

I am also just going to draw Members attention to a couple of other inconsistencies which exist because part five of the Code of course deals with investigations of allegations of abuse of privilege. Now the Privileges Panel there constitutes five senior Members of the Assembly and under paragraph 52 of the Code that panel reports directly to the States it does not report through SACC and that seems odd. Why is there a need for the Commissioner to report through SACC who may or may not wish to add something under paragraph 30 which was the paragraph which Deputy Leadbeater drew attention to, but under the Privileges Panel it does not go to SACC and they have no role. It seems odd.

I think, certainly when I first read this, the removal of the appeal under part two of the Code at least made it consistent with the Privileges Panel because there is no provision for appeal under the Privileges Panel, so at least it was ironing out that inconsistency but as I said I think I am persuaded by those who have spoken that actually the removal of the right of appeal should be of concern to us.

3355 The other point to notice about the Privileges Panel under part five is irrespective of their findings the report comes to this Assembly which is not the same as the findings of the Commissioner because if the Commissioner does not find against a Member or is more than merely a caution then the matter does not touch either SACC or this Assembly. So I think there are some inconsistencies that do need to be ironed out and I think the debate has been useful in perhaps
3360 bringing those to the fore.

Thank you, madam.

The Deputy Bailiff: Thank you. Deputy Roffey.

3365 **Deputy Roffey:** I am torn here because I really, really want to crack on with this in many ways because I think the present system is flawed and I think that a Commissioner for Standards would be better but I have got alarm bells going over two or three of the things that have been said this afternoon. I am not sure though all the people who complained about how an appeals system is absent of how that would work. Are we going to appoint a second Commissioner to reconsider or
3370 are we going to bring back to concept of a panel to review the work of the Commissioner, i.e. we have moved her away from a bunch of amateurs to get a professional their finds are then perhaps overturned. I mean I understand the desire for an appeals system I just really do not know how it would work.

However, it is the wording of 30 that has my alarm bells going slightly because the Commissioner
3375 reaches a decision which SACC will bring to this Assembly but if they do not agree with that decision they can add their own recommendations. I think the assumption has been in this debate that if the Commissioner has been too harsh and says someone should be booted out of the Assembly they could say 'Oi, hang on, we do not think that is really fair'. But it could be the absolute opposite, they could be proposing a formal caution and the Members of SACC could say well actually we think
3380 they should no longer be allowed to be President of P&R or they should actually be ejected from the Assembly altogether.

While that danger perhaps is not so great now I know there are Members, some in this Assembly and some outside, who are really keen to see Guernsey move to a party political system. (**A Member:** Hear, hear) Heaven defend us as far as I am concerned but I have to bear in mind that it
3385 might happen and if it does and it is a majority of a particular party sitting on SACC and the person who is being referred to them or through them being the post box coming back to the Assembly is of a party that they do not approve of. Okay the States can then ignore their recommendations when they come here and we have that debate of 40 but I am with those Members who are saying why should those five Members actually have the privilege. As individual Members they can dispute
3390 the findings of the Commissioner when it arrives here, like all of us can, but why should they uniquely be able to say this is an alternative resolution that we think should be put forward. So I am unhappy with that and I would like it removed but short of trying to design an amendment on the fly I am torn because I would like that removed but I do not want this to go back for six months and back into SACC for conversation.

3395 So I suppose I ask Deputy Meerveld would he consider hearing, maybe it is only four of five of us so far, but hearing quite a few reservations about that particular provision is there a technical amendment that his Committee could consider laying to remove that because I do not see that it adds anything. The individual Members of SACC will still be in a position to actually debate the Commissioner's findings when it comes here but as Deputy Burford says sitting in SACC they have
3400 not heard all of the witnesses, they have not heard all of the evidence. They will have read the report but that is not quite the same thing so I do not know whether it I could look to the Comptroller and ask how easy it would be drafting an amendment simply to remove the bit from paragraph 30 which says can we have one that says save for that in paragraph 30 where it says 'where the Committee does not agree with the any recommendations of the Commissioner any recommendations that the
3405 Committee may have' can be deleted from that because that would make me feel far more comfortable with voting in favour. Before I sit down I am going to give way to Deputy Meerveld.

The Deputy Bailiff: Deputy Meerveld.

3410 **Deputy Meerveld:** I think Deputy Roffey for giving way. Yes, I agree with him at the end of the day with the situation earlier in this term I presented a recommendation from the Code of Conduct Panel and then spoke against it and voted against it myself, acting as a post box for SACC but then commenting against it. I understand the reservations about that paragraph, I would be quite happy personally to remove that and would ask possible to have an adjournment to just meet with the
3415 SACC Members and potentially put that to them and come back and just delete that power of SACC Members. Hopefully it will only take five minutes.

The Deputy Bailiff: Is that the only matter that you are going to be addressing?

3420 **Deputy Meerveld:** Yes.

The Deputy Bailiff: In relation to the queries that have been asked of you?

3425 **Deputy Meerveld:** I think that one I think we can deal with immediately, the further issues I will talk through when I address in response to the debate but I think if we remove that one I certainly have no issue with that and hopefully that will appease some Members and we can look at an appeals process or something further down the line.

3430 **The Deputy Bailiff:** Given that Deputy Meerveld is giving way at the moment you will be giving way to a give way, so I do not think that is constitutionally possible. Deputy Roffey.

