



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 4th September 2019

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Present:

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

Law Officers

R. M. Titterington, Q.C. (H.M. Comptroller)

People's Deputies

St Peter Port South

Deputies P. T. R. Ferbrache, J. Kuttelwascher, D. A. Tindall,
B. L. Brehaut, R. H. Tooley

St Peter Port North

Deputies J. A. B. Gollop, C. N. K. Parkinson, L. C. Queripel,
M. K. Le Clerc, M. P. Leadbeater

St Sampson

Deputies L. S. Trott, P. R. Le Pelley, J. S. Merrett, G. A. St Pier,
T. J. Stephens, C. P. Meerveld

The Vale

Deputies N. R. Inder, M. M. Lowe, L. B. Queripel,
J. C. S. F. Smithies, S. T. Hansmann Rouxel

The Castel

Deputies R. Graham L.V.O, M. B. E, C. J. Green, B. J. E. Paint,
M. H. Dorey, J. P. Le Tocq

The West

Deputies A. H. Brouard, A. C. Dudley-Owen, E. A. Yerby,
D. de G. De Lisle

The South-East

Deputies H. J. R. Soulsby, H. L. de Sausmarez, P. J. Roffey, R. G. Prow, V. S. Oliver

Representatives of the Island of Alderney

Alderney Representatives S. Roberts and A. Snowdon

The Clerk to the States of Deliberation

S. Ross, (Her Majesty's Senior Deputy Greffier)

Absent at the Evocation

Miss M. M. E. Pullum, Q.C. (H.M. Procureur); J. I. Mooney (*indisposé*);
M. J. Fallaize (*relevé à 9h 55*); Deputy S. L. Langlois (*relevé à 11h 28*)

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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 Senior Deputy Greffier: Billet d'État XVI and XVII of 2019. 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 4th September 2019 at 9.30 a.m. to consider the items listed in these billets which have been submitted for debate. Billet d'État XVII is convened pursuant to the provisions of Rule 2(4) of the Rules of Procedure.

The Bailiff: Members of the States, good morning to you all and welcome back after the summer break.

IN MEMORIAM

Former Alderney Representative Lieutenant-Colonel Peter Walter M.B.E. MC and Bar

The Bailiff: As you know it is normal that we pay tribute at the earliest available opportunity to any States' Member or, more usually, former States' Member who has passed away and we do so unless the Member concerned has requested otherwise.

Sadly, we must start this meeting by paying tribute to Former Alderney Representative Lieutenant-Colonel Peter Frederick Walter M.B.E. MC and Bar who passed away in Alderney on the 28th June aged 91.

Peter was a tough, no-nonsense professional soldier whose service included stints in the SAS and the Parachute Regiment. He won the Military Cross twice in actions against terrorists in the Jungles of Malaya and in the Mountains of the Yemen. He was appointed M.B.E. for exemplary leadership in an operation against another group of terrorists in Malaya. He inspired generations of young British soldiers with his dedication to practical, hard training for war.

He did no less than 47 years of continuous military service before, in 1980, moving to Alderney. However, he kept up his military links and in September 1984 raised an Army Cadet Force which took the title of the Royal Alderney Militia.

Colonel Walter was a Member of the States of Alderney for 23 years from 1983 to 2006, for the last seven years of which he served as Vice-President.

25 Colonel Walters sat in this Assembly as an Alderney Representative for three separate terms starting in 1990 and finishing with his retirement from the States of Alderney at the end of 2006. They amounted to 10½ years in total.

Although he never sat on a States of Guernsey Committee he did serve as an Alderney Representative on the Joint Guernsey Alderney Consultative Council which was set up in 1995
30 comprising senior politicians from both Islands with a mandate to improve consultation and liaison between their respective States. It was abolished in 2004 when inter-Island liaison was given to the Policy Council.

He was always a fierce defender of his adopted Island. He held forthright opinions and certainly would never have been called politically correct.

35 He leaves widow, Annie, two sons Hugh and Guy by his first marriage and a step-daughter Elizabeth. We extend our sincere condolences to them.

Please rise to honour his memory.

Members stood in silence.

The Bailiff: Thank you very much.

STATEMENTS

Personal Statement – Deputy Dudley-Owen

40 **The Bailiff:** Now we start the business of the day with a number of Statements and the first is to be a personal statement under Rule 10(1) which I have given permission to Deputy Dudley-Owen to deliver.

Deputy Dudley-Owen.

45 **Deputy Dudley-Owen:** Thank you, sir. I deliver this personal statement under the strictures of Parliamentary Language Convention.

I am very grateful for being allowed to make a personal statement today and thank the Bailiff for his kind permission at short notice.

50 It has come to my attention over the weekend that a Code of Conduct Complaint was made against Deputy Graham a month ago, by two members of the public in respect of statements of which I was one of the unnamed but identifiable subjects. As this has now come to the attention of the media, I feel it necessary to make a statement in this regard.

55 The complaint was upheld under Part 9 of the Code: that Members should at all times treat other Members, civil servants, and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process.

60 The complainants, who were previously unknown to me, shared with me their email correspondence with Deputy Graham and have given me permission to refer to it. I was shocked and hurt to see in that correspondence that a number of inaccurate statements had been made about me by Deputy Graham.

I believe that I have not been treated with respect or courtesy and in fact the emails I have seen evidence that statements and assertions about me and my behaviour have been made by Deputy Graham which are simply not correct.

65 As these may have been repeated I therefore respectfully ask Members to ignore statements which may have been made about me by Deputy Graham, in relation to the matter of the Code of Conduct Complaint.

Deputy Graham did not attempt to check with me in advance the accuracy of the statements he has made about me and I have received no apology from Deputy Graham, and this matter is a great disappointment to me.

70 Thank you, sir.

**Update on the Current Financial Position –
Statement by the President of the Policy & Resources Committee**

The Bailiff: We move on with the Committee statements. The first of which is to be delivered by the President of the Policy & Resources Committee an update on the current financial position. Deputy St Pier.

75 **Deputy St Pier:** Thank you, sir.

In accordance with previous advice I advise Members that I have live audio streaming of this statement, sir.

Thank you for allowing me to make a statement today updating the Assembly on the latest financial position for 2019 and looking ahead to 2020.

80 For the past couple of years we have been able to give good news about our public finances. When reporting on the provisional results for 2018, I was able to summarise that it had been a year in which our public finances benefited from growth in our economy, with receipts from income tax, Document Duty and Customs and Excise Duties all up. It was also another year in which expenditure was contained.

85 I have, however, also warned that the good results achieved in the recent past should not be taken for granted. I think many just assume that this is the normal caution of the Treasury. But it is, once again, a matter of weeks until the UK is timetabled to leave the EU. With no agreement as yet as to the form of that exit and growing political turmoil in the United Kingdom, there is a growing risk of substantial economic disruption, with a consequent knock-on impact on our public finances.

90 There are also expenditure pressures continuously arising and mounting for numerous reasons, including the real pressures which we have talked about for the best part of the last decade, including during the Personal Tax, Pensions & Benefits Review in 2015 and in preparing the current Medium Term Financial Plan. These pressures are now being felt as a result of our ageing population and the policy choices we make.

95 But before I get to the bad news, I will begin with some good news. Our revenues are holding up well in 2019 and indeed slightly exceeding our budget estimates.

100 ETI – the income tax collected through employers' payroll – has grown by over 4% in the first half of the year versus the same period in 2018. This is as a result of strong growth of some 6% in the first quarter, falling to 2% in the second quarter. For the purposes of our forecast to the end of the year, we have assumed that the first quarter was an outlier and therefore, along with other known changes, we are now expecting to exceed the budget for the year by approximately £800,000, or roughly 0.4%.

105 Income Tax collections for the first half of the year in respect of 'other individuals' and 'other companies' have also been strong with both showing 10% year-on-year increases. Further analysis is required to properly understand the drivers for this, but the amounts showing as being due by the end of the year suggest that this trend will continue. This forecast should result in a favourable variance of approximately £7.5 million. This is tempered somewhat by a reduction in the year-on-year returns for banks. All in all, we are forecasting a £5 million improvement against our budget for all other income tax receipts.

110 Therefore, the overall forecast for income tax is growth on 2018 of just under 4% – and favourable to budget by some 1.5%.

115 Sir, 2018 was also a strong year for Document Duty receipts and that trend is continuing in 2019. Receipts for the first half of this year were some 10% ahead of budget and 25% ahead of the same period last year. This is being driven by continued growth in the number of transactions, with numbers in the second quarter of 2019 the highest since 2012. Purchase price increases are also contributing to increased revenues with the average price now over 4% above the same period in 2018.

120 The last revenue stream that is worth mentioning is investment income. Members will recall that our investment portfolio experienced a 3.7% *decrease* in value during 2018. However, the first half of 2019 saw returns of over 8%. Our forecast to the end of the year is prudent and allows for some reversal of markets – and therefore in this rate of return. Nevertheless, we are currently forecasting that investment income accruing to general revenue will exceed budget by some £3 million in 2019.

125 Overall, then, based on the first six months of the year we are anticipating revenues exceeding the approved budget by almost £11 million.

Now for the bad news. Unfortunately the story on expenditure is not as good and I would like to draw Members' attention to three specific areas.

130 Firstly, although the majority of Committees are forecasting expenditure to be in line with, or below, budget, the notable exception is the Committee *for* Health & Social Care. That Committee is experiencing pressures in multiple areas, leading to a forecast overspend in 2019 of £5 million or some 4%. We understand that the majority of the cost pressures are in pay, with increasing use of agency staff being used to cover gaps, particularly in Community Adult Services. As 2019 progresses confirmed recruitment to vacancies should reduce reliance on expensive agency staff, but this is placing considerable pressure on the budget.

135 The Committee is also reporting that there are non-pay pressures, particularly around high cost off-Island expenditure, where there has been an increase in the volume of treatments being referred.

140 I know that the Committee *for* Health & Social Care shares our disappointment that despite considerable efforts to remain within budget the financial position has deteriorated so rapidly. However, the pressures being faced are real with hospital occupancy increasing, along with the average age of those being treated. This kind of pressure and the volatility in cost demands an increased focus on financial controls and discipline and we continue to work closely with the Committee *for* Health & Social Care to monitor the situation closely and provide support where necessary.

145 Secondly, it is now clear that the savings budgeted for 2019 will not be realised in full. A total of £4.6 million of savings were budgeted to be delivered in 2019. The forecast now indicates a shortfall on this target of £3.2 million. There are two main reasons for this: when the budget was compiled, there was an expectation that the contract for Future Digital Services would deliver £900,000 savings to the States in 2019. As Members know from the more recent debate on this subject in June, although the contract with Agilisys will deliver savings to the States over its 10-year life, costs will actually increase in the early years of the contract while transformation is delivered. As we have known since that debate in June, this saving will therefore not be realised in 2019 and has been removed.

155 There will also be a shortfall against the savings planned to be delivered through organisational and service design in 2019. This is partly due to the delayed commencement on the Future Digital Services contract, since technology enablers are a vital element of the programme, intended to improve the services received by the community, whilst reducing the number of posts required to provide these services.

160 The delay in the move to the new organisational structure has also contributed to the savings shortfall in 2019.

Plans are currently being developed for 2020 savings which should start to see this work deliver against the ambitious targets previously endorsed by the States – and I will come back to this subject in a minute.

165 The third area of concern I wish to draw Members' attention to is the significant increase in the
forecast losses for Aurigny Air Services in 2019. In the Annual Budget for 2019 the forecast losses
for Aurigny were reported as £4.4 million. As part of the 2020 budget-setting process, the Policy
& Resources Committee recently met with representatives of Aurigny and the States' Trading
Supervisory Board and we were informed that the forecast losses for 2019 have now risen to
170 £7.6 million – that is, the losses have increased by over £3 million, a rise of over 70%. This is clearly
a troubling development as the airline's losses are borne by the taxpayer. And it is not sustainable.
We are advised that numerous factors appear to be driving the deterioration. Most notable
apparently is the impact of increased competition since the introduction of the quasi-open skies
policy last year.

175 The benefits to the travelling public and business of increased choice and lower fares are clear,
but consideration must also be given to the material subsidy now being made from general
taxation which, we must remember, diverts resources away from other critical public services. This
cannot continue without debate and the endorsement of this Assembly. (**Several Members:** Hear,
hear.) We will therefore be giving consideration to appropriate Propositions to be put to the
180 States as part of the Budget Report to refresh the Strategic Review of Aurigny which took place in
the early part of this States. The States' Trading Supervisory Board, the Committee for Economic
Development and my Committee need to work together on this, (**A Member:** Hear, hear.) so that
the States can be allowed to make informed choices about the level of support which our
community wishes to make to the airline to support our strategic needs and objectives.

185 Sir, before I summarise the outlook for 2019, I would like to take this opportunity to outline
some of the matters being wrestled with by the Policy & Resources Committee in compiling a
budget for 2020.

I am pleased to be able to say that subject to any economic downturn, whether Brexit-driven
or otherwise, revenues are forecast to remain relatively buoyant; although, as previously reported,
190 receipts from a specific settlement which totalled over £5 million in 2019, will cease in 2020. We
do not underestimate the challenge of raising further revenues from our economy, whilst also
ensuring we remain competitive in tax terms, particularly for low and middle-income earners. The
Committee has considered the revenue raising measures which it will recommend in the Budget.
Other than the routine increases to keep pace with inflation and in accordance with policies, none
195 of the revenue-raising options could be categorised as 'easy'; and none of them will be popular or
welcomed by our community. Despite the electoral cycle, my Committee will not shrink from
making those difficult decisions and presenting our recommendations to Members in the Budget
Report. (**Several Members:** Hear, hear.)

In respect of those increases driven by policy, we will be recommending increases in the duty
200 on both tobacco and fuel.

The States agreed the policy for fuel duty increases in July and we now know that this will
result in a 2.2 pence per litre increase. The Policy & Resources Committee will be recommending
that half of this increase should take place upon Budget publication with the remainder from
1st January 2020, in order to mitigate this change.

205 The real challenge in setting a budget for 2020 will be in dealing with the mounting
expenditure pressures. The total value of committee submissions above indicative cash limit is
£33 million, an increase of almost 8% – and that is before taking into account any increased
expenditure on drugs and treatments as a result of any recommendations from the Committee for
Health & Social Care following the review of the NICE TAs. We have been exploring, and will
210 continue to explore, all options for maximising the amount of funding available to meet these
requests. Committees will also be asked to review all their own revenue streams to ensure that
these remain set at appropriate levels.

One of the options being explored is around the level of appropriation needed to the Capital
Reserve. We have to think carefully about how much money we are saving for capital projects if it
215 is simply accumulating while we have very real revenue pressures. We also need to look at other
ways of topping up the Capital Reserve. To that end, and as I have said many times before, it is

vital that we rationalise our property estate with any receipts from disposals of surplus properties replenishing the Capital Reserve – and we need to up the pace of that process. I am therefore pleased to announce that before the end of this term, we will move the staff currently working in Swissville and Lukis House onto the Delancey site that is subject to being granted suitable change of use permissions.

This move will not be a permanent one and it will not prejudice any longer term development of a community hub which we may debate later in this sitting in the context of Education, Sport & Culture's policy letter. In the meantime, we will also take urgent steps to improve the dire working environment currently endured by the community services team working out of the Castel Hospital, until such time as a longer term community hub solution is agreed and developed. Swissville and Lukis House are no longer fit for purpose and when these properties are unoccupied they can be sold.

This will also enable the College of Further Education to consolidate on its preferred Les Ozouets site.

Following feedback, the Policy & Resources Committee has amended the approach to agreeing budgets this year and is seeking to hold far more dialogue with committees before finalising its recommendations.

To that end, following a comprehensive and open engagement process including two earlier meetings with committees on an individual basis, a productive session was held earlier this week with all Committee Presidents to collectively work through the numerous bids and the limited funding available in an attempt to reach an agreed approach for next year's budget allocations. However, with requests for funding so high it is inevitable that compromises will be required and that not all service developments will be able to proceed in 2020.

It is therefore vital that we continue to develop our approach to prioritising the work we undertake and the resources we apply to it.

The need to deliver cost effective and efficient public services with a smaller number of baseline posts is therefore more important than ever. (**A Member:** Hear, hear.) It is incumbent on us all to challenge the *status quo* and ensure that opportunities to change the way public services are delivered are fully explored and implemented. Partners such as Agilisys will be important in enabling the delivery of such change, but it must be owned by us politically and by the public service in implementation.

The successful delivery of Public Service Reform is a vital part of the equation in funding the service pressures which are now becoming apparent. As I have said before, Islanders can be assured that the Policy & Resources Committee will not roll back on the need for restraint or slacken the pace of transformation in public services. (**A Member:** Hear, hear.)

The need for these things may not be widely understood and they may not be popular or glamorous, but they are absolutely essential elements of being able to afford the funding of future public services in the future, although they are unlikely to fully negate the need for new or increased taxes in 2020 and future years.

Sir, in returning to 2019, to summarise, our income is looking strong and set to exceed our budget estimates by some £11 million. However, the combined pressures on expenditure of an overspend by the Committee *for* Health & Social Care, a delay in the delivery of savings, and the material worsening of the losses of Aurigny cancel this out. I am therefore expecting that the net position will be in line with budget.

Thank you, sir.

The Bailiff: Before I invite any questions, those members who wish to do so may remove their jackets. I think some Members anticipate it may get a bit warm in here over the next few days. (*Laughter*)

Deputy Fallaize has entered the Chamber; do you wish to be relevé?

Deputy Fallaize: Yes please, sir, thank you.

The Bailiff: The first question will be from Deputy de Lisle.

270

Deputy de Lisle: Thank you, sir.

Given this worsening economic position, particularly on the expenditure side, are you not, as P&R, considering a radical review of the Corporate Tax Policy to avoid GST and hikes in TRP? The Corporate Tax Policy has increased taxes and charges on the individual and eroded benefits to pensioners and young families. It has placed our financed in deficit and failed to produce economic growth.

275

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, the corporate tax environment has remained under constant review since 2012 and it has been substantially extended since that time. This Committee and indeed its predecessor the Treasury & Resources Department remain committed to reviewing the Corporate Tax Policy in line with developments in the international environment. Those developments continue to evolve and we remain committed to the continued evolution of our Corporate Tax Policy.

285

I do foresee there will be further reform in due course in light of those international developments and the opportunities that that may present. However, it does not present a solution certainly for 2020.

290

The Bailiff: Deputy Gollop.

Deputy Gollop: Sir, as Members know, I am a Member of the Transport Licensing Authority, even though we have not been so busy since Open Skies started. My question is, notwithstanding any Parliamentary Assembly privilege: given the situation at Aurigny should not senior politicians at P&R and STSB level be looking at maybe some management consultancy or management reorganisation at the State-owned airline, especially with regard to the new transport links that have been announced that may be losing money?

295

The Bailiff: Deputy St Pier.

300

Deputy St Pier: Sir, I think a little bit like the question of whether the public services themselves are seriously over-resourced and staffed, any perception that Aurigny is either badly managed or is deeply inefficient I think would be flawed. I do not think spending a large amount on management consultants will take us significantly further forward.

305

The reality is that we are asking that airline to do things which no commercial airline would do. **(A Member:** Hear, hear.) If Aurigny had a free hand in its future it would run Gatwick only and it would close down the rest of its operation. **(A Member:** Hear, hear.)

310

So that is the challenge which we have to acknowledge here. That is the one which the Committees – particularly STSB, Economic Development and P&R – that is a circle that needs to be squared in presenting choices for this Assembly about what level of service we want and how much we are prepared to support it publicly.

The Bailiff: Yes, Deputy Merrett.

315

Deputy Merrett: Thank you, sir.

I would like to ask the President please: he has referred to in the statement meeting with Economic Development and STSB regarding Aurigny. I would like to know when this Assembly can expect to see something come before us to make an informed decision on the future?

Thank you, sir.

320 **The Bailiff:** Deputy St Pier.

Deputy St Pier: Sir, Deputy Merrett is always very keen, and rightly so, for rapid progress in this Assembly. Policy & Resources Committee were only advised of this position in a meeting with the STSB and Aurigny fairly recently as part of the 2020 Budget process, so I am not going to create a hostage to fortune by nailing a date here and now. All I can do is repeat the statement, and what I said in this statement is we will put resolutions in the Budget Report that seek to move this issue on. We recognise, as I think everybody in this Assembly does, as I said in my statement the position is not sustainable and this Assembly does need to be given the opportunities to make evidence-informed decisions about the future needs of our community.

330

The Bailiff: Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

Following up on the predicted losses of Aurigny and obviously the cost of the Open Skies policy which many of us warned at the time and the ridiculous subsidy on Heathrow as well spending more public money, does it not deserve a dedicated debate on this issue and it should not be part of the Budget debate, and any propositions should be completely separate so that the Assembly can have a targeted discussion on this one issue?

340 **Several Members:** Hear, hear.

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, Deputy Dorey's challenge is perfectly valid and I apologise to the Assembly if I have in any way misled them. The intention is that the Budget Resolutions will be around the process that will enable us to have that debate. So I absolutely envisage there will need to be a dedicated debate to allow exactly the fully informed discussion which Deputy Dorey has asked for, sir. We will not be seeking to crowbar this into the Budget Report but we do feel the Budget, which is obviously published in less than a month now, provides the most rapid opportunity for us to get this Assembly's support for that work to be undertaken.

350

The Bailiff: Deputy Soulsby.

Deputy Soulsby: Thank you, sir.

