



SCRUTINY COMMITTEE

THE STATES OF GUERNSEY



Monitoring States Resolutions

April 2012

DISCUSSION DOCUMENT

This consultation document will be sent for specific comment to:

The Bailiff
H.M Procureur
H.M Greffier
Policy Council
Treasury and Resources Department
Commerce and Employment Department
Culture and Leisure Department
Education Department
Environment Department
Health and Social Services Department
Housing Department
Home Department
Public Services Department
Social Security Department
States Assembly and Constitution Committee
Legislation Select Committee
Public Accounts Committee
People's Deputies

This report is also being made available on-line at www.gov.gg/scrutinycommittee and in hard copy at the Reception at Sir Charles Frossard House. The Committee would welcome comments and feedback from members of the public.

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Executive Summary

Introduction

- 1.1 A **‘States resolution’** is an important part of the democratic process. It is a decision made by the elected representatives who comprise the States of Deliberation¹. A States resolution is an expression of the political will of the States.
- 1.2 States resolutions can therefore be used to hold departments² to account. However, to do so they must be clear, unambiguous and accessible to all interested parties within and outside the States. The Scrutiny Committee has found that States resolutions are frequently falling short of these criteria. In particular, there has not been any clear mechanism for ensuring that they are implemented.
- 1.3 This report sets out to make recommendations that, if implemented, would make States resolutions more robust and enable the States of Deliberation, its delegated scrutiny functions and the wider public, to hold departments to account for the implementation of States’ decisions.

Drafting of propositions

- 1.4 The Committee recommends that departments should be responsible for the drafting of propositions and that this ceases to be a function provided by Policy Council staff. Departments should refer directly to the propositions in the report conclusions and avoid unnecessary repetition of the recommendations within the report.

Recording of resolutions

- 1.5 For the sake of transparency and to establish a clear audit trail in identifying how decisions have been reached, the Committee is recommending that all amendments and sursis – successful and unsuccessful - should be recorded in the published resolutions.

¹ The States of Deliberation is Guernsey’s parliament and government, commonly referred to as ‘the States’

² When reference is made to ‘departments’ throughout this report, it is referring generically to all Departments and Committees of the States of Guernsey, including the Policy Council

Performance in the implementation of resolutions

- 1.6 Some resolutions have not been progressed for some time and the departments responsible have not reported back to the States to explain the position or seek to rescind them, if appropriate. There are also examples of resolutions being superseded but not rescinded (albeit there may be valid reasons for this) by later decisions of the States. Where circumstances have changed or resolutions have been superseded there should be a clear audit trail in order to provide clarity and closure.
- 1.7 For the majority of resolutions, those responsible for their implementation have set out to implement them in good faith. However, it was clear from the response to the Committee's questions to departments in 2010 that not all, if any, departments, at that time, kept a record of outstanding resolutions and their performance in fulfilling them. The Committee's interest served to correct this position and bring some forgotten resolutions to light.
- 1.8 The onus should be on department boards to ensure that they manage the implementation of directions of the States which engage their mandates. Upon the constitution of a board, it should be provided with a list of extant resolutions for which it is responsible, an update on their status and a plan of action for implementation. Boards should receive regular monitoring reports (i.e. every six months) on progress.
- 1.9 While monitoring performance against States directions is consistent with the Committee's mandate and the Committee is proposing that this would continue to form part of the future scrutiny agenda, it would be insufficient to view this as purely a scrutiny activity. The Committee believes that action against resolutions should be updated regularly to ensure interested parties can access up-to-date information on the status of the resolution.

Public database of resolutions

- 1.10 The Committee is therefore proposing the creation of a public database to demonstrate performance in the implementation of resolutions. This is intended to assist:
- The States of Deliberation in assessing the performance of departments in implementing their directions;
 - The Scrutiny Committee in fulfilling its mandate to assess the performance of departments on behalf of the States of Deliberation;
 - States departments in keeping track of and giving appropriate priority to directions from the States of Deliberation;
 - Members of the public and States Members in keeping track of progress on particular issues of interest.

- 1.11 The Committee has included the proposed specification for this database in this report and would welcome comments and feedback from departments, individual States Members and members of the public. A consultation response form is included as Appendix 5.

Inclusion in department mandates

- 1.12 In recognition of their importance (as the decisions made by the Island's parliament and government) the Committee considers that resolutions should be strengthened with an obligation for departments to ensure that they are implemented. The Committee is therefore recommending the inclusion of a statement in department mandates to reflect this and give resolutions, and the accountability for them, more weight.

Code of practice for propositions and resolutions

- 1.13 On a number of occasions the Committee has raised concerns about a lack of clarity in the wording of propositions in States Reports. Unclear propositions lead to unclear resolutions.
- 1.14 The Committee is proposing the development of a Code of Practice governing propositions and resolutions that would set out clear guidelines for how these should be formulated, recorded and performance monitored. A demonstration of what such a Code might include is set out in Appendix 1.

Propositions to the States should seek to follow SMART criteria

- 1.15 SMART is a well-known mnemonic used for setting objectives that could usefully be applied to States resolutions.

Specific	It should be easy to understand the purpose of a resolution without reference to other sources, including the content of the report. The wording of resolutions on a specific matter should stand alone as an easily understood and comprehensive record of the decisions taken by the States which will remain valid despite the passage of time.
Measurable	It should be clear what the expected outcomes are from any resolution – and therefore possible to know when they have been achieved and to be able to measure progress along the way.

Attainable	Resolutions need to be realistic and attainable. The States Report should contain the strategy or action plan for how it is intended to achieve the propositions. It should be clear who is responsible for their attainment.
Relevant	In order to be meaningful, resolutions should set a realistic target. They should be able to be resourced and have taken into account relevant stakeholder views. There needs to be a clear commitment to their implementation.
Timely	Resolutions should have a time-frame for completion. This is to ensure the resolution remains relevant; to provide a target to incentivise action; and to provide a measure of success. It should not be a stick to beat departments with for failure: it is to set realistic and shared expectations and give a sense of priority.

Resolutions requiring legislation

- 1.16 The Committee felt that the legislative process warranted particular mention. Where legislation is required to implement resolutions, delays and complications can occur.
- 1.17 The proposed public database of resolutions provides an opportunity to publish an update on which parts of approved legislation have been implemented and which remain outstanding and why.

Next Steps

- 1.18 The Committee is inviting comments on this discussion document (a form is provided as Appendix 5).
- 1.19 The Committee recommends that its successor (following the 2012 elections) should implement the proposed public database of States resolutions, taking into account any feedback received in response to this report.
- 1.20 The Committee further recommends that its successor should report to the States of Deliberation with an update on the performance of departments in implementing resolutions by the end of 2013 (potentially as part of the States Strategic Plan).

2. Introduction

What are States resolutions?

- 2.1 Put simply, States resolutions are the decisions made by the States of Deliberation. These decisions are to approve or reject propositions on issues of:
- constitution;
 - procedures;
 - policy;
 - legislation;
 - funding;
 - elections to positions on States Departments and Committees; and
 - elections or appointments to non-States bodies.
- 2.2 Resolutions do not have any legal status but are “*simply an expression of the will of the democratically elected parliamentary assembly*”³.

What is the purpose of this review?

- 2.3 The States of Deliberation are the parliament and government. The authority of States’ departments is entirely derived from the States of Deliberation delegating responsibilities by virtue of States resolutions. Department mandates are determined by States resolution and when the States makes a decision for a department to do something beyond that stated in its original mandate, it is, effectively, a temporary amendment to, or rather an extension of, the mandate itself for the fulfilment of the resolution.
- 2.4 States resolutions can therefore be used to hold departments to account. However, to do so they must be clear, unambiguous and accessible to all interested parties within and outside the States. The Scrutiny Committee has found that States resolutions are frequently falling short of these criteria. In particular, there has not been any clear mechanism for ensuring that they are implemented.

³ Her Majesty’s Procureur, Howard Roberts, on 11th January 2010, speaking at the Inquiry into Industrial Action by Airport Firefighters, Royal Court House, St Peter Port [Transcript: Tribunal 110110 Day 4 Final v2.doc 20]

- 2.5 Clear and accountable decision-making is at the heart of good governance⁴ and the recommendations contained in this report are in line with the commitment the States of Deliberation have made to good governance principles⁵.
- 2.6 Following consideration of the Joint Committees report on governance⁶, the States gave in-principle approval to the Scrutiny Committee making proposals for the introduction of mechanisms which would enable the States of Deliberation, their scrutiny committees and the public to monitor more easily progress against States resolutions (resolution jj). This report explains how the obligation on the Scrutiny Committee for the implementation of this resolution can be fulfilled.
- 2.7 This report sets out to make recommendations that, if implemented, would make States resolutions more robust and to enable the States of Deliberation, its delegated scrutiny functions and the wider public, to hold departments to account for the implementation of States' decisions.

How are States resolutions made?

