



**OFFICIAL REPORT**

**OF THE**

**STATES OF DELIBERATION**

**OF THE**

**ISLAND OF GUERNSEY**

**HANSARD**

**Royal Court House, Guernsey, Tuesday, 24th November 2015**

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**Sir Richard J. Collas, Kt, Bailiff and Presiding Officer**

**Law Officers**

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R. Domaille, A. H. Langlois, R. A. Jones

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R. Conder, L. C. Queripel

**St. Sampson**

Deputies G. A. St Pier, K. A. Stewart, P. L. Gillson,  
P. R. Le Pelley, S. J. Ogier, L. S. Trott

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Deputies M. J. Fallaize, L. B. Queripel, M. M. Lowe,  
A. R. Le Lièvre, A. Spruce, G. M. Collins

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**Representatives of the Island of Alderney**

Alderney Representatives L. E. Jean and S. D. G. McKinley, O. B. E.

**The Clerk to the States of Deliberation**

J. Torode, Esq. (H.M. Greffier)

**Absent at the Evocation**

Miss M. M. E. Pullum, Q.C. (H.M. Comptroller); Deputy M. K. Le Clerc, *relevée à 10h 16*);  
Deputy E. G. Bebb, *relevé à 10h 16*); Deputy D. B. Jones, (*indisposé*);

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# States of Deliberation

*The States met at 9.30 a.m.*

[THE BAILIFF *in the Chair*]

## PRAYERS

*The Greffier*

## EVOCATION

## CONVOCATION

**The Greffier:** To the Members of the States of the Island of Guernsey, I hereby give notice that a meeting of the States of Deliberation will be held at the Royal Court House on Wednesday, 25th November 2015 at 9.30 a.m. to consider the Items contained in Billets D'État XX, XXI and XXII, which have been submitted for debate.

# Questions for Oral answer

## PUBLIC SERVICES DEPARTMENT

### Waste Strategy – Estimated capital cost

5      **The Bailiff:** Members of the States, good morning to you all.

We go straight into Question Time and the first Question is to be asked by Deputy Spruce of the Minister of the Public Services Department. Deputy Spruce.

10      **Deputy Spruce:** Thank you, sir.

It is now three years since the current Waste Strategy was supported by a majority of this Assembly, as it offered a radical change of direction in the Waste Management Strategy, a significant forecast reduction in capital cost and high recycling target rates.

15      Given the length of time it has taken to progress the proposed Strategy and the now advised changes to the actual Strategy itself, and the increasing cost estimates, could you please now provide answers to the following questions.

20      Question 1: the Strategy agreed in February 2012 forecast that the capital requirement of £3.15 million would be required to build all the facilities necessary to implement the Strategy, i.e. a material recovery facility, the transfer station and industrial composting plant, and the required infrastructure. This capital cost figure, at the last estimate, had increased to £29 million, and now IVC of food waste has been excluded. Could you please now confirm what the estimated capital cost is to build all the infrastructure required to implement the entire Strategy, based on exactly the same proposal initially supported by the Assembly in February 2012?

**The Bailiff:** The Minister, Deputy Ogier, will reply.

25 **Deputy Ogier:** Since the Strategy was approved by the States in 2012, Public Services has brought two States' reports before this Assembly, as well as answering various questions, both inside and outside the Assembly. I also gave a Ministerial Statement in April, updating Members on progress on the implementation of the Strategy. We have already updated on much of the work carried out since 2012, including, as Deputy Spruce alludes, the capital investment requirements. The figure of £29.5 million is already a matter of public record, as is the £93 million capital requirement for Suez and the £80 million plus for the early Lurgi proposals.

30 The Department is now following the Resolutions of the Assembly from last year, and we are still looking to provide all the facilities required to implement the entire Strategy. We are in a formal procurement process, so it would be inappropriate to discuss details of cost estimates until these current negotiations are concluded. I am pleased to say that should be soon, and any future capital expenditure is, of course, subject to the Department being able to present a business case to T&R for approval. All the relevant cost information will form part of that process, and will therefore be made public and subject to rigorous assessment.

40 **The Bailiff:** Are there any supplementary questions?

**Deputy Spruce:** Yes, please, sir.

Thank you, Deputy Ogier – but, as usual, you have failed to answer the direct question. *(Interjections)* There is concern, within and outside this Assembly, that every time you report back to the Assembly the waste project parameters have changed and its capital costs have risen.

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

**Deputy Spruce:** No, I am going to get to the question, sir.

50 **The Bailiff:** Well, can you get to the question, please.

**Deputy Spruce:** Asking him to confirm what the currency estimated capital cost figure is can have no impact whatsoever on the individual component parts of the tendering process. I ask him one again to confirm what the current estimated capital cost figure is for this project.

**The Bailiff:** Deputy Ogier.

60 **Deputy Ogier:** As we are in the middle of a procurement, I am unable to discuss further any capital cost estimates, other than to reiterate what has gone before this Assembly.

**The Bailiff:** Any further supplementaries?

Deputy Adam rose first, then Deputy Laurie Queripel.

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

I would like to ask Deputy Ogier if this capital cost includes all consultant fees and sign fees. Normally, when we are doing a capital project, all these are included. Will that be included within the £29 million?

Thank you, sir.

70 **The Bailiff:** Deputy Ogier.

75 **Deputy Ogier:** I am really unable to discuss the costings of a current live procurement exercise. It is just not appropriate to do so. Until all the final figures are in, and we have done what work we need to do, we cannot possibly comment on the cost implications.

**The Bailiff:** Deputy Laurie Queripel.

80 **Deputy Laurie Queripel:** Thank you, sir.

I wonder if Deputy Ogier would agree that the increase in the estimate of the capital costs – from something like £4 million to approximately £30 million, so a 600% increase – cannot only be put down to inflation, that there must have been an element of miscalculation or underestimating in the first place. As such, is he confident that all infrastructure facility requirements have now been fully considered and calculated, and that there are no further hikes or surprises waiting to reveal themselves?

85 Thank you.

**The Bailiff:** Deputy Ogier.

90 **Deputy Ogier:** The the increase in the capital costs was dealt with in a previous visit to the Assembly and it was well discussed and publicised at the time, so I do not propose to reiterate the reasons between the rise from £4 to £30 million. All infrastructure is being considered within the current procurement.

95 **The Bailiff:** Deputy Domaille.

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

In view of the Minister's answers, and in view of the fact that actually the capital cost is probably the smallest element of this Strategy and the operating costs far outstrip that, is the Minister able to advise as to when he believes he will be able to come back to the Assembly with a meaningful figure, including both the capital and the operating costs?

100 Thank you, sir.

**The Bailiff:** Deputy Ogier.

105

**Deputy Ogier:** The current procurement for capital infrastructure is due to complete by the end of this year and the cost for exports soon after, so I would imagine the Department will be in a position in Q1 to return with a statement to this Assembly as to the cost estimates.

110 **The Bailiff:** Deputy Adam.

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

Does this capital cost include a material recovery facility? This was purchased at the start of the kerbside recycling. It was supposed to be a piece of equipment meant to last five years, but the cost was written off within two years because that contract only lasts two years. Does that mean this will continue to be used for the five years and then a new one will have to be purchased in five years' time?

115 Thank you, sir.

120 **The Bailiff:** Deputy Ogier.

**Deputy Ogier:** The provision of a materials recovery facility is within the current capital procurement.

125 **The Bailiff:** Deputy Spruce, your second question.

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

130 The announcement earlier this year that industrial composing of food waste would now be excluded from the Strategy due to cost will have impacted on the potential recycling target percentages. Please confirm whether it is now possible to reach the recycling target of 60% by the end of 2018, and 70% by the end of 2025; and if not, when the revised forecast rates will be achieved.

135 **The Bailiff:** Deputy Ogier.

**Deputy Ogier:** It is premature to start reviewing the targets until a decision is made on what we will do with the food waste. We no longer plan to build a treatment plant on Island, but we are looking at an alternative. It is technically feasible and there is growing demand for food waste in the UK, where a number of new facilities are being built or are planned. The design currently being progressed for a new facility at Longue Hougue therefore retains this as an option, so we can cost it and then make a decision. There is still a possibility that we will export residual waste with food still in.

140 What I will say is that although the 70% target is some way in the future, achieving 60% by 2018 may be challenging. However, we do not propose to pursue it at any cost. Our decisions not to proceed with the in-vessel composting on Island and not to expand the interim kerbside scheme to include glass are both evidence of this. Both would have helped move towards 60%, but both were rejected because the costs are currently too high. So we are looking instead at alternatives for food waste and will revisit the possibility of glass collections next year. It demonstrates the Department is focused on delivering the objectives of the Strategy, putting in place a sustainable long-term solution for dealing with the Island's waste, and at the same time ensuring best value for money.

145 **The Bailiff:** Any supplementaries?  
Deputy Adam.

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

Calculation of amount of recycled material includes green waste. Is this reasonable, since that is taken to a site by the individual and there is no connection with kerbside or bring-bank collection?

160 **The Bailiff:** Deputy Ogier.

**Deputy Ogier:** The Government did not used to release figures on green waste composing, because we were calculating our recycling percentages differently. However, we were constantly being compared to other jurisdictions across the United Kingdom and Europe which did include green waste – so we would be harangued for having a recycling rate of 22% while Shropshire had 65%. Most jurisdictions, or all jurisdictions, entities in the UK, and jurisdictions in Europe include green waste in the calculations. So what Guernsey has done is it has mirrored the calculations for recycling rates in other jurisdictions. That is all that we have done. So our figures here are now directly comparable to figures in the UK and Europe.

170 **The Bailiff:** Deputy Spruce, sorry, are you wanting to raise a – (*Interjection*) A supplementary, yes. Deputy Spruce.



175 **Deputy Spruce:** As the entire Strategy was accepted on the principle that high recycling rates would be achieved, we deserve to be more fully appraised of the impact that any Strategy change will have on the target recycling rates.

180 Could you please give us some indication of whether the 60% and 70% targets will be achieved, and by when the targets will be reached? As you said yourself, that is the objective of this Strategy, and there have been major changes.

**The Bailiff:** Deputy Ogier.

185 **Deputy Ogier:** Deputy Spruce says there have been major changes in strategy. The change has been that we no longer intend to provide an in-vessel composting facility on Island, but we still plan, or hope, to be able to deal with that food waste in a different way. So no change has been made to the scope or the outcome of the Strategy.

190 I have said that meeting the 2018 target of 60% may be challenging. It is still the Department's aim to increase our recycling rates to high recycling, and until we make a decision on whether food waste is in or out we cannot say for sure if there are any new targets and whether we will meet them or not.

**The Bailiff:** Deputy De Lisle.

195 **Deputy De Lisle:** Sir, in the term 'other jurisdictions are having success' with in-vessel composting, to reduce and make food waste and green waste inert ... Will the Minister kindly review his Strategy of not going ahead with in-vessel composting? And can the Minister also indicate what costs have been given with regard to an in-vessel composter?

200 Thank you, sir.

**The Bailiff:** Deputy Ogier.

205 **Deputy Ogier:** We have just gone out to tender, and the early indications from the tender were that the in-vessel composting would take us outside our cost envelope. So, on that basis, we are unable to proceed with an in-vessel composter on Island.

With regard to releasing the figures for the IVC, I believe the Department is in communication with that presently and we should have an answer soon as to whether those costs are able to be released.

210 **The Bailiff:** Deputy Adam.

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

215 Has a full life-cycle assessment of the collection, storage, on-Island treatment, export, and ultimately off-Island processing been carried out and evaluated for each recycling stream?

**The Bailiff:** Deputy Ogier. I am not sure that arises from the answer.

**Deputy Ogier:** That is wide. It is absolutely not a supplementary based on the original Question asked by Deputy Spruce.

220 I would have to check, but my understanding is I have seen a number of lifetime cycle costings ... I cannot at the moment recall whether it has been done for every individual stream, but we have overall lifetime costings, so they must have been done – but I can clarify that with Deputy Adam.

225 **The Bailiff:** Yes, Deputy Lester Queripel.

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

It concerns me greatly that the intention is to now export our waste from St Peter Port as opposed to exporting it from St Sampson's, as originally planned by PSD. Can the Minister tell me, please, does it make any difference to the cost if our waste is exported from St Peter Port as opposed to St Sampson's?

**The Bailiff:** Deputy Ogier. Again, I am not sure this arises from the answer given.

**Deputy Ogier:** I am not going to answer that question on the floor of the Assembly, in case I give an answer that is not accurate. I am happy to liaise with Deputy Queripel outside of this Assembly, but I know he is in discussions with the staff over this very issue.

**The Bailiff:** Deputy Spruce, your next question.

**Deputy Spruce:** Question 3: when the Waste Strategy was approved in February 2012, the annual household recycling percentage was 30.7, excluding green waste, with 8,094 tonnes of household waste being recycled. Please confirm what the current annual household percentage recycling rate, excluding green waste, and what the tonnage is, and also how many additional tonnes of household recyclables, excluding green waste, were collected during the 12 months prior to this meeting, over and above the 2014 figure.

**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** The recycling statistics are intended to be simple to understand, but the calculations behind them can be quite complex, more complex than they seem. They also can be quite complex to communicate.

The overall household recycling rate in 2011 was 46.4%, of which 30.7% of the total was dry recyclables and 15.7% was green waste. All these figures are expressed as a proportion of the total household waste, the calculation that includes the green waste element. Green waste is therefore not excluded and can in fact have a significant impact on the dry recycling rate. Were we to publish a household dry recycling rate that completely excludes green waste from the calculations, it would have been 36.4% in 2011 and around 39% for the 12 months to September 2015.

In terms of tonnages, around 8,350 tonnes of dry recyclables were collected in the 12 months to September 2015, which is on a par with 2014's total of 8,363. The totals for both years, 2014 and 2015, include all the materials collected via kerbside and through bring banks, as well as all the materials recycled through the facility at Longue Hougue.

**The Bailiff:** Are there any supplementary questions arising from that answer? No. In that case your next question, Deputy Spruce.

**Deputy Spruce:** I do have a supplementary, sir.

**The Bailiff:** Oh, you do have a supplementary arising from the answer. Yes.

**Deputy Spruce:** Thank you for answering that question fully. *(Laughter)*

You have just confirmed that, since 2011, the annual household recycling rate has only increased from 36.4% to 39%. That is an increase of only 2.6% in three years, or, looked at in tonnage terms, an increase of only 256 tonnes on an annual commencing figure of 8,094 tonnes.

Could you please explain how on earth your Department can realistically attain the target figures mentioned in the previous question?

**The Bailiff:** Deputy Ogier.

280 **Deputy Ogier:** I am sorry, would Deputy Spruce repeat the last part of his question: how on earth can my Department ...?

**Deputy Spruce:** Could you please explain how on earth your Department can realistically attain the target figures, the 60% and 70% targets, mentioned in the previous question?

285 **Deputy Ogier:** The interim kerbside scheme was never designed to ramp up recycling rates considerably. The interim kerbside scheme is in order to gather data so that we can implement the final kerbside collection scheme correctly.

We envisage the next major rise in household recycling rates to come when the bag charges are implemented. That is the next significant catalyst.

290 What I will say is with regard to some of the recycling percentages we have seen a decrease in the last few years of paper and cardboard, for example. That decrease has been halted and paper and cardboard has increased under the kerbside collection scheme. So there have been advances against what is a decreasing waste stream, which has helped raise our recycling rate, but there is still a lot more work to be done, and the next major implementation of policy to effect this will be the bag charges.

**The Bailiff:** Deputy Sillars.

300 **Deputy Sillars:** Sir, can I just ask for some clarity on that last point: are was saying that it is costing about £1 million to enable us to gather better data? Because that is what I thought he said.

**The Bailiff:** Deputy Ogier.

305 **Deputy Ogier:** The cost of kerbside running alongside the bring banks, including a short 24-month period contract, including the recovery of some capital infrastructure within there, is costing around £1 million, yes. That is not to say kerbside on its own is costing that; it is the Recycling Strategy that is costing that.

310 Our Strategy is based around kerbside recycling. We have implemented it early. We did not know exactly the form that kerbside was going to take, the vehicles necessary, whether we could include glass or not – so to have gone out for a final scheme at too early a stage would have meant us potentially implementing a scheme which was not correct for Guernsey.

**The Bailiff:** Deputy Gollop.

315 **Deputy Gollop:** Whilst praising what has been achieved, the Minister mentioned earlier in an answer the cost envelope of the whole scheme. Would it not be the case that the Public Services Department could and should be looking at where the balance lies between personal user-pays principles and going to general revenue for more funds to build the recycling and other schemes up?

**The Bailiff:** That does not arise from the answer given.

325 **Deputy Ogier:** It does not arise, sir, but I am happy to say that there is expected to be no call on general revenue whatsoever. The Waste Strategy is intended to be funded from user charges.

**The Bailiff:** Deputy De Lisle, do you have a question that does arise from the answer?

**Deputy De Lisle:** Yes, I do sir.

330 The 36% to 39% household recycling figure is well below the 50% level that I struck in 2007-08. I would like to ask the Minister what measures, in addition to kerbside, are being taken to increase the recycling figures.

**The Bailiff:** Deputy Ogier.

335 **Deputy Ogier:** Deputy De Lisle used to harangue the Department for not meeting similar recycling rates to the UK and Europe, which is why we changed our recycling rates to be comparable with those jurisdictions. Now we have a comparable recycling rate with those jurisdictions we are able to gauge our progress. We are at around 50% recycling rate. That is the reality of the situation. If you take out various waste streams that other jurisdictions include and expect us to meet the same performance, that is obviously impossible. We measure our recycling rate in the same way that the UK and most places in Europe measure it, and on those comparisons we are at 50%.

340 Interestingly enough, if you focus purely on the dry recyclables in the waste stream and nothing else, we still recycle about 50% of those. There are many ways to calculate the recycling figures. The one we have chosen is the industry or the jurisdictional standard.

**The Bailiff:** Deputy Spruce, your next question.

350 **Deputy Spruce:** Question 4: in view of your decision not to commence charging for kerbside collection service during 2016, could you please confirm how much the free – and this is free at the point of collection – kerbside collection service has cost since its introduction, and what the additional cost will be of providing a free kerbside collection service during 2016?

355 **The Bailiff:** Deputy Ogier.

**Deputy Ogier:** The kerbside service is not free, as we know; nor are the bring banks free, and nor would the disposing of this material be free if we were not recycling it. It all has a cost.

360 Currently, the cost is being met from the solid waste trading account, which is funded from waste charges and not general revenue. In future, it will continue to be funded from waste charges, but Islanders will see a more direct link between the waste they produce and the amount they pay to deal with it. There will be incentives and rewards, for reducing waste and recycling more, to drive our efforts further. Ultimately ... we are not yet at the stage where we can make that transition, and therefore we propose, subject to Treasury & Resources approval, extending the interim scheme in 2016.

365 Costs are in line with the information already provided in response to Deputy Adam's Question in July. For the 19 months up to September 2015 the total was £1.6 million. That includes all bag production and distribution, leaflets and calendars delivered to every home in the Island, weekly collections for every home and all processing and export costs. This is within the budget agreed by T&R in 2016.

370 Continuing the interim scheme for the whole of 2016 will require funding from the solid waste trading account of up to £1.1 million, which is on a par with costs to date. Longer term, we expect these costs to reduce through a combination of greater efficiency and longer terms for contracts and collection and processing.

375 **The Bailiff:** Deputy Spruce.

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

380 You have said that the kerbside service is not free, and that certainly is true – in fact, it is extremely expensive. My reference to it being free was on the basis that the service is currently not being charged for.

Given that £1.66 million has been spent in 19 months, with another £1.1 million to be spent in 2016, can you please explain how you can justify spending in excess of £1 million per year for only 256 extra tonnes of recyclable waste per year, based on your own figures? That tonnage gain is costing us £3,906 per tonne.

**A Member:** Wow!

**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** Kerbside customer recycling needs to be seen in the context of the wider Waste Strategy, and it could be argued that kerbside collection may not represent vast value for money if we are just collecting and additional 30 tonnes of milk cartons a year, or just another 70 tonnes of tin cans.

However, in the first 12 months of kerbside recycling we collected nearly 500 tonnes of additional materials. Parish waste sent to Mont Cuet is also down by hundreds of tonnes. More Islanders are now recycling than ever before, and recycling more than every before. Recycling has never been easier or more convenient, and when we introduce bag charges in the future all Islanders will have a financial incentive and reward to do so and fewer barriers to prevent them. At that time, we envisage the recycling rate will increase.

If we can also introduce separate food waste collections, Islanders will be able to further reduce the material that they throw away. By doing so, in the terms of the overall Strategy, our requirement for export would reduce and so too would the prospect of requiring a large-scale, costly, on-Island, end-treatment facility in future. That will deliver the best value for money for the Island as a whole, and kerbside recycling is a key element to it.

**The Bailiff:** Deputy Adam.

**Deputy Adam:** Thank you, sir

Why has it been necessary to extend the present scheme; and why is the introduction of the idea of different types of bags, the cost of different types of bags ...? Is it due to complexity of the system, and are the parishes going to have to change the software in the computers?

Thank you, sir.

**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** I am not really sure that is a supplementary in light of the original question asked by Deputy Spruce. I am happy to answer these questions, and in fact we have been to T&R and these questions have been asked around the T&R board table. If Deputy Adam wishes to know further supplementaries on this issue that are not covered here today, I am quite happy to let him and the other States Members know if he will provide me with those questions.

**The Bailiff:** Deputy Domaille.

**Deputy Domaille:** Yes, thank you, sir.

I thank the Minister. He is giving very clear answers, but I am a little bit confused.

I have just heard a figure quoted of 500 tonnes of extra recycling because we have introduced kerbside and it has cost £1 million, or whatever, yet in the previous answer I had understood that the amount of dry recyclables collected up to September 2015 was roughly the same as it was previously. So I am trying to understand if we are going to be costing another £1 million for next year, are we actually saying this is to stand still or are we anticipating that the recycling amount will go up?

Thank you, sir.

**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** Deputy Spruce asked the differences between 2014 and 2015, but 2014 included nine months of kerbside recycling.

**The Bailiff:** Your next question, Deputy Spruce.

**Deputy Spruce:** The forecast annual cost of delivering the Waste Strategy, when proposed in early 2012, was an average £182 per household. What is the current forecast annual cost per household for all charges associated with this Strategy?

**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** Deputy Spruce is again referring to the 2012 forecast, but the Assembly was provided with more up-to-date estimates last year.

Our revised costings were the basis on which Public Services was directed, in January 2014, to tender for new infrastructure and services, and again in December 2014, when the Assembly agreed legislative and policy changes to give effect to the future charging mechanisms.

The revised costings were then given as a range of, on average, between £213 and £326 a year, depending on our final capital requirements and export arrangements. This is equivalent to between £4 and £6 per week per household – that is per householder, not per Islander – and that is not the increase, that is the total, including parish collection costs, recycling costs and waste treatment and disposal. Based on the most recent household expenditure survey in 2013, that represents approximately ½% of the average household's weekly expenditure, and will represent good value to have all of our waste dealt with in an efficient, modern and sustainable manner.

We currently have separate live procurements under way, which will determine our exact requirements in terms of capital and operating costs. We await the outcome of those processes to finalise what the costs will be to households, but the current forecast is in line with the estimates we have previously provided. The information will be available soon, once these procurements are complete, and will be part of the full business case that we present to T&R.

**The Bailiff:** Deputy Spruce.

**Deputy Spruce:** Supplementary, sir.

Deputy Ogier, you have complained that I am preparing –

**The Bailiff:** It should be through the Chair, Deputy Spruce. This is not a cross-examination of the Minister.

**Deputy Spruce:** Okay, it is a direct question to the Minister.

You complain that I am comparing the cost of delivering the Waste Strategy with the 2012 cost. I do so because £182 per household was the figure used by your Department to persuade this Assembly of the merits of this Strategy. You have just given us a new household cost estimate of somewhere between £213 –

**The Bailiff:** I have not given any estimates, Deputy Spruce.

**Deputy Spruce:** Sorry?

**The Bailiff:** Are you addressing it to the Minister, or to me?

**Deputy Spruce:** Sorry, sir. *(Laughter)*

You have just given us a new household cost estimate – *(Laughter)* I have to say that, because –

**The Bailiff:** You can say the Minister has just given –

**Deputy Spruce:** The Minister has just given a new household cost estimate of somewhere between £213 and £326 per year – and that is the key point. My understanding was that the variable annual refuse rates that currently apply under the TRP system would become more of an equal cost per household. Could you please explain how this wide variance will apply?

**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** I have not given any new information. The information was contained in the Billet in 2014. Deputy Spruce compares a figure of 2012 to the estimates in the Billet of 2014, but that was debated at the time. There are no new figures; these are figures that were included in the Billet in 2014.

**The Bailiff:** Deputy Spruce.

**Deputy Spruce:** But, sir, I asked if Deputy Ogier could explain how we have such a wide variance. Are we looking at £213 per household, or £326? How can you have a variance so large? Are we going to end up with a £326 cost?

**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** All of this was debated in 2014 over a considerable period of time.

The reason for the estimates is that there is a variety of estimates between capital costs, from the lowest to the highest; there is also a variety of estimates for the cost of export. Depending on what our final costs for export are, and depending on what our final costs for capital are, will depend on where we are within that range. That range is allowed for in the costs of the Strategy. So, were we at the highest point of that range in regard to capital export, it would still be within the costs that we have brought before the Assembly; and if we are at the lowest, then it will still be within the costs that we have brought before the Assembly, because that is the range that we brought.

**The Bailiff:** Deputy Adam.

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

Tipping charges have gone up by 8.5% each year and are going up by 11.5% in 2016, making them the highest in Europe. How much income does PSD get from gate fees, and how much income for recycles?

Thank you, sir.

**The Bailiff:** I do not think that arises at all from the answer given. No. Any supplementary questions that do arise from the ...?

**Deputy Ogier:** I am very happy to provide Members with what information they need, but ... If you can let the Department know the exact information you need, I will provide it for you – for Deputy Adam. But to ask questions like this, to piggy back them onto answers given to other questions, is not really a position that I can be put in to answer with any great degree of accuracy.

**The Bailiff:** Deputy Spruce, your next question.

**Deputy Spruce:** Sir, the planned waste processing plant building facilities at Longue Hougue have not yet been made public. Can the Minister please confirm whether the Environment Department have approved the design, and when you intend to appraise the general public of the scale of the proposed plant and building facilities.

**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** Deputy Spruce will be aware, from the correspondence between Public Services and Treasury & Resources, that the companies bidding to design and build the new facilities at Longue Hougue have been tasked with progressing the design to the point at which a planning application can be submitted. No formal planning application has yet been made. I can therefore confirm that the Environment Department has not approved any design.

We currently expect to formally submit a planning application for the new facilities at Longue Hougue in January. In addition to the publication of plans and consultation that will form part of the planning process, Public Services is also intending to stage a public drop-in where Islanders will be able to view the design proposals and where members of the design team and representatives of the Department will be available to answer any questions.

**The Bailiff:** Is this a supplementary? Yes.

**Deputy Spruce:** The Lurgi and Suez waste-for-energy plants were subject to considerable planning conditions, which were very expensive to deal with. As you have not yet submitted a planning application, could you please explain how you can reasonably go out to tender when you have no guarantee that planning approval will be granted for the facilities you plan to build.

**Deputy Ogier:** Without going out to tender and getting a design for the facilities we would not know what we would be planning for. This is the way that capital infrastructure works in the Assembly, and I am sure Deputy Spruce must know that. We go out to tender for the works that are required, and then go through a planning stage. That is just the way that it works, and it will be no different in this instance.

**The Bailiff:** Your next question, Deputy ... Oh, sorry, Deputy Domaille.

**Deputy Domaille:** I am sorry, this will be very, very quick – and, again, I thank the Minister.

Could I just ask, when he comes back with a statement on the full costs, the operating capital costs, if he could include in that statement an outline of the programme, given that there are just over six years left of life at Mont Cuet.

Thank you, sir.

**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** I am happy to make that commitment, sir.

**The Bailiff:** Deputy Perrot.

**Deputy Perrot:** I wonder if the Minister could say what happens if the Environment Department rejects the plans which are submitted.

**The Bailiff:** Deputy Ogier.



590 **Deputy Ogier:** It is normally not an outright rejection of any plans. If there are conditions which need to be met, then any designs would, I imagine, be tweaked in order to meet those conditions.

**The Bailiff:** Deputy Perrot.

595 **Deputy Perrot:** I wonder if I could put the question to the Minister again, sir: what happens if the plans are rejected by the Environment Department?

**The Bailiff:** Deputy Ogier.

600 **Deputy Ogier:** New plans would need to be submitted.

**The Bailiff:** Deputy Spruce, your next question.

**Deputy Perrot:** A supplementary arising from that.

605 **The Bailiff:** You have had two, sir. You have had two now.

**Deputy Perrot:** What happens then? I wonder if the Minister could answer – through you, of course, sir – what happens then to the procurement process.

610 **The Bailiff:** Deputy Ogier.

615 **Deputy Ogier:** Whilst this cerebral trail is interesting to chase down a rabbit hole, I am not entirely sure that it adds value to this process here today. I do not wish to be flippant, but it is not a supplementary on the basis of the question that is being asked. And the area – *(Interjection by Deputy Perrot)*

**Deputy Perrot:** I object to –

620 **The Bailiff:** You have already asked more than two supplementaries.

**Deputy Ogier:** The area itself –

**Deputy Perrot:** I am merely objecting to the assertion, sir.

625 **Deputy Ogier:** The area itself is earmarked for waste development, so any appropriate waste infrastructure that goes in there should fit within the planning brief for the area.

**The Bailiff:** Deputy Spruce, your next question.

630 **Deputy Spruce:** Sir, the waste plant facilities at Longue Hougue will undoubtedly be substantial, resulting in potentially significant noise, smells, effluent discharges and transport issues. Can the Minister please confirm that an environmental impact assessment of the proposed waste plant facilities has been completed and approved by the Director of Environmental Health?

635 **The Bailiff:** Deputy Ogier.

**Deputy Ogier:** A comprehensive environmental impact assessment will form part of the planning application. This will cover in detail all of the potential impacts which Deputy Spruce has highlighted, and more. That will be published along with the planning application, and it will be

640 better to await that rather than try to prejudge now what is or not going to be an issue. In any event, the purpose is not just to assess and quantify impacts, but also to identify how they can best be mitigated and controlled most effectively.