Whilst the President has focused on HSC's overspend, quite rightly, and it reflects real and tangible increases in demand and the critical care unit is full to overflowing – and that is in the summer months and is unprecedented – and that savings have not been made in terms of the public service reform and elsewhere, does he acknowledge that HSC has actually made its allocated savings of nearly £1 million this year which we have, according to the Rules, returned to Treasury and not netted off our overspend?

360

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I am grateful to Deputy Soulsby for that question because it does give an opportunity to provide that affirmation and confirmation that she has sought in her question.

365

The Committee *for* Health & Social Care have delivered very much over the last few years in terms of the targets that have been set for them; they have worked very closely with Policy & Resources on these financial management issues and are to be commended in doing so.

I think they themselves have been very clear, sir, for a considerable period of time that the best that could be hoped for in the context of Health and Social Care was flattening the rate of growth rather than either preventing it or reversing it. Indeed, as again my statement suggested, sir, this is

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now coming to pass and we are seeing very much that advice and those warnings that were given by Deputy Soulsby and others in relation to that issue are indeed now coming to pass.

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

Deputy Lester Queripel: Sir, I have always had concerns about the levels of communication displayed by the management of Aurigny. I have said that publicly on several occasions and have made suggestions as to how I think those levels of communication can be improved, all of which have been ignored. Does the President agree with me that the levels of communication coming from Aurigny need to be improved, and is there anything we can do to help Aurigny improve their levels of communication?

385 **The Bailiff:** Deputy St Pier.

Deputy St Pier: Sir, I think that question really probably goes beyond my brief or my Committee's mandate and is very much one perhaps for the STSB as the shareholder to consider. Having said that, I think the challenge around whether it is for Aurigny, for the shareholder or for us collectively as a States to be able to communicate, particularly to the public, what the issues are around Aurigny, and what the realistic options are for us that will enable us to make the decisions that need to be made, I think is one of our biggest challenges.

I think absolutely the gauntlet perhaps thrown down by Deputy Queripel in his question needs to be borne in mind. I suppose what I am saying, sir, is I do not think it is just an issue for the management or the Board of Aurigny, I think it actually involves all the stakeholders including a number of people in this room, sir.

The Bailiff: Deputy Yerby.

Deputy Yerby: Given the importance that P&R place on property rationalisation, would Deputy St Pier undertake to take a closer look at the work and working relationship with committees of States' Property Services and the extent to which that either facilitates or inhibits the kind of transformation he has in mind?

A Member: Hear, hear.

405 **The Bailiff:** Deputy St Pier.

Deputy St Pier: Sir, of course Deputy Yerby will be aware that States' Property Services is a service area which sits within the States' Trading Supervisory Board so I would not wish to overstep the mark in terms of what Policy & Resources can or should do about that, but I can give the undertaking that we will continue to have liaison with the States' Trading Supervisory Board.

The whole relationship of how we own and manage property remains a concern for the Policy & Resources Committee and the subject of ongoing dialogue with the STSB. I do not think anybody is entirely satisfied that things are working ideally and there is room for significant improvement and so that dialogue will continue. I hope that is sufficient response, if perhaps not the perfect one, for Deputy Yerby, sir.

The Bailiff: Anyone else? Deputy Merrett.

420 **Deputy Merrett:** Thank you, sir.

I welcome the opportunity to debate Aurigny at the earliest opportunity. But also I would like reassurance from President St Pier that we will also have the opportunity to debate the policy

paper on NICE TAs rather than rolling it into, I think – I cannot remember his terminology, sir – one Budget debate.

425 I would look forward to the opportunity to have that debate so that we can concentrate on that as a single policy and issue as well, sir. So some assurance would be appreciated.

The Bailiff: Deputy St Pier.

430 **Deputy St Pier:** Sir, I think clearly any recommendations in respect of the review of the NICE TAs will come from the Committee *for* Health & Social Care, not from Policy & Resources Committee. I do not envisage that that will form any part of the 2020 Budget debate in two months' time.

435 There is a whole raft of spending pressures including the NICE TAs, including Supported Living and Ageing Well Strategy, Secondary Pensions which will again put pressure on households.

There is a raft of issues which the Policy & Resources Committee, the Committee *for* Employment & Social Security and the Committee *for* Health & Social Care recognise are heading down the tracks.

440 What we are seeking to do is to work between the three Committees to try and find a logical way in which we can present those to the States for debate in a joined-up way, rather than having a series of single policy letters where we try to make decisions on one issue without having necessarily full cognisance of the impact of others.

445 So that is a dialogue which is ongoing at the moment, we all recognise the challenge; but absolutely again I can give Deputy Merrett the reassurance that this will not be dealt with simply through the Budget Report.

The Bailiff: Deputy Gollop.

450 **Deputy Gollop:** Sir, I have little additional knowledge on the future digital strategy that the States' approved in June but is it not the case despite the warning, as Deputy St Pier has given, that there should be a degree of saving in the contract as soon as possible due perhaps to the transfer of some key staff members to a new approach, to a new style of working? So can he amplify the slightly pessimistic message we may have got this morning?

455 **The Bailiff:** Deputy St Pier.

Deputy St Pier: Sir, to be clear the message I was giving this morning was merely a reiteration or a representation of what was said in the policy letter and the debate on that contract in June.

460 This was a matter which was considered at the Policy & Resources Committee yesterday when considering the next stage of that contract and I will perhaps say a little bit more about that in my next statement. But our expectation is that the delivery of savings from that contract do remain on track in accordance with that as presented in the policy letter and debate, namely in 2021.

465 The statement that I have made this morning, sir, merely makes the point that that was not our expectation when we put the Budget together; so the change has been between the Budget and June, rather than between June and now. I hope that gives Deputy Gollop the reassurance.

The Bailiff: Deputy Green.

470 **Deputy Green:** Sir, the first question that Deputy St Pier answered was from Deputy de Lisle in respect of whether there should be a review of the corporate tax system, and he gave a clear answer on that. But in his statement Deputy St Pier referred to the Review of Personal Tax and Benefits that took place in the last States' term.

I wondered whether it was the view of Deputy St Pier and his Committee, in light of these expenditure pressures that he referred to – the three main areas that he talked about in his

475 statement – whether it is his view that either this States or the next States should embark upon
another process of reviewing the personal tax and benefits system, if it is not possible to contain
these expenditure pressures without that process?

The Bailiff: Deputy St Pier.

480

Deputy St Pier: Sir, I am grateful to Deputy Green for that question because it does give me
an opportunity to perhaps expand on the response I gave to Deputy de Lisle as well.

Again, this is a matter which the Policy & Resources Committee have discussed. It was a matter
that was also discussed with the other Committee Presidents earlier this week.

485

We do envisage that again as part of the Budget Report there will be Propositions in there that
deal with the question of the next stage of a tax review and how that will be undertaken. We feel
that it is appropriate again that this Assembly kicks off and ends that process, albeit that it is likely
to be the next one that actually completes it, but we do not wish to delay the matter to the next
Assembly as it is the responsibility of this one to own the matter.

490

We will be giving this States the opportunity to endorse those recommendations and
Resolutions in November, sir.

The Bailiff: Deputy Dorey – and this is likely to be the last question as 15 minutes will then
have elapsed.

495

Deputy Dorey: Thank you.

What is the expected cost of moving the staff and services from Swissville and Lukis House to
Delancey; and moving the teaching and services from Delancey to Lukis House? And, have other
empty sites been considered?

500

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I do not have that information to hand.

505

But in relation to other sites, this is a matter which has been ongoing for a considerable period
of time much to the frustration of the Committee *for* Health & Social Care, and in particular the
King Edward VII site was looked at several times.

510

It is an issue which has been going round and round in circles between the various
Committees and their officers, and what we are seeking to do is bring that merry-go-round to a
halt with today's announcement. The challenge around the cost of doing so is one that obviously
has been looked at as part of the high level assessment of this move, but I am not able to provide
an answer on my feet, sir. No doubt that is something on which further detail can be provided to
Deputy Dorey and Members.

General Update – Statement by the President of the Policy & Resources Committee

The Bailiff: The 15 minutes permitted has elapsed, so we will move on to the next statement
which is also to be delivered by the President of Policy & Resources Committee, a general update
statement.

515

Deputy St Pier: Sir, this is also being streamed as well.

Since my last general update to the Assembly, there has been much to remind us that while we
enjoy comparative stability, the wider world is subject to uncertainty and change.

520 I do not need to remind everyone that events are evolving rapidly in the UK but one such
change since my last update is that the United Kingdom has a new Prime Minister, and who
knows we may have another one before the next update. (*Laughter*) I wrote to him on his election,
congratulating him, and reminding him of the Bailiwick's long-established relationship with the
525 Crown – one which ensures that the UK's parliamentary backbenchers cannot legislate for
Guernsey, any more than we can legislate for the UK.

I also referred to the positive working relationship with the UK Government during the Brexit
process to date and my hope is that this continues, irrespective of political developments in the
UK.

530 We have consistently said a disorderly Brexit is not in Guernsey's interests. However, while we
continue to work towards preparation for a 'deal', it is becoming increasingly apparent based on
the UK and EU political climate that a 'no deal' is more likely as this remains the default legal
position in the UK and EU law until such time as that is changed.

535 While such an exit is not in Guernsey's interests, as a responsible jurisdiction we have been
planning, with other Committees, for such an event in parallel to our 'deal' planning for the past
two years. This means we are now well placed in the time leading up to 31st October to again
ramp up our plans for a 'no deal' in response to this. We are able to benefit from the experience
gained and work undertaken in the run-up to March's original exit date, review preparations and
make improvements to these plans. Committees can access funding through the Brexit Transition
Fund, established in the 2019 Budget to assist with such preparations.

540 We continue to focus on minimising any potential disruption on critical strategic areas,
ensuring the continued supply of essential goods including medicine, fuel and food, essential to
us all; ensuring continued data sharing between the Bailiwick and both the UK and EU, so vital to
our businesses; protecting the rights of EU citizens living in Guernsey via the EU Settlement
Scheme, so vital to this valuable group in our community; and working with and advising the
545 business community on Brexit preparations.

As agreed by this Assembly in February, we have been negotiating with the UK on the
extension of the territorial scope of the UK's membership of the World Trade Organization to
include the Bailiwick. Approval has now been received from the UK Secretary of State for
International Trade and the final steps to formalise the extension are now being organised.

550 Extending the UK's WTO membership will be an important step for our economy, providing
access to global rules on the trade in goods, services and Intellectual property with other WTO
members, including of course EU Member States and the majority of countries worldwide. In
addition, progress has been made with ensuring Guernsey's interests are included within existing
free trade agreements and any new ones in the future.

555 We continue to work closely with the UK Government, the regional authorities in Hampshire
and the port authorities in Portsmouth, in step with both Jersey and the Isle of Man. We have
maintained dialogue with the regional authorities in Normandy and the port authorities in
St Malo. This crucial engagement will continue as we approach 31st October.

560 The Bailiwick's territorial seas increased in size on 23rd July, giving Guernsey, Alderney and
Sark greater rights and control out to 12 nautical miles. As Deputy Brouard outlined to the
Assembly in July, the Committee is now focusing on the next stages of work to agree the
individual co-ordinates for the boundaries between the jurisdictions of the Bailiwick and between
the Bailiwick and France, and to seek the transfer of rights over the foreshore and seabed from the
Crown to Guernsey.

565 The Committee is leading on other areas of policy prioritised by the Assembly. This includes
the regeneration of Leale's Yard. The Committee is conscious of the concerns raised by some
Deputies during debate and has taken those on board. Already it has approved a funding request
to expedite the Development Framework which we understand the Development & Planning
Authority intends to deliver by April 2020. This Committee's work to discharge the Resolution
570 rests significantly on the resulting Development Framework. Notwithstanding this, it is exploring

how to best embark upon work to recommend actions to enable the progression of development at the Leale's Yard Regeneration Area without undue delay.

575 The Committee has started to consider its response to the States' Resolution directing further analysis of ongoing activity to support those in the in-work poverty trap. It is currently minded to bring a policy letter to the Assembly ahead of the April debate on the Future Guernsey Plan.

580 The work on the Seafront Enhancement Area is progressing and the Committee also intends to bring an update policy letter to the Assembly before the end of this term. The Committee expects to be able to set out an appraisal of the potential options for the resourcing, management and governance of the Seafront Enhancement Area programme, including the delivery mechanism for development.

585 Relevant to that work is the States' Capital Portfolio. Viewing the totality of the States' investment as a single States' portfolio is enabling the Government to ensure it is investing in the right things to get the best possible value from the resources available. The ultimate objective of the capital portfolio is to support the achievement of the vision set out in the Policy & Resource Plan and the delivery of the strategic objectives for the States through investment in infrastructure and systems.

590 We are at a critical time in the planned delivery of four large programmes: Hospital Modernisation, Future Digital Services, the Revenue Service and the Education Estate Development – all of which support the transformation of our public services, with a combined value of some £300 million, planned to be phased over the next 10 years.

595 Up to the end of the first quarter of 2019, a total investment of around £47 million has been approved for the continued development and delivery of 20 major capital projects. There has also been a further commitment of around £15 million for the period of 2018-2019 on smaller projects to maintain our assets in order to continue to provide our public services, including £2.6 million on medical equipment and £5.1 million on roads maintenance.

600 Funding is being made available but this has not always been translated into tangible progress. We do not make any apologies for putting in place appropriate processes to ensure that the States does have the necessary evidence to make key strategic capital decisions and to obtain value for money. However, it is now time to build on our firm foundations and deliver the projects and programmes within the portfolio.

605 We are determined to continuously improve the way infrastructure and major projects are delivered in order to support Government's priorities and improve the lives of our community. Having reviewed the portfolio the following factors have been identified as the main causes of slow progress in delivering some of the projects that have been brought forward by Committees: poorly defined goals and objectives; poor estimates and missed deadlines; scope changes; insufficient resources deployed to support the work; lack of senior officer and political sponsorship; and the changing environment and requirements.

610 We must address all these in order to see real progress over the term of the next Capital Portfolio from 2021 to 2024, and we need to continue to work at a States'-wide level, so we do not make the mistake of considering individual projects in isolation.

615 I will conclude this short update with comments around the Future Digital Services Programme. This was approved by the States in July. As the Assembly noted then this is a step change in the provision of technology to the States and as such is both far-reaching and complex. Progress with our Strategic Partner, Agilisys, is going well and the operational commencement date is planned for next week. This is the date that Agilisys takes responsibility for the delivery of those services.

620 The transition period will continue for two months prior to the full contract signature and will be the start of an ambitious, but achievable, programme of digital transformation that will deliver enhanced services to Islanders and within the States of Guernsey. As this initiative moves into delivery phase we will provide Members with further specific briefings on the detailed steps and monitoring arrangements for this vital project. The first of these briefings will take place in October.

625 Securing a technology strategic partner is an essential step to secure efficient capability for the States. However, it is just one step: none of us can get lulled into a false sense of security and creating over reliance on our technology partner to deliver all aspects of technology and transformation ambitions will be a mistake. A partnership relationship only works if all partners play their role – politically, the public sector and Agilisys.

630 We will succeed together but to do so we will need to be clear and committed to our transformation objectives and ensure we provide the right resources from the public sector and the right support politically.

The Bailiff: Deputy de Lisle has a question.

635 **Deputy de Lisle:** Sir, there is continuing concern about the effect on bringing in supplies particularly with a no-deal Brexit with respect to rising prices given tighter supply environments, and problems also with importing labour.

Can the President give some reassurance to business locally in these areas?

640 **The Bailiff:** Deputy St Pier.

Deputy St Pier: Sir, all I can do really is repeat the statement which has been given today and on previous occasions, that the States is doing what it can to understand and address these concerns.

645 The reality is that if there are changes in the logistic supply lines from the European Union into the United Kingdom, as we are at the end of those supply chains it is likely that there will be an impact upon us. There is only so much we can do to mitigate that particularly when we do not know the level of disruption that will take place.

650 It is only by working with others that we can seek to mitigate the impact, but the reality is as we have said before we should reasonably expect some disruption but the extent of that is something we are constantly reevaluating in light of political developments.

The Bailiff: Deputy Gollop.

655 **Deputy Gollop:** The President mentioned the Leale's Yard complex. Bearing in mind over the summer I gather the Guernsey Chamber of Commerce in conjunction with (Inaudible) and other parties have considered the desirability of perhaps a retail manager for not just the Town but other parts of the Island.

660 Will Policy & Resources be working closely with both the Economic Development Political Committee and organisations that might have ideas about a mixed use of redevelopment for Leale's Yard perhaps not just housing but retail and commercial activities (Inaudible)

The Bailiff: Deputy St Pier.

665 **Deputy St Pier:** Sir, I think as I said in my statement that we see the first stage as being the Development Framework produced by Development & Planning Authority which will give an indication of the level of scope for what might be achievable within that site within the planning environment. That will then enable dialogue to take place with all the parties that Deputy Gollop identified to better identify what could be reasonably delivered there.

670 **The Bailiff:** Deputy Roffey.

Deputy Roffey: Thank you, sir.

675 In his reply to Deputy de Lisle, Deputy St Pier tackled the issue of disruption to goods. I would like to pursue the other part of Deputy de Lisle's question which is on labour and the availability of labour.

680 Has P&R gained any more clarity about the expressed policy of the British Government that, post-Brexit, would define for the purpose of the Immigration Law a skilled worker as one earning more than £30,000 a year; and whether or not Guernsey could have any derogation from that if they still intend to do that? Because otherwise I can see both our care sector and indeed our hospitality sector facing real difficulties.

The Bailiff: Deputy St Pier.

685 **Deputy St Pier:** Sir, of course what Deputy Roffey refers to is merely a proposal by the UK as part of its consultation, we do not have any greater clarity as to the policy of this government or indeed any successor government might be.

690 What I can say is we have in the initial phases of that consultation made it very clear and will continue to press at every opportunity with all interlocutors on the UK side that we do have different immigration needs and we do need to have sufficient flexibility to be meet those needs. What that translates to in practice in due course is difficult to say, but I hope that does give Deputy Roffey some reassurance that we absolutely understand the issue and will continue to press Guernsey's requirements at every opportunity.

695 **The Bailiff:** Deputy Inder.

Deputy Inder: Sir, regarding our supply chains in the response to Deputy de Lisle, Deputy St Pier seemed to accept that Guernsey was at the end of effectively the English supply chain.

700 I think I have asked before: our French cousins we can see practically out of the window, what work has Policy & Resources done in terms of contingency for looking at getting goods, services, medicines, directly from Europe, which seems to me simply one of the options that we should have been pursuing?

The Bailiff: Deputy St Pier.

705 **Deputy St Pier:** I can give Deputy Inder the assurance that absolutely understanding the opportunities available to us from the southern route is something which has been on our agenda. Again, I did reference working with the authorities in Normandy and the Port of St Malo and I know it is something that the Committee *for* Health & Social Care have had in mind as well in terms of alternative supply lines.

710 In relation to food in particular, of course, that is not a matter that is organised by Government but is largely by retailers and their supply chain, which of course is a matter for them. But, clearly, Government has been working closely with them to understand what their contingency plans are as well.

715 I think we do need to bear in mind that the supply chains are complicated, particularly if they are arranged just in time and seeking to replace those and replace those quickly is something which we should not just presume can be turned on or turned off over night.

The Bailiff: Deputy Lester Queripel.

720 **Deputy Lester Queripel:** Sir, bearing in mind there are 216 redundant vinery sites in the Island which totals a redundant land mass equivalent to 251 football pitches, does the President not agree with me that we should be a lot more proactive regarding providing our own food, and we could provide growers with sufficient grants and subsidies to enable them to bring some of those redundant vineries back into use?

725 When I asked that question six months ago, Deputy St Pier said that we could not possibly grow enough food for ourselves by the time Brexit happens; but that was six months ago, and we could have had an abundance of vegetables in greenhouses by now.

So does he not agree with me that we rely far too heavily on others to provide us with our food and it is time we put initiatives in place to provide food for ourselves?

730

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, Deputy Queripel did raise the question six months ago, I think I would have to give the same answer that whether we pressed the button six months ago, now, or in six months' time there is not enough productive capacity on the Island to supply the Island, so we will always be reliant on importation.

735

However, his general point that could we be doing more, yes, absolutely, I guess that is self-evident. That is a matter of course not just for my Committee but I guess for others, whether it is Economic Development or the Committee *for* Environment & Infrastructure and indeed ultimately it is a matter for private enterprise to consider what the opportunities are for them as well.

740

The Bailiff: Deputy Soulsby.

Deputy Soulsby: Sir, yes, I was interested to hear about the reasons for the slow progress in the capital projects but given it has taken two years to find a strategic partner for FDS and it has taken seven months to find one for hospital modernisation, does he not think that somehow too many *i*'s have to be dotted and *t*'s crossed and there perhaps is more room for greater pragmatism, and a review of the level of paperwork required which seems to follow UK Government requirements, with a view to seeing just how much it is really needed?

745

750

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I would agree with Deputy Soulsby there is always a balance to be struck and we should never accept the *status quo* – indeed, my statement underpinned that. We should always be challenging to see whether we can do things better, differently, faster, more efficiently, and we do not preclude that in relation to the capital portfolio process.

755

In relation to the FDS process, though, I would not wish to allow her question to remain on the record without challenging the presumption behind the question that that two-year process was inappropriate in any way. It is particularly complex, as Deputy le Tocq will know, having been very closely involved with it. It has been a particularly complex contract and I do not think that is necessarily a result of our own processes, but simply the nature of what we are actually being asked to achieve in that.

760

I digress a little, but in general I would agree that there is always an opportunity for improvement and we would welcome feedback from all Committees as they use the processes on how they can be further improved.

