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7<sup>th</sup> December 2018

Dear Sir

**Letter of Comment – Proposition No. P.2018/91 – Requête: Drug Funding**

I refer to the above requête which is scheduled for debate by the States on 12<sup>th</sup> December 2018. Deputy Roffey and six other Members of the States of Deliberation are seeking to direct the Committee *for* Health & Social Care and the Committee *for* Employment & Social Security that as a minimum outcome the current wide-ranging review of the funding of treatments, services and other interventions should result in Guernsey patients who are referred to the UK for tertiary treatment having access to the same range of medicines and treatments as NHS funded patients being treated in the same hospitals or medical centres for the same conditions.

The Policy & Resources Committee acknowledges that this is a highly emotive subject and has exercised its right to consult Committees mandated with these responsibilities. Under Rule 28 (2)(b) of the Rules of Procedures for the States of Deliberation and their Committees it “sets out its opinion in a letter of comment, appending thereto the views of all Committees so consulted”.

The Committee has sympathy for the ambition of the requérants and like the Committee *for* Health & Social Care (CfHSC) has respect for the intention of the requête. However it cannot support such a significant change in policy without the benefit of the comprehensive review already in train. It would be perverse to set up a review with outcomes defined in advance and without a clear understanding of all of the implications, both intended and unintended; cognisance of all of the significant consequences on public finances in the supply and administration of a wider range of treatments and pharmaceuticals; and without the benefit of understanding all of the options for tackling the inequities identified by the requérants.

In its consultation response, CfHSC has drawn attention to areas of policy not addressed by the requête's propositions such as the inequity between patients treated on and off Island, and consideration of treatments as well as drugs. It also highlights that the requête is silent on an approach for residents of Alderney. It is Policy and Resources' view that the review will be well placed to consider all these matters and bring to the Assembly the detailed information it requires if it is minded to introduce a new policy direction.

It is noted that CfHSC has only been able to estimate the costs as the full impact would only be known after the review, but already it is forecasting £4-5 million per annum for NICE-approved drugs and a further sum equating to several million pounds per annum for the full extension of NICE approved procedures and treatments for Guernsey patients. The overall financial impact would therefore not be something that could be managed easily and the Policy & Resources Committee would like any decision to be made with a full understanding of the implications either for expenditure elsewhere or taxation.

The Committee *for* Employment & Social Security (CfESS) has contributed to the CfHSC commentary and supports its recommendation that the States should await the findings of the review that is being undertaken by the Committee *for* Health & Social Care on the processes for funding of new drugs and medical treatments before returning, should that be necessary, to the issues raised in the requête.

CfESS has responded separately to the Policy & Resources Committee consultation to add a further comment concerning the current funding of drugs in the community setting, which comes from The Guernsey Health Service Fund. While it is not possible to quantify the financial impact of the requête on the community drugs budget at this stage, they point out that the full year forecast for the financial position of that Fund is to have an operational deficit of £2.7m, before investment income. Unless expenditure can be reduced, the current deficit and the potential further deficit of the Fund will need to be addressed through increases in contribution rates, by restoration of a grant to the Fund from General Revenue, or other cost saving initiatives within the provision of public services. As an indication of the measures that would be necessary, if £4m to £5m were to be raised through contributions, an increase in the contribution rate of 0.3% to 0.4% would be required.

Given the above, and attached detailed information from the Committees consulted on this matter, and the recently lodged amendment proposed by the Presidents of those Committees, the Policy & Resources Committee strongly recommends that the Assembly support proposition 1 of the amendment to ensure that the States can make a fully informed decision.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'G A St Pier', written in a cursive style.

Deputy G A St Pier  
President  
Policy & Resources Committee

cc Deputy Roffey  
President, Committee *for* Health & Social Care  
President, Committee *for* Employment & Social Security

Deputy G St Pier  
President  
Policy & Resources Committee  
Sir Charles Frossard House  
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15 November 2018

Dear Deputy St Pier



#### **Requête – Drug Funding**

Thank you for seeking the views of the Committee for Health & Social Care (the Committee) on the Requête led by Deputy Roffey in respect of Drug Funding.

The Committee respects the intention of the Requête, but cannot support it. It is currently carrying out its own review on the principles and criteria used to decide if the States should fund new drugs and treatments; the possible costs arising from any changes to the current approach; and the possible benefits to islanders' health of any such change. The results of the review, and the Committee's recommendations, will be reported to the States in a policy letter no later than Q3 2019.