There is, however, no requirement for the Director of Environmental Health and Pollution Regulation to approve the environmental impact assessment, either in part or as a whole.  
645 Nevertheless, I can confirm we have been in close discussion with the Office of Environmental Health & Pollution Regulation and other key stakeholders throughout the planning phase, and I am sure the Environment Department will consult with the Director of Environmental Health & Pollution Regulation once a formal planning application has been made.

The officers of Environment Health & Pollution Regulation will, of course, be responsible for  
650 determining the application for a waste licence for the operation of any new facilities. However, that process cannot begin until after a successful planning application.

**Deputy Spruce:** Supplementary, sir.

655 **The Bailiff:** Deputy Spruce.

**Deputy Spruce:** It is now three years since this Strategy was approved and, personally, I am astounded that you have still not bottomed out all of the environmental impact issues associated with this facility, especially given its location. Can you assure Members of the public –

660 **The Bailiff:** Can the *Minister* assure –

**Deputy Spruce:** Sorry?

665 **The Bailiff:** Can the *Minister*, not me – I cannot assure you anything, I am afraid. (*Laughter*) I would like to!

**Deputy Spruce:** Can the Minister please assure members of the public that there will be no negative environmental impact from the proposed facilities?

670 **The Bailiff:** Deputy Ogier.

**Deputy Ogier:** The designs of the facilities down there include considerable amounts of air processing to minimise the emissions of anything from those plants, including odour. So I can  
675 confirm that the Department is doing all that it can to ensure that there are minimal impacts environmentally on that site.

**The Bailiff:** Your final question, Deputy Spruce.

680 **Deputy Spruce:** Thank you, sir.

Can the Minister please confirm what has been expended since February 2012 on consultancy services in developing the Waste Strategy, and what is the cost estimated for consultancy services between now and the implementation of the entire Waste Strategy?

685 **The Bailiff:** Deputy Ogier.

**Deputy Ogier:** Since the Strategy was first approved, the Department has spent £1.17 million on professional advisers, and we estimate that between now and 2018 we will need to spend up to £720,000.

690 Approximately one third of the total spend to date has been on programme management, which we are now managing using internal staff resources.

The remainder has been for technical adviser support on various elements of the Waste Strategy implementation. These include modelling different options for kerbside collections; the tender for the export of waste; all the on-Island infrastructure requirements, including the tendering for the design and construction and operation of these new sorting and processing facilities; and the subsequent negotiations with the Bibby Group.

This expenditure on adviser fees is not unreasonable for a procurement and construction programme of this value and complexity.

**The Bailiff:** I see no ... Oh, Deputy Spruce has a supplementary.

**Deputy Spruce:** Final supplementary, sir.

Could the Minister please confirm whether PSD have submitted business cases to T&R demonstrating value for money, and whether T&R have approved the entire £1.17 million your Department has spent so far on consultancy? If not, could you confirm what value of expenditure T&R have actually approved?

**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** In 2012, the Public Services went out to competitive tender for companies to provide specialist advice on different aspects of the Waste Strategy. Three firms have subsequently been appointed with an estimated budget of £750,000 over the duration of the project.

A request was then made to T&R for this amount, but approval was only received for the first phase of the work, to take us up to the point at which the full business case could be provided with various new facilities and services. In order to reach a point where we can present that business case, we have had to carry out far more work than was originally envisaged. Our requirements in terms of technical support and project management have evolved to meet the directions given by the States in 2012 and 2014.

Fortunately, we have now reached the stage in the procurement process where the... I am sorry, no ...

We have had to incur significant costs for the programme management, which were not part of our original plans. We, at first, hoped to do this with a dedicated programme manager, but we now are doing that with existing staff within the Department.

There is an amount that Deputy Spruce alludes to in his question which was not the subject of approval by T&R, which has been dealt with at ... Excuse me, can I have a drink of water? Thank you. It has been a very long question time.

There is an amount that we are currently seeking approval for from T&R, which may be included in the budget next year for the solid waste trading account.

**Deputy Spruce:** A further supplementary, sir.

**The Bailiff:** Deputy Spruce.

**Deputy Spruce:** Could you answer my specific question? (*Interjections*)

**The Bailiff:** Could the *Minister*.

**Deputy Spruce:** Okay. It's so much fun, doing this!

Could I ask the Minister if he could confirm my question exactly: how much money has PSD spent, which was approved by T&R from the £1.17 million?

**The Bailiff:** Are you able to answer that question, Deputy Ogier?

**Deputy Ogier:** No, I am afraid I am not, but if Deputy Spruce wishes to give his exact question to me I will ensure the questions are received and disseminated to States Members.

**The Bailiff:** Deputy De Lisle.

**Deputy De Lisle:** Sir, given that the Minister has indicated that far more work than first thought has been involved in the preparations for the Waste Strategy, is the Minister aware that the lack of full information going forward on the Waste Strategy is causing difficulty to parishes and frustration to parishes in negotiating forward contracts with the parish waste contractors?

**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** That is one of the reasons we wish to increase, or to extend, the term of kerbside recycling, in order that we can communicate with the parishes as to the best way forward on this. That is the purpose of extending the interim kerbside scheme.

**The Bailiff:** That concludes the questions to Deputy Ogier. Deputies Le Clerc and Bebb, do you both wish to be *relevés*?

**Deputies Bebb and Le Clerc:** Yes, please, sir.

**The Bailiff:** Thank you.

## HOME DEPARTMENT

### Customs post in Sark – Reconsideration

**The Bailiff:** We move on now to a question to be asked by Deputy Gollop of the Minister of the Home Department. Deputy Gollop.

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

I have not the original in front of me, but is the Home Department willing to reconsider the setting up of a secure border immigration post in Sark to help generate tourism and business development on the Island?

**The Bailiff:** I think that is the thrust of the question you had notice of, Deputy Gillson.

**Deputy Gillson:** Yes, sir, you are right, that is not exactly the question that was asked. *(Laughter)*

Mr Bailiff, in short, the situation remains unchanged since I last answered a similar question from Deputy Gollop on 26th November 2014. The Department has met with the appropriate authorities in Sark a number of times in order to help advise and develop options for their consideration. We await their decisions.

**The Bailiff:** Deputy Gollop.

**Deputy Gollop:** My supplementary would be: would the Home Department, at this stage, consider consulting with the Commerce & Employment Department and the Policy Council as a

response to the well-publicised 'group of 22', who are surely calling for action from this Government?

790 **The Bailiff:** Deputy Gillson.

**Deputy Gillson:** I do not think that arises out of the question, but we have got no intention of doing so.

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

**The Bailiff:** That concludes Question Time. We can move on to legislation.  
Greffier.

## Billet d'État XX

### ORDINANCES

#### **I. The Social Insurance (Rates of Contributions and Benefits etc.) Ordinance, 2015 – Approved**

*Article I.*

*The States are asked to decide:*

*Whether they are of the opinion to approve the draft Ordinance entitled 'The Social Insurance (Rates of Contributions and Benefits, Etc.) Ordinance, 2015', and to direct that the same shall have effect as an Ordinance of the States.*

800 **The Greffier:** Billet d'État XX, Article I – The Social Insurance (Rates of Contributions and Benefits etc.) Ordinance, 2015.

**The Bailiff:** Deputy Langlois, do you wish to address this Article?

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

805 If I could very briefly remind people where these first five Ordinances come from, rather than making five separate interventions. These are the Ordinances to implement the 2016 rates of benefits and contributions that the States agreed last month.

There are amendments to the contributions, upper and lower limits and rates, and the amounts of benefits.

810 There are amendments to the prescription charges, up to £3.70.

It amends the rates of Long-term Benefit and Supplementary Benefit where people are paying premiums to a pension-type arrangement.

It also amends rates of allowances under the Severe Disability Benefit and Carer's Allowance.

815 **The Bailiff:** Any further debate? No.

In that case we vote on The Social Insurance (Rates of Contributions and Benefits etc.) Ordinance, 2015. Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare it carried.

**II. The Health Service (Benefit) (Amendment) Ordinance, 2015 –  
Approved**

*Article II.*

*The States are asked to decide:*

*Whether they are of the opinion to approve the draft Ordinance entitled 'The Health Service (Benefit) (Amendment) Ordinance, 2015', and to direct that the same shall have effect as an Ordinance of the States.*

820 **The Greffier:** Article II – The Health Service (Benefit) (Amendment) Ordinance, 2015.

**The Bailiff:** Any request for debate or clarification? No.  
Those in favour; those against.

*Members voted Pour.*

825 **The Bailiff:** I declare it carried.

**III. The Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2015 –  
Approved**

*Article III.*

*The States are asked to decide:*

*Whether they are of the opinion to approve the draft Ordinance entitled 'The Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2015', and to direct that the same shall have effect as an Ordinance of the States.*

**The Greffier:** Article III – Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2015.

**The Bailiff:** Any debate or clarification? No.  
Those in favour; those against.

830 *Members voted Pour.*

**The Bailiff:** I declare it carried.

**IV. The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2015 –  
Approved**

*Article IV.*

*The States are asked to decide:*

*Whether they are of the opinion to approve the draft Ordinance entitled 'The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2015', and to direct that the same shall have effect as an Ordinance of the States.*

**The Greffier:** Article IV – The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2015.

835 **The Bailiff:** Any debate or clarification sought? No.  
Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare it carried.

**V. The Severe Disability Benefit and Carer's Allowance  
Ordinance, 2015 – Approved**

*Article V.*

*The States are asked to decide:*

*Whether they are of the opinion to approve the draft Ordinance entitled 'The Severe Disability Benefit and Carer's Allowance Ordinance, 2015', and to direct that the same shall have effect as an Ordinance of the States.*

**The Greffier:** Article V – The Severe Disability Benefit and Carer's Allowance Ordinance, 2015.

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**The Bailiff:** Any request for debate or clarification? No.  
Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare it carried.

**VI. The Regulation of Health Professions (Medical Practitioners)  
(Guernsey and Alderney) (Amendment)  
Ordinance, 2015 – Approved**

*Article VI.*

*The States are asked to decide:*

*Whether they are of the opinion to approve the draft Ordinance entitled 'The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015', and to direct that the same shall have effect as an Ordinance of the States.*

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**The Greffier:** Article VI – The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015.

**The Bailiff:** There is an amendment to this to be proposed by the Minister for the Health & Social Services Department, Deputy Luxon.

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*Amendment:*

*In the draft Ordinance entitled 'The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015' (pages 24 – 98 of the Brochure), between clauses 8 and 9 (on page 27), insert the following clauses –*

*'8A. In section 10 of the principal Ordinance –  
(a) in subsection (6) –*

- (i) insert "and" after the comma at the end of paragraph (b),
- (ii) in paragraph (c), for ", and" substitute a full stop, and
- (iii) repeal paragraph (d), and
- (b) for subsection (7), substitute the following subsection –

"(7) A person appointed as a responsible officer must not continue in that office if the General Medical Council has not approved the person for that role within a period of 6 months following the appointment."

8B. In section 11 of the principal Ordinance, for subsection (3), substitute the following subsection –

"(3) The terms and conditions of the appointment of a responsible officer under section 10 are as agreed between the Policy Council and the responsible officer, but no term or condition is to be inconsistent with any provision of Schedule 1 or any other provision of this Ordinance."

**Deputy Luxon:** Would the Greffier like to read the amendment out now, sir, or after I have ...?

855 **The Bailiff:** Do you wish to have it read? It does not have to be read, but he can read it if you would like it to be read.

**Deputy Luxon:** I am more than happy that he doesn't, but I know he likes to be involved, sir! (Laughter)

860 Mr Bailiff, I lay this amendment, seconded by Deputy Soulsby, on behalf of HSSD, following further consideration of one particular aspect of the Ordinance, since the States approved our policy letter earlier this year.

The Ordinance before us reflects the decisions we made to modernise and improve the regulation of health professionals within the Bailiwick, something long overdue.

865 The Department is happy that the Ordinance reflects the policy letter approved by you. However, after discussion within the Department at officer and board level, and in open dialogue with the General Medical Council (GMC), the MSG, Primary Care and HSSD clinicians, we would like to amend the Ordinance very slightly to not except appropriately qualified doctors who happen to be employed by the HSSD direct from being able to be appointed as responsible officer to oversee all of our medical practitioners. The original proposed Ordinance did just that: it specifically prevented this.

870 There are two reasons for making this amendment, sir. First it will give the States, through HSSD, more flexibility in future years to make the appointment of responsible officers by being able to recruit from both internal on-Island and external off-Island suitable candidates. Second, and most relevant, our current responsible officer's contract ends in March 2016. Dr Nick Lyons 875 has done an excellent job through the highly sensitive revalidation process undertaken during this year and successful reinstatement in July. We will therefore need to make a new appointment prior to his departure.

880 Members, however, will recall that earlier this year HSSD undertook a recruitment and appointment process to secure to the newly created post of Medical Director, Dr Peter Rabey, who has now relocated back to the Island, and in fact his first day in post was yesterday. Dr Rabey is, of course, employed by the States of Guernsey through HSSD, and due to his previous and most recent experience, where he has acted for some time as responsible officer for a very large area in the Midlands with over 800 registered doctors, it would make great sense for him to be appointed as responsible officer complementary to his Medical Director role too. Apart from the 885 dual efficiency and effectiveness rationale, it just makes plain sense that the Medical Director and responsible officer role are vested in the same senior professional, bearing in mind the appropriate and relevant experience this particular professional has. And, as I said, both the GMC and local doctors and consultants are in full agreement with this proposal.

I therefore ask Members to support this amendment. Thank you.



890 **The Bailiff:** Deputy Soulsby, do you formally second the amendment?

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

**The Bailiff:** Deputy Adam.

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

I accept what the HSSD Minister says, but I am a bit concerned that a regulatory function is actually under ... you might say the 'control' of HSSD, and as such that control may influence the outcomes of certain decisions.

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At the present time there are various regulations carried out, and they are carried out by the Environmental Health Director at arm's length from the States, so there is an independent person with statutory authority to carry out that regulation. Likewise, as Deputy Luxon said, the original document that this Assembly agreed to stated quite clearly that it was considered best practice at that time to ensure the role of our responsible officer remains independent of all the designated

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bodies. I realise the reason for the change is the convenience that the new Medical Director has arrived and therefore can take over the previous RO's position, which was only for interim appointment, but I am still concerned how this is going to work to ensure that that responsible officer is independent from any authority within HSSD. Is his line manager the Chief Officer, or will he be acting with statutory authority in relation to this function of his role?

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Thank you, sir.

**The Bailiff:** Deputy Bebb.

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**Deputy Bebb:** Thank you, Monsieur le Bailli.

I share the concerns that Deputy Adam has just raised. I think that if we take another analogy that Members might actually be more used to dealing with, can we possibly imagine one of the banks in Guernsey employing the commissioners for the GFC? Such a situation simply would not be accepted.

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I think that there were reasons why it was considered to be appropriate that the regulation happens outside of the three main bodies of doctors on the Island, being Primary Care, the MSG Group, and the States-employed consultants, and I have grave concerns as to any prospect of the States now taking on a position which might prove ... might be, on the surface, attractive, but in reality could lead, in time, to a deterioration in relations between the different doctors employed in the Island.

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I am concerned that the idea of having this superficially attractive prospect has not been considered, given the history of how the different doctors' groups actually interact with each other. I would like the Minister to explain whether that has been taken into account, and also whether there would be a conflict between the two functions of the MD if it was expected that he were to report it to the responsible officer. I find the whole question a little difficult, given that they are two distinctly different roles, and I would like some clarification on this; otherwise, I fear that this amendment, though well intentioned, is possibly ill-conceived.

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**The Bailiff:** Deputy Gollop.

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**Deputy Gollop:** Sir, I am willing to support the amendment on various grounds. One is that a trust that we have, I think, in the current Board and ministerial team of HSSD and their executive; and the second reason is, to a degree, the relative shortage of suitably qualified and able people to fulfil these roles in the context of the Island.

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I would, though, agree –

**Deputy Bebb:** Point of correction.

**The Bailiff:** Deputy Bebb.

**Deputy Bebb:** The role need not be filled on the Island.  
Thank you.

**The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Thank you, but it is not necessarily a plum job to find somebody from off Island, who comes here now and then and has to work within a different legal and medical system and understand those complications.

My main point is that this kind of practice ... I do agree with Deputy Bebb and Deputy Adam in one respect: this kind of practice rides a coach and horses through legislative scrutiny, because this went before the Legislative Select Committee and was approved, in that it quite obviously followed the previous policy letter and States' report. We are not really able, as we should be, to bring in experts and ask questions along the lines Deputy Bebb has raised about comparisons with other jurisdictions and other parallels. We just agree it, like dogs nodding in approval, and then a different argument is placed on the floor of the Assembly as to whether this is a more appropriate approach or not.

This is the kind of issue I think the next States will have to grapple with: integrating scrutiny and legislation and policy reconsideration. So that is a little bit of an extra speech from me.

I would suggest that, although we accept this now, we might have to reconsider it at a later point, if problems along the lines of the last two speakers arise.

**The Bailiff:** No one else is rising. Deputy Luxon, will you reply to the debate.

**Deputy Luxon:** Thank you, Mr Bailiff.

Sir, I do recognise the concern that has been expressed by Deputy Adam and Deputy Bebb. I do not think it is grave concern. One irony for Guernsey is that HSSD is the commissioner, is a provider and is a regulator. That is not ideal, but we are a 25-square-mile piece of granite nearer France than England, 63,000 people, and we sometimes need to recognise that, in trying to give ourselves coverage and certainty and assurance around these kinds of compliance issues, sometimes we have to be proportionate.

Specifically in answer to Deputy Adam's question – will there be a conflict – no, I do not think there will be a conflict. The responsible officer has very clearly set-out roles – and it is a statutory role in that sense – and I do not see that that would be a conflict with his Medical Director position. I was not sure about the point about the Environmental Health Director, as this amendment would not invoke any change for that person's role.

Deputy Bebb mentioned about recruitment in banks. Well, banks do appoint compliance directors, and, as part of their role in terms of the GFSC, they have specific conditions and directions that they must comply with, although they are employed by the bank to make sure that compliance and regulation is achieved.

I also think that the Ordinance and the policy letter set out very clearly the rules by which the responsible officer should operate, and that should give all Members comfort.

I thank Deputy Gollop for his support – it was a pragmatic approach, although I cannot agree with him that the ability to appoint a responsible officer from off Island would be difficult, because in my amendment opening speech I did actually say we have recruited a very good responsible officer on a part-time basis, and I am sure that we would be able to do that again.

So, sir, this is simply a refined amendment from the policy letter we proposed. I do not think Members need to be concerned about any risk of conflict. It is practical, pragmatic and does make sense, and I hope Members will support it. Thank you.

995     **The Bailiff:** We vote then on the amendment proposed by Deputy Luxon, seconded by Deputy Soulsby. Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare the amendment carried.

Is there any further debate on the Ordinance itself? No.

1000     In that case, we vote on The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015 as amended. Those in favour; those against.

Members voted Pour.

**The Bailiff:** I declare it carried.

### STATUTORY INSTRUMENTS LAID BEFORE THE STATES

**The Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums (Amendment) Regulations, 2015;**

**The Companies (Standard Articles of Incorporation) Regulations, 2015;**

**The Companies (Directors' Report Exemptions) Regulations, 2015;**

**The Companies (Registrar) (Fees for Migrations) Regulations, 2015;**

**The Insider Dealing (Securities and Regulated Markets) (Amendment) Order, 2015**

1005     **The Greffier:** Statutory Instruments laid before the States: The Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2015; The Companies (Standard Articles of Incorporation) Regulations, 2015; The Companies (Directors' Report Exemptions) Regulations, 2015; The Companies (Registrar) (Fees for Migrations) Regulations, 2015; The Insider Dealing (Securities and Regulated Markets) (Amendment) Order, 2015.

1010     **The Bailiff:** I have not received, notice of any motion to annul any of those Statutory Instruments, so we can move on to the reports of the Policy Council, Greffier.

### POLICY COUNCIL

#### **VII. Update on the Disability and Inclusion Strategy – Propositions carried**

*Article VII.*

*The States are asked to decide:*

*Whether, after consideration of the Policy Letter dated 28th September, 2015, of the Policy Council, they are of the opinion:*

*1. To note the update on the implementation of the Disability and Inclusion Strategy provided in that Policy Letter.*

*2. To rescind Resolution 8 on Article IX of 27th November 2013, and to transfer lead responsibility to the Health and Social Services Department for the development, in conjunction with other States' departments, of policies and procedures for safeguarding vulnerable adults, having regard to those already in place for children.*

3. To direct the Treasury and Resources Department, subject to its approval of appropriate business cases, to transfer to the Policy Council's Revenue Budget for 2016 and/or 2017 up to £180,000 from the Budget Reserve for the purpose of progressing the Disability and Inclusion Strategy.

4. To note that further requests for resources to facilitate delivery of the Disability and Inclusion Strategy will be forthcoming.

**The Greffier:** Article VII, Policy Council, Update on the Disability and Inclusion Strategy.

**The Bailiff:** The debate will be opened by the Chief Minister.

**The Chief Minister (Deputy Le Tocq):** Thank you, Mr Bailiff.

Two years ago, in November 2013, the States took a historic and momentous step by unanimously agreeing the Disability and Inclusion Strategy – *our* Disability and Inclusion Strategy.

Today I am pleased to be able to give you an update on progress that has been made since with its implementation, but first I must acknowledge that this update comes slightly later than planned, owing to unforeseen resourcing issues. Indeed, resourcing issues have slowed the implementation of the Strategy generally, and in some respects I am disappointed not to be delivering a more comprehensive update.

However, I believe we must not be downbeat. Despite being short of appropriate resource to progress the Strategy, many people, both within and outside of the States, have done sterling work to get us to where we are today. Whilst we may not be exactly where we had hoped, we must remember that we have moved on considerably from where we once were in 2013.

We have been significantly helped to make this progress by the Disability and Inclusion Strategy Steering Group, jointly chaired by Deputy Wilkie, the States' Champion for Disabled People, and former States' Member, Jane Stephens. I would like to take this opportunity publicly to thank them both and the other Steering Group members for the time and effort they have dedicated to advancing the Strategy to improve the lives of disabled Islanders and carers.

The policy letter provides details of the specific workstreams that are ongoing. I will not expand on them all. What I would like to highlight, however, is the way in which the States of Guernsey, as an organisation, has made progress in bringing disability issues into sharper focus. There has been a real cultural and behavioural shift since 2013 that has seen Departments taking increasing notice of the Strategy and integrating aspects of it into their day-to-day activities. Whilst some of the actions may appear relatively minor in themselves, together they do demonstrate the shift in mindset that is essential to making this Strategy a success. More importantly, we do well to remember that it is often the small changes that make a huge difference in the life of Islanders.

Nonetheless, it is disappointing that we have not been able to make more progress in respect of the more weighty issues – namely, the introduction of disability discrimination legislation and the establishment of an equality and rights organisation. However, I can assure the Assembly that these issues remain very high on our agenda and will be given priority in the coming months.

One of the reasons we have held back on the legislation is our commitment to ensure that we get it right – absolutely right. Many hours have already been spent on this complex and wide-ranging piece of work, but, given how crucial it is, it is our firm belief that it is far more important to get the consultation, communications and preparation right than to race to do all of these things too quickly. To rush these activities, as we would have done, would be to do a disservice to the entire community, but particularly to those whose lives we are looking to improve.

The same is true of the equality and rights organisation. Before anything can be established we need to be certain that the establishment of such an organisation is indeed the right direction to take for this Island. Then, as a minimum, we must determine the scope of services to be offered, understand how best to deliver that service and have a very good idea of both start-up and

ongoing costs. This information will take time to gather, particularly as the UK has a different approach, so it is not possible simply to base our solutions on what they have done.

However, in recognition of the importance placed on this matter and the desire to see some action, early in the New Year we will be exploring the possibility of finding someone to work alongside us in the scoping of an equality and rights organisation. If this proves feasible, I envisage that the person in question could act almost as a shadow commissioner, and whilst the shadow commissioner will have no statutory powers currently, the intention is that he or she could be on hand to field inquiries across a wide range of equality issues. This would have the two-fold benefits of providing assistance to Islanders and also helping us to understand the volume and nature of the work likely to be directed to an equality and rights organisation.

In its media releases the Guernsey Disability Alliance has highlighted how often the policy letter refers to progress being hindered by lack of resources. I will come on to this matter now. I make no apology for this. As I said in my statement in October, in setting the agenda for the next four years, the next Assembly must be mindful of the need to be realistic about timescales for delivery and the resources needed to deliver, not just on single issues but how those issues fit together in terms of priorities.

The Disability and Inclusion Strategy is a salutary example of this problem, which bedevils the States generally. However, as I said earlier, I do not believe it is helpful to be downbeat, as the policy letter evidences that activity has been ongoing in the implementation of the Strategy. Indeed, since the completion of the policy letter, several workstreams have moved on further. I would point States' Members, if they have not already picked up, to the corrigendum that is available, that puts together the latest examples of how some of those things have come on stream.

For example, funding has now been agreed for the post of Employer Disability Advisor with the Guernsey Employment Trust, a position that is described in the policy letter and one which help, I believe, in our scoping of the Equality and Rights Commission. The post has been advertised and the recruitment process is ongoing at present, and it is anticipated that the successful candidate will start early in the New Year.

The DisabledGo accessibility survey mentioned in the policy letter is scheduled to start in early December, and some of the information obtained from this survey will also be used to inform the States' self-audit, which will begin early in the New Year.

The new website, which is a very significant piece of work, is also under construction and should go live before Christmas.

Finally, in order to ensure that momentum continues on the implementation of the Strategy, the Policy Council is asking for the unspent funding agreed previously by the States to be carried forward into 2016 and possibly 2017. We are also asking for that funding to be decoupled from the original initiatives to which it was attached, to enable us to have greater flexibility to determine what those moneys should be spent on. This freedom will assist with moving on pressing matters such as the legislation, although, as we have explained, we expect that more resources will be needed to be devoted to the implementation of the Strategy if it is to be delivered successfully in the long term. We have always said this.

So, to sum up, progress has and is being made and the Policy Council remains committed to the Strategy's delivery. In turn, we ask for the support of this Assembly and the various Departments represented in continuing not only to deliver the workstreams identified but also to ensure that the principles of the Strategy are increasingly applied in day-to-day service delivery right across our community.

Thank you.

**The Bailiff:** I have had notice of one amendment to be proposed by Deputy Wilkie.

Deputy Wilkie.

*Amendment:*

*To insert at the end of the words in Proposition 1 “, and to direct the committee with responsibility for the Disability and Inclusion Strategy to report back to the States on the implementation of the strategy no later than November 2017”.*

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

In in time-honoured tradition I will utter that much-used phrase ‘This is a simple amendment’.

1110

**The Bailiff:** Would you like it to be read, or are you going to?

**Deputy Wilkie:** No, sir, I am fine; I will just explain it.

We have this update before us due to the original policy letter requiring the Policy Council to report back to this Assembly in 2016. This was amended by my good friend, Deputy Le Pelley, which brought the date forward to September 2015, sir. The update is a little late, but it is here now.

1115

However, there is no obligation on any Department to report back to the Assembly on future progress, and we should bear in mind that the Disability and Inclusion Strategy, as mentioned by the Chief Minister, was passed unanimously in November 2013, and now we have an update in November 2015.

1120

I would ask Members to support this amendment so the Government, in the next term, can receive an update on progress in November 2017.

Thank you, sir.

1125

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

**Deputy Bebb:** I do, sir, and reserve my right to speak later in the debate.

1130

**The Bailiff:** Thank you.

Do you wish to speak at this stage, Chief Minister?

**The Chief Minister:** I will do so, in case it might help assist.

1135

The Policy Council will support this amendment, particularly because it will help the next Assembly to keep to the priorities and timeframes that we believe we should, and to allocate resources accordingly.

**The Bailiff:** Is there any further debate?

Deputy Bebb.

1140

**Deputy Bebb:** Very briefly, sir.

When I was asked to second this amendment, there was one think that I felt that it lacked, and I feel that ... given the number of amendments that we have facing us in this meeting I was concerned as to laying yet a further one, but I do think that when the Policy Council do report back it is imperative that the Policy Council, on this occasion, include measures in order to implement the Equalities Commission.

1145

We cannot have another update telling us that things are too difficult. It would simply bring things into disrepute. It must be that the next update ... If the Equalities Commission has not been created by then, it must at the very least include full provisions for the creation of such a commission and exactly its functions. Otherwise, we literally are looking at yet another update like this one.

1150

Thank you.

**The Bailiff:** Deputy Harwood.

1155 **Deputy Harwood:** Thank you, sir.

I echo the Chief Minister's comment, because he and I worked very closely at the time to bring the original Strategy to this Assembly.

1160 Sir, through you, I would like to apologise to this Assembly, in my capacity as Chair of the Disability Legislation Working Group, that we have not been able to make the progress that I would have hoped we would have done to bring actual detailed legislation before this Assembly this term.

1165 At the outset it was understood that we would not merely replicate the UK model of legislation, which would have been the very easy way, but that actually we would, by adopting the social model which is referred to in the update report, use that as a basis for legislation. That has proved to be very difficult to really bring it into the context of Guernsey legislation that is capable of being enforced through our courts.

1170 Secondly, as ... and I am very grateful to those members of the working group who have participated, one of whom actually is in the Public Gallery today. We have, through the process of the working group, identified areas where perhaps we lacked sufficient policy direction in the original report that came to the States in November 2013, and the intention is certainly that, through the Disability and Inclusion Steering Group (DISG), there will be consultation on some of those outstanding issues in order to clarify the policy that should be adopted.

1175 We would have been in a position to have proceeded with legislation covering employment-related matters. The difficulty is in relation to the aspects of the legislation that will deal with goods, services and transport-related matters.

1180 I am confident, however, that progress can be made, and I agree with Deputy Wilkie's amendment. It is important that this Assembly is made aware of progress or if there are problems in getting progress, and I think the Policy & Resources Committee, as it will then be, should not be frightened to come back to this Assembly to explain the nature of the problems that have been associated.

So, through you, sir, I make apologies that we have not made the progress we wanted to do, but, having said that, we have made progress: we have identified a number of specific policy issues on which that group needs further guidance.

Thank you, sir.

1185

**The Bailiff:** Deputy Conder.

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

1190 Mr Bailiff, fellow States' Members, as other speakers have said, this amendment is important. It is important because we have failed. We have failed for good and understandable reasons, but we have failed in delivering this Strategy for the same reason that we have failed in other areas. Too much to do, not enough resources, and failure to prioritise.