Deputy Roffey: I will give way to Deputy Kazantseva-Miller. *(Laughter)*

3435 **Deputy Kazantseva-Miller:** I thank Deputy Roffey. Would the President of SACC based that he has just said that he is committed to potentially investigating an appeal process to actually put a resolution to note that effectively an appeals process will be investigated by the Committee as another additional proposition for the technical amendment?

3440 **Deputy Roffey:** I did give way to Deputy Kazantseva-Miller but I am not sure I can answer her enquiry *(Laughter)* because I do not know whether or not [16.11.36](#) later on.
I think I have finished by speech sir.

The Deputy Bailiff: Deputy Taylor.

3445 **Deputy Taylor:** Thank you, madam.

I am grateful to speak before Deputy Meerveld and his Committee may be going of for an adjournment to make the potential amendment because I do have a couple of suggestions. But to give you my tuppence worth I was probably going to vote against this I felt like I was going to be the only one doing that coming into this debate but I am pleased to hear a bit of discussion and
3450 the main reason I was going to vote against this is I do not really see any actual change other than the person who is making the decision. I think the Panel all seem like genuine people in our society that can be trusted and I would happily keep my trust and faith in them.

This is not really proposing any changes in the conduct that is required of us, that still stays the same it is free to tick around the edges. So that was my principle objection but there are some bits
3455 that have been picked up by Deputy Kazantseva-Miller and others and a point that has been raised by Deputy Inder which is the weaponisation of the Code of Conduct and I think Deputy Kazantseva-Miller has really picked up this potential for weaponisation through comments being made by SACC.

So, I want to add support for removing that section where SACC does have a comment because I think that really is opening up for abuse.

3460 But I also want to pick up on point 31 of Appendix A which is relating to a complaint that is
brought forward about the SACC President himself or herself and the way it is directed to go through
the five most senior Members. Now, I do not know if Deputy Meerveld will be able to give an answer
to this, why this does not simply follow Rule 49 of the Rules of Procedure where a Member would
be conflicted. So if the complaint was about a Member of SACC, and it is not clear what would
3465 happen in this case, make that any Member of SACC is that Member then going to be involved in
the discussion? The answer would hopefully be no, they would be deemed conflicted and they
would not get sent the papers and they would not have the chance to comment.

So, why does it not follow the same simple process for the President of SACC instead of going
through this complicated route of going to the five most senior Members, I think it is by term of
3470 office. But further in that there is a slight difference in the wording as well between 30 and 31 in
that point 30 of Appendix A outlines that 'notwithstanding a Member's refusal to accept a caution
the States may resolve that a Member be cautioned' and that is not included in point 31 which
refers to the President. So does that mean, and there may be support for this with Deputy Meerveld
as the President, but does this mean that the States may not resolve to give just a caution? I was
3475 not quite sure why the wording on those two is treated differently.

So in summary I will not be supporting this unless SACC bring forward an amendment and I
think it does need to come from them to show they are willing to listen to Members and I would
also strongly support the suggestion by some Members that a proper appeals process is retained
because putting forward your case in this Assembly is not the same as a proper appeals process. It
3480 is not the same as sitting around a table having a discussion where you can clearly explain the points
that you were trying to make, points that you had previously put forward that may have been
misinterpreted, misunderstood whereas in this Assembly the only option you would have to do that
would be through the Give Way Rule which is chaotic madam, it is just not going to work.

So I really would support, for every Member, to have the right of appeal so they can really hear,
3485 re-discuss their concerns with the panel and then as a final resort they would have their day in court
where they can put forward the final reasons, the last hurrah of why the Assembly should not be
accepting the finding or the recommendations of whoever it is or the Panel, that is just me, madam.

Thank you.

3490 **The Deputy Bailiff:** Deputy Dyke.

Deputy Dyke: Thank you, madam.

I am quite torn on this. I am quite keen to get rid of the current arrangements which I thought
worked very badly in one case at the beginning of this term. So I am inclined to vote for this but
3495 neither paragraphs 30 or 31 do have a proper appeals mechanism and I think we must have one.
What it could be that is better than what we have got now standing here I am not sure I can think
of it, maybe the appeal could be to a Jurat or two Jurats, or three Jurats (**A Member:** Hear, hear) or
something like that, something completely independent or there could be other possibilities.

But standing here today I am not sure exactly how we should handle it but I think we must
3500 handle it and I am not sure if it is going to be useful for Deputy Meerveld to try drafting on the
hoof, can we make an arrangement to revisit it perhaps?

Thank you.

The Deputy Bailiff: Deputy Meerveld, your original suggestion was that we have an
3505 adjournment in order that you and your colleagues can gather to possibly amend the current
content of the Code of Conduct, what do you wish to do?

Deputy Meerveld: Yes, madam. I believe the Members have raised valid concerns. I think there
are things that we could address in a quick amendment that we lay before the Assembly and with

3510 things like the appeals process we can look at coming back with a policy letter, make a commitment to come back with a policy letter, with that after further consideration, so we would not be drafting things on the hoof.

The Deputy Bailiff: Thank you. Deputy Mahoney.

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Deputy Mahoney: Yes thank you, madam.

I wonder just before if they are going to do that, I would like to speak before they do and I am not sure what is going on here. (*Laughter*) Why have there been no amendments to this? We are hearing I do not like paragraph X, I do not like paragraph Y, I do not particularly like line A to
3520 paragraph B this has been out there for a long time now and no one has said anything. People could have noted this, (**A Member:** Hear, hear) could have gone to SACC could have raised all sorts of merry hell if they had wanted to (**A Member:** Hear, hear!) but no one has done anything and now SACC area going to disappear for 20 minutes or whatever it is to have a think about it suggesting that perhaps they had not thought about it in the first place but I am not sure what that
3525 is. I mean talk about making policy on the fly on the floor of this room, this is absolutely crazy.