- 2.8 The majority of resolutions arise following consideration of a States Report. A department, in accordance with its mandate, makes recommendations to the States of Deliberation through the submission of a States Report to the Billet d'État (the published States' monthly agenda and associated papers). These recommendations are repeated as propositions at the end of the States Report, which are subject to a formal vote, the result of which forms the resolution.
- 2.9 Individual States Members can propose to **introduce, change or delay proposals** through the following means:

Amendments	A States Member is able to propose (with a seconder to the proposal) a change to a proposition presented to the States. This is known as an amendment and is laid before the States in accordance with Rule 13 of the Rules of Procedure of the States of Deliberation ⁷ .
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⁴ "Governance" means: the process of decision-making and the process by which decisions are implemented (or not implemented) *United Nations Economic and Social Commission for Asia and the Pacific* <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>

⁵ At the March, 2011 meeting, following consideration of a report by the PAC, the States of Deliberation resolved, inter alia, to adopt six Core Principles of good governance, as determined by the UK Independent Commission on Good Governance in Public Services (Billet d'État IV March 2011 *Governance in the States of Guernsey*).

⁶ 2012 March 6th, Billet d'État V Volume 3: Public Accounts Committee, Scrutiny Committee, States Assembly and Constitution Committee *Improving Governance in The States of Guernsey*, p. 1449

⁷ The *Rules of Procedure of the States of Deliberation* may be accessed at the following link: <http://www.gov.gg/CHttpHandler.ashx?id=4668&p=0>

Sursis	A sursis is a proposal made by a States Member (with a seconder to the proposal) to delay debate on a report to a later date. A ‘sursis motivé’ is when a States Member requests debate is delayed until after certain, defined action is taken. A sursis is laid before the States in accordance with Rule 13 of the Rules of Procedure of the States of Deliberation.
Requêtes	A Requête is a petition or ‘request’ for debate of a certain matter placed by seven plus Members of the States of Deliberation. A requête is laid before the States in accordance with Rule 17 of the Rules of Procedure of the States of Deliberation.

Are recommendations and propositions the same thing?

- 2.10 As noted in 2.8, the department submitting the States Report makes recommendations that are repeated as propositions at the end of the report, which are then subject to a formal vote. Sometimes there are variations between the wording of recommendations and propositions – predominantly just in construction of a sentence for consistency with other propositions and so that it is capable of being put to a vote, or to avoid repetition. For example, a recommendation was worded thus⁸:

6. Recommendation

6.1 In accordance with the provisions of the Land Planning and Development (Guernsey) Law, 2005, the Policy Council recommends that the States appoint:

(a) Mrs. Linda Wride to sit as a Professional Member of the Planning Panel until 1 March 2014; and

(b) Mr. Jonathan King to sit as a Professional Member of the Planning Panel until 1 March 2014.

The resulting proposition was worded as follows:

The States are asked to decide:-

V.- Whether, after consideration of the Report dated 14th November, 2011, of the Policy Council, they are of the opinion:-

1. To appoint, in accordance with the provisions of the Land Planning and Development (Guernsey) Law, 2005 Mrs. Linda Wride to sit as a Professional Member of the Planning Panel until 1 March 2014.

⁸ 2012, January 25th, Billet d’Etat III, Policy Council, *The Planning Panel – New Professional Members*

- | |
|---|
| <p>2. To appoint, in accordance with the provisions of the Land Planning and Development (Guernsey) Law, 2005 Mr. Jonathan King to sit as a Professional Member of the Planning Panel until 1 March 2014.</p> |
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2.11 The Treasury and Resources Department's recommendation to enact legislation containing nine specified features became condensed into two propositions⁹:

The States are asked to decide:-

IX.- Whether, after consideration of the Report dated 10th January 2012, of the Treasury and Resources Department, they are of the opinion:-

1. To agree that legislation is enacted in order to amend the Income Tax (Guernsey) Law, 1975 to provide for approval of a new type of pension arrangement with the features **set out in this report**¹⁰.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

2.12 Departments should refer directly to the propositions in the report conclusions. There would therefore be no need to reiterate recommendations within the report and duplication could be avoided.

2.13 The Government Business team (Policy Council) is responsible for the publication of the Billet on behalf of the Presiding Officer and formulates the propositions from the report recommendations.

2.14 Changes in wording, no matter how insignificant, have the potential to change interpretation and meaning. The Committee recommends that responsibility for drafting propositions should rest with departments and that this ceases to be a function provided by Policy Council staff. It would therefore remain the responsibility of the department to draft and agree the wording of the propositions, subject to advice from the Government Business team or the Law Officers on making these consistent with other reports and suitable for putting to a vote.

2.15 The Policy Council has a role to comment on departmental States Reports¹¹ and delay reports until the next meeting of the States when, in the opinion of the Policy Council, the proposals do not comply with the corporate policy of the States.

⁹ 2012 March 6th, Billet d'État V, Treasury and Resources Department, *Amendments to Income Tax Legislation relating to pension schemes – establishment of new category of scheme*

¹⁰ The use of the wording "as set out in this report" is considered later in this report 4.6 – 4.14

- 2.16 Departments should allow plenty of time for drafting and appropriate consultation ahead of submitting the report for inclusion in the Billet d'État. Departments may risk a delay to their report being included in the Billet d'État if they have not provided robust propositions.
- 2.17 If the Policy Council does not feel that a report's propositions are sufficiently robust then it should engage its authority to advise the States accordingly in its comments attached to the report.

How are resolutions recorded?

- 2.18 Resolutions are recorded as either:
- i. To approve as per the wording in the propositions;
 - ii. To approve amended propositions; or
 - iii. To negative the propositions.
- 2.19 Resolutions of the States of Deliberation are published by the Greffe in hard copy and on the States of Guernsey website as a downloadable document (pdf). An example of the format of how States resolutions are recorded is shown in Appendix 2.

Amendments

- 2.20 At present, the published documents containing States resolutions record only the final decision, incorporating any approved amendments, so it is not clear how the original proposition has been changed without reference to the States Report. It is also not known who proposed the amendment. Unsuccessful amendments are not recorded at all. For the sake of transparency and a clear audit trail in identifying how decisions have been reached, the Committee is recommending that all amendments – successful and unsuccessful - should be recorded alongside the published resolutions.

Sursis

- 2.21 Deputy P L Gillson placed a sursis (seconded by Deputy C A Steere) to the States Assembly and Constitution Committee's *Island-Wide Voting – 2nd Report*, which was approved by a majority of the States of Deliberation (June 2010, Billet d'État XV).

¹¹ As set out in Rule 2 (1)(a) of the States' Rules of Procedure

The subsequent resolution was published as follows and is a typical example of how sursis are recorded:

**IN THE STATES OF THE ISLAND OF GUERNSEY
ON THE 1ST DAY OF JULY 2010**

**(Meeting adjourned from 30th June, 2010)
The States resolved as follows concerning Billet d'État No XV
dated 11th June 2010**

**STATES ASSEMBLY AND CONSTITUTION COMMITTEE
ISLAND-WIDE VOTING – 2nd REPORT**

VII. - After consideration of the Report dated 7th May, 2010, of the States Assembly and Constitution Committee,
To sursis the Article, and direct the States Assembly and Constitution Committee to report back to the States of Deliberation as soon as practicable with a broader report containing-

- (a) detailed consideration of the options for reducing the number of People's Deputies in the States of Deliberation from 45 to (i) 40, (ii) 35 and (iii) any other number of Deputies the Committee considers would be appropriate;
- (b) a detailed analysis of all the options for the introduction of Island-wide voting, to include not only the options set out in the Committee's 2nd Report but also those that have been introduced through the amendments to the Propositions thereon that have been circulated prior to this Meeting of the States of Deliberation and any variants thereon that the Committee considers should be covered, in each case taking into account the possible modifications of the number of People's Deputies in accordance with paragraph (a); and
- (c) details of all the operational and logistical issues that would arise and require amendment in respect of every option under consideration in accordance with paragraphs (a) and (b) regarding the elections for, and constitution of, the States of Deliberation which will take effect from the General Election to be held in 2012 and, where applicable, in respect of any partial election of the Members of the States of Deliberation preceding or following that General Election.

2.22 In February 2012, Deputy Trott proposed a sursis to the Parochial Ecclesiastical Rates Review Committee's *The Repair and Maintenance of Parochial Church Property Report* (Billet d'État IV, Vol 2). The sursis proposal was subject to a long debate and recorded vote, where the proposal lost by one vote¹².

¹² Vote Number 2012/26: LOST Pour: 22 Contre: 23 Abstained: 0 Not Present: 2

- 2.23 The States of Deliberation took the decision to reject the proposed sursis however this is not reflected in the published resolutions. The only evidence that the sursis was debated and rejected is due to a recorded vote having been taken on the proposal. In future, ‘Hansard’ will show debate and decisions of the States of Deliberation on all matters discussed in the States. However, for the sake of transparency and a clear audit trail in identifying how decisions have been reached, the Committee is proposing that all sursis – successful and unsuccessful - should be recorded alongside the published resolutions.

Are resolutions being implemented?