1195 It is important that these Propositions, if amended, will then include an expectation, indeed a requirement, that the next Government will return to the States with a report that details the implementation of the Disability and Inclusion Strategy. It is a small thing to ask or expect, but without such an expectation the next Government could well find itself in the same position as we are today: full of good intention but light on delivery. This amendment and the expectation of a follow-up report in 2017 that is inherent in it will provide an albeit modest motivation to ensure that real progress is made.

1200 Rather like education, prevarication and procrastination impact upon individuals. In failing to progress our strategy as quickly as we intended, opportunities are lost for cohorts of young and not-so-young disabled people, and they cannot easily be replicated.

1205 This amendment is a modest but important attempt to ensure that the next time we look at this there will be measurable achievements to log and to recognise. Please support this amendment. Thank you, sir.

**The Bailiff:** Deputy Fallaize.

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

1210 There is a bit of a flaw in this amendment, because it reads:

‘ ... to direct the committee with responsibility for the Disability and Inclusion Strategy to report back to the States ... ’

but it does not identify which committee. How on earth the next States is meant to hold anyone to account for the implementation of this amendment, when they have no idea who they are meant to be holding to account, is beyond me.

1215 I did have some discussion with Deputy Wilkie about this in advance of the submission of this amendment, and I do not understand why the amendment does not identify who it is he wishes to report back to the States by no later than November 2017, because if the amendment, or the resolution, does not identify which committee should report back to the States it will be possible for every committee to deny responsibility for this task, and then it will not be possible for the States to hold anybody to account.

1220 Deputy Conder said, and I understand the point that he was making but he said that the next Government must report back to the States, but of course that is something of a contradiction in terms. A committee must report back to the States, but this amendment does not identify which one, and I am afraid that, as it reads at the moment, it is not going to be possible for the States to hold anyone to account for the delivery of this Resolution, and I am a bit uncomfortable. I agree with the principle very much, but I am a bit uncomfortable with the States approving resolutions which it cannot then subsequently hold anyone to account against.

1225 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Yes, I –

1230 **The Bailiff:** Can you put your microphone on.

**Deputy Gollop:** I want to be heard and be included, yes.

I support the amendment – of course, I support the whole Strategy, speaking generally.

1235 Somebody whom we all respect, this morning, as I was coming in to the Chamber, said, ‘They do not just want a debate today; they want a date, and by “date” they want a debate not just for reporting back, but for implementation. That is the priority.’

1240 I was proud and honoured to be the Disabled People’s Champion before Deputy Wilkie, and I very much support the work Deputy Wilkie and the team have done. I think they made the right moves in working together with Mrs Stephens and others in achieving what has been achieved, and I praise Deputy Harwood too for almost getting there. I think we will hear more in the New Year.

Deputy Fallaize raises some interesting points, but of course he is only premature in that we have not entirely yet ... maybe we will this week implement the States’ Review outlined for the next shape of Government. I just assumed, perhaps wrongly, that as this is a Policy Council workstream that it will transfer to the Policy & Resources Committee.

1245

**The Chief Minister:** Thank you for giving way, Deputy Gollop.

1250 If I, sir, can just explain how I see it ... Obviously, Deputy Fallaize, my good friend, is very keen on dotting every *i* and crossing every *t* in this respect, but it is a Policy Council workstream, and certainly from my point of view I would see us handing that work stream over to Policy & Resources in the new Assembly, and in any case – I have said this before – I think workstreams such as this, which are very broad, will need the allocation within Policy & Resources of a high-level member of that team to take responsibility at least until the Strategy is seen through into full



implementation. But that will be a decision of Policy & Resources in its present ... in its work in the next Assembly, but I would read from that, and make a marker in the ground here, that it will be part of the handover documents of all workstreams from Policy Council to the next committee that takes on that policy responsibility in terms of managing those policies that go right across the various Committees of the States.

**The Bailiff:** Deputy Gollop.

**Deputy Gollop:** I thank very much the Chief Minister for his comforting and clarifying assurance, because the point is although initially when I read this I got confused too, like some other Members, and thought that it was being transferred back to Health & Social Services, which of course for a while is where a disability officer was based, that is not the case. That only applies to the safeguarding of children part.

I think it should remain with the Policy & Resources successor, because not only will they be a joining-up team, a policy-shaping team, a co-ordinating body, in a way, but they have a mandate to look right across economic policy, allocation of resources, and social policy, and I think even senior Members of this Government have publicly admitted social policy has lagged a bit in recent years.

So the one query I have is when I hear senior Members talk about being realistic, failure to prioritise and principles of strategy. That kind of indicates that disabled people and issues are not a priority. They have to be. They have to be and must be, not just morally on the Island but for our international reputation.

Indeed, it reminds me of a few years back when a senior Member of the States would say we are not like certain governments around the world who sign up to every Human Rights directive going but never implement them; we only sign if we can implement them. But we now are in a situation where we have made promises, we have been doing work, we have built up expectations and we are not delivering as fast as we should, and that has to change.

I am not going to go into a forensic analysis of why there was a slowdown in progress. That would not be helpful and we have not got time today. I do remain positive, supportive of what has been achieved, but urge the States that we must deliver by the end of next year.

**The Bailiff:** Deputy Green.

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

I was under the impression that, subject to what the States decide later on in terms of the mandates for the new committees, the issue of social inclusion, including in relation to disability, would be in the domain of the Employment & Social Security Committee, which means that when I look at Deputy Wilkie's amendment, which I think I am probably going to support, the committee in question with the responsibility for Disability & Inclusion Strategy I would have thought would be that committee: Employment & Social Security.

I am bit confused, therefore, sir, in terms of some of the comments that have been made, and ... I do not know ... I guess I ask Deputy Wilkie to sum up on that point at the end and just clarify that – which committee he is talking about; and if, like me, he thinks it is the Committee for Employment & Social Security, then I will have no problem in supporting this amendment.

I agreed with much –

I give way to Deputy Luxon.

**Deputy Luxon:** I thank Deputy Green, sir.

Could we perhaps ask the Deputy Chairman of the States' Review Committee body to confirm where actually the responsibility is going to lie? We are going to be debating the final letter on this subject; it would very helpful if we had clarity, rather than trying to work out what we think is going to happen.

Thank you, sir.

**Deputy Fallaize:** I thank Deputy Green for permitting me to give way, (*Laughter*) but there is no uncertainty at all. The States have already resolved it; they do not have to do anything on the third policy letter that is going to be debated later at this meeting. The States have already resolved, on the second policy letter, that responsibly for social inclusion, including disability, will sit in the mandate of the Committee for Employment & Social Security. It is abundantly clear.

**The Bailiff:** Deputy Green.

**Deputy Green:** I am very grateful for those interventions, sir, because that has certainly clarified that for me, but I will leave that for Deputy Wilkie to sum up because I think the matter has been ...

I listened and agreed with a lot of what the Chief Minister said – speaking generally, sir, as well as on the amendment. I agreed with a lot he said, but I do actually feel quite downbeat about this policy letter. I am disappointed that there has been a lack of progress in implementation.

This was a Strategy that had a decent budget from the beginning. It is quite clear that the issue really was ... the whole thing did not have the appropriate sort of Civil Service resources, skilled resources, from the beginning. You cannot actually spend money or bring projects into action if you do not have the civil servants on the ground to develop the business cases to access the funding. I think it is a real shame that we did not have that team in place from the beginning, because I think that is a real disconnect. When this Strategy was approved in November of 2013 there was a great deal of enthusiasm in this Assembly and in this Chamber and in the community, but what has emerged is a massive disconnect between that feeling that day and then what happened subsequently. I think that is very disappointing, and I am quite downbeat.

I take the Chief Minister's point that a lot of success and progress has been made, and the Billet does indicate that. The Departments have moved forward, the mindset is shifting, there are things to be applauded, and that is absolutely right – and it is about prioritisation; that is the other point the Chief Minister said, that it is absolutely about that in terms of moving forward. Nonetheless, I really want to say I am very, very disappointed that we have not made more progress on disability discrimination, on the Equality and Rights Commission. I agreed entirely with what Deputy Bebb said a moment ago: the problem with this amendment is it probably does not go far enough, and we are probably not being ambitious enough in terms of how we progress this. Also the fact that the information service remains a long way off, the awareness campaigns on attitude and on change. All of that is the real meat of what this Strategy is about, and I remain very, very disappointed that we are basically proceeding at a snail's pace on these very important things.

The last point I want to make is I just think that there are important ramifications here for social policy in the future, for other areas of social policy, in terms of how we implement social policy effectively in the future, and what we have got to do is not only make sure that there is a proper budget to make these Strategies fly and work effectively, but make sure there are the people on the ground, the manpower on the ground, the Civil Service resource on the ground.

Again, I applaud the mention of the shadow commissioner – I think that could be a practical way forward; nonetheless, I cannot help thinking that we have not progressed fast enough on this and I think we have let people down.

**The Bailiff:** Does anyone else wish to speak on the amendment before we go formally into general debate?

Yes, Deputy Burford.

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

As Environment Minister, of course I am pleased that the Integrated Transport Strategy in general and accessible taxis in particular are heralded in this Report as one of the main successes of the Disability Strategy to date.

**The Bailiff:** Is this on the amendment?

1360 **Deputy Burford:** Yes, sir, and I will not be speaking in general debate, sir.

To me, it is natural to consider everyone's transport needs equally. However, I do not share the view that, so long as a few positive things have happened for disabled Islanders and carers, this Assembly has done as much as could be expected, even in the current climate. If gradual progress was sufficient, we would not need a Disability Strategy in the first place. The whole reason why these nine projects have been brought together is because they will not happen organically. They need systematic Government focus. Reasonable adjustments, protection against discrimination, promotion of equality, a comprehensive information service: these are the foundations on which real inclusion is built. It is easy to think of the Disability Strategy as something peripheral and separate, but actually it matters to all of us that we all matter.

1370 In October, the Chief Minister said that the drop in the working population was one of the most serious issues facing the Island; yet here we are slow-peddalling on a Strategy that would bring more Islanders into the workforce.

On the Sunday phone-in two weeks ago, Deputy Peter Harwood said that Guernsey's aging demographic is the biggest issue that the Island faces; yet here we are slow-peddalling on a Strategy that would ensure that our Island is more accessible for older people.

1375 Back in April, this Assembly voted to raise the retirement age to 70; yet here we are slow-peddalling on a Strategy that would encourage employers to adapt their working environments to retain their staff.

We are waiting for the Supported Living & Aging Well Strategy, but in the meantime ignoring the fact that we could have spent the last two years making a cracking start on addressing our demographic issues.

Sir, of course, we should support Deputy Wilkie's amendment to ensure there is another update report in two years' time; an update report that is much more analytical and action focused than the document we have before us today, and with much better news in it.

1385 To survive and thrive in the 21st century Guernsey needs to maximise the potential of every single citizen. The Disability & Inclusion Strategy is a fundamental to achieving that, so please support this amendment.

Thank you.

1390 **The Bailiff:** Deputy Stewart.

**Deputy Stewart:** Mr Bailiff, fellow Members, I will be supporting this amendment, but I even think that to report no later than November 2017 is perhaps even too far away still. That is two years away, and I do hope that it is no later than November 2017 that the Department ... we receive a report in this Assembly earlier than that.

1395 I will not be speaking in general debate, sir.

I am just looking at page 2883. I think the important paragraph, for me, is paragraph 38, where it says:

'However, legislation does not need to be in place for best practice to be followed and guidance issued.'

1400 I think there is a lot we can do as individual Departments. At Commerce & Employment we spoke to all the hotels and the Guernsey Disability Alliance presented our previous annual tourism presentation so that they could understand what they could best do to give access to people with disability. We have also made it a condition that they have to make an access statement.

1405 So I think there is an awful lot we can do right now, and I would urge Members to go back to their respective committees and look at what simple things they can do now. We do not have to wait for reports, we do not have to wait for legislation to start taking some actions that will improve the life of disabled Islanders.

I am particularly disappointed because Deputy Bebb and I brought an amendment to this Assembly so that a public campaign creating awareness ... A lot of this is about people's attitudes and about creating awareness, and I think if all of us can make a small amount of difference on our respective committees or as individuals, then we can make a huge amount of progress without actually waiting for reports and legislation.

So I will support this amendment, and I urge Members to go back to their respective committees and look at what small differences they can make ahead of legislation.

Thank you, sir.

**The Bailiff:** Deputy Lowe.

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

Legislation is important because it is all very well the States setting an example, but it is not the States that necessarily has to set that example; it is the private sector where sometimes there are problems, and we need that legislation to ensure that these individuals are protected. So the sooner that comes forward the better, for me.

It is well set out here, on page 2887, although why it will take four months' consultation ... It seems an enormous amount of time for consultation. I am hoping this timeline in this Billet will be a lot faster than we have actually got here and there will be the will to go ahead with it a lot quicker.

Deputy Wilkie's amendment ... It is very difficult not to support it, but for me it is not hard-hitting enough. It is not actually asking to come back with an honest timeline with priorities, with costings. I really do not want another report just to tell me, 'Oh, we're not quite sure how we have got on; there have been delays because we have not got the money.' The resources need to be put into it. I have never known as many strategies and reviews as this States has actually had, and what that has meant is that senior staff are tied up doing strategies instead of getting on with the daily work and getting on with some of these things that are in the Strategy. A strategy is nice to have, but we have now so many strategies and so many people tied up, it has almost brought Government to a halt – because it has kicked it down the road because we need a strategy.

I would have liked to have seen in this amendment far more hard-hitting asking for honest answer coming back with an honest timeline, with honest costings, so that it will come back and people will be aware, through consultation, of the priorities that they believe need to be a priority, and not necessarily what we want as a priority.

Therefore, I ask whoever takes this on to take note of that and to come back with a report that is meaningful, rather than just hollow words.

**The Bailiff:** Deputy Sillars.

**Deputy Sillars:** Sir, I was not going to speak, but I just really wanted to say yes, I will be supporting the amendment and I support the whole of the policy letter.

Deputy Stewart made me come to my feet because I really wanted to assure everyone that certainly my Department, Education, and I am well aware Culture & Leisure and others are all working already. We are not waiting for a report to come back and we are all working very closely together to go forward. (**A Member:** Well said.)

Thank you.

**The Bailiff:** I see no one else rising.

Deputy Wilkie, will you reply to the debate on the amendment.

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

I thank everyone for their comments in debate. I find it difficult to reply to a lot of them, because I think a lot of it was general debate and not actually about the amendment, so I will try and pick up the points that were specifically about the amendment.

1460 Deputy Green and Deputy Lowe said that they felt this amendment did not go far enough. I have some sympathy with that, but it is down to if you go too far are you going to actually lose the amendment and not be able to get the report back that you want.

1465 Deputy Fallaize mentioned about which committee should have responsibility. I find this a little confusing because I did speak to Deputy Fallaize about this previously. He could not give me a definitive answer. He gave me an idea that it might be the Committee for Employment & Social Security, but he would have to think about it further. We have now heard that the Chief Minister thinks that it is in a different place, and we have not yet had that debate. I do not think it is up to this amendment to pre-empt where this Strategy should sit, I think that is for a further debate this week, and I think it is quite clear in the amendment that whoever has the responsibility will have  
1470 to report back.

I think that is all I am going to say, bearing in mind the amount we have got to do, so I would just like to thank everyone and ask everyone to support this amendment.

Thank you, sir.

1475 **The Bailiff:** We vote, then, on the amendment proposed by Deputy Wilkie and seconded by Deputy Bebb. Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare it carried.

We move into general debate. Deputy Luxon.

1480

**Deputy Luxon:** Thank you, Mr Bailiff. I will be brief.

HSSD is particularly mentioned in Proposition 2, so I rise to represent the Department's position, but I will just make some individual comments first.

1485 The GDA newsletter circulated to States' Members last week was a very helpful and fair assessment of progress to date, certainly from the GDA members' perspective, since the Strategy was unanimously accepted two years ago. However, the underlying disappointment that more had not been achieved was, I felt, being a little too hard on the reality of the situation. More could, of course, have been done, but not for lack of commitment or intent; more as a result of the real resource constraint, which many of us in this Assembly are aware of and frustrated by.  
1490 More must, however, be done from now on.

Personally, I feel the step change in terms of political and the States of Guernsey public sector organisation outlook regarding the principles inherent within the Disability & Inclusion Strategy is a real step forward, upon which momentum can be built as the Strategy moves forward. Glacial speed to date, yes, but real and genuine foundations from which to build the implementation  
1495 stage of this Disability and Inclusion Strategy going forward.

So, yes, some frustration, sir, but equally a step change outlook, and the GDA and its leadership can take some significant credit for the tireless and professional way in which they operate and act as a true partner with Government to promote and implement improvements to the lives of those with disabilities in our Island. The GDA's focus and lobbying skills have been  
1500 clear for us all to see: they represent their members and mandate exceedingly well and should be applauded.

Sir, speaking specifically on behalf of HSSD in relation to Proposition 2, my Department fully supports the transfer of lead responsibility for safeguarding vulnerable adults, in the same way as HSSD and the ICPC is responsible for the safeguarding of vulnerable children in our community.  
1505 This is covered in paragraphs 83 to 86 on page 2891, and we completely support it.

All States' Departments and Boards, along with the community of Guernsey, must continue to place disability and inclusion at the forefront of our activities to ensure the historical stigmas and obstacles preventing disabled members of our community from playing as full a role in society as possible and from leading optimally fulfilling lives is secured in an ongoing progressive manner – it must be achieved. We were slow crafting this Strategy and were slow in initial implementation, but could and should apply increased energy going forward to ensure that we do achieve all that was within the Strategy.

Thank you, sir.

**The Bailiff:** Deputy Lester Queripel was standing earlier. Deputy Lester Queripel, then Deputy Conder.

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

I suspect I am pushing at an open door, but I do want to make some relevant points in my speech.

My father was disabled. He had what was known in those days as a club foot, so severely misshapen that he actually walked on his ankle, which resulted in having severe back and hip problems for the whole of his life. So I know what it is like for a disabled person, having seen what a disabled person has to do on a daily basis to be able to participate in and be included in everyday life. The fact is that back in my father's day there was precious little provision for disabled people, so many of them were not actually included. Thankfully, due to a lot of hard work from numerous organisations and individuals, things have moved on since then.

The frustration surrounding the lack of progress on the implementation of this Strategy for us as politicians is that we all signed up to it two years ago with the best of intentions. We signed up to it because we wanted to see it progressed and we wanted to see our disabled fellow Islanders included in society – and now we are told in this Report that there is no doubt that if more suitably skilled resources could have been made available to devote to the various priority areas then progress would have been more advanced.

This States is in danger of becoming known as the States of Good Intention, because we sign up to all these visions and strategies with the best of intentions, to hit the obstacle of the lack of resources further down the line. I do not think we should even be asked to sign up to any vision, or strategy, or list of aspirations, unless the funding and the resources are actually in place to progress them.

A disabled fellow Islander told me recently, and I quote:

'Once again, we have become the forgotten.'

which is absolutely tragic, because in the minds of every Member of this Assembly disabled people certainly have not become the forgotten. But lack of resources is delaying the implementation of this Strategy, and lack of resources is the Achilles' heel of this Assembly.

So, my message to every Department and every Chief Officer and every head of department – through the Chair, if I may – is stop presenting us with lists of aspirations, visions and strategies unless the funding is actually in place, because then we give Islanders false hope, and we really should not be doing that.

I know how hard Deputy Wilkie and Deputy Le Pelley work on behalf of our disabled fellow Islanders, as do many other Members of this Assembly, as well as all the people listed in paragraph 6 of this Report, former States' Member Jane Stephens being one of them. So it certainly is not through a lack of trying to progress the implementation of this Strategy.

There have been times in the past when I have criticised the Environment Department, but on this occasion I give them credit. They have been lowering kerbstones, they have been introducing improvements wherever they can to improve the quality of life for our disabled fellow Islanders.

One thing that frustrates me the most about this whole issue – it has already been touched on by Deputy Gollop and Deputy Stewart – is that shops and offices do not actually need a Disability

Inclusion Strategy to enable them to improve the quality of life for disabled people; they can do that now. They could provide ramps to allow wheelchair access into their establishments. They could make it a lot easier for people with mobility problems to manoeuvre when they are in that office or that shop. They could provide handrails to help people negotiate steps into their establishment. There is so much more that they could do.

The St Peter Port Douzaine are always trying to think of ways in which we can make our town much more accessible to our disabled fellow Islanders, and during a conversation one day with a fellow Douzenier, the late Peter Wilson, he pointed out to me that you very rarely see a chair by a counter in a shop anymore. That would be a most welcome sight, sir, to anyone with mobility problems – somewhere to sit in a shop.

As a disabled fellow Islander I spoke to recently told me, it is the little things that mean so much; but there are many of the major things that legislation will require certain establishments to provide, such as much needed lifts and disabled toilets, which is why of course we need to progress this Strategy as soon as we possibly can. But in the meantime, shops and offices could do a lot more, and I urge them to do so.

In conclusion, I wholeheartedly support these proposals in front of us today, and I do so, once again, with the best of intentions.

I will end by repeating my heartfelt plea to the Policy Council and all the heads of Departments: please, please, please do not ask us to sign up to any more strategies or visions unless the resources are actually in place, because that sort of approach only gives everyone false hope and our fellow Islanders do not need any more false hope – what they need is action.

Thank you, sir.

**The Bailiff:** Deputy Conder.

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

Mr Bailiff, fellow States' Members, I rise simply to endorse the sentiments of this States' report and its Propositions as amended.

In particular, it is important that we endorse Proposition 3 and thus facilitate the delivery of the various workstreams associated with the States' Disability and Inclusion Strategy and enable the newly appointed Disability Officer to access the resources that will enable her to deliver those workstreams that, for reasons we understand, have not progressed as quickly as they might have.

At the same time – and in this respect I entirely endorse what Deputy Lester Queripel has just said – we should be under no illusion that this Strategy will continue to require resources, and we should not shy away from those implications. There is, I believe, £180,000 left from the current budget – if that figure is right, it sounds a fairly modest amount me.

About 10 years ago, for a while I headed up the Island's Workforce Development Plan, and one of the outcomes of the research that we undertook in developing that was the untapped resource that our fellow Islanders who suffered from some disability represented, in terms of enabling them to play a full part, or the full part that they wanted to play, in the economic life of our Island. It is axiomatic that this Island needs to maximise and explore the economic potential of all of our fellow citizens who wish to be economically active. We constantly and consistently say to ourselves that we must grow our own talent and we must offer opportunities to our fellow Islanders that allow them to develop the skills and enhance their potential for realising satisfying careers and lives. That applies to our friends and colleagues who live with some sort of disability no less than the more able-bodied. We need to maximise the economic potential of everyone in Guernsey. We need to embrace this Disability and Inclusion Strategy, and thus maximise the economic output from all of us who can make a contribution, and at the same time will be embracing and promoting equality, awareness and inclusion. We all win.

Fellow States Members, please support all of these Propositions as amended.

Thank you, sir.

1605 **The Bailiff:** Deputy Fallaize.

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

I agree with those Members who have said it is right to acknowledge and to praise those who are responsible, both inside and outside the States, for the progress that has been made, and is still being made, in delivering this Strategy.

1610 Actually, the progress does not just date back to the beginning of the Strategy. In fact, I am not sure it is related much to the adoption of the Strategy. It really dates back over a period of about six or seven years, since the formation of the Guernsey Disability Alliance and the work that has been done, from outside the States and from inside, to promote awareness, because the greatest shift that has occurred over the last six or seven years has been culturally, in terms of the awareness of issues of disability and inclusion.

1615 Nonetheless, the policy letter does point out some of the work that has been carried out since 2013: there has been work done with the Guernsey Employment Trust, there has been the removal of legal disability disqualifications in the Reform Law, and Housing have made progress by now affording greater priority in terms of allocations to disabled people.

1620 So those things are all to be welcome, but ... and I am not exactly downbeat, but I am not as positive as some Members are about this policy letter, because all of the major aspects of it, all of the major objectives, remain unfulfilled and some of them of them have not even been started. This list of unfulfilled objectives includes disability discrimination legislation, the Island's obligations under the UN Convention, the establishment of an equality and rights organisation, and properly auditing the States' obligations in respect of disability and inclusion.

1625 The Policy Council, especially at staff level, I have to say, loves to say that the lack of social policy progress is a result of an undeveloped means of prioritising competing policy objectives across the States. This is true up to a point, but it has become something of a cliché and a cop-out. (**A Member:** Hear, hear.) In this case, the States prioritised the Disability and Inclusion Strategy. Two years ago, ahead of many of the other strategies which are in the list to be prioritised, the States agreed to a Disability and Inclusion Strategy and voted £250,000 to implement the Strategy. That is an example of a strategy already prioritised. The failure is not that it has not been prioritised or that we are not sure where in the list of priorities it should be against other competing initiatives. It was prioritised and money was allocated to, but of the £250,000 which was allocated and approved by the States, I think unanimously, £180,000 remains unspent. That is not a problem of prioritisation.

1635 At two points in this policy letter the real reasons for the lack of progress are revealed. At paragraph 3 it states:

'Whilst there has been deviation from the original timetable, this is not surprising as it was only ever a guide, not a definitive plan, as to how those work streams might be executed;'

1640 Then later in the policy letter, at paragraphs 98, 100 and 104, it makes it very clear that the absence of dedicated resources has hampered – and, it says, will continue to hamper – the progress in delivering the Strategy:

'100. ... It is evident that significant progress cannot be made with implementation unless suitable resources can be made available.'

'104. ... In particular, if momentum is to be maintained and accelerated, then additional staff'

– additional staff –

'with policy-making, research, change and project management skills are essential.'

The the question is: what is proposed in this policy letter to address these two major weaknesses, which hitherto have significantly impeded progress in delivering this Strategy?



1645 Well, the answer on the second point, the allocation of additional staff resources to fulfil the objectives of this Strategy ... the answer to what is proposed in this policy to address that is nothing. There are no additional staff resources proposed, there is no additional money proposed – nothing.

The answer to the first point, on the absence of a definitive plan being held up as a reason for the lack of progress up to this point – what is proposed in this policy letter to address that? Well, the answer again is absolutely nothing.

In fact, I think it is worse than that, because ... I wanted to *sursis* this policy letter. I wanted to *sursis* it, but only for perhaps a month or two until the January or February States' meeting, to ask the Policy Council to lay it before the States again, when they could attach, by amendment, to their Propositions an action plan which would set out what work was going to be carried out to fulfil this Strategy, when, how it was going to be paid for, etc.

I had been led to believe that an action plan was reasonably close to being produced; that if the proposals went through today and the money was rolled over, then before too long there would be an action plan. So I got in touch with the relevant member of staff at the Policy Council and said, 'Could you please confirm when the action plan ...?' or, 'When will the action plan be produced?' expecting to be told, 'Well, it will be sometime in December, or sometime in January, or even February,' and I would then have laid a *sursis* to delay debate on this report until we could see an action plan. I was told, 'Oh, no, an action plan is not imminent. I cannot tell you when an action plan will be produced. We have no idea when an action plan will be produced. It depends on what priority the Disability and Inclusion Strategy is afforded relative to SWBIC, relative to SLAWS,' and all these other irritating acronyms which masquerade as concrete policy workstreams.

So, let's not believe that there is any kind of action plan imminent. Let's not believe that by rolling over the money, if the Propositions are approved today, we will all of a sudden be able to deliver the Strategy which has not been deliverable up to this point – because no action plan is imminent.

I was amazed when I was told that, because unless this Strategy ... I agree with Deputy Lester Queripel and points that have been made by other speakers in other debates on this matter: there is no point in agreeing to a strategy ... I think the word 'strategy' should be banned from the States. (**Several Members:** Hear, hear.) What we ought to sign up to, if we are signing up to anything, is an action plan – something which says, 'This is exactly what we are going to carry out, this is when we are going to carry it out by, this is how much it is going to cost, and this is when we will report back to advise that it has been done.' (**A Member:** Absolutely.) That is not a strategy. It is very easy in a strategy to come up with meaningless, nebulous, vague platitudes – which we do: we did in 2013 on this Strategy; we have done on many other strategies and we are being asked to do again – but in the absence of definitive action plans there is normally little or no progress. In fact, this policy letter admits that: it says that there has been deviation from the original timetable, but it is not surprising because it was only ever a guide not a definitive plan. What is being put before us today is not even a guide, let alone a definitive plan; it is just a series of platitudes.

What concerns me when we approach policymaking like this is partly the lack of progress it has made, because there are people in our community who are desperately in need of the Disability and Inclusion Strategy being implemented. But what concerns me even more than that is that we create false expectations, and this is exactly the point that Deputy Queripel has just made. There is a gap, a chasm, between the expectations that we create by approving strategies and the realistic prospects of achieving those strategies. We know that. In this Assembly we know of the difficulty of prioritising, because we know of the difficulty of accessing resources. We know it because we sit on committees and Departments which face those problems every day. But people in our community do not understand that, because we do not communicate that properly. When we sign up to a strategy, if it is a Disability and Inclusion Strategy, people in our community who are in need of progress in terms of disability and inclusion believe there is about to be significant

progress. If we sign up to whatever strategy – I cannot think of other strategies that we have approved, but other Members will be able to list them, but when we sign up to strategies which have in their title the area of work they are related to, people in our community who are reliant on that area of work believe there is about to be significant progress, action, and there is not going to be, because we do not have the resources to deliver it.

Deputy Lester Queripel said that this States will be known as the States of Good Intentions. Putting it another way, this States should go down – and it is not alone, because the previous two or three States deserve to go down in exactly the same way – as States which were not prepared to adopt fiscal policies to fulfil their social policy intentions. That is the problem that we face.

We want to provide social policies as if we have a 30% rate of tax, and we want to have a 20% rate of tax.

We want to provide more in the way of social policy than previous States were able to, but we have reduced our income from 28% of GDP to 25% of GDP. We have deliberately done that. That has not happened by coincidence or by chance; it has been a deliberate policy of the States over the last 10 years to reduce the States' income from 28% of GDP to 25% of GDP, and it represents around about £60 million a year of income foregone. That is why we cannot make progress in the area of social policy.

I entirely accept that it is a separate debate. How much income we raise and how much we spend is a separate debate and there are good arguments to be made on both sides of the debate. But it cannot be right, surely, for us to create false expectations (**Several Members:** Hear, hear.) and to allow the community to believe that we can produce ambitious, progressive, social policy much more than previous States have done when we have taken a deliberate decision to reduce the income of the States and we show absolutely no signs whatsoever of reversing that decision. That is just creating an enormous gap, a chasm between expectations and the prospects of delivery.