765

**General Update Statement –
Statement by the President *for* Economic Development**

The Bailiff: I see no-one else, so we will move on to the next Statement which will be a General Update Statement delivered by the President of the Committee *for* Economic Development, Deputy Parkinson.

770

Deputy Parkinson: Thank you, sir.

I am happy to provide an update to Members on some of the key areas of the Economic Development Strategy where significant progress has been made.

775 Transport connectivity remains one of the Committee's critical priorities. Since the introduction of Open Skies in September of last year we have seen the launch of seven new air routes, including Heathrow, Southend, Liverpool, Newquay, Edinburgh, Bournemouth and Groningen. During the first few months of operation in 2019, overall airport traffic has seen a number of record months, with total passenger movements up by 29,750 passengers by 31st August 2019 – that is an increase of 5½% year to date after many, many years of decline.

780 The London market, in particular, has shown strong passenger growth of almost 5%, following the launch of the new routes to Heathrow and Southend, in addition to the existing routes to Gatwick and Stansted. I am very pleased to announce that the Heathrow service has already seen nearly 13,000 passengers to the end of July; and the Committee has recently, as you will have read, agreed to extend the Heathrow service through to the end of March.

785 The new charter from Groningen in Holland has been a resounding success bringing almost 600 additional high-spending Dutch visitors. Following this success, SunAir has announced it will be doubling the capacity of its charter for the 2020 season.

The Committee has also recently announced a new Island-Hopping charter package bringing 30 flights in from 16 different German cities with German tour operator, Globalis, for 2020.

790 We are also working on other potential new direct scheduled air routes from the UK and from France. The Committee hopes to make further announcements in the coming weeks and months.

Members will be aware that the Committee recently retendered the Public Service Obligation for the Guernsey to Alderney air routes following the approval of the Open Skies Policy. I am pleased to report that the response to this has been positive and officers are currently evaluating submissions with the intention of bringing forward proposals to the Assembly at the earliest opportunity.

795 The Assembly will be aware that Macquarie Infrastructure and Real Assets is currently in the process of selling Condor Ferries. We understand that there are a number of interested parties and the Committee will be seeking to engage with potential buyers at the appropriate time in the sales process. In the meantime, the Committee continues its dialogue with Condor and with the States of Jersey to agree the service level improvements and asset plans necessary for both governments to consider an extension to the current 2014 Condor Operating Agreement, and for Guernsey to become signatories to the agreement.

800 The Committee is engaging with industry representatives to agree a ten-point Strategic Plan for Guernsey's tourism and hospitality sector. This Strategic Plan will be agreed following the review of the 10-year Guernsey Tourism Strategy that was published in 2015.

805 We have seen some positive developments in the tourism sector with an 8% increase in total visitor numbers for the first half of 2019 compared to the same period last year. The increase has been largely driven by a strong cruise ship season supported by increased staying visitors from France, Germany, North America and Australia. This has been helped by the additional marketing around the Guernsey Literary and Potato Peel Pie Society movie and the focus on the French market following the reopening of Hauteville House.

810 We expect that, after over 20 years of decline, staying visitor numbers will continue the more recent steady growth. The announcement by Premier Inn, of its intention to build a new hotel in St Peter Port, and the recent interest from Travelodge, as well as from other potential hotel operators, are welcome signs of the growing confidence in Guernsey.

815 LocateGuernsey has been working hard to attract high net-worth individuals to relocate to the Island and in 2018 it directly saw 24 relocations and 49 jobs created with a total financial benefit of at least £1.15 million.

820 In the year to date there have already been more new enquiries than during the whole of 2018 and there have already been 24 actual relocations by mid-August, as many as the whole of 2018. This demonstrates the growing interest and confidence in Guernsey as well as the growing presence and performance of the LocateGuernsey brand.

825 While Deputy St Pier has already provided the Assembly with an update on Brexit, it is worth highlighting that the Committee continues to work closely with local business to support them to prepare for this. We continue to engage throughout Whitehall and I have met with James Duddridge MP, the Parliamentary Under-Secretary at the Department for Exiting the EU. The Minister's enthusiasm for the potential opportunities Brexit may bring to Guernsey was encouraging and it is a timely reminder that the UK's exit from the EU, if it happens, could provide opportunities for businesses based in the Bailiwick.

830 The Committee will, in conjunction with a working party led by industry, soon release a progress update report on its Red Tape Audit, which is looking into a number of areas, including the ease of setting up a business, access to labour and planning applications.

835 The finance sector is the engine of our economy, with good work being done by industry, Guernsey Finance, the GFSC and Government, in partnership, to develop our offering in order to maintain and grow the sector. One example is the creation of the Guernsey Green Finance, a green promotional body established in late 2018. This group, along with other stakeholders, has assisted in delivering the Committee's strategic commitment to build and develop markets where Guernsey has a real competitive advantage. The Committee has already made good progress in implementing legislation in respect of smart contracts and is driving amendments to the Companies Law to ensure that it continues to best serve the needs of local business.

840 The Committee also intends to bring proposals to the Assembly to provide better consumer financial protection in relation to non-bank provision of credit, to provide a framework for dealing with a local bank failure and to increase depositor protection.

845 The Economic Development Strategy prioritises digital connectivity and the acceleration of next generation digital infrastructure in Guernsey.

In May 2018 the Committee *for* Economic Development set out its telecoms strategy objectives which include the provision of high speed residential broadband; the process for the rollout over time of an Island-wide 5G network, including setting out licence conditions and criteria; and the provision of fibre to businesses.

850 In April 2019 the Committee requested that CICRA launch a draft 'statement of intent' consultation process with telecom companies and other interested parties to understand their views on the spectrum requirements and the proposed licensing process required to help meet those objectives, especially in relation to the rollout of 5G technology. This consultation took place during May and June 2019. The Committee has now had the opportunity to consider the feedback from that consultation and will be providing an update to States' Members on next steps within the next few weeks.

860 As you know, sir, the Future Digital Services programme includes an economic development element. The Committee intends to use this opportunity to further develop the digital and entrepreneurial environment on Guernsey. We will work in partnership with Agilisys to provide a 10-year plan for business mentoring and investment and digital skills and apprenticeship initiatives designed to foster economic growth. Plans to further develop our approach to MedTech are being co-constructed with the Committee *for* Health and Social Care.

865 The work on digital skills, through the Skills Action Plan, continues at pace with the Digital Greenhouse delivering over 70 events focused on digitisation of business and entrepreneurial activity in the past 12 months.

870 Working alongside Agilisys and their founding partners Blenheim Chalcot, the next stage of growth for Guernsey's innovation hub will be to connect into Imperial College's soon-to-be-opened business technology centre called 'Scale-Space'. This will provide Guernsey with an economic development presence in London and connection into an ecosystem which brings together leading research, business-building expertise and talent.

The Committee continues to look at ways of diversifying the economy including the development of plans for an international university presence in Guernsey. The University Working Party held a workshop in May to further explore the International University concept with prospective partner universities. The workshop was a great success and we welcomed overseas

875 representatives from universities from Australia, Slovenia, Canada and the UK, as well as other
local stakeholders.

The workshop helped in the shaping of the model and curriculum of the University and proved
to the Working Party that there is sufficient interest from overseas universities to working in
partnership with Guernsey on this exciting project. The Committee, through the Working Party,
880 will now be considering the feasibility of the International University in more detail and, based on
the outcome of this work, the Committee hopes to bring proposals back to the States before the
end of this political term.

As you will appreciate, there are many other work streams being undertaken by the
Committee, but I trust this has been a valuable update for Members on its main areas of focus.

885 Thank you, sir.

The Bailiff: Alderney Representative Roberts.

Alderney Representative Roberts: Thank you, sir.

890 Sir, Mr President, considering nearly 50% of passengers come to Alderney from Southampton
would the President please recognise the importance of the lifeline link Alderney/Southampton in
the PSO process and consider that as a lifeline?

The Bailiff: Deputy Parkinson.

895

Deputy Parkinson: In the PSO process, the second round of it, airlines were asked to tender
for either the Guernsey/Alderney route alone or the Guernsey/Alderney and
Alderney/Southampton routes in tandem, and of course they were also asked whether they would
be willing to provide the medical passenger transfer service that the Health Committee requires.

900 We have had a range of bids back from the various airlines that were interested in some or all
of those services. Some of them were basically offering to provide a Guernsey/Alderney only
service, one of them offering to provide a medic aid service alone, and others offering to provide
a mixture of Guernsey/Alderney, Alderney/Southampton and the medical patient transfer service.
So those bids are all now being appraised by staff.

905 My Committee will eventually receive staff-level recommendations on which bids to proceed
with and we will then debate and agree as a Committee which ones to recommend. Then there
will be discussions with the Policy & Resources Committee to discuss whether the recommended
solution can be funded, and whether the Policy & Resources Committee will therefore support our
recommendations.

910

The Bailiff: Deputy Tindall.

Deputy Tindall: Thank you, sir.

915 I thank the President for his update and whilst I am extremely pleased that the predictions
made last year for a growth in visitor numbers to Guernsey have proven correct there is still much
to do.

So can the President advise if his Committee intends to fulfil the extant Resolution and bring
forward a tourism strategy to the States or are they going to revoke that Resolution relying on a
Committee-approved plan, as mentioned in his speech?

920

The Bailiff: Deputy Parkinson.

Deputy Parkinson: I think given that we have only got nine months of this term left, the
Committee's energies would be best devoted to concentrating on actually working with the
925 tourism industry with the Chamber of Commerce Tourism Group to actually deliver results for the
Island rather than taking up more parliamentary time on a revision of the strategy.

Clearly that strategy will in due course need to be revised, it is only in fact four or five years' old and it was a 10-year strategy to begin with. So for the time being we are happy to continue to work with it, but we recognise that it will become out of date and will eventually need to be replaced.

930

The Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

935

Can the President please advise whether the Committee has had any opportunity yet or, if not, whether it intends to do any work looking at the cannibalisation from one route to the other particularly with regard to Aurigny – yes, with regard to the new air routes and the positive numbers that he quoted?

940

The Bailiff: Deputy Parkinson.

Deputy Parkinson: We have not yet received data on where the passengers are coming from or whether they are business or leisure passengers, and whether they might have travelled by different route if they had not had the choice of the route they did choose. So we do not have enough information to make a very clear analysis of the cannibalisation, if anything, of any routes.

945

What is striking though from the figures is that the reduction in the number of passengers on the Gatwick service is matched almost exactly by an increase in the number of passengers on the Southampton service. We cannot help thinking, suspecting that that is as a result of the price war which has broken out on the Southampton route which means that you can now get a one-way ticket to Southampton for £29, and that Aurigny's insertion of itself on to the Southampton route may therefore have damaged Aurigny's business in Gatwick.

950

The Bailiff: Deputy Dorey.

Deputy Dorey: Thank you Mr Bailiff.

955

The Open Skies Policy for UK flights – we have always had an open skies policy for non-UK flights – does he consider it has been a success with the high costs which Aurigny have put down to the Open Skies Policy and the big subsidy that we have had to give on Heathrow? And is that cost acceptable for the additional people that come to Guernsey?

960

The Bailiff: Deputy Parkinson.

Deputy Parkinson: Well, the Open Skies Policy was designed to help reverse 20 years of decline in passengers visiting Guernsey and it self-evidently is succeeding in doing that. So, yes, it has been an unqualified success.

965

Whether it has had an impact on Aurigny or not needs to be reviewed, but at the end of the day the States will have to decide whether they are going to write States of Guernsey air transport strategy around Aurigny, or whether Aurigny needs to adjust its business model to the States of Guernsey's air transport strategy.

970

I will leave it there.

The Bailiff: Deputy de Lisle.

Deputy de Lisle: Does the President agree with me that the Open Skies Policy on air services is important to providing competition, new routes and reduce fares to this Island?

975

The Bailiff: Deputy Parkinson.

Deputy Parkinson: Yes, I certainly agree with that. The Open Skies Policy is quite clearly working.

980 I will take the opportunity of Deputy de Lisle's question to make a few observations.

985 Firstly, of the airlines serving Guernsey's scheduled services only Aurigny has not launched any new routes since the introduction of open skies. Secondly, Aurigny is the only airline serving Guernsey which has launched a competing service on an existing route against an established existing operator. Thirdly, it has been suggested to me by industry sources that Aurigny must be losing £250,000 a month on the Southampton route. Fourthly, as I have already mentioned, it appears that the increase in passenger traffic on Southampton is entirely matched by the reduction in traffic on Gatwick.

The Bailiff: Deputy Leadbeater.

990

Deputy Leadbeater: Thank you, sir.

995 I was reading recently about the Jersey Government renegotiating with France the Granville Bay Treaty in regard to who fishes where between the French and Jersey fishermen and where they can land their fish. It is an 18-year old treaty and the President of the Jersey Fishermen's Association is worried that it is outdated and needs to be updated in the face of Brexit.

Has the President or any of his staff considered talking to the Jersey Fishermen's Association, the Jersey Government and the French authorities to see if we can play a part in that treaty if it will help us secure safer rights for our fishermen in Guernsey?

1000 **The Bailiff:** Deputy Parkinson.

1005 **Deputy Parkinson:** I think Guernsey fishermen would be almost unanimous in agreeing with me that it is a *very* good thing that Guernsey is not a party to the Granville Bay Treaty; and I can assure Deputy Leadbeater that my Committee has no intention whatsoever of introducing Guernsey into those arrangements.

A Member: Hear, hear.

The Bailiff: Deputy Gollop.

1010

Deputy Gollop: Yes, I was interested in the summer to hear a lot of dialogue about the retail sector and a leading member of a retail consortium in Guernsey put forward the opinion that the old Commerce & Employment Board had an excellent retail strategy, but the problem was it was never implemented.

1015 So my question is: how far will Economic Development implement the bones of that retail strategy and work to reopen all the shops in St Peter Port, and maybe look at Leale's Yard as another retail opportunity?

The Bailiff: Deputy Parkinson.

1020

Deputy Parkinson: Sir, the Commerce & Employment Committee Department, as it then was, may have had satisfactory arrangements with the Guernsey retailers but sadly when my Committee came into effect the Chamber of Commerce Retail Group had sort of fallen into abeyance.

1025 Now I am pleased to advise States' Members that the Chamber of Commerce have re-established a retail group with a credible membership, and indeed a very enthusiastic

membership, and that they are working towards developing a plan for regenerating retail on the Island. We have met with them and discussed what needs to be done.

1030 Partly, I think, in the light of the challenge from the internet sales, retail needs to redefine itself as effectively a leisure activity and to refocus the way the business is carried on. But we have to recognise that the internet is a fact of life and in fact the volume of sales through bricks and mortar shops has declined. That has profound implications for Town Planning and for the future of the retail industry.

1035 I believe that areas like Leale's Yard, which Deputy Gollop has mentioned, need to be regenerated as more mixed-use areas and parts of Town which were historically retail areas need to be redeveloped as more mixed-use, including residential and hospitality offerings.

A Member: Hear, hear.

1040 **The Bailiff:** Deputy Le Clerc.

Deputy Le Clerc: Sir, would Deputy Parkinson agree with me that the only real way of measuring success of any open skies policy and any increase in visitor numbers to the Island, is when we see an increase in income tax revenues and corporate tax revenues on profitability of those businesses and one is offset against the other including some of the Aurigny losses?

The Bailiff: Deputy Parkinson.

1050 **Deputy Parkinson:** Well, I would go further than Deputy Le Clerc. Obviously an increase in the number of visitors to Guernsey will directly benefit businesses in the hospitality sector, hotels and restaurants, but they will also benefit the wider economy including the retail sector. In many ways simply having that greater volume of traffic and therefore a better range of air connections, has social benefits for the population of Guernsey outside of any financial benefit to the Exchequer.

1055 So I think, generally speaking, regenerating the visitor economy is going to be good for all parts of not only the economy but society as well.

The Bailiff: Deputy de Sausmarez.

1060 **Deputy de Sausmarez:** Thank you, sir.

The President will be aware that there is considerable attention given within the public and also within our own inboxes to the issue of safety around 5G health concerns.

1065 Can the President give any assurances to us and the public that his Committee is engaging, not just with the local business sector, but also proactively with the scientific bodies that are raising these concerns? I think specifically of the International EMF Scientist Appeal Campaign, which is a group of 249 scientists who have been petitioning the UN.

Thank you.

1070 **The Bailiff:** Deputy Parkinson.

Deputy Parkinson: Well, my Committee is not qualified to adjudicate between competing claims about the safety of 5G and I am sure the States of Guernsey will as a whole want to comply with the standards that are accepted and adopted in the UK and internationally.

1075 Clearly we want to ensure that any new technology introduced into Guernsey is safe but it is beyond our expertise to decide whether a particular new technology is safe, and we rely on the world authorities and the UK authorities to advise us on what is and is not acceptable.

The Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, sir.

1080 Would my President be happy for me to inform the Assembly that we have engaged with talks with concerned individuals in the community and continue to engage with those concerned members, and will continue to talk with them about their relevant updates surrounding 5G?

The Bailiff: Deputy Parkinson.

1085

Deputy Parkinson: I am delighted to accept Deputy Dudley-Owen's question. Thank you.

The Bailiff: Deputy Soulsby.

1090

Deputy Soulsby: Yes, I wonder whether the President would be interested to know that the Director of Public Health has given a considerable amount of time to the considerations over 5G and her team have done extensive research over a lot of the documentation, and claims made by certain lobby groups with respect to this issue and various information will be put out to Members and the public in due course.

1095

The Bailiff: Deputy Parkinson.

Deputy Parkinson: Yes, I would be interested to know all of that. Thank you.

1100

The Bailiff: Deputy Gollop.

Deputy Gollop: Thank you very much, sir.

1105

Recently, yesterday in fact, TV journalist Gary Burgess alluded to the possibility of both Jersey and Guernsey travellers and residents being able to fly direct to a French mainland airport, probable Reims. I went to Reims Airport in January and thought it a better airport than Dinard in many ways for Guernsey, with better rail, bus and other connections.

Is Economic Development actively seeking a direct air link to our homeland, in a sense, our mainland?

1110

The Bailiff: Deputy Parkinson.

Deputy Parkinson: Yes indeed, sir, we have been engaged in discussions with the airport at Reims and also with the airport at Bordeaux and both of those airports would be very keen to see direct airlinks to the Channel Islands.

1115

What we lack at the moment to make that solution become reality is an operator that wants to provide the service and we are engaged in discussions with various operators to try and assess the level of interest.

I should say for the benefit of Members generally, and Deputy Gollop in particular, that I am pretty well certain that any such scheduled service to the French mainland will require an ongoing level of subsidy.

1120

The Bailiff: Well, nobody else is rising to ask any question so that concludes the statements.

Questions for Oral Answer

Brexit and External Affairs

1125 **The Bailiff:** We move on to Question Time, with questions from Deputy Gollop to, first of all, the President of the Policy & Resources Committee.

Deputy Gollop: Thank you very much, sir.

The President has referred to some of these topics already in his full statement.

1130 Since the States' Assembly last met we have of course seen a change of UK Prime Minister, Cabinet personalities and policy frameworks. Is the Policy & Resources Committee on behalf of us all convinced we are in accord with the evolving political landscape?

The Bailiff: Deputy St Pier.

1135

Deputy St Pier: Sir, I should advise Members that of course these responses were drafted at 5.00 p.m. yesterday before political developments in the UK, so they may already be out of date. *(Laughter)*

1140 As I advised the Assembly earlier, I wrote to the Prime Minister to congratulate him following his election. The letter referred to the positive working relationship with the UK Government throughout the Brexit process to date, and my hope is that this continues. Regular engagement at political and officer level ensures we remain aware of the political landscape. And perhaps in a statement of the obvious in the Brexit context, a UK Government led by Boris Johnson is a very different prospect to a UK Government led by Theresa May.

1145 We are therefore stepping up our engagement politically, via the normal engagement programmes in Westminster and at the forthcoming Party Conferences if indeed they are held. At officer level, the UK Civil Service has put additional structures in place for engaging with the Channel Islands and the Isle of Man to ensure we remained aligned on Brexit planning.

1150 **The Bailiff:** Your second question, unless you have a supplementary?

Deputy Gollop: My second question would be: are Policy & Resources satisfied – *(Interjections and laughter)* I have got it.

1155 Are Policy & Resources satisfied we can avoid the worst of port freight delays in either the UK or France in terms of carrying on business as normal?

The Bailiff: Deputy St Pier.

1160 **Deputy St Pier:** Sir, as Deputy Gollop has said some of this has perhaps been answered but I will give the response that has already been filed with him.

1165 Ensuring the continued supply of essential goods including medicines, fuels and food is of course a strategic focus for 'no deal' planning. We have built positive working relationships with the Hampshire Local Resilience Forum who are responsible for the Portsmouth International Port, through which of course the majority of our goods do pass, as well as the strategic road network surrounding that Port.

The Forum is aware of the challenges we face and has been able to factor our needs into their contingency planning. This involves ensuring that Channel Islands freight has continued and uninterrupted access to the Port.

1170 For goods originating from the EU, we continue to engage with our suppliers to ensure the logistical chains are as robust as possible, whilst also assessing the viability of alternatives as I said in my response to Deputy Inder, sir.

The Bailiff: Deputy Gollop your third question.

1175 **Deputy Gollop:** My third question

The Bailiff: You have just switched your microphone off.

1180 **Deputy Gollop:** There have been reports on *BBC* media that there are potentially shortages of some pharmaceutical products in the Channel Islands, in particular drugs such as HRT Hormone Replacement Therapy for assisting women going through menopausal or pre-menopause conditions and symptoms.

In conjunction with Health & Social Care is the Committee satisfied that we are prepared for such situations?

1185 **The Bailiff:** Deputy St Pier.