The States unanimously agreed that it should carry out this review when it supported the Committee's Partnership of Purpose policy letter in December 2017 and, in more detail, through an HSC-led amendment to the Policy & Resource Plan in June 2018, which stated that:

*"the review of processes used to consider whether new drugs or medical treatments should be funded, as set out in Resolution 14 of Art XII, Billet d'Etat No XXIV of 2017, should:-*

- *Assess the guiding principles which should underpin resource allocation in health and social care;*

- *Take into account the need to ensure that limited resources are used fairly and equitably, maximising the value of care delivered to the population as a whole and the processes followed;*
- *Incorporate the experiences of other jurisdictions, including the guidance produced by the [UK's] National Institute of Health & Care Excellence [NICE];*
- *Consider whether a Guernsey and Alderney resident being treated in a UK tertiary centre should have access to all the drugs and treatments normally available in that tertiary centre."*

The Requête focuses on the question of the drugs available to Guernsey patients who are treated in UK hospitals. The Committee would like to point out that this was explicitly included in the terms of its own review (in the final bullet point, above), after discussions with Deputy Roffey and Deputy Merrett, in order to directly address this area of concern. **The review will address this question, and the Committee's policy letter will include an assessment of the practicality and affordability of adopting the approach recommended in the Requête.**

It should be noted that the Committee has commissioned Dr Henrietta Ewart, the Director of Public Health in the Isle of Man to provide independent input into the review. We think this is important in providing assurance that the Committee is taking this issue seriously and with an open mind.

In addition, there is currently considerable uncertainty over the implications that Brexit may have on various aspects of health and care, including the availability of drugs, both here and the UK. It is quite possible that any decision made now may not actually be deliverable, at least in the next few months. It is also important to note that the Committee keeps under constant review the drugs and treatments that it funds.

The Committee is therefore asking the States to wait for the results of the review before it makes any decisions about changing the current approach to funding drugs and treatments. The review will allow States Members to make an informed decision, with sufficient knowledge of the costs and benefits of different approaches. Until then, any decision the States makes on this subject will be taken without proper consideration of the financial implications, the knock-on consequences for other public services and other service-users – all of which could be significant.

The remainder of this response: identifies a number of specific concerns in respect of the prayer of the Requête; explains what financial information the Committee is able to provide in respect of the Requête, and why it is necessarily incomplete; provides more information about the current process for the funding of drugs and treatments in the Bailiwick; and sets out the Committee's understanding of processes in other jurisdictions. The Committee

would note that each of these areas will be thoroughly addressed in its review, and repeats its strong recommendation that the States should defer a decision on this area until the Committee brings forward the results of its review in a policy letter, no later than Q3 2019.

### **The Prayer of the Requête**

The prayer of the Requête is in four parts:

1. To direct [...] that as a minimum outcome the [...] review [...] should result in Guernsey patients who are referred to the UK for tertiary treatment having access to the same range of medicines and treatments as NHS funded patients being treated in the same hospitals or medical centres for the same conditions.
2. That such equality of access should also apply to those same Guernsey patients post-discharge or when they have returned to Guernsey after a tertiary treatment episode.
3. To direct the Committee for Health & Social Care and the Committee for Employment & Social Security to consider if there is any practical way to bring forward such a development ahead of the outcome of the general review.
4. That, in principle, in the medium term Guernsey should return to the policy of including all NICE approved drugs on the local white list.

In respect of Parts 1 and 2, the Committee notes that, in trying to resolve one inequity, the Requête inadvertently creates another one. That is, while Guernsey patients treated in the UK may be treated the same as their UK counterparts, the Requête would result in them being treated differently to their *Guernsey* counterparts on their return to the island. They would have access to a wider range of NICE-approved drugs and treatments than would necessarily be the case for patients who had never been referred to the UK for tertiary care. Whether or not this will be acceptable to Islanders, or has implications elsewhere in health and care, is something that needs to be considered.

The question in Part 3, as to whether any change could be progressed before the conclusion of the review, is one which the Committee would need to discuss with the Policy & Resources Committee. Given its 2019 Budget has already been approved, it would need to explore whether additional funding could be made available in-year if the States were to support the Requête. Of course, the Committee will include full costings and any consequential funding request in its policy letter next year.

In respect of Part 4, the Committee wishes to make clear that the States has never had a formal policy of including all NICE-approved drugs on its 'white list'. The prayer is therefore misleading in that respect. The last time the States set its policy direction on this subject was in Art III, Billet d'Etat XIII of 2003, at which time NICE evidently had a more limited remit. The Committee has set out the principles of its own internal decision-making processes in Policy G1033 (available at [www.gov.gg/fundingprioritisation](http://www.gov.gg/fundingprioritisation)) in the interests of demonstrating a fair, transparent and consistent approach to patients in a wide range of different circumstances. It is this policy that is subject to review.