- 2.24 At the time of writing there is no mechanism in place to demonstrate whether resolutions have been implemented in part or in full.
- 2.25 The Committee wrote to all departments to request details of all outstanding actions arising from States resolutions for which they have political responsibility. The Committee received updates on progress as at December 2010 on extant resolutions from 2000 onwards.
- 2.26 The Committee found several examples of outstanding resolutions that had not been progressed for some time and where the department responsible had not reported back to the States to explain the position or seek to rescind them, if appropriate. There are also examples of resolutions being superseded but not rescinded (albeit there may be valid reasons for this) by later decisions of the States.
- 2.27 For example, the Commerce and Employment Department was directed on 1st February 2007 “...to investigate and report back on the role and mechanisms for setting up an economic regulator as set out in paragraph 14.13.”¹³ However, the role as directed was associated with setting a gate fee for a mass burn incinerator, proposals for which the States have since rejected.
- 2.28 In March 2004 the States determined: “To direct that the Housing Department investigate and report back to the States, as soon as possible, with proposals for an Assisted Purchase scheme along the lines of that set out in paragraphs 25 - 31 and Appendix 3 of that Report, having first considered the relationship between such a scheme and the existing States Home Loans scheme.”¹⁴

¹³ 2007 31st January, Billet d’État I Environment Department Waste Disposal

¹⁴ 2004 March, Billet d’État III, *Schemes for the Provision of Affordable Housing: Operational and Funding Arrangements*

- 2.29 The Department advised the Committee¹⁵ that the Partial Ownership Scheme was introduced in 2007 and the Department considers it is now an established and popular means by which people, who would otherwise not be able to do so, can get a foot on the property ladder. The Department has not pursued the Assisted Purchase proposals, whereby it was intended that the purchaser would be able to receive an Assisted Purchase loan secured against the property and provided by a housing association, in order to acquire the full freehold title to a property. The Department stated the reasons for this are:
- (i) Establishing the Partial Ownership Scheme was resource hungry;
 - (ii) The immediate success of the Partial Ownership Scheme cast doubt on the need for a multiplicity of schemes all designed to assist people into home ownership;
 - (iii) In 2010, following consideration of the report on the Corporate Housing Programme¹⁶, the States Homes Loans Scheme was closed to new borrowers for reasons that the Department considers would apply to the introduction of an Assisted Purchase scheme.
- 2.30 A further example of an out of date resolution was provided by the Environment Department. It considered the resolution of March 2006¹⁷ directing it to report back to the States on proposals for the introduction of compulsory emission and noise tests for vehicles had been superseded by the resolution of December 2007 (Billet d'État XXVI) on the *Requête on Vehicle Exhaust Noise* which instructed the Home Department to report back to the States as soon as possible with detailed recommendations.
- 2.31 Where circumstances have changed or resolutions have been superseded there should be a clear audit trail in order to provide clarity and closure.
- 2.32 For the majority of resolutions, those responsible for their implementation have set out to implement them in good faith. However, it was clear from the response to the Committee's questions to departments in 2010 that not all, if any, departments, at that time, kept a record of outstanding resolutions and their performance in fulfilling them. The Committee's interest served to correct this position and bring some forgotten resolutions to light.

¹⁵ As at August 2010

¹⁶ 2010 26 May, Billet d'État XI, States Housing Department *Corporate Housing Programme - Progress against the 2009 Action Plans and Future Strategy*

¹⁷ 2006 Billet d'État VII Environment Department - *Road Transport Strategy*, p. 593

- 2.33 The onus should be on department boards or committees to ensure that they manage the implementation of directions of the States which engage their mandates. The Committee is therefore proposing that upon the constitution of a board, it should be provided with a list of extant resolutions for which it is responsible, an update on their status and a plan of action for implementation. Boards should receive regular monitoring reports (i.e. every six months) on progress.
- 2.34 Failure to implement resolutions, or delays in their implementation, has potentially adverse consequences, which can include costs incurred; opportunities missed; out of date practices continuing; and a loss in the credibility of the States. At the very least it undermines the authority of the States of Deliberation.
- 2.35 The Committee carrying out an audit of progress against States resolutions is time consuming and would quickly go out of date. While monitoring performance against States directions is consistent with the Committee's mandate and the Committee is proposing that this would continue to form part of the future scrutiny agenda, it would be insufficient to view this as purely a scrutiny activity. The Committee believes that action against resolutions should be updated regularly to ensure interested parties can access up-to-date information on the status of the resolution.
- 2.36 The Committee is therefore proposing the creation of a public database to demonstrate performance in the implementation of resolutions.

3. Proposed Public Database

Specification

- 3.1 The Committee has drawn up a specification for a searchable on-line database of resolutions. This is intended to assist and enable:
- The States of Deliberation in assessing the performance of departments in implementing their directions;
 - The Scrutiny Committee in fulfilling its mandate to assess the performance of departments and committees on behalf of the States of Deliberation;
 - States departments in keeping track of and giving appropriate priority to directions from the States of Deliberation;
 - Members of the public and States Members in keeping track of progress on particular issues of interest.
- 3.2 The proposed format for the database is included as Appendix 3. This would include a breakdown by resolution with linked references to the relevant Billet d'État and proposer of the resolution. Most importantly, it would include a record of which body (or bodies) is responsible for the implementation of each resolution and would provide a 'status' to indicate the extent to which it has been achieved, with a progress report (activities undertaken) where appropriate.
- 3.3 The Committee is proposing that departments would be responsible for updating the status of resolutions for which they are responsible and providing activities reports against outstanding recommendations (see section D in Appendix 3).
- 3.4 The Scrutiny Committee would ensure consistency in the published record of progress made in the implementation of resolutions and monitor overall performance.
- 3.5 The Committee could then report to the States of Deliberation periodically (say annually) identifying resolutions on which action has been completed and those that remain outstanding with an appropriate commentary from the relevant department to explain progress made. This would provide departments with an opportunity to apply to the States to rescind resolutions felt no longer to be fit for purpose and for the States to reaffirm resolutions outstanding where there has been a delay in implementation. This report might form part of the performance monitoring in association with the States Strategic Plan.

A pragmatic approach

- 3.6 Some resolutions are easier to implement than others. Not all resolutions take into account the resource implications of implementation¹⁸ and in any case more detailed consideration and efforts to implement decisions may identify unexpected obstacles or alternative solutions. The Committee would take a pragmatic view that a department returning to the States for clarity and possibly change to a previously agreed direction is not a performance failure; but complete inaction on a resolution *is* a failure. Good performance is signified by a demonstrable ‘good faith’ in seeking to implement the will of the States.
- 3.7 However, the Committee recognises that the will of the States is too frequently unclear and is open to different interpretations, due to the issues that the remainder of this report sets out to address. In future it is hoped that resolutions will be much more robust and give clearer directions to departments for their fulfilment. For historical resolutions that have not yet been implemented, the Committee considers that a pragmatic approach will be required by the Committee, in liaison with the departments responsible, for setting reasonable expectations for the reporting and monitoring of progress. For example, in determining a timescale for implementation where none is indicated in the direction from the States.
- 3.8 Populating progress reports against historical resolutions as well as keeping on top of new resolutions will potentially be quite labour intensive. While all future decisions of the States will be recorded in the database (once the database is up and running); it is proposed that, as a general rule, for decisions of the States made prior to the creation of the database only extant resolutions from 2004 onwards will be recorded. Activities reports will be prioritised for extant resolutions where one or more of the following criteria apply:
- They are over five years old;
 - They are subject to a request for information on progress from the public;
 - They are identified as priorities by the departments responsible and/or the Policy Council;
 - They are identified by the Scrutiny Committee as being of particular importance due to:
 - Their relevance to current investigations of the scrutiny committees; or

¹⁸ Notwithstanding Rule 15(2) being introduced in July 2010 which requires that any States Report, Requête, Amendment, Sursis or other motion before the States either addresses its expenditure implications or does not take effect until they have been resolved.

- Their relevance to issues identified as corporate priorities - usually through the States Strategic Plan.

3.9 Going forward, an activities report would only usually be required where a minimum of four months has passed since the approval of the resolution.

4. Strengthening Resolutions

Clarifying authority and obligation

- 4.1 Resolutions are not expressed in law and the Committee is not proposing that this should change. However, in recognition of their importance (as the decisions made by the Island's parliament and government) the Committee does consider that they should be strengthened with an obligation for departments to ensure that they are implemented. The Committee is therefore recommending the inclusion of a statement in department mandates to reflect this and give resolutions, and the accountability for them, more weight.
- 4.2 The Committee is proposing a Code of Practice be developed, governing propositions and resolutions, which would set out clear guidelines for how these should be formulated, recorded and performance monitored. A demonstration of what such a Code might include is set out in Appendix 1.
- 4.3 This Code could be stand-alone, but it might be appropriate to include these guidelines governing States resolutions within the Code of Operational Governance and associated guidance proposed by the Joint Committees in their report of March 2012, and approved in-principle by the States (resolutions ss and tt).

