



**OFFICIAL REPORT**

**OF THE**

**STATES OF DELIBERATION**

**OF THE**

**ISLAND OF GUERNSEY**

**HANSARD**

**Royal Court House, Guernsey, Thursday, 29th November 2012**

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**The Clerk to the States of Deliberation**

D. J. Robilliard, Esq. (H.M. Deputy Greffier)

**Absent at the Evocation**

Miss M. M. E. Pullum, Q.C. (H. M. Comptroller)

Deputy S. J. Ogier (*indisposé*)

Deputy M. J. Fallaize (*indisposé*)

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*The Assembly adjourned at 11.32 p.m.*

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## States of Deliberation

*The States met at 9.30 a.m. in the presence of  
His Excellency Air Marshal Peter Walker, C.B., C.B.E.  
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE BAILIFF *in the Chair*]

### PRAYERS

*The Deputy Greffier*

### EVOCATION

#### HEALTH AND SOCIAL SERVICES DEPARTMENT

##### Action to contain budget overspend Statement by the Minister

5       **The Bailiff:** Members of the States, we are in the middle of a debate, but I have had a request from the Minister of the Health and Social Services Department to deliver a Statement under Rule 8 of the Rules of Procedure and, having regard to the content of the Statement and the fact that there is going to be a press release during the course of the morning, I consider that it is appropriate that that Statement be delivered now.

So, Minister of the Health and Social Services Department, Deputy Adam.

10       **Deputy Adam:** Thank you very much, sir.

First, Members of the Assembly, I must make a most sincere apology. This Statement was released under embargo until 10 or 11 o'clock this morning to the media but, unfortunately, it would appear that one sector of the media has decided to release it. Certainly, I heard some of it on the radio this morning, sir.

15       All I can do is apologise because it was supposed to be embargoed to ensure, first of all, that our staff were aware of what was being said, and then to make sure that Members of this Assembly were made aware of it, and then the media could announce it.

20       Sir, as you will be aware, the Health and Social Services Department is currently under significant financial pressure. In recent months, there has been a substantial increase in demand for services, including mental health, children's and hospital services, especially for those over the age of 65.

In addition, the cost of providing services has increased, and the Department has faced difficulty in covering sickness and maternity absences among skilled staff, and in recruiting specialist services.

25       Due to ongoing budget reductions, as part of the Financial Transformation Programme, my Department no longer has the flexibility it needs to respond to peaks and troughs in demands for services, which are faced by health and social care providers everywhere.

The demand-led nature of health and social care costs is evidenced by the fact that my Department recorded a £1.7 million underspend last year while, in 2010, we faced a similar-sized overspend to this year.

30       You will all know that I tabled an amendment last December to ask for a less stringent budget reduction. This amendment was rejected and my Department has been forecasting an overspend since May of this year. Staff have been working very hard to contain costs within existing budgets

but, because of the demand-led nature of services, this has not been possible.

35 Therefore, my Board launched a Budget Challenge at the start of this month to explore how costs associated with rising demand could be further contained. At that time, we anticipated an overspend of around £1.5 million but, due to an unavoidable pressure on services, it now looks like this overspend will be closer to £2.5 million.

40 When we launched the Budget Challenge, we promised quick action to make sustainable reductions in our budget. We have already begun to explore some of our most challenging areas, and changes will be made before the end of 2012. But it takes time for savings to be realised and these will not have an impact before early 2013. In the meanwhile, the Health and Social Services Department have had to make some very tough decisions in order to try and contain the overspend before the end of the year.

45 It is with great reluctance, therefore, that I have to announce that the Health and Social Services Department will be taking the following action from 1st December: deferring all non-emergency and non-urgent off-Island treatment until January; close a surgical ward and a theatre, and postpone all elective contract surgery until January; close Divette Ward, which is a ward that assesses people with dementia problems and relocate the patients to other appropriate placements; cease recruitment to vacant posts, unless the post is demonstrated to be central for patient/service user or public safety, and a business case is approved by all directors; minimise the use of agency staff to provide cover, and increase the use of bank and part-time staff, wherever possible; minimise weekend overtime duties and defer weekend work to weekdays, wherever this is clinically appropriate,

50 All emergency surgery will proceed as normal, and *nothing* will be done to put patients' safety at risk.

55 All Islanders who are booked in for on- or off-Island procedures will receive a letter from HSSD by Friday, 7th December, notifying them of any changes that will affect them, and will be given a contact number to call if they have any questions. Islanders will also be advised to contact their consultant if they have any concerns about their health.

60 The planned actions are for the month of December only, and will be reviewed in the New Year. However, it is already clear that these actions will have a significant impact on in-patient waiting times in 2013.

65 I must emphasise that all HSSD staff are working very hard to provide good quality services in the light of ongoing financial pressures and staff shortages. I want to thank them publicly for their professionalism and commitment in the face of these challenges, which are not of their making.

Members of the Assembly will recall that HSSD faced a similar position in 2010. At the time of Budget announcement for 2011, the Department were forecasting an overspend of £1.6 million and the final outturn was £2.2 million.

70 The Minister for Treasury and Resources, at that time, stated that:

75 'whilst the Treasury and Resources Department is, of course, disappointed that an overspend is predicted, it is reassured to note that actual 2010 net expenditure is expected to be less than the 2009 actual outturn of £105.3 million despite the Department incurring an additional £3 million of cost relating to increased employers' superannuation contributions.'

In the 2010 accounts, published in May 2011, the T & R Department asked the States to approve a proposition to sanction a £2.17 million overspend by HSSD to be funded from general revenue.

80 Following discussions with the Treasury and Resources Department this year, my Department will now be adhering to the procedure set out in Billet VIII of 1991, and directly requesting authorisation of the States for the 2012 overspend. As such, I will be asking the Presiding Officer to allow the Health and Social Services Department to present a Report to the December States meeting, requesting authorisation for a £2.5 million overspend.

85 Thank you, sir.

**The Bailiff:** Members of the States, it is now 9.42 a.m. Under the Rules, there may be a period not exceeding 15 minutes for questions.

Deputy Trott.

90 **Deputy Trott:** Thank you, sir.

All Members of this Assembly will have listened very carefully to what the Minister for HSSD has told us, and I would hope would get behind this initiative, but can I ask, in the interim, if the political Board of HSSD is unanimous in its approval of the measures that have been taken?

95 **The Bailiff:** Deputy Adam.

**Deputy Adam:** Thank you, sir.

The simple answer is yes. We had a board meeting on Tuesday afternoon and spent most of it in discussing our financial situation. None of us are happy about having to bring these ideas forward, sir, but we have to try and contain our overspend and we are unanimous in the way forward.

100 It has been fully discussed. It is the only way to contain overspend, and thus we have made difficult decisions, which is a statement that has been made by several people over the last year in relation to the Financial Transformation Programme.

105 **The Bailiff:** Deputy Gollop and then Deputy Hadley.

**Deputy Gollop:** Well, at this juncture, why should we get behind the initiative? Because I want to...

110 It is hard to think on your feet, but I want to have an assurance from the Minister of two points. The first is, with the closure of the Divette Ward and the surgical wards, would it mean that HSSD staff could be being paid to work but have less to do, within the framework of their schedules – in other words we continue to lose?

115 And the second point is, how far are you able curb contract staff, rather than pure personnel because there may be efficiency savings there?

**The Bailiff:** Deputy Adam.

**Deputy Adam:** The first point, sir, is as stated: there has been a significant increase in services to be provided. For example, outpatients have increased by 28.27%; inpatients and Accident and Emergency increased by 5%; admissions by 8%. That is one of the reasons we have had to take on more agency staff, sir. Agency staff cost us a lot more per head, compared with staff employed by us, and their contracts are short contracts. Therefore, they will not be continued. In other words, use less agency...

125 For example, sir, I think there are about 20 agency staff in Mental Health Services due to increases. If we curtail, try and reduce that, then we get rid of agency staff. That is one of our main areas that has caused this sudden bulge from September/October. Because of increased service requirements, we have had to take on more agency staff, which are costing us round about an extra £300,000 per month.

130 **The Bailiff:** Four Members have caught my attention. I am going to take them in the following order: Deputy Hadley; Deputy Lowe; Deputy Perrot; then Deputy Brouard, and then we will see where we are in terms of time.

135 Deputy Hadley.

**Deputy Hadley:** Does the Minister not agree with me that, in fact, some of these measures are going to cause more problems than they solve? Delaying elective surgery until January will almost certainly cause greater waiting lists next year and, perhaps, a need for more urgent surgery. Not recruiting to vacant posts will almost certainly mean more agency staff being employed, and we already know that the cost of employing an agency staff nurse can be two or three times the cost of employing a permanent member.

140 I would also ask the Minister why he has not closed the King Edward Ward? At the time, this is only half full. They have got two wards half full, and it seems to me that, perhaps, they are closing the wrong wards.

145 But, all in all, all these measures are doing... it might be reducing the cost now but you are just putting the problem forward, so that the overspend next year is going to be even greater. It would have been far better to overspend now than just kick it into the future.

150 **The Bailiff:** Deputy Adam.

**Deputy Adam:** Thank you, Deputy Hadley. *(Laughter)*

155 First of all, I stated in the Statement that it was accepted this would have a potential for increasing waiting lists. I agree with you. Therefore, what we are, hopefully, doing is introducing other measures that are going to generate income early in 2013 to offset and balance the books a bit better.

As far as vacant posts are concerned, what I said was that each post will be assessed and judged whether it is necessary to appoint someone else or not. Whether it is agency staff, we want to avoid, I stated just a moment ago, I accept that they are much more expensive – that is why we want to reduce the number of agency staff. They are too expensive.

160

As far as closing King Edward Ward, yes, we are closing one of the wards in King Edward Hospital, so there will be just one ward open at King Edward Hospital. I think that will be finalised by the end of this year.

Sorry, sir, I am not too sure what his last question was.

165

**Deputy Hadley:** It was a question about closing King Edward.

Can I just remind the Minister that the decision to close the King Edward Ward was made nearly a year ago – and he might tell us why they are dragging their feet over this particular issue.

170

**Deputy Adam:** The decision to close the King Edward Ward was brought to the Board about three or four months ago. There was a lot of comment in the *Press* concerning it but that is going ahead.

**The Bailiff:** Alderney Representative Kelly, you wish to be *relevé*? And then, Deputy Lowe.

175

**Deputy Lowe:** Thank you, sir – a couple of points and a question, really.

Did the Minister consider that it would be appropriate to bring an Emergency States Billet for the States to make that decision, before we actually announced, in this Assembly today, the measures that the Minister has mentioned here, which is going to cause an awful lot of upset to many people on this Island – yet this Government have not been able to make that decision on behalf of those of whom we represent? If they did not consider that, I would like to know why not.

180

I would also like to say, can we please have a copy of the Statement that was issued to the media yesterday. It has been discourteous by not circulating it to the States Members beforehand. At least they would have been allowed to have had the privilege of being able to read it before hearing about it through the media. It is something that we have addressed, as Deputy Adam would know, in previous States, that States Members have all press releases before the media. I would ask that, here we are at 9.59, and we still have not had it from HSSD...

185

But the reason I ask about this States Report, if Members just remember that the States Education Department wished to close two schools –

190

**The Bailiff:** Is this a speech or a question?

**Deputy Lowe:** Both, sir, really, I know it should not be –

195

**The Bailiff:** The Rules limit people to asking questions, and we are limited to 15 minutes, so it is unfair on other Members, if I allow you to make a speech.

200

**Deputy Lowe:** I accept that, sir, but what I am trying to say is would the Minister then accept that Education wished to close two schools and actually brought a Report to the States? Does he not think it would be more appropriate to bring a States Report for the Members in this parliament to make that decision?