1190 **Deputy St Pier:** Sir, it is noteworthy that supply shortages of pharmaceutical products in the UK, particularly in the case of HRT that Deputy Gollop refers to, is not a new challenge and is not a Brexit-related issue. These challenges already form part of business-as-usual operations particularly for the Committee *for* Health & Social Care.

The Brexit contingency planning work to ensure the continued supply of essential goods includes medicines and medical supplies. We continue to work closely with the UK Department of Health and Social Care.

1195 Political assurance has confirmed that we are included in their multi-layered plans to ensure that health services have uninterrupted access to the medical products needed to maintain levels of safe, high-quality care. This includes any stockpiling efforts by UK suppliers in relation to medicines. Where practicable, the Committee *for* Health & Social Care is also bolstering on-Island resilience for medical supplies and consumables.

1200 **The Bailiff:** Your fourth question, Deputy Gollop.

Deputy Gollop: Yes, which is a development of the third.

1205 To the surprise in some Guernsey policy-making circles the States of Jersey's experienced External Minister, Senator Gorst, went public with outline scenarios of both potentially having backup backstop plans for rationing drugs and, more curiously, pharmacy opening hours in the event of post-Brexit shortages on Jersey.

Have we as an Island been sharing those considerations or evolving a parallel plan as a contingency?

1210 **The Bailiff:** Deputy St Pier.

1215 **Deputy St Pier:** Sir, based on our in-depth work with key stakeholders on and off Island, we are confident that the plans in place are sufficient such that a parallel contingency plan will not be required at this stage. However, as a responsible Government, we will continue to monitor the evolving political landscape and adjust plans as necessary.

It is not anticipated that there will be a shortage of any particular commodity. However, the Brexit Transition Group will maintain political oversight of all 'no deal' planning.

1220 The Brexit Transition Group can decide to engage the Civil Contingencies Authority who are able to use the powers in the Civil Contingencies Law, 2012. This Law was enacted to bring the

civil contingency powers up to date and in line with the UK's own Civil Contingences Act 2004. This means that the Law already contains provisions to command a greater degree of control over essential supplies in the event of an emergency.

1225 **The Bailiff:** Deputy Inder you have a supplementary.

Deputy Inder: I think it comes out of the response there.

We have heard a lot from Deputy St Pier about there are definitely plans in place and we do not need any contingency plans, there are plans in place.

1230 Can he give us an example, maybe two examples? Let's say there is a shortage of bread supply because we do not manufacture bread – well, we do, but not in any quantity any more. What is the plan if we run out of bread or in another way what is the plan if we run out of a certain type of chemotherapy drug?

Could he explain to the Assembly and give us two scenarios of what the actual plan is?

1235

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, well of course it does depend on the reason for that particular commodity being unavailable to us, in other words is it an issue of the supply line in getting it across the Channel or is it simply the unavailability of that particular product from the suppliers?

1240

I think the response will depend very much on the cause but looking at alternative supply lines, in other words, using different routes – so if our normal routes become clogged then actually chartering either aircraft or ships that are not reliant on the same route would be one route by which we would be able to bring additional supplies in if necessary.

1245

But I think in response to the original question from Deputy Gollop, the reference to the Civil Contingencies Law is an acknowledgement that in the event of a particular shortage we may need to engage the Civil Contingencies powers to treat something as an emergency, which will obviously then enable us to deal with shortages under that Law.

1250

The Bailiff: Deputy Le Tocq.

Deputy le Tocq: Sir, does Deputy St Pier agree with me that largely we will be in the same predicament as Jersey and so would rely on the same types of solutions; and that publishing a list of essential commodities such as Chardonnay and Sauvignon Blanc does not necessarily make a lot of difference?

1255

The Bailiff: Deputy St Pier.

Deputy St Pier: Yes, I would, sir.

1260

The Bailiff: Deputy Gollop.

Deputy Gollop: Sir, in view of the positive statements and answers and responses, would the Policy & Resources President confirm that he was not on holiday in August and had a useful meeting with the Parliamentary Under-Secretary of State for Brexit, Mr James Duddridge, and discussed these kinds of issues?

1265

The Bailiff: Deputy St Pier.

1270

Deputy St Pier: I did, sir, as did a number of the other Members as well and obviously that dialogue will continue with whoever is in any particular posts. Indeed we would expect, despite political events, that we will continue to be progressing, for example, the World Trade

Organisation issue in the coming days and weeks again in spite of whatever may be happening in the UK.

1275

The Bailiff: Deputy Trott.

Deputy Trott: Sir, thank you.

1280 Would the President of P&R agree with me that we are in a far more advantageous position than indeed our Jersey cousins for two reasons? The first is that we own an airline and, if needed, those aeroplanes can easily be converted into cargo vessels.

We of course also own, sir, two tank ships which ensure that the bunkering of our fuel reserves can be assured, all a part of sensible contingency planning.

1285

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I think I do agree that we are in a better position than many jurisdictions. Our legal framework is well positioned to allow us to respond in an appropriate fashion.

1290 As I referred to in my statement earlier, sir, the ability for us to transfer data is particularly important for the ongoing nature of sustainability of the business environment, that is not a position which the UK is currently in and it is one of the consequences that perhaps has not been properly taken into account at this stage.

1295 So I think we are in a good position but, having said that, we should not and cannot afford to be in any way complacent. We have to acknowledge that we are a small Island surrounded by water at the end of supply lines, and that could well have consequences for us that do need to be responded to. But the reality is there is only so much preparation we can do until we understand what the impact might be in the event of a no-deal exit.

The Bailiff: Deputy Tindall.

1300

Deputy Tindall: Thank you, sir.

1305 Going back to the original question from Deputy Gollop in the sense that – and the events that have happened yesterday in particular – can the President of Policy & Resources reassure the States that if an election is called that these discussions and communications will continue and that we will be best prepared, despite what is going on in the chaos of the UK?

The Bailiff: Deputy St Pier.

1310 **Deputy St Pier:** Sir, I can reassure Deputy Tindall and all States' Members that irrespective of political developments in the UK we will of course continue to deal with all of those that we need to deal with both within the present Government, within the present opposition and of course importantly the Civil Service.

1315 I think we should not underestimate the continuity of those officials working in the Cabinet Office in the UK and the department for Exiting the EU. These are critical individuals with whom relationships have been built over the last three years that have been unimpacted by the changing Government, and would expect to be unimpacted by any further change in the political scenery in the UK.

So we must continue what we have done for the past three years, which is maintain engagement at all levels and take every opportunity to do so to press our interests.

1320

The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

1325 I was feeling some comfort for the contingency planning that Deputy St Pier alluded to, but please can I have some reassurance that the policy is not to rip out seats from Aurigny planes to put in cargo. I am assuming that was a flippant comment.

But contingency planning surely, sir, is more than relying on ripping out seats on passenger flights to put on cargo, sir?

1330 **The Bailiff:** Deputy St Pier.

Deputy St Pier: It is. (*Interjection*)

1335 I am sure Deputy Trott's point I think was simply that in the event of moving from contingency planning to an emergency response under the Civil Contingencies Law then we do have additional tools available to us which may not be available elsewhere.

I can confirm that that does not form any part of our central planning response. (*Laughter*)

The Bailiff: Deputy Kuttelwascher.

1340 **Deputy Kuttelwascher:** Yes, going back to ripping out seats, sir: is the President confident that Deputy Trott's comment is technically correct because it is actually woefully incorrect? But there we go.

The Bailiff: Deputy St Pier.

1345

Deputy St Pier: Sir, I think we will just treat the comment as struck from the record as an irregular (Inaudible) (*Laughter*)

The Bailiff: Deputy Trott.

1350

Deputy Trott: Sir, it was intended to be a humorous comment; I should realise that not everyone shares my advanced sense of humour. (*Laughter*)

1355 But notwithstanding that, of course it is not incompatible, we used to do it for years – aeroplanes used to transport freight in the morning, have the seats put back in the afternoon and transport passengers in the evening. That is how it was then and it could be so again in an emergency scenario.

Animals and Road Traffic Legislation Protection

The Bailiff: Right, well, shall we move on to the questions from Deputy Gollop to the President of the Committee *for* Environment and Infrastructure?

1360 **Deputy Gollop:** Thank you, sir.

I actually could not decide whether it was really Environment & Infrastructure, Economic Development or Home Affairs who needed these questions because it is a cross-party issue, really.

1365 My first question is: bearing in mind current extant legislation requires and demands a motorist driver to report to the Police and appropriate authorities the accidental death caused by a motor vehicle of a dog or horse, for example, when can this useful legislation be extended to include the accidental death on the roads by motor traffic misadventure of a domestic cat?

The Bailiff: Deputy Brehaut will reply.

1370 **Deputy Brehaut:** Thank you, sir.

I thank Deputy Gollop for his two questions.

The work to investigate a potential change to the requirements for reporting an incident with a cat involved in a road traffic collision has been prioritised by the Committee for E & I for 2020.

1375 **The Bailiff:** Deputy Gollop.

Deputy Gollop: Yes. I am glad to hear that answer because although I gather on a sister Island there were concerns about the time of Police Officers.

1380 Does the Committee accept that cats are, to many people, beloved members of households and are fur babies rather than just an animal in the curtilage of an estate?

A Member: Hear, hear.

1385 **The Bailiff:** Deputy Brehaut.

Deputy Brehaut: Well I have owned a cat for 17 years that refuses point blank to be domesticated to any degree. *(Interjection and laughter)* Dogs are usually accompanied by their owners, horses are accompanied by their owners, cats always want to appear to enjoy the night-time economy and you never know where they are.

1390 Cats are at greater risk and I would advise all cat owners to have their cats chipped, seriously, **(A Member:** hear, hear.) because if there is an incident then the family can be identified and the cat can be dealt with.

1395 **The Bailiff:** Your second question, Deputy Gollop.

Deputy Gollop: Yes, and I have a supplementary for this one I think.

1400 Question two: would the President, Deputy Brehaut, not agree that such extensions towards popular and much-loved pet cat feline protection affords also the opportunity to educate and inform the public about driving carelessly, in a way that can adversely affect animal life and health, and provide greater protection and certainty of outcome in the event of a missing cat for cat lovers and owners of those pets?

The Bailiff: Deputy Brehaut.

1405 **Deputy Brehaut:** Thank you, Deputy Gollop.

1410 Sir, it is agreed that when cats, along with any other animal that may be injured or worse as a consequence of a collision with a motor vehicle on a public highway, it is a very distressing time for all concerned. As such and in advance of next year's report, we wish to reiterate that if any motorist is in collision with an animal, that they inform one of the local animal welfare charity organisations immediately.

The Bailiff: Deputy Gollop.

1415 **Deputy Gollop:** Even though I do not own a pet, I actually went on and got a certificate on a pet care course two or three years ago that WEA did. I learnt the incredible unhappy fact that black cats particularly are not lucky in Guernsey all of the time because some 200 cats are seriously injured or killed on our roads each year.

1420 Given the horror of that statistic, does it not encourage Environment & Infrastructure to redouble their efforts to encourage people, especially at night, to drive safely in order to support other people's family pets?

The Bailiff: Deputy Brehaut.

1425 **Deputy Brehaut:** It is just a plain common sense issue; of course we want people to be more responsible. Generally, when drivers do strike an animal, they do tend to go door to door fortunately to try and find who the owner is – but, sadly, with HGV vehicles they are not always aware that that has happened.

I think most black cats are enviable, with John Gollop securing nine political lives in this term, surely.

1430 **The Bailiff:** That concludes Question Time.

Billet d'État XVI

DEVELOPMENT & PLANNING AUTHORITY

I. Development & Planning Authority; Election of a Member – Deputy Barry Paint elected

Article I.

The States are asked:

To elect, in accordance with Rule 16 of The Rules of Procedure, a member of the Development & Planning Authority to complete the unexpired term (that is to the 30th June 2020) of the unfilled vacancy.

The Bailiff: We move on Greffier.

The Senior Deputy Greffier: Billet d'État XVI – Article I – Election of a Member of the Development & Planning Authority.

1435

The Bailiff: Do we have any nominations?

Deputy Tindall: Whilst further conversations have been had, unfortunately they have not resulted in a candidate which the DPA is able to propose, sir.

1440

The Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Sir, I would like to propose Deputy Barry Paint.

1445

The Bailiff: So we have Deputy Paint proposed by Deputy Leadbeater; and do we have a seconder?

Deputy de Lisle: I will second that, sir.

1450

The Bailiff: Deputy de Lisle.

Do we have any other? No. In that case we go straight to the –

Deputy Tindall: Sir, considering it is a proposal from the floor would it be possible to have a secret ballot, please?

1455

The Bailiff: Well, we normally go straight to the vote but if you wish to do so we could have a secret ballot. *((Interjections))*

Deputy Tindall: Sir, we have had secret ballots before and there has been no vote (*Interjection*) as to whether it is a secret ballot – so, to treat it in the same way as before.

1460

The Bailiff: All right, we have voted on the proposal whether to have a secret ballot. I know we have done it before but the odd thing about having a secret ballot, even where is only one candidate, is that there is nothing in the Rules that says the candidate has to secure a majority of those voting. So if we had even six votes in favour and whatever it would be 30-something spoilt papers, that person would still be elected, I think.

1465

Mr Comptroller do you have a view on that?

The Comptroller: Sir, I think what you said is correct as far as I can recall.

1470

The Bailiff: There is nothing in the Rules that says that a Member being elected has to have a majority of votes, and of course in a situation where we have more candidates being proposed than there are vacancies it is often the case that somebody can be elected who has not secured a majority of the votes. So I think that is why it is not in the Rules.

But I have been asked to put to you the Proposition so I will put to you the Proposition that we have a secret ballot. Those in favour; those against.

1475

Members voted Contre.

Deputy Tindall: Sir, I have to say when I was elected there was not a vote.

The Bailiff: There was not what, sorry?

1480

Deputy Tindall: There was not a vote on the secret ballot; we just went to a secret ballot. So I do feel that we are being treated differently.

I have not even had an opportunity to discuss this this proposal with the Committee. I just wish to put that on record if you are not willing to change your mind.

1485

The Bailiff: Deputy Paint, you are the candidate. Are you a willing candidate?
Can you put your microphone on?

Deputy Paint: At the moment I am not sure, sir, (*Laughter*) but the truth of it is the ballot was for the President. This will be a ballot for a Member of the Committee, so that does make a difference.

1490

The Bailiff: Well, I put the Proposition that we have a secret ballot and it has clearly been rejected. There is nothing in the Rules which makes provision for it, I suggest we go *aux voix* and I put to you the Proposition that Deputy Paint, as proposed by Deputy Leadbeater and seconded by Deputy de Lisle, be elected as a Member of the Development & Planning Authority.

1495

Those in favour; those against.

Members voted Pour.

The Bailiff: I declare him elected.

COMMITTEE FOR HOME AFFAIRS

**II. Committee for Home Affairs –
Police Complaints Commission –
Reappointment of Chair and Notification of Resignation –
Mr Stewart Chisholm reappointed**

Article II.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 10th June 2019, of the Committee for Home Affairs, they are of the opinion:

- 1. to reappoint Mr Stewart Chisholm as Chairman, of the Police Complaints Commission, for a period of four years with effect from 1st July 2019.*
- 2. to note the resignation of Mr Nigel Ward from the Police Complaints Commission with effect from 30th June 2019.*

The Senior Deputy Greffier: Article II – Committee for Home Affairs – Police Complaints Commission – Reappointment of Chair and Notification of Resignation.

1500

The Bailiff: The President, Deputy Lowe.

Deputy Lowe: Thank you, sir.

1505 Sir, I have nothing to add to this brief policy letter other than to thank the members of the Independent Monitoring – the Police Complaints Commission – sorry, wrong Committee.

Sir, Home Affairs unanimously asks the States to approve the re-appointment of Stewart Chisholm as the Chairman of the Commission and to note the resignation of Mr Nigel Ward.

Members will also have noted that the Commission's Annual Report is attached to this meeting's billet to discuss later.

1510

The Bailiff: Well, there are two Propositions I put both of them to you together.

First of all, to reappoint Mr Stewart Chisholm as Chairman for a period of four years; and note the resignation of Mr Ward with effect from 30th June. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare those Propositions carried.

LEGISLATION LAID BEFORE THE STATES

**The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
(Amendment) Regulations, 2019;**

**The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
(Amendment) Regulations (No.2), 2019;**

**The Road Traffic (Construction and Use of Motor Vehicles) (Guernsey)
(Brexit) Regulations, 2019**

1515

The Senior Deputy Greffier: The following Legislation is laid before the States: No. 1/2019 [The Health Service \(Benefit\) \(Limited List\) \(Pharmaceutical Benefit\) \(Amendment\) Regulations, 2019](#); No. 68/2019 [The Health Service \(Benefit\) \(Limited List\) \(Pharmaceutical Benefit\)](#)

[\(Amendment\) Regulations \(No.2\), 2019](#); No. 72/2019 [The Road Traffic \(Construction and Use of Motor Vehicles\) \(Guernsey\) \(Brexite\) Regulations, 2019](#).

1520 **The Bailiff:** I have not received notice of any motion to debate any of those.

LEGISLATION FOR APPROVAL

POLICY & RESOURCES COMMITTEE

III. The Economic Statistics (Guernsey and Alderney) Law, 2019 – Approved

Article III.

The States are asked to decide:

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Economic Statistics (Guernsey and Alderney) Law, 2019", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

The Senior Deputy Greffier: Article III – Policy & Resources Committee – The Economic Statistics (Guernsey and Alderney) Law, 2019.

The Bailiff: Is there any request for any debate?

1525 Yes, Deputy Le Tocq.

Deputy Le Tocq: Sir, I have just got a few brief comments to make in terms of this particular Law.

1530 This was originally approved by the previous Assembly in November 2015 and it is intended to enable improvements in the published earnings statistics which are used in wage and benefit negotiations and to determine pay for Members of this Assembly; our understanding of topics, such as the extent of in-work poverty and gender pay differences, and published GDP statistics which are used within our fiscal framework and as a target for overseas aid contributions.

1535 This legislation, sir, will enable Data and Analysis to use data submitted to income tax purposes currently now allowed by Income Tax Laws, rather than to ask companies and accountants to provide it a second time, and to undertake a business census which will be in 2021 at the earliest to ask for some additional data that is not already provided by Income Tax or other areas of the States.

Thank you, sir.

1540

The Bailiff: Any debate?

Deputy de Lisle.

1545 **Deputy de Lisle:** Sir, can I ask a question with regard to the Part I which relates to the appointment of the supervisor and his or her functions? But I note that a Deputy Supervisor will be appointed also, but then a slew of economic statistic officers to assist.

1550 Given the fact that we are looking at a reduction or some stabilisation in the numbers in the Civil Service, due to our economic position at the current time, is it necessary to have all these additional economic statistic officers? I can certainly support the appointment of a supervisor and a deputy supervisor, but to have a slew of others and build up a huge number of people in that

office, I think, is not something that we wish to see given the current need to reduce and also to contain the Civil Service.

Thank you, sir.

1555 **The Bailiff:** Deputy Merrett.

Deputy Merrett: Thank you, sir.

1560 I would just like to say that what I do not want to do is enact something and then not give it the resource required and end up in six, 12, 18 months' time not being able to actually enact the Law in a reasonable manner.

A good example of that, sir, as history has taught us earlier in this States' term, is Population Management Law when we enacted it and then we had to reinforce it with further funding to actually be able to implement it.

1565 Now, that is not why I have risen from my seat, sir, but my concern is I am virtually desperate to get more statistical information so this says to me 'Yes, please' – a big, big yes please. However, my concern, sir – and it is a concern – is we are enacting the power to require businesses in Guernsey and Alderney to provide certain information and that is my concern, that I would like some reassurance on. I do not want this to be an onerous exercise for businesses. It has to be proportionate; it should not be a burden on businesses.

1570 So that is the balance of proportionality on which I just want some reassurance please from the Committee of Policy & Resources – it does look like Deputy Le Tocq is making notes, so hopefully he can give me that reassurance that I am seeking.

So just to confirm, sir, we are enacting a power and I just want to make sure that first of all there will be the resources to implement it, and secondly that it is not too onerous on businesses.

1575 Thank you, sir.

The Bailiff: Deputy Gollop.

Deputy Gollop: Yes, thank you, sir.

1580 Like some other Members of the States, we looked at this matter and we had I think one of our leading statistician economists attend the Legislation Select Committee and it was a useful session. I think I came away with the impression that Deputy Le Tocq might know more that, although the roles will be separated for the purposes of improving the accountability of the statisticians, effectively there will not necessarily be extra people taken on.

1585 That said, I think we are very well served by our present and indeed I can think of a couple of former economists and statisticians who have done excellent work for the Island.

1590 Like Deputy Merrett, I think we possibly undervalue the importance of having meaningful quality data on the economy and society at our fingertips, because I am still a member, I was re-elected last night at the Workers Educational Association Committee and, as always, they are putting on a 'How to be a Deputy' course in the autumn, and in the spring their annual Economics and Society course usually chaired by former Member Roy Bisson.

1595 We have 30 or 40 people who listen to officers and leading figures of our commercial community and they frequently say, including some retired senior civil servants, that our strategic planning and grip of leadership is a bit undermined by the lack of up-to-date, comparable statistics. That I think is extremely useful to any sphere from retail to education.

So I very much support this and hope Policy & Resources realise that although there are costs involved, meaningful data is vital for the 21st century.

The Bailiff: Deputy Le Tocq will reply.

1600

Deputy Le Tocq: Yes, thank you, sir.