I want that message to go out from the States. Although I want this Strategy, or the proposals to be approved, I very much want the allocated money to be rolled over, because if that is taken away from the next States then there will be no prospect of any progress at all, let alone significant progress. But I do not want us to create the expectation, by having this debate today and approving the recommendations, as I am sure we will, that there is about to be significant progress – because there is not, and we ought to level with the community. And if we are not prepared to adjust our fiscal policies we ought to explain that progress in social policy is going to be very slow, if there is going to be any at all, and that there is going to be significant disappointment in the community amongst those people who are in need of social policy progress.

Thank you, sir.

**Several Members:** Hear, hear. (*Applause*)

**The Bailiff:** Deputy De Lisle, Deputy Trott, Deputy Bebb.

**Deputy De Lisle:** Sir, this is a fairly hollow report in front of us, and I have heard nothing but apologies from people working on this Strategy, including that of the Chief Minister, and it is just not good enough to provide a plethora of excuses and apologies.

It is at a time also when the Policy Council has added staff under its wing and at a time of austerity, when we are supposed to be cutting back on staff, so I just do not know why they produce or have staff to produce something of this nature, which is lacking in content.

The Chief Minister wants to look at his Department and say, 'We have got to rationalise in what we are doing,' abide by the policies of the people out there who are really concerned about the fact that the States are not cutting back on staff resources, and come to this States perhaps with a very brief statement from himself, indicating that nothing has been substantially done on this yet

but there are intentions in the future. That is the way this should have been. We have occupied hours here of time for nothing.

1750        There are concerns in my mind also as to the final cost of this Strategy. We are being asked to write a blank cheque in Proposition 4, for example. Members are aware that strategies tend to take a life of their own in this Assembly. Can the Minister give an indication of what is further forthcoming? He has mentioned the shadow commissioner, he has touted that, together with other staff apparently, which sounds to me to be a weighty addition to what we have here. And  
1755        can he give some indication of the cost implications of this whole Strategy, because I think that is important that we know what we are voting for here, particularly in terms of Proposition 4, which is:

‘To note that further requests for resources to facilitate delivery of the Disability and Inclusion Strategy will be forthcoming.’

but we are told nothing about what is forthcoming.

Thank you, sir.

1760        **The Bailiff:** Deputy Trott. Just before he speaks, those Members who wish to do so may remove their jackets as a result of a request I have received.

Deputy Trott.

1765        **Deputy Trott:** Sir, Deputy Fallaize’s remarks align themselves very closely to the notes that I have written on this, and I shall repeat some of them because I think it is justified on this occasion.

It saddens me that we are where we are, but I remember predicting that we would find ourselves precisely in this position two years ago, because lessons should be learnt but they very rarely are. We make the same mistakes over and over again. Why? Because we are fiscally conservative in the morning and socially expansive in the afternoon, and it never adds up. Never.  
1770        We are consequently perceived as being disingenuous to our community.

This initiative – I am not going to call it a strategy either, but this initiative is a classic case of overpromise and under-delivery, as many of the more experienced Members of the States knew it would be. So the reality is that at States level, at our level, progress has been pathetic, but the difference with me is I understand why that is: we should never have been so optimistic about it in  
1775        the first place.

And look what the effect is. The GDA members have been very kind in sending us their views, and when asked what they thought of the progress that is being made, they said, ‘They said the will was there, but clearly it is not. We are disappointed but not surprised. The person on the street will not have noticed any difference.’ Then, when asked why they thought the progress had  
1780        been so slow, they said, ‘Well, there is no leadership. There is no clear plan or deadline for each part of the Strategy. No one is driving it forwards within the States. And in the States’ – and this is the most damning of all – ‘failure is inherently expected and acceptable.’ And it is, because we do the same stupid things over and over again.

Well, I can hold my head up high, sir, because I remember telling the Chair of the GDA that we  
1785        would find ourselves in this position, and I remember a conversation with her when I was critical of her belief that progress was in fact being made. The reality is it has been a failure. I am sorry to have to stand here and say it, and I hope that the situation can be remedied.

**The Bailiff:** Deputy Bebb.

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**Deputy Bebb:** Thank you, Monsieur le Bailli.

I do not want to rehash the old arguments that have already been made in this debate, however, I do not think that we can simply say that it is to do with priorities. Unfortunately, the simple measures as to exactly what is going wrong, on top of the question of priorities, is made  
1795        quite clear in two sections of the policy letter.

If Members turn to page 2881, they will see the discussion as to a website. I quote:

'The Disability Officer has been providing information to different people and organisations on a face-to-face basis and through e-mails, etc. However, it has been agreed that to have maximum impact, coupled with a wide reach, a user friendly website should be established for disabled people and carers. This would also be useful for professional staff, other front line staff, and volunteers with whom carers and disabled people come into contact.'

And just after that we find that it is proposed that this will be on the same technical basis as the States of Guernsey one, but will not be the same. Well, hallelujah to that, probably, because the current States of Guernsey one is not exactly good. But nothing then goes on to say what is going to be done. No one actually says that they are going to do it. I have created quite a few websites. They are not particularly difficult to create. Indeed, you need to figure out what information needs to be there, but it sounds as though the information has already been resolved by the Disability Officer as to a starting point. So what we have is a realisation that we have got a good idea, we know what we want to do, but we do not ask anyone to do it. And before we wonder we have got the resources, there is sufficient funding in order to put the website creation out to tender, so I am astonished as to why on earth such an initiative, which would be a starting point, does not even start.

Then, if we turn to the equality and rights organisation, here I think that, rather than pointing to a lack of resources, we actually need to take a closer look at exactly what on earth happened.

'Following debate... the States resolved:'

Page 2892, and then there is the list of what it resolved. Paragraph 89 is what is quite indicative:

'However, rather than establish a separate organisation just for the equality and rights of disabled people and carers, it was proposed that this should be developed into an Equality and Rights Organisation. It was envisaged that this would be an independent statutory body for the protection and promotion of all equality and human rights issues, including those under the Policy Council's equality and rights programme, which comprises:'

– and it lists those things which we say are our priorities.

Well, wonderful. So we take an idea of doing something, then we throw in a whole host of additional extra burdens on that committee, and then it goes on to complain that it is very complicated so we have not been able to do anything. Well, surprise, surprise: if you do make it more complicated, it gets to a point that it gets to be so easy to put it in the too difficult box, and that is exactly what has happened. Rather than progressing with an equality organisation that would deal with the specific issue of disability rights, we say, 'Well, actually, we want it to do everything else as well, we want it to do everything else from the beginning, and so it is just a bit too difficult.

The other thing that I think is a little bit of a cop-out is to say that it is to do with a lack of resources, to an extent that I was quite horrified as to certain suggestions that realistically the main error in relation to this plan not being implemented was as a result of the Government Service Plan not being agreed. Indeed, I would like to quote:

'I am as frustrated as many are. It is one thing to say you support disabled Islanders; it is another to act accordingly. Politically, this means taking a less piecemeal view of issues and being willing to prioritise resources accordingly. States Members were keen to support many good initiatives one at a time, but when it came to resourcing a Government Service Plan, an overall prioritisation strategy, the majority rejected it, meaning that workstreams can only progress at the speed of the existing resources allocated. This rejection, led by Messrs Fallaize, Bebb and others, was a huge mistake and lack of foresight, and I think they recognise this now. Nevertheless, as you say, if we want to change this short-sightedness, it is imperative that the electorate, you and yours, thoroughly scrutinise candidates and vote courageously next year. Fine talk is easy around an issue like equality. What counts is the ability to constructively work with others towards prioritising resources strategically towards delivering on these grand agendas. I am amazed to hear that someone says that we should decide voting on the basis of whether someone supported the Government Service Plan, of which I believe 38 Members of this Assembly supported an amendment stating that it was a good idea,

and I do believe that Messrs Fallaize and Bebb, who were here, actually pointed out for individual scrutiny, were only one of 38, thought that it was a good idea, however, it needed to be refined. What was before the Assembly was not sufficiently of good value.'

1825 But I see that, of course, the elections are upon us and politicking is apparently far more important than actually getting something done with resources that were available, made available, further available, by an amendment laid by myself and Deputy Stewart.

I have to say politicking is what is actually causing one of the major problems towards this Strategy being implemented further.

1830 Thank you.

**The Bailiff:** Deputy Brehaut.

**Deputy Brehaut:** Thank you very much, sir.

1835 I think I am like a lot of other people with this subject matter: metaphorically speaking, your hand is poised to give people a conciliatory pat on the back, but there is also a part of you that wants to grab them by the scruff of the neck too and give it a good shake.

The Education Department put on a presentation. It used to be called 'The future direction of education'; we now more broadly refer to it as 'The future of the 11-plus and where we go,' whether it is 11-plus, whether it is tertiary. When I sat in the focus group, I think it was, at the GTA building in Union Street and we were briefed on the future direction, I looked for a reference to perhaps the Murier School, and no reference was made to the Murier School. The context of that discussion was always about four secondary schools, without of course being inclusive of the Grammar.

1845 When my friends, Deputy Conder and Deputy Green, talk about inclusion and they talk about integration, I still do not understand why we separate some primary children away from other primary children, spend millions on a school, spend hundreds of thousands, millions of pounds a year to staff it, to heat it, to run it, to maintain it, and then, at the north of the Island, when those children become a certain age, we build another school for millions of pounds, and we staff it and we heat it – for how many children?

1850 If we are talking about inclusion, if we are talking about integration, why do we still do this? Why do we separate children out at a given age because of a determination from Education? And remember – I have said this before – the very first time they will meet ... These are children on the same campus, potentially. The only time they will meet and have their first conversation could be their first day at work in the same place. But yet we separate them out, and I do not know why we do that. I sort of understand why we used to do that and why we used to feel that perhaps children were slow or children were backward, or children had challenging conditions that made society a bit uncomfortable – so let's perhaps pigeonhole them, put them somewhere else; let's leave them out of mainstream. Why we still do that is beyond me, and I think that has to change.

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1860 The cost in the broad sense is enormous but the savings, the real pound, could be immense if we really, in my view, went with absolute integration of children with all abilities.

Deputy Stewart said something which resonated with me to a fashion, which is you do not always need a strategy, you do not need a plan, you can pursue these things piecemeal, and if enough Departments are doing that then ultimately you get results.

1865 One reference to the Transport Strategy in that: our reference in that Transport Strategy ... I think it was a number of 8,000 people who could not drive – that was contested. People did not believe that there were that number of people. Why can't people drive? Why don't people choose to be independent in a motor vehicle? And when people think about why the rate ... when people get to appreciate that there are 8,000 people who cannot drive, they then perhaps approach disability and other issues in a different way. But the reason I make that point is if we did not include that reference in the policy letter and we just decided to, within our budget in Environment, start spending on issues around assisting those people who cannot drive, then we would be asked to ... 'Come on, you're spending your budget in that area: evidence the

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requirement for that.' So, despite the good will around the table and people wanting to piece the jigsaw of disability inclusion together, there are times when you need to evidence it to secure funding.

Deputy Lowe said that there are too many strategies, and like never before there are too many strategies. Well, think about that: why are there too many strategies now? The reality is, I am afraid, that Members before today who have been in the Assembly – some of them are not here anymore – sat on their hands. That is the reality. We were very good at building marinas, we excelled at car parks, and we had a go at building an airport, but did not do particularly well, and recently I think may have even finished paying for it, miraculously. But that was where the focus was: money-in money-out infrastructure projects.

If we think of the sole voice in this Assembly, the voice of Jean Pritchard, who pushed and pushed for the Campaign to End Discrimination Against Women (CEDAW), and it is only now that my female colleagues in this Assembly, if I can refer to them as the 'Class of 2012', who at long last are pushing that equality agenda for women again, because it stagnated for far too long.

I loathe talking about my own family, and I know I talk about my son probably too much, and although I feel like I need to, I do not enjoy doing it because he does not always deserve to be referenced – but just a very, very quick story. I was in Saumarez Park with my son recently. We were taking photographs around the pond at the end of Saumarez Park, and out of the bamboos, as if pursued by a lion, this child emerged into Saumarez Park, being pursued by the parent, who wanted to make apologies for the child because he had startled the pair of us. My son said, 'Oh, that's my friend. I go to school with him.' That meant, for both parents, that nothing more needed to be said because we both understood what that meant. That is where society has to get to broadly: that children should not be separated out, discriminated against, and parents and children having to give an account of themselves day in day out, almost feeling like they need to apologise. That is a mammoth piece of work, that is a lifetime's piece of work, and Members, if we want to deliver that, we are going to have to try just a little bit harder, and a little bit harder in finding the funding for it.

Thank you.

**The Bailiff:** Deputy Sherbourne then Deputy Wilkie.

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

Difficult to follow, that, because it says everything, for me, about what we are talking about today. I welcome that speech as I did Deputy Fallaize's, who really put it straight to us. We do make promises or raise expectation. We fail to deliver. And one of the reasons is the fact that we reduce our income voluntarily.

I found it amazing that Deputy Trott could actually stand and say the things he did, when he actually presided over a period where, in fact, the amount of money available for these initiatives has been reduced, (*Interjection*) No, not just yet. (*Laughter*)

Deputy Queripel, thank you – thank you very much – because, to me, you have actually raised the issue that is so important. Yes, this Government can make a difference; there is no doubt about that. I suggest that the feel-good factor that we got when we passed this Strategy initially did not follow us back to our Departments in the way that it should have done. That is where we make the mistake. It is in our own mindsets, quite honestly. And Deputy Queripel's comment about the little things in our community to me is so important. There are differences we can all make. I am as much to blame as anyone when I might say something unthinking, and in fact, if I had given a little bit more thought to it, would realise that it might not necessarily offend but it certainly would not make other people feel good. I think we are all quite capable of that, but when we institutionalise it by going back into our committees and failing to identify the areas where we can do the little things, that to me is a *real* shame. It is something that, as individuals ... we have to take that personal responsibility.

1925 There is a really excellent initiative, several good initiatives, throughout the Island, but predominantly in our schools. One, for example, called the Mindfulness Project; mindfulness – and that is something we should take note of here in this Assembly. Let us think of the things that we say, the things that we do, the things that we actually enable to happen, the impact they have on other people. I do not think we do enough of that, and that is where I apologise to the GDA for  
1930 perhaps not doing as much as I could have done to promote the aims of the Strategy, or at least the action.

I cannot remember who actually mentioned it, but there was a mention – I think it was Deputy Fallaize – talking about initiatives ... sorry, vision – visions and action. I sat on the Board – I am proud to be in that Board – that spelt out a vision with an action plan, with a workstream. This was  
1935 established and accepted almost unanimously by this Assembly in 2013. We spelt out what we wanted to do and the actions we would take to get that done. Every single time we have come back to pursue those policies they have been blocked in some way or pushed down the road. Those are the things that this Assembly must address in the future.

Why have we got so many strategies? Well, a suggestion a few minutes ago from my friend  
1940 and colleague Deputy Brehaut, was that previous States – and I can think back to the States of the 1960's and 1970's – have either pushed things down the road or sat on their hands in social terms, and I find that sad. I would be proud to have been part of these three years for producing those strategies, for raising those issues, for actually raising the consciousness of our community.

The one thing that I think we can all do as individuals is to actually try and change the mindset  
1945 of our community. (**A Member:** Hear, hear.) It saddens me – it saddens me every day ... Maybe it is my fault for following social media and reading 'Your Shout' Maybe that is something that I should give up in the New Year! (**Several Members:** Hear, hear.) (*Interjections and laughter*) But I tell you, that sort of reaction by our population, that we read day in day out, does nothing to move us forward at all. It is negative, in many cases it is abusive, but it is a disgrace for this Island  
1950 that those sort of views –

**A Member:** They do exist though.

**Deputy Sherbourne:** – that we hear, day in day out, through social media, and actually  
1955 promoted by the media, printed by the media ... they distort the direction that our community is going.

Let's be a bit braver in the future. I will not be around to see the total level of improvements that will occur, but we just hold it back by denying resources where they are needed, but also failing to engage in the right sort of language and the right sort of reaction to the *appalling*  
1960 reaction that our community occasionally gives.

I know the silent majority are there disagreeing, shaking their heads, 'Oh, no, that's not right,' but of course most people do not play a part in social media. They are not reported in the *Press*, and in fact look at our Assembly here and look at how the media actually target certain people, the go-to people for every comment. That is the sort of thing that we should be wary of. I do not  
1965 know how we solve that issue, but I do believe that we have a responsibility to rethink – to consider that mindfulness experiment in the Island, growth mindset initiatives that are going on in our schools that tell people you can, perhaps not now, but you *can* rather than you *can't*, and I think we should be taking a growth mindset approach towards our decision making and our actions in our committees.

1970 Thank you. (*Applause*)

**The Bailiff:** Deputy Wilkie.

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

1975 This update gives me mixed emotions, as we have heard iterated already today. While I am pleased with some areas of progress, other areas are seriously lacking.

So why are we in this situation? I am going to try and give you a bit of an honest appraisal of this. Many of the people working on the Strategy are the most driven and passionate I have ever had the privilege to work with, and everybody, but everybody, wants the Strategy to succeed. It is not an issue of will, as we have that in buckets.

What is lacking is people working with certain skills in certain areas. For example, I have highlighted to Social Policy Group a lack of resources, or a lack of skills, within HSSD to develop a workstream such as the autism framework. You cannot take frontline staff who are running services and ask them to write a policy. It simply does not work – or, if it does, it does at a snail's pace. And all credit to Social Policy Group and HSSD: they took that information and, in partnership with the third sector, they have now filled a post with a person who has relevant skills and actually wrote the Jersey autism framework and is now progressing this one.

It is human nature that people do not always want to admit when they are struggling, and sometime it takes a couple of questioning sessions to get to the real heart of the issue. To identify this issue and report it back to Social Policy Group and then to work with HSSD to find a solution takes time, and that is why that particular project has not advanced as it should.

What about process? Have the States' processes contributed to the delay in the development of the Strategy? I would have to say that yes, it has.

Filling the post of the Disability Officer took 13 months, and that is far too long. It mentions in the report that projects that were assigned to the Disability Officer were delayed due to the time taken over recruitment. I believe that the recruitment and retention of staff is on the radar of the Scrutiny Committee, and that is an area where the mechanics could be looked at and a more expedient process developed.

There is also the question of business cases. We had a situation where the staff working on the Disability Strategy were advised they would have to fill out a 65-page business case to Treasury & Resources to acquire the money allocated to the Disability Inclusion Strategy by the States. This is clearly not an efficient use of staff time, and once again I reported the issue to the Social Policy Group – and, to their credit, a short time later it was agreed that a much smaller two-to-three-page letter would suffice; but again, getting over these hurdles takes time.

The progress of the disability legislation is rather disappointing, and in the report it touches on the complexities and the difficulties in finding an acceptable balance in the Law, but that legislation is vital to a great many Islanders to guarantee their rights and to give them a level playing field. Having equal opportunities in life is probably the single biggest issue in disability. We have to take away the barriers in people's lives.

I think you can start to understand that there is a will to drive this Strategy. However, it got off to a very, very slow start. The Steering Group that I jointly Chair with Jane Stephens was only formed just over a year ago, and most of the progress has been achieved since that group's inception. I would very much like to publicly thank the staff and volunteers of that Steering Group for their hard work, dedication and expertise, without which we would not even be where we are today.

So what has worked? What tangible changes have we seen this term? There is now an opportunity for more independence, due to the extra-care housing flats. It is easier to get around the Island with eight improved road crossings and four newly licensed accessible taxis. There was a more enjoyable Liberation Day, thanks to new parking and seating arrangements for blue badge holders. There is the removal of the 1948 Law, so that persons with a legal disability can vote in the 2016 Election. Carers go free to all culture and leisure sites. Beau Séjour have a member of staff who is designated to deal with disability and inclusion issues. Accommodation attraction businesses are required to publish an access statement. Housing have changed their policy so that disabled Islanders who are not in accommodation that fits their requirements are given housing priority. Primary Care and Mental Health and Wellbeing Service is established now on a permanent basis after a successful two-year trial – and obviously we all know about the new mental health facility at the PEH. Implementing changes to the Carer's Allowance, which means that there is no longer the requirement of a low threshold level of earning before a carer can



receive benefits. Planning fees – there is an exemption when the planning requirement is to improve access or facilities for a disabled person. The Environment Department introduced a policy that, wherever possible, drop kerbs and blister pavings are installed on unofficial crossings whenever remedial works take place, and the Environment Department are reviewing all disabled spaces to make sure they are in the right places in the right quantities. Improved employment opportunities with the creation of the Guernsey Employment Trust. The draft Island Development Plan seeks to balance conservation with the needs of disabled Islanders, and that is a fundamental change – it has been an issue in the past. Improving access for disabled visitors is now included as a specific action in the Tourism Strategic Plan.

So we have had progress, but there is still a huge amount to do. We need to introduce legislation, as has been discussed, to protect disabled Islanders and carers and give them that equal opportunity. We still need to complete the business case for the equality and rights organisation. Improving information – we have services but a clear pathway on how to access them will be essential. Develop safeguarding policies to protect vulnerable adults from abuse or neglect. And finally, extending the UN Convention on the Rights of People with Disabilities to Guernsey – this has to be the benchmark used when judging our performance and I would hope that the next update report will show some form of measurement against the UN Convention. The next report, which has already been alluded to, must have an action plan clearly laying out the next steps and a realistic timeline.

I have felt an increase in the momentum with this Strategy over the past year, and I feel we are on the train, we have pulled out of the station. However, there is still a long way to go on this journey and, Members, I would ask you to support the Propositions in this update so this Strategy can carry on to its final destination.

Thank you.

**The Bailiff:** Deputy James, then Deputy Hadley.

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

This debate, for me, has raised some very interesting issues. We have heard some very caring and compassionate speeches, most of which I agree with. The time of year that we are at – people are now talking about or asking each other, ‘Are you going to stand for the States next year?’ ... Probably one of the most common things that I have heard from people is their utter frustration in how long it takes the States of Guernsey to do anything or to achieve anything. By and large, I can identify with that position.

Deputy Brehaut, this morning, reminded us how long Guernsey has been waiting to embrace, to ratify, to sign up to CEDAW, which is the Convention on the Elimination of Discrimination against Women. I was part of that working group that lobbied the States of Guernsey. Do you know that was nearly 30 years ago? We heard mealy-mouthed commitments and platitudes about yes, we agree with the concept. We worked so hard. We lobbied every single individual Member of the Assembly, and here we are: we have taken, tiny, tiny, baby steps as far as CEDAW is concerned.

We have heard some comments this morning about blame, responsibility and accountability. Well, I would say that every single one of us in this Assembly has to accept the blame, responsibility and accountability for not moving these strategies forward.

I want to fully endorse Deputy Fallaize’s comments about we have the responsibility of not forming an action plan, and giving these issues some priority. I was giving thought to how many pieces of work that we, as an Assembly, have voted to take on during this term, and some of them have been huge pieces of work, looking at the Personal Tax and Benefits Review, looking at SLAWS. I remember when this Assembly discussed whether we should sign up and take on SWBIC as a concept. I remember quite clearly sitting over there at the time and urging this Assembly caution, because of the lack of resources, that I could see that we were going to be hurtling towards a crazy, impossible situation.

So let's not point our fingers of blame towards civil servants and lack of resources. Whilst we know that is an issue, we have to give them some guidance on what we consider are the priorities.

One other issue that was raised, and I cannot quite recall whether it was Deputy Sherbourne or Deputy Brehaut, but again it struck a chord with me that not so long ago this Island was awash with money. And where did we spend that money? We spent that money on the Island's infrastructure, and sadly, I do not see much evidence of this Island advancing its social agenda.

At the risk of being attacked by some Members in this Assembly, that is why I feel that this Assembly needs to be much more representative (**A Member:** Hear, hear.) in its makeup to represent this Island, rather than have an excess of one gender over the other. So, at the risk of being attacked, I do tend to think that women promote a social agenda perhaps much more than men do.

Thank you, sir.

**The Bailiff:** Deputy Hadley.

**Deputy Hadley:** Mr Bailiff, the founders and leaders of the GDA have done an absolutely excellent job in bringing their message to the fore. Unfortunately, the message that drowns them sometimes is those from Enough is Enough, and this Assembly would rather listen to Enough is Enough than people who want to make changes in social justice.

As an Assembly we have reflected the will of the many people in Guernsey who will not pay for early years education or a more accessible and comprehensive health service or help for disabled people. We are a society that dismisses socialists, anyone who argues that we should raise taxes to improve social justice, and my worry is that at the next election there will be even more people elected who commit themselves to not increasing taxation, rather than improving our society.

**The Bailiff:** Deputy Dorey.

**Deputy Dorey:** Thank you, Mr Bailiff.

I agree with the points made by others about the lack of resources, and I will be supporting the proposals in the Billet.

But, to me, the problem is worse, because it is not a proposal that came by an amendment, directing Departments to take action. The original proposal came from the Department that has failed to progress it, and that, to me, is far worse. To me, there is a political ownership. If they do not have the resources, they should be amending the budget to get more resources, to get those people to develop that policy.

Deputy Fallaize spoke about taxes and we needed the money to resource the project, but it is not significant sums of money to develop policy. We had a resolution for a tax which would have more than funded the necessary resources to develop the policy of this project and other social projects – that is what I mentioned in the Budget about share transfer duty, which taxes sales on interests and entities that own either commercial or domestic property. Why we have not progressed that ... That would have funded this and more. No doubt it is lack of resources.

What I find difficult is that there are resources for some projects and not others, and what makes it more difficult to understand is that a new project with no States' resolution was started this year about the Seafront, whether it should be one lane or two, and then it developed into a public consultation without any States resolution, and it has obviously used up resources. To me, it is not acceptable. (**A Member:** Hear, hear.) There must be political ownership, there must be respect for this Assembly's resolutions, and Departments have to progress them and not just ignore them, which seems to be what effectively they do.

Thank you.

**The Bailiff:** I see no-one else. Oh, yes, Deputy St Pier.

**Deputy St Pier:** Sir, I think the question of resources has clearly been central to much of the debate, and I think it is incumbent on me just to provide a few comments in response to the debate so far.

In relation to Proposition 4, Deputy De Lisle said that that was a blank cheque, and I would disagree with that: it is quite clearly not a blank cheque; it is merely drawing attention to the fact that additional resources will be required in the future in order to properly deliver this Strategy.

I think many others clearly have made the comment – Deputies Fallaize and Lester Queripel I think were the first – in relation to perhaps ‘avoiding raising false hope’, I think was the phrase that was used, and that is very much what we at Treasury & Resources were seeking to do in our letter of comment, which is on page 2923, and the relevant part reads:

‘... no commitment can be given to allocate further resources. Any further funding requirements should be met through reallocation of existing resources by reducing or ceasing some current services which are considered to be lower priority.’

In my discussions with the Chair of the Guernsey Disability Alliance, understandably that was a disappointing comment to receive, but it was precisely in the spirit of seeking to manage expectations and avoid the raising of false hope that the comment was made.

I think many perhaps expect Treasury & Resources to be delighted when resources that are approved are unspent, and I think Deputy Fallaize made the point very well, actually, that resources had been approved for this Strategy and that it is disappointing that they have not been spent in the timeline that was originally envisaged, and it is therefore necessary to carry that commitment forward to allow this very first part of the Strategy to be delivered.

That is certainly not something which Treasury & Resources would welcome, the fact that the delivery of the Strategy is behind plan, but this theme of needing to prioritise is going to be a recurring theme in debate after debate between now and the end of this term – and well into the next term, I would suggest. We will face it later this week in the context of biodiversity, we will face it when SLAWS comes back, we will face it when SWBIC comes back, we will face it in the context of the Children and Young Peoples Plan.

Previous States have attempted to find methods by which the priorities of the States can be set out, through the Government Business Plan and the States’ Strategic Plan, and none of those have delivered sufficiently robust mechanisms that allow us to make those decisions. It is incumbent on Treasury & Resources, and that which will succeed Treasury & Resources, Policy Resources, to develop the tools to allow this States to look across the piste and make those allocation decisions.

I think Deputy Fallaize again made a good point that there is a limit to what can be achieved with our ambition versus the availability of resources, and there is clearly great expectation placed on what will be delivered through reform of the public service, public service reform itself and health service reform, and that clearly is going to be essential, but we have not yet seen the fruits of that and we need to manage our way to the other side of that process. Even then we may find that there is insufficient resource for everything that we need, at which point we will hit the buffers in the terms which Deputy Fallaize suggests, and indeed Deputy Trott as well, and will need to make the decisions that face us when we are in that position.

I have to say I thought Deputy Wilkie’s comments on resources were extremely well balanced, and in particular made the point that the question of resources is much more nuanced than just money or people. It is about having the right people in the right place with the right skills, and so it is not simply a question of a person who is capable of organising a consultation on the Seafront necessarily having the right skill set to take this particular Strategy forward. So the question of resources is complex, it is nuanced, we are faced with limitations, we do need to prioritise. Treasury & Resources needs to give the States the skills to do that through the development of the Government Service Plan and other tools that allow prioritisation to take place, as has happened, I would suggest, with reasonable success in the context of capital projects, and we will then need to see where we are, having delivered reform, and what decisions need to be made at

2180 that point in terms of what resources are available versus those which we actually have at our disposal.

**The Bailiff:** I see no one else rising. The Chief Minister will reply to the debate.

2185 **The Chief Minister:** Thank you, sir.

I am going to be brief, because in fact I am not going to disagree with virtually anything that has been said. I concur with that, and indeed if there needs to be any responsibility laid I accept that responsibility in terms of my leadership of Policy Council involvement in this. But, sir, I will also take the rest of the Assembly down with me in that respect, *(Laughter)* because as I said before, this is *our* policy and so we must find ways, better ways, of working together effectively.

2190 I thank Members for their strong critique of where we are and the Strategy and the way we go about doing things, and in fact, sir, because of your indulgence, this debate has wandered into some other areas that we certainly need to address and I feel very strongly about. To some degree, therefore, it has been a wake-up call and I hope it will affect a number of other debates that we have on these sorts of issues regarding the way in which we not only resource but that we prioritise – I will use that word unashamedly – the social agenda, and ongoing into the next Assembly.