Finally, the Committee notes that the Requête only refers to Guernsey patients. Were it to be supported by the States of Deliberation, it would therefore result in Alderney patients being discriminated against.

### **Financial Information**

The additional costs of adopting all NICE-approved drugs in the Bailiwick for all patients (those being treated on-Island and off-Island) is estimated to be in the range of £4-5 million per annum. This estimate is the anticipated additional cost relating to pharmaceuticals only and is based on a snapshot of the potential annual costs of prescribing a very limited number of drugs which have received a positive technology appraisal from NICE but which are not currently available locally. It should be noted that, in a small community, costs can fluctuate significantly due to a single patient: there is one example where a single drug for a single patient would cost £340,000 per annum.

In addition to drug costs, there is a wide range of NICE guidance about clinical procedures which, if adopted in full for Guernsey patients, would add significant costs to our on-Island and off-Island costs. For example, the States of Guernsey does not currently provide NICE approved treatments for in vitro fertilisation (IVF), sleep apnoea, non-invasive ventilation, bariatric surgery, plus many other examples. It should also be noted that not all UK clinical commissioning groups fund all NICE-approved clinical pathways.

It has not been possible to make an accurate estimate of these costs, but the full extension of NICE approved procedures and treatments for Guernsey patients would likely amount to an additional sum equating to several million pounds per annum.

These figures must be treated as estimates which are at best indicative: the Committee will require the detailed analysis, which is being completed as part of its review, in order to provide more robust figures. The Committee would also advise that these figures relate purely to the cost of providing the drugs: they do not factor in the benefits derived from the treatment, nor the associated costs of testing or prescribing, the impact on hospital bed days and use of facilities, or the relative costs of alternative treatment options. For

example, the Committee's Pharmaceutical Team which prepares chemotherapy medication is already working at full capacity and would require additional resources if changes to the approved drugs list resulted in an increase in its workload.

These calculations also do not address the opportunity costs of the Requête: that is, the resources which the Committee will have to spend on drugs and treatments which may offer patients little benefit in terms of additional length or quality of life, which it will not have available to spend on other health and care services if additional funding is not provided. The automatic funding of NICE-approved treatments has been identified as a concern for UK NHS services as it has, in some instances, led to a shortfall of funds for other services. The risk is magnified in Guernsey, where adults' and children's social services are funded from the same budget as health services and, as they cannot be so easily quantified as drugs and treatments, are likely to be the first to feel the squeeze.

Conversely, if additional funding is available, consideration needs to be given as to whether priority should be given to extending the availability of new drugs and treatments over investment in other parts of the service.

#### **Current Bailiwick Process – Funding New Drugs and Treatments**

As noted above, the current policy direction for funding drugs and treatments is set out in Art III, Billet d'Etat XIII of 2003 and the Committee's internal policy (G1033) is available online at [www.gov.gg/fundingprioritisation](http://www.gov.gg/fundingprioritisation). There is a separate policy and process for 'Individual Funding Requests' (G1002) – which are not the subject of this Requête, but will be in scope for the review – also available online.

In addition to the Committee, the Committee *for* Employment & Social Security (ESS) has a significant role in drug-funding decisions under the Health Service (Benefit) (Guernsey) Law, 1990. While the Committee is responsible for determining which drugs should be funded for use within its premises, ESS is responsible for deciding which drugs should be funded in the community, at the subsidised prescription rate.

The two Committees agree that there should be consistency in their decision-making processes, and have already consolidated two separate advisory committees (the Committee's former Drugs & Therapeutics Committee and ESS's former Prescribing Benefit Advisory Committee) into a single body, responsible for advising both Committees on drug funding decisions. The Committees are also working with the Policy & Resources Committee on the transfer of all health-related policy-making (including stewardship of the Health Services Fund) from ESS to the Committee, and see this as an opportunity for further consolidation of their approaches. A review of the work of these committees over the last



two years found that 47 requests for new medicines to be made available to Guernsey residents both on and off island were approved.

With regard to those patients receiving off-Island care, from a total of 8,000 episodes of off-Island care commissioned by the Committee in the past two-years, five such requests for new medicines to be made available were declined.

In addition, the Committees' Prescribing Support Unit provides advice and guidance to local doctors (GPs and consultants) on prescribing choices, including the use of cheaper generic (non-branded) options which are similar in effect to their branded alternatives. This is an important part of the Committees' approach, which has had an impressive track record in terms of containing overall costs locally despite regular above-inflation rises in the costs of drug ingredients.