Secondly, could he give me assurances of what consultations have been taking place with the MSG, because the public at large pay compulsory contributions for operations to take place within a set period of time under that contract? Are we defaulting on compulsory contributions?

205

Thank you, sir.

**The Bailiff:** Deputy Adam.

**Deputy Adam:** Thank you, sir.

210

To a certain extent, it comes under the mandate of HSSD to provide the services, and it comes under the mandate of T & R, and at the time of the Budget, for the Assembly to decide how much money should be given to HSSD to provide these services. In the circumstances, I did bring an amendment because I did not think the money would be sufficient and at that time, the Assembly said, 'No, you have to get on and use that money.'

215

As I stated, we have considered since May and we have had discussions with the Treasury and Resources Department since that time, trying to explain to them our situation, and they simply said, 'Don't go over your budget.'



220 We have no choice. We have a budget: we have to try and stick to the budget. Yes, we could have brought a Billet to this States, but what would it say? We are bringing a States Report in December and, in that, you will get more detail of why we have gone over, and you will get a request, asking for a contingency sum to be put aside so that, next year, there is a contingency sum, so we have more flexibility if we can show there has been an increased requirement.

225 Unfortunately, we cannot predict how many people are going to need operations, how many people are going to fall ill. That is why I kept emphasising it is a demand-led service, which is seldom recognised, unfortunately. The formula-led service of SSD *is* recognised; our demand-led is not.

I will try and get Statements to you as soon as soon as possible. If my Deputy Minister would send an e-mail to the Department, I am sure that can be done. I have already apologised for the fact it came out in the media before the Assembly.

230 As far as Education closing two schools, I think there is a slight difference between closing two schools and closing two wards, sir, as wards are part of the operational aspect and sometimes they are closed. For example, over Christmas and New Year, if the beds are not necessary, they will be partially closed.

235 As far as MSG, yes, a full consultation is taking place with MSG. That was what was happening yesterday afternoon. Our staff were being informed, involved and all other parties were having discussions with them, because we realise this *does* affect and it *will* make waiting times longer.

240 But, as a States, we have to decide, at some point, how much money do you give HSSD? Are we given sufficient money? Have we cut as much as we can cut? Do we have any flexibility? Up until now, we have been given a budget that has been agreed by this Assembly, despite amendment, and let us see what happens at the next Budget, sir.

**The Bailiff:** Deputy Perrot.

245 **Deputy Lowe:** Can I just ask a supplementary on that, please, sir?

**The Bailiff:** Well, that means other Members then do not get a chance to ask a question. So, Deputy Perrot.

250 **Deputy Perrot:** Thank you.

I may have missed this, but what proposals does the Minister have for paring down the management structure and workforce in his Department, with a view to greater efficiency and making savings?

255 **The Bailiff:** Deputy Adam.

**Deputy Adam:** Thank you, sir.

260 At the present time, the main problem, as far as pay is concerned, is having to employ agency staff, which is front-line staff who are looking after patients in wards. Therefore, you cannot really pare them down if you want your patients looked after safely.

As far as management is concerned, that has been done. There has been a re-structuring of the senior management over the last two years and the next layer of management, as well, so the numbers *have* been reduced *already* to produce efficiency.

265 Similarly, various areas throughout the Health and Social Services are being assessed and there *is* a reduction in management.

**The Bailiff:** Deputy Brouard.

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

270 Just three small questions. First of all, I did not have a chance to completely listen to all of the information, so apologies if I have got anything wrong, but are these cuts or are these efficiencies? Are they going to happen, whatever? So if the States were so minded, have we got any opportunity to prevent these closures etc, or is it a done deal? That is my first point.

275 The second point: it sounded like we were just kicking the can down the road, so that whatever happens in December by way of surgery is all going to be happening in 2013. I just did not understand the logic of that. This is not what I want as an elected Member and it is the wrong message for the Island: it sounds almost third world.

Finally, my next question is: it is not that the matter came out in the media; it is the fact that the

280 media had an embargoed statement before the States Members. We could have been much better prepared this morning to ask some questions, have a better understanding of exactly what is proposed. So, please, the message is: it is that the media have got it *at all*, not just that it is embargoed.

So those three points would be very helpful.

285 **The Bailiff:** Deputy Adam.

**Deputy Adam:** Thank you.

290 Cost efficiency or done deal? The reason for taking this action now, for the month of December, is to contain our overspend. That does not mean the wards stay closed. Divette can close because we have some spare beds in one of what are called the 'lighthouse wards', which look after patients with dementia. So that is one area that is no problem; and, long-term-wise, Divette Ward would probably be closing and used for another purpose.

295 The surgery aspect, yes, you say it is putting it on to next year but, at the same time, we will be looking at the efficiency and usage of theatres, because I know, when I worked in theatres, there was some capacity where they were not being used. We have to make sure they are used all the time that they are open and available. Therefore, the catch-up should be possible in the first two or three months. But it will take that time to happen, and it depends if we have a slowing down of the necessity for operations.

300 As I say, there are peaks and troughs in HSSD services. Some things go up a lot and then they will drop. In the drop period, you can catch up, but it will take some time.

The embargo, as far as I am aware, sir – and you can correct me – I cannot remember if Statements are routinely circulated to Members of this Assembly beforehand or not, but –

305 **The Bailiff:** I think the point that is being made, Deputy Adam, is that they are not normally routinely circulated to the media before they are made to this Assembly. I think that is the point.

310 **Procedural**  
**Time for questions on Statement extended**

**The Bailiff:** It is now 9.57. The 15 minutes are up.

There are at least another six Members who have attracted my attention, who wish to ask questions. Under the Rules, only 15 minutes is allowed. I guess there is an option for the Members to suspend the Rules, if they wish to do so.

315 Mr Procureur, do you wish to... Given the nature of the... do you wish to give any advice as to whether Members should consider suspending the Rules on this occasion?

320 **The Procureur:** I would give one word of caution and that is that Members should reflect on how long this is likely to require, because there is, otherwise, a danger of it being open-ended and going on forever. So would Members choose, at your suggestion, to extend the time allowed for questions for another, say, 15 minutes, or...?

325 **The Bailiff:** I was thinking, perhaps, another 15 minutes but, if we do that, I would ask Members to try and be concise in their questions, so it does give an opportunity for others.

So I am going to put it to Members that we allow a further 15 minutes for question time. Those in favour; those against.

*Members voted Pour.*

330 **The Bailiff:** In that case, we will have another further 15 minutes.

335 **HEALTH AND SOCIAL SERVICES DEPARTMENT**

**Action to contain budget overspend**  
**Further questions on Statement by the Minister**

340 **The Bailiff:** Deputy Brehaut.

**Deputy Brehaut:** I am just going to ask the Minister to clarify one element, please. You used the expression, Deputy Adam, 'elective surgery'. Would you mind explaining elective surgery, perhaps, to people who are not too familiar with the term?

345 Also, our colleagues at the Social Security Department face a £2-million formula-led overspend. Would you not agree with me that the distinction between 'formula-led', 'need-led' and 'demand-led' is becoming an expression that is difficult to quantify in the broader parameters of the FDP process?

Thank you.

350 **Deputy Adam:** Thank you, Deputy Brehaut.

Elective surgery means that you require something done at some time in the future. In other words, if you need urgent surgery that has to be done within... Appendicitis: everyone knows what this is – it has to be done within hours.

355 A hip or knee can wait another month or two months before it has to be done. In other words, you have to just learn to cope with the discomfort and, since I have had to wait myself, it is not very pleasant but it does not affect my life, as such. So 'elective' is something that requires to be done at some point, therefore waiting an extra three or four weeks is very unfortunate but, in our circumstances, we basically have no choice.

360 As far as formula-led/need-led/demand-led, I fully agree. I have had this discussion on numerous occasions with a previous SSD Minister and the present SSD Minister. It is frustrating that SSD, because it is formula-led, can go £2 million over and everyone says that is fine, but we go £2 million over and they say that is 'disgraceful', 'terrible', 'inefficient', etc.

365 Look at the figures. As I state, there has been an increase: outpatients 17%, admissions 22%. How can you accept that the budget stays the same, when you have got that sort of increase in the number of patients? I ask you.

Thank you, sir.

370 **The Bailiff:** There are six Members who have attracted my attention and the order in which I will call them are: Deputy Sillars; Deputy Gillson; Deputy Dorey; Deputy Storey; Deputy St Pier; and Deputy De Lisle.

Deputy Sillars.

**Deputy Sillars:** Sir, thank you.

375 If I have understood the statement correctly, the Minister is predicting an overspend of £2½ million for the year. These very difficult measures only relate to December, so how much does he expect these painful but short-term measures to save and will these measures reduce the £2½ million overspend for the year?

380 **The Bailiff:** Deputy Adam.

**Deputy Adam:** Sir, what I said was that these measures were to *contain* the overspend. It would be nice if it did reduce it as well, but it would contain it. For example, if we can reduce the number of agency staff in December by 20% – I already said they are costing £300,000 – that takes £200,000 off it straight away, so it is stopping an increase.

385 At the same time, the Finance Department is looking to see if there is any other areas where we can contain costs. I know it is only a month, but we can go through quite a lot of money in a month.

390 **The Bailiff:** Deputy Gillson.

**Deputy Gillson:** Sir, I believe that both the Chief Minister and Treasury Minister have, in the past, said that difficult decisions need to be made. These are clearly two difficult decisions. Can Deputy Adam confirm that both the Chief Minister and Treasury Minister are fully supportive of these measures?

395 **The Bailiff:** Deputy Adam.

**Deputy Adam:** Sir, it is up to the Chief Minister and Treasury Minister to state whether they are accepted.

400 Some of these measures, sir, were sent through to the Deputy Chief Minister and the Chief  
Minister on Monday and Tuesday, after Policy Council's reaction to their overspend was  
mentioned on Monday afternoon, so they were aware of some of the issues.

405 **The Bailiff:** Deputy Dorey.

**Deputy Dorey:** Thank you.

I repeat the question that Deputy Sillars asked: I want to know a number. How much will be  
saved by the delay in elective surgery? No words, just a number will be sufficient.

410 Secondly, as a Department, it is under States Resolution to provide those facilities. Does he not  
agree that the Assembly should have made that decision and not the HSSD, to delay elective  
surgery?

**Several Members:** Hear, hear.

415 **The Bailiff:** Deputy Adam.

**Deputy Adam:** Sir, it is not possible to give a number for the savings, because we do, first of  
all, have to find out how many people are booked in. Roughly speaking, closing a surgical ward  
will save approximately a ballpark figure of £1,000; close a theatre and cancel some elective  
420 surgery, probably around £75,000; no overtime, other than where we are contractually obliged,  
probably around £150,000; no new agency staff and look at existing agency staff, probably  
another £100,000 or thereabouts.

425 But these are only ballpark figures of savings because, until we know what we have to provide,  
as it is a demand-led service and not one that you can completely plan ahead, it is difficult to say  
exactly.

**The Bailiff:** Deputy Storey.

**Deputy Storey:** Thank you, sir.

430 What amazes me is that all Departments have known for some three years now what the  
savings are that they are going to be expected to produce under the terms of the FTP.

**The Bailiff:** Is this a question or a speech?

435 Sorry, I need to be... Time is pressing.

**Deputy Storey:** Yes, so I ask the Minister, why is it that we have got an overspend of £2.5  
million, when there has been plenty of time to plan for it?

440 Secondly, he says that the majority of this overspend is due to an increase in demand in recent  
months. Well, either we had a £2.5 million... I fail... perhaps he could explain how a £2.5 million  
overspend occurs within a couple of months, due to extreme demand; or if not, and it has occurred  
over the full year, perhaps he would explain why he has not come to this Assembly before now to  
explain the situation with regard to the finances in the Department.