Wording of propositions

- 4.4 On a number of occasions the Committee has raised concerns about a lack of clarity in the wording of propositions in States Reports. Unclear propositions lead to unclear resolutions.
- 4.5 SMART is a well-known mnemonic used for setting objectives that could usefully be applied to States resolutions. While the Committee would not advocate any kind of rigid template for how to write propositions, it would recommend departments think carefully about what a report and its recommendations are intended to achieve and to use SMART as a guide for making these Specific, Measurable, Attainable, Relevant and Timely.



Specific

Is the resolution a specific goal that is clear and unambiguous?

It should be easy to understand the purpose of a resolution without reference to other sources, including the content of the report. The wording of resolutions on a specific matter should stand alone as an easily understood and comprehensive record of the decisions taken by the States which will remain valid despite the passage of time.

“As set out in the report...”

- 4.6 It has become commonplace for resolutions to make reference to a relevant section of the report instead of stating in full what is being proposed. Phrases such as “*set out in paragraph ...*” or “*as set out in that Report*” will have validity within the context of the States Report itself and also, possibly, within a short period after the matter has been considered during which the context can be recalled. However, in time, such wording ceases to have that immediate connection and serves only to obscure whatever it was that the States resolved.
- 4.7 For example, on 26th October, 2006, the Public Sector Remuneration Committee (PSRC) presented a States Report (Billet d'État XVII) entitled ‘*Mechanism for Determining Public Sector Pay in Guernsey*’ and the States resolved, inter alia:
- “That the Committee shall improve consultation with employing departments by adopting the measures set out in paragraph 10.18 of that Report.”*
- 4.8 Similarly, on 2nd November, 2007 PSRC presented a States Report (Billet d'État XXII) entitled ‘*Review of Public Sector Pension Schemes*’ and the States resolved:
- “To endorse the agreement reached with all the representative organisations on revised arrangements, appropriate for current circumstances, as set out in that Report.”*
- 4.9 In both of the above examples, it is doubtful if anyone not directly involved in the processes will now have any idea what was intended or implemented by “*adopting the measures*” or the terms of “*the agreement reached*”.
- 4.10 The Committee considers that such wording should be strongly discouraged. Instead, propositions should set out, even if only in summary form, in which case they should be cross-referenced to the original Report, the relevant elements of the particular

decision being made. There may be exceptions to the rule where a particularly complex matter has been considered.

- 4.11 In support of the above finding, the States Assembly and Constitution Committee (SACC) wrote to all Departments and Committees on 5th July 2010 regarding the use of the phrase *“as set out in the report”* in propositions contained in States Reports. SACC had accepted that whilst there were circumstances where such wording was appropriate (e.g. in a proposition for the consolidation of various pieces of legislation), there had been reports which included the phrase *“when there are perhaps ten or fewer discrete issues upon which a States resolution is required and which could have been set out individually in the propositions”*.
- 4.12 SACC had therefore written to all Departments and Committees requesting they frame recommendations *“so as to be intelligible without reference to the general body of the report”*. It stated this was important for States Members, who need to be clear as to what propositions and amendments they were being asked to vote on, but also for those implementing the resolutions e.g. the legislative drafting team.
- 4.13 Since September 2010, which is when it might be expected States Reports should have started to reflect the above guidance from the SACC, 50 propositions over 27 separate reports sought approval for measures “as set out in” the body of the report.
- 4.14 The Committee considers that discouraging such wording as “as set out in this report” would be usefully included in a Code of Practice setting out criteria for the formulation of propositions to the States.

To negative a negative

- 4.15 Departments should avoid negative statements in a proposition as this tends to confuse debate and lead to confusing resolutions, as this example demonstrates:

**IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 28th DAY OF MAY,
2009**

The States resolved as follows concerning Billet d’État No XIII dated 8th May 2009

**PUBLIC SERVICES DEPARTMENT
KERBSIDE COLLECTION OF RECYCLABLES**

VI.- After consideration of the Report dated 27th March, 2009, of the Public Services
Department:-

**1. TO NEGATIVE THE PROPOSITION not to pursue household kerbside recycling
collections, in any form.**

2. TO NEGATIVE THE PROPOSITION to endorse the other measures and work identified.



Measurable

How will I know
when the resolution
has been
accomplished?

It should be clear what the expected outcomes are from any resolution – and therefore possible to know when they have been achieved and to be able to measure progress along the way.

“To note the report”

- 4.16 Simply noting the report is contrary to the maxim that resolutions should have a clear outcome and be measurable, given that the Rules of Procedure of the States of Deliberation say “*a Proposition the effect of which is to note the report, shall be construed as a neutral motion, neither implying assent or disapproval of, the contents of the report concerned*”. Therefore there is no discernible outcome to the resolution or anything to measure. The States Report is an end in itself with no further action required.
- 4.17 Such reports would logically be better placed as an appendix to the Billet d’État as there is no requirement to make a decision. States Members would have the opportunity to move the report to the main agenda for discussion. However, the motion to debate an appendix report is governed by Rule 21 of the Rules of Procedure, which restricts the proposition as “To take note of the Report” and no Member can propose a sursis of the debate or amendment of the proposition.
- 4.18 Departments often use a proposition to ‘note the report’ in conjunction with Rule 12(4) of the Rules of Procedure, which by convention is used to gain acceptance in principle for particular proposals in lieu of a ‘green paper’ stage of reports. Under this Rule, the proposals should concern ‘general policy’ and cannot be amended by the States of Deliberation.
- 4.19 As recently recognised in the Joint Committees’ report on governance, the value of a proposition ‘to note’ a report is extremely limited in enabling departments to establish States members’ views, leading to the following recommendation:

“The Joint Committees support the suggestion of the Policy Council in a letter to the States Assembly and Constitution Committee that the latter should present proposals

for the revision of Rule 12 (4) to enable Departments and Committees to obtain a clearer direction from the States in progressing policy matters, whilst retaining flexibility to make adjustments to detailed proposals at a subsequent date."¹⁹

- 4.20 By way of example the Social Security Department (SSD) and the Housing Department presented a joint report on the *Future of Supplementary Benefit and Rent Rebate Schemes* to the States in July 2011 (Billet d'État XIII). This was presented as a 'green paper' in which the SSD asked the States to note its intention "*to apply an above-RPI increase to the benefit limitation for 2012 (to be detailed in the September 2011 uprating report)*". The proposal 'to note' was marginally carried, by 23 votes to 21. When SSD presented its *Benefit and Contribution Rates for 2012* report only two months later (Billet d'État XV September 2011), the proposal was passed by a clear majority, suggesting the previous decision had not been particularly indicative of members' opinions.
- 4.21 The Committee would discourage the use of 'noting a report' and would argue that in most instances it should be possible to identify a more meaningful proposition with the desired outcomes of the report in mind. For example, when the Policy Council presented its *Guiding principles for the development of a population management regime* report in January 2012 (Billet d'État I), it did so in accordance with Rule 12(4) of the Rules of Procedure. The Policy Council made the following proposition to the States of Deliberation:
- "To approve the replacement of the Housing Control and Right to Work Laws with a Population Management regime, based on a system of Permits for Residence and Employment, which determines and manages the circumstances under which people may reside in Guernsey, for what reasons and for how long".*
- 4.22 This was a 'green paper' debate and the detailed implications will be reported back to the States at a later stage. Nevertheless it provides a clear direction of travel.

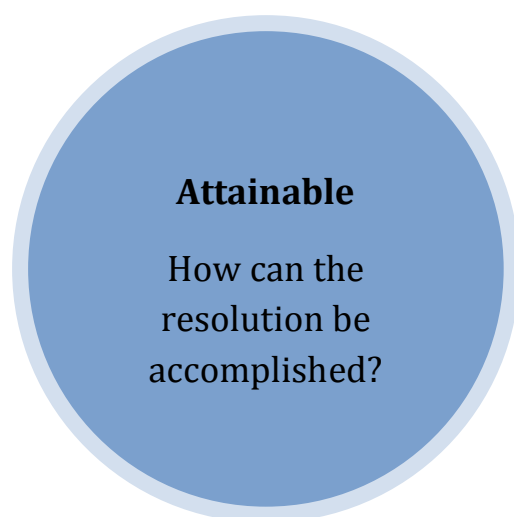
Double of nothing

- 4.23 All departments and committees are guilty of examples of woolly wording in propositions – including the Scrutiny Committee for its part in presenting the Joint Committees' States Report on governance in March 2012. Resolution 1(rr) stated that:

¹⁹2012 March 6th Billet d'État V Volume 3: Public Accounts Committee, Scrutiny Committee, States Assembly and Constitution Committee - Improving Governance in The States of Guernsey, p. 1449

*“The Policy Council should **redouble its efforts** to present proposals for the establishment of appropriate processes for hearing complaints and appeals against States Departments and Committees, having set out the merits or otherwise of a Centralised Tribunal Service and an Ombudsman”¹⁹*

- 4.24 The Committee accepts the point made by members in the debate that this wording does not provide a measurable and meaningful target.