The Deputy Bailiff: Deputy Trott.

Deputy Trott: Madam, thank you.

3530 In time honoured fashion I fell into the category of having not seen much wrong with this at first read but I have just spotted something that is very odd. I am reassured that it happens elsewhere but I think it reinforces, particularly at the requirement for an appeals process, and it is paragraph 25 which says 'whilst a complaint will normally be submitted by a third party the Commissioner may instigate an investigation if they believe that a breach of the Code may have occurred'. In other
3535 words there does not even need to be a complaint from outside the Commissioner can come on in, carry out an investigation, come to a conclusion and without the right of appeal that clearly is nonsense.

In fact I asked His Majesty's Comptroller whether that would be an infringement of natural justice, he gave me a satisfactory answer so His Majesty's Comptroller is not on the spot on this.
3540 But the point is clearly you cannot have a system where there is a prosecutor, judge and jury without there being any appeals process prior to the final stage, i.e. coming before this court.

So, I confess I missed it to Deputy Mahoney's point which shows that even I am not infallible (*Laughter*) and I know that to Deputy Mahoney in particular that will come as a surprise madam, (*Laughter*) but there we are. So it seems that the idea that SACC go away and give this some thought
3545 and allow us to all have a well deserved cup of coffee seems a very sensible move to me.

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: I know it is going to shock people but I do not completely agree with Deputy
3550 Trott on this particular matter in the sense that, and I do not completely agree with Deputy Mahoney. He makes good points about this should have been raised before and people could have put amendments or come up with comments. I accept all of that in relation to where we are.

But, it is clear there are two main areas of concern that people have. One is the appeals process and the other is SACC's reviewing on what basis the findings of the Commissioner. Now what clearly
3555 is the case, overwhelmingly, is that the appointment of somebody of the experience and ability of Dr McCullough will be a great improvement on what we have and that should be done as soon as possible so she can start on her tasks. So we can do that and that is Proposition 1.

But in relation to the rest it is a concern that we do not have an appeals process. Clearly what happens now under the Code of Conduct procedure is that the people who are appointed are doing
3560 their absolute best, they are good people, they are intelligent people, they come from a wide spectrum of our society, very able people but the procedure is a bit of a mess. It does not conform,

in my view, to natural justice you have the complainant comes in and the defendant, if I can call them that, the other person who is going through the claim is not there so they cannot hear what is said, that to me is just, I do not know who thought of that but they could not have applied their mind very well because the defendant, I am just using it in that sense, the defendant must have the right to hear what is said against him or her and then they have the right to comment upon it.

It is all right saying well we have heard it and this is what they have said but that is not right. So the current process is wrong, through no fault of the people who participate in it. It also takes, in certain instances, too long and it also enables people, perhaps Deputies with considerable deep pockets to delay the system (**A Member:** Hear, hear) potentially delay the system.

The people who sit, there are advocates there is at least one advocate and able advocate who is a member of the Code of Conduct Panel, there might be more than one but I can think of one as I am standing here now, but they are not there as Advocates and often the Panel consists of people who are not Advocates and there are legal points raised, etc., etc. but they do their absolute best to deal with but they are not necessarily as fully equipped as they should be.

This person or a person of this person's ability would have the right to do that because she would have the experience or if she is replaced that person would have the experience too and also to say, as a judge can say, stop messing around I do not want to hear that, that is a load of nonsense you will do this within two weeks and if you have not done it hard luck. Somebody would have the resilience to do that and that I believe, without knowing this lady at all but I have read all these qualifications she has got, my goodness me, that she should be able to do that.

But it is wrong that there is no appeal process. At the moment there is not really an appeal process under the Code of Conduct because, in theory there is, but it is a re-hearing before a separate panel, which is a bit of a mismatch to me and I cannot see how that is a proper appeal process.

So there should be a proper appeal process, that is no criticism of SACC, there should be a proper appeal process before it comes to being decided before the 40 of us or 38 of us or however many would be involved in that process. This is just an idea it could be that there is a panel of six or eight Deputies who are appointed, they have a selection of them for the appeal they then would not be able to sit, if it then came beyond that to this Assembly, but you would still have 30 odd Members. I am just suggesting that as an example. You would want competent people above the Commissioner there is no point just having another, and I know they are competent and able people I am not implying that they are not, just another lay body, you want somebody who is used to dealing with these kinds of matters on appeal.

You also need proper grounds of appeal. We do not really have any proper grounds of appeal under the current legislation. We do not have any proper submissions, we do not have anything. You can actually be, you can have a recommendation that you are suspended or expelled from this Assembly, I know that you can then come to this Assembly, etc.

So it is pretty serious stuff. I have had three of them against me, they have all been dismissed but nevertheless they came along and I am quite happy because I am a resilient character and am used to saying the odd word in a tribunal, but not everybody has that experience and it is not fair. So my suggestion would be that SACC's do not go off and have a 20 minute confab now, we approve Resolution 1 which I do not think anybody has spoken against that, we adjourn the rest, if the SACC's are agreeable and the Assembly is agreeable, adjourn the rest of the policy letter, I do not know perhaps until July or September and SACC's hears the comments that has been raised in this debate and addresses them. (**Several Members:** Hear, hear)

The Deputy Bailiff: Deputy McKenna.