445 **The Bailiff:** Deputy Adam.

**Deputy Adam:** Thank you, sir.

Sir, may I just read out the States Report that is coming in December because it answers all  
these questions.

450 I am sorry, the reason... First of all, the overspend was thought to be around £1.5 million or  
thereabouts, until September/October when, as I say, there was some increase in admissions,  
operations, mental health problems.

455 For example, sir, medical wards, £172,000; children protected assessment, £127,000; acute  
paediatrics and neo-natal intensive care, £225,000; occupational therapy, £92,000; community  
service, £173,000; Albecq Ward, because of increased services, £390,000; prison health care,  
£72,000; off-Island acute referrals, £411,000. That has been happening in just the last two or three  
months.

460 Sir, in medicine, you can spend really quite a lot. One operation can cost £15,000 to £20,000.  
One off-Island placement can cost you £250,000. We just had two of those recently: that is  
£500,000. That is not spent, shall we say, in September but the first quarter of the year spends a  
certain amount of that money. So overspends can happen very quickly.

**The Bailiff:** Deputy St Pier.

465 **Deputy St Pier:** Sir, does the Minister agree with me that increased, closer and ongoing financial management by his Department, in co-operation with my Department, is a critical part of the response to ensure that this does not happen again?

**The Bailiff:** Deputy Adam.

470 **Deputy Adam:** Thank you, sir.

The Minister for Treasury and Resources is fully aware of our problems in relation to our finance department. We have five staff to manage a budget of £108 million, sir. Obviously, we have been asking for more staff and the same Department as the Minister is in did not accept that we needed more staff.

475 Our budget, sir, has stayed the same cash spend for the last three years. Our services have had to increase slightly but, in the last two or three months, markedly increased. I personally am not surprised about this overspend occurring. I am upset it is so large and we are having to take measures such as these.

480 **The Bailiff:** Deputy De Lisle, and then I think we have time for Deputy Harwood and Deputy Soulsby.

**Deputy De Lisle:** Thank you, sir.

485 What impact is this announcement likely to have on the FTP programme and priorities for 2013-14? Already there has been a switch, 2013-14, and that I do not remember coming to this Assembly, actually, so can the Minister answer that, as to concerns with respect to the future of the FTP, if this type of thing goes on?

**The Bailiff:** Deputy Adam.

490 **Deputy Adam:** Thank you, sir.

Deputy De Lisle, I am just as concerned about the future of the FTP as you may be but we, as a Department, are bringing forward various projects in relation to the FTP. Some of them will be brought to this Assembly and I am sure this Assembly may throw some of them out.

495 We did try and bring one with Deputy Inglis' amendment to the SSD. There are other areas that we are looking at. It will take time to bring these in, but they are in the pipeline and that is one reason. Overall, the ones that FTP have suggested are starting to be progressed rapidly, but there will be some States Report coming, probably in February, concerning other measures.

500 **The Bailiff:** Deputy Harwood, do you wish to...?

**Deputy Harwood:** Does the Minister accept that, within any budgetary constraints, there are difficult decisions and, in regard to that, if I may just go on to Deputy Gillson, I think the first I was aware of these decisions was on Tuesday? It is a political decision and, again, does the Minister of HSSD accept that it is a political decision for his Board, as to the nature of the steps that have to be taken to operate within budget?

**The Bailiff:** Deputy Adam.

510 **Deputy Adam:** Thank you, Chief Minister.

Yes, it is a difficult decision. Probably, we are the first Department, sir, that has had to make difficult decisions and it is initially up to the Department to make these decisions. We did not like doing it. It is not easy. We accept that it is going to upset a lot of people, but if this Assembly states that our budget is  $x$  amount – sorry, not this Assembly – the previous Assembly had the opportunity to recognise that we had stuck at the same cash strength for three years and, therefore, it might not be reasonable to continue at such levels, then we have to accept it.

515 But, we have got demand-led services. We cannot predict if there is going to be an increase or not. We can get a rough trend of the peaks and troughs in any one year, with our new computer set-up, so we can try and make plans, but it is not an exact science. If people did not get ill, it would be very helpful. If we try and prevent illness, such as the Tobacco Strategy that is going through at the present time, that would be very helpful, as well.

520

**The Bailiff:** Deputy Soulsby and this will be the last question, as the 30 minutes will then be up.

525

**Deputy Soulsby:** I appreciate the Minister states that he has a Department that provides demand-led services, but in any service environment there will be fixed and variable costs. I would like to ask the Minister whether his Department has been analysing the costs of his Department between fixed and variable costs, to determine whether there are long-term, recurring savings that could be made?

530

**The Bailiff:** Deputy Adam.

**Deputy Adam:** Thank you, Deputy Soulsby.

535

The answer is, at the present time, like many other Departments, there is not sufficient financial information available to allow us to do that. I accept that you may shake your head and say that is terrible, but that is the facts of life.

What we have done is introduce a computer system which is now in place and gives us a much better idea. We can manage various aspects of the PEH in a more appropriate manner, like for example, the theatres, theatre usage, ward usage, etc and make much more efficient use of the beds.

540

At one stage, our bed average use was round about 60%; now that has gone up to an average use of roundabout 80%. I believe it goes much higher than that. We have put ourselves in a position where we might have no beds and since we do not have a hospital down the road, it is not very sensible. So I think about 80% to 82% of beds, that means they are filled at that time. Some wards are about 102%, which is what the Albecq is at the moment. That basically means someone leaves at 10 o'clock and someone else comes in at 11 o'clock. That is how you get up to over 100%. But that is not satisfactory, so we are looking at that aspect of things and looking at ways of managing.

545

And the other thing that we would like done is proper costing of every aspect – in other words, how much does a hip replacement cost, how much does a knee replacement cost? Is it excessive compared with the UK? Are we running things efficiently? Do we have good enough bed turnover? Are we doing enough day patient work and the answer to that question is, actually, yes. Our day patient throughput is quite satisfactory and increasing – for gall bladders etc – because there are new consultants who are used to doing that.

550

So all these aspects are looked at, but then you have got aspects such as people with learning disability and needing support. That is not their fault. They need that. We have a duty of care to these people. Likewise, other people need care in the community. We have to provide that care. We cannot charge it; that is going freely and these costs are going to increase.

555

I am sorry, sir, I am making a speech, I will stop now.

560

Thank you.

**The Bailiff:** Members, the time is up so we need to bring this questioning at the end of the Statement to a close.

565

Deputy Le Tocq, you wish to be *relevé*?

**Deputy Le Tocq:** Thank you.

570

## Billet d'État XXVII

### SCRUTINY COMMITTEE

575

#### Election of one new member Nominations made

*Article II.*

*The States are asked:*

*To elect a sitting Member of the States as a member of the Scrutiny Committee to complete the*

580

*unexpired portion of the term of office of Deputy M. J. Fallaize, who has resigned as a member of that Committee, namely to serve until May 2016 in accordance with Rule 7 of the Constitution and Operation of States Departments and Committees.*

585

**The Bailiff:** Members, as we have interrupted the debate, I wonder if now would be the right time to take the election for a new Member of the Scrutiny Committee, because I understand this may be a contested election and it will give a chance to count the votes while the debate continues. Otherwise, we would be sitting around, waiting for votes to be counted.

590

So, if that is the wish of the States, Alderney Representative Arditti, as the Chair of the Scrutiny Committee, do you wish to propose someone?

**Alderney Representative Arditti:** Yes, please, sir. I would nominate Deputy Laurie Queripel.

595

**The Bailiff:** Deputy Laurie Queripel.  
Is there a seconder for Deputy Laurie Queripel?

**Deputy Robert Jones:** Yes.

600

**The Bailiff:** Yes, Deputy Robert Jones, thank you very much.  
Does anybody else wish to propose a candidate for the Scrutiny Committee?  
Deputy Jones.

605

**Deputy David Jones:** Without starting a war, I would like to propose Deputy Lester Queripel.

**The Bailiff:** That is Deputy Lester Queripel, proposed by Deputy David Jones.

**Deputy Trott:** And I am absolutely delighted to be able to second that nomination sir.

610

**The Bailiff:** Seconded by Deputy Trott.  
Any other candidates to be proposed?

No? In that case, under the Rules, each proposer may speak for not more than five minutes in respect of the candidate proposed.

615

So, Alderney Representative Arditti to speak for five minutes in respect of Deputy Laurie Queripel's nomination.

**Alderney Representative Arditti:** Thank you, sir.

620

May I start by thanking the Assembly for their indulgence yesterday. Alderney has no ferry. We are wholly dependent on the airport and Aurigny, and the very welcome *Bumblebee*, but this is a 12-seater and cannot operate in inclement weather.

625

I am pleased to be able to nominate Deputy Laurie Queripel for the vacant seat on the Scrutiny Committee. It is hard to imagine anyone in the Assembly who has not been impressed at the way in which Deputy Laurie Queripel has adapted to the ways of the Assembly and has quickly become a useful member. His contributions to debate are measured and considered. Passion is easy, we can all do that stuff, but Deputy Laurie Queripel has judgement and he takes the time and trouble to find and articulate a balanced view.

630

A fundamental requirement of new scrutiny is to leave our individual politics at home and I have no doubt that he can, and will, do this when working for Scrutiny. I recognise in Deputy Laurie Queripel the desire to serve as a parliamentarian and a readiness to practise the self-discipline which this requires. He is a hard worker and conscientious. Workload must always be a decision for the individual Member but, in the case of Deputy Laurie Queripel, I am very content that this is so.

635

There is a question about Deputy Laurie Queripel's membership of the C & E Board. Both the Committee and Deputy Laurie Queripel consider that membership of Commerce and Employment is no bar to membership of Scrutiny and should be no bar under current arrangements. Needless to say, we manage conflicts now and will continue to do so, whatever board a Member sits on. We have sufficient numbers to form three panels for three separate enquiries, so conflict is not difficult to manage, in addition to which membership of a board does not give rise to any automatic conflict. Conflict can be overstated. We seek the evidence. For example, the techniques for obtaining reliable evidence are *different* from surprise and ambush and other political manoeuvrings.

640

As Chair, I gave an undertaking of 'celibacy' to the Assembly, but we cannot expect the same

from members of the Committee if, as an Assembly, we are going to vote for the best person for the job.

645 Inevitably, with so many new boards and our limited resources, it has taken time for Scrutiny to gather momentum. As you know, the public hearings will start in the New Year. There are, essentially, two roles for a member of new Scrutiny; the panel role, questioning witnesses at the public hearings; and the Members' meetings, at which we will review the continuing value and purpose of our enquiries as the evidence unfolds.

650 In his panel role, Deputy Laurie Queripel will contribute a clear mind, which is *not* given to be deflected by obfuscation and at Members' meetings he will bring to the Committee his own special perspective, based on his upbringing and experience, which led to his election to this Assembly. He is inquisitive and is not given to jump to conclusions. He wants to understand what he is being told. At the same time, he recognises that there is often no complete or perfect answer. He has a degree of pragmatism but not too much. His brother says he is an excellent tech. choice! (Laughter)

655 Of fundamental importance, he believes that transparency and holding Departments to account *matters*, not just to satisfy process or good governance but *really matters* 24/7, when people are in the service of the Assembly and the public. At the beginning of this term he wanted to be on Scrutiny but, at that time, he was in two minds about what offers a new arrival should accept. Also, we had ten people for eight seats. The new Assembly made it clear, in May, that it would vote for nominations according to merit and *not*, as sometimes happened in the previous States, on some sort of 'fair shares for all'.