2195 I think there was only one question, and I will deal with that very quickly because it came from Deputy De Lisle on the issue of resourcing, and he seemed to undo himself on the one point when arguing that we needed more and then saying that the Policy Council is taking more staff on. Actually, the truth is the Policy Council, up to now, has not done that. In fact, there has been some degree of reduction in Policy Council staff, but what we have done is taken on, for example, key staff. Again, it is about finding the right people, and I cannot emphasise that more. Deputy Wilkie picked that point up: resourcing is not just about financing, because as you will see, we have actually ended up with money left over. Even if we had spent it all, the issue would still be about finding the right people and having them in the right places. There is quite a big piece of work that needs to be done in terms of our transformation to enable us one to identify and recruit the right people, and the other piece is to move people, where necessary, so that they work better together. That is a massive culture change, because the States of Guernsey is the biggest employer on the Island and touches everybody's life. We need to do that, certainly, and I echo Deputy St Pier's words as well to that end.

2200 It is a wake-up call, and I hope that we will not so much be talking 'dampening expectations', which is the phrase that has been used, but that we will be talking about being realistic. I would just like to remind people that when this Strategy came before the States two years ago we initially said we would report in a year's time. There was an amendment to bring it forward. We have delayed a little bit in terms of that amendment, but that was because at the time we were doing something fairly new for the States. We were entering into an arena that we had not really worked in before, and it was basically the best guess, a realistic guess, at that time.

2205 I think we are where we are today, sir, in terms of the reporting and in terms of the spending of ... even the amendment on the spending of money, and that was done on the basis, from Deputy Bebb and Deputy Stewart, that they, I think rightly, felt that in terms of information and making people aware that it would need better resourcing. But I said at the time and Deputy Harwood, as Chief Minister, said at the time, 'This is only a first step, the Strategy will need further resourcing down the line; we do not know what that is yet, because that needs to be scoped by this first step.' Indeed, will still be the case and that is why, in answer to Deputy De Lisle, Proposition 4 is in place there – that we know that is going to be the case and therefore there will be a need for this Assembly in the future to look at how it seeks to achieve those aims and to put it together – to use Deputy Fallaize's terms – in a plan of action that not only includes this Strategy but a plan of action that includes all action plans together. That, whether you call it a Government Service Plan or whether you call it a Government agenda for the next four years, is going to be vitally important because it will mean some difficult decisions. It might be difficult decisions on the basis

of what do you prefer: do you prefer this particular social action plan, in which case there will need to be some form of additional taxation; or would you prefer to have a realistic assessment of how fast we can move in that direction?

2235 I do spend quite a lot of my time sitting with people and trying to explain that we are a small jurisdiction, and even when there was a lot of Government surplus, there was a lot of surplus in the Government accounts, we just lacked the ability – because of our size, because of economies of scale – at working effectively and moving forward.

2240 I do believe that there are significant improvements that have been made and are being made at the moment, and I can see that. Perhaps I am in the privileged position to see how, through particularly public service transformation, there is a greater awareness taking place. There are positive things that are happening, but we need to understand that culture change, attitude change and awareness all take time. That is because it is easy in this Assembly to speak and make great intentions and to point out where we have failed, but to some people what is common sense in the area of inclusion and disability to someone else perhaps is best practice, to another is, 'Oh, I had never thought of that,' and to someone else is even, 'That is too much to ask.'

2245 So there is quite a big piece of work to be done on ... We all need to take part in this, not just delegate it to a committee or to a group of people to be employed to deal with it, or even to the Guernsey Disability Alliance. We *all* need to do that. We need to educate our community that this is sensible, that this is civil, that this is what we should be doing in the modern age, this is the way we should be behaving, and that is what the Strategy is all about.

2250 So I commend all of those who have pointed us into this place of wake-up, where we are understanding that we need to do something in order to make sure that when we make these decisions we are being realistic about how we can achieve them. But at the same time, sir, I believe that we have a responsibility to those disabled Islanders, many of whom have come to hear us today in person; others are at home. They are part of our community.

2255 I cannot remember who it was that said if we are able to provide increasingly for them the dignity of having opportunities to work, because in a simple way we have got alongside an employer and made it possible for that employer to see that they could employ someone like that, then that will be a huge victory and in itself that will bring people on a journey and tell its own story. I know of one or two where that has already happening. I am hopeful that, with the appointment of the officer for the Guernsey Employment Trust, that advisory position alongside the potential of a shadow equalities commissioner, we might begin that education process in a greater way than we have done before.

2265 I will come back to this, sir: it is absolutely incumbent upon each one of us, as States' Members, as representatives of the people, to make sure that we have those one-to-one conversations, that we explain to people that it is not going to happen always as quickly as we would like, because that culture change, that awareness change, coupled with the sort of transformation that is currently happening in the public sector, is going to take some time. But let's at least walk together in a constructive and positive way and point to the successes that are taking place here.

2270 With that in mind, sir, I ask Members to support the four Propositions as amended before us today.

2275 **The Bailiff:** Members, as the Chief Minister said, there are four Propositions. They are on page 2923, and the first Proposition has been amended as a result of the amendment from Deputies Wilkie and Bebb. Four Propositions on page 2923, as amended. I put all four to you together. Those in favour; those against.

*Members voted Pour.*

2280 **The Bailiff:** I declare them carried.

Just before we rise for lunch, Chief Minister, do you wish to propose a procedural motion that may alter the order of business?

**Procedural –  
Alteration to order of business**

**The Chief Minister:** Yes, sir, if I can do that, that would be very useful.

2285 I would like to propose that we amend the procedure in the manner in which is on our Agenda sheets under Item 18.

2290 **The Bailiff:** In other words, we take next the Health & Social Services Department Policy Letter on the Arrangements for Secondary Healthcare, followed by Treasury & Resources Department – Cabernet Limited – Recapitalisation, and then the States’ Review Committee and States’ Assembly & Constitution Committee – Billets XXI and XXII.

Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** In that case, I declare the procedural motion carried, and we will resume after lunch at 2.30 with Billet d’État XX Article X.

*The Assembly adjourned at 12.35 p.m.  
and resumed its sitting at 2.30 p.m.*

**HEALTH AND SOCIAL SERVICES DEPARTMENT**

**X. Arrangements for secondary healthcare from 1st January 2018 –  
Debate commenced**

*Article X.*

*The States are asked to decide:*

*Whether, after consideration of the Policy Letter dated 20th September, 2015, of the Health and Social Services Department, they are of the opinion:*

- 1. To endorse the intention of the Health and Social Services Department and Social Services Department, on behalf of the States of Guernsey, to enter into negotiations, and subject to those negotiations leading to an acceptable form of contract based on the seven objectives set out in paragraph 15(a) of that Policy Letter, enter into a rolling five year contract, subject to a right for either party to terminate the revised contractual arrangements with not less than two years’ notice before the expiry date of any five year contract term.*
- 2. To approve the transfer of £174,000 in 2015 and £335,000 in 2016 from the Budget Reserve to revenue expenditure budget of the Health and Social Services Department to fund the project.*
- 3. That if negotiations with Medical Specialist Group do not lead to an acceptable form of contract generally in accordance with the proposals contained in that Policy Letter, to endorse the intention of the Health and Social Services Department to proceed to set up the direct internal provision of secondary healthcare and to directly provide secondary healthcare by no later than 1st January 2018.*

2295 **The Greffier:** Article X, Health and Social Services Department – Arrangements for secondary healthcare from 1st January 2018.

**The Bailiff:** The debate will be opened by the Minister, Deputy Luxon.

2300 **Deputy Luxon:** Thank you, Mr Bailiff.

**The Bailiff:** Deputy Adam.

2305 **Deputy Adam:** Sorry, sir. Can I just declare an interest, because I have shares in a property company that ... actually, one of the properties it owns is Alexandra House. It is less than that required to be declared, but I have been advised by HM Procureur I should mention the fact.  
Thank you, sir.

2310 **The Bailiff:** Right, okay.  
Deputy Luxon.

**Deputy Hadley:** Mr Bailiff, is this this point when I should declare an interest?

2315 **The Bailiff:** We do not normally have interest declared before debate is opened, *(Laughter)* but if you wish to do it, get it out of the way.

**Deputy Hadley:** A small interest, in that I am married to one of the partners in the Medical Specialist Group. *(Laughter)*

2320 **The Bailiff:** Deputy Luxon.

**Deputy Luxon:** Sir, I declare an interest in that I helped to pick Deputy Hadley up when he tripped up outside the St Martin's Douzaine last night, *(Laughter)* so I hope he is feeling okay this morning. Here to serve, Mr Bailiff; here to serve.

2325 Twenty years ago, in 1995, the first seven-year contract with the MSG was agreed and signed, and subsequently renewed for a 15-year term in 2002, which is due to expire at the end of its term at the end of December 2017. It has served the Island well, but is no longer fit for purpose, bearing in mind the ever-changing and ever-demanding healthcare needs of our community.

2330 This policy letter sets out the proposals which the Joint Boards of HSSD and SSD are recommending to the States today for future secondary healthcare provision. The two Departments recognise that early delays in progressing this key project for the States of Guernsey has meant that the appointed Project Board has had to accelerate the process since the turn of the year, but we are pleased to set out the preferred option here today, set out on pages 2949-86, which is to renew a contract with the MSG under a redesigned service delivery model through negotiations over the coming year. There is still a lot of work to be done, sir.

2335 The States of Guernsey has entered into a reform phase through Service Guernsey, committing to put the taxpayer, our customer, at the heart of all we do. The 2016 Budget was entitled 'A Budget for Health' by the T&R Minister last month, and we talked about the critical need for the HSSD to commit to a real transformation and transitional reform plan over the next five to 10 years, sustainability and affordability being an essential pillar of this focus around our health and social care model.

2340 This review of secondary healthcare provision falls very much within that framework of fundamental service delivery change to ensure the patient, patient outcomes and value for money are at the centre of the model we adopt over the next decade and beyond. That means everybody within our Health and Social Care Service delivery must embrace change and evolve towards a model that is sustainable. Change will mean that there are some tough choices to be made,

changes which we must also engage in with our community. Patients and service users must play a part in deciding how our healthcare system works and what it offers. Providing everything to everyone every time simply will not work going forward. We will have to prioritise, and that means making choices.

Sir, option 3, to renew the contract with MSG but under very different terms following a detailed service review process and negotiation over the next year, is the Joint Boards' preferred proposal. Following discussions with MSG, we did amend and reissue this policy letter earlier on, for which I apologise, due to genuine practical concerns they raised with us.

The MSG are not comfortable with all proposals within the policy letter, but we have confirmed that during the negotiation process all matters can be tested for best outcome for Guernsey. Particularly, they have indicated, as Members who attended the recent MSG briefings will have heard, that a longer notice period is preferred to aid future recruitment – something I will address in the amendment which I will lay after opening this debate. They also believe that the workload to achieve all objectives is either highly testing or nigh impossible to achieve in the timeframe.

As I said, we all have an awful lot to do before the absolute cut-off point of December 2016, but the important point is that we reach agreement over the key new terms and that within the new contract flexibility to maintain the transformational service development is recognised. Dynamics of the aging demographic, medical inflation, comorbidities, new medical treatments and increased service demands all dictate that we must be able to flex the services we offer.

The MSG have engaged constructively with the options process over the last year, and we and they are determined to find an acceptable negotiated outcome for both parties. However, we have included the contingency of option 4, the reserve option, should the negotiations fail to deliver an acceptable outcome to both parties, which would lead us to bringing secondary healthcare into the HSSD PEH operation from the expiry of the current contract term at 1st January 2018.

Sir, as I said, there is an awful lot to do still, and in a very short timeframe, which is why we need to resource this project to ensure good outcomes. Too many times I, and I am sure you, have seen under-resourcing of key workstreams, which then usually fail to deliver as desired the outcomes. The Joint Boards will endeavour to control the project costs, but we do need to draw from the budget reserve for work this year in quarter 4 and in 2016, as set out in Proposition 2. We cannot avoid this, I am afraid. We were not able to include the funding for this project in the 2016 Budget submission, because the timeline meant that the policy letter could only be drawn up once the options appraisal work had been completed in the summer, which meant this policy letter can only be debated now, after the Budget debate last month.

Sir, this contract is the States of Guernsey's single largest commercial procurement. At today's cost, over the next 10 years it would amount to over £170 million, which is why we, on behalf of this States and the taxpayer, must endeavour to secure a safe and appropriate service that is fit for purpose, sustainable, with value for money and affordable through this negotiated contract process.

Currently, there are specialism service reviews outstanding that need to be addressed in response to the MSG's issues regarding workload and waiting times, which have clearly increased in recent years. These could lead to increased costs, so we must work with MSG through the negotiations to balance these demands.

Also outstanding is the risk of an additional 10 consultants linked to the Royal College of Obstetricians and Gynaecologists, albeit the expense of locum obstetricians has now been moved to permanent consultant appointments. The good news is that we are working with the MSG and trying to use some Scotland Rural and Remote experiences to demonstrate we can offer safe maternity services without further consultant posts. This is a work in progress. We do not know the outcome.

Secondary healthcare is a key component of any healthcare model, and this gives us the opportunity to build on the excellent consultants within MSG who know our patients and system well, while at the same time redesigning the model and contract fit for purpose 2018 onwards,



while still reflecting the need for value for money and cost efficiency for our taxpayers and community.

Finally, sir, before I end I must respond to comments made yesterday.

First, this policy letter is *not* dishonest, and for it to be said such dishonours those of us on the Project Board who have worked so hard to progress this workstream since the turn of the year.

Second, the service delivered is *not* unsafe, and to suggest so is absurd. Yes, consultants work hard and long hours – they always have, for which we can all be appreciative; also as do many other doctors, nurses and staff within HSSD. But Mr Allsopp and Deputy Adam in a States debate earlier this year have both confirmed long hours as a consultant has always been part of the MSG contract.

Third, these negotiations should be accelerated, apparently. Well, neither I nor we have any intention of negotiating this major contract with a disgruntled conflicted Board member through the media. That is no way for the States of Guernsey or HSSD and SSD to conduct States business. These negotiations will be conducted appropriately with the third party, as set out in this policy letter, if approved by the Assembly today.

Sir, I ask the Assembly to support our three recommendations, hopefully once amended by the amendment, which I will lay shortly.

Thank you.

**The Bailiff:** There are a total of five amendments and the first one to be debated is proposed by Deputy Luxon and seconded by Deputy Langlois.

Deputy Luxon.

*Amendment:*

*To amend Proposition 1 as follows:*

*To delete the words following ‘...in paragraph 15(a) of that Policy Letter,’ and to insert instead ‘and subject to the flexibility of future service delivery being agreed by the parties, enter into a rolling contract from year to year subject to the right for either the HSSD or MSG to give to the other party not less than five years notice to terminate the contract, with the termination to take effect on an anniversary of the commencement date of the new contract. By way of example, with the expected contract commencement date of 1st January 2018, the first notice option would be on or before the 31st December 2018 with an expiry date of 1st January 2024.’*

**Deputy Luxon:** Sir, would the Greffier like to read it out?

*The Greffier read out the amendment.*

**The Bailiff:** Deputy Luxon.

**Deputy Luxon:** Thank you, Mr Bailiff.

I lay this amendment, seconded by the SSD Minister, on behalf of the Joint Boards, to move to a five-year-notice rolling contract.

Following representations from the MSG consultants during our Project Board briefing meeting with the partners held in October, and also following the States Members’ briefings given by MSG earlier this month, at which the issue of the length of the proposed contract term linked to recruitment of consultants was raised and articulated well, the Joint Boards have been in discussion regarding the merits of the contract term as set out in our policy letter, i.e. a rolling five-year contract with the ability to give two years’ notice to terminate on the third anniversary of the commencement date of any five-year term.

Of course, it is our intention and that of the MSG to successfully conclude the negotiations over the coming year to develop a redesigned contract fit for purpose for future secondary healthcare service delivery linked to the transformational strategy underway within HSSD with

future flexibility built in to enable the States, through HSSD and SSD, to react appropriately to changes in the secondary healthcare of our Island's needs.

2440 The term of the new contract, therefore, should in real terms be irrelevant as both parties will be engaged in the ongoing delivery of secondary healthcare, we imagine, for the long-term future. However, we all recognise that, in addition to the normal contract conditions attached to breach or failing etc., there must also be a term and a notice period set out. This amendment therefore reflects the genuine belief of the MSG and ourselves that the recruitment of excellent consultants as and when required would be advantaged through the certainty of being able to offer a minimum of a five-year role.

2445 Our original approach reflected a normally accepted procurement principle of five-year public sector contracts. However, it did not reflect the potential difficulty we have in Guernsey of attracting highly trained professionals for relatively short periods of time; we recognise this. So, sir, this amendment would, if approved, resolve the valid recruitment issue, which the Joint Boards are comfortable with, as long as flexibility is established as part of the new contract without compromising the position of the States in any way in doing so.

2450 For those who may wonder if a five-year notice period would be too long, I think I can convey the shared wisdom, or shared thinking at least, of the Joint Boards that should either party determine that they wish to terminate the contract, a five-year notice period would enable a detailed transition plan and arrangements to be agreed mutually to ensure a seamless transfer. And, of course, by mutual agreement the parties could always look to foreshorten the notice period through a contract variation, should they both believe this to be in their best interests.

2455 Sir, I would ask Members to support this refinement to the rolling contract proposal in Proposition 1 and approve this amendment.

2460 Thank you.

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

2465 **Deputy Langlois:** Yes, I do, sir, and I reserve my right to speak.

**The Bailiff:** Deputy Hadley.

**Deputy Hadley:** Mr Bailiff, I have a personal interest in this item, as my wife is a partner in the Medical Specialist Group.

2470 I am pleased to see that Deputy Luxon has come to realise, albeit late in the day, that the ability of HSSD to terminate the contract with two years' notice is ill thought and would deter most doctors from accepting a post with the Medical Specialist Group.

2475 Moving to this Island is a major upheaval for anyone coming here from other countries. Our system of healthcare is not like the NHS, and one of the attractions in coming here to work for the Medical Specialist Group is that it is a private partnership. Doctors are attracted by the idea of being self-employed and having a greater say in the way they work with their colleagues.

2480 The way the Medical Specialist Group is constituted has evolved from the GP partnerships founded generations ago. Doctors come here initially to work as associates, with the attraction that if they perform satisfactorily they will be invited to buy into the partnership – buy part of the business. If the contract were to be terminated in two years, this substantial investment could clearly be lost. It has to be said that there is considerable risk that even a five-year notice period would deter some doctors coming to Guernsey to invest in the practice.

2485 I have spoken to a non-States Board member from the UK, who said, as Deputy Luxon has just said, that this is normal practice in the UK. He may well be correct, but of course this is not the UK. It is acceptable in the UK because your contracting party can go elsewhere and the contractor has a choice of providers. However, because this is not the UK, because we have one hospital, we only have one provider, and, yet again, this clause in the contract is another example of people from the UK not understanding the local context.

However, I am pleased with the amendment and of course will be supporting it.

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**The Bailiff:** If there is no further debate on the amendment I will call ... Deputy Adam wishes to speak.

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

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That is very interesting that no one wishes to speak on this. I do not really blame them, because Deputy Hadley has said most of what is necessary to be said.

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There is just one thing I am not too keen about in this amendment, which is, as Deputy Hadley said, a considerable improvement on what is in your States' report. The two-year aspect in the States' report would have meant problems with recruitment to positions within the MSG. We already are fully aware that there are problems with recruitment in the medical arena. We hear continuously from Deputy James and others of problems with getting nursing staff to work within the PEH. That is why the Housing Authority has, over the years, increased the length of licensing given to them – it is now often up to 15 years for senior nurses. That is the only way you can attract them: give them a chance to settle here, make their home here and provide their services to us. Therefore, changing it is the right move forward, in my opinion. It may help in some circumstance, but since there is a choice to announce every year that the contract is not going to continue, and be be a five-year period for that to come into force, might actually not be helpful in recruitment.

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I have to ask you, if you were, shall we say, a 35 or 36-year-old with five or six years' experience as a consultant, you have probably settled down somewhere ... If you are going to move somewhere and you get here and you start working here and suddenly find out, after being here a year, the contract is no longer in place in five years' time, you would think twice, wouldn't you? It is not sensible when you have to uproot yourself, your family and come across here – we all know house prices are expensive, the cost of living is quite expensive – and settle down here. We have excellent schools and we have an excellent medical service, which are pluses, but it is an improvement.

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The only thing I did not hear Deputy Luxon say clearly is ... I assume there will be terms and conditions of why the contract has been discontinued. In other words, it will not just be on a whim. There have to be laid-down guidelines, I assume. For example, a consultant working within the HSSD has a contract and laid-down guidelines concerning termination of that contract, which often relate to standards or some other problems within the personal situation. So I would like to be reassured that there are adequate terms and conditions on the grounds by which the contract might be discontinued.

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I fully accept most of what he said in his introductory speech concerning flexibility, quality, and patient focused services and these have to be included – or as much as possible the outlines have to be included within the initial year of negotiations. And that is why it is fortunate again he indicated that negotiations would be from now up until the end of next year, not until June, which is suggested in the States' report. Six months was never ever going to be nearly long enough to make any reasonable progress in the situation.

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Thus, as I say, it is an improvement. It is a rolling contract. I call it a yearly rolling contract with a five-year termination time, because you can decide to terminate it and then you have got the five years when you might say you will be working for five years before you lose your job. Whether it is going to be sufficient not to harm recruitment of doctors to Guernsey I suppose long-term we will find out. We have had problems, as Deputy Luxon stated, with having consultant obstetricians, and, as you will have noted in the States' report, they were locums and they cost £1.2 million for a year – I think £1.2 million, or thereabouts, although Deputy Luxon seems to be mentioning a different sum to me.

**Deputy Luxon:** £1.3 million.

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**Deputy Adam:** That is just over £1 million for two locums. We cannot afford to employ locums long term, it is too expensive, and that is why it is so vital we make sure there is an opportunity for doctors to come here and settle here and give a much longer time to the services of Guernsey people.

**The Bailiff:** I take it you will not be speaking in general debate, Deputy Adam, as it seems to me you have spoken generally now.

**Deputy Adam:** Sorry, sir, I did not mean to. I was just trying to highlight some of the issues.

**The Bailiff:** Well, you have spoken generally. Is there anything more you wish to say in general debate now?

**Deputy Adam:** In general debate ...

**The Bailiff:** It seems to me you have gone into general debate.

**Deputy Adam:** I apologise, sir. I was just saying I agreed with the aspects he mentioned, both in the amendment and in his general debate.

The other aspect I would like to mention, then, is the other option he mentioned in his initial speech, which was concerning bringing secondary care in house. That would be very interesting. I think it would also be highly dangerous. To bring it in house you would have as many problems – Sir, I will give way.

**The Bailiff:** Deputy Fallaize.

**Deputy Fallaize:** I thank Deputy Adam for giving way.

Would he agree with me that a good time to address the reserve option proposed by HSSD would be when he lays his amendment – as he will be allowed to do, even though he cannot speak in general debate?

**The Bailiff:** Deputy Adam.

**Deputy Adam:** Thank you, Deputy Fallaize. I will stop there, then, *(Laughter)* and broaden my whole aspect into the amendment being placed.  
Thank you.

**The Bailiff:** Because we have got so many amendments, it would be helpful if Members could confine themselves just to the amendment **(Several Members: Hear, hear.)** that is under debate at any one time; otherwise, this debate will go on for a very long time.  
Deputy Bebb.

**Deputy Bebb:** Thank you, Monsieur le Bailli.

In the interest of keeping it brief I will keep my speech to a few questions.

I recognise the value of this amendment. The two-year notice period was always a little bit of a concern; however, obviously, this deals with the five-year question.

The one concern that I have, and I would ask the Minister whether he has given it due consideration, is that on each anniversary, and therefore every year at about this time, there will be an expectation from HSSD to confirm that the contract will be renewed for the following five years. Does that imply that the contract will be reviewed every year, or not? What is the expectation of the Department to deal with the facility of reviewing the contract? Because with a five-year rolling the temptation surely must be to let roll.

2595 Whilst I do not think the amendment is incorrect, I think that it is perfectly fine, I just would like to understand what process does the Department envisage having in order to ensure that there is a proper, thorough review on some formal basis. Does the Minister feel that maybe there should be an amendment in order to say that there would be a large comprehensive review once every five or 10 years, regardless of the reviews, or whether it is expected that there will be a comprehensive review every year?

I would welcome the Minister's response on those. Thank you.

2600 **The Bailiff:** Deputy Fallaize, then Deputy Brouard and Deputy Le Lièvre.

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

2605 A rolling contract does seem more sensible because we know that there is going to be, or the intention is for there to be transformation in the way healthcare is delivered, but that will be over the long term and it would be helpful to have some scope over the period of the next five or seven years and so on to vary details of the contractual arrangements with the MSG. So I think the case for the rolling contract is quite sound and I think the amendment is better than the original proposition, because it does provide more security of tenure.

2610 I have a slight concern about the 11th-hour nature of the amendment – because this is not just about peripheral detail; this is about the security that is provided to the provider of secondary healthcare. That provider was saying, from the moment the policy letter was published, the two-year notice period is not going to provide sufficient security of tenure, and as far as I can see, it was not until Deputy Adam submitted his amendment to try to address that that the sponsoring committee decided that it too had better lay an amendment, and this is the amendment that is now before us. So I do have a slight concern about that, but nonetheless the amendment is better than the original proposition.

2620 I read the amendment slightly differently from Deputy Adam, in that he is looking for terms and conditions which would set out how or under what circumstances either party – and by that I think he means primarily the States ... what circumstances would permit the States to give the MSG effectively five years' notice. The way I read a five-year rolling contract with the sort of notice of termination that is set out in this amendment is that there would not need to be any reason at all for the States to provide the five-year notice. It could just decide that it does not wish to provide secondary healthcare in that way any longer – not that there has been any violation of the contract up to that point, but simply because a different model of providing secondary healthcare is preferred and to give notice on that basis. So I think some clarification of that from the Minister would be helpful when he sums up.

2630 The final point I want to make is related to something that Deputy Bebb just said. Under the terms of this amendment, who is it within the States who would be able to effect the termination of the contract? At the moment, it is quite clear. It is a fixed contract. It was always known that HSSD would have to report to the States to set out the proposed future arrangements for the delivery of secondary healthcare. But if there is a rolling contract with a five-year notice period, would it be the right of HSSD or their successors to give the provider notice without coming back to the States, or would HSSD have to come back to the States every year to advise that they had agreed to the extension of the contract for a further 12 months? I think the way in which the States would terminate or extend this contract under a rolling contract needs to be explained to the States by the Minister better than it is explained in the policy letter.

2640 So if he could refer to those couple of points when he sums up I would be very grateful. Thank you, sir.

**The Bailiff:** Deputy Brouard.

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

I think Deputy Fallaize has said most of what I was going to say. It was just picking up on the point that Deputy Adam made, and it was interesting about the adequate grounds for us to cease the contract at any point. Well, that is the whole point of having the five years rolling: it is that, for any reason, whether it is a whim or whatever, we can decide to determine the contract. That is the whole point, and likewise MSG can do the same. But the ideal, the thrust of this, is that we are going into it with an existing marriage and we are hoping that the marriage continues and it is trying to bring up those terms for the future ground.

But I would just say that if we are having a rolling contract for five years, either party, for whatever reason, can break it. So, if Deputy Adam is looking for that reassurance it is not there and I do not think it should be there. That is the idea of having a contract. Otherwise, you could say, 'Well, let's have one for 10 years then, or 20 years, or 17.' The point is it remains at five, and that is what it should be. We have got to have some bargaining tools in our quiver, otherwise we are going to be in great difficulty.

Thank you, sir.

**The Bailiff:** Deputy Le Lièvre.

**Deputy Lièvre:** Thank you, sir.

I do not want to be accused of boring repetition, but one of the things that concerns me is that neither this amendment nor the policy letter, nor indeed the Hunter-Le Lièvre amendment, seeks to explain what the five-year rolling contract is.

I had a view, a vision, that a contract would be written as a result of hardnosed bargaining, as is proposed in the policy letter, and then each year the MSG and the BMA and HSSD, or whoever, would sit down to discuss singular issues within the contract, so that there would be a constant dialogue between the MSG and SSD and HSSD, so that the contract could be amended mildly, if necessary. And then, some way into the five-year term, there would be a major sit down between all interested parties to renegotiate the contract – either to end it or to renegotiate it for a further five-year period. That is my lay understanding of what a rolling programme is, the essential item being that there would be constant dialogue between the MSG and the HSSD so that individual items could be wrapped up prior to any major falling out, so to speak.

That is what I would like the Minister of HSSD to confirm – that that is what a rolling contract is, in his view, or something similar, and that we are not going to go from day one to day 1,865, or however many days there are in five years, and suddenly say, 'Well, that's it – no, we don't want to carry on.' We must have a constant dialogue, and that is what I would be looking for. I would like a reassurance from the Minister that that is the case.

**The Bailiff:** Deputy Domaille.

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

I will be very brief. It is just, really, a question of clarification. The amendment talks about the right for either HSSD or MSG to give notice. In the States' report it talks about HSSD and SSD entering into a contract with MSG, and it is really just to get a clarification as to who will actually be the contractor and will it have to be HSSD – and its successors of course, but HSSD – and SSD jointly agreeing whether to renew the contract or not? It is a small point, but I think it is very important.

Thank you.

**The Bailiff:** No one else is rising. Deputy Luxon will reply to the debate.

**Deputy Luxon:** Thank you, Mr Bailiff.

2695 Sir, within the last 24 hours Deputy Hadley has agreed with me four times, and today makes the fifth time of supportive comments. Perhaps somebody has put something in the water, I don't know, but I thank him for his support.

Deputy Adam, you made the point that you were not sure that it was a considerable improvement. Well, what this was was meant to be a genuine recognition of the issues that the MSG had raised with us, so whether considerable or minor, I will leave it for you to decide.

2700 In terms of the reasons why either party could terminate, well, no, neither party would need to do that. The right to be able to terminate a contract ... as long as it is set out in the contract itself, it is perfectly reasonable that either party should determine that in their own way. So no, we do not need to set out the reasons, either party, for why we may wish to come to that decision.

2705 Deputy Adam also made the point that June was far too early in terms of the target date that we have set within the policy letter and that he felt we should give more time up until the end of December. Deputy Hadley believes that December is too long and we should have this done much quicker. So there are lots of views, and what I would remind Members is that we are debating today this policy letter, as rightly we should, but at the core is a very complex and very detailed and significant commercial negotiation and contract, so it is right and proper that there are some aspects that we should not be presenting here in the policy letter – that that needs to be left to the negotiating teams.

2710 It is a rolling contract and I do accept Deputy Adam's point that too many locums are not ideal. The use of locums is a very important part of how our secondary healthcare provider operates and of course is an important way of us managing our secondary healthcare provision, but of course too much reliance on locums would not be ideal.