Resolutions need to be realistic and attainable. The States Report should contain the strategy or action plan for how it is intended to achieve the propositions. It should be clear who is responsible for their attainment.

Unclear responsibilities

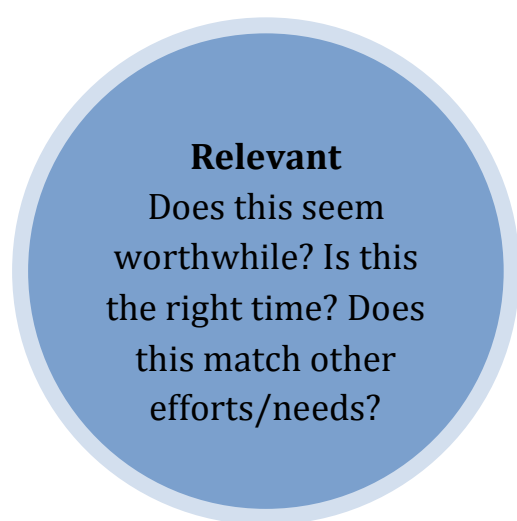
- 4.25 The *Energy Resource Plan* report was presented to the States of Deliberation by the Policy Council and the Commerce and Employment Department and debated in February 2012 (Billet d’État III January 2012). This included a proposition that asked the States:

“To instruct the Departments of the States of Guernsey to take into account the objectives of the Energy Resource Plan when preparing new policies.”

- 4.26 While those departments preparing policies, or likely to prepare policies, relevant to energy objectives might be presumed to know that this refers to them, it is not clear to any objective reader who would be responsible for this. There was no information provided on how this resolution would be accomplished, in what timeframe and how it would contribute to constructing an Energy Resource Plan.
- 4.27 On 2nd February 2007, following consideration of a report on *Palliative Care, Advance Directives, and the Proper Use of Double Effect Medication* (Billet d’État III), the States resolved:

“To note that Report and to agree that the developments proposed in paragraph 73 be implemented within the prioritisation process adopted by the Health and Social Services Department and as available resources allow.”

- 4.28 The agreement that this will be implemented within the Department’s prioritisation process and “*as available resources allow*” sets up two restrictions to the implementation of this resolution and the possibility that it might not happen at all. The Committee considers that implicit delegated authority to a department, in the above instance to the Health and Social Services Department, to progress the matter without further reference to the States should be made explicit. The proposed resolutions database would provide a mechanism to demonstrate implementation in accordance with such directions.



In order to be meaningful, resolutions should set a realistic target. They should be able to be resourced and have taken into account relevant stakeholder views. There needs to be a clear commitment to their implementation.

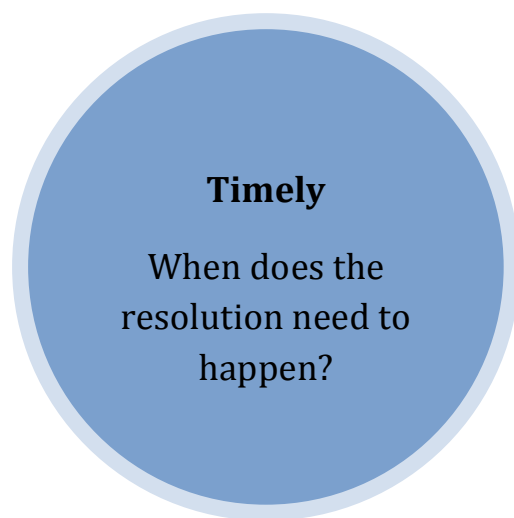
- 4.29 The Public Services Department published its *Recycling Targets* States Report in the December 2010 Billet d’État (XXIV). The Department asked the States:

“To approve the targets for achievement by the end of 2010, namely:

- i. to at least maintain the current out-turn predicted domestic recycling rate of 44% and*
- ii. to achieve a commercial recycling rate of 41.5%.*

- 4.30 In response to a recommendation from the Committee, the Department subsequently placed an amendment to this proposition, through its Minister, requesting that the States instead note these figures as the predicted outturn rates for 2010. This acknowledged that these were meaningless as targets given that it was expected to achieve these figures in the normal course of events and over a very short time-period.
- 4.31 A resolution might not be considered relevant if it would have no material effect on service planning and driving improvement.

- 4.32 An indicator of the relevance of resolutions might be the degree to which they would further the achievement of corporate objectives, as expressed through the States Strategic Plan and prioritisation programmes.



Resolutions should have a time-frame for completion. This is to ensure the resolution remains relevant; to provide a target to incentivise action; and to provide a measure of success. It should not be a stick to beat departments with for failure: it is to set realistic and shared expectations and give a sense of priority.

- 4.33 In its report entitled *Using Consultants Appropriately in the States of Guernsey*, Billet d'État II, February 2008, the Public Accounts Committee proposed:

"To direct the Treasury and Resources Department to consider that Report and to progress the recommendations (as found in section 7) with some urgency."

- 4.34 Whilst the States' approval of this without amendment might imply that members agreed with the 'urgency' of the matter, there is no indication of what this means in reality. Each member's expectation of delivery would no doubt differ; as indeed the Treasury and Resources Department's assignment of priority and timescale for implementation of the resolution might differ from the expectation of the proposing Committee.

- 4.35 In December, 2006 the States resolved to introduce a full Electronic Health and Social Care Record, but with no indication in the resolution of when this might be implemented or completed²⁰. The Department has advised the Committee that although the tender was accepted and the contract concluded shortly after the States debate, it was always intended that the project would be ongoing for a significantly long time, with implementation merging into ongoing system management over the

²⁰ 2006 December 15th, Billet d'État XXI, Health and Social Services Department, *Electronic Health and Social Care Record (EHSCR)*

next 5 years and longer. This is unlikely to accord with States Members' expectations for a reasonable timescale of implementation once a decision has been made where there is no indication that this might be the case.

Verbal commitments

- 4.36 On occasion, usually in response to concerns raised during debate, a representative of a department (usually through the Minister or Chairman), will make verbal commitments that are not necessarily reflected in the report, its propositions, or its resulting resolutions.
- 4.37 For example, in the joint report of the Public Sector Remuneration Committee (PSRC) and Treasury and Resources Department entitled *Review of Public Sector Pension Schemes Etc* (Billet d'État XVII October 2006), there was no explicit resolution directing the former House Committee to review the constitution of the PSRC. However, paragraph 11.9 of the States Report stated that the PSRC would raise the issue with the House Committee and during the debate an undertaking was given to report back before April 2008.
- 4.38 More recently, the Treasury and Resources Minister made a verbal commitment to take the lead in forming a Working Party to consider the funding of long-term care during a debate on a joint report from the Housing Department and Health and Social Services Department entitled *Provision of 'Extra Care' Housing at Maison Maritime and Longue Rue* (Billet d'État VIII, May 2011).
- 4.39 At present, commitments made by States Members in the States of Deliberation, which do not result in a States resolution, can be lost in the absence of a written, independent record. The introduction of Hansard in 2012 will help to rectify that situation. However, the Committee considers that States Reports and resolutions should be stand-alone and, where possible, not rely on arguments made in debate, or indeed outside of the Assembly. Any report presented to the States of Deliberation must contain all the information a States Member would require to make a decision on the presented proposals and commitments made for action should, where possible, be expressed in formal resolutions.

5. Legislation

Resolutions requiring legislation

- 5.1 Many propositions placed in front of the States of Deliberation finish with the final proposition: *“To direct the preparation of such legislation as may be necessary to give effect to their above decision / to give effect to the foregoing”*.
- 5.2 The Committee felt that the legislative process warranted particular mention. Where legislation is required to implement resolutions, delays and complications can occur. The Committee considers that delays in the drafting and implementation of legislation undermine Guernsey’s ability to be a mature, self-governing democracy.

Explanation of propositions

- 5.3 The *Improving Governance in the States of Guernsey* report by the Joint Committees identified the States of Deliberation has often been required to debate and vote upon changes to legislation months or even years after taking the in-principle policy decisions which initially provoked the requirement for those legislative changes. The report stated *‘...Billets d’État, together with the brochure of proposed changes to legislation which usually accompany them, tend not to apprise the Assembly of the reasons that changes to legislation are considered necessary or explain clearly how the proposed changes fit into the context of the legislation overall’*.
- 5.4 The Joint Committees made an in-principle recommendation that proposals to enact, amend or repeal legislation which are put before the States of Deliberation should be accompanied by an explanatory memorandum which sets out in clear and simple terms the effect of the legislation. This was approved by the States at its March 2012 meeting. Once implemented, this measure would provide an audit trail to ensure that the origins of any piece of legislation presented to the States would be clearly identifiable.

Prioritisation of legislative drafting

- 5.5 The Committee is concerned to see the large number of items on which the States have resolved to implement policy initiatives and to direct the preparation of legislation but where action has been delayed due, for example, to the lack of resources for legislative drafting or to issues being subsumed under other workstreams. In some instances, the delay has been for a number of years, for

example, the detailed secondary legislation for animal welfare (since 2003) or the proposals for a new Arbitration Law (since 2004).