First of all, to tackle Deputy de Lisle's point. The Supervisor, sir, in this respect is already employed, is an existing staff member, it is just the need for legislative purposes to have an official that is designated in that capacity. So we are not talking about an increase in staff numbers there.

1605 But to pick up Deputy Merrett's point, as I mentioned in my opening comments this was a *projet* that was appointed and work that was undertaken at the end of the last States and we are nearly four years on from that. So we have consulted widely in order to minimise extra work necessary, which is why this legislation that is presented to us today is in the form that it is – it enables, through the Income Tax data, to share that data in an informed way and to minimise the amount of work that companies might have to do in addition to provide the right sort of data.

1610 To balance that, sir, and to speak to Deputy Gollop's comments, we do obviously need to have data that is effective and that is a regular occurrence, so that we ourselves, plus third parties, ask for an improvement in data and this particular legislation will enable us to provide that so that our Data Analysis Unit will be better informed, but using the existing data under GDPR Regulations in an effective way so that decisions can be made on evidence.

1615 I ask this Assembly to approve it, sir.

The Bailiff: Just before we vote, Deputy Langlois has entered the Chamber. Do you wish to be relevé?

1620 **Deputy Langlois:** I would very much like to be relevé.

The Bailiff: Thank you, welcome back.

1625 We vote then on whether to approve the draft *Projet de Loi* entitled The Economic Statistics (Guernsey and Alderney) Law, 2019. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

POLICY & RESOURCES COMMITTEE

IV. States Register of Contact Details (Guernsey and Alderney) Law, 2019 – Inclusion of biological sex at birth – Approved

Article IV.

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled "Projet de Loi entitled "States Register of Contact Details (Guernsey and Alderney) Law, 2019" - inclusion of biological sex at birth", dated 14th June 2019 they are of the opinion to:

- 1. Approve, in addition to the information approved to be held within the Register of Contact Details by the States at their meeting held on 16th February 2016 (see Article 12 on Billet d'État III of 2016 - P. 2016/337) the inclusion of title and biological sex at birth of each individual within the Register, as set out in the Policy Letter; and*
- 2. Approve the Projet de Loi entitled "The States' Register of Contact Details (Guernsey and Alderney) Law, 2019" and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.*

The Senior Deputy Greffier: Article IV – Policy & Resources Committee – *Projet de Loi* entitled 'States Register of Contact Details (Guernsey and Alderney) Law, 2019' – inclusion of biological sex at birth.

1630

The Bailiff: Is there any request for any debate or clarification?
Deputy Soulsby.

1635

Deputy Soulsby: Sir, I will just be brief as I think the policy letter is quite explanatory, however, as some of the changes to the register have been requested by Health & Social Care I think it is important that I say a few words.

1640

The inclusion of biological sex at birth on the register will make the targeting of preventative public health services more efficient. Medical screening is a hugely important preventative measure, a key principle of the Partnership of Purpose it represents the most cost-effective means of securing positive outcomes for Islanders. Since the beginning of this term we have demonstrated this through free cervical smear testing and will shortly be introducing HPV vaccination for boys.

1645

At the moment getting the right data set is time consuming and costly and it is because the only records of sufficient size that we have come from those attending hospital. The private medical practices have a more comprehensive data set and we therefore have to purchase this information from them, this is then cross-referenced and added to our hospital system. Effectively these proposals will mean that we will be able to use the information held in the register to invite people for medical screening and other preventative public health services. It will help to provide a more robust data set than is available at present and will make it easier to keep contact information up to date.

1650

There are just two points that I think are very important to make clear. Firstly, information relating to an individual's biological sex will only be available to Health & Social Care, and there will be safeguards in place to ensure the appropriate use of that data. In addition, I can provide assurance that the proposals have been discussed with Liberate which is supportive of the approach we have taken.

1655

The Bailiff: Anyone else?
Deputy Le Tocq.

1660

Deputy Le Tocq: Sir, can I just add to that, that this will also enable, in accordance with the amendment approved by this Assembly in April this year by Deputies Dorey and Green, a list of people eligible to vote for election in 2024 which is an important factor going forward.
Thank you, sir.

1665

The Bailiff: Deputy St Pier.

1670

Deputy St Pier: Sir, finally, for the avoidance of doubt but it is probably a point worth making that of course this remains subject to all the Data Protection Legislation which is in place already, so in no way is that regarded as a derogation of those commitments.

The Bailiff: There are two Propositions; I put both of them to you together. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.

**Procedural Motion –
Approved**

1675 **The Bailiff:** That brings us to other business and Members will be aware that subsequent to the Schedule of Business of this meeting being approved at the last States' meeting, Billet XVII has been issued with a policy letter from Scrutiny Management Committee on a Tribunal of Inquiry Deputy Green has requested that I put to you a Proposition that that policy letter be debated now rather than later in the Agenda.

1680 I propose we do not have a debate on whether to debate it now, and I will just simply put to you the Proposition that we debate at this point in the Agenda.
Deputy Lester Queripel?

Deputy Lester Queripel: Can we have a recorded vote on that please, sir.

1685 **The Bailiff:** We will have a recorded vote on whether to debate at this point. The Proposition is that we debate *now* Billet d'État XVII and the policy letter from Scrutiny Management Committee on a Tribunal of Inquiry. So if you are in favour of debating it now vote *Pour*, if you wish to defer the debate until later in the meeting vote *Contre*.
Greffier.

1690 **The Senior Deputy Greffier:** The voting this session begins with Castel.

There was a recorded vote.

Carried: – Pour 22, Contre 14, Ne vote pas 3, Absent 1

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Green	Deputy Dorey	Deputy Graham	Deputy Mooney
Deputy Paint	Deputy Yerby	Deputy Oliver	
Deputy Le Tocq	Deputy Langlois	Deputy Fallaize	
Deputy Brouard	Deputy de Sausmarez		
Deputy Dudley-Owen	Deputy Roffey		
Deputy De Lisle	Deputy Ferbrache		
Deputy Soulsby	Deputy Tindall		
Deputy Prow	Deputy Brehaut		
Alderney Rep. Roberts	Deputy Tooley		
Alderney Rep. Snowdon	Deputy Le Clerc		
Deputy Kuttelwascher	Deputy Merrett		
Deputy Gollop	Deputy St Pier		
Deputy Parkinson	Deputy Stephens		
Deputy Lester Queripel	Deputy Hansmann Rouxel		
Deputy Leadbeater			
Deputy Trott			
Deputy Le Pelley			
Deputy Meerveld			
Deputy Inder			
Deputy Lowe			
Deputy Laurie Queripel			
Deputy Smithies			

The Bailiff: Well the voting on that procedural motion was 22 in favour with 14 against and 3 abstentions. I declare it carried.

Billet d'État XVII

SCRUTINY MANAGEMENT COMMITTEE

I. Tribunal of Inquiry – Circumstances surrounding the appointment of the role of Head of Curriculum and Standards – Debate commenced

Article I.

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Tribunal of Inquiry', dated 27 August 2019, they are of the opinion:

1. To resolve it is expedient that a Tribunal of Inquiry be established in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended, to inquire into a matter of urgent public importance, namely the establishment of the facts and circumstances surrounding the appointment of the role of Head of Curriculum and Standards and any other associated relevant matters as the Tribunal shall determine, and to forward its resultant report to the Presiding Officer of the States of Deliberation for publication as an appendix to a Billet d'État.

2. To delegate authority to the Policy & Resources Committee to approve expenditure as required up to £250,000 to establish a Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended.

3. That the Terms of Reference for the Tribunal shall be:

a) to inquire into the circumstances leading up to and surrounding the appointment of the Head of Curriculum and Standards;

b) to examine whether the appointment made conformed to the current policies & procedures of the relevant Committees of the States of Guernsey;

c) to examine whether good governance standards were maintained during the appointment process;

d) to make such recommendations as may be considered appropriate; and

e) to deliver a report on its findings to the Presiding Officer of the States of Deliberation as soon as practicable.

1695 **The Bailiff:** We will go straight therefore to the debate on the policy letter of the Scrutiny Management Committee on the Tribunal of Inquiry.
Deputy Green.

1700 **Deputy Green:** Sir, Members of the Assembly, my Committee is very grateful to the Assembly that we have the opportunity to debate this concise policy letter today and now, at such short notice, and we are grateful that the concise policy letter was able to be published as expeditiously as it was.

1705 Sir, the first thing I should say is that the Scrutiny Management Committee has taken the decision to bring forward this policy letter only after a great deal of thought and anxious consideration.

Sir, in the policy letter we are formally recommending to the States that a Tribunal of Inquiry be convened under the 1949 Law as amended to investigate and review the circumstances around the appointment process undertaken in respect of the Head of Curriculum and Standards role.

1710 My Committee reached this decision only after significant deliberation and analysis. We came to the conclusion that it was very important for any review on this matter to be genuinely independent, to be transparent and also thorough. Having evaluated the various different ways in

which a review might be conducted we decided that the best and indeed only really effective way of doing such a review under our current arrangements would be via the Tribunal of Inquiry.

1715 We did exhaustively consider whether, for example, an independent review commissioned by the Scrutiny Management Committee might be an option here. However, ultimately we decided that such a review although potentially expensive in itself would not be an effective mechanism in the circumstances, principally because the SMC does not currently have the powers to obtain relevant documents nor the power to compel witnesses to give evidence. We also felt that an SMC-commissioned review would not ensure an unimpeachable level of independence nor the level of transparency that many now expect.

1720 Just continuing with why we decided not to commission an independent review ourselves, such an option would have run a very real risk of running up substantial costs in itself, if done by an independent reviewer who was a judge or a senior legal figure plus clerking staff, but ultimately leading to what we would probably see as an ineffective review.

1725 Any review on something like this needs full access to all of the relevant documentation and information and the ability to compel any and all relevant witnesses of facts to attend to give evidence in public proceedings. The 1949 Law confers upon the Tribunal of Inquiry all of the powers, rights and privileges that are vested in the Royal Court with regard to *inter alia* the enforcing of witnesses to attend and their examination on oath and the compelling of the production of documents. The Royal Court itself would be responsible for the appointment of persons to serve on the Tribunal in the event that the Assembly endorses these Propositions.

1730 I should state for the record that, after a considerable amount of work this term, this situation with Scrutiny lacking the relevant powers will hopefully change significantly if the ordinance is formally approved by the States in the first quarter of next year, with the enabling law hopefully endorsed later on this year.

1735 As one of our priorities this term, we have been seeking to progress the Resolution that was granted by the previous States to give the Scrutiny Management powers the relevant powers to compel witnesses and to compel the production of documentation. But, rather than allowing the usual course of events to take place through the legislative programme, we decided to actually use our own budget to in effect contract-out or outsource that process.

1740 We were very grateful that a former HM Procureur was able to draft up that legislation. The enabling legislation will hopefully be in the States in, I believe, October of this year. That is only the enabling stage; that is the overarching framework. The actual ordinance that will then give Scrutiny those powers will actually be available next year.

1745 So it is not for the want of trying that we do not have these powers, but we think bearing in mind the urgency of this matter it is important for an effective review to take place before we actually have those powers in place ourselves.

Sir, in the mandate of the Scrutiny Management Committee it does expressly state the following, and I quote:

To advise the States if and when in its opinion circumstances justify the establishment of a Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended.

1750 In line with that mandate my Committee has produced this policy letter because we feel that this is the only realistic course of action to deal with the questions and issues arising out of the appointment process undertaken for the role of Head of Curriculum and Standards. This appointment process has attracted significant public and media interest; allegations and counter-allegations by various parties regarding alleged political interference, alleged irregular process, and alleged questionable governance.

1755 The relevant information that has been placed in the public sphere on this issue has in the view of my Committee rightly or wrongly served to undermine public trust and confidence in the Island's Government. It is also noteworthy that the Committee *for* Education, Sport & Culture themselves have complained of certain inaccuracy in the media coverage.

1760 In these circumstances and in an attempt to restore public confidence in the Government of the Island we consider that this is the best and only effective way to deliver a completely independent and transparent investigation via this route.

We consider that it is expedient that a tribunal be established for inquiring into a definite matter, which is how the Law describes it, which is a matter of urgent public importance as per
1765 Section 1 of the 1949 Law.

This policy letter recommends that the terms of reference for the tribunal shall include five elements. Firstly, to inquire into the circumstances leading up to and surrounding the appointment of the Head of Curriculum and Standards; secondly, to examine whether the appointment made conformed with the current policies and procedures of the relevant
1770 committees of the States; thirdly, to examine whether good governance standards were maintained during the appointment process; fourthly, to make such recommendations as may be considered appropriate; and fifthly, finally, to deliver a report on its findings to the Presiding Officer of the States of Deliberation as soon as practicable.

It should be added that the tribunal, once established, in the event that the States decides to
1775 endorse these Propositions, the tribunal itself would have the right to agree the final composition of those terms of reference.

Sir, the policy letter also recommends that the States choose to delegate authority to the Policy & Resources Committee to approve expenditure as required up to £250,000 to establish a Tribunal of Inquiry. The analysis done by my Committee and its officers so far suggests that this
1780 tribunal should be able to be effectively delivered within this level of resource. We are confident that this indicative budget should be adequate in all of the circumstances.

Sir, I have been relatively brief in opening, I will simply conclude in a moment, and I conclude as follows. In my Committee's opinion this is an issue that can only be effectively investigated and reviewed under the Tribunal of Inquiry route. There is an expectation in our community that there
1785 will be a no-holds barred review into this and to get anywhere near that this is the solution as far as my Committee's judgement is concerned.

The most important thing in all of this is to get the review done effectively, thoroughly, relatively quickly in a transparent and genuinely independent way. My Committee has evaluated all of the potential options for doing this and we advise the States in all sincerity that this is the
1790 only credible way forward. But the Law requires a States' Resolution to kick the process off.

Sir, in my view this is an opportunity for the States to lance the boil on this issue and I therefore commend this policy letter, as brief as it is, together with the Propositions to the Assembly and I ask their support to establish the Tribunal of Inquiry.

1795 **The Bailiff:** Deputy Soulsby.

Deputy Soulsby: Sir, I have to say I am really disappointed it has been nearly two months now since we heard of allegations that would appear to be worthy of investigation. During this time we have heard claims and counterclaims, the only beneficiaries of which have been the media who
1800 have been able to fill their air time and pages with various opinions both informed and uninformed. Those who certainly have not benefited from it are those who applied for the job of Head of Curriculum and Standards and have found themselves in the centre of a storm not of their own making. For their sakes, as well as all those who have seen mud flying at them over the summer, a resolution needs to be found and quickly. The longer this goes on, the longer the
1805 whole of Government is under a cloud.

However, *quick*, a public inquiry is not. (**A Member:** Hear, hear.) It takes time to organise, appoint the panel or person, call people and undertake the hearings, write up the final report and publish.

Now, I thought it would be useful to go back to the last Tribunal of Inquiry which was into the
1810 industrial action by the Airport firefighters. Having read it, I am convinced that the matter we are considering should not be the focus of a tribunal for a number of reasons which I will set out now.

1815 Firstly, and to continue on the aspect of time, that Inquiry reported to the then States in April 2010. However, the Resolution of the States, and the equivalent of what we are doing today, agreeing to a tribunal being created was passed in June 2009, that is 10 months from beginning to end. In effect, we could be talking a whole year from when the accusations were first made public. That could therefore mean the report does not even come to this States, or even worse it is published this term but when it is too late for it to be debated this term. In both cases it will colour the next election.

1820 Were this a more general review that cut across many committees and operational areas of the States I may have been more supportive, but the terms of reference are tightly defined. I have seen arguments in support of a tribunal along the lines of 'It will show how the States is not up to scratch!' And will come out with general recommendations such as this one from the last tribunal, and I quote:

We recommend that there should be greater interdepartmental co-operation and collaboration with the Policy Council resolving difficulties where the priorities of departments differ.

1825 If there is going to be a tribunal they may well wish to cut and paste, replace Policy Council with P&R, but actually give them the power to enable it to happen. But that is another matter.

The terms of reference have been written in such a way to relate specifically to the incident in question, there is no requirement to make general observations along these lines, unlike the last tribunal, it has to be said.

1830 Now on to cost. We are told that we should make available £250,000 for a review. Where is that money coming from? If there is that amount going spare, I would like it to head in the direction of HSC thank you very much. (**Several Members:** Hear, hear.) Members have already heard how we are going to be over budget this year through the sheer amount of demand that is hitting us at the moment. I am not happy that £250,000 of the savings we – HSC – have returned to Treasury goes to line the pockets of lawyers and academics.

1835 So for the reasons of speed, terms of reference and costs, I do not think that a tribunal is justified. Instead, this is something that falls fairly and squarely on to the Scrutiny Management Committee. (**Several Members:** Hear, hear.) While Scrutiny Management Committee has the right to advise the States that in its opinion a Tribunal of Inquiry may be needed and which it is exercising here, its mandate also states and I quote from the Red Book:

When determining the subject of its reviews and examinations, to pay particular attention to the performance of committees in contributing to States' objectives and policy plans and to matters which are of substantial importance or of significant public interest.

1840 If nothing else, this matter has proven to be of significant public interest. Surely if a review is to be undertaken it should be by or through the Scrutiny Management Committee, that is what they are there for. Do not tell me they are not independent, we set up a whole system where no Member of SMC can sit on P&R or the Principal Committees which then dilutes the number of people we can then use for other committees. It is just as we have seen with the DPA.

1845 So why are they not independent? If they are not then we really do need to look carefully at what the Scrutiny Management Committee is for. If it is independent enough to produce an interesting letter of comment against the ESC policy letter, it is independent enough to look into matters of fact.

1850 However, it appears that a big argument for Scrutiny Management Committee not doing it is that they do not have the powers to call for people, papers and records. Well, that presumes parties are not willing to participate or disclose to the full. In relation to the latter point ironically one of the findings of the last Tribunal of Inquiry was it found the workings of the States to be what they called 'unusual' and to quote:

We hope that it will henceforth cease to be so. Open government is essential to a flourishing democracy, we hope that a lasting legacy of this Inquiry will be a culture of greater openness and transparency. We recommend that there

should be a presumption that reports commissioned from the public purse will be made publicly available unless there are specific grounds for doing otherwise.

1855 That is what the policy is now I understand. That was 2010 it is not now and I would like to think and believe things really have changed. The recent governance reports into HSC and Home Affairs are published and I understand all others will be too. The argument of why a tribunal is needed on the grounds of secretiveness of the States is therefore less valid today than it was 10 years ago.

1860 In respect of the point about participation, P&R and ESC have given their commitment to co-operate fully so what is the problem? Do they not trust them? I would say we are in a sad state of affairs if that is the case.

1865 In any event, whilst the SMC do not have the powers yet they are able to name and shame those who do not co-operate. Also, as Deputy Green has said, the policy letter and legislation is in the pipeline, and not before time given that this is something that we have already approved in the last States. So this is in the pipeline and in the meantime if they felt their lack of powers now were causing an issue they could still start a review now and then reconvene when the legislation is in place. In any event I think this is a non-issue.

1870 What an opportunity for the Scrutiny Management Committee to show what it is made of, to prove to the detractors of the current scrutiny system that it is worthwhile. I want to see them step up to the plate and demonstrate that the States can do it and do it well. (**A Member:** Hear, hear.) If they do not I think we need to seriously consider the value and purpose of the Scrutiny Management Committee in relation to providing scrutiny of the States of Guernsey.

For those of you who are not convinced and want a full-scale public inquiry all I would say is, be careful what you wish for –

(Interjection from the Public Gallery)

1875 **The Bailiff:** Yes, if you interject again you will be removed.

Deputy Soulsby: I cannot support a Tribunal of Inquiry but do support a review by Scrutiny Management Committee, which they can do without needing the approval of the States.

1880 **The Bailiff:** Deputy le Pelley.

Deputy Le Pelley: Thank you, sir.

1885 I think we are into the court of public opinion here. The rumours are rife. I personally have heard quite a few of them and I have tried to keep away from them because I was to a degree involved in a previous Education, Sport & Culture Committee.

1890 But the rumours that are around include such things as this being the tip of the iceberg; other appointments need to be evaluated; political involvement in them should be investigated; movement of staff out of and into the education sector of ESC immediately after the change in the actual Committees; the selection and deselection of the Chief Secretary; selection of temporary Director of Education; the selection of the permanent Director of Education who has since withdrawn, as well as the current position that one is asked to look at.

1895 I personally am a little bit disappointed in the terms of reference in just looking at one particular position. As I say, this is a court of public opinion; this is the States of Guernsey, its integrity must be seen to be absolutely clean – not just seen to be, or perceived to be. It must be absolutely clean. We cannot have allegations flying around of political involvement where there should not have been and, if there has been, it needs to be exposed and it needs to be addressed and sorted out properly.

1900 I understand the cost is going to be £250,000, perhaps, but I understand also from what Deputy Soulsby has just said that perhaps you could ask Scrutiny to do it and actually save some of that money. But I think we do need to actually ensure that people both inside this Chamber

and outside are absolutely aware that if there are any – and I use the word advisedly, Deputy Green – ‘shenanigans’ going on, then they need to be exposed and people need to know about them and the proper appropriate action needs to be taken.

1905 I also agree with something that Deputy Soulsby said and that is that Scrutiny needs to be given more powers. (**Several Members:** Hear, hear.) It needs to really be a little bit like the Royal Military Police is in the Army, to be able to investigate and to get right down to the nitty gritty of what is going on; or, for those of you that are more TV-minded, a bit more like AC12 in the *Line of Duty* series. (**A Member:** Hear, hear.)

1910 I am going to support this Inquiry. I think that some of the allegations, if they are not challenged, if they are not proven to be untrue will bring the States into disrepute and I urge everyone to agree with this Inquiry.