2720 Deputy Adam also made the point that the reserved option is highly dangerous. It is not highly dangerous. Either the States of Guernsey, through HSSD and SSD, or indeed the MSG may have decided and may decide that they do not wish to renew the contract. If either party does not wish to renew the contract, then from 1st January 2018 the States of Guernsey HSSD need to provide secondary healthcare for the Island. So the policy letter is setting out the reserve option, and on the previous two occasions when this matter has come before the States, back in 2002 and then later, there were the two options of negotiating with an external provider like the MSG or indeed bringing it in house. So it is not a highly dangerous option; it is a very pragmatic and sensible option to reassure Members that there is an alternative if the negotiations do not complete.

2725 Deputy Bebb asked whether or not there would be a formal review on each anniversary. No. That would be a very silly waste of time and focus and would get in the way of getting on with delivering a sustainable, evolving, improving service. Paragraph 7 clearly sets out that there would be formal contract reviews every three years and a very significant review in 2025, and also in paragraph 90 it very clearly talks about five-year clinical service reviews. So there are scheduled reviews, both for the contract and for the clinical service delivery, scheduled within the policy letter. But of course all of these are aspects that will be available to be discussed through the negotiations to make sure we come up with a sound contract.

2730 Deputy Fallaize felt this was an 11th-hour amendment. Well, a lot of these amendments have been 11th hour, and I think Deputy Fallaize actually placed quite a lot of amendments yesterday at the eleventh-and-a-half hour, (*Laughter*) but as the Chairman of SACC clearly that is something different.

2740 This amendment was not laid as a direct result of the very skilfully and articulately crafted Deputy Adam amendment. The reason I know it was very articulately crafted was because Deputy Fallaize helped, apparently, in the crafting, so of course it would have been very well done. But no, it was not as a direct result of that; it was as a direct result of listening to the engagement with the MSG, with their senior partners, and it was a reflection of understanding that what we do not want is a contract that does not do what we want it to do, which is to be fit for purpose and effective.

2745 HSSD, yes, would be responsible with SSD for determining a termination, but of course a contract of this nature – I mentioned at £170 million, at today's money and today's contract over the next 10 years would be over £170 million ... of course that should come back to the States

through a policy letter and I absolutely believe that that is what should happen going forward. The scale of the contract would demand that.

Deputy Brouard again talked about the termination reasons, and I totally agree with him. I have tried to answer that. It is a matter for both parties to decide why they may not wish to continue.

It would have been ideal, Deputy Le Lièvre – through you, sir – that we had conducted this whole transformational significant redesign two years ago or three years ago, and indeed that we had entered into and concluded the negotiations in camera with our secondary healthcare providers in advance of this position, so that this policy letter was delivering to the States today a fully laid-out plan with all of the costings and all the implications. That would have been ideal. We are not in an ideal position. Sadly, this workstream was not progressed back in 2012, 2013, 2014 – for the whole variety of reasons we all know, in terms of Board changes and officer changes – but that would have been preferable. We are, instead, on a very tight timeline, which has added a certain degree of nuance in terms of the frustration that exists both within HSSD and indeed the MSG. But we are where we are.

In terms of review, there is something called the compass quarterly review. That is where the contract is actually monitored by all parties – HSSD, SSD and MSG – so on a quarterly basis the contract would be being reviewed, and I certainly do not believe annual formal reviews would be appropriate. Again, I refer to paragraph 7 in the policy letter.

Deputy Domaille asked whether or not SSD and HSSD should be contained within the amendment, and the answer is yes. My apologies for that. The policy letter very clearly indicates that this is a three-way agreement – HSSD, SSD and indeed the MSG – so yes, he is right in his question and I apologise that we did not clarify that.

Sir, I hope Members will support the amendment. Thank you.

**The Bailiff:** Members, we vote on the amendment proposed by Deputy Luxon and seconded by Deputy Langlois. Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare it carried.

Next we have an amendment to be proposed by Deputy Hadley. Deputy Hadley, do you wish the amendment to be read?

*Amendment:*

*To replace the propositions as follows:*

*'To direct the Health and Social Services Department and the Social Security Department to enter into negotiations to renew the Secondary Healthcare Contract with the Medical Specialist Group.*

*To approve the transfer of £174,000 from the Budget Reserve to the 2015 revenue expenditure budget of the Health and Social Services Department and direct the Treasury and Resources Department to include £335,000 in the recommended Cash Limit for the Health and Social Services Department to fund the project.*

*To approve the payment of £165,00 to the Medical Specialist Group, subject to the approval of the detailed business case by Treasury and Resources Department, the Health and Social Services Department and the Social Security Department, for helping design and develop a future healthcare model for Guernsey in accordance with the agreement reached in the 2012 5 year financial review.'*

**Deputy Hadley:** Yes, please, sir, thank you.

**The Bailiff:** Greffier.



*The Greffier read out the amendment.*

**Deputy Hadley:** Mr Bailiff, I have already twice indicated that I have a personal interest in this policy letter, but I would also like to go further and emphasise that I have not been allowed to attend any meetings of the HSSD Board when the Medical Specialist Group contract has been discussed. However, having been a member of the Board on three separate occasions, with a wife who is a hospital consultant here in Guernsey and a daughter who is a hospital consultant in London, I have an insight into the way secondary healthcare is delivered both here and in the United Kingdom.

I would like to emphasise right at the beginning that this amendment does not affect what MSG doctors are paid, because in reality the pay of Medical Specialist Group doctors, and indeed Health and Social Services Department doctors, is determined by market forces, and the baseline salary paid to hospital consultants is roughly the same for doctors employed by HSSD and the MSG, and indeed HSSD can often be forced to pay above the notional pay scales to persuade doctors to accept posts on this Island.

This policy letter deals much more with the way hospital services are delivered. It suggests the reconfiguration of clinical services at the Princess Elizabeth Hospital and the whole of secondary healthcare here and in Alderney.

In November 2014 the King's Fund, the most prestigious think tank on health issues in the United Kingdom, founded a hundred years ago by King Edward, said:

'The reconfiguration of clinical services represents a significant organisational distraction and carries with it both clinical and financial risk. Yet those who are taking forward major clinical service reconfiguration do so in the absence of a clear evidence base or robust methodology with which to plan and make judgements about service change. In particular:

Evidence to support the impact of large-scale reconfigurations of hospital services on finance is almost entirely lacking.'

This policy letter does aim to make a substantial reconfiguration of hospital services, even if the contract is renewed with the Medical Specialist Group. If the contract is not renewed, the changes in the way services are delivered in the Princess Elizabeth Hospital will be seismic. It is about a complete change in the way in which we deliver secondary care in our Hospital on our Island. Despite what it said in the policy letter, there has been no estimation of the cost in making these changes.

Because of the very sad death of a baby in our Hospital we have had to endure a rigorous assessment of the way we do things here, and we have changed the way in which we deliver maternity services at a cost of several million pounds. The increased emphasis on governance and appraisal has affected the whole of the Health Service and has led to the appointment of senior staff in HSSD, and also this has been the case for the MSG, who have had to hire extra staff to do the paperwork, and it has taken hours of doctors' time. Yet, after all this expenditure, the service is probably not safer. Indeed, many think that the service may be less safe. *(Interjections)* My concern is that if this policy letter is passed we will reconfigure our clinical services, causing a massive increase in costs –

**Deputy Luxon:** A point of correction please, sir.

**Deputy Hadley:** – and we will be on a path to a less safe service.

**Deputy Luxon:** A point of correction please, sir.

**The Bailiff:** Deputy Luxon.

2825 **Deputy Luxon:** I would welcome Deputy Hadley retracting those remarks. The service that our Health Service delivers is safe in this Island and we should be proud of it. Those comments are not helpful – and, frankly, the opposite.

**Several Members:** Hear, hear.

2830 **The Bailiff:** Deputy Hadley, you have been asked to retract those remarks.

**Deputy Hadley:** I do not wish to retract them, sir, no. My concern is that, if this policy letter is passed, we will reconfigure our clinical services, causing a massive increase in costs and we will be on a path to a less safe service.

2835 This policy letter refers to a Clinical Senate. The members of that Senate were all from the United Kingdom and their only contact with local doctors was a short presentation, and yet they have said that it is possible to deliver a new service at lower cost by employing the doctors directly. This Clinical Senate have said that a redesigned contract with the Medical Specialist Group should be subject to the seven principal objectives in paragraph 15(a) and is the best option at this time, although direct provision of secondary care gave more advantages in some respects.

2840 This conclusion is strange because the seven principal objectives require joint working between HSSD and MSG, with most of the responsibility being that of HSSD. Patient experience and clinical outcomes are the responsibility of all the professionals working in the PEH. Reducing the time people spend in hospital is a team effort, but largely dependent on HSSD policy, including community services. Effective leadership and multi-disciplinary work has, by definition, to be a joint effort between the MSG and HSSD and cannot be the responsibility of the MSG alone. A delivery model based on the needs of the community is up to HSSD as both the commissioner of services and as provider. Care closest to the home is determined by HSSD policy. Effective commissioning is up to HSSD. Improved value for money is up to the Health and Social Services Department, because the MSG contract is only £17 million out of an expenditure of £113 million.

2850 Finally, we are not given any information on why option 4, an in-house model, gives more advantages than option 3. The policy letter keeps referring to a new form of contract or a new way of working, but there is scant explanation as to what this means. The policy letter refers to an epidemiological survey. It says that it is to inform the commissioning of future healthcare. I have obtained a copy of this survey: in fact, the paper says that there is no accurate Guernsey data available, so they assumed the level of disease will be the same as Surrey Downs. I asked for the evidence that HSSD can provide the services provided by the MSG at the same or a lower cost, but have not been provided with that information, and I have certainly no evidence that HSSD are better at recruiting, managing and retaining staff than the MSG. The current crisis in nursing staffing does nothing to reassure. So there is no evidence, there is no robust methodology, and although we talk about 'transformational', we are not told in what way the service will be transformed.

2865 In the United Kingdom the government nationalised healthcare and created a National Health Service. Here in Guernsey we have never done that. Instead, we relied on general practitioners to provide a private service for primary care and accident and emergency, which they still do, and secondary care has been provided since 1995 by a partnership of specialist doctors who have a three-way contract – HSSD, SSD, MSG – and that contract requires HSSD to provide services and contractually binds them to certain agreements, both of which HSSD are happy to ignore.

2870 Delays caused by a failure to have a contractually required review of the Department of Medicine has led to a delay of at least a year in the replacement of a recently retired doctor, requiring a temporary appointment of a series of locums at great expense and leading to stagnation of service development. As the policy letter does make clear, the MSG provided the services for a fixed cost and the risk of an increase in demand was moved away from the States to

the Group. That situation still exists today and is why the States of Guernsey does get good value from the contract.

It has been estimated that in the United Kingdom the volume of work in a hospital has been increasing by about 4% a year. As the number of doctors in the Medical Specialist Group was fixed six years ago, those doctors are now doing about 30% more work than they did six years ago. As mentioned before, on top of this the increase in governance and bureaucracy in general has led to a significant increase of workload for the doctors because of spending more time on paperwork.

A recent request for approval of a job was turned down by the Royal College of Physicians because it did not allow a full day for paperwork – or ‘supporting professional activities’, as the College likes to call it – and they would not allow more than a total of 10 sessions a week, including being on call. Today, the MSG consultants work around 15 programmed activities a week, or 15 sessions a week, which is much more than is allowed in the United Kingdom. This means that many doctors in the Medical Specialist Group do work 65 to 70 hours a week, and they have been waiting for the negotiation of a new contract to rectify this but the HSSD are promising us that it may well save money. It is just not honest to say that you can save money when there is such an under-provision of doctors.

If I am questioned about saying that this is less safe than it should be, having doctors working 65 to 70 hours a week, one has to ask oneself what an earth, then, was the point of the Working Time Directive, which was brought in by the European Commission to limit the number of hours that doctors work.

The HSSD’s Director of Clinical Governance provided me with figures which show that if we had the same number of doctors per unit of population as the United Kingdom we would expect the Medical Specialist Group to employ about 80 doctors, not 41. And if you want to say, ‘Well, that’s rubbish, we don’t believe it,’ then look at Jersey, because Jersey deliver fewer services than the Medical Specialist Group but with 91 doctors. This policy letter states that if negotiations fail, then they suggest they will replace the 41 doctors of the Medical Specialist Group through an internal resource to external specialist providers. The letter says that it may cost less. I just do not think that is honest.

Anyone who reads the national papers knows that the NHS is in crisis because of a shortage of doctors in many areas. Do HSSD seriously think they can rustle up at least 60 high-quality doctors at bargain-basement prices? They will have to explain to consultants that not only will they have to work long hours but some of these will be overnight, as we do not have junior doctors in Guernsey. It is considered that, of the doctors currently employed by the MSG, after what may be termed a hostile takeover probably a third would choose not to work for them, so the HSR Department would be looking to recruit some 30 or more doctors from outside this Island – and that is a massive upheaval, which just could not be done quickly. The Medical Specialist Group allows about a year from starting writing the job description to getting someone in post. Each job description has to be approved by one of the Royal Colleges. It would inevitably mean a considerable reliance on very expensive locum doctors.

The policy letter says that negotiations have started with the Medical Specialist Group for renewal of the contract, and Deputy Luxon said that again today. Well, they have not. A meeting was held on 16th November –

**Deputy Luxon:** A point of correction, please, sir.

**Deputy Hadley:** – to talk about –

**Deputy Luxon:** A point of correction, please, sir.

**Deputy Hadley:** – when negotiations would start –

**The Bailiff:** Deputy Hadley, there is a point of correction being raised.

**Deputy Luxon:** Neither in the policy letter nor in what earlier did I say that the negotiations around the contract had commenced with the MSG. It talks about, in the policy letter ... discussions have begun. Formal negotiations have not commenced, although we have amended the policy letter in pre-negotiation discussions with the MSG, but I have not said that and it does not say that in the policy letter. That is wrong.

**The Bailiff:** Deputy Hadley.

**Deputy Hadley:** A year ago, HSSD were asked to take over the A&E department and negotiations with the Primary Care Company Ltd started. There is still no end date in sight for these negotiations after a year. This is a far more complex contract to negotiate, and yet –

**Deputy Luxon:** Sir, I need to intercede. Deputy Hadley is straying into confidential Board discussions and situations which are inappropriate to be discussed in the Assembly in public.

**Deputy Hadley:** I dispute that that is highly confidential. It is widely known around the Island that those negotiations are taking place.

**Deputy Luxon:** Mr Bailiff, I apologise. Contracts that HSSD and the States of Guernsey have with third-party providers are by their nature confidential, and they should not be discussed in public and certainly not in this Assembly. Deputy Hadley should stop talking about private Board matters.

**Deputy Hadley:** It does look as though these negotiations are a deliberate attempt to fail. The recommendations I am asking the Assembly to approve are not too prescriptive and they do not give absolute certainty to the Medical Specialist Group.

The recommendations in my amendment differ from the original policy letter in that it makes clear there is an expectation that negotiations will succeed rather than be set to fail. The third Proposition is to confirm an arrangement already in place and agreed between HSSD and MSG in the 2012 Financial Review, and it is, in my view, appropriate for the States to be made aware that that contractual commitment is there.

My amendment and the note that underscores it aim to allow the States of Guernsey to delivery secondary care, as it has successfully done for the last 20 years the Guernsey way, which there needs to be, because it is the appropriate way for an Island that has to run a hospital for 63,000 people, a hospital that would never be built in the UK, where they build hospitals for 630,000 people, 10 times the size of ours.

It may seem to Members of this Assembly that you need to play hard ball and look tough to get the best deal, and that is just what this policy letter does. It is critical of the Medical Specialist Group and it tells you there is an expectation that a new contract will be negotiated at a lower price and in a shorter timeframe than set out in the current contract. This policy letter makes it very difficult for the MSG to survive, and if it does not survive HSSD will have to be dealing with individual doctors who remain in Guernsey and locum doctors from the UK, if they can get them.

Within the last few weeks one doctor has withdrawn from a post previously accepted and others have declined to come to Guernsey after looking at the local situation. Many doctors do come to work at the Medical Specialist Group because they want to work for a partnership and get away from the bureaucracy of the NHS, and this policy letter sets out to destroy that advantage.

One Member of this Assembly said that this Assembly would never agree to my amendment because it hands them the contract on a plate. Of course it does not. Both the form of the new contract and the price have yet to be agreed. The States of Guernsey can easily ensure there is no contract with the MSG by offering terms that they could not possibly accept, and this amendment indicates that there is a greater commitment to renew the contract than fail, and it removes a

2980 deadline which cannot possibly be met. It is more honest about the cost to the States of Guernsey, which is irrespective of whether the doctors are employed by the Medical Specialist Group or directly.

I urge Members not to allow a repetition of the reorganisation of the maternity services. We do not know the final cost of the changes in maternity services needed to comply with the UK way of working, which is not appropriate for this Island, which comes with a large price tag, perhaps as much as £6 million a year by the end of the process. If we now reorganise the delivery of secondary care to comply with the UK model, it again will come with a large price tag – another £5 million to £10 million.

2990 Do not repeatedly allow people from the United Kingdom to change the way we run our Island.

If Members of the Assembly vote for this amendment, six associate doctors currently working for the Medical Specialist Group probably will join the Group as partners. The Group are more likely, if you pass this amendment, to be able to recruit doctors to work in Guernsey, and we will almost certainly need to recruit another 10 or 12 doctors as a result of retirements and the need to comply with the Royal College in the wake of the problems in the maternity department.

2995 If, instead, you reject this amendment and approve the policy letter unamended, the associates will not join as partners and one or more may leave the Island. It will be almost impossible to recruit permanent doctors for the foreseeable future and locums will have to be employed at a cost to the Island of an extra £100,000 per doctor per year. It is also possible that the Medical Specialist Group will not survive for the next two years, so that HSSD will be forced to recruit doctors as a matter of urgency, some at a considerable cost. So I would ask Members to vote for this amendment.

**The Bailiff:** Deputy Sherbourne, do you second the amendment?

3005

**Deputy Sherbourne:** I do, sir, and reserve the right to speak later.

**The Bailiff:** Deputy Luxon, do you wish to speak at this stage?

3010 **Deputy Luxon:** Oh, yes, thank you, sir. *(Laughter)*

I said in the last 24 hours Deputy Hadley and I had agreed over five things. Well, now, clearly, we are back to where we were before.

I do apologise to Deputy Hadley for having to interrupt his speech. It must be distracting, but frankly, there were so many mistakes and errors in there that I had no choice.

3015 I realise that this amendment was laid and amended and recirculated before the Billet had actually been published and therefore was premature, in that my Department amended the policy letter prior to formal publication to reflect the significant issue I mentioned before about the phraseology of us terminating the contract and entering into the discussions to renew the contract. So, to some degree, Proposition 1 in the amendment was premature in that sense.

3020 However, neither the Joint Boards or Project Board are supportive of this amendment, and I will try and convey why we are not supportive, but before I do I would need to make comment that Deputy Hadley is, of course, as he has said, significantly conflicted in this matter, and although he has been exempted from all Board discussions, as he said, it is fair to say that he has taken a very active interest throughout in promoting his personal views.

3025 The first proposed proposition reflects the actual policy letter Proposition, other than it is silent on the term of the contract, which my earlier successful mandate has now changed to a rolling five-year-notice term. So, if passed, this proposed Hadley amendment actually lacks, or in fact dilutes clarity on a fundamental aspect of the new contract terms. It is therefore either of no value or worse, in our view. We therefore oppose it. The policy letter actually says that we wish to propose renewing the contract with MSG, just as Deputy Hadley's amendment Proposition 1 says.

3030

The second proposed proposition is not, in fact, a replacement proposition at all, as it retains in its entirety our original Proposition 2 with no changes. Again, it adds no change, no value and no clarity. We therefore oppose it.

3035 The third Proposition removes the reserve option should the negotiations not lead to a positive conclusion between the parties, something that both parties absolutely intend to achieve, which therefore weakens the position of the States in this regard, whilst it inserts the payment of either £165 or £165,000 – there is a typo, which I point out to be helpful – to the MSG when this does not form part of the policy letter proposals.

3040 It is right that in the 2012 contract review referred to there was discussion and an in-principle acceptance of a possible need by SSD to fund service redesign work, if and when that work was undertaken by MSG consultants, but it was certainly not linked to the contract negotiations specifically in this policy letter and was most certainly not agreed to, and although a figure of £165,000 was given as an indicative amount, this was not a firm commitment.

3045 As an aside, quite where Deputy Hadley acquired this information from I know not, but the document referred to was and is a confidential Board paper, which he did not have access to and certainly should not be released in this way here.

Again, we therefore oppose this part of the proposed amendment, as we should not be agreeing to resolve to a payment which has not as yet and possibly may not be discussed, agreed or approved by the Joint Boards. Additionally, this proposition clearly goes further than our original propositions.

3050 Sir, just a couple of comments in relation to some of the points that Deputy Hadley raised. A crisis in nursing: there no crisis in nursing in Guernsey. We have significant recruitment issues, as does the UK, Europe and the rest of the world; there is not a crisis in nursing. Our nursing staff are working incredibly hard and have adapted to the extraordinary review that happened last year and continue to engage in trying to work to develop the service. There should be accolades regarding what our nurses do, rather than referring to them as being in crisis.

3055 Deputy Hadley also mentions about 4% volume growth in the NHS and various other things that happen in the NHS, but then he says let's not bring the NHS to Guernsey. You cannot have it and eat it: either we do not like what happens in the NHS or we are prepared to take some of the good parts that happen in the NHS.

3060 Deputy Hadley is right: some of the consultants, I believe from the information I have been given by MSG colleagues, are working 65-70 hours a week, and even more. I mentioned it in last month's debate. The States is getting that sort of time out of me as well in this role while HSSD is going through the recovery. Consultants and doctors have always worked long hours. It is a matter for them to decide whether that is appropriate or not, and, of course, in dialogue with the MSG we will deal with those issues.

3065 Deputy Hadley mentioned that we should have an additional 40 doctors – I think that is what he said: £13 million a year. What would they do? Which beds would they visit? Which theatres would they operate from? It is no good throwing these inflammatory statements and comments out that simply will not help the dialogue.

**Deputy Hadley:** Point of correction.

3075 **The Bailiff:** Deputy Hadley.

**Deputy Hadley:** I did not say that we should have another 40 doctors. What I said was that if we had the same proportion of doctors that we would have in the NHS – the figures were provided by the Director of Clinical Governance – we would expect to have 80 doctors doing the work that the 41 Medical Specialist Group doctors do.

3080 I also said if you compare the number of doctors we have here with Jersey, in Jersey they employ 91 doctors. I did not at any point say that we should have 91 or 80. I used that

information to indicate that the 41 doctors are doing a much bigger workload, which in other jurisdictions are done by a much larger number of doctors.

3085       **Deputy Luxon:** Sir, through you, I am very happy to eat Deputy Perrot's stylish felt hat he wore this morning if it is proved that I was wrong when I said Deputy Hadley said we should have another 40 doctors here in Guernsey. I so hope I am right!

Deputy Hadley's comments also, generally about the what-ifs – what if this, what if that – are wholly unhelpful. The States of Guernsey need to enter into a significant and commercial  
3090 negotiation with our secondary healthcare provider. It is not helpful for us to dissect the individual micro details of a contract. It, frankly, does not help the situation. The negotiations will be entered into by the Joint Boards in a meaningful and professional way. Both the MSG and ourselves are committed to trying to find an outcome that is good for all parties, and indeed for the future contract.

3095       Sir, this amendment is, in our view, inappropriate and does not improve clarity or add value. We oppose it and would ask Members to please reject it.  
Thank you.

3100       **The Bailiff:** Deputy Brouard.

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

I just have one question for the proposer and the seconder. I am not understanding option 3, or item 3, to approve the payment of £165 to the Medical Specialist Group, or whether that is £165,000. Why am I giving them money to negotiate with me their side of the contract? I am not  
3105 understanding that. If I could have some clarity as to exactly why I am paying this money on behalf of the taxpayers.

Thank you very much.

3110       **The Bailiff:** Deputy Fallaize, and then Deputy Domaille.

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

I do not criticise Deputy Luxon for this because he is clearly operating within HSSD under considerable pressure and strain, both because it is probably the most difficult job in the States – along with the T&R Minister, I suppose – and secondly, because of the problems which we know  
3115 about, unfortunately, within his Committee. I do not envy him that task. But I do get the impression that, to some extent, some of the criticism of Deputy Hadley's amendment is driven by the fact that the proposal is coming from Deputy Hadley rather than the actual words that are written on the page.

Deputy Hadley has circulated this amendment with this very long explanatory note, which I have not read because I never read explanatory notes but is bound to be completely useless and  
3120 worthless because it gives the impression that what is in the explanatory notes is contained within the amendment, and of course it is not. Whatever thoughts or opinions Deputy Hadley has set out in the explanatory note are a complete irrelevance, which is why I have not read it.

3125       So we are left with debating the propositions 1, 2 and 3 which he wishes to insert. There are three differences between the Propositions as amended now in the policy letter and Deputy Hadley's amendment.

The first is relating to Proposition 1. Deputy Hadley is suggesting that HSSD and SSD should enter into negotiations to renew the contract with the MSG – and that is it, no other proposal. I find it hard to understand why the sponsoring Committee would oppose being afforded more  
3130 flexibility in the contract negotiations. Proposition 1 in the Billet, as amended, ties the negotiation to a five-year rolling contract with a five-year notice period. What happens if the two parties, the States and the provider, reach agreement, or would be able to reach agreement, on let's say a seven-year rolling contract? Under the terms of Proposition 1 that is not acceptable because the

3135 States have tied HSSD's hands that it has to be a five-year rolling contract, whereas what Deputy  
Hadley is trying to do is to direct HSSD to enter into negotiations and then to give them the  
flexibility to determine what is agreed as a result of those negotiations. Normally, it would be  
Departments or Committees presenting things to the States trying to obtain maximum flexibility  
for the negotiations they were about to enter into, and other States Members outside the  
Department trying to constrain their negotiating capacity. Nothing in Deputy Hadley's proposed  
3140 new Proposition 1, precludes HSSD from agreeing a five-year rolling contract with a five-year  
notice period; it just says, 'The position is you have the approval of the States to negotiate a  
renewed contract with the present provider: now use your best judgement and the expertise of  
your officers and your political judgement to get on with it.' I do not really understand why that  
part of the amendment should be so offensive to HSSD.

3145 Another possible reason to prefer Deputy Hadley's approach with regard to Proposition 1 is  
this – and Her Majesty's Procureur will, after the debate, tell me that I should not have said this,  
but there is an issue of how the States go about contract negotiations. It is not sensible – I think  
this is generally understood – for the States, as an Assembly, to get too involved in contract  
negotiations, because that is an executive responsibility which is capable of legal challenge. I do  
3150 say the States are the executive because the States are making all sorts of policy decisions which  
in other systems of government would be made by governments separate from parliaments. So  
the States are playing an executive role, but there are a very small number of executive functions  
which it is not very wise for the States to make determinations on. I am not saying the States  
ought not to be involved in it. If it was inappropriate for the States to be involved in it, we would  
3155 not even have the policy letter before us. I am talking about the States determining it. Over  
detailed contract negotiations ... these are executive functions which are capable of legal  
challenge. If these determinations are made by the States of Deliberation in public, then it could  
be held that a decision of the States of Deliberation is judicially reviewable. That would not be  
wise, because decisions of parliaments are excluded from human rights legislation, for example,  
3160 for very good reason.

I do not suppose I have made that particularly clear, but if there are ... In this very limited range  
of executive functions it would be better for the States to give general guidance to Departments  
or Committees and to allow those Departments or Committees then to get on with the detailed  
negotiations, because decisions of States Departments can be and are not infrequently challenged  
3165 legally. But we do not want decisions of the States Assembly to be challenged legally, so I think  
that, from that perspective, Deputy Hadley's Proposition 1 is probably better.

Number two, the second difference between Deputy Hadley's amendment and HSSD's initial  
Propositions, is ... I confess I do not really understand this business about paying for the MSG side  
of the negotiations, except that I suppose one could say, 'Well, it is meant to be a partnership,'  
3170 and the way the MSG is set up it is a provider of medical services primarily, and I am not  
particularly sure that I want the States ... For the benefit of our Islanders I am not particularly sure I  
want to send HSSD into negotiation with a provider if the provider does not have the resources to  
negotiate adequately the contract, because that would be really ... It would give us a great short-  
term fillip. It would mean that the States could hammer the provider as much as possible, but it  
3175 would last about six months because once the provider had been hammered they might not be  
able to deliver the best possible standard of secondary healthcare that they otherwise might. And  
the other point is that we are told that this agreement, implicitly anyway, has already been  
reached, that these resources would be made available to the MSG. So I am not very comfortable  
with the idea of the States funding the negotiators who will be working on behalf of the MSG, but  
3180 I do not think that Deputy Hadley's proposal in that regard is entirely without merit.

And then the third difference between the amendment and the Department's proposition is  
the status of what they call the reserve option. This, I think, is the most important part of the  
whole policy letter and of the Propositions. Proposition 3, at the end of the policy letter, asks the  
States:



'if negotiations with Medical Specialist Group do not lead to an acceptable form of contract ... to endorse the intention of the Health and Social Services Department to proceed to set up the direct internal provision'

3185 This is a curious debate. I have been looking forward to this debate for ages because we are going to have a succession of people with generally very right-wing instincts assuring us that it would be perfectly viable for the States to take over the entirety of secondary healthcare, and people with left-of-centre instincts who are going to be arguing, 'Well, hold on a minute, are you really sure that the States are set up and properly equipped to be taking on that sort of provision at just more or less a few months' notice?' But the former group of Members I mentioned do seem to be sticking to their position. If the negotiations with the MSG do not lead to an acceptable form of contract, they want the States now, today, to endorse the intention of HSSD to proceed to set up direct internal provision. I do not see that that can possibly be sensible. I do not have enough information before us to make a judgement on whether the States can credibly, 3195 from 1st January 2018, run the entire secondary healthcare system. Deputy Luxon says there would be no choice, but we have to remember the States have never run it before. Prior to the creation of the MSG, it was privatised, so ... It still is privatised, but the States are now funding it. But it was a much more conventional private model, rather like GPs are now. If I was to turn up today and say, 'Well, look, you can look again at the grant that is provided to GP visits and the arrangements that we have with GPs, but if you cannot reach an agreement in the next six months, let's agree here and now that the States will run the entire primary care system.' If I was to suggest that, it would be met with ridicule, but that in effect is what is proposed in Proposition 3.