Deputy McKenna: Madam Bailiff, I always agree with the Chief Minister as you well know. I sit on the SAC Committee with Deputy Gollop, Vice President, Deputy Queripel, Deputy Fairclough, the President Deputy Meerveld and if you were ever privy to any of our meetings you would realise we are not going to sort anything out this afternoon (*Laughter*). I would go for 29th June (*Laughter*). So

3615 on the advice of the Chief Minister if we could go for Resolution 1 and then no doubt we will create
a document of war and peace for Dr McCullough who, by the way, has a Doctorate in Ethics and
Law and teachers at universities in ethics and law and is a wonderful lady who can handle very
readily the Northern Ireland Assembly, which obviously is not as difficult as us here but could we
do that through you madam Bailiff, if the President would agree I think we need to go back and
start again.

3620 **The Deputy Bailiff:** Deputy de Sausmarez, I can see you are anxious to speak.

Deputy de Sausmarez: I have already spoken but I wondered if I might pose a question to His
Majesty's Comptroller?

3625 **The Deputy Bailiff:** Yes, you may.

Deputy de Sausmarez: Which is just to clarify something that seems to be popping up which is
what the implications are or what the effect would be if the Assembly chose to support Proposition
3630 1 but reject Proposition 2?

The Deputy Bailiff: Thank you. Mr Comptroller are you able to answer that question, which I
think is a very useful one?

3635 **Mr Comptroller:** Madam, the issue that occurs to me is that I think the provisions of the law
that relate to the Commissioner have been brought into force I think because if you look at
paragraph 1(1) of the policy letter what it says is that September 2022 the States of Deliberation
approved the project without a title to Reform Guernsey Amendment Law 2022 (the Law) which
came into force by regulations made by the Committee by 22nd May 2023. So, that amendment to
3640 the reform law inserted provision which provided for a Commissioner.

So if Proposition 1 was approved by the States but Proposition 2 was left it would be a little bit
difficult, I think, because there would be provision for a Commissioner who would be appointed but
the rules would not provide for a Commissioner. I think that is the problem.

3645 **The Deputy Bailiff:** Yes. Deputy Meerveld, do you want to take some time to decide what your
next step is.

Deputy Meerveld: I definitely would like that adjournment. I think we can address all the issues
withstanding what Deputy McKenna has said, I think we can actually come back to the States with
3650 something acceptable and actually I am grateful to the speakers, I think this is democracy at work.
(**A Member:** Hear, hear)

The Deputy Bailiff: 15 minutes?

3655 **Deputy Meerveld:** Yes, madam. Shall we say we will adjourn until 4.45 p.m. Thank you.

*The Assembly adjourned at 4:28 p.m.
and resumed its sitting at 5.11 p.m.*

**Commissioner for Standards – Revisions to the Code of Conduct –
Debate continued –
Propositions carried as amended**

The Deputy Bailiff: Deputy Meerveld, do you wish to propose your amendment?

Amendment

For Proposition 2 substitute the following –

"2. For Parts II, and III of and Appendix 1 to the Code of Conduct for Members of the States of Deliberation, substitute the Part and Appendix set out in Appendix A to the Policy Letter subject to the following amendments –

In Rule 30 delete the words "and, where the Committee does not agree with any recommendation of the Commissioner, any recommendations that the Committee may have", and

Delete Rule 31.

3. Renumber the sections of and cross references in the Code and Table of Contents accordingly.

4. To direct the States Assembly & Constitution Committee to consult with the Commissioner and to revert to the States on or before October 2023 with a Policy Letter setting out recommendations for the inclusion in the Code of Conduct of an appeals procedure against decisions of the Commissioner."

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Deputy Meerveld: Yes please, madam.

I understand the concerns expressed by Deputy Mahoney earlier that amendments could have been brought forward or this conversation could have been had earlier but I actually think this is a good example of democracy in action. (**A Member:** Hear, hear) Sometimes you read through a policy letter and you might remember a thing like this and think it is an issue but it is only when another Member stands up and puts it in a different context than everything else that you wake up to the fact that maybe you have been viewing it wrong and I think what we have done today, and I thank Members for their indulgence in allowing this brief recess to do so, is an example of how a Committee can take that on board immediately, respond not kick the can down the road, not withdraw or surmise the policy letter but hopefully reach a conclusion today where the majority of the Members concerns are addressed.

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The amendment before you addresses the different concerns raised by different Deputies. The first one Deputy Kazantseva-Miller and then others talked about the lack of the appeals process. The fourth provision in this amendment would say that we will come back within latest six months time, October, with a proposal for an appeals process after working with the Commissioner for Standards as to how we structure that.

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The fact is the Commissioner for Standards will be making a speech or making a statement in the next couple of weeks post her appointment and I expect by then she can start outlining what the appeals process will look like and we can come back much earlier than that. If there is a case where a Code of Conduct is submitted to her prior to that appeals process being in place and then the Member wishes to appeal then we will just delay that appeal until that Code can come into place. That would also already be much quicker than the process we have now. So that addresses the issue of a right of appeal independent of this Assembly.

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In Clause 30 we are deleting the comments about SAC Committee being able to add its own recommendations on penalties. I think Members are absolutely right, I think Deputy Roffey raised that, absolutely right that there is absolutely no need for us to do that we can do it in debate as I have done myself previously. So there is no need for that to be there.