- 5.6 The Policy Council has mandated responsibility for coordination of States activities, including “(xvi) *The prioritisation of the States “legislative programme”*”²¹.

Prioritisation of Legislation Working Group

- 5.7 The States noted the establishment of the advisory Prioritisation of Legislation Working Group and the new arrangements for prioritising the drafting of approved legislation as part of the States Strategic Plan debated by the States in 2010. Part of the new arrangement was that any report requiring legislation would contain:
- information justifying the need for legislation;
 - confirmation of how funding will be provided to carry out functions required by the new law;
 - an explanation of the risks and benefits associated with enacting/not enacting the legislation; and
 - the estimated drafting time required to draw it up.
- 5.8 An update from the Working Party was included in the 2011 States Strategic Plan.²² The Working Party prioritised legislation (approved and proposed) into three programmes; Programme 1 of major/significant items aimed to be completed by September 2011; Programme 2 of work in progress expected to be completed by September 2012; and Programme 3, which is work likely to be commenced as work on Programme 2 is completed.
- 5.9 The States Strategic Plan process, through the Working Party, provides departments with the opportunity to review and revalidate legislation awaiting drafting to determine whether it remains relevant. No departments came forward in the 2011 States Strategic Plan with a recommendation that the States should be asked to formally rescind particular resolutions. However, the Policy Council intends to recommend the States, through the 2012 States Strategic Plan report, to rescind any outstanding resolutions requiring legislation that are over five years old, unless departments are able to provide a justification for continuing with them.

²¹ <http://www.gov.gg/CHttpHandler.ashx?id=5392&p=0>

²² Billet d'État XVI, October 2011, p1925

Implementation process

- 5.10 Once a resolution has been approved to direct the preparation of legislation, primary responsibility to progress the matter remains with the relevant Department.
- 5.11 Legislation is often implemented through commencement ordinances after primary legislation has been approved, which further delays it coming into effect, let alone any delay in process through the Ministry of Justice and Privy Council. Appendix 4 illustrates the stages of the legislative process.
- 5.12 For example, the draft *Projet de Loi* entitled *The Mental Health (Bailiwick of Guernsey) Law, 2010* was approved by the States on 28th July 2010 (Billet d'État XVII), the States having originally directed the preparation of legislation on 27th November 2002 (Billet d'État XXIII). Section 108 provided that:
- “1. This Law shall come into force -*
- (a) in respect of Guernsey and Alderney, on the day appointed by Ordinance of the States, and*
- (b) in respect of Sark, on the day appointed by Ordinance of the Chief Pleas.*
- 2. An Ordinance under subsection (1) may appoint different dates for different provisions and for different purposes.”*
- 5.13 The Mental Health Law has received Royal Assent and was registered on 5th December 2011, but has not yet been brought into force as the underpinning regulations etc, are being drafted.
- 5.14 When any *Projet de Loi* is presented to the States, there is a risk that, once the States had approved the proposals, members of the public could misinterpret this as meaning that the law has been implemented. Furthermore, the States are not receiving appropriate assurances that resolutions requiring the implementation of legislation are being carried out.

Review of the legislative process

- 5.15 The Joint Committees' report on governance made some recommendations to clarify the legislative process and the Committee is also aware that an independent review of scrutiny processes in Guernsey commissioned by the Policy Council and due to be published shortly includes consideration of the effectiveness of the Legislation Select Committee and its role in the legislative process. Furthermore, the Prioritisation of Legislation Working Group, as detailed above, provides an opportunity for improved clarity on timescales for the completion of legislation.

- 5.16 The proposed public database of resolutions provides an opportunity to publish an update on which parts of approved legislation have been implemented and which remain outstanding and why. This will enable better tracking of the performance of the prioritisation process and the time it takes for legislation to come into effect so that the allocation of resources can be reviewed as appropriate.

6. Next Steps

- 6.1 The Committee is inviting comments on this discussion document (a form is provided as Appendix 5).
- 6.2 The Committee recommends its successor (following the 2012 elections) should implement the proposed public database of States resolutions (see Section 3), taking into account any feedback received in response to this report.
- 6.3 The Committee further recommends that its successor should report to the States of Deliberation with an update on the performance of departments in implementing resolutions by the end of 2013 (potentially as part of the States Strategic Plan – see 3.5).

7. Summary of Recommendations

The Committee recommends that:

1. Departments should be responsible for the drafting of propositions and this should cease to be a function provided by Policy Council staff.	2.14
2. Departments should refer directly to the propositions in the report conclusions. There would therefore be no need to reiterate recommendations within the report and duplication could be avoided.	2.12
3. All sursis and amendments – successful and unsuccessful – should be recorded alongside the published resolutions.	2.20/ 2.23
4. Each newly appointed Board and Committee should be provided with a list of extant resolutions for which it is responsible, an update on their status and a plan of action for implementation.	2.33
5. Boards should receive regular monitoring reports (i.e. every six months) on progress against resolutions for which their department is responsible.	2.33
6. Departmental mandates should include an obligation on departments for the fulfilment of resolutions relating to their mandated responsibilities or as otherwise directed by the States.	4.1
7. A Code of Practice should be developed, governing propositions and resolutions, which would set out clear guidelines for how these should be formulated, recorded and performance monitored. A demonstration of what such a Code might include is set out in Appendix 1.	4.2
8. The Committee recommends its successor (following the 2012 elections) should implement the proposed public database of States resolutions (see Section 3), taking into account any feedback received in response to this report.	6.2
9. The Committee recommends its successor should report to the States of Deliberation with an update on the performance of departments in implementing resolutions by the end of 2013 (potentially as part of the States Strategic Plan).	3.5/ 6.3

Appendix 1: Example Code of Practice

The Committee is proposing a Code of Practice governing propositions and resolutions that would set out clear guidelines for how these should be formulated, recorded and performance monitored (Recommendation 5; 4.2). The below sets out an example of what might be included:

Implementation of resolutions – roles and responsibilities

- Reference to the mandated responsibilities of departments to ensure that resolutions are implemented (recommendation 6; 4.1).
- Upon the constitution of a board it should be provided with a list of extant resolutions for which it is responsible, an update on their status and a plan of action for implementation (recommendation 4; 2.33).
- Boards should receive regular monitoring reports (i.e. every six months) on progress. The board is responsible for ensuring that resolutions are implemented in a timely and appropriate manner (recommendation 5; 2.33).
- Departments are responsible for drafting and agreeing the wording of the propositions, subject to advice from the Government Business team, Policy Council, or the Law Officers on making these consistent with other reports and suitable for putting to a vote. Departments should allow plenty of time for drafting and appropriate consultation ahead of submitting the report for inclusion in the Billet d'État. Departments may risk a delay to their report being included in the Billet d'État if they have not provided robust propositions (Recommendation 1; 2.14 / 2.16).
- The Policy Council has a role to comment on departmental States Reports (as set out in Rule 2 (1)(a) of the Rules of Procedure) and delay reports until the next meeting of the States when, in the opinion of the Policy Council, the proposals do not comply with the corporate policy of the States (2.15).
- If the Policy Council does not feel that a report's propositions are sufficiently robust then it should engage its authority to advise the States accordingly in its comments attached to the report (2.17).
- When a recommendation is laid before the States of Deliberation directing a department, aside from the report sponsor, to take action following the approval of the States Report, it is the role of the sponsoring department to follow up the resolution and ensure action is

being taken against it. This is in addition to, and not in replace of, the responsibility of the department as directed to implement the resolution (2.33).

- Departments are responsible for reporting on the status of resolutions for which they are responsible and providing activities reports (3.3).
- The Scrutiny Committee is responsible for monitoring overall performance in the implementation of States resolutions and reporting this to the States of Deliberation and the public (3.4 - 3.5).