660 I hope you feel that I have done justice to the case for Deputy Laurie Queripel and that you will vote entirely on merit. The silver lining to the loss of Deputy Fallaize to the Committee is that there is now a seat for Deputy Laurie Queripel *if* the Assembly approves this nomination. The Committee and I see this nomination as an opportunity borne out of misfortune and we hope very much that you will endorse *our* assessment of *our* needs and how Deputy Laurie Queripel will address those needs –

670 **The Bailiff:** Five minutes, five minutes are up!

**Alderney Representative Arditti:** – if you sanction him joining our Committee. I ask you, please, for your support for his nomination.

675 **The Bailiff:** Deputy David Jones will speak for five minutes in respect of the nomination of Deputy Lester Queripel.

**Deputy David Jones:** Thank you, Mr Bailiff, Members of the States.

680 If you needed to find a member of this Assembly with a natural aptitude to fill a vacancy on Scrutiny Committee, then I would suggest you would look around firstly for someone with an enquiring mind, someone who is not afraid to ask questions, however lengthy they may be on occasions, and who has a passion for ensuring that the public have confidence that those in charge of their lives are competent and capable of governing wisely.

685 Deputy Lester Queripel has shown, during the short time he has been a member of this Assembly, that he is a *natural* scrutineer. In my view, the energy he exudes in his enthusiasm for the job of Peoples' Deputy, together with his talent for ensuring that a shaft of light is often shone in areas that do not often see much daylight, is to be commended. This natural ability to probe will, unmistakably, make him an excellent member of the Scrutiny team. He missed out the first time round and that that was our mistake. We need to use the talents of those elected to this place and having Members who are clearly keen to play a full part in the process of government is a real asset – always better a volunteer than any pressed men.

690 Deputy Queripel is undoubtedly wasted without a committee role and it is high time we put him to work early on in this term. Giving him this important role may, of course, leave him less time to write and circulate his poetry – and I am sure many of us will have mixed views of that devastating piece of news! I think he has proved to us, however, on several occasions, that he is not afraid to put his head above the parapet and demand answers to questions that some people would rather he did not ask, in the first place. He is the sort of Deputy that, if you had an awkward squad, you would sort of want him in it, and long may we continue to get real passionate Deputies, who are willing to join such a squad and who do not go native a nano-second after they have just been elected. Scrutiny has lost, without doubt, a committed, hard-working Deputy and it needs another dedicated worker to fill the vacant seat. I believe that Deputy *Lester* Queripel is that person.

700



705 Unlike his brother, of course, he has no committee work and I think that is a shame. I ask you, therefore, to consider Deputy Lester Queripel for the empty seat on this important Committee, and I believe that, given the careful guidance of the Committee's very capable Chairman, Deputy Queripel will learn much over the coming years from the work of Scrutiny. I ask you to support his nomination. His brother says, actually, that he is an excellent choice. *(Laughter)*

710 Thank you.

**The Bailiff:** Members, I remind you that neither the candidates, nor their seconders, are entitled to speak so that concludes the speeches. I remind you there are two candidates, Deputy Laurie Queripel, proposed by the Chair of Scrutiny Committee, Alderney Representative Arditti, and seconded by Deputy Robert Jones and the second candidate Deputy Lester Queripel proposed by Deputy David Jones and seconded by Deputy Trott.

Please now cast your votes and the slips will be collected up.

*A ballot took place.*

720

### Procedural Deputy Ogier indisposé

725 **The Bailiff:** Deputy Luxon?

**Deputy Luxon:** I have been trying to catch your eye, sir.

Deputy Scott Ogier e-mailed me just after 9.00 to say he was unwell and indisposé. I am sorry I didn't see it until now: I have been trying to catch your eye.

730 Thank you.

## Billet d'État XXIII

735

### HEALTH AND SOCIAL SERVICES DEPARTMENT

#### Tobacco Control Strategy 2009-2013, Re-introduction of tobacco licences and controls Debate continued

740 **The Bailiff:** Members of the States, while the votes are being counted, let us resume debate on the Health and Social Services Department's Report on the introduction of tobacco licences and tobacco controls.

An amendment has been circulated: I believe you have it all. It seems to me we should deal with the amendment next. It is very similar to one that we had yesterday and I hope that Members will not repeat what they might already have said in respect of those parts of *that* amendment which survive in this new amendment.

750 Deputy Lester Queripel, Do you wish to lay the amendment?

**Deputy Lester Queripel:** Yes, sir.

755 **The Bailiff:** Please do so now.

**Deputy Lester Queripel:** Sir, I would like to start by thanking you for allowing me to submit this amendment at such a late stage, and also to thank the Deputy Greffier for his assistance.

760 Several Members told me yesterday that, if I had withdrawn 4.1 from my previous amendment, they would have voted in favour of it. So this new amendment now focuses primarily on paragraphs 1.4 and 2.1 of the Revised Licensing Framework. What that means is that this amendment is asking the Assembly to decide whether or not they are in favour of 16-year olds buying and selling tobacco. I have *withdrawn* my proposal to lower the age of the licence holder from the previous amendment.

765 HSSD, as we all know, is proposing the age to buy and sell tobacco should be 18 but, if you vote in favour of HSSD and reject *my* proposal, what it will mean is that under-18-year olds who currently work in shops selling tobacco will quite possibly lose their jobs. In fact, the proprietor of the Bridge Candy Shop was on the Channel News last night, telling viewers that she will have to sack six of her young staff if the HSSD proposal of 18 is successful.

770 My concern, sir, is that if we do not provide as many opportunities as possible for our young people to work, then they will have no alternative but to sign on as unemployed and sink into the state of demoralisation that unemployment brings. So I ask that the Assembly seriously consider that thought when voting for this amendment:

775 *In Proposition 2, after the word 'appendices' to add 'Save that instead of the age of "18", where it appears in paragraphs 1.4 also 2.1 of Appendix 1. The Revised Licensing Framework, substitute the age of "16".'*

Thank you, sir.

780 **The Bailiff:** Deputy Paint, you formally second that amendment, do you?

**Deputy Paint:** I do, sir.

785 **The Bailiff:** Does anybody wish to speak on the amendment?  
Deputy Bebb.

**Deputy Bebb:** Very briefly. I would like to reiterate that I would like to see parity between tobacco licensing and alcohol licensing and this amendment actually does not bring parity. I would also like to affirm that the Department *have* listened to the concerns, especially of the Candy Shop and, therefore, the proposal, as put forward by HSSD, is that the 18 years of age will be phased over two years. Therefore, no person will have to be 'sacked', as has been claimed, in relation to this particular licensing model. Over two years, HSSD's proposals will come in.

790 No-one will have to lose their job, as a result of the proposals that HSSD have. Therefore, I ask you all to *reject* this amendment.

795 Thank you.

**The Bailiff:** Deputy Luxon.

800 **Deputy Luxon:** Yesterday, I would have been very happy to support Deputy Lester Queripel's amendment until, thankfully, Deputy Le Clerc pointed out that 4.1 was about the licence applicant, rather than staff serving, so I thank Deputy Le Clerc for that.

805 I do hope that Deputy Paint will support the amendment he is seconding today, (*Laughter*) and what I would say is that I will be supporting it. I made the point yesterday that I had hoped that decisions that this Assembly make do not have unintended consequences of affecting retail businesses when our economy is in a slightly vulnerable position. It is very easy to say that is overstated, sir, but it is a reality. If this amendment is approved, it will put them in a position where I am more able to support the overall propositions of HSSD.

Thank you, sir.

810 **The Bailiff:** Deputy Dorey.

**Deputy Dorey:** Sir, I ask the Assembly to reject this amendment.

815 If you look at the Propositions, Proposition 4 is to give the Police power to confiscate tobacco from under-18s, so – if we support this amendment – we would be passing an amendment allowing 16-year olds to buy it, but also there is a Proposition saying to confiscate it from under-18-year olds. It is, I would say, inconsistent to support if you believe that under-18s should... the police should have the power to confiscate them... it is inconsistent to support this amendment.

820 I do not think the arguments have been made to allow 16-year olds to buy tobacco. I think the arguments have been very clear: it is a very dangerous drug and we should do everything we can to keep it away from as many people as possible. Limiting it to being sold to 18-year olds and over is a very important part of that, so I would ask you to reject this amendment.

Thank you.

**The Procureur:** Could I seek some clarification?

825 Members are talking about the age at which people are allowed to buy tobacco. My copy of the Amended Framework, as substituted yesterday, does not say anything about the age at which people are allowed to *buy* tobacco – it is only about people who *sell* it.

830 **The Bailiff:** Deputy Dorey.

**Deputy Dorey:** I would like some clarification of the implications of 1.4.

835 **The Bailiff:** Well 1.4 reads – and I assume it is the third sentence that you are referring to, is it?

840 ‘The licence would authorise the sale or supply of tobacco products by the licensee, or servant or agent of the licensee (provided, from the date of 1<sup>st</sup> January [2015], they were aged 18 or over (and before that date persons under the age of 18 may be authorised to sell or supply tobacco products provided they are under the supervision of the licence holder)).’

**Deputy Dorey:** Sorry, I mean 2.1.

**The Bailiff:** 2.1. Right.

845 **The Procureur:** The only reference in 2.1 to the age of 18 is that, in the retail sales,

‘...information about the location of the area where tobacco products will be displayed and how it will be sealed off from under 18s.’

850 I do not really... That would be sealing it off from under-16s. I think the offence of – I just – this amendment does not do what Deputy Queripel thinks it does.

**The Bailiff:** Deputy Le Pelley.

855 **Deputy Le Pelley:** Sir, could I have clarification, as well?

Does that read that people under the age of 16 could actually be serving tobacco in the next two years?

860 **The Bailiff:** Yes. So any further...?  
Yes, Deputy Perrot.

**Deputy Perrot:** Perhaps, sir, Deputy Queripel could explain paragraph 1.4 because I certainly do not understand that which you have just read out. The sentence, as I understand it, would now read that

865 ‘The licence would authorise the sale or supply of tobacco products by the licensee, or servant or agent of the licensee (provided, from the date of 1st January 2015, *they* were aged 16 or over...’

870 Now *they* – very bad English – but what does *they* refer to? Is that to be read *conjunctively* or *disjunctively* with the three named persons, licensee or servant or agent? Does it mean, then, that a licensee could be aged 16 which, to me, seems to be absurd? But if it is to be read *disjunctively* so that the licensee can only be 18 but somebody working for the licensee could be 16, that seems to me to be entirely appropriate but this is a dog’s breakfast of a piece of English, quite frankly.

875 **The Bailiff:** I think, to give it that latter interpretation, it would have to read, provided... Instead of the word ‘they’, it would have to say ‘the servant or agent’ were aged 16 or over. Otherwise, as it is, it seems to me –

880 **The Procureur:** Well, except that at 4, which is not to be amended by this amendment, it is made clear that the applicant, if an individual, has to have reached the age of 18 to be the licensee. That was the whole point.

885 **The Bailiff:** I see. So, reading the two together, you say the licensee... It is reading the two together, you are saying, that makes it quite clear the licensee must be 18, but the servant or agent could be 16. Is that it?

**The Procureur:** Yes, clearly.

If I am a purist in English, I *also* deprecate this modern fashion of talking about ‘they’, but it seems to be it means ‘he or she’.

890

**Deputy Perrot:** Thank you.

I am very glad that it is clear to the Procureur but then he is a QC and I am not! (*Laughter*).

**The Bailiff:** Neither am I, but this is the Licensing Framework from which legislation will be prepared so, if that is how the Law Officers are interpreting it, then, no doubt, the legislation will be clearer when that is drafted. If it needs to be clearer...

895

Yes, Deputy David Jones.

**Deputy David Jones:** Mr Bailiff, may I just make a point on Proposition 4, too. It says here

900

‘...to confiscate tobacco products and other paraphernalia...’