### **Processes in Other Jurisdictions**

#### **UK**

NICE seeks to improve outcomes for people using the NHS and other public health and social care services by evidence-based guidelines, developing quality standards and performance metrics, and providing a range of information services for commissioners and providers of health and care.

NICE guidelines all have the status of 'guidance' in the NHS in England, and are adopted to varying extents according to local wants, needs and available budget. However, in 2012, in an attempt to tackle the 'postcode lottery' in health, it was made mandatory for health service commissioners in England to fund all drugs recommended via NICE Technology Appraisals (TAs).

NICE TAs are generally opinions on new, expensive and controversial drugs. However, a positive NICE TA does not mean that the drug *must* be prescribed, and many practices and hospitals have a preferred treatment. Similarly, it's not uncommon for GPs to switch patients from a treatment recommended by a specialist to a 'preferred' drug. As no additional funding was made available as part of the 2012 changes, inevitably other services were decommissioned as a result. NHS England has recently obtained agreement that a delay may be granted to commissioners, or a restriction put in place, if a newly-approved drug is likely to cost more than £20 million per year.

#### **Jersey**

The Committee understands that the policy is very similar to here and drugs are not automatically added to the 'white-list' following publication of a NICE TA, but rather used in supporting evidence when an application is made. Drugs that are funded through the NHS England Cancer Drugs Fund, based on a conditional NICE approval, are not funded in Jersey,

unless an Individual Funding Request is agreed. Similarly, Jersey will not routinely provide or fund treatments that have received a negative NICE technology appraisal, although it may consider an Individual Funding Request in exceptional circumstances.

### **Isle of Man**

The Committee notes that the Requête includes the Isle of Man's interim policy in respect of Funding Arrangements for Cancer Drugs. However, the Committee understands that the policy is interim precisely because of concerns about affordability, and a review is currently underway in respect of the financial impact.

### **Recommendations**

The Committee *for* Health & Social Care would note that the funding of drugs and treatments is a complex area, which has the potential to incur significant costs to the States, and which requires difficult ethical decisions to be made, in the interests of treating patients fairly and equitably. The Committee does not believe it would be wise to change the current policy direction of the States without the cost-benefit analysis and practical considerations, including in respect of affordability, which can only be addressed through a proper review. Neither does it believe that it is wise making such decisions at a time of considerable uncertainty over Brexit.

The Committee stresses that, in trying to address one perceived inequity for patients receiving treatment off-island, the Requête risks creating a greater inequity between those patients and their local counterparts, and does not believe the case for doing so would stand up to scrutiny and that a 'minimum outcome' can't be justified. The Committee is wholly sympathetic to the aims of the Requête – it has been committed to reviewing the existing policy direction since its Partnership of Purpose policy letter, and restated that commitment in its June 2018 amendment to the Policy & Resource Plan, which aimed specifically to take on board the concerns of the Requête and which the Committee still promises to address fully in its review. However, the Committee does not believe that these decisions should be taken without first having the benefit of that detailed work, and it will be asking the States to defer its decision accordingly.

Yours sincerely



**Deputy H Soulsby**

President

Committee *for* Health & Social Care



Committee for  
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Date: 5 December 2018

Dear Deputy St Pier

### **Requête – Drug Funding**

I refer to the Requête lodged by Deputy Peter Roffey and others, which is scheduled for debate at the December meeting of the States.

The Committee notes the detailed commentary that you have received from the Committee *for* Health & Social Care. The Committee *for* Employment & Social Security contributed to that commentary and supports its recommendation that the States should await the findings of the review that is being undertaken by the Committee *for* Health & Social Care on the processes for funding of new drugs and medical treatments before returning, should that be necessary, to the issues raised in the Requête.

The Committee wishes to add a further comment concerning the current funding of drugs in the community setting, which comes from The Guernsey Health Service Fund. The full year forecast for financial position of that Fund is to have an operational deficit of £2.7m, before investment income. The letter from the Committee *for* Health & Social Care contains the estimate that the additional costs of allowing all NICE-approved drugs to be available in Guernsey and Alderney would be in the range £4m to £5m per annum. Unless expenditure can be reduced, the current deficit and the potential further deficit of the Fund will need to be addressed through increases in contribution rates or by restoration of a grant to the Fund from General Revenue. As an indication of the measures that would be necessary, if £4m to £5m were to be raised through contributions, an increase in the contribution rate of 0.3% to 0.4% would be required.

Yours sincerely

Deputy Michelle Le Clerc  
President