Thank you.

The Bailiff: Deputy Brehaut.

1915

Deputy Brehaut: Thank you very much, sir.

1920 As Deputy Soulsby has said, we have actually been here before with regard to a Tribunal Inquiry. At that time I was a Member of the Scrutiny Committee. That Committee wrote up its terms of reference, it published its terms of reference for a review that we assumed we would be doing, and then a requête was placed by Deputy Lowe calling for a Tribunal of Inquiry. The mood at that time, candidly, was that heads must roll – somebody is responsible, we will find them. People were salivating at the prospect of sitting in the shadows of the gallows, perhaps even knitting, just seeing how many political heads exactly would roll.

1925 But that is not what a Tribunal of Inquiry gives you. It does not give you the exchange between politicians; it does not give you the conversational exchanges you expect; it is very dry; it deals with processes.

1930 Now, I remember participating in the Tribunal of Inquiry. I could not have participated in the Scrutiny review because I was the Chair of the Committee and I was on PSRC, the Committee that were the subject matter of the review, so I could not participate in that but did in the tribunal. I found it the most disappointing experience, because you had a lawyer putting questions to you with an occasional interjection from the panel, as it was, to my right. There was no interaction. There were a number of scripted questions that were posed, almost of a universal nature to most people and it really, in my view, did not get to the nub of the issue and deal with the issue in any real depth.

1935 I argued strongly for Scrutiny at that time to carry out a review because I could not understand why a Committee of the States with the title ‘Scrutiny’ would look to outsource scrutiny to a third party and I am quite alarmed to hear that we could potentially be doing that again today.

1940 When I was Chair of Scrutiny, there were two full-time members of staff. I acknowledge the fact that PAC has now been subsumed into the main body of Scrutiny and they have more staff members, but there is an adequate staff resource there today to carry out a review. I mean, whoever drafted the critique of the ESC proposals on behalf of Scrutiny recently, if they can turn that letter round at short notice and be so cutting, and be so pointed, and be so inquisitorial when they want to be, I am not too sure why they are opting out of another opportunity to do the very same thing. I do not quite understand.

1945 What people want, of course, is – and the same is true of the Wales Audit Office and I will hold my hand up, I was one of those people with regard to both the Firefighters’ dispute and with regard to the Wales Audit Office. I wanted heads to roll because I felt that behaviours were not acceptable at that time. But the moment you outsource this type of review, you give it to a group of people, organisations, that are alien to Guernsey, they take time to orientate to the Guernsey system, and you will find that they will get drawn in and lost on our framework and our systems, and they will spend much more time on that than they will on the subject matter of the nitty gritty of what people want to do or are interested in.

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I say 'public interest' but we cannot have reviews on the strength of feeling on social media. The amount of diatribes, the rubbish, the nonsense that is posted on social media that now appears replicated or appears in our *Press* too; the media has become so incestuous that they feed off one another and allegations with no substance eventually become presented as fact. We should not be so willing to embrace that type of thing and view it as a type of evidence.

But we cannot, and I would urge Members not to do this, sign off a sum, especially now, of £250,000 on a review following the speech given by Deputy St Pier earlier warning us of the financial challenges ahead.

Have confidence in Scrutiny, embrace the Scrutiny Management Committee that have that title, send them once more round the block and say 'We have confidence that you *can* do this review. Demonstrate to the community that you can do it'. Please do not, for want of a better word, castrate the local scrutiny process and leave it with the eunuch of a tribunal process that will not deliver what you believe it will do.

The Bailiff: Deputy Smithies.

Deputy Smithies: Thank you, sir,

Just with reference to Deputy Brehaut's comments about social media, I distance myself from that because personally I do not indulge in it. My views are informed by conversation and I think Deputy Le Pelley has already referred to the depth of public feeling on this. We are bound to all hear different stories from different people. But basically I think people are fed up with the issue and we must put it to bed as soon as possible, partly so as not to interfere with debate on the next item of business.

We have heard it will take too long; it will be vindictive or boring, or useless; and there is much emphasis on the quarter of a million pound budget. So some elements of 'project fear' have inserted their slimy tentacles into matters.

It should cost considerably less, unless of course the terms of reference are expanded – that, I do not support. But I do support a Tribunal of Inquiry as quickly as possible.

The Bailiff: Deputy Le Clerc.

Deputy Le Clerc: Sir, I cannot support a Tribunal of Inquiry at £250,000. Like Deputy Soulsby, I can think what I could spend that money on now putting food on people's plates down at ESS, but partially because we know what the outcome is going to be.

I can tell you what it will say: it will say we need to improve the governance training for all new States' Members. (*Interjection*) It will say there need to be clearer lines of responsibility on what are operational matters and what are policy matters – things that we have discussed round and round again and again in this Assembly. Those are the outcomes of that tribunal.

I cannot approve spending £250,000 when I can write down exactly what that outcome will be. It is navel gazing and it is irresponsible.

The Bailiff: Deputy Lester Queripel.

Deputy Lester Queripel: Sir, I was a Member of the Scrutiny Committee in a previous Assembly and I was constantly frustrated by the boundaries the Committee had to operate in because of the lack of powers that has been referred to in this debate. The fact of the matter is Scrutiny does not have the power to undertake the comprehensive review that is needed here.

Sir, in his opening speech, Deputy Green said something along the lines of 'a Tribunal of Inquiry will ensure a no-holds barred approach'. So surely the question my colleagues need to ask themselves when they come to vote is: 'Do I want a no-holds barred approach to this whole issue or not?'

I will close by asking for a recorded vote, sir, when we come to vote, please.

2005 **Deputy Green:** Point of correction.

The Bailiff: Yes, point of correction, Deputy Green.

2010 **Deputy Green:** Just to be clear, sir, I think what I said was that there was an expectation in our community that there will be a no-holds barred review, before I went on to say that this is the solution. That is not quite what Deputy Lester Queripel quoted me as saying.

The Bailiff: Deputy Gollop.

2015 **Deputy Gollop:** Sir, I believe that an inquiry done by either the Scrutiny Management Committee including its political and non-States' members, or a Tribunal of Inquiry would be able to cover most elements of the job but they perhaps would do things in different ways. But I will come to that in a bit.

2020 I actually sat of course on two past Scrutiny Committees and I was aware then, and we even agreed in those days, that Scrutiny could occasionally be taken to task by some more charismatic Ministers or politicians, shall I suggest – not looking at the top bench, no – who would perhaps resist on occasions answering some of the questions Scrutiny put because of the apparent lack of powers that the Committee enjoyed.

2025 Now, I think for the benefit of the newer Members particularly they should remember that in those days, not only did we have 45 Deputies but we had nine political Members of Scrutiny – one of them usually came from Alderney but that was more by chance than by design – and nine on Public Accounts of whom four were non-States' members but in some cases had political experience. That was a wider pool of people than the current framework of the Scrutiny Management Committee and although I know and trust that Deputy Green, as both an experienced Deputy and indeed advocate, would do a first class job in chairing the review, we are minded to know that not only does he have a strong family connection to Education but he was an influential Member of the previous board which of course was a co-creator of the current account strategy. We all have that level, so sometimes it is useful to get in people from outside, and if they are academics or lawyers or judges that could be useful in terms of the questions that they ask and in terms of the processes.

2035 I think many Members in this term have been interested in improving the world of the Deputy. Deputy Tindall, Deputy Hansmann Rouxel, Deputy Dudley-Owen amongst others have all written extensively on the need for States' Members to have greater knowledge and awareness of their corporate governance role, as has Deputy Le Clerc.

2040 I do not like being irresponsible but I think the public will is to have an external inquiry as quickly as possible and although I am aware that legislation has seen, or is aware of the enabling rules that Scrutiny will have, and it is new development in any case – the Ordinance has yet to come into being. If we want to make progress as quickly as possible, for the good reasons Deputy Soulsby suggested, we actually need to get on and make a decision today. Scrutiny Management Committee, I think I am right in saying, would not be comfortable in going ahead with this review despite the co-operation I believe Education, Sport & Culture, Deputy Fallaize and other agencies have put before it, because of their lack of real powers of investigation. I think we need to go up a notch.

2050 I do not like the cost. I agree with many members of the public and this Assembly, and I think £250,000 is excessive. I hope it would not cost anywhere near £100,000 but we will have to experience that when it comes.

I think Deputy Le Pelley made a very thoughtful speech and I am perhaps concerned that the terms of reference are a little – I give way to Deputy Oliver.

2055 **Deputy Oliver:** Thank you, sir.

Deputy Gollop, do you think then it could be a better option to almost give £250,000 in order to bring the legislation forward so they have the powers to do it so we can do it?

2060 **Deputy Gollop:** If we had another year left of this term that might be an option, but I think in the interests of following the existing timelines it would be better to get on and make a decision today to kick-start the process. Deputy Green would probably be able to give a more detailed response to that point.

2065 But my argument now has moved on to the terms of reference which inquire into the circumstances leading up to and surrounding the appointments of the Head of Curriculum and Standards, to examine whether the appointment made conformed to the current policies and procedures, good governance standards, recommendations and so on.

2070 The problem is I think Deputy Le Pelley has brought a wider context and in analysing any issues that led to the perhaps inaccurate reports that have been around, I think it would be helpful to have a greater perspective on the normal or abnormal procedures for the taking on of senior staff members over a period of years, so a pattern can be established – not a blame game, but to understand the wider context.

2075 I too, like Deputy Le Clerc, can predict the outcome of this. I think it will be 'Corporate governance standards must be improved; people must behave better' and all the rest of it. But I suspect and I am like Mr Pye, who had a devil on one side and an angel on the other, Mervyn Peake's character, because I am not a huge fan of this idea not only because it is washing dirty linen in public maybe, but there are other downsides.

2080 I should not prejudge the outcome of the review but I would be surprised – and I hope Deputy Le Tocq is listening to this as well – if it does not say that the future lies in politicians having a much reduced role, if any role, in the interference with the staff recruitment process even for senior offices.

2085 Now, I am not sure that would be good for our political democracy but nevertheless it is a danger of this kind of review, and indeed Deputy le Clerc's point that we know all the issues of corporate governance is true, but if that is the case why is it that there are still some senior politicians who do not stress the importance of training board Members? Why is it that Policy & Resources, only a year ago, apparently did not wish to fund the States' Assembly & Constitution Committee with appropriate resources for training States' Members?

2090 So actually I am not in the business of pointing fingers at anybody, I am huge fan of Deputy Fallaize on many levels because I think like many Members of the States past and present he gets the role of the politician and he really tries to make a difference and make this happen; and the problem is with that approach is that by definition it is forceful rather than passive. But I think we do need an objective analysis of the wider questions and to do it completely separately from the other issues of Education that we want to assess.

So let's get this issue out of the way and move on to other substantial matters.

2095 **The Bailiff:** Deputy Brouard.

Deputy Brouard: Thank you, sir.

2100 As one of the few survivors of the last Tribunal of Inquiry I reluctantly come to my feet, and also partly reluctantly because I am sure I am going to end up provoking my good friend Deputy Trott to stand on his feet to say how he was vindicated completely from the last Tribunal of Inquiry. *(Interjection)* As people will remember back then the Public Sector Remuneration Committee were front and centre in the Airport firefighters dispute over which the tribunal was held.

2105 The Tribunal of Inquiry, having gone through one, did not give me – and I believe it did not give the previous committee of the Public Sector Remuneration Committee – the satisfaction we had hoped for. It seemed to have a predetermined outcome; the Chairman restricted presentation of evidence. I felt that he did not want to go into the detail and John Barclay who was acting as

questioner on behalf of the committee was restricted a couple of days into his inquiries and, when the inquiries were going my way, he was asked to go in a different direction.

2110 Did I feel satisfied? No. Did my Committee feel satisfied? No. I had such hope at the beginning and I will not go again into one of these Tribunals of Inquiry with any enthusiasm.

Back Scrutiny along the lines of what Deputy Soulsby advised us earlier and at least make an attempt at the review. The cost is half of a bungalow over here, it is absolutely hideous.

2115 The irony is we as PSRC had remuneration in our title but were upsurged by others, now Scrutiny in their title want to pass their title on to someone else.

Deputy Brehaut summed it up very well and Deputy Le Clerc has already given you most of the findings. Scrutiny, in my opinion, it is over to *you* to do this investigation.

The Bailiff: Deputy Ferbrache.

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Deputy Ferbrache: Sir, Scrutiny are passing the buck as has been said and a public inquiry of this nature will be a waste of money and a waste of time. Not because there is anything to hide but because there are already procedures in the States that can do it much quicker.

2125 Have Scrutiny, for example, they say we have not got the powers, we will get more powers when the Law changes. Well, they must have sat down as a body recently and said 'These are the issues' – because they have drawn up the terms of reference – 'Who would we be likely to speak to? What documents would we be likely to need? And what time frame would we be likely to do all that in?'

2130 If they have not done that, then they have been inept and they have rushed to the starting place to say 'Let's have a public inquiry; let's pass the buck; let's get some independent person or group of people to look at it' – for no good purpose.

2135 Various people have spoken about £250,000. Now, Deputy Smithies said it will not cost anything like that; or could not cost anything like that; or might not cost anything like that. I do not know where on earth he gets that from, because the person who has brought the policy letter, the President of the Scrutiny Committee, has said that is the likely cost.

2140 Now, let me give my own opinion in relation to it because I have been doing matters of law for a reasonably long period of time now, and things rarely cost less, and very often, more often than not, cost more. Even if he is right and he has spoken to the proposed Chairman of this Inquiry and the QC or whoever it might be, has said 'I am going to charge you £75,000'. What about all the other preparation time for all the people who are going to give evidence before this inquiry who may want to speak to their own lawyers and take independent legal advice? The cost of it will not be – the real cost of it will be half a million pounds plus, and I am reasonably good at estimating the cost of legal matters as I have been doing it for a long period of time and I do not do it as an amateur as some have just done in relation to just plucking a figure from the air.

2145 But in relation to that, let us stick at a mere £250,000 which, as Deputy Brouard says is the cost of half a bungalow. Now, my good friend, he is my good friend most of the time, Deputy Trott and I are of the same view in relation to every penny of tax that people pay directly or indirectly is valued. When he says, and I have said, and we have both said on many occasions that we have to be realistic.

2150 The average taxpayer is already put upon as much as he or she can be; there is not much more juice that can be squeezed from that particular lemon. But if you add it up directly and indirectly all the taxes that our hard-pressed individual, average taxpayer pays in the course of a year it does not amount to very much. So you would have to have lots and lots of the whole of the tax from an individual taxpayer on an average basis to make up £250,000 – a mere £250,000. For what?

2155 As Deputy Brehaut said, you could almost see people salivating in relation to this, 'Oh, we are going to get Deputy Fallaize. We are going to get the Education Committee! We are going to really bash them, that is what they need'. What is the point? What is the point of any of this?

Deputy Green said it has to be an issue, if I understood him correctly, of urgent public importance; and then he says that the inquiry would report back relatively quickly. So if it is of

2160 urgent public importance and it is going to report back relatively quickly, the two of those 'urgent' and 'relatively', and the second is the adverb, how do those marry? How do those tally?

Deputy Soulsby says when the States did a previous inquiry back in 2009-2010 it took 10 months, this will not take any less. So that will take us to about the time of the election or just beyond. Or let's say they are an Espresso Presso inquiry and this QC zooms over on Aurigny –
2165 which will get him here in good time from Gatwick or Stansted or wherever else he want to come from – and he sits in the Royal Court building or wherever else he might sit and he gets it done by April or May, we will be in the midst of an election then, won't we? The people who can do this quickly and should do it now are Scrutiny. That is what they are there for. If they feel that it is too much for them then they should resign and we can appoint other people to do that particular job.
2170 They should be doing that job now.

Now, the first I knew of any of this – and I have got no axe to grind, I know no more than the people in the public gallery or the people who are listening to this on the radio, all three of them – I have got no idea in relation to any of that. The first I saw was when I saw the email from Deputy Fallaize to his then former Chief Secretary in the *Guernsey Press* I think on a Saturday.
2175 Now, that is what stirred all of this along.

Now, what are we going to get? We are going to get 'He said, she said' 'This is wrong; that's wrong'. I do not actually like all these...

If we were in the private sector and you thought you really wanted he or she to be a member of your organisation, you would not go through any procedure, you would approach he or she
2180 and you would employ him or her if you could come to an agreement. We stultify things in the States of Guernsey by unnecessary governance. We call it governance when in fact a better descriptive word would be nonsense, or bureaucracy, or stupidity. I cannot think of any other words I do not have them gifted to me.

But in relation to all of that we are going to go down a route, because I think it might well stand a chance of being passed because it gives a chance to bash the Education Committee, it gives a chance to besmirch Deputy Fallaize, it gives a chance to kick the Education Committee. We are going to go down that route, I suppose, and waste time, waste money and keep this issue alive for the best part of the next 10 or 12 months.
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How is the good of that for the people of the Bailiwick of Guernsey? Where does that take us? When Scrutiny should get off their proverbial backside and do the job that they are mandated for. They will not have any problems getting people appearing before them.
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Now I do have some concerns but they are not ... I mean, it is the procedure that is wrong. It is the procedure that is wrong and the procedure should be changed, so I agree with Deputy le Clerc. What I would like to see – but it will not happen, because the terms of reference are too strictly drawn up – is actually somebody say 'This is all a nonsense, the States of Guernsey, you have boxed yourself into a corner, you have got yourself so concerned with process, so concerned with good governance that you fail to see the reality of how life should be and how you should operate your business'.
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That is what we have done, that is what the previous Assemblies have done and the people out there by and large are completely fed up with it, and fed up with us.
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I watched the Jeremy Paxton Programme recently about how useless he said – *he* said, not me – both the Prime Minister, the current one, and the Leader of the Opposition are. He called them a word which I would not be able to mention here because I might be on a disciplinary procedure and I have been on enough of those in the past since I was elected so I do not want to be involved in any of those any more. But in relation to that, that is what the people of Guernsey think of all of us – all of us. This inquiry, if this Assembly votes for it, will perpetuate that for the next 10 months or so.
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Now, I read in the paper, I do not know him but I know he had an exemplary reputation, the former Head Teacher of Notre Dame School. He said the right person was appointed, etc. etc. I respect his views absolutely. But we have done that. Nobody has committed a criminal offence and, as Deputy Brehaut said, it is civil proceedings. People think when they watch something in a
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court that it is like Perry Mason, but it is only ever like that when I am cross-examining somebody! *(Interjection)* But in relation to that, court proceedings, civil proceedings which a Tribunal of Inquiry effectively is, are as dry as dust – that was the phrase used, they are as dry as dust. They will be as boring as ... like the b word I will not finish. They will not produce the fireworks that some people here expect and a lot of people out there think. They just will not produce anything; it will be a waste of money.

Let's kick it into touch now and let's get on with the Education debate which is what we should be debating now rather than this absolute arid nonsense.

The Bailiff: Deputy Paint.

Deputy Paint: Sir, I say this to everybody but perhaps it would be wise to get my very good friend Peter Ferbrache to carry out the independent inquiry. *(Interjections and laughter)*

There have been some very, very serious allegations made against Members of the Committee for Education, Sport & Culture and I have to agree and look at it from Deputy Green's perspective. It is very worrying that a Committee who has already said they support the two-school model would have to go through this process and then, if it is not what people want to hear, they will end up by being criticised all the way for not doing their job properly and so on and so forth. So I do have to say on this occasion that I think they are right in what they are saying.

We are talking about the costs, yes, it is £250,000 and that is only a guess, it is only an estimation of what it could be. As Deputy Ferbrache said it could be more, it could be less, it is only a guess.

That is what has worried me in the States all the way along and many different aspects of it. We tell people the price and that is what it ends up to be. We take all the consultants that we have had in the past 'Oh, it is going to cost so-and so' – and it costs that much. So, for me, I would not even set a price. If it needs to be done, it needs to be done.

I am sorry that is the way I feel.

Now, I am always the one who is saying 'Look at the waste of money; look at the waste of money; look at the waste of money'. I must say it more in the States than anybody else.

(A Member: You do) Thank you, sir.

But on this occasion this means the credibility of all this Assembly, **(A Member:** Hear, hear.) including me, and I think this time Scrutiny is correct in what they are doing. I do not always agree with them but I think they are right.

What is going to happen, no matter what happens with any inquiry at all, one side is going to say 'Oh, that is not correct, they made it up' and the other side is going to say 'I told you so'. It is going to go on for ever. So let's have it completely independent, absolutely independent, and then whatever comes out we will have to put up with it.

Thank you, sir.

The Bailiff: Deputy de Lisle.

Deputy de Lisle: Sir, the general public feel squeezed, and object to the continual increase in public spending and here we go again with another quarter of a million. After actually the £4 million a year increase in income support, the £4 million a year increase in IT and digital over 10 years, the £3 million a year increase in overseas aid – where does it all end? It ends with the public having to fork out even more. It is the individual that is going to be paying for this.

So while I support a review, but a review through the Scrutiny Committee and through their allocated resources. The Committee has a larger budget with more staff than when I served on it a few years ago and we were putting out all sorts of reports on different issues.

I understand the fear of Deputy Green with reference to powers of investigation, but I do not support spending a quarter of a million on a tribunal at this very difficult time. I certainly want *some* review but I would like to see it carried out within the Scrutiny Office.

Thank you, sir.

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The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

2270 Well, the only part I agree with Deputy Ferbrache, sir, is the part that we should be debating Education policy paper right now, that is the only part I agree with as he spoke today.