There may be lots of reasons why youngsters have matches and lighters. Setting off illegal fireworks springs to mind, small cases of arson we are getting in parishes every now and again – but what does that really mean? Is it just the ability to roll a cigarette – the papers – or does it mean that the youngsters who are stopped will have these other items taken away from them, even if they are not in possession of cigarettes?

905

**The Bailiff:** Any further debate on the amendment?

910

Yes, Deputy Duquemin.

**Deputy Duquemin:** I am struggling with this a little. I think the wording of the amendment has been questioned and stuff, but what I simply question is how it is right and proper to allow somebody to sell something they are not allowed to buy. I cannot square that circle, regardless of the use of words and stuff.

915

I think I applaud Deputy Lester Queripel for his support of the young people who are working and not wanting to be sacked but I refer Members back to what Deputy Bebb has highlighted: there has already been an allowance in what has been brought forward by HSSD to ensure that nobody will be sacked. We are not going to put someone out of a job who is currently in a job, but we are not going to have the situation where somebody who cannot buy a product is allowed to sell it. For me, that is just a nonsense.

920

**The Bailiff:** Deputy Trott.

925

**Deputy Trott:** Sir, may I make two comments.

The first is that already happens because a young lady working at a supermarket checkout will, effectively, sell alcohol but she will have to call over someone who is over the age of 18 and, probably, the licensee for that to happen. (**A Member:** Yes.)

What is obvious, though, is that there is real appetite in this Assembly for a 16-year old person, who *is* entitled to vote, to be in a position to be able to sell cigarettes under the auspices of an 18-year old, or older, licensee. Now surely, sir, a 15-minute adjournment to enable an amendment to be drafted by the Law Officers that satisfies that appetite is the most sensible way forward.

930

**The Bailiff:** Do you wish me to put it to the States that there be a 15-minute adjournment, Deputy Trott?

935

**Deputy Trott:** Yes, sir.

**The Bailiff:** Right. I put to you a proposition that there be a 15-minute adjournment, for the reason outlined by Deputy Trott.

940

Those in favour; those against.

*Some Members voted Pour, while others voted Contre.*

945

**The Bailiff:** I think the *Contres* overwhelmed the *Pours*, so that is lost. We will continue.

**Deputy Trott:** I am not sure, sir, not from where I was sat. (*Laughter*)

950 **The Bailiff:** Are you asking for a recorded vote, Deputy Trott?

**Deputy Trott:** No sir, I think you might have been right. (*Laughter*)

955 **The Bailiff:** Does anyone wish to speak in the debate on the amendment.  
Yes, Deputy Paint.

**Deputy Paint:** Just a short one, sir.

I am sorry that some Members do not believe that 16-year olds are capable of working and carrying responsibility. To me, that is just like saying somebody of 65, which I will be in three days' time, should not be in the States because they have not got enough... you know, they have lost their brain cells! (*Laughter and interjections*).

960 How many of you would leave? So I just do not think this is fair for young people. Deputy Bebb said before that nobody would be sacked. What about those that will be employed *after* today until the two years is over. They will lose their jobs... Then the future generations will *not* be permitted, so I think we are doing a *great* disservice to young people and it is just becoming too much of a 'nanny state', I am sorry.

965 Thank you.

970 **The Bailiff:** Deputy Laurie Queripel.

**Deputy Laurie Queripel:** Sir, I just rise to say I could happily and comfortably support the 1.4 aspect of the amendment but not the 2.1 aspect.

975 That conflicts me, unfortunately, but I must assure Deputy Duquemin, I have spoken extensively to retailers and, despite the fact that there is this allowance of two years, if this is not amended, if teenagers under the age of 18 are not allowed to sell this product, there *will* be consequences within the retail sector and the opportunities for teenagers to work within the retail sector under the age of 18 *will* diminish. It will affect that sector.

980 So I can support the first part, sir, but not 2.1. I just wondered, could we take those separately, or...?

**The Bailiff:** Not as it is drafted, no.

**Deputy Laurie Queripel:** We cannot... Okay, sir, thank you very much.

985 **The Bailiff:** If nobody else wishes to speak, then I will ask the Minister if he wishes to exercise *his* right to speak immediately before Deputy Lester Queripel replies.  
Deputy Adam.

**Deputy Adam:** Thank you, sir.

990 It has already been stated that the Department would prefer parity between tobacco and liquor licensing, in other words both over age 18. Children Law: it already states that children, if they are in the care of the Government or HSSD, that should now continue up until the age of 18 because it is considered they require support and help. These may be disadvantaged children, I accept, but we made a Law saying that.

995 I think Deputy Dorey for his, what *I* consider were very reasonable and valid points, and Deputy Duquemin, who was very sensible. How can we say that a 16-year old can sell tobacco – which is a lethal product – to someone but cannot sell... that a person has to be over 18? The other point that some people may have missed out on, I heard one retailer accept – *accept* – the potential risk and did not employ students from the local school, the potential risk to the students because they may be intimidated or have pressure put on them if they attend the same school as people going into that shop for tobacco. That was from a retailer, not from myself.

1000 As far as paraphernalia is concerned, it should be defined under a Law and often would be considered by the discretion of the Police.

1005 Lastly, sir, we are talking about a product that is lethal. We are talking about a product that, if we can reduce the number of people smoking it, it is a preventative measure. We may not, in years to come, have a 17% referral rate for cardiac conditions, as in the UK in the last four months. We may have *less* cardiac disease, we may have less chest disease, therefore I feel this may seem a very small point but I think it is a logical and sensible thing to restrict it. The Department *has* accepted those who are employed at the present time, who are aged 16, will be able to work until

1010 the age of 18. By that time, retailers should be able to adapt things so they can work a system that allows that person to work still in the shop, selling the majority but not the tobacco products, by locking the cabinet door.

Thank you sir.

1015 **The Bailiff:** Deputy Lester Queripel to reply.

**Deputy Lester Queripel:** Thank you, sir.

I say, in my defence, my intention is to *attempt* to provide as many opportunities as possible for our young people to work. Regarding the phasing in of the age of 18, that will obviously, naturally, result, in two years' time, in traders quite possibly not being able to employ under-18s to sell tobacco. That is a great concern to me, sir.

But I would ask that we go to the vote and can I have a recorded vote, please, sir.

1025 **The Bailiff:** Right.

In that case, Members, you are being asked for a recorded vote on the amendment:

In Proposition 2, after the word 'appendices' to add 'Save that instead of the age of "18", where it appears in paragraphs 1.4 also 2.1 of Appendix 1. The Revised Licensing Framework, substitute the age of "16".'

1030 My copy is marked No. 3, proposed by Deputy Lester Queripel and seconded by Deputy Paint.

*There was a recorded vote.*

*Lost – Pour 12, Contre 33, Abstained 0, Not Present 2*

	<b>POUR</b>	<b>CONTRE</b>	<b>ABSTAINED</b>	<b>NOT PRESENT</b>
1035	Deputy Luxon Deputy O'Hara Deputy Robert Jones	Deputy Soulsby Deputy Sillars Deputy Quin		Deputy Ogier Deputy Fallaize
1040	Deputy Gollop Deputy Lester Queripel Deputy Gillson Deputy David Jones	Deputy Hadley Alderney Rep. Kelly Alderney Rep. Arditti Deputy Harwood		
1045	Deputy Lowe Deputy Paint Deputy James Deputy Perrot Deputy Burford	Deputy Kuttelwascher Deputy Brehaut Deputy Domaille Deputy Langlois Deputy Le Clerc Deputy Sherbourne		
1050		Deputy Conder Deputy Storey Deputy Bebb Deputy St Pier Deputy Stewart Deputy Le Pelley		
1055		Deputy Trott Deputy Laurie Queripel Deputy Le Lièvre Deputy Spruce		
1060		Deputy Collins Deputy Duquemin Deputy Green Deputy Dorey Deputy Le Tocq		
1065		Deputy Adam Deputy Brouard Deputy Wilkie Deputy De Lisle Deputy Inglis		
1070				

## Billet d'État XXVII

1075

SCRUTINY COMMITTEE

**Election of one new member  
Deputy Lester Queripel elected**

1080

**The Bailiff:** I can now announce the result of the vote for the election of a member to the Scrutiny Committee. The votes cast were as follows:

1085

Deputy Lester Queripel 28 votes, Deputy Laurie Queripel 15 votes. There were two blank papers and no spoilt papers. *(Applause)*

I formally declare Deputy Lester Queripel elected.

1090

**Billet d'État XXIII**

HEALTH AND SOCIAL SERVICES DEPARTMENT

1095

**Tobacco Control Strategy 2009-2013,  
Re-introduction of tobacco licences and controls  
Debate concluded: Amended Report approved**

1100

**The Bailiff:** And now we have result of amendment No 3, proposed by Deputy Lester Queripel, seconded by Deputy Paint: 12 votes in favour, 33 against. I declare the amendment lost.

Next, it means we can more on to resume general debate on the Department's Report and just before we adjourned yesterday evening, Deputy Lester Queripel had indicated he wished to speak. Do you wish to speak in general debate still, Deputy Lester Queripel.

1105

**Deputy Lester Queripel:** Yes, please sir, if I can find my speech! *(Laughter)*

*There was a short pause.*

1110

**Deputy Lester Queripel:** Actually, sir, I've got to find my speech, so if you would like to pass on to someone else, I will just try and locate my speech.

**The Bailiff:** Does anyone else wish to...?  
Yes, Deputy Le Lièvre.

1115

**Deputy Le Lièvre:** Mr. Bailiff, Members of the Assembly, yesterday three Deputies, and it could have been more – Deputies Green, Soulsby and Le Tocq – referred to education as being the key way to reduce the levels of smoking and I would certainly and wholeheartedly agree with them.

1120

Unlike Deputy Kevin Stewart, putting people in detention does *not* stop you smoking. I know, from my own experience, that although that was a minor punishment in comparison with what would happen to you if you were caught smoking at Elizabeth College, it is education... We are on a journey and a very, very long journey at that.

1125

Members of the last Assembly will know that I did some somewhat amusing research with regard to where we were, possibly a hundred years ago. I printed out this morning what was an advert for Dr Batty's asthma cigarettes – it's for your health and it effectively treats asthma, hay fever, foul breath, all diseases of the throat and bronchial irritations, but it wasn't recommended for children under 10! That was just post-First World War. During the Second World War, cigarettes were advertised as being good for cooling your nerves and there was a picture of an American bomber: the bomb aimer, when he got back to England, would relax, having obliterated the enemy, he would relax with a Camel and so... *(Laughter)* I should have added, that is a cigarette! *(Laughter)* Likewise, if you worked in the factory that made bombs, you also were... there is a picture of a gentleman from the factory smoking a cigarette, but I suspect that was *outside* the factory and not in it.

1130

1135

If you move on to post-War, then, there is this really, really very serious advert: this, again, is about Camels – 'More doctors smoke Camels than any other cigarette!' That's post-War. I suspect

1140 this is from the 60s or even the 70s – this is Marlborough: ‘Before you scold me, Mum, maybe you’d better light up a Marlborough’. There’s another one again: “Gee, Dad, you always get the best of everything, even Marlborough.’ Right. Well, it didn’t stop then, because my experiences at Amherst School... occasionally you were allowed out, or you were taken, to a local institution and were given instruction as to what went on there. One of the experiences I had was travelling, taken in a bus, along with all your class – which was really good and exciting, in any event – to the Guernsey tobacco factory. We were shown round and I can remember, very vividly, being shown  
1145 a whole tobacco leaf – which is huge – and it didn’t smell particularly pleasant. That would not have induced you to smoking, but when you left the tobacco factory, they gave you a packet of sweet cigarettes! That was my experience as a youngster and is, possibly – I’m not looking at it as an excuse as to why I started smoking at 11 or 12, but it certainly didn’t help!