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Deputy Taylor pointed out that we do not need rule 31 because under our rule 49 if any Member were named they would have a special interest and would automatically not receive the papers and not be in the meeting when it is discussed. So if it is a Member of SACC they will not be there and they will not be receiving the papers. So we do not need rule 31 it can simply be deleted.

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So I am hoping that with this amendment we have addressed all of the significant issues that Members have and we can proceed to approving something that really is a step forward in a rather unwieldy process that we have now and also creates that arms length individual to actually opine and judge on our actions as opposed to the rather murky process we have now.

Thank you, madam.

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

Deputy Queripel: I do indeed, madam.

Deputy Inder: 26(1) please, madam.

The Deputy Bailiff: Who wishes to speak in debate on the amendment? Deputy Inder, do you still wish to go ahead with your vote.

Deputy Inder: No. (*Laughter*)

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: It is just one very quick question and it is not addressed within the policy letter or the amendment. I was just wondering is this a paid position because I know at the moment they do it voluntarily. That is my only question.

Thank you.

The Deputy Bailiff: Thank you. Deputy Mahoney.

Deputy Mahoney: Thank you, madam.

It is more just to see Deputy Inder's face really. Just one very, very quick one, it notes that this is going to take until October 2023, another five months then, is that really a stretch goal that we should be aiming for, 5 months just to decide how this is going to be done, could they not have said a month, two months, (**A Member:** Hear, hear) three months maybe, six months? No.

The Deputy Bailiff: Deputy Matthews.

Deputy Matthews: Thank you, madam.

Can I just very, very quickly say that I think it is incredibly important we do have his appeals procedure.

The Deputy Bailiff: Members, can I ask you to keep your voices down please. Thank you.

Deputy Matthews: Just because standards have dramatically changed over time about what people would regard as being acceptable and especially on subjects and sorts of things that can cause offence. We heard earlier from the Deputy India, Inder, (*Laughter*) that the phrase empty chair could potentially be one that could cause offence.

I think there will be a divergence of views amongst people about what could be considered offensive and what is not. I tend to come down much more on the side of freedom of speech and that under freedom of expression people should be able to make their views.

Deputy Inder: Point of order, madam.

The Deputy Bailiff: What is the point of order? I am sorry Deputy Matthews, Deputy Inder has asked.

3745 **Deputy Inder:** Might I suggest that Deputy Matthews is talking to general debate and not to the amendments.

The Deputy Bailiff: Deputy Matthews I presumed you were talking to the amendment.

3750 **Deputy Matthews:** Yes, I was talking about the appeals procedure really and that was the reason why it was important.

The Deputy Bailiff: Thank you, Deputy Matthews.

3755 **Deputy Matthews:** But I have finished on that bit if it makes Deputy Inder happier. I did have one question and that was really about what happens to referrals that are made before October 2023 when the policy letter is brought, does that mean that they proceed without an appeals procure or what happens in that case. Thank you, oh I give way to.

3760 **The Deputy Bailiff:** Can I just ask, can Deputy Meerveld just respond as he will do on his amendment in any event rather than you give way.

Deputy Matthews: Of course.

3765 **The Deputy Bailiff:** Does anybody else wish to speak on the amendment? In that case Deputy Meerveld your right to reply.

3770 **Deputy Meerveld:** Yes, thank you. Two people I will respond to, Deputy Mahoney, we have put six months in there we will obviously come back earlier but of course we have publishing deadlines and the summer break in the middle but we will obviously come back with an appeals process, we hope to work and outline one within the next few weeks.

3775 Deputy Oliver, cost. Yes, it is a paid position it is a relatively nominal amount that will be drawn down based on the volume of work. There is a budget I believe but I will have to come back to Members of the budget but there is a small budget for it. What was the other question that was raised, I would anticipate that if a case is bought before the Commissioner before the appeals process is in place that, and it wanted to be appealed when there was not a process in place, we would delay that appeal until an appeals process was implemented. It should only be a delay of a few months maximum, which is much less than some Code of Conduct complaints which I am aware of that have been the system for over a year.

3780 Thank you, madam.

The Deputy Bailiff: Thank you, Deputy Greffier would you open the voting on the amendment as set out in detail on the SEV.

There was a recorded vote.

3785

Amendment

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

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|-----------------------|-------------------|--------------------|---------------------|---------------|
| Aldwell, Sue | Le Tissier, Chris | Brouard, Al | None | None |
| Blin, Chris | Trott, Lyndon | | | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |

Dudley-Owen, Andrea
Dyke, John
Fairclough, Simon
Falla, Steve
Ferbrache, Peter
Gabriel, Adrian
Gollop, John
Haskins, Sam
Helyar, Mark
Inder, Neil
Kazantseva-Miller, Sasha
Le Tocq, Jonathan
Leadbeater, Marc
Mahoney, David
Matthews, Aidan
McKenna, Liam
Meerveld, Carl
Moakes, Nick
Murray, Bob
Oliver, Victoria
Parkinson, Charles
Prow, Robert
Queripel, Lester
Roberts, Steve
Roffey, Peter
Snowdon, Alexander
Soulsby, Heidi
St Pier, Gavin
Taylor, Andrew
Vermeulen, Simon

I therefore declare the amendment passed.

3790

The Deputy Bailiff: We now return to general debate in relation to the now amended proposition, does anybody wish to contribute to general debate? In that case I will ask Deputy Meerveld if he wishes to respond.

3795

Deputy Meerveld: As the hour is getting late I am sure we want to finish this business today I will make this very, very short and sweet. There were a few other questions raised, the transition of the workload we are in contact with the Panel and liaising with them regarding how that will be done.