Now, look, we have made some assumptions already which is the whole point of having a tribunal, that you do not make presumptions or assumptions (**A Member:** Hear, hear.) and that is actually quite worrying. (**A Member:** Hear, hear.)

2275 Because Members are saying people assumed all witness will be politicians. Well, of course they will not! This is wider than political bodies, be that Education, Sport & Culture or Policy & Resources, and to try to bring those people before us with no powers to do so to try to attain unredacted papers, unredacted correspondence from those people who may feel very vulnerable or unsure of the process, is quite frankly unrealistic. (**Several Members:** Hear, hear.)

2280 Now, I will talk about the powers. Before I agreed to join Scrutiny Management Committee I met with the officers and I met with existing Members and my key point of joining was to bring forward the extant Resolution regarding powers for Scrutiny. I have been on this since before I even joined Scrutiny. Now, to give some reassurance to Members, and Deputy Green will certainly I am sure expand on this, but broadly speaking we have that drafted and it is under – I think it is ready potentially for October's debate, but the enacting Ordinance will not be until next year. So
2285 we do not have the powers that we believe we need that will bring forward a successful public hearing, and that is basically what this is down to.

Now, I understand the cost, of course we do, and I think Deputy Green has already alluded to this, that if Scrutiny Management Committee do it there will also be a cost. Can we not forget that? (**Two Members:** Hear, hear.)

2290 The experience I have had on Scrutiny, sir, puts me in a position to say that my experience of politicians giving us unredacted papers, or the part that is redacted we do not actually need to see, well actually that is not an unredacted paper. On the unredacted papers we see everything in its entirety and we make the judgement on what we believe we need to see. We do not have the powers at the moment to do that.

2295 I am reassured by the letters from Education, Sport & Culture and Policy & Resources. I do believe whether there is a public hearing, or this paper passes today, we will have unredacted papers, and that is the reassurance that I have been given; but of course we have not been given, and we cannot be given, the reassurance from other witnesses that need to come forward. And other witnesses do need to come forward and we need to be able to empower them to come
2300 forward. We do not have any reassurances from them, and rightly so, because Scrutiny is not able to do so at the moment.

Now, this is not about numbers of staff, it is about having the right people able to do this review. So can we have a reality check please, because we do not have the powers: we want the powers, we are passionate about the powers and I am hoping this Assembly is going to pass them
2305 unanimously in due course.

We have other comments and they are great for public headlines in media but 'Heads will roll'. No, sir, I am not interested in seeing heads rolling, I am interested in finding out honesty. I am interested about openness and transparency and finding out where this has gone wrong. (**Several Members:** Hear, hear.)

2310 The reason this is down to a Tribunal of Inquiry, sir – and let's just give this, again, a reality check. I will read it, sir, because no other Member has had an opportunity to do so. But Proposition 1 is:

...establishment of the facts and circumstances surrounding the appointment of the role of Head of Curriculum and Standards and any other associated relevant matters as the Tribunal shall determine

Now, that is a quite narrow definition, but what we are trying to do is we are trying to find out what happened, that is what we are trying to find out – we just want to know what happened.

2315 I will give way to Deputy Yerby.

Deputy Yerby: Surely, sir, if Deputy Merrett and her colleagues want to know what happened, the most pragmatic approach and the fairest approach, bearing in mind the need to bring this to a quick resolution, is to try and do it through the usual mechanisms that Scrutiny have and see how willing people are to come forward.

2320 If that fails, mechanisms such as the tribunal offer a useful backup.

Two Members: Hear, hear.

Deputy Merrett: The problem with that approach, sir, is that we are very concerned that certain people who need to come forward for this inquiry, or public hearing, will not have comfort to do so. We are not able to call from them the papers, the correspondences that we need; we have no powers to do that. They may come forward, they may not. So we could certainly start an inquiry and then go 'Actually, they are not coming forward; we will come back to you again'.

2325 But I am not quite sure whether that is an urgent or expedient way of progressing this, and that is why we have chosen to look at this route. I will give way to Deputy Oliver.

Deputy Oliver: Thank you.

2335 Have you actually asked the people whether they will come forward or not before we do this, because it just seems that you are saying 'We need those people but they might or might not'.

Have you actually asked them?

Deputy Merrett: I think again there is a misunderstanding, and I am sure Deputy Green will pick up on this. We are not going to prejudge any inquiry or any panel at this particular point in time until we decide which way we are going to progress.

2340 The Scrutiny Management Committee's preference is to do it by a Tribunal of Inquiry. That tribunal would decide who they wish to bring forward for them. I would not wish to stand here today and prejudge who could or who should be brought forward.

I said earlier in my speech I have comfort that politicians will come forward, I have that reassurance – I will give way to Deputy Lowe.

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Deputy Lowe: Thank you to Deputy Merrett.

Would Deputy Merrett agree with me that, it is just a comment that she just made, where and it is following Deputy Oliver's that Scrutiny Management Committee do not have the power to insist that somebody will attend?

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So, for an example, anybody not employed by the States – the whistleblower, let's name one – would not necessarily be made to attend before Scrutiny Management Committee. Picking up the point you said just now, Deputy Merrett, was that if it is does not work we then go for a Tribunal of Inquiry.

2355 Well, if that is not dragging it out I do not know what is. (**Several Members:** Hear, hear.)

If they want the job done properly, and to ensure that people will attend – and they will have to attend, because it is a court process – the only route is actually the Scrutiny Management Committee Tribunal of Inquiry.

2360 **A Member:** Hear, hear.

Deputy Merrett: Thank you, Deputy Lowe.

2365 I think, to summarise what I believe Deputy Lowe has said, is that if we go down one road and it does not work it is such an almighty mess, quite frankly. We will ask (inaudible). We might get redacted versions; we might not get anything. We do not simply have the powers to do this.

2370 With the powers to do this, then I would certainly get off my – I cannot remember Deputy Ferbrache's words, sir, was it my posterior? (*Laughter*) I am not quite sure. But I certainly would, sir. But I do not have the powers to do so and that is: (a) one of the reasons why I have joined Scrutiny; but (b) why I think we have to go down this route – regrettable as it is.

2375 Now what really concerns me is that people in this Chamber today have already prejudged the outcome of what would be an independent inquiry. (*Interjections*) I find that quite shocking because we are making judgements surely, sir, on media, on social media and what we have read in the *Press*. Unless of course any of the Members that have already prejudged the outcome have met with all the witnesses that could potentially come forward and have satisfied themselves that due process has taken place. I am assuming they have not, but maybe they have.

2380 So I will support this. It is not easily, that I support this. I regret that we are in this scenario completely and utterly. I regret that we have not got the powers. I am absolutely determined that we will get those powers, and I am sure from the Assembly today, sir, that all of the Assembly will vote in those powers in due course which gives me a lot of comfort. (*Interjections*) So that is pleasing, sir, alone!

2385 However, because we do not have those at the moment, because it is already a mess and I want to put this to bed, I want to understand ... I do think it is in the public interest to put this to bed and to do it in a manner which is appropriate. Unfortunately, sir, this is the only manner in my opinion before us today, that would be an appropriate way to proceed to put this to rest in a timely manner.

2390 So I do urge Members to vote for this to actually show that we want open and transparent government and that we do actually want to flush this out and want to understand what has happened. I think that is the right way to go and therefore I will now sit back down on my posterior.

2390 Thank you, sir.

The Bailiff: I know it has gone 12.30 p.m. but it might be convenient if we could start the Education letter at 2.30 p.m. Can I have an indication how many more people want to speak on this debate? Oh, there are several people.

2395 So we will rise now and resume at 2.30 p.m.

*The Assembly adjourned at 12.37 p.m.
and resumed its sitting at 2.30 p.m.*

**Tribunal of Inquiry –
Circumstances surrounding the appointment of the role of
Head of Curriculum and Standards –
Debate continued –
Propositions (as amended) not carried**

The Bailiff: We resume debate on the Scrutiny Management Committee's policy letter on the Tribunal of Inquiry. Who wishes to speak next? You have all been muted by lunch?
Deputy St Pier.

2400 **Deputy St Pier:** I was going to give way to Deputy de Sausmarez, sir.

I think there were some excellent speeches before lunch from Deputies Le Clerc, Ferbrache, Soulsby and Brehaut and I would certainly endorse every word of what they have said. I do not

wish to repeat that and I am going to simply make some additional comments on things that I do not think have yet been said in this debate.

2405 In 1949, when the Law under which the proposed inquiry was provided for, of course there was not a Scrutiny Management Committee and there was no scrutiny function in the sense that we would currently recognise it, so it made perfect sense to have that architecture. But I am immensely disappointed with this policy letter. I do think it is an abdication of responsibility by the Scrutiny function to come forward with it. We have to recall that we do have Scrutiny function
2410 with a budget this year of £531,000, with six full-time equivalent employees.

Deputy Merrett, before lunch, did make great play of the fact that there is currently a lack of powers, subject to the Laws being changed later this year. But I would agree with Deputy Yerby and her intervention. I think it is incumbent on the Scrutiny function to have tried; to have gone away and sought what it could have done with its current powers and if it found it could do
2415 nothing then that would have been the time to come back with a policy letter to this Assembly to say, 'Look, we have tried, we cannot get access to who we need to get access to. We cannot get the papers; we are not getting the co-operation. We are neutered in the absence of the Law, which has not yet been passed.'

All this policy letter has done, sir, is lose us a couple of more weeks in the process and I think that is immensely disappointing. I think if the Assembly is minded to support this policy letter then I think it does, as Deputy Brehaut said, raise very big and important questions about why we have a Scrutiny function at all and actually whether we would be far better off just disbanding the whole thing and we just operate, as they did in 1949, by calling for inquiries as and when needed. I think that £500,000 could be better spent elsewhere in a system under considerable pressure, if
2425 they are not prepared to stand up and do the job which they have been mandated to do.

I think the case for an inquiry has been made but, as Deputy Ferbrache referred to in his speech and, indeed, as is in the policy letter, the Law does require that it meets a further test and that it is a matter of urgent public importance. That case has not been made. It has not been made in the policy letter; it has not been made in Deputy Green's speech.

2430 The fact that it is a matter of great public interest is not the same as being of urgent public importance. The previous inquiry, the most recent inquiry in relation to the Airport, arguably, that may not have met that test, but at least you could make out a very good case that, with the closure of the Island's Airport and all the inbound and outbound traffic that was a matter of great urgency, even if of course by the time the inquiry came the matter had been resolved.

2435 But in this case no cogent argument has been presented so far as to why that test has been met of it being of urgent public importance. The threshold, I would suggest, has not been met.

So on those grounds I absolutely cannot endorse the spending of £250,000 on this matter. As others have said, that is not an appropriate use of taxpayers' money and I am afraid I would encourage the Scrutiny Management Committee, if this policy letter is rejected, to go away and
2440 do the job; and if they find they cannot, for whatever reason, that is the time to come back to us.

The Bailiff: Deputy Inder.

2445 **Deputy Inder:** I am probably, as ever, one of the wrong people to be on my feet, as an ex-Member of ESC. Already we have seen over email exchanges, as soon as anyone from ESC gets to their feet they have obviously got some other motive. Well, I do not and I will make those points clear when we finally get to debate on Education because I am getting a little bit bored of the last two years.

I am just talking about this policy letter itself. Deputy Soulsby and now, Deputy St Pier, have criticised Scrutiny Management Committee for not acting early enough. The Fallaize email which, as Deputy Ferbrache said, was the first time I saw anything that looked anything like evidence, turned up at about end of June, maybe the end of July – about seven or eight weeks ago. I think
2450 Deputy Soulsby criticised SMC for not acting expeditiously enough. Is that actually correct?

2455 Because if you actually read the email itself, it was dated some time in April and it was actually copied to Policy & Resources. So that is not two months. That is actually six months ago.

2460 Quite clearly, if you look at that snapshot, there were quite clearly some issues in the organisation between HR and the political board. There were obviously issues there over governance. So something could have happened earlier. So the question is not necessarily whether SMC has acted expeditiously enough, the question is: if there were concerns that a few people and the political representatives were aware of, why was not that acted on earlier? Because back in April, my timelines might be incorrect, Home were going through the governance review, Policy & Resources then elected to move the next States' Report into Policy & Resources themselves and Education coming after.

2465 But the timelines do not match up. There must be something beyond this email. I am not going any further than that. That email is not in isolation. So the question you need to start asking, or we might want to pose ourselves is: if Policy & Resources were aware of that email along with whatever conversations have been going around that, why did not they move the governance report straight into Education rather than Policy & Resources? That would have been the sensible and the most pragmatic thing to do.

2470 The only reason any of us know about this is because a member of the public has decided, very bravely, and it may prove to be incorrect, to come out and state certain things about the process. Now, that does not happen in Guernsey often, and I will remind people that the way that lady has been treated, I think, has been fairly shabby, by some of the commentary. It is a very brave thing in this Island to come out of the Civil Service and say, 'This is my name and this is my accusation.' Incredibly brave.

2475 After that turned up effectively what I am going to call, with the greatest respect, the Deputy Fallaize – sorry, I thought someone was trying to interrupt there. Had there been no whistleblowing, no email and no discourse, the concerns over the governance over Education, no one would know about at all. Strangely enough, I do not actually know how I am going to vote.

2480 I am bit concerned that actually, it was my email, or hopefully my open letter to Deputy St Pier, that actually wanted a Tribunal of Inquiry. I think I sent all Members a copy of the old inquiry. I made reference to the Firemen's dispute back then and we knew that at some point there was a likelihood, there was certainly a possibility, that SMC could bring this policy letter. But just because they brought this policy letter does not actually necessarily mean I am going to vote for it.

2485 But what I find very odd about this, and I think we are all capable of it, I am pretty sure I have done it before, what we cannot do is take history back to the point where it suits our argument.

2490 Quite clearly, this might have been in the public domain for eight weeks but Government, a portion of Government, has known there have been issues within ESC from at least April. I will just leave it there for that.

I will not take any criticism about SMC if they have not done anything in eight weeks' time, because I am the first one who would actually turn them into almost a Customs and Excise – go anywhere, forensic untouchables, go in and do things – any day of the week.

Thank you, sir.

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The Bailiff: Deputy Tindall.

Deputy Tindall: Thank you sir.

2500 I would like to firstly start with my apologies to Deputy St Pier. The reason I did not stand up straight after lunch was simply I could not find my glasses! But he has actually trumped part of my speech, which I have hastily adapted, because I do not wish to repeat myself.

2505 I also should explain I had very useful conversations with Members of the Scrutiny Management Committee on Monday, after the Legislation Review Panel, and indicated the way I was going to vote. But I have reconsidered, as we should do in debate, and so I feel another reason why I should explain why I will vote as I do.

2510 The main thing being that, for me, I do not think this debate is solely about an investigation into the background of one appointment. That is essential. There is no question about that. I do not think anyone here is saying that some form of investigation should take place, but it is the best way to get to the bottom of what happened, not only to satisfy ourselves but also the public, or rather some of the public. Obviously some may never be satisfied by having an independent review.

2515 It is also about the time it should take and more importantly whether a tribunal is the right way to do it and the cost. For me, this is actually not about one incident. It is an accumulation of events, which has created a loss of trust in the States that has required the Scrutiny Management Committee to consider what I consider to be extreme, recommending a tribunal.

2520 This is the element where I would suggest that a tribunal will not get to the root cause of the problem. A root-cause analysis is really where we are going with this and my personal experience and listening to others of how tribunals end up really not answering the question, whereas there are other alternatives that could potentially achieve the right end.

2525 I was then going to do the boring bit, which was deal with the Law. But as I say, Deputy St Pier and also, obviously, Deputy Ferbrache touched on this and for me we have not got to the evidence of whether it is expedient that the tribunal should be established or indeed if it is of urgent public importance.

2530 The urgent public importance starts with the letter from Scrutiny Management Committee and the reason that they have given is that it is urgent because others have said so, the urgency is something that needs to be done now and not take time to do. The public importance, the reasons given by the Scrutiny Management Committee include the fact that this has 'attracted significant media and the public interest, resulting in substantial comment of a highly critical nature'.

2535 Well what is new with that? Lots of situations this term have resulted in this. It is noteworthy that the Committee *for* Education, Sport & Culture complained of certain inaccuracies in the media coverage. Let's be honest, we have all complained of that, many times: 'Allegations and counter allegations by various parties ...' – I will just finish this sentence – '... regarding alleged political interference, rigid process and poor governance around which, in the opinion of the Scrutiny Management Committee, has undermined public trust and confidence in this Government'. And that is why a tribunal is needed.

2540 We have had such allegations. This substantive nature may be the reason – I will give way shortly – and perhaps Deputy Green will confirm this, that it is the substantive nature of these allegations and this public commentary. But these are the reasons given by Scrutiny Management Committee, which has happened recently, since the email has come into the public domain.

2545 I think this addresses Deputy Inder's point in relation to why they are now taking action and they did not take action prior to that, because they did not have a reason to do so, because of the nature of the occurrence of when the media and public interest took place.

I give way to Deputy Green.

2550 **Deputy Green:** I am grateful to Deputy Tindall for giving way, but would she not agree with me that allegations, whether true or otherwise, of politicians getting involved in individual recruitment processes, within any Committee of Government, is a matter of public concern? And if there is any question mark about that it is absolutely appropriate that there is a mechanism to determine the facts appropriately on that. That is a matter of public concern, a matter of public importance.

Surely the test is therefore met and it needs to be dealt with urgently because otherwise there will always be question marks about other subsequent appointments?

2555 **Deputy Tindall:** I thank Deputy Green for that intervention. That does not give any extra reason why a tribunal should be created. It certainly reaffirms why there should be a review, but

certainly not, again, the weird way in which the Law was written, saying that a tribunal has to be speedy, if you like. It just seems to be a bit of an oxymoron, but there you go.

I give way to Deputy Soulsby.

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Deputy Soulsby: I thank Deputy Tindall for giving way.

Is it just worth reminding Members that there is currently a review looking at that relationship between the Civil Service and States' Members, in terms of a recruitment process, which has just begun?

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Deputy Tindall: I thank Deputy Soulsby for reminding us of that.

As I say, I do not believe that a tribunal is the best or indeed the only way forward and I should add that this was my stance on Monday morning as well. The point is that I now feel there is not only a legal basis for convening the tribunal. I just do not believe that actually it will have the desired outcome or indeed create the situation where it deals with the issues where we consider the need.

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For me, yes, I asked the question about whether Scrutiny should be the best to do it. I do understand, having only just reviewed the draft legislation, which details the powers that will be given to Scrutiny Management and the concern that it was the fact that a tribunal can force the attendance of witnesses and their examination on oath, and also compelling the production of documents. Many of us who have worked in the legal profession will know the real strain that takes place, the cost, the real main element that takes up a court action is getting those documents. Not only the ones that are redacted or unredacted but just getting the documents around so we can fill the picture.

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That does not alter the fact that this particular scenario could be dealt with by Scrutiny Management without the powers that they say that they need, simply because they have the ability ... We have heard many have said that they will support any review and they will address it. There will be Deputies, States' Members, even, and civil servants, who have to attend. Deputy Merrett says that we need to be able to empower the witnesses to come forward –

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Deputy Merrett: Point of correction sir.

The Bailiff: Deputy Merrett.

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Deputy Merrett: Civil servants, sir, do not *have* to attend. We can only merely, or rather, we ask them, request them to attend.

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Deputy Tindall: Again, civil servants have attended meetings of the Scrutiny Management Committee. I see no difference in this that they have attended before and they will attend again. But Deputy Merrett said that we need to be able to empower the witnesses to come forward and I do not think that is the case in regard to having to have a tribunal in order to empower them. They will be able to come forward if they are indeed within the remit of this jurisdiction,

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The point is that SMC will not prejudice the tribunal's outcomes. That is fair enough. But for me and, I believe, Members here, they need to have satisfied us that they have considered the options; that they have concluded that a tribunal is expedient and I do not think that has happened. I do not think the options have been fully considered or, if they have, the details obviously have not been shared.

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In their mandate they are able to appoint persons independent of the States and I think that would have been a sensible thought process to think about the panels. If they felt that the States had to be separate from this review, including themselves, which again seems anathema to their role, I think there are tools in the box that they could have complied with.

So having considered all of those factors ... As I say, on Monday morning, my feeling was that the importance of gaining public trust was paramount and that we had no other options other

2610 than to spend this £250,000, to take quite a lot of time in order to get a result; when actually thinking about it in further detail, I agree with Members that there are other options. We need a review; we need to get to the bottom of this. But I do believe there are ways and means in which this can be done, without having to set up a £250,000, we are told maximum cost, of the tribunal and wait many months for it.

2615 So therefore I have changed my mind as from Monday and I will not be voting for a tribunal.
Thank you, sir.

The Bailiff: Deputy Trott.

2620 **Deputy Trott:** Sir, I speak briefly but I have one or two points to make about our current scrutiny process and can it be truly impartial?

2625 Deputy Green is a very able man. He voted to abolish Section 11, I voted to retain it. My good friend Deputy Laurie Queripel is an Arsenal supporter, I support Tottenham Hotspur. For those of you that do not follow football, that is one of the longest arch-rivalries in the game, going. Deputy Merrett, for instance, does not laugh at my jokes! (*Laughter*) She did understand that was a joke which is a step in the right direction, sir!

2630 The point I am making is that it is almost impossible for a Scrutiny Committee in our system of Government to be truly impartial. We all have prejudices. They are unavoidable as human beings. But it is compounded by the fact that all 40 Members of this Assembly make up the Executive. We are all making policy decisions collectively. We do not have an executive and an opposition, as is the case in almost all other parliaments. That makes the personal scrutiny of our behaviours by our peers particularly difficult. So I am somewhat more charitable towards my friends on the Scrutiny Management Committee than others.