I ask the States do the States have confidence, from what is set out in this policy letter today, 3205 to vote in favour of a Proposition which asks them to endorse the intention of HSSD to set up direct internal provision if negotiations with the MSG do not lead to an acceptable form of contract. I have no doubt that if we went back 25 years and we were debating the future of secondary healthcare I would be on the side of saying the States ought to take the thing over lock, stock and barrel. But that is not where we are. We have now 20 years of history of how secondary healthcare is provided and, generally speaking ... there have been some problems, there are improvements that could be made, the present contract clearly is not fit for purpose, but generally speaking I think the arrangement has worked to the benefit of Guernsey people.

I understand that if the negotiations with the MSG do not proceed as successfully as HSSD hope, at some point in the future it may be necessary for the Department or its successors to come back to the States and say, 'Look, we have tried. These are the processes we have been through, we have had these negotiations, but it has not proved possible to reach an agreement which we are comfortable recommending or signing up to, and therefore we are proposing providing secondary healthcare in this alternative way.' But to do that now seems to me ridiculous.

I do not god with the argument that Proposition 3 gives the States leverage – we can hammer the MSG over the head with it, saying 'Look, if you don't sign up to what we want in the next six months, then we will implement Proposition 3.' I think that is probably – *(Interjection)* Proposition 4, Deputy Luxon is telling me, but I do not think ... There isn't a Proposition 4. **(A Member:** Option 4.) Oh, option 4, yes, but I think I said Proposition 3. Sorry if I said option 3. 3225 Proposition 3. I do not think that is, in practical terms, going to give the States any more leverage than it will have otherwise, and that is my concern.

I am happy to accept Deputy Luxon's advice with regard to whether the States ought to approve a payment of £165,000 to the Medical Specialist Group. Okay, let's knock that out. I do not particularly like that part of Deputy Hadley's amendment. On his Proposition 1, actually I think 3230 that HSSD is given more flexibility by what he proposes, but I think that removing Proposition 3 as it is is actually is a very logical and sensible thing to do, because I cannot vote in favour today of providing HSSD with all the authority they need to set up direct provision of secondary healthcare without having to come back to the States again. There is nothing that says 'report back'. It it says:

'endorse the intention of the Health and Social Services Department to proceed to set up the direct internal provision'

3235

Well, I do not think it is responsible for the States to vote in favour of that today, and if Deputy Hadley had not included number 3 in his amendment I would certainly support it. But if his amendment loses, then I will have to vote against Proposition 3 in the policy letter.

I have spoken generally, sir, but I will speak on Deputy Adam's amendment if he lays it.

3240

Thank you.

**The Bailiff:** Deputy Domaille.

**Deputy Domaille:** Thank you, sir. I will be brief.

3245

First of all, I actually agree with the comments that have been made about the payment for the Medical Specialist Group. I do not see any justification for that at all. We will hear what Deputy Hadley says on that.

3250

A bit like Deputy Fallaize, I am not too fussed about either of the Propositions 1, whether in the amendment or the ... but I have to say that I find it very unfortunate that we are debating this today with a suggestion from one of the Board members that the current Board is not sincere in its approach on this process. I find that very regrettable. I personally have absolutely no doubt whatsoever that all five Members fully intend to do what they say they are going to do and are approaching this in an open and honourable fashion, and I would like to have that recorded because I think that is a big point and must be made time and time again.

3255

Following on from that, yes, I rather wish we were not here with all of this that we have – and I am only speaking on the amendment – but this is a can that has been kicked down the road and the current Board has been left trying to pick up the pieces, so some of what we have in front of us today is for that.

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I am reserving my position on whether or not we endorse setting an in-house thing up. My question to Deputy Hadley is that at least in the States Report we have some inclination as to what a plan B may be. I fully take on board the honest intention to agree with MSG – and I am sure MSG intend to agree with us, I do not doubt that – but with all the contracts I have ever been involved in, I am afraid wishing and expectation do not deliver, and at the end of the day, if these negotiations fail we are up against a very tight deadline, so I would like to hear from Deputy Hadley what he would propose to do if negotiations fail.

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Thank you, sir.

**The Bailiff:** Deputy Bebb, then Deputy Gollop.

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**Deputy Bebb:** Thank you, Monsieur le Bailli.

I have great sympathy for an awful lot of what Deputy Fallaize said, but I fear that a lot of what merit there is in this amendment has been lost by the language of the proposer. (**A Member:** Hear, hear.) Really, there is no greater enemy to Deputy Hadley than Deputy Hadley when he makes such comments.

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There are three different methods. The proposal in this amendment is to extend the existing contract, but everybody, the MSG group included, would concede that the existing contract is a child of its time and that time has come to a close. Therefore, realistically, if we were to agree to this amendment, rather than allowing a greater degree of flexibility what we would also do is allow the child, which we all agree has come to an end, to continue with no means, nothing to actually bring that to an end. And that situation cannot be allowed to continue. The current contract must come to an end. There is no doubt about that. There are provisions in the current contract which we no longer, as a States, wish to see. I am convinced that although I have not spoken to MSG about it they would have similar feelings about other parts of the contracts to those which I know. It is a contract which has run its course. I suppose to some extent I bear some blame for the fact that this was not resolved in a quicker fashion, having been on the board of

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HSSD for the length of time in this term. However, the reasons for it not having progressed, as Deputy Luxon said, are well known. But let's not imagine that we therefore should take that as some excuse to prolong a situation which I do not believe is right. It must come to an end.

3290 The other question that Deputy Fallaize raised was in relation to Proposition 3 in the original policy letter. I agree that to say that there is sufficient information available to Members to make that decision today is difficult. However, I would say that that option is always available to the States and that simply to state that if negotiations, given the timescales, were not to be concluded, all that the Proposition 3 does is allow HSSD to go into that reserve position without the need to resubmit to the States. Whether Members like that or not is a good question, but let's  
3295 not imagine that it does anything other than allow the Department to go into what is accepted as the only acceptable reserve position. There are only three methods of delivering secondary healthcare worldwide: either the NHS model, by which the consultants are employed by the state – and I would contest that there are very real questions to be asked as to how well HSSD manages its own consultants and whether that is the right model; there is also a pure private provision,  
3300 which Guernsey probably had something very close to that, probably resembling that prior to the MSG contract; and the third option, which is what we have today, which equates to barristers in chambers, and that is the type of model that we have at the moment. To imagine that we would go back to a pure private provision is not exactly within the gift of the States. The only one that is within the gift is to go into a direct NHS model, and all I would say is that ... and if we are to look  
3305 at the reserve position, it is simply being frank and honest in stating that if negotiations do not proceed as intended there is no time to move to a private provision; there is only one other option available.

We cannot create a wholly different healthcare model to the rest of the world. There are only three options available worldwide. That third option is moving into a State-provided provision.  
3310 There would be very serious questions to be asked at that point in time, but given the timescales I imagine that the Department would need to move swiftly, and therefore I think that it has to be there by necessity. I do think that the Department should maybe have included more information about it, but it is one of the fundamental reasons why I believe that, whereas there are some merits in this amendment, it is ultimately flawed and it should be defeated. Members, please  
3315 reject the amendment.

Thank you.

**The Bailiff:** Deputy Gollop, and then Deputy Perrot.

3320 **Deputy Gollop:** Likewise, on one level I can see some merits in the amendment. There is certain flexibility there within the termination to direct negotiations to continue with the MSG. And, turning Members' attention to Proposition 3 in the Hadley amendment, it mentions – I did not realise this was confidential – approving the payment to MSG ... some money presumably to 'develop a future healthcare model for Guernsey in accordance with the agreement reached in the  
3325 2012 5 year financial review'.

That brings back into the frame what the Health Board before last was doing with the then Chief Officer, and we, in our different Departments – at the time I think I sat on Culture and Leisure – supported the vision. We supported looking at a new healthcare model and it has been a disappointment that, for all kinds of reasons, work did not go as smoothly as it could have done.

3330 I would, however, note though that approving the payment of this money ... Actually, my copy of the amendment says either £165 or £16,500, rather than what I think is meant – £165,000.

But leaving that aside, as all the money is relative, (*Laughter*) especially with healthcare, I do feel, to use my classic cliché, that Deputy Hadley is trying, on occasions, to have the penny and the bun here, because he has made today – and he has a right to say it if he believes it to be true  
3335 – allegations about perhaps the fitness for purpose of the healthcare system and health and safety and all that, at the same time saying that we cannot afford an NHS and saying that a Guernsey way is preferable to a standard cosmopolitan way. Clearly, one of the messages that we have been

receiving from reports, and indeed perhaps the new team, is that the traditional Guernsey way is not good enough and one needs new trends, new relationships, new ways of working.

3340 I would point out too that, although there were some people at the St Peter Port Douzaine meeting whom we may hear about later, who were supportive of the Deputy Hadley approach and the continuation of the Medical Specialist Group to work with us, there was also criticism that perhaps this overall report is a little bit critical. But we know that sometimes good relationships go both ways.

3345 Deputy Hadley too referred to the in-house model on page 2954 – that HSSD were effectively saying that it was significantly cheaper and more achievable. In fact, that is not what is said. On page 2954, paragraph 21 – and we in the Social Security Department were involved with this report at quite an early stage – it says:

‘The financial model suggested that the service could be delivered in-house for £31.935m compared with the MSG offer of £33.110m (over the 7 years) ...’

3350 The £1.2 million represented only 3½%, and that is assuming everything went smoothly and there were no locum positions to fill, but the Report clearly says:

‘There were a number of advantages for selecting the MSG contract over the HSSD in-house service:

a) MSG costs were agreed at a fixed rate which transferred the risk of an uplift ...;

b) The MSG contract avoided any upheaval of the doctors who delivered acute specialist services;

c) Successful negotiation with MSG meant that there were consultants in place who knew the patients and the GPs.’

So I think HSSD have gone into this with good faith.

3355 Although one risks straying into more general areas, I would also point out – in response to Deputy Fallaize’s acute observation that a more centre left would perhaps be, on this occasion, supportive of the private sector and that a more right of centre would support a more state-based approach as being an irony – that there is a solution for this apparent paradox, and the reason is this: that one thing the States cannot afford to be to the general business community or the taxpayer is overgenerous in the provision of salaries or contractual terms to people who might be, in some cases, quite highly rewarded, and therefore competitive salary structures will be needed on occasion to ensure we get value for money. So it is not right versus left; it is the team wanting

3360 to achieve the best possible outcome, in clinical and financial terms, for the community at large.

So, on balance, we should reject this amendment and go with the main Propositions unamended.

**Deputy Luxon:** Sir, just a point of correction – I waited for Deputy Gollop to finish.

3365 Deputy Gollop was, of course, referring to the 1995 contract when he quoted the numbers and the 3.5% difference – just for the record.

**The Bailiff:** Deputy Perrot, if you still wish to speak.

3370 **Deputy Perrot:** Thank you, sir.

In the words of one of the Members for St Peter Port South, I am confused. I am really genuinely confused and I hope that somebody can explain this confusion later on or resolve the confusion. Perhaps Deputy Hadley will when he sums up, or perhaps if Deputy Sherbourne is still in the slips he can catch that ball and catch me out.

3375 Let me just say this: I do dread the idea of clinical services being provided generally by the States of Guernsey. (**A Member:** Hear, hear.) I do not like that as a concept. I like the idea of there being something like the Medical Specialist Group. That is just the way I am. Is that right wing? Is that left wing? God knows. But I am comfortable with that arrangement and I always have been since the Medical Specialist Group first started to provide what I think is actually a first-class service.

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But that is not why I am confused. I think everybody in the Chamber, sir, knows that I yield to no one in my admiration of the omniscience of Deputy Fallaize in all matters legal. *(Laughter)* In explaining this contract and in explaining Deputy Hadley's amendment, he has, I am afraid, left me a little bit confused. As I understand it – forgetting the official Proposition 1 – at the moment, under the Medical Special Services contract, if we have not agreed terms of renewal by the end of next year the contract comes to an end in 2017. That is it. So what are we left with then? Well, we cannot be left with nothing, and we would, in those circumstances, it seems to me, be left with the services having to be provided by the States of Guernsey – because there would be absolutely no one else to do it.

My problem with Deputy Hadley's amendment, I suppose cleverly explained by Deputy Fallaize, is that Deputy Hadley's Proposition 1 does not qualify the position as I have already recited it. In other words, the contract comes to an end if there is no agreement by the end of next year, but in Proposition 1 Deputy Hadley –

I am sorry, just to give way –

**The Bailiff:** If that is all right.

**Deputy Perrot:** No. *(Laughter)*

Proposition 1, if one reads it, says this:

'To direct the Health and Social Services Department and the Social Security Department to enter into negotiations to renew the Secondary Healthcare Contract with the Medical Specialist Group.'

It does not give any end date, so those negotiations could go on until hell freezes over. And so what happens, therefore? We come to 2017, the existing contract comes to an end if those negotiations have not achieved anything, and then people talk into the future; but in the interim we have got to get the States of Guernsey somehow to provide secondary care to people who require that in Guernsey. So it does seem to me that Proposition 1, or Deputy Hadley's Proposition 1, takes us no further. In fact, it is actually retrograde compared with what we have got already. Deputy Fallaize is the one who has introduced it ... Whether that is a right-wing view or a left-wing view, that is my view about the contract.

I also did not understand what Deputy Fallaize was saying and perhaps, because there is clearly a lot of empathy between them, Deputy Hadley or Deputy Sherbourne could explain on behalf of Deputy Fallaize in the summing up, or leading towards the summing up. Why on earth is it being alleged that if we, the States of Guernsey, negotiate a contract with somebody, that is judicially reviewable? Aha, a laugh from the Procureur: I think someone is on their side at least. *(Laughter)*

My understanding of decisions which were judicially reviewable was those when a decision was handed down by a governmental Department and it did so either unlawfully or not having considered all of the appropriate factors, or was otherwise so unreasonable as to be unlawful. But that does not have any bearing at all, judicial review, upon contracts negotiated between the Government and various people supplying services to the Government. It happens all the time. That is to say that negotiation happens all the time without there being judicial review, but if Deputy Fallaize, or rather Deputy Hadley or Deputy Sherbourne explaining for Deputy Fallaize ... if they have precedents to show me whereby, as a result of contract negotiations between the Government and the service provider subject to judicial review, I would really like to know that because I would be learning something about judicial review which I did not know before. Certainly as far as I am aware, such assertion is quite absurd. Not only that, the Government, the States of Guernsey, are entering into negotiations all the time. Generally, of course, they have got to be approved eventually by the States of Guernsey, but the Education Department is always entering into contracts as the States of Guernsey. So, all the time, is the Public Services Department. So, actually, is HSSD. So I really do not understand the points which are being made by Deputy Fallaize.

Finally, this point about giving money to the Medical Specialist Group in order to negotiate a contract with the States of Guernsey. I think this is an absolutely terrific idea, in the sense that I wish to God it had happened while I was (*Laughter*) the Bâtonnier of the Bar in Guernsey when we were negotiating legal services. It would have been nice for the States of Guernsey to lob a few hundred thousand pounds our way (*Laughter*) so that we could have a much easier time of it when negotiating legal aid for the States of Guernsey. If we were talking about the Guernsey Bar people would be laughing in our faces: isn't it the same here with the Medical Specialist Group? (**Some Members:** Here, here.) It is nonsense.

**The Bailiff:** Deputy Adam and then Deputy Sherbourne.

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

I just want to touch briefly on some points that have been mentioned.

First of all, Deputy Perrot has just finished saying about giving £164,000 to the MSG. Deputy Brouard asked what was this for. Well, it was for a contribution make and help design and develop a future health and care model for Guernsey, and this was an agreement between the SSD, HSSD and MSG. This agreement was part of the initial negotiations that took place in 2012 with HSSD, SSD and MSG. That was when these negotiations first started. I accept, Deputy Luxon, that they kind of stalled at the end of 2012, were non-existent in 2013, and because your Board had a few other problems they were not really picked up as quickly as you would have liked. But there was that ... Where Deputy Hadley got the information from I have no idea. I first saw it in his amendment when he sent it to me whilst I was coming down a river cruise on the Rhine at the beginning of October. I do not know if I was lucky to get it or not – the Wi-Fi was not very good. That is the first point. Just to let everyone know: this was an agreement by SSD and HSSD with MSG. It was an agreement that had been ratified by bringing it to the States for confirmation and for T&R to accept it. So it is perfectly legitimate for someone to bring it forward and highlight it. As you say, the total document is confidential, but since that has been mentioned I think it is reasonable to mention it.

The next thing, sir, is Deputy Luxon ... in my last speech, when I said I thought it would be dangerous to have an NHS-type system. Why I say that is nothing to do with the quality of people or anything else. It is simply with the potential of the number of pitfalls that can arise on the road to get there. MSG employ 41 consultants at the present time, with three or four associates. Where would you put them within the PEH site? There is not space at the present time. They employ some 80 staff to administer them all. Where would you put them? I assume if you are going to employ another 40 consultants HSSD would require the same numbers, roughly speaking – places to put them, cars ... to put them in, and there is no parking in PEH. So there are so many pitfalls and problems to overcome that it would probably take the five years to get there, but as Deputy Perrot said, maybe it is not unreasonable to have it as a fall back. I do not think it is a good idea. the history of MSG is that HSSD at that time, or it may have been the Health Board, actually considered having MSG providing the secondary care services was beneficial for some of the reasons that have just been stated – in other words as a fixed price contract. The first seven years fixed price, starting at year 1, and the number of patients seen during that period of time went up by 25% across all specialities, because prior to that contract it was pay-as-you-went private medical treatment – once you had the contract it was free at point of contact, and therefore free.

The other thing that happened during that period was that when negotiations with HSSD ... MSG took over the paediatric services and they took over geriatric services because it was easier and more simplistic to have a fixed-price contract, and then MSG has to deal with all the MTU the locums required, people being off sick etc.

The other point that has been mentioned, and I find it rather annoying, is the long hours that consultants do. Oh, yes, I was stupid, I did long hours: 60, 70, 80. I was on call one night in three, one weekend in three. It is no fun and maybe that is why I retired early, because my wife was tired of me not being around, and if I was around I usually had to go to bed and sleep. So these long

hours are no longer acceptable and, as Deputy Hadley said, now you have got the EU directive that has cut the maximum number of hours consultants are meant to do down to a more legitimate amount. The advantage of doing long hours is you had every opportunity to see your patients and to look after them in a much more personalised manner, and also you got a lot of experience when you were training in the different problems that arose.

So that deals with the £164,000, dangers and long hours.

The other thing is this aspect that Deputy Hadley keeps bringing up about safety. Safety in medicine is ... you can have various concepts about it. For example, when I was a consultant and on call I would go in just to find out who was on call – midwife, or often, as a senior registrar, which doctor was on call – and if it was someone I had confidence in and they were good at their job etc. you felt safe when you went home that if you were disturbed you had to get in quickly, because they just phoned up, 'Please come now,' and you just went; you did not wait for history or anything. If you did not know the people and they were locums, then that put a bit more stress on you because you had not assessed their standards. So it is difficult to say if that is what he means by the consultants feeling safer with people they know working there. It does mean that the clinical standards are unsafe, and I think it is very important for the people to realise that.

So, sir, as I say, the first Proposition, Deputy Hadley's, I tend to agree with what Deputy Bebb said – it maybe goes a bit too far; the second one is the same as the second one in the States' Report; and the third one, I disagree wholeheartedly with the one in the States' Report and I have tried to explain where the £164,000 comes from.

It is up to the States to decide, but I feel it would have been better for SSD and HSSD actually to have had the honesty to bring it themselves and state, 'This is what was agreed in November 2012' – and Deputy Langlois is still Minister of the Department, so I do not know if he remembers about it – 'but we do not think it is appropriate in the present financial situation.'

Thank you, sir.

**Deputy Luxon:** Sir, I have to make a point of correction. Again, I waited for Deputy Adam to finish.

I need to clarify the £165,000. This was an agreement in the 2012 review. It was at a time when HSSD and SSD were considering a comprehensive Health Service review to cover primary and secondary care, both on Island and off Island. It was nothing to do with the contract renegotiations that are at the heart of the policy letter and the amendment today. Deputy Adam is wrong when he says that we should have been honest in bringing it forward. It was an indicative amount not agreed, relating to a separate piece of work, and that is why it has not formed part of the policy letter. Equally, Deputy Perrot made the point, our secondary healthcare provider has not raised this as an issue, because I believe that they understand what the original 2012 agreement was about. Deputy Adam is wrong in his assertions to the Assembly, sir.

**The Bailiff:** Deputy Sherbourne.

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

Well, where do I start? First of all, by expressing ... Well my response to Deputy Perrot is that I am glad you are confused, because I do not know that I am going to be offering a lot that is going to clarify the problems that you expressed.

Can I say from the outset that I agreed to second this amendment purely on the basis of my respect for Deputy Hadley's knowledge, experience and background.

I think this debate has been started off very unfortunately, in that the body language and the response of some Members to unfortunate comments ... I do not subscribe to everything that Deputy Hadley actually said, but what I have learnt over the last three years is that it is well worth listening to him. You might not like his style, you might not like his delivery, but usually, in everything he says there is something worth taking on board and listening to and actually responding to. I have found that over three years ... he has had a rocky three years in the States

with regard to complaints, and that, unfortunately, again I detected with the responses from Members in this Assembly.

3535       Actually, the point with regard to conflict is something that I think we need to debate at some time, because I think it is very restrictive. I have had this discussion with the Comptroller on a couple of occasions. He is pretty emphatic in his position with regard to conflict, but I do not see how this Assembly can actually operate without gaining the knowledge and the background of every single person that has a perspective on any particular issue. I am sure people will say the same thing about my contribution to the pre-school education – not that I am actually in conflict now, but my young grandchildren have just passed that stage. When we discuss whatever Education comes up within March I could well be ... 'Well, you cannot make any contribution: your wife teaches at the grammar school,' – these sort of things. It is very difficult. I understand that and I know it is extremely sensitive, but I do value professional experience, background and knowledge, and we need to actually listen to it.

3540       As I said right at the outset, I do not subscribe to the fear factor that was introduced into this debate, but I do believe that there are valid points that have been made that really need some sort of answer.

3550       In 2011 the Public Accounts Committee commissioned a review on the value for money for our physios and the Medical Specialist Group. The wording was that they should – they *should* – undertake a robust review of the cost reflected in the current MSG contract at or before the next contract review. As far as I can see, that has not actually happened and we are getting close to a very serious time for discussion and negotiation. Hence I believe the reason why the general tone of this policy letter is one of a negotiating stance position. It is establishing a 'hardball' – I think was the term used – position with regard to our negotiations with a group of professional consultants who have provided an incredible service in this Island for a long time. Therefore, I think we have to think very, very carefully before we endorse the sort of propositions that Deputy Fallaize alluded to. I certainly do not want to give HSSD *carte blanche* with regard to in-house provision. That needs to be debated, if indeed the negotiations come to that stage.

3560       So my position on this is that Deputy Hadley has had the opportunity to express his considered opinion – as I said, in words sometimes a little bit near the knuckle, but what he has had to say to us I think is extremely valid and was important, and it is the reason why I have seconded the motion. We have had points made by Deputy Adam and Deputy Fallaize – extremely relevant points that we need to take on board. I will ask you to support the amendment even if it is just to vote for ... Sorry the amendment is in its entirety, I understand that. But I would ask you to do that. I welcome the amendment that Deputy Luxon put to us at the start. That has met quite a lot of my personal concerns, and, I believe, Deputy Hadley's. So I leave it with you, and I am sorry, Deputy Perrot, that I cannot help your confusion.

3570       **The Bailiff:** Deputy Conder.

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

3575       Like Deputy Perrot, I was confused at the start of this debate and partly during the debate. I have concentrated really hard to try and understand all the issues. I certainly was confused as St Peter Port North at the start, and in truth I have been during part of the debate. I think I am getting there and I think it actually has been, in the main, a good debate, because I think that colleagues such as Deputy Perrot and Deputy Fallaize and others have, for me, started to bring the issues out.

3580       Deputy Hadley is a colleague on the Education Board and a colleague I have high regard for, but I despair sometimes in terms of the vitriol that he puts into his delivery, because actually it made it much harder for me to understand the issues, and I would implore him again in his summing up to moderate his tone and his attacks on his colleagues. I have said it many times. I think it is the most destructive part of his contribution and it could be so much more effective. I guess I am just, by nature, a conciliator and perhaps therefore not very suited to politics.



3585 As this debate has progressed and I have tried to disaggregate it, it seems to me that the tone and the gap between this amendment and actually the main Propositions seem nothing like as big as Deputy Hadley appeared to make it. Proposition 1, as Deputy Fallaize said, is perhaps more permissive than Proposition 1 in the States' Report and I am fairly ambivalent about which one we approve. One is perhaps more permissive, but if HSSD wish to have a more restrictive proposition  
 3590 I cannot see the issue there. Equally, Proposition 2 does not seem to be that much different, and perhaps Deputy Hadley, I hope in the most moderate way, can help me to understand in his summing up why Proposition 2 in his amendment is a very different Proposition to in the main propositions. But what I do understand now, not least due to some of the really good speeches I have heard, is that we do have to have a fallback position. If, God forbid, the contract agreement  
 3595 is not reached, we cannot just be left in a position where there is nothing. I absolutely accept that it would be almost impossible to create something from nothing, and one would hope that we would not get to the 11th hour and 59th minute with nothing, but all that Proposition 3 in the main Report says is that we have to have a fallback position.

Unless Deputy Hadley can convince me, I think I will vote against the amendment – and that is not where I started, but I was not in a very good position when I started – because I do not think the case for the main Propositions needing to be amended has been made. What I would like to say – and perhaps I might be in a slightly better position, although I do not know if it is a better position or not, certainly not personally ... I have had direct and numerous dealings with MSG over the last month or six weeks and we are so privileged to have the MSG. You have direct access to  
 3600 consultants. You are not dealing with doctors who are being overseen by consultants. It is an extraordinary service we have. (**A Member:** Hear, hear.) And I can speak with authority. My hand gives me some authority – those who know. I have had an operation on my hand, which was quite painful, but I had extraordinary service from the MSG and from others. Those who have had day-to-day dealings either themselves or with relatives in the NHS and then with the MSG over here  
 3605 on their own part can make that comparison.

So I truly hope that we can reach an agreement with the MSG and I would give every bit of my support, both moral and political, to the MSG team. I just wish that they were not constantly being harried by one of their colleagues, because I do not believe it is productive, I do not believe it leads to good governance, and I would urge Deputy Hadley in his summing up to bear that in  
 3610 mind.

Thank you, sir.

**The Bailiff:** Deputy Harwood.

3620 **Deputy Harwood:** Thank you, sir.

I will be opposing the amendments because, in my opinion, they are flawed, and, unlike Deputy Perrot, I am actually also somewhat confused, because the impact of amendment 1, if you read it, say:

'To direct the Health and Social Services Department and the Social Security Department ... to renew ...'

That is the ultimate fallback position that Deputy Hadley is suggesting. It is not a new contract, it is to renew the existing contract, and both the MSG and, I believe, the HSSD acknowledge that  
 3625 the existing contract is not fit for purpose.

The proposal as set out by HSSD says:

'To endorse the intention ... to enter into negotiations, and subject to those negotiations leading to an acceptable form of contract ...'

whereas Deputy Hadley is leading us down the path that we have to renew the contract come what may. So the fallback position, in answer to Deputy Perrot, would be that we are in no better

position than having to renew the existing contract for all its warts and all. So I would urge Members to reject the amendment on the grounds that it is flawed.

I also agree with Deputy Perrot that it would be lovely to have £165,000 (*Laughter*) handed to the person with whom you are negotiating in order that they can go off and get very expensive legal advice to assist them in hardening their negotiating positions. And here I should declare an interest, or past interest, along with my colleague, Deputy Perrot, because we were partners of a local law firm that actually provided the initial advice to the Medical Specialist Group when the original contract was negotiated, (*Interjections*) (**Deputy Perrot:** *Original contract.*) but I do not think that we shared in any beneficence of £165,000 from the States of Guernsey.

Thank you, sir. (*Interjections*)

**The Bailiff:** Deputy Soulsby.

**Deputy Soulsby:** Sir, the HSSD Minister and others – Deputies Conder, Perrot and Harwood – have made it very clear why this amendment should be dismissed out of hand, whoever proposed it. I will just pick up on some of the comments made.

Sorry Deputy Fallaize, Proposition 1 of this amendment is not better. It is not general guidance for the States. It is no guidance at all. The policy letter as amended is general guidance.

Deputy Hadley is therefore right: it is not too prescriptive, it says absolutely nothing, just renew. Deputy Hadley talks about problems of uncertainty for MSG, but his Proposition 1 gives far more uncertainty than the policy letter. (**A Member:** Hear, hear.) His claim that we need so many more doctors just demonstrates how critical the reform of our current healthcare model is. It is simply unsustainable and the development of a new contract with the MSG is a crucial element of that reform.

As Deputy Bebb says, the current contract is not fit for purpose. All sides – MSG, SSD and HSSD – all say it is not fit for purpose. A renewal on the same terms is just unacceptable.

Deputy Hadley talks about how we should not listen to people from the UK. Well, virtually every consultant, either employed by HSSD or the MSG, is from the UK, so what exactly is he saying?

Deputy Fallaize talks about option 4, of taking services in-house, as if it was just plopped in there as a bit of a tease. As a Member of the Secondary Healthcare Board, I can say that a rigorous options appraisal process took place. And, on that point, I think I should say that, quite frankly, we owe a lot to the officers, and programme manager in particular, for getting us to where we are in such a short space of time. They have worked methodically to provide the evidence needed to enable the right decision to be made. It was a very close decision, and that is why it is our fallback option. However, we do not want or expect to have to use it. We are committed to entering into a brand new secondary healthcare contract with the MSG, but we would be completely negligent if we did not have a fallback option. (**A Member:** Hear, hear.)

Just referencing Proposition 2, this copies the same Proposition in the policy letter, even though, if you think about it, if Deputy Hadley just wants us to renew the contract, perhaps not much work would be required and of course that would be ... perhaps we would need all that money. Of course, that would be false economy, but it does show the inconsistency in this amendment.

Deputy Sherbourne mentioned the 2011 review undertaken by Sceptre for the then PAC, and it probably does not surprise anyone here that I am very familiar with that report. The review he mentions is just one of 19 recommendations, and the programme manager of the board has been cognisant of all these recommendations as it has undertaken its work.

So finally, for all these reasons, this amendment should be dismissed out of hand and I urge Members to reject this amendment absolutely.