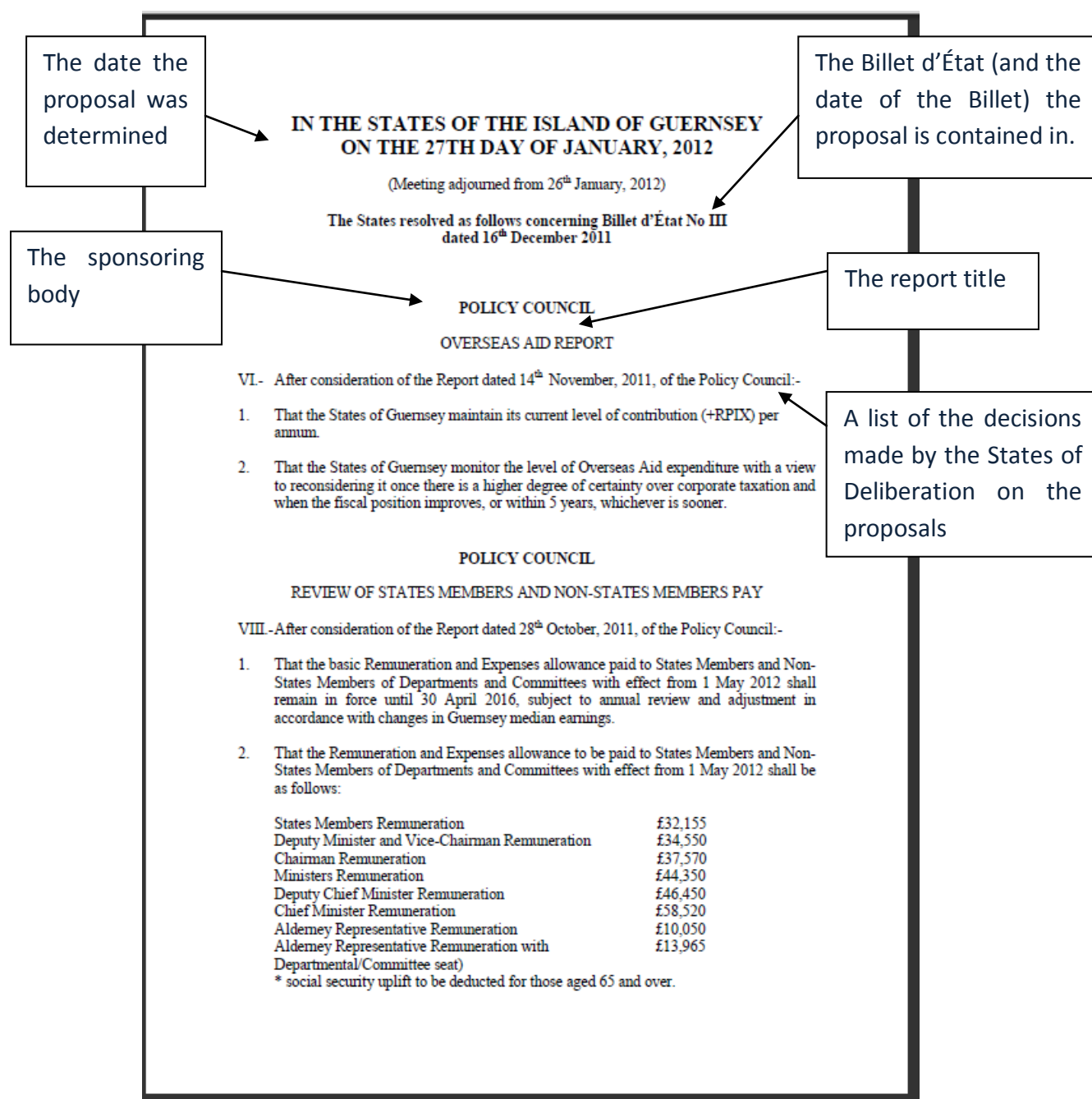
Wording of propositions

- Propositions to the States should seek to follow SMART criteria (1.15).
- Departments should seek to avoid wording such as:
 - ‘as set out in this report’ (4.6 – 4.14)
 - ‘to note this report’ (4.16 – 4.22)
 - negative propositions e.g. to agree **not** to pursue...(4.15)
- Propositions should be intelligible without reference to the general body of the report. Where possible, issues upon which a States resolution is required should be set out individually in the proposition. In more complex decisions (e.g. more than 10 discrete issues requiring a resolution) the propositions should set out the issues in summary form and clearly cross-reference to the report (4.10 – 4.14).
- Departments should refer directly to the propositions in the report conclusions. There would therefore be no need to reiterate recommendations within the report and duplication could be avoided. (Recommendation 2; 2.12).

Recording Resolutions

The Greffe is responsible for the recording of resolutions and their publication. A record of unsuccessful amendments and sursis should also be published alongside the resolutions (recommendation 3; 2.20/ 2.23) to establish a clear audit trail of how decisions are reached in order to ensure transparency.

Appendix 2: Standard resolution of the States of Deliberation



Appendix 3: Proposed database specification

A. What should the database achieve?

- The means for Scrutiny to record all resolutions made by the States of Deliberation
- The means for Scrutiny and/or bodies responsible for implementing those resolutions to record the action taken
- The means for members of the public to search the resolutions, and review the action taken

B. Terms of reference

- **Resolution:** A decision taken by the States of Deliberation regarding a proposition or amendment placed before it
- **Responsible Body:** A body which may be mandated to undertake some action as a result of a Resolution
- **Proposer:** A body or person which may initiate a process leading to a Resolution being made by the States
- **Billet:** An agenda document of the States of Deliberation, identified by the month in which it was issued and an index number, which contains a number of Reports
- **Report:** A numbered section of a Billet, which may contain a number of propositions, and regarding which a number of amendments may be proposed
- **Activity:** An item of work associated with one or more Resolutions and to a Responsible Body. This may be a future ‘to-do’ or a piece of work which has been done
- **Status:** The status of the Resolution being one of the following options:

Status	Meaning
Rejected	Where the States has decided to reject a proposition, this will be recorded as a Resolution, but would not require any further action or activity report.
No further action	‘NFA’ would be the appropriate status when there is no further action required to be reported on further to the decision being taken by the States e.g. a new member being appointed to a body.
Rescinded	When a resolution has formally been cancelled by the States it should be listed as ‘rescinded’. A link should be placed to direct the reader to the report and decision to rescind.

Work in Progress	<p>When work continues to be ongoing on a resolution, or no further action has been undertaken since the decision has been taken.</p> <p>The reader should be able to easily identify the action taken through the ‘Activities’ reporting.</p>
Completed	<p>When a resolution required further action subsequent to the States decision, and the action has been completed, the status should be listed as ‘completed’.</p> <p>The reader should be able to easily identify the action taken through the ‘Activities’ reporting.</p>

C. Recording Resolutions made by the States of Deliberation

The Scrutiny Committee user will input:

- The Billet, specifying:
 - Month and year
 - Billet number
 - A URL, being a web address where the Billet can be downloaded²³
- The States Report, specifying:
 - Title
 - Report Number
 - Additional search keywords
- The individual Resolutions specifying:
 - Proposer (from the list of Proposing Bodies and Deputies²⁴)
 - The Resolution number
 - The Resolution text
 - The Resolution date
 - The Status of the Resolution, being one of:
 - Rejected
 - No Further Action
 - Rescinded
 - Completed
 - In Progress
 - A URL, being a web address where the Resolution can be found
 - Additional search keywords

²³ The Greffe is responsible for publishing the Billet d’États

²⁴ In the case of amendments, sursis and requetes the proposer will be taken as the lead States Member

- The user can assign one or more Responsible Bodies to the Resolution.

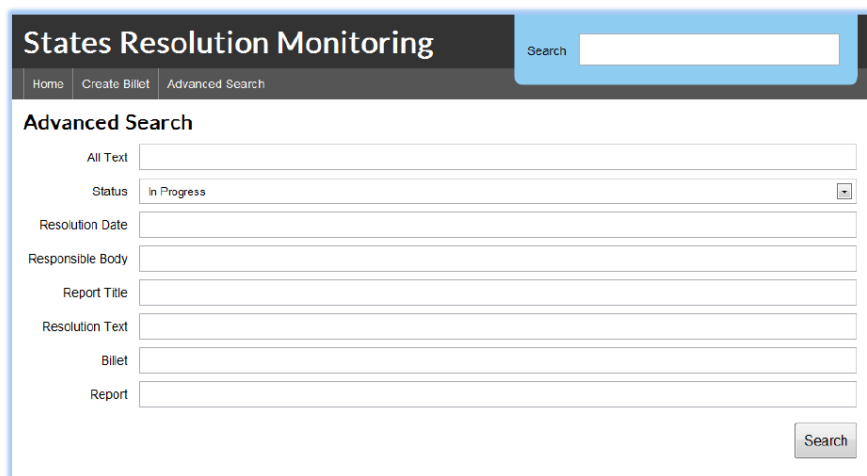
D. Recording progress against Resolutions

Action taken is tracked within the system through records called Activities. It would be the responsibility of departments (Responsible Body) to record progress made for resolutions. A designated user within the department would use the system like this:

- The user searches for the Resolution on which work has taken place (or is being planned). The user navigates to an ‘Activity’ screen, which lists the Activities already recorded regarding the Resolution (if any).
- The user creates a new Activity, specifying:
 - A description of the nature of the Activity
 - Whether the Activity has been completed
 - A date on which the Activity took place, or is planned to take place
 - A URL, being a web address where more information about the Activity can be found (e.g. a report which has been produced)
 - The Responsible Body undertaking the activity.

E. Searching the Resolutions

Example screenshot:



The screenshot shows a web application titled "States Resolution Monitoring". At the top, there is a navigation bar with links for "Home", "Create Billet", and "Advanced Search". A search bar is located in the top right corner. Below the navigation bar, the "Advanced Search" section is displayed. It contains several input fields for filtering results: "All Text", "Status" (with a dropdown menu currently showing "In Progress"), "Resolution Date", "Responsible Body", "Report Title", "Resolution Text", "Billet", and "Report". A "Search" button is positioned at the bottom right of the form.