3800

I think Deputy de Sausmarez and Deputy Soulsby mentioned about the behaviour and actually at the interview process for the Commissioner for Standards one of Dr McCullough's suggestions was that as someone qualified in ethics she could actually do a presentation at the induction for new Members each term by explaining what ethics are and what is likely to get people appearing in front of her and I think that was an incredibly good value added suggestion from that individual and I would definitely be looking to take that up (*Laughter*) as part of our introduction and trying to, as Deputy Soulsby and Deputy de Sausmarez mentioned, influence the behaviour so we do not get the complaints. But with that I will commend the paper to the Assembly and ask everybody to support it.

3805

Thank you.

3810

The Deputy Bailiff: Is anybody asking me to put these as separate propositions? No. In that case States' Greffier if you could put them as all Propositions. States' Greffier would you open the voting on the amended proposition as set out and detailed on the SEV.

There was a recorded vote.

3815

Propositions

Carried – Pour 38, Contre 1, Ne vote pas 1, Did not vote 1, Absent 0.

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|--------------------------|---------------|--------------------|---------------------|---------------|
| Aldwell, Sue | Trott, Lyndon | None | Brouard, Al | None |
| Blin, Chris | | | | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dudley-Owen, Andrea | | | | |
| Dyke, John | | | | |
| Fairclough, Simon | | | | |
| Falla, Steve | | | | |
| Ferbrache, Peter | | | | |
| Gabriel, Adrian | | | | |
| Gollop, John | | | | |
| Haskins, Sam | | | | |
| Helyar, Mark | | | | |
| Inder, Neil | | | | |
| Kazantseva-Miller, Sasha | | | | |
| Le Tissier, Chris | | | | |
| Le Tocq, Jonathan | | | | |
| Leadbeater, Marc | | | | |
| Mahoney, David | | | | |
| Matthews, Aidan | | | | |
| McKenna, Liam | | | | |
| Meerveld, Carl | | | | |
| Moakes, Nick | | | | |
| Murray, Bob | | | | |
| Oliver, Victoria | | | | |
| Parkinson, Charles | | | | |
| Prow, Robert | | | | |
| Queripel, Lester | | | | |
| Roberts, Steve | | | | |
| Roffey, Peter | | | | |
| Snowdon, Alexander | | | | |
| Soulsby, Heidi | | | | |
| St Pier, Gavin | | | | |
| Taylor, Andrew | | | | |
| Vermeulen, Simon | | | | |

The Deputy Bailiff: I therefore declare the Propositions are passed.

**Procedural –
Continue sitting**

3820

The Deputy Bailiff: Now Members, the next item is Deputy Prows' amendment to the Criminal Justice Legislation. The time is 17.24, do you wish me to put a motion to the Chamber that we carry on to deal with this matter.

Members voted Pour.

3825

The Deputy Bailiff: I will count that as the motion, does anybody wish to vote against that motion that we carry on? No. There we are. Deputy Prow, do you wish the Greffier to read out the item first. In fact, States' Greffier will you do that.

COMMITTEE FOR HOME AFFAIRS

**11. Amendments to Criminal Justice Legislation –
Propositions carried as amended**

Article 11.

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Amendments to Criminal Justice Legislation', dated 6th March 2023, they are of the opinion:-

- 1. To agree to amend the Proceeds of Crime (Bailiwick of Guernsey) Law, 1991 and the Drug Trafficking (Bailiwick of Guernsey) Law, 2000 as set out in sections 4, 5, and 6 of this Policy Letter*
- 2. To agree to amend the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 as set out in section 6 of this Policy Letter*
- 3. To agree to amend the Drug Trafficking (Bailiwick of Guernsey) Law, 2000, and any other necessary secondary legislation, as set out in Section 7 of this Policy Letter.*
- 4. To agree to amend the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017 as set out in Section 8 of this Policy Letter.*
- 5. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.*

The Deputy Bailiff: I should explain that exceptionally Deputy Prow has asked that we deal with the amendment because it is a Technical Committee amendment in order that when he properly introduces the proposition it will include this amendment if it is passed. So I am going to ask Deputy Prow to deal with the amendment first, if he is able to, and then we can deal with the entirely amended proposition with all the elements if that is approved by the Chamber.

Deputy Prow: Thank you, madam.

Thank you for allowing us to proceed in this manner. Very briefly speaking to the amendment it is regrettable that I must lodge this amendment. As the explanatory note succinctly says this proposition was in the original policy letter, considered and approved by the Committee for Home Affairs and sent for consultation to Alderney and Sark Policy & Finance Committees.

The amendment enables a Proposition 1A asking the Assembly to consider this as part of the amendments to the Criminal Justice Legislation policy letter. The justification for this proposition is clearly articulated in Section 3 entitled Extradition to Jersey and the Isle of Man. Due to an administrative error the proposition was omitted from the final draft that was lodged. Madam, I apologise to you and the Assembly for this administrative oversight which should not have occurred. I ask the Assembly to allow the proposition to be included as was intended.

Thank you, madam.

The Deputy Bailiff: Deputy Vermeulen, do you formally second that?

Deputy Vermeulen: Absolutely. *(Laughter)*

The Deputy Bailiff: Does anybody wish to speak on this amendment? On that basis Deputy Prow you have got nothing to reply to and I will ask the States' Greffier to open the voting on this amendment to insert this technical error into the main propositions.

Thank you.

There was a recorded vote.