**The Bailiff:** Deputy Langlois.

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

3680 I feel I just need to endorse some comments made by the Minister and by the Deputy Minister, Deputy Soulsby, regarding the position that we are in bringing this policy letter to the States today, and I would plead with people not to move the goalposts in terms of changing the questions which are being asked, because the Joint Boards have thought very long and hard about the level of guidance and the level of freedom and so on which is needed to reach this point.

3685 In terms of the ongoing negotiation with an existing supplier, clearly the main body of the negotiation is going to relate to ... and I may leave some factors out here, but principally level of service, the cost, reliability and certainty, and then the one that has really crept in now is time, because the original contract expires at the end of 2017. That is absolutely certain. There is no other certainty in this than that one, and the time factor, which was very wisely and clearly explained by Deputy Bebb earlier and then supported by Deputy Conder, is critical here. This is a stage process. This is a process where the Project Board has worked hard on it, and I have been the third political Member of that Project Board, together with the HSSD Minister and Deputy Minister, and I endorse the Deputy Minister's comments that the level of support and the type of support from a very diverse staff team has been exemplary.

3690 The business to do with the 2012 negotiation, I am afraid I confirm with Deputy Luxon I was there and that was a red-herring – the linking of the £165,000 with the 2012 negotiation and the suggestion that the negotiation of the new contract started in 2012 is a bit of a siding which we should not get parked in. That is not the case. And there have been a number of other comments in here which simply are irrelevant.

3695 It is a very, very difficult situation in terms of time. Discussions have been ongoing. Serious negotiations must start, and because of that the three questions have been put in the way that they have – and we need the answers to those three questions in their present form. Therefore, I would ask you to reject this amendment.

3700 **The Bailiff:** Deputy Hadley will reply to the debate on the amendment.

**Deputy Hadley:** Thank you, Mr Bailiff.

3705 To deal with Deputy Luxon's comments to start with, the reserve option is always there. The whole point about not leaving that out is that there seems little point in spelling out the reserve option. Quite clearly, if agreement cannot be reached with the Medical Specialist Group then HSSD will have to employ the doctors. It is a question of the message you are sending out while ... Do doctors at large who might want to come to Guernsey ... as to whether or not there are likely to be opportunities here.

3710 He said there is not a crisis in nursing. Well, I suppose it depends how you put it. We have not got any more nurses than we had a year ago when we were told that nursing levels were unsafe. And in fact what has happened is that we have closed 10 beds down to ensure that the staffing levels are correct. Now we are going in to what is expected to be a far worse winter than last year with 10 beds fewer in the Hospital than there were last year. Because orthopaedic surgery has got so far behind, and that is because HSSD refused to authorise the appointment of two more orthopaedic surgeons, a locum orthopaedic has been employed. If we go into this winter, a worse winter than last year, with 10 fewer beds than last year, when we were cancelling operations last year, we may find that not only are we paying for an expensive orthopaedic surgeon but we are paying them to do nothing.

3715 I think Deputy Brouard brought up the business about the fee that I put in there. This, to my mind, was just being honest. I have known for a long time – and I cannot remember where I did find out – that in fact the MSG were supposed to be being paid a figure to reconfigure, help redesign the services going forward for secondary healthcare, and in the past they have given advice on how might the services might change.

I thank Deputy Fallaize for his help in trying to explain that the amendment I am putting in does give greater flexibility. The reserve option again is always there: you cannot get rid of it. Quite clearly, if you cannot reach an agreement ... and Member after Member has brought this up. The whole point is that in the original policy letter what it is saying is that some extremely complex negotiations have got to take place by 30th June. We are not just talking about how much you pay for the service, we are talking about you redesign the service, and what I have tried to show is that, realistically, in seven months' time you cannot decide how you are going to redesign the service and what it is going to cost. It is like asking a firm of accountants to come and saying, 'Well, we haven't got a software programme yet, we will get one and we are going to try and find out how to use it – oh, and by the way, we have not got the figures to put in it anyway to get a firm of accounts.'

The policy letter ... I cannot remember the point Deputy Bebb was making ... He was talking about the new form of contract. The point I am trying to make is that the policy letter in no way indicates how the new contract will differ. I have mentioned in debate that when I queried this I was told that the PHAST report was an epidemiological survey to indicate the prevalence of disease and this would then inform how the new contract would be done. And then we find out that in fact that evidence is not there. The report actually says we do not know, there is no data for Guernsey, so we will assume it is the same as Surrey Downs. Yet again it indicates that the evidence is not there for them to be able to determine what the new contract is going to be.

Deputy Gollop says it does not say that they were going to get the contractor to reduce the price. Well, I am afraid it does. In section 80 it says they will be seeking to get cost improvements from the Medical Specialist Group, and in section 119 it says that in the reserve option they are hoping to achieve a reduction in costs.

Again, I think some of Deputy Perrot's points are dealt with, in that one is renewing a contract so clearly some of the provisions in the original contract will be changed going forward.

I thank Deputy Adam for his contribution, and he indeed did try and make the point about the pitfalls of change – and indeed this was the point I was trying to make right at the beginning. This is not a question again of ... I have never said we should not be changing. What I am saying is that trying to change within the timeframes that are being suggested is going to be extremely difficult and that if you ... it is a perfectly reasonable position to take if we want to employ the doctors directly – and like Deputy Fallaize, it would probably have been my option if I had not come to the Island and realised that a different system has developed. If you do want to change the way you reconfigure the services it has to be done very carefully over a period of time.

And yes, I have used the term 'safe' or 'safer' from time to time, but there is no such thing as absolute safety in medicine. Doctors make mistakes, everybody in life makes mistakes, and when you are talking about treating people in a hospital one has to try and minimise the chances of something going wrong. It seems to me a little incongruous that on the one hand we have staffed the maternity department to an extremely high level, that we have got a consultant sleeping in the Hospital all the time – and I have forgotten how many babies are born, but it is about one a day or thereabouts, so on many occasions nobody is going to be born at night anyway. *(Interjection)* Fifty, thank you. Oh, two then. So it is a question of balance and trying to get a safe service, and the point I have tried to make about this is that if you really want a safe Health Service you do need to have the appropriate number of doctors. And again I have emphasised that there should have been a medical review in October of last year to determine what the safe level is for the number of doctors there should be. That was a contractual commitment and the management of HSSD decided they did not want to carry out that review, so we still do not today know what the appropriate number of doctors is working in the Hospital, and yet without that ... again, that medical review should be one of the things informing the basis for a new contract. So how, by June, are we going to bottom out all the details of this contract and the cost, when we have not even done the extensive review to find out how many doctors should be there?

I do not know why ... Deputy Conder will have to explain to me why he thought my speech was vitriolic, *(Laughter)* but no doubt he will do that on another occasion.

I think somebody made the point they did not really see that my amendment was significantly different from the policy letter. I think the main issue of the policy letter is that it seems to me to be highly critical. I think my amendments gave a greater flexibility and I also think it just highlighted the fact that there was a commitment there to pay the Medical Specialist Group £165,000 to work out how the services should be reconfigured. And if we are going into a new form of contract, I do not see how that can be done without working out how the service can be reconfigured. It is just, to my mind, a nonsense to say, 'All right, we have agreed to pay £165,000 in 2012 to show us how the service is reconfigured. Ha! But now we have actually found out that we do want to reconfigure the services we have decided to wipe that bit out.' It was just trying to be more straightforward and honest about a contractual commitment which I understood was there already, but if Members did not like that option they could vote that one option out separately. There are several other issues in the contract, such as medical reviews, which have not taken place.

So I would ask Members to vote for the amendment. The purpose of voting for the amendment is to try and ensure that it is more likely that doctors will come to the Island. If you do not vote for the amendment, that is the position that changes and it may well be that doctors are less likely to come here, but that is your judgement.

**The Bailiff:** We vote then, Members, on the amendment proposed by Deputy Hadley and seconded by Deputy Sherbourne, and there is a request for a recorded vote.

*There was a recorded vote.*

**The Bailiff:** It seems to me, Members, that the amendment was lost. We will move on with the next amendment while those votes are counted.

Deputy Adam.

*Amendment:*

*To delete Proposition 1 and replace it with a new Proposition 1 as follows:*

*'1. To agree that the Health and Social Services Department and the Social Security Department shall enter into negotiations with the Medical Specialist Group for the provision of secondary health care on a five year rolling contract based on the objectives set out in paragraph 15(a) of that Policy Letter and to agree that, subject to those negotiations leading to an acceptable contract based on the objectives set out in paragraph 15(a) of that Policy Letter, such a five year rolling contract should have effect from 1st January 2018 or sooner if possible.'*

*To delete Proposition 3 and replace it with a new Proposition 3 as follows:*

*'3. To direct the Health and Social Services Department to report to the States with any recommendations it considers necessary in relation to the future provision of secondary healthcare if by the end of 2016 it appears to the Department that negotiations with the Medical Specialist Group are unlikely to lead to an acceptable five year rolling contract based on the objectives set out in paragraph 15(a) of that Policy Letter.'*

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

I would ask the Greffier to read out this menu ... this amendment for me, please. *(Laughter)*

**The Bailiff:** Can you read the amendment for me, please, Greffier, and then count the votes later.

*The Greffier read out the amendment.*

**The Bailiff:** Deputy Adam.

3815 **Deputy Adam:** Thank you, sir.

It may be very likely I shall repeat some of what has been said already this afternoon.

3820 Firstly, I do not necessarily believe in looking back at all the historical events over the last 15 years or 25 years of the MSG contract, but what is important is the future. We must achieve a viable, sustainable way forward for the provision of the medical aspects of our Health Services which is flexible and co-ordinated with the services that are the priorities for HSSD. This means a large amount of review by both the MSG and by the HSSD. HSSD wish to take the next five years to help to review their services and control expenditure, and this will be continued for another five to 10 years to continue that process. But at the same time the benefits of quality medical services must continue to be available to our community, not just for the benefit of locals but for everyone who lives in Guernsey.

3825 In my view, this amendment makes this more achievable than in the Propositions as they stand in the States' Report. Obviously, since I wrote this things have changed. This Proposition removes the words:

'subject to a right for either party to terminate the revised contractual arrangements with not less than two years' notice before the expiry date of any five year contract term.'

3830 That has been changed and I agreed that the change was more balanced and, to me, fairer than what was in the original States' Report. It tends to define what a rolling five-year contract would be as far as HSSD was concerned. It gives a five-year period when work can be done to move forward to make sure that we get the changes that are necessary. The importance of that is that, as has already been said, to think we can get all the way down that road by the end of next year is not realistic. What one would hope one would achieve is a contract that has the overarching values and intentions of what we wish to be provided. It will not have all and every detail. It cannot have all and every detail, because the reviews of each speciality may be required to decide how many consultants and decide what services should be provided by HSSD.

3840 As long as there are basic terms and conditions agreed, with a clear plan on the way forward, I would have thought that that would be sufficient grounds for the contract to be continued for the first five years.

Deputy Luxon stated that there did not need to be any terms and conditions for terminating a contract, and if that is his opinion one has to accept it, although I think there would be good enough relationships between all parties to ensure that everyone understands if things do not work out.

3845 The main reason, as has been reiterated on several occasions, why a five-year rolling contract, is to try and offer reasonable terms to an incoming consultant to come and work, and want to work, in Guernsey. Medical consultants have been considered essential workers, GPs are considered essential workers, and the States of Guernsey and the Housing Department recognise that. Therefore, they were originally given 15-year licences. Government understands that persons applying for such senior posts, which are outside mainstream medical positions, deserve the 15 years and expects them to be able to have contracts of working in medical services in Guernsey for at least this length of time. I have already stated we are all fully aware of the problems of retention and recruitment across medical services and the necessity for 15-year licences for positions that involve long-term commitment. That often includes the psychiatric nurses, because mental health patients like to have the same face discussing a personal interest with them.

3855 There should be no unresolved disagreement with MSG, unless of course there is a lack of commitment to making the contract work. I wish to change the system, as has been suggested by some officers and Board members within HSSD. The contract is unique: a private company which supplies medical services for States' Departments of HSSD and SSD. This private company employs medical practitioners, who may be partners in the company or associates. All contracts, which must be acceptable to the Royal Colleges of their speciality, will be signed. That would be similar to conditions for NHS consultants, but as already stated, NHS consultants have 10 PAs in a

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contract, whereas the MSG ones tend to work on an average of 14 PAs, and that was in a document that was carried out in 2012.

3865 Again, I think it is important to remember that these consultants are leaving what might be considered a fairly secure position, leaving the security of a pensioned employment, opting out of the NHS and uprooting their families. They must be offered some stability and longevity of contract. One hopes that agreement of the Assembly for Deputy Luxon's amendment will give that certainty.

3870 The second change to the proposed resolution is in relation to Proposition 3. The new Proposition requires HSSD to report to the States with any recommendation it considers necessary in relation to the future provision of secondary healthcare if, by the end of 2016, it appears to the Department that negotiations with the MSG are unlikely to lead to accepting a five-year rolling contract based on the objectives as set out in paragraph 15(a). This would require  
3875 detailed information on any negotiations that had taken place, with a clear audit trail of the meetings and discussions to ensure adequate engagement had occurred.

For a number of reasons not necessarily related to the present Board, work to prepare for the negotiations for a new contract with MSG did not progress in a timely manner. It was planned as part of the development of 2020 Vision, and initially work was done in 2012. Some 18 months  
3880 then passed with little or no progress before the programme board was taken on by the chief executive in mid-2014. There was a further stall in the last month of 2014 due to the impact from the NMC review and its consequences. Thus we are possibly where we do not want to be: a complex negotiation on both sides to achieve value for money and a sustainable cost-effective outcome which fits in with the transformation decisions of HSSD.

3885 MSG is contracted to provide specialist medical services in specific fields to treat patients who require more specialist treatment considered as secondary care as compared with those in primary care. HSSD is required to decide what services must be covered. This requires a root-and-branch review of all presently covered services – what are essential, what are desirable, what are affordable – all in relation to what the expectations of the community are. HSSD provides all the  
3890 support: the hospital buildings, diagnostic facilities, nursing staff etc.

As stated, HSSD's transformation programme involved an initial period of five years where this Assembly agreed to an initial financial input to achieve the initial savings and further development and transformation of service over 10 years. Introducing a significant change in medical input, whether it be within the MSG or in the A&E department, puts a great deal of pressure on HSSD  
3895 staff at all levels. To move away from a contract with MSG during such a time of change may be an initiative too far. This is recognised advice given by the Project Board and the Clinical Senate.

There appears to be willingness on all sides to progress negotiations, but given their complexity it is unrealistic to expect these to be completed by the target date of June 2016. As I stated, it should be possible to know by the end of 2016 whether negotiations are likely to  
3900 progress to an acceptable agreement. If the then Board is advised by the Department that an acceptable contract with MSG is not achievable, I feel they should bring the recommendations back to the Assembly.

This debate was necessary because a new contract, or a revised contract, was necessary. If it is not with the MSG, it is likely to be with NHS-trained consultants, but I do strongly feel that it is  
3905 necessary for some idea of costings etc. to be brought back to this Assembly so they can have an opportunity of stating their views concerning the situation.

I do not believe this Assembly should endorse HSSD's intention to proceed to set up direct internal provision of secondary healthcare with the information that has been given in this report. There is not sufficient evidence to justify HSSD claiming that such a direct internal provision can  
3910 be achieved or that it will be more cost effective. Thus, again I say it is essential that HSSD brings a further States' report and recommendations for the provision of secondary healthcare, so that Members may be the final decision makers and be fully informed of the risks of disengaging. Apart from that, it may be that if the negotiations do not progress satisfactorily, HSSD may look at

other ways of providing secondary care and not necessarily taking it in-house, depending on the cost basis.

Thus, sir, as stated, the first Proposition, to a certain extent, is replaced by Deputy Luxon's amendment, but the second one, I feel, is essential to ensure that the authority to change the whole medical system in Guernsey is considered by the new Assembly.

I trust Members will support this amendment, remembering, as I have stated, that the first Proposition has been more or less replaced by Deputy Luxon's amendment.

Thank you, sir.

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

**Deputy Le Lièvre:** I do, sir, and reserve my right to speak.

*Amendment by Deputies Hadley and Sherbourne*

*Not carried – Pour 5, Contre 40, Ne vote pas 0, Absent 1*

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Green	Deputy Fallaize	None	Deputy David Jones
Deputy Hadley	Deputy Laurie Queripel		
Alderney Rep. Jean	Deputy Lowe		
Alderney Rep. McKinley	Deputy Le Lièvre		
Deputy Sherbourne	Deputy Spruce		
	Deputy Collins		
	Deputy Duquemin		
	Deputy Dorey		
	Deputy Paint		
	Deputy Le Tocq		
	Deputy James		
	Deputy Adam		
	Deputy Perrot		
	Deputy Brouard		
	Deputy Wilkie		
	Deputy De Lisle		
	Deputy Burford		
	Deputy Inglis		
	Deputy Soulsby		
	Deputy Sillars		
	Deputy Luxon		
	Deputy O'Hara		
	Deputy Quin		
	Deputy Harwood		
	Deputy Kuttelwascher		
	Deputy Brehaut		
	Deputy Domaille		
	Deputy Langlois		
	Deputy Robert Jones		
	Deputy Le Clerc		
	Deputy Gollop		
	Deputy Conder		
	Deputy Bebb		
	Deputy Lester Queripel		
	Deputy St Pier		
	Deputy Stewart		
	Deputy Gillson		
	Deputy Le Pelley		
	Deputy Ogier		
	Deputy Trott		

**The Bailiff:** Before we formally open debate I can announce the result of the voting on the Deputy Hadley/Deputy Sherbourne amendment.

There were 5 votes in favour with 40 against. I declare that amendment lost.



Deputy Luxon.

**Deputy Luxon:** Thank you, Mr Bailiff. I will be brief.

3935 I would like to thank Deputies Adam, Le Lièvre and Fallaize for this helpful-intent amendment.  
(*Laughter*) I remember when I found out about this amendment, because I was in Jersey overnight  
and Deputy Adam rang me on my phone and he said – I cannot do the accent – ‘Paul, I don’t like  
ringing mobile phones,’ and I said, ‘Well, I’m actually in Jersey,’ and he said, ‘Right, well, ring me  
back.’ It cost me £6.46 to listen to him tell me about his amendment. (*Laughter*) The T&R Minister  
3940 really did choose well on his Board, didn’t he! (*Laughter*)

Sir, briefly, I do recognise this amendment was laid before knowledge of the earlier approved  
amendment that I laid, so Proposition 1, as Deputy Adam said, has changed. The concern that we  
did have with his first Proposition was that just referring to a rolling contract, for us, actually made  
the situation less clear than the policy letter and therefore would not have been helpful.  
3945 Nevertheless, this Assembly has approved the amendment that I laid before.

But with regard to Proposition 3 we have a real difficulty, in that the current contract states  
that if agreement between the parties on a new contract has not been reached by 31st December  
2016 then the contract will expire on 31st December 2017, as Deputy Perrot highlighted in his  
contract précis. Therefore, if negotiations fail to conclude within the agreed contract by the end of  
3950 2016, it will be too late, in our opinion and in the Joint Board’s opinion, to then devise any new  
recommendations which have not already been determined, assessed and included within the  
policy letter we are debating today. The Project Board has already gone through the exercise of  
looking at options and we have presented eight of those options in the policy letter for Members  
to see. The reason for setting out the alternative reserve option should negotiations not lead to a  
3955 new contract is for this very reason of complying with the existing termination process of the  
current contract.

Deputy Adam was intending to give more time for negotiations with this amendment, as he  
explained to me. However, we had already achieved that by softening the June date. Some  
Members in previous debates today have talked about the June date – I think Deputy Hadley –  
3960 but that is not a drop-dead date that would soften that, so it is a target date rather than a drop-  
dead date. Instructing HSSD to bring a policy letter back to the States – although it says *by*  
December 2016, in real terms *in* December 2016 – with new recommendations that we have  
already set out in this letter would simply not be practicable or wise. To present a policy letter in  
December, the work and drafting for that report would need to start in August at the latest, the  
3965 very time that all parties should be busy moving towards completion of the negotiations to  
achieve the preferred option of a renewed contract under new terms, but we would not  
necessarily have finalised that agreement, so to start the work on a new policy letter regarding  
options to present to this Assembly in December is simply not practical and not logical when we  
have already set out what the plan B is.

3970 This amendment, although well intentioned, does not improve the complex service model  
review negotiations process at all and it also removes the reserve option as an option, this being  
our contingency plan should the preferred option of a redesigned contract not come to fruition.  
The States and Joint Boards would be left with one year in which to resolve provision for  
secondary healthcare provision from 1st January 2018 – not a happy position to find ourselves in  
3975 at all, and I do not imagine our current secondary healthcare provider would welcome that level of  
uncertainty.

The policy letter is clear: option 3 is the preferred option with a rolling five-year notice period  
term, with option 4 as a fallback position. This amendment undermines that preferred way  
forward: it does not help; it does not move us forward.

3980 Sir, just a couple of responses to Deputy Adam’s opening speech. He mentioned about  
flexibility. Well, there is flexibility. If Members look at 15(e) at paragraph 29 and paragraph 85, it  
talks about having flexibility in the new contract. Of course it is not going to be possible to  
achieve everything that we have set out in the policy letter. If we had started this exercise back in

2012 or 2013 we would have been in a position, but the reality is that we should be clear between all parties about what the new service delivery model should be along with the contract negotiations.

Can I also say that in the UK consultants commonly in the NHS work 12 PAs a week and they tend to be four hours rather than three hours. I just wanted to correct something that Deputy Adam said.

Again, I would reiterate: option 3 is our preferred option.

Deputy Adam also said that there is no evidence of why the reserve option, option 4, is appropriate for Members to consider. The evidence is that it is the only choice we have got. We have a contract and we have moved towards the 11th hour for the last two years. The reason that the evidence is there is that it is what is said in the contract. It sets out what happens if we fail to agree.

Members I would ask you to reject this amendment and remember that we are committed to securing a new renewed contract with the MSG and we hope that this becomes irrelevant.

Thank you, sir.

**The Bailiff:** Deputy Fallaize.

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

In the end, I was persuaded to vote against Deputy Hadley's amendment, mainly because of the part of it that proposed contributing to the MSG's negotiators, and also a little because of the arguments against providing more flexibility.

Deputy Adam's new Proposition 1 is no different materially to the Proposition 1 which exists now as a result of the Luxon-Langlois amendment, but of course his proposed new Proposition 3 is very different from HSSD's proposal.

I want to refer to the part of the policy letter which talks about this reserve option, because I think the States need to be very clear what they are being asked to vote on. It says in the policy letter:

'96. This Part'

– the reserve option –

'details the alternative option should negotiations not achieve the acceptable outcomes as required by the target date of 30th June 2016.

97. Discussions have provisionally commenced with MSG subject to States approval but there is a risk that agreement might not be able to be reached with MSG:

- a. by a failure of the parties to agree on an acceptable form of redesigned Contract; or
- b. within a sufficient time to enable HSSD and SSD to put in place contingency arrangements ...

98. Accordingly it has been necessary to put in place arrangements to meet this risk.'

They are:

'a. the provision of a target review date, namely the 30th June 2016 by which time it is intended agreement will be reached ...; and

b. in the event of agreement not having been reached the implementation of Option 4 ...'

That is direct internal provision. That is what the States are being asked to agree.

This morning we debated the Disability and Inclusion Strategy, which was not, when it was approved, terribly ambitious, and it has taken two years to get ... well, on an unkind interpretation one could say not very far, certainly not as far as we would have liked.

Some time ago there was a crisis – another crisis – in the provision of an ambulance service in Guernsey, and a review was commissioned into the future ambulance provision. It has taken one year to arrive at very general and certainly not very ambitious proposals with regard to the future of the ambulance service: one year.

Here, we have a policy letter which says negotiations have not started yet but we think we can reach an agreement by 30th June 2016, seven months. Sir, that, as far as I can see, is totally unrealistic and I have heard nothing in the speeches from Members of HSSD today to persuade me otherwise. It is okay to say, 'Well, that is in there to give us a bit of leverage in our negotiating position' – I can sort of understand that, but what we have to remember is there is an election between now and then and the successors to HSSD, if Proposition 3 is approved unamended, will have a States' Resolution which says the States have endorsed the intention of HSSD to set up direct internal provision if an acceptable form of contract cannot be negotiated generally in accordance with the proposals contained in the policy letter. Well, the date in the policy letter is 30th June 2016. So, if Proposition 3 is approved unamended, HSSD will have the approval of the States to set up direct internal provision without further reference to the States.

That is as I understand it. If that is not the case ... I know Deputy Luxon has already spoken, but perhaps Deputy Soulsby, as the Deputy Minister, could put me right about that. Is it the case that, in the event that HSSD reach the conclusion that they need to set up direct internal provision, they can do it off the back of Proposition 3 without seeking a further States' resolution? Or is it that HSSD would require, or would give an undertaking that they would return to the States to seek a further resolution? Because this is the problem.

I entirely understand the difficult position that HSSD are in. It has been left too late. We should have had this debate two years ago. Clearly, HSSD has inherited not just a difficult position but an impossible position. Nonetheless we are being faced today with a Proposition which asks us to endorse that we will move to direct internal provision if a satisfactory agreement cannot be reached with the MSG – and it says in the policy letter by 30th June 2016. I just cannot see how the States can possibly agree to that. It takes us years to do things which are far more simple than this.

What did Deputy Luxon say? This is a contract worth £170 million or so over the next 10 years. For the States to take on the direct provision of secondary healthcare when they have never done that before is an enormous undertaking, and to expect us to agree to that without a further States' resolution on the subject, on the back of this policy letter if agreement with the MSG is not reached in the next six months is, I think, irresponsible.

It is not true to say that the only options are negotiate successfully with the MSG by next year or internal provision. I am not going to say any more on that, because Deputy Luxon will tell me off if I do – but that is not the only option, and everybody in this Assembly knows those are not the only options. It is not right, in my view, for the States to make a resolution today which endorses going to direct internal provision if HSSD, by HSSD's judgement – no one else would have to be involved in this judgement ... if they decide that by the middle of next year they cannot reach a satisfactory conclusion with the MSG.

It is not a responsible or safe resolution and therefore, sir, despite having enormous sympathy with HSSD for the frankly impossible position they find themselves in, I think Deputy Adam's amendment is imperfect but safer.

Thank you, sir.

**The Bailiff:** Deputy Bebb.

**Deputy Bebb:** Thank you, Monsieur le Bailli.

I fully agree with Deputy Fallaize's analysis on the situation that Proposition 3, as it stands in the Billet, makes clear that HSSD will have the authority without further recourse to this Assembly to create direct provision – but I differ in my conclusion.

I must say that, of my experience of the ambulance contract, five Members of HSSD were fully appraised of a complex situation as to ambulance provision. It is not a simple matter. Five Members of HSSD were fully appraised of all the complexity and came to a conclusion; but, because of certain involvement of other people, that did not come to pass. I have to be very honest in saying that my true feeling is that we would be in a better position if those external

factors not in full receipt of all the detail as to ambulance provision, had kept their noses to themselves. (**A Member:** Hear, hear.) And that is why I am of the firm belief that to return to this Assembly, that does not have full knowledge or even anywhere near the knowledge of those five Members of HSSD as to the revision of secondary healthcare, and ask them for their opinion is inappropriate.

I think that we have come to the position where we know what the provisions are –

I give way to Deputy Fallaize –

**Deputy Fallaize:** I am grateful to Deputy Bebb, but does he not accept the additional risk: 30th June is two months after a General Election. The five Members of HSSD's successor committee could be newly elected Deputies. (*Interjection and laughter*)

**Deputy Bebb:** It is very true, and Deputy Fallaize makes full reference to the difficulties, given that we have got the timescales that we are in. However, let us be completely honest that of course it is known that anybody who stands for election for HSSD in the next term will do so in the full knowledge that there is only one matter that will take those first two months.

I give way to Deputy Luxon –

**Deputy Luxon:** I thank Deputy Bebb for giving way.

It was just to correct a fact between the Deputies Bebb and Fallaize exchange. The 30th June date is not a drop-dead date. It is very clear in the policy letter that it is a target date and that it is to give an indication of how the negotiations are progressing. There are 13 months if we approve this policy letter, not just six or seven months.

Thank you, sir.

**Deputy Bebb:** I thank Deputy Luxon for that further clarification as well.

I feel that we have to ask the question today whether or not we have confidence in five Members of the Assembly to come to the right conclusion, having done the work.

I spent rather an enormous amount of time looking at the various options available for secondary healthcare provision. As I said, there are only three options available worldwide: the first is private provision, and if we get to the stage that the contract will not be renegotiated there will not be time to move to a completely separate private provision; the second is direct provision; and the third is what we have, which equates to barristers in chambers. I think that the Department is stating clearly that its preference is to come to a new agreement with the current provider, but I think that it is also making quite clear that should that fail, in accordance with the contract, in accordance with the only options available, the only thing to do is to go for direct provision. So I ask those people who moved this amendment: what benefit that debate? We know now what the options are. There is not anything else. There might be other options, as Deputy Fallaize suggests, as to other options between now and then. However, I would state clearly now that my expectation, by staying with what the Department is originally proposing and by Deputy Luxon's speech that he stays by that, is that I do not expect this issue to come back before the States and I do not expect an Emergency Provisions Authority to suddenly step in.

Full authority is being vested in HSSD to come to a conclusion. That is what they wish; that is what I believe is the correct manner of progressing. Whether other people disagree, the only question I would ask now ... All the information that you wish to have in relation to secondary healthcare provision is available, were you so minded as to go and spend some time on the internet or in the library at the PEH. That is what I did I spent a lot of time at the library at the PEH and I read the details; I got to grips with it. What I state clearly now is that if that is your interest, that time and effort should have been spent prior to today to appraise yourself of exactly what is being asked.

I think the right solution is as the Department has written, because otherwise two or three months into the next States there will be a decision asked of the full Assembly, and I ask whether

that is any better than the five who have invested great time and effort into resolving this question. There are times when we need to let go of decisions – this is one of them. Please reject this amendment.

4130       **The Bailiff:** Members, it has now just turned 5.30. Can I just have an indication of how many more people wish to speak on this amendment? Can you stand in your place if you intend to speak. There are only two, perhaps three.

          I will put the proposition to you that we continue in order to complete this amendment this evening. If you do not want to, then vote against it, but I will put to you the proposition that we  
4135       continue in order to complete this amendment this evening. Those in favour; those against.

*Members voted Contre.*

**The Bailiff:** We will rise then. *(Laughter)*  
4140

*The Assembly adjourned at 5.33 p.m.*