1150 So we are on this long journey and we have made *enormous* strides. All this is illegal now. Advertising on racing cars is illegal and so on and so forth. These are brilliant moves, but we have still got a long way to go and I suspect there will not be many people in this Assembly who are still alive when we finish that journey.

1155 I was not actually going to speak until I heard Deputy Brehaut refer yesterday to what I assumed to be cuts in Health’s budget with regard to expenditure on education, with regard to anti-smoking procedures. I thought it was that that caused me to go home and think very severely whether I *would* speak or not. I looked at the statistics produced by Social Security in its September – or it might have been in the October – Billet with regard to the nature of incapacities for people in receipt of IVB, which is a long term sickness benefit. After illnesses associated with mental illness, cardiovascular problems feature very, very highly and the cost of those – that is not, of course, only related to benefits, invalidity benefit, supplementary benefit, attendance allowance,  
1160 invalid care allowance, there are also the medical expenses and the hospital expenses and the family support – whether the cost is £10 or £20 million, I don’t know. I don’t think it has ever been calculated but it is certainly in the tens of millions, that’s for sure! And when we put the pension age up to 70, which will eventually be the case, I am sure the number of those people in receipt of those benefits will increase hugely because this is not a disease of the elderly, this is a disease which, although it features more strongly as you age, there are very many people with these chronic illnesses below the age of 65. Most of them are men, and that is indicative to me that this is a ‘male disease’, mostly associated with smoking but, given the rise amongst females who smoke, then we can look forward to those figures getting worse.

1170 My concern is that, at a time when we have made *huge* strides in reducing the levels of smoking, reduced budgets and the consequences which you have heard *most vividly* this morning will result in rises in the level of smoking so that today’s reduction in investment will result in a likewise increase in expenditure many hundreds of times more than the reduction that we are attempting at the moment to balance our budgets.

1175 So my message to the Board of HSSD is look at this very, very carefully. A short term reduction will reap very, very dubious results in 10, 20 or even 30 or 40 years’ time. This is not an area that we need to back pedal on. We need to continue our investment and, indeed, step it up, because it’s stopping young men and women smoking in the first instance that will bring about the results that we all so desire.

1180 Thank you, sir.

**The Bailiff:** Deputy Lester Queripel, have you found your speech now?

**Deputy Lester Queripel:** Yes, sir. Thank you.

1185 **The Bailiff:** After you, I’ll call Deputy Sherbourne and then Deputy Hadley.

**Deputy Lester Queripel:** Apologies for losing my speech, sir. I was elated at being elected on to Scrutiny! *(Laughter)*

1190 Bullet point 6 of paragraph 2.1 in the Revised Licensing Framework tells us that tobacco products must be sealed off from under-18s, but does not tell us *how* this will happen. Will it be behind a locked wooden, or even metal, door? Will it be in the form of an isolated cabinet somewhere behind the counter, or will it even have to be in the form of an especially constructed kiosk, rather like a telephone box, in which only someone over 18 will be allowed to sit all day selling cigarettes? I would like the Minister to clarify *that* point, please, sir.

1195 Could the Minister also explain the reasoning behind actually sealing off tobacco in the first place. The reason I ask him to do so is because it seems *completely* illogical to me that a 13-, 14-, 15-year old can walk by shelves filled with alcohol in a supermarket, – that child could quite



1200 easily even steal a bottle of brandy or whisky, if they wanted to – so will the next proposal be that supermarkets and off-licences seal off their bottles of alcohol, as well? I would like some clarification on *that* point as well, please, sir.

I presume... and I hope that the Minister will be able to go into some serious detail regarding this sealing-off because there are strict controls in place for the storage of fireworks, which bring pleasure to millions of people, yet we all know how dangerous fireworks can be.

1205 There are also strict controls in place for the safe keeping and storage of firearms. The ammunition has to be kept in a totally separate place to the gun itself, which has to be kept in a metal box, which is not only padlocked but has to be chained to a stationary item totally out of sight behind a locked door. If you do have a gun and the Inspector is not satisfied with the security measures you have put in place, then you are not allowed to keep your gun. A gun, of course, as we all know, is a lethal weapon and HSSD, quite rightly, are telling us that cigarettes are also lethal weapons. With this in mind, we can only hope that HSSD have given some serious consideration to this sealing off.

1210 Moving on to the issue of whether or not we should consider introducing a legal age to smoke, could the Minister please clarify his Department's view on that issue.? Finally, I think I am right in saying the Minister harbours a vision of a smoke-free Guernsey by 2040. If that is actually the case, and bearing in mind that the Minister himself smokes a pipe, is there not a danger of this being perceived as a 'Don't-do-what-I-do, but do-what-I-say' type of approach.

1215 And this seems to be another one of these ideas that hasn't really been thought through, rather more dictatorial than sartorial, I would suggest. The Minister could die before 2040, after having smoked *his* pipe for most of *his* adult life. He would have had his pleasure and, by 2040, if his desire for a smoke-free Guernsey comes to fruition, he will then be denying his fellow Islanders the pleasure, and even the choice, of smoking. I would like to hear his thoughts on that issue, please, sir.

1220 Finally, of course, if the Minister is still *alive* in 2040, (*Laughter*) he will then be forced by his own legislation to give up smoking in his 90s, (*Laughter*) and I wonder also how much thought he has given to that possibility.

1225 Thank you, sir.

**The Bailiff:** Deputy Sherbourne next.

1230 **Deputy Sherbourne:** Thank you, sir.

I, like Deputy Le Lièvre, had no intention of actually speaking in this debate until I heard, first of all, Deputy Soulsby's comments, followed up by Deputy Brehaut's.

1235 I shall be *reluctantly* supporting HSSD'S Report, but with grave reservations. The concerns expressed over the reduction and possible withdrawal of financial aid to vulnerable organisations that support and enhance the policy of preventative education in health matters... Most of those services grew from the efforts of individuals and small groups that decided there was a need to work together to try and assist with the improved health of the people of this Island. They were very successful and soon found that there was a demand for their time, their effort, their expertise and, thankfully, this Assembly, in the past, agreed that they should be supported in some way.

1240 Financial support to the third sector has been with us for a long time, and I find it extremely ironic that HSSD should, at this stage, when actually proclaiming that one leg of their policy, preventative educational support, is being reduced... That really does not make sense to me at all. These organisations, to me, are soft targets. They are the easy ones to withdraw support from, and yet their contribution to the health and welfare of this Island is tremendous.

1245 I would ask the Minister to reassure this Assembly that it will do what it can to find alternative ways of supporting these organisations to carry out the work they are already doing. GASP, for example, have indicated that they will *not* be able to continue with their work in schools and I am sure there is no one in this Assembly who wishes *that* to be an outcome of any decision that we make today.

1250 So, once again, I ask the Minister to reiterate the Board's support for helping these organisations as much as they can, now and in the future.

Thank you, sir.

**The Bailiff:** Deputy Hadley.

1255 **Deputy Hadley:** I do support the last speaker and would also urge the Minister to reconsider the support to voluntary organisations.

Unlike some other Members of the Assembly, I do feel that the Department has put forward an

1260 excellent Report, and I think it must be very dispiriting to the staff of the Department to hear some of the criticisms about it being ‘not researched’ or ‘not sufficiently good’ in some aspects.

One of the things that struck me... The only criticism, if I had any, is that if you try and look at some of the references at the end of the Report, they do not exist any longer and they are certainly very difficult to access. But I did some research of my own and, indeed, I have heard, time and time again, in this debate that there is ‘no evidence’ that licensing retail outlets is effective.

1265 Well, we’ve all used Google before and it’s ever so easy to do. If anybody does not know how to do it, I am happy to give them a lesson. But if you actually put into Google ‘Effects’/‘Licensing’/‘Retail outlet’, you come up with a whole host of references. If you say the Department has not done enough research in this, what would you like me to do? Would you like to say ‘Well, we will try and educate *half* the retailers on the Island and we will license the other

1270 half and see one which works’? Of course, that would be very costly and, realistically, they are not going to do that.

But *somebody* else has done it. It has been done in New South Wales. When they tried education of retailers, they said:

1275 ‘The potential of education and information-based systems to achieve high levels of retailer compliance with Tobacco sales products has been extensively studied both within Australia and overseas.

Although retailer education plays an important role in increasing the effectiveness of legislation, research has consistently shown that merely educating retailers about the law... compliance with legislation can be low, and has *little* long term effect on reducing tobacco sales to minors

1280 Following an intensive two year retailer education campaign amongst retailers in New South Wales, compliance surveys *still* revealed an illegal selling rate close to 31%.’

Other Australian studies have shown it has made no difference, educating retailers.’

1285 As far as licensing is concerned, Greater Philadelphia has looked at the effect of licensing. The effect of licensing in Greater Philadelphia was studied between 1994 and 1998, and they found that a licensing regime *halved* the sale of tobacco products to young people.

So there you have it. They have tried educating retailers: no effect. They have tried licensing retailers and it has halved the sale of tobacco products!

1290 What the Department is doing is well and truly evidence-based. It *will* have an effect. It *will* reduce the amount of smoking amongst young people, and I *do* urge members of the Assembly to support the report wholeheartedly.

**The Bailiff:** Deputy Sillars.

1295 **Deputy Sillars:** Thank you, sir.

After Deputy Le Lièvre’s and Deputy Sherbourne’s excellent speeches, I have nothing really to add except to reinforce them.

1300 But if HSSD are having to cut their grant to GASP so, if the effect of this is that the schools will not be visited and, therefore, our children will not be getting the reinforced message that smoking does kill, please can I ask HSSD to come and talk to us at Education to try and find a way forward together.

Thank you.

1305 **The Bailiff:** Does anyone else wish to speak?

Yes, Deputy Inglis.

**Deputy Inglis:** I was disappointed last night that I could not carry on with the debate, on the basis that they were very passionate and well presented speeches. The momentum of what was being carried forward was very enthusiastic.

1310 I just want to make a couple of observations for you to consider. Deputy Soulsby pointed out that HSSD appeared not to involve other Departments. In truth, this is something that we, as a Department, greatly encourage, and as lead for the 20/20 Vision for the Island, future health strategies *will* be presented to this Assembly, which clearly demonstrate cross-Department involvement.

1315 I hope that the support from other Departments with the Tobacco Control Strategy will be forthcoming in reducing smoking, although it *is* disappointing that a State-owned business, under T & R governance, actively promotes cigarette sales that contravene the importation allowance into Guernsey, yet our Border Agency staff appear not to police this, with the effect... despite clear signage in the arrivals lounge detailing the entitlement. Members, more and more people see

1320 this as a way of overcoming the rising cost of cigarettes *and*, regrettably, a means of making

money at the taxpayer's expense.

1325 But I would like to end on a positive note, given that the Assembly *will* support the Report. There will clearly be a win-win scenario for everyone concerned. I find it quite amazing that retailers employ young people solely to sell cigarettes. They must be doing something else in the nature of their job. Retailers, who feel that tobacco sales are not for them, will have the opportunity to review their business model and to achieve greater profitability, thereby increasing their revenue. This is something that anyone involved in a business has to take stock of at times and I feel, maybe, this is an opportunity.

1330 In another life, in the nature of my business, I fitted out lots of gantries for cigarette users. They were enormous. They were probably five times the size of what we do today, but there was a definite desire by the retailer to remove them, to reduce the size that they were being asked by the tobacco companies to retail, because they knew it was not profitable. They knew there were other areas they could develop to increase their turnover.