Amendment 1

Carried – Pour 37, Contre 0, Ne vote pas 0, Did not vote 3, Absent 0.

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|-----------------------|---------------|--------------------|--------------------------|---------------|
| Aldwell, Sue | None | None | Dudley-Owen, Andrea | None |
| Blin, Chris | | | Helyar, Mark | |
| Brouard, Al | | | Kazantseva-Miller, Sasha | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dyke, John | | | | |
| Fairclough, Simon | | | | |
| Falla, Steve | | | | |
| Ferbrache, Peter | | | | |
| Gabriel, Adrian | | | | |
| Gollop, John | | | | |
| Haskins, Sam | | | | |
| Inder, Neil | | | | |
| Le Tissier, Chris | | | | |
| Le Tocq, Jonathan | | | | |
| Leadbeater, Marc | | | | |
| Mahoney, David | | | | |
| Matthews, Aidan | | | | |
| McKenna, Liam | | | | |
| Meerveld, Carl | | | | |
| Moakes, Nick | | | | |
| Murray, Bob | | | | |
| Oliver, Victoria | | | | |
| Parkinson, Charles | | | | |
| Prow, Robert | | | | |
| Queripel, Lester | | | | |
| Roberts, Steve | | | | |
| Roffey, Peter | | | | |
| Snowdon, Alexander | | | | |
| Soulsby, Heidi | | | | |
| St Pier, Gavin | | | | |
| Taylor, Andrew | | | | |
| Trott, Lyndon | | | | |
| Vermeulen, Simon | | | | |

3860 I therefore declare this amendment passed and we will now go to the main propositions. Deputy Prow.

Deputy Prow: Thank you, madam.

3865 This policy letter and propositions deal with technical changes to the Criminal Justice framework. The amendments, which have the unanimous support of the Committee are the result of advice from His Majesty's Comptroller which is captured in the policy letter. These propositions, which I urge the Assembly to support, will deliver technical updates and bring domestic legislation in line with comparative jurisdictions equipping the Bailiwick with the legislative means to tackle financial and economic crime in the same way as its international peers.

3870 I would emphasise that these amendments have been identified as necessary, not because the current statutory provisions are inadequate or a barrier to discharging our responsibility in combating financial crime, rather because they will provide greater clarity and certainty around these requirements.

3875 I would like to thank the Assembly for allowing Proposition 1(a) to be considered. This proposition seeks to establish a dedicated extradition process which will place the system for rendition from the Bailiwick to other Crown Dependencies on a clear statutory footing. The Extradition (Bailiwick of Guernsey) Law, 2019 which came into force in 2021 provides a comprehensive regime for the extradition of persons from the Bailiwick, however, this does not apply to rendition to the UK.

In line with the close relationship that exists with the UK there is a simplified and long established process between the UK and the Crown Dependencies, however, the simplified process that applies to the UK does not cover the rendition from the Bailiwick to Jersey and the Isle of Man.

This proposition seeks to rectify this by the creation of an ordinance under the Extradition Law which provides for a simplified process which reflects the fact that the Bailiwick enjoys the same close relationship and high levels of cooperation with the other Crown Dependencies as it does the UK.

Proposition 1 seeks to amend the Proceeds of Crime (Bailiwick of Guernsey) Law, 1991 and the Drug Trafficking (Bailiwick of Guernsey) Law, 2000. There are a number of amendments being proposed to this legislation which are set out in detail in sections 4, 5 and 6 of the policy letter. These are technical and complex matters and I will not seek to replicate in full the clear advice that has been provided by His Majesty's Comptroller.

However, to summarise for the Assembly it is proposed that the Proceeds of Crime Law and the Drug Trafficking Law are amended to provide the following, bringing wording in relation to money laundering offences in line with that of comparable jurisdictions it is important to note that the differences to date have not prevented successful prosecutions in the Bailiwick, however, the difficulties that it has the potential to cause have been highlighted by a recent case experience. It is therefore proposed to amend the wording of money laundering offences in line with that of UK offences. In essence, the proposed changes direct the mental element of the offences towards the status of the property rather than the conduct of the specific person.

The second element relates to restrained assets. This amendment will provide explicit provision about the approach that court should take in exercising its powers in this area. Whilst the practice has been that the courts locally have adopted a similar approach to that required in the UK placing this on a statutory footing will provide clarity and certainty.

Finally, this aspect will introduce sanctions for breaching court orders which seeks to address and identify inconsistency in the Enforcement and Investigatory Orders made by the court by ensuring that the enforcement of the made under the Proceeds of Crime Law and Drug trafficking Laws are supported by the same offences captured in other criminal justice legislation, namely the Forfeiture Law and Fraud Investigation Law.

Proposition 2 recognises that it is also possible to make Investigatory Orders under the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 and seeks to amend this law to ensure that all of these Orders are underpinned by criminal penalties.

Proposition 3 asks to agree the amendment to the Drug Trafficking (Bailiwick of Guernsey) Law, 2000 and any other necessary secondary legislation to provide clarity that the Bailiwick will provide assistance to other designated jurisdictions in the seizing and confiscation of items that have been used to perpetrate a drug trafficking offence.

Proposition 4 asks to agree to amend the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017 to recognise that the Head of the Financial Intelligence Unit and the Director of the Economic & Financial Crime Bureau shall have direct access to the register of beneficial owners. Proposition 5 directs the preparation of a legislation to give effect to these amendments.