All users, including the public, will be able to search the database of Resolutions. There will be a ‘simple’ search, targeted at the needs of members of the public, and an ‘advanced’ search for more specialised use by Scrutiny and Responsible Bodies. However, both the public and specialist users would be able to choose either type of search.

The searches will provide filters on subsets of the following fields:

- All Text (free text search of the Report Title, Resolution text and additional search keywords taken together)

- Status
- Resolution date (from/to)
- Responsible body
- Report Title (including additional search keywords)
- Resolution text (including additional search keywords)
- Billet (specifying month and Billet number)
- Report (by specifying Report number as well as the Billet)

The following fields will be output from a search:

- Billet short description (e.g. III, Jan 2012)
- Report and Resolution number (e.g. VII.4)
- Title (truncated if necessary)
- Resolution text (truncated if necessary)
- Resolved date
- Responsible body
- Status

Results will be limited to a number per page (e.g. 100).

After conducting a search, users will be able to:

- Refine and resubmit their search
- Sort the results by:
 - Billet/Resolution number
 - Title
 - Resolved date
 - Responsibly body
 - Status

Free text searches will be implemented using an algorithm which requires all searched-for words to appear in the text.

Besides using the search functions within the system, public users would be able to craft a search in a public search engine like Google. All publicly-visible pages in the system will have stable URLs which can be searched for, bookmarked and shared.

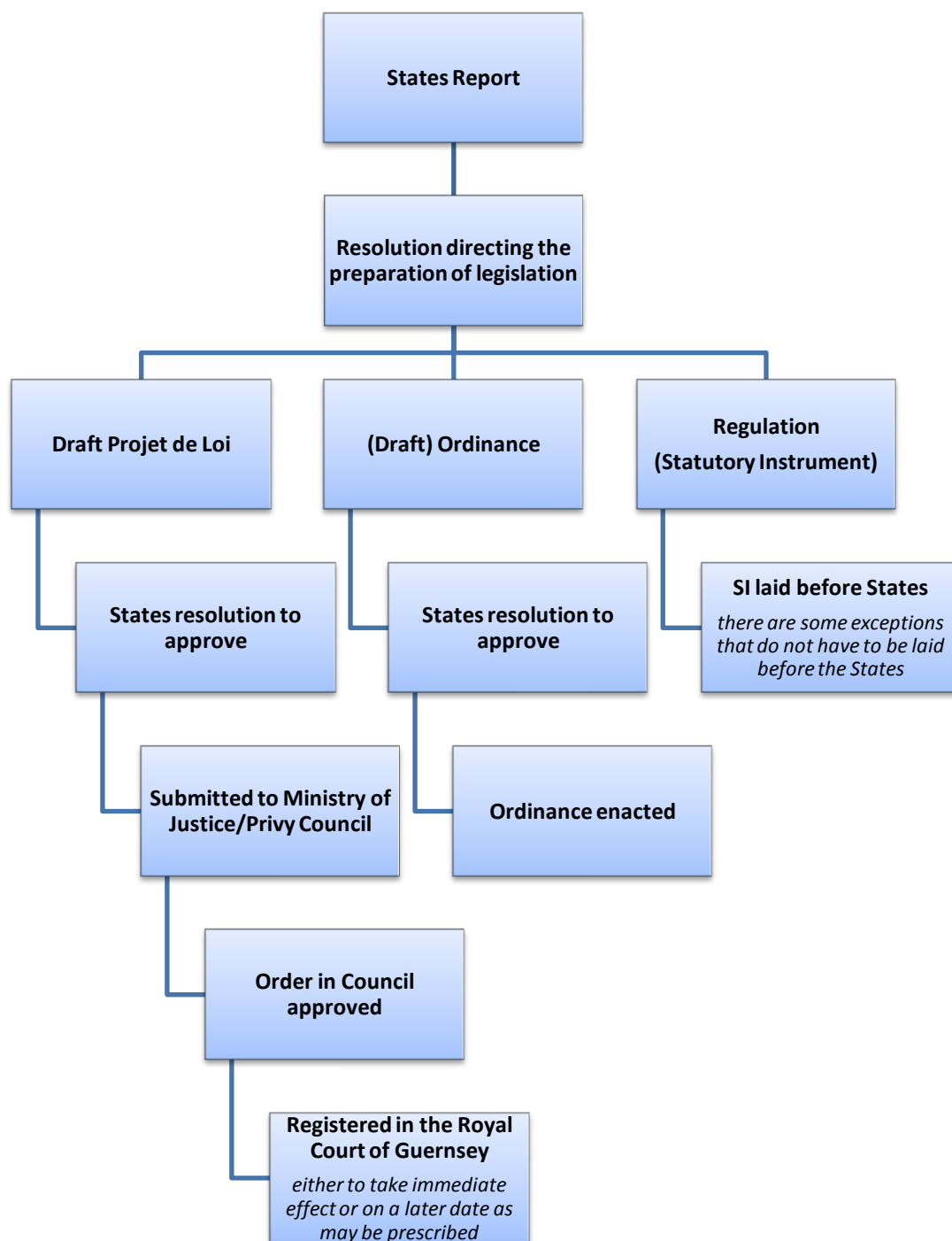
F. Reviewing the action taken

Having searched for Resolutions, public users will be able to click on any Resolution to see a page showing the basic details of the Resolution and the Activities taken.

Alternatively, public users will be able to click checkboxes alongside a set of Resolutions listed in the search results, or all Resolutions from the search results, and click an ‘Activity

Report' button. This will show an 'Activity Report' web-page in a format optimised for printing, which lists all the Activities in respect of any of the selected Resolutions.

Appendix 4: Legislative process



Appendix 5: Consultation response form

This response form is intended as a guide only – please feel free to provide your feedback and comments in whatever form is most convenient to you.

The Committee would be grateful to receive your comments on the specific recommendations made in the discussion document, the proposed database specification and any other comments you may wish to make regarding States Resolutions.

RECOMMENDATIONS	
1	Departments should be responsible for the drafting of propositions and this should cease to be a function provided by Policy Council staff (2.14)
Comment:	
2	Departments should refer directly to the propositions in the report conclusions. There would therefore be no need to reiterate recommendations within the report and duplication could be avoided (2.12)
Comment:	
3	All sursis and amendments – successful and unsuccessful – should be recorded alongside the published resolutions (2.20/2.23)
The Committee considers there should be a clear audit trail for how all States’ decisions – negative and positive – are reached. However, this should not detract from the clarity of the final decision. (Note to H.M. Greffier: the Committee would be grateful for feedback on how this might be achieved).	
Comment:	

4	Each newly appointed Board and Committee should be provided with a list of extant resolutions for which it is responsible, an update on their status and a plan of action for implementation (2.33)
Comment:	
5	Boards should receive regular monitoring reports (i.e. every six months) on progress against resolutions for which their department is responsible (2.33)
Comment:	
6	Departmental mandates should include an obligation on departments for the fulfilment of resolutions relating to their mandated responsibilities or as otherwise directed by the States (4.1)
Comment:	
7	A Code of Practice should be developed, governing propositions and resolutions, which would set out clear guidelines for how these should be formulated, recorded and performance monitored. A demonstration of what such a Code might include is set out in Appendix 1 (4.2)
Comment:	
8	The Committee recommends its successor (following the 2012 elections) should implement the proposed public database of States resolutions (see Section 3), taking into account any feedback received in response to this report (6.2)
Comment:	

9	The Committee recommends its successor should report to the States of Deliberation with an update on the performance of departments in implementing resolutions by the end of 2013 - potentially as part of the States Strategic Plan (3.5 / 6.3)
Comment:	

Resolutions Database (Section 3; Appendix 3)	
1.	Is there any information currently absent from the database specification which could be usefully included?
Comment:	
2.	The proposed activity reporting for departments to complete on extant resolutions is described in section D of Appendix 3. Do you have any suggested changes to or comments on the requirement for department users to be nominated and provide these activity reports?
Comment:	
3.	Not all resolutions will require an activities report. It is proposed that activities reports will be prioritised for extant resolutions where one or more of the following criteria apply (3.10): <ul style="list-style-type: none"> • They are over five years old; • They are subject to a request for information on progress from the public; • They are identified as priorities by the departments responsible and/or the Policy Council; • They are identified by the Scrutiny Committee as being of particular importance due to: <ul style="list-style-type: none"> ○ Their relevance to current investigations of the scrutiny committees; or ○ Their relevance to issues identified as corporate priorities - usually through the States Strategic Plan. Do you have any comments regarding this suggested prioritisation of resolutions?
Comment:	

4**Additional comments on the proposed resolutions database****Comment:**

Please return your comments and feedback by email or post by **Monday 18th June 2012** to:

Scrutiny Committee

By Post: Sir Charles Frossard House, La Charroterie, St Peter Port, Guernsey, GY1 1FH

By Email: scrutiny@gov.gg

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