1335 There is a win for HSSD, who will secure a further step to achieving a healthier lifestyle plan and, most importantly, our young people will not endure the pain and suffering that tobacco creates within our community.

1340 There is just one other point I would like to make that has been mentioned and that is the word 'persecution'. I don't believe and I know – HSSD is not out to 'persecute' smokers. The action of what we are bringing forward is designed to help and prevent.

Mr Bailiff, thank you.

**The Bailiff:** Does anyone else wish to speak?

No? In that case, Deputy Adam, it is you to reply to the debate.

1345 **Deputy Adam: Thank you, sir.**

I will start with Education, because I think there has been, Deputy Soulsby first mentioned it when she spoke, Deputy Sherbourne, Deputy Le Lièvre, Deputy Sillars and Deputy Le Tocq – all yesterday.

1350 There was a meeting between the Environmental Health and Pollution Regulator with the Public Health Consultant and with Alan Williams of GASP, Chairman, when it was agreed that GASP would not deliver school smoking education, and this would pass back to HSSD. This teacher had resigned to take up a post at St Sampson's School and so it would save GASP from advertising again and also save Alan having to supervise the staff and programme. This was an *amicable* agreement

1355 The health improvement lead for HSSD has been reviewing the service and there will be an equivalent level of lessons in school, although this will be delivered in a more cost effective way in the future. The PHSD which stands for... Public Health... (*Laughter*)

**Deputy Sherbourne:** Personal Social and Health Education!

1360

**Deputy Adam:** Thank you...

1365 I was going to say it is an Education term, not an HSSD term! That reminds me of Deputy Paint saying about cells – but employment by the Education Department has been funded through the Tobacco Strategy money but has not been doing much tobacco education. She will now deliver much more tobacco education in schools. In *addition*, new staff in health promotion will be delivering some of the programme. This will be subject to a service level agreement which will ensure the right level of lessons for schools.

1370 Guernsey has also collaborated with the States of Jersey on the ASSIST programme, an evidence-based programme with excellent results in the UK for tackling teenage smoking. This targets Year 8 students and uses a peer-led approach. This is very important, as our teenage girls, particularly, are increasingly taking up tobacco smoking. GASP originally offered to co-ordinate the ASSIST programme across the Channel Islands but then withdrew. We want to work with GASP to reduce our statistics on under-18 smoking. HSSD has had a good partnership so far and we would hope that will continue in future.

1375

**Deputy Soulsby:** Can I make a point of correction there in terms of what Deputy Adam said.

1380 GASP funding was reduced under the mistaken expectation that HSSD would take on the education programme in its entirety but it did not. Things were agreed, on the basis that they would take over the whole education programme, in terms of what GASP could produce, but you have not. You have taken it and then you have cut the actual service provided.

1385 **Deputy Adam:** Sir, I am simply quoting from a statement given to me by someone who was present at the meeting and who.. I did not mention the name of the civil servant involved but there is... It was being reviewed and looked at a more cost effective way. I know the ASSIST programme has been started in one school – only one school has taken it up so far – it is an evidenced-based programme, with excellent results. That has been tried out. All I can say is that is the report I have got concerning that meeting, *that* is what is happening, as far as Education is concerned. I can look into it further and make sure that it is an accurate report.

1390 Other comments that were made: Deputy Storey asked that the licensing system be in combination with alcohol licensing. This was explored at the time. One of the officers spoke to the person who does alcohol. She felt that she had sufficient commitments and also that the licensing of alcohol is completely different from the intended regulation licensing tobacco. Alcohol you have to go to court for your licence, you have to get an advocate etc., and, as I say, we felt it was not compatible. So we did explore that way, to see if it was possible to combine the two systems.

1395 Also he mentioned that he had read Appendix 1 in detail and found about ten items that he considered not practical and most have been addressed. Thank you for recognition that some attempts have been made to put in place a more user-friendly methodology. I know that, in your past, you used to run pubs and I think you have a considerable knowledge about that aspect of things.

1400 Deputy Lester Queripel was asking about displays and this type of issue, sir. That goes back to the States Report in May 2010, when it was proposed banning the display of tobacco products and a restriction on vending machines in establishments for over 18-years old. It is not really mentioned in this Report. That Report, from that time, goes over the consultation background etc. and what is necessary, as far as displays are concerned. One tries to keep it fairly simple and, like Deputy Queripel – I have lost my note on this – as I say, basically, that Report said to prevent advertising and displays, compiles to display a simple... and gives discretion to the industry to decide how *they* feel is the easiest ways to comply with it. That was all done, as I say, in the last States Report. Advice was given to all the retailers at that time, although that Ordinance is still not in place and the retailers had time, obviously, to make arrangements for it to be put in place.

1410 Someone mentioned ‘persecution’ and ‘prohibition’. This regime clearly supports freedom of choice and it is not about persecution *or* prohibition. We are not banning anything but it does bring about phased control, over time, for a lethal substance. We acknowledge how difficult it is for smokers to give up. It is as hard as giving up heroin addiction. There, obviously, is a range of services.

1415 Deputy Lester Queripel also mentioned a smoke-free Guernsey by 2040. That is the aspiration of the Medical Officer of Health, not mine. He has also said ‘Do not do what I do, do as I say’. As I have already stated, giving up smoking *is* very difficult. The easiest way to do it is to not make tobacco available. Pipe tobacco in Guernsey is not easily available: there is only one place that stocks it, the routine stuff. There is not enough trade for it and not enough profit but you can buy it here and, yes, the only place you can get it is Duty Free. Therefore, yes, I do run out sometimes and stop smoking for a month or two. Once it was nine months but it is very comforting to go *outside* and have a smoke because you can start thinking clearly away from anyone else! (*Laughter*) (**A Member:** Therapeutic value!) It is a good excuse, if you want to know. Someone else might agree with me...

1425 I think that is the main points that have been mentioned. I would like to thank all those who have supported this Strategy and I trust you will find yourself able to give your full support to it. Thank you, sir.

1430 **The Bailiff:** Deputy Lester Queripel.

**Deputy Lester Queripel:** Thank you, sir.  
I just wonder if the Minister could refer to, in detail, firstly, the sealing off. I am not convinced that this sealing off is going to be that easy for traders.

1435 **The Bailiff:** He did ask for that in his speech, yes.  
Do you have another question you want?

**Deputy Lester Queripel:** Well, I did not really get clarification for that. That is what I was trying to pursue, sir.

1440 **The Bailiff:** Deputy Adam.

**Deputy Lester Queripel:** I do have two further points, if I may, sir.

1445 **Deputy Adam:** The answer to Deputy Lester Queripel's question is no, I personally cannot give you details but what I do know, sir, the Report was done in May 2010, the officers from the Department were available to give advice to shops on possible ways forward and there were presentations about it, showing different ways of doing it.

1450 If you go through the refurbished Gatwick Airport you will see what *they* have done but I do not think it is meant to be behind barred doors etc. A blind-type thing is fine, doors are fine but, personally, as I say, I do not know and my assistant here feels that shops have been advised about it and are co-operating.

1455 **The Bailiff:** Deputy Queripel.

**Deputy Lester Queripel:** Thank you, sir.

1460 It was in relation to the alcohol being on shelves in supermarkets. I did not really get any further explanation as to the view of HSSD that their proposing sealing off tobacco... but alcohol is allowed to be on shelves, at arm's length to children, sir.

**The Bailiff:** Deputy Adam.

**Deputy Adam:** Sir, through you, Deputy Jones appears to think it will come, be patient.

1465 As far as alcohol is concerned, it is up to, I think, the Home Department in relation to how that is displayed in shops, as much as anything, because they have the liquor licensing aspects.

1470 But, simple facts: 60 Guernsey people die every year from tobacco-related illnesses, 15 people die from alcohol-related illnesses and 5 – 10 drug misuses. Basically, tobacco *is* more dangerous than alcohol. That does not mean to say you should drink excessive amounts of alcohol but if you take any tobacco, or if you inhale someone else's smoke, it can do you harm. Having a glass of wine or two in the evening is considered by some to be beneficial. Nowadays, the recommendation is that you should have at least one alcohol free day, or two alcohol free days a *week*. (*Laughter*) I am getting away from the so many units – I think it used to be 14 for the fairer sex and 21 for the male sex – that were considered amounts but, moving away from that, it is alcohol free days, gentleman!

1475 Basically, it is up to the Home Department. They do the liquor licensing but it is not as dangerous a substance. That does not mean to say that it is not abused, I accept that. Again, it is called education on alcohol misuse and excesses.

1480 **The Bailiff:** Deputy Queripel.

**Deputy Lester Queripel:** Thank you, sir.

1485 Finally, in relation to introducing a legal age to smoke, could the Minister please clarify the view of his Board in relation to that because I do have real concerns that there is not a legal age? A 2-year old, a 3-year old...

**The Bailiff:** Is this another speech? (*Laughter*)

**Deputy Lester Queripel:** Sorry, sir?

1490 Deputy Adam.

**Deputy Adam:** It is illegal to purchase cigarettes under the age of 18.

1495 If what you are asking is more legislation to say it is... to *ban* someone smoking, as I said we have not gone down that road *as yet*. The next Strategy will come along shortly and it may well be that it will be considered reasonable to put in a criminal offence for someone under 18, but doing that is... People do not like to criminalise people who are under the age of 18 or 16, but a fine or some other measures could be introduced. It is difficult to say, but that is being researched at the present time and you may well find it in the next Strategy when it comes out.

Thank you, sir.

1500 **The Bailiff:** Deputy Stewart.

**Deputy Stewart:** It is really an answer to a question I asked yesterday, to try and understand how big this problem is. I did ask how many people had been prosecuted in recent years for

1505 supplying tobacco to minors?

**The Bailiff:** Deputy Adam, are you able to answer the question?

**Deputy Adam:** Sir, I would have to pass that over to the Home Department and I am sure the answer might be the same as mine: I do not think anyone has been prosecuted. It is very difficult to catch them, as you are fully aware, and it is a problem.

1510 At one stage, sir, people running the Strategy did try sending under-age people into shops to purchase cigarettes and see if they came out with cigarettes. One Deputy considered this was like the Gestapo and described it as such in the States afterwards, so it is not the way... but it is the only way you can find out if someone is selling to under-age...

**Deputy Laurie Queripel:** Sir, can I just ask how will the licensing system or regime change that circumstance? Are there going to be HSSD officers in the shops every hour that they are open?

1515 Thank you.

**The Bailiff:** I feel this is a fresh point you are making, Deputy Queripel. I think we really do need to bring this to a close and come to the vote.

1520 So we come to the vote on the Propositions. They are on page 2197 of the Billet and I remind you that Proposition 2 has been amended as a result of the successful amendment proposed by Deputy Adam, seconded by Deputy Brehaut, that substituted the new Appendix that we have been looking at in some detail:

- 1530 1. To resolve and to direct that the express objective of the legislation to give effect to anti-smoking measures, approved by the States in 2008, 2010 and following this States report, is stated to be to reduce the prevalence of smoking and other use of tobacco products, especially amongst persons under the age of 18.
- 1535 2. To direct that legislation be drafted under the Tobacco Products (Enabling Provisions) (Guernsey) Law, 2010, to provide for the licensing of sale and supply of tobacco products in terms set out in this report and its appendices, but for Appendix 1 entitled Licensing Framework, substitute new Appendix 1 entitled Revised Licensing Framework attached to this Proposition, subject to any necessary modifications and adjustments. Penalties for offences should be based on similar regulatory offences, and forfeiture of tobacco products and suspension or revocation of licences should be imposed as penalties in appropriate cases.
- 1540 3. To direct that an amendment be made to the Smoking (Prohibition in Public Places and Workplaces) (Exemptions and Notices) Ordinance, 2006, to remove the States Prison from the exemptions to facilitate the smoke-free prison strategy.
- 1545 4. To direct that legislation be drafted to allow the Police to confiscate tobacco products and paraphernalia from under 18's in the streets and other public places.
5. To direct that legislation be drafted to regulate price displays of tobacco products.
6. To direct that legislation be drafted to prohibit commercial importation and retail sales of cigarettes other than in a minimum pack size of 20.
7. To direct that legislation be drafted to give officers authorised by HSSD adequate powers to enforce the licensing regime and other legislation to be made under the Tobacco Products (Enabling Provisions) (Guernsey) Law, 2010, as well as smoke free and other anti-smoking legislation, subject to appropriate safeguards.
8. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

1550 Appendix 1  
REVISED LICENSING FRAMEWORK  
**1 The Licence Holder**

1555 1.1 Licences will be held by all wholesalers and retailers of tobacco including indirect sellers (where the seller and purchaser are not in the same place at the same time – e.g. telephone and internet sales). Indirect sale is included to ensure ‘future proofing’ of the system.