To summarise, this policy letter seeks to address a number of technical amendments which will deliver general improvements in the criminal justice legislation and support preparations for the upcoming evaluation. I ask the Assembly to support these propositions and thereby endorse Government's commitment to tackling economic and financial crime. (**A Member:** Hear, hear)

Thank you, madam.

The Deputy Bailiff: Deputy Le Tissier.

Deputy Le Tissier: Thank you, madam.

I have just got a question for Deputy Prow. I have been reading paragraph 3.3 and the curious last two or three lines. Could he tell me what is the present position for extradition from Jersey and

as it looks like it is going to change, does he know when that is going to change and what effect it will have?

Thank you.

3935 **The Deputy Bailiff:** Does anybody else wish to contribute to general debate? Deputy Prow, your opportunity to reply.

3940 **Deputy Prow:** Thank you and I thank Deputy Le Tissier for his question. To the last part of his question around the timing, this will depend on getting the legislation drafted and brought back for approval. As far as the current process, what the proposals seek to do is to streamline the current process and clarify the current process so it is on a par with the same process that we use with the UK. I stand to be corrected by His Majesty's Comptroller but that is my general understanding. I do not think there are any other points that I need to refer to.

3945 **The Deputy Bailiff:** Thank you. Members of the Chamber you have six propositions broken down, 1 is 1 and 1(a) but the total is six and will ask the States' Greffier to open the voting on all of them unless somebody is going to say that they should be dealt with separately? No. States' Greffier will you put the vote on the basis that it is all of them being dealt with at the same time please.

There was a recorded vote.

3950

Propositions 1-6

Carried – Pour 37, Contre 0, Ne vote pas 0, Did not vote 3, Absent 0

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|-----------------------|---------------|--------------------|--------------------------|---------------|
| Aldwell, Sue | None | None | Dudley-Owen, Andrea | None |
| Blin, Chris | | | Helyar, Mark | |
| Brouard, Al | | | Kazantseva-Miller, Sasha | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dyke, John | | | | |
| Fairclough, Simon | | | | |
| Falla, Steve | | | | |
| Ferbrache, Peter | | | | |
| Gabriel, Adrian | | | | |
| Gollop, John | | | | |
| Haskins, Sam | | | | |
| Inder, Neil | | | | |
| Le Tissier, Chris | | | | |
| Le Tocq, Jonathan | | | | |
| Leadbeater, Marc | | | | |
| Mahoney, David | | | | |
| Matthews, Aidan | | | | |
| McKenna, Liam | | | | |
| Meerveld, Carl | | | | |
| Moakes, Nick | | | | |
| Murray, Bob | | | | |
| Oliver, Victoria | | | | |
| Parkinson, Charles | | | | |
| Prow, Robert | | | | |
| Queripel, Lester | | | | |
| Roberts, Steve | | | | |
| Roffey, Peter | | | | |
| Snowdon, Alexander | | | | |
| Soulsby, Heidi | | | | |
| St Pier, Gavin | | | | |

Taylor, Andrew
Trott, Lyndon
Vermeulen, Simon

I therefore declare that the propositions are passed.

3955

The Deputy Bailiff: Final item, if I can say that.

POLICY & RESOURCES COMMITTEE

12. Schedule for Future States' Business – Proposition carried

The States are asked to decide:-

Whether, after consideration of the attached Schedule for Future States' Business, which sets out items for consideration at the Ordinary States Meeting on 21 st June 2023, they are of the opinion to approve the Schedule.

The Deputy Bailiff: Deputy Ferbrache.

3960

Deputy Ferbrache: Nothing to add. *(Laughter)*

The Deputy Bailiff: The vote is already sitting there in front of you on your screens hopefully and I will ask the States' Greffier to open the voting on the Schedule for Future States' Business.

There was a recorded vote.

3965

Carried – Pour 36, Contre 0, Ne vote pas 1, Did not vote 3, Absent 0

| Pour | Contre | Ne vote pas | Did not vote | Absent |
|-----------------------|---------------|--------------------|--------------------------|---------------|
| Aldwell, Sue | None | Gollop, John | Dudley-Owen, Andrea | None |
| Blin, Chris | | | Helyar, Mark | |
| Brouard, Al | | | Kazantseva-Miller, Sasha | |
| Burford, Yvonne | | | | |
| Bury, Tina | | | | |
| Cameron, Andy | | | | |
| De Lisle, David | | | | |
| De Sausmarez, Lindsay | | | | |
| Dyke, John | | | | |
| Fairclough, Simon | | | | |
| Falla, Steve | | | | |
| Ferbrache, Peter | | | | |
| Gabriel, Adrian | | | | |
| Haskins, Sam | | | | |
| Inder, Neil | | | | |
| Le Tissier, Chris | | | | |
| Le Tocq, Jonathan | | | | |
| Leadbeater, Marc | | | | |
| Mahoney, David | | | | |
| Matthews, Aidan | | | | |
| McKenna, Liam | | | | |
| Meerveld, Carl | | | | |
| Moakes, Nick | | | | |
| Murray, Bob | | | | |
| Oliver, Victoria | | | | |
| Parkinson, Charles | | | | |

Prow, Robert
Queripel, Lester
Roberts, Steve
Roffey, Peter
Snowdon, Alexander
Soulsby, Heidi
St Pier, Gavin
Taylor, Andrew
Trott, Lyndon
Vermeulen, Simon

The Deputy Bailiff: I therefore declare the Proposition is passed. States' Greffier, I think that is the end of the States' business for this session. Would you kindly close the States please.

The Assembly closed at 5.40 p.m.