1560 1.2 It will be a requirement of wholesalers obtaining a licence, to provide the Regulator, on request, with a current and complete list of all the parties to which it supplies. The wholesalers have agreed to provide the list voluntarily. It is recognised that some parties, to which the wholesalers supply, have multiple outlets.

1565 Furthermore, the licensed wholesaler could only supply licensed retailers. Licensing wholesalers would also effectively help spread the financial burden on retailers created by the licensing regime. Most importantly, such joint licensing would increase public health outcomes not least through increased protection of minors.

1570 1.3 Each licence would apply to individual premises and the licence would also stipulate the contact details for the licence holder or a person responsible for those premises. The advantage of this approach is that the location of all tobacco-related premises is known to the Regulator. Furthermore, this approach more directly provides a link between the fee structure and the nature of enforcement (inspections are based on the number and size of premises, not the number of owners). Checks to ensure compliance with the legislative provisions concerning display and advertising would be undertaken as part of the licence inspection. Visits to premises by the Regulator will be supportive and advisory in approach and will follow the Regulatory Policy. Education will be provided, free of charge, by the Regulator in advance of implementation of the scheme. This may be in partnership with trade organisations.

1.4 The licence may be held by either an individual or a body corporate (with 2 or more designated responsible persons nominated by the body corporate). The licence holder or the body corporate will be responsible for compliance with tobacco control legislation. The licence would authorise the sale or supply of tobacco products by the licensee, or servant or agent of the licensee (provided, from the date of 1<sup>st</sup> January 2015, they were aged 18 or over (and before that

- 1575 date persons under the age of 18 may be authorised to sell or supply tobacco products provided they are under the supervision of the licence holder)). Each licence can authorise the sale/supply at retail and/or wholesale premises or by indirect sales. Provision will be made for retail sale from mobile and temporary premises.
- 2 The Application Process**
- 2.1 To be made using an approved form issued by the Department. Information to include:-
- 1580
- If the applicant is an individual, the name of the applicant and proof of identity
  - If the applicant is a body corporate, proof of incorporation, the names of the persons who act on behalf of the body corporate.
  - Postal address of applicant
  - Physical address of the premises, or the address where any mobile will be kept
- 1585
- Type of proposed sale/supply – retail and/or wholesale or indirect with subcategories of retail to cover mobile or temporary
  - For retail sales, information about the location of the area where tobacco products will be displayed and how it will be sealed off from under 18s
  - Any other information or evidence the Department requires for proper consideration of the application
- 1590
- 3 Fees – to be debated by the States**
- 3.1 Fees may be prescribed by regulation.
- 3.2 The fees would be set by the HSSD Board to ensure the costs of administration of the scheme are covered.
- 4 Criteria for granting of licence**
- 4.1 The Department must grant the licence unless one of the following disqualifications applies:
- 1595
- Applicant (if an individual) has not reached 18 years of age
  - Applicant has been refused or disqualified from holding a licence anytime within the 2 year period before the application was made
  - Applicant holds a licence that has been suspended
  - Applicant has been convicted of an offence under this Ordinance or a relevant law anytime within the 2 year period before the application was made
  - Applicant is the subject of a pending charge anywhere in the world for an offence involving fraud or dishonesty
  - The information or evidence provided is insufficient to assure the Department that the applicant’s operations would comply with the tobacco control laws
  - Any other disqualifications prescribed by regulations
- 1600
- 5 To whom do the disqualifications apply?**
- 5.1 The disqualifications apply to the applicant if the applicant is an individual. If the applicant is a body corporate, the disqualifications apply to the body corporate.
- 6 Authority to seek and disclose personal data**
- 6.1 For the purpose of determining whether or not a person is disqualified, the Department may seek, receive and disclose information.
- 1610
- 7 Advance notice of proposed refusal**
- 7.1 The applicant would be notified in advance of any proposed refusal and allowed to make representations.
- 8 Licence Conditions**
- Compliance with tobacco control laws and all licence conditions
  - Payment of any fee payable under this Ordinance or any associated regulations
- 1615
- Holder must not authorise or allow the sale or supply of tobacco products other than
    - (a) at premises specified on the licence, and
    - (b) in accordance with the terms and conditions of the licence
  - Retail tobacco sellers to be allowed to sell tobacco products from the designated display area.
  - Wholesale tobacco sellers must not sell or supply to anyone other than a tobacco licence holder. It is recognised that some wholesalers may also engage in retail. This will be provided for on their licence.
  - Current licence or copy of licence must be prominently displayed at each licensed premises
  - Holder (or former holder) must keep records prescribed by regulations, for a prescribed period of time
  - Sale or supply of tobacco products at the licensed premises will be the responsibility of the licence holder
  - Provision of any information prescribed by regulations, either on request by the Department or an authorised officer
  - Holder must promptly notify any material change to the Department, and apply for variation of licence. This applies to –
    - change of licence holder
    - change of place at which products will be displayed
    - any other change that affects or is likely to affect the holder’s ability to comply with licence conditions, this Ordinance or any relevant laws
    - any change of a kind prescribed by regulations
- 1620
- 9 Transferability**
- 9.1 The licence cannot be transferred to another person (and cannot be amended to apply to different premises)
- 1625
- 10 Renewals**
- 10.1 Licences to be renewed annually, subject to any disqualifications and payment of any prescribed fee.
- 11 Replacement licences**
- 11.1 Lost or destroyed licences must be reported. Replacement licences will be issued by the Department on payment of a small fee.
- 1630
- 12 Surrender of licence**
- Expired or revoked licences must be returned to the Department
  - Holder who ceases to carry on business that is licensed must surrender the licence
  - Holder may surrender the licence at any time
- 13 Fees payable**
- 13.1 The level of licence fees should be set to enable full cost recovery. Those costs will be associated with –
- 1645
- the administration of the licensing regime
  - the enforcement of the licensing regime including inspections
  - the provision of licensing related information directed to customers and the community
  - the provision of information to applicants and licensees to ensure their continued and future compliance
- 13.2 The fees payable shall constitute an application fee and licence issue fee on making an application for a licence or

- 1650 making an application for renewal. If the application is refused the application fee is non-refundable however the licence issue fee will be refunded.
- 13.3 Fees payable are to be prescribed by regulations. It is anticipated that different fees will be prescribed for –
- application for first licence
  - application for licence renewal
- 1655
- application for licence variation
  - grant of licence (licence issue)
  - renewal of licence
  - variation of licence
- 14 Suspension and revocation**
- 1660 16.1 Subject to giving the holder advance notice and opportunity to make representations, the Department would be able to suspend or revoke a licence on the grounds that it has reasonable cause to believe that –
- any of the disqualifications apply in respect of the holder
  - any condition of the licence has been breached by the holder
  - the licence was granted on the basis of false, misleading or incomplete information
- 1665 **15 Appeals**
- 15.1 Appeals are allowed against the decision of the Regulator to refuse a licence or variation of conditions, suspension or revocation.
- 15.2 It is proposed that appeals against the decision of the Regulator will be heard by an Internal Review Panel appointed by HSSD – usually the Chief Officer and two Directors. If the applicant does not accept the decision of the Internal Review Panel, then they may proceed to the Royal Court subject to consultation with the Bailiff.
- 1670 **16 Register of licences**
- 16.1 The Department will keep a public register of licences, including
- Type of licence
  - Name of holder
- 1675
- Address of licensed premises
  - Identifying number of licence
  - Day on which licence is issued
  - Conditions of the licence
  - Any suspension or revocation, or variation of conditions
  - Any surrender of licence
  - Any change of name of holder
  - Any change to the list of responsible persons
  - The licence ceasing to be valid for any reason including expiry
  - Any other particulars prescribed by regulations
- 1680
- 16.2 The register will also include details of enforcement action.
- 17 Administration**
- 17.1 To be administered by the Office of Environmental Health and Pollution Regulation (OEHPR), acting under authorisation by the Department.
- 1685 **18 Powers of Enforcement**
- 18.1 Appropriate powers of entry, inspection, search and seizure to be part of the licensing regime; with requirements for a warrant to enter a dwelling house. Any action will follow the OEHPR Regulatory Policy and with appropriate safeguards.
- 19 Offences**
- 1695 19.1 Offences will be created for breaching any provision of the Ordinance or breaching any condition of a licence, as well as standard matters such as obstruction, providing misleading information, assisting or attempting the commission of an offence.
- 19.2 Provision will also be made for the directors and other officers of a body corporate to be individually liable for the actions of the body corporate under certain circumstances.
- 20 Penalties for offences**
- 1700 20.1 Various penalties will be provided for the different offences and will be set in the Ordinance, as agreed with the Law Officers.
- 21 Other powers of the Court on conviction of a licence holder**
- May attach any condition or restriction to a licence held by the holder
  - May suspend or revoke a licence
  - May disqualify the holder from holding any licence for a specified period or permanently
  - May order forfeiture and disposal of any tobacco product or other thing –
    - (a) seized by an authorised officer under the Ordinance, or
    - used in, the subject of, or otherwise involved in the commission of the offence.
- 1705
- 1710 There is a request from Deputy Le Tocq that we vote separately on Proposition 3, the one that relates to the Prison, and I will put that to you, first. Then, unless there are any other requests to take any other Proposition separately, I will put the two together.
- Deputy St. Pier.
- 1715 **Deputy St. Pier:** Sir, can we take Proposition 2 separately, as well?
- The Bailiff:** Proposition 2 separately.
- Why do we not take them in turn, then? Yes, we will deal, first, with... We will take each of the Propositions in turn.
- 1720 Proposition 1. Those in favour; those against.
- Members voted Pour.*



1725 **The Bailiff:** I declare it carried.  
Proposition 2. Those in favour; those against.

*Members voted Pour.*

1730 **The Bailiff:** I declare it carried.  
Proposition 3. Those in favour; those against.

*Members voted Pour.*

1735 **The Bailiff:** I declare it carried.  
Proposition 4. Those in favour; those against.

*Members voted Pour.*

1740 **The Bailiff:** I declare it carried.  
Proposition 5. Those in favour; those against.

*Members voted Pour.*

1745 **The Bailiff:** I declare it carried.  
Proposition 6. Those in favour; those against.

*Members voted Pour.*

1750 **The Bailiff:** I declare it carried.  
Proposition 7. Those in favour; those against.

*Members voted Pour.*

1755 **The Bailiff:** I declare it carried.  
And Proposition 8. Those in favour; those against.

*Members voted Pour.*

1760 **The Bailiff:** I declare it carried.  
That concludes this meeting and we will be back here in – well, two weeks yesterday.

**THE GRACE**  
*The Deputy Greffier*

1765

*The Assembly adjourned at 11.32 a.m.*