2635 However, I remember fondly, and that may surprise some people, all the shenanigans around the Firefighters' Tribunal. For those of you that were not in the Assembly at the time, the Chief Minister of the day had gone up to the Airport to intervene in an industrial event in an attempt to re-open the Airport. Some people took a pretty dim view of that and, in fact, as was mentioned earlier by Deputy Brehaut, one particularly rabid Member of the States managed to persuade the States to spend a quite considerable amount of money to have a Tribunal of Inquiry.

2640 Now, whether Deputy Lowe is still of that view today, whether tribunals of inquiry are effective, will be no doubt a matter she will advise us of after. But I remember the advice I was given by the staff. My natural inclination was this: I do not want to spend £100,000, £200,000, £250,000 on an inquiry. At the time there were issues around bowel cancer screening and other things that required funding.

2645 But the staff advice to me was this: they said, 'This process has a duty of care to you as well as to everybody else in this process. You know you are completely guiltless in your actions'. Of course I did know that but I had a huge dilemma. Was I going to agree to this expenditure simply to have my name vindicated or cleared? As it turned out I abstained and the inquiry went ahead and for those of you that are not familiar with the outcomes, not only were my actions exonerated, completely vindicated, they went further. The Tribunal of Inquiry said 'No self-respecting holder of the office of Chief Minister would have behaved any other way.'

2650 Now this, Members of the States, was not the outcome that some were expecting. Now fast forward a few years and we have had another sort of independent process into a certain Government – I give way to Deputy Laurie Queripel.

2655 **Deputy Laurie Queripel:** I am just interested in what Deputy Trott said, because would that have been the result of any other inquiry or any other review other than an independent Tribunal of Inquiry?

Deputy Trott: It is a fair intervention.

2660 I think I have gone some way towards explaining my view on that. I think the chances are that we may not have reached that conclusion; there was a lot of bias around at the time, there was a lot of media noise. But I repeat: it was a *huge* personal dilemma for me because I was certain of the outcome but I did not want to spend the money. Anyway, as I have explained, others made that decision.

2665 There were a number of people who did not accept the findings despite the fact that it could not have been any more independent or any more thorough. Some people just do not accept findings of an independent process, irrespective of the outcome. I was about to say we have recent history of that, where we have seen, whether we like it or not, one of the most damning reports that I have ever read of any parliamentary or Governmental activity in the western world. It was that serious – but it was just batted off.

2670 I suspect that is the likely outcome of whatever process we embark upon today because, as others have said, as we get closer towards an election, as the big debate on the future of Education is put to bed one way or the other later on this week, I hope, attitudes will soften, behaviours will change and we will no doubt move forward as best we can.

2675 I am concluding by saying this, that 12 years ago I hated spending the money, even though I knew the outcome. Nothing has changed. If I was asked how I wanted to spend £100,000 worth of taxpayers' money, because it could be as little as that, I do not accept the argument it will be £250,000. Why? Because we allocated £250,000 last time and I think it came out at about £150,000 and that was a far more extensive process than the one we would expect today.

2680 Let's just think what we can get for £100,000. I think I am right in saying £100,000 funds the insulin for a diabetic patient for a year – £2,000 per ... 50 diabetic patients can be funded for £100,000. I am not sure how many hip replacements it will fund but it will be many. *(Interjection)* Indeed.

2685 The point is that when you look at these sums of money in that granular fashion, suddenly it becomes real. They are substantial sums of money for an outcome that will not be ignored but – I give way to –

Deputy Leadbeater: Sir, I thank Deputy Trott. How many shots of insulin can we get for £170 million – £157 million?

2690 **Deputy Trott:** Of course, if Deputy Carl Meerveld's analysis of the capital costs is to be accepted, the difference is a matter of a little over £1 million, I believe, so it is an unfair comparison. But I take his point. At every stage in our parliamentary deliberations, we should keep a very strong focus on costs.

2695 That is why I conclude that this is not, at this time ... We heard from the President of P&R this morning, the fact that spending demands for next year and beyond have grown by 8%. It is unprecedented. We have never been under such significant spending demands, despite the fact that our revenues have remained fairly strong.

2700 We have got a strong economy but the expectations of our community as regards spending have grown exponentially over the last few years. So I conclude that it is just not a sensible expense at this stage but I do also conclude that the Scrutiny Management Committee does not have the tools to do this job properly and neither in the future will I vote to give them the tools in our system of Government.

2705 If we had an executive form of Government I would be the first to give the Scrutiny function to empower it to the greatest extent possible. In fact I would even probably want to be part of it in that environment. But in this environment, with the greatest of respect to the well-meaning nature of my colleagues, it does not work because it is not fit for purpose because our Government structure does not facilitate it in the way that it should.

2710 So I cannot vote for this expenditure and I do not intend to vote against it. So, somewhat unusually in my political career, I will abstain. And I think that the justification for that is that it

does touch the Policy & Resources Committee and that in itself should be justification for taking no part in the vote. But before I sit down I give way to Deputy Laurie Queripel.

2715 **Deputy Laurie Queripel:** I just wonder if Deputy Trott, sir, has not made the case for independent scrutiny in what he said.

2720 **Deputy Trott:** I think what I said is that to have independent scrutiny we would need a different form of Government. The chances of us having a different form of Government are unlikely. So I do not think I did make the case for independent scrutiny. But if we were to evolve to a machinery of Government that had more of an executive bias, I for one would want to be part of that Scrutiny, holding to account the executive.

2725 So I hope what I have said has made some sense. The experience of the Firefighters' Tribunal was far from bruising. In fact, I think it was on 13 or 14 separate occasions much, sir, to the consternation of one of your predecessors, that I reminded the Assembly that they spent £167,000 just to see what a good Chief Minister I actually was! *(Laughter)*

The Bailiff: Deputy Yerby.

2730 **Deputy Yerby:** Sir, it is clear from the debate so far that there are many Members in this Assembly who feel that there are matters that require some form of inquiry review investigation in order to be fully understood, and for us to be able to follow-up on them as needed. It is also clear that there are many Members who are unsatisfied with either the mechanism or the expense that is being proposed in order to deal with those.

2735 Therefore sir, Deputy Ferbrache and I have prepared an amendment that suggests that we commute this to a Scrutiny Management-led review, as suggested by many in this Assembly already and to request a very short adjournment to allow that amendment to be circulated and considered by Members.

2740 **The Bailiff:** You are requesting an adjournment to enable an amendment to be circulated. I will put that to the Members. I put to you the proposal we have a brief adjournment. Those in favour; those against?

Members voted Pour.

The Bailiff: I believe that is carried, so we will have a brief adjournment to enable an amendment to be circulated.

*The Assembly adjourned at 3.03 p.m.
and resumed at 3.33 p.m.*

**Motion to Suspend Rules under Rule 24(2)(b) –
Motion carried**

The States are asked:

To suspend Rule 24(2)(b) of the Rules of Procedure to the extent necessary to permit the amendment set out below to be debated.

2745 **The Bailiff:** The amendment has now been circulated and the Scrutiny Management Committee has had an opportunity to consider it. Deputy Yerby, do you wish to propose the motion to suspend the Rules to the extent necessary to permit the amendment to be debated?

Deputy Yerby: Yes please, sir.

The Bailiff: And Deputy Ferbrache do you second that?

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Deputy Ferbrache: I do sir.

The Bailiff: So I put that motion to suspend the Rules to the Assembly. Those in favour; those against?

Members voted Pour.

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The Bailiff: That is carried.
Now if you wish to lay the amendment?

Deputy Yerby: Yes please, sir.

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The Bailiff: Probably for the benefit of those at home it might be easier if you perhaps said what the thrust of it is, rather than actually reading it verbatim, which might not make great sense to those who do not have the original.

[Amendment 1](#)

The States are asked:

1. In Proposition 1, for the words 'Tribunal of Inquiry be established in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended to inquire into a matter of urgent public importance, namely', to substitute: 'review be held by the Scrutiny Management Committee to inquire into'

2. In Proposition 2, to delete the words from 'up to £250,000' until the end of the sentence, and to substitute therefor:

'for the review, subject to an appropriately detailed financial request from the Scrutiny Management Committee.'

3. In Proposition 3:

a. For 'Tribunal', substitute 'Scrutiny Management Committee review'; b. After sub-proposition (c), to insert: '(d) to examine such other related matters as it may consider relevant in connection with this matter;'; and c. To renumber sub-propositions (d) and (e) accordingly.

Deputy Yerby: Sure. If anybody does want to know what it says, it is of course available on the States' website, so I will explain what the amendment seeks to achieve.

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The Proposition before us is to agree to a Tribunal of Inquiry and to accept that P&R will have delegated authority to allocate costs of up to £250,000 to enable that tribunal to take place. It has become evident from many of the speeches this morning and early this afternoon that a lot of people feel there is an issue here that merits an investigation and merits an investigation led by the Scrutiny Management Committee, but who do not feel that a Tribunal of Inquiry is the right way and particularly who are concerned that a Tribunal of Inquiry would be a significant waste of Government resources.

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I do apologise for the lateness of this amendment. It was only in listening to Deputy Trott's speech that I got to thinking are we going to sleepwalk into wasting £250,000 of Government money? Because there are good, sensible people within this Assembly who feel that their integrity is so much in the firing line of this Proposition that they cannot make a decision one way or another on it and, as Deputy Trott did, felt they had to abstain.

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So I wanted to move us into a position where we could have something going forward, where we could have the investigation that a lot of people feel that we need, where we could use the

2780 mechanisms and the resources that are already available to us to their fullest effect and not throw away as much money and as much time as a Tribunal of Inquiry is inevitably going to incur.

Part of the reason why I did not move on this any sooner is because there have been speeches throughout the course of today insinuating that there is a lot that is unknown, a lot that is out there to be discovered and that needs to be uncovered by some kind of investigation process. Now I think we know the thing that is at the heart of this conversation. It was an email from Deputy Fallaize that ignited a significant public reaction that those of us in this Assembly are still trying to work out how scandalised we should be by it and how many witches we should burn in penance.

2790 So, sir, I think that is what is hoped for from an investigation, to some extent, and I just thought the whole thing was a completely disproportionate reaction to something that we already knew and a misuse of the Scrutiny Management Committee's powers when we have had, throughout this States' term, questions about the probity and the sensibleness and the appropriateness of actions of various different Committees and States' Members, which the Scrutiny Management Committee has demonstrated itself as being more than capable of responding to and reacting to within a reasonable timeframe.

2795 The mechanism of a Tribunal of Inquiry is a long way out of proportion to the accusations that we have heard. If we go as far as Deputy Le Pelley did this morning and listened to all the comments and slander that is out there in the public domain about politicians, then all of us should have been hung by our necks a very long time ago. So I think we do have to concentrate on the facts rather than every rumour about every person that we hear on the grapevine.

2800 So when it comes to what we know is the central issue here, we have to be asking what is an appropriate response and I was not convinced, but clearly others are, that some form of investigation is required. But if some form of investigation is required then let's do it the right way. Let's do it using the people and the resources and the powers that the Scrutiny Management Committee already have. Let's do it in a timely way. Let's not vote for the substantial delay that will inevitably arise as a result of commissioning a Tribunal of Inquiry and let's do it in an affordable way because we have heard, all day today, how little money the Government has available to waste and how much this Tribunal of Inquiry will cost, proportionate to what its possible responses could be.

2810 I am aware that Members do not want to walk away from this debate with nothing. There are enough of us here who want to see action and investigation and transparency around the issues that are at stake here. The Scrutiny Management Committee has the powers and ability to make that happen and this amendment would direct them to do the job that it says on the tin.

So I ask Members to support it.

2815 **Deputy Ferbrache:** I second it.

The Bailiff: Thank you.

Deputy Green, do you wish to speak on the amendment at this stage?

2820 **Deputy Green:** Yes, I think so, sir.

My Committee does oppose the amendment. I suppose there are three reasons for that. The first reason is in relation to timing. The second reason is in relation to the lack of powers that we have and why we think that a review along these lines would be ineffective. And the third reason is in relation to the cost.

2825 So I suppose the first point is that any review by Scrutiny itself would just take as long, if not longer than the Tribunal of Inquiry; and if we commissioned an independent review with an independent reviewer, our fear is that it would cost roughly the same amount of money, if not more. I listened to the debate earlier, I think it was Deputy Ferbrache who was saying that the Tribunal of Inquiry would possibly take 10 months and I think Deputy Soulsby also talked about

2830 how she feared that the review would take 10 months or so, because that was really the
timeframe of the 2009 tribunal.

But we are absolutely confident that the issues in this case probably involve approximately
50% of the witnesses that the tribunal in 2009 involved, and we are confident from the analysis we
have done that any Tribunal of Inquiry could be done and could be concluded by the end of this
2835 calendar year.

In relation to a review done by Scrutiny, howsoever that is executed, because that could be
done by way of an independent review and I think that would probably be the starting point, with
possibly a public hearing further on down the road, if we got to that point, that is not going to be
a quick or easy process. It is not going to be a quick process because it is going to mean getting
2840 hold of the availability of all of the witnesses, making sure that they are available and the
experience of these kinds of things that we have had in the States is that it always takes longer
than you think it will. So I suspect that this will end up being less time-effective and will actually
take longer to do.

Secondly, I think the main point is, and I led with this and our media around this tried to
communicate this effectively, and I think I have to take responsibility for perhaps not making this
point clear enough but I am going to try again, which is that we do fear that because we do not
have those relevant powers, as Deputy Merrett excellently referred to this morning, the lack of
powers to compel witnesses to actually attend if they do not want to and the actual power to get
hold of relevant documentation, which we have seen this term can sometimes be an issue, this
2850 review will be ineffective. It could cost just as much, it could take longer, but it will end up being
ineffective.

We do not want it to be ineffective. At the end of the day, if the States resolves to do this we
will put our heart and soul into doing this and we will absolutely approach it in good faith and we
will do what we can. I suppose what I am saying is I want to put on the record very clearly at this
stage that we genuinely fear that without those powers this sort of thing will be ineffective. I am
2855 not going to repeat that now but I think Members get the point.

Thirdly, finally, I have already touched upon this in terms of the cost. If there is going to be an
independent reviewer, then it would be a judge or a senior legal figure, or an ex-judge, somebody
of that nature. Deputy Ferbrache this morning was talking about flying in a UK QC, but our
2860 absolute intention is that it should be somebody local who would chair it and probably two local
people who would sit on the panel with them. It would be a panel of three. The absolute intention
is that it will be a local judge, a local senior figure.

If it cannot be somebody from Guernsey then it absolutely needs to be somebody who has
knowledge and experience of smaller jurisdictions, so we are talking about potentially Jersey or
the Isle of Man. Personally, I would not want it to be somebody from the UK because we are
different. There are, I think it was possibly Deputy Brehaut, and I stand corrected if it was not – yes
it was – who was talking about the fact that if it is somebody from the UK they are going to have
to read in to what Guernsey is like. Half a year later they finally understand where Guernsey is on
the map. That is exactly what we do not want to do.

2870 So in those circumstances, sir, my Committee does oppose this for reasons of timing, because
of the key point about not having the powers, and because of the costs. But of course, if this is
carried, then my Committee will obey a States' Resolution, but I would urge Members not to set
us up on a course where the review, in our experience and in our learned judgement, it is going to
be ineffective.

2875 **The Bailiff:** Deputy Gollop.

Deputy Gollop: Sir, I would think there are some downsides in the Scrutiny Management
Committee adopting or being obliged by this Assembly to do the Scrutiny Review themselves,
2880 because their current structure consists of just three politicians on the mainline Committee and

two non-politicians, although one of course was a very senior figure in the States. We are away from the nine and all the rest of it.

2885 They are exposed, in some respect, although I think they do a good job in distancing themselves from too much political controversy, to the degree that they could be accused by one faction or other in the Assembly, of having their own perspectives on governance systems or personalities or education. Of course, they are busy because at the same time the Members are involved in this review, they are individual Members likely to vote on the important issues this week and beyond and also, of course, they have done their own critique of the Education, Sport & Culture Review.

2890 This is the problem. We start wearing different hats, which is why I still think a more independent approach at this stage would be the superior, albeit possibly more expensive option. Although, should we oblige Scrutiny to do it, it will inevitably mean the Committee and their staff will have their time taken up doing this, which will have an opportunity cost for other areas.

2895 But actually I stand, really, to raise another point, perhaps. I think Deputy Le Pelley covered some of this ground earlier, but I think I heard in the summer – there was so much of this dialogue – Deputy Fallaize on the radio, or some other media, suggesting in a fair way – I think it was on the breakfast show on the BBC – that if you take out of context the issue that is the mainline subject of this review, that might be a mistake, because there have been various other circumstances whereby the standard recruitment procedures have been adapted.

2900 I was intrigued by that because I wondered what these other instances were and whether they would be equally valid in a more wide-ranging review of recruitment issues, particularly where politicians and policy are involved. I actually think a review should cover more ground along those lines to be really useful and we should bear that in mind as well. Whether Scrutiny would be a better vehicle for that or a Tribunal of Inquiry, I know not. But I listened to what Deputy Trott has suggested that you should not second guess what a review panel might come up with or how they would approach adjudicating on these matters.

2905 So I kind of think this is a pointless amendment on some levels and I am an expert on pointless amendments, if not on litigation costs, because I think if the amendment had not been placed and we had a vote on the policy letter, the States' Report that Scrutiny have brought, and let us say for the sake of argument, Scrutiny narrowly lost, I imagine – they might agree with me or not – that they would have gone away after a narrow defeat and decided to have done the review themselves, given the fact there has been near unanimity in this Chamber to do the review.

2910 I think, really, we should have stuck with the main Proposition and let it lie. So I am unlikely to support this amendment but I would prefer this amendment to succeed than for no review to take place, because that will only encourage the wrong kind of unhelpful speculation.

The Bailiff: Deputy Le Tocq.

Deputy Le Tocq: Thank you, sir.

2920 I rise primarily because I want to make it clear to Members like Deputy Gollop, and he referred to this in his speech just now, this Assembly has instructed the Policy & Resources Committee to form a group which has, as every Member knows here, already begun to work and Members will receive another email today with regard to that, on the review of the relationship between Members of this Assembly and the Civil Service.

2925 Sir, if there is an expectation that whatever the result of a tribunal, or of the Scrutiny Management Committee dealing with this matter before us now, will influence that, then we are not going to be able to keep with the timetable of that. We certainly cannot, sir – and I hesitate to say this – waste time on having two suggestions, two reviews, and coming up with different conclusions to that.

2930 I think it is incumbent upon us to decide exactly what we want to do and how far we want to go and the manner in which we need to do things. In my mind, the matter before us now and I

will speak to the amendment, should be a very discreet matter and should be, in fact should *have* been, dealt with expeditiously.

2935 I made that clear to Deputy Green and his Committee when they came to speak to us about it. In my mind, if we are going to see justice and if we are talking about enabling the rebuilding of some trust with certain members of our community, then delaying in any extreme is not a help. But I do prefer this amendment to the original, primarily because I do not think either methodology is going to end up with something that all of us find satisfactory. That is my fear and I say that after many, many years in this Assembly.

2940 So I think we need to be careful how we spend our money and we need to do that in such a way, particularly at the moment, that is in the public interest above all other issues of public interest, because we need to recognise that we have got a limited amount of money and we have a limited amount of time left, as well.

2945 I think it is incumbent upon us to do a wise thing and I think I would probably support this amendment because I feel the Scrutiny Management Committee should really, and have had the time, to have begun a review already. If that was not satisfactory to everybody we would have a choice at the end of that whether we wanted to do anything further. But as I say, my expectations in this instance, and I am normally an optimist, are not very high.

2950 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Thank you, sir.

2955 Following on from Deputy Le Tocq there, he was on about there is a review which is going to be taking place, or they have started the review of how civil servants and States' Members will be operating in the future or could work better together in the future. We did have that email last week. That included four civil servants and two States' Deputies, which seems a little bit odd. So if you want to make it balanced, I suggest, if you are looking for resources, it would make it a little bit more even and take two civil servants out of there to actually help with this, if that is the case, because then it is two of each.

2960 Would you like me to give way, Deputy Le Tocq?

Deputy Le Tocq: Sir, just to correct Deputy Lowe, it is not four civil servants, there is an independent adviser on there, with two civil servants involved, but one is just basically giving secretarial advice. I think she has just got the numbers wrong on that.

2965 **Deputy Lowe:** Four names on it anyway, which are against the two Deputies.

2970 I just want to make some corrections as well. I will not support this amendment because it is just really having another bit of the cherry of the debate that has taken place since goodness knows what time this morning, 10.30 or 11 o'clock. So it is almost a repeat of the same arguments about whether you have a Tribunal of Inquiry or whether you actually direct it back to the Scrutiny Management Committee.

2975 There has been a little bit of economics with the truth, I think, over the last one. Yes, I did take it to the States, the Requête. There were 18 signatories on that Requête, because in those days you could gain as many signatories as you wanted to whereas now the Rules have changed, so it is only seven. There were an awful lot of States' Members that wanted to actually see the Tribunal of Inquiry to go ahead and indeed that was successful.

2980 But the timing, as well, and there has been mention about the timing, how long it took. Yes, it did take quite a while. But do you know what? Even if we went in exactly the same situation as when it happened last time, you would still have it back to the States before the end of this term, because the event took place in May; the Requête was here on 29th June in this Assembly, so that left July, August and September for them to sort themselves out. On 2nd October they were appointed by the Royal Court; and on 16th November, the hearing commenced. We then had

Christmas and the report was actually published in March 2010. So assuming the last one took that long, as I say, you could still have it done in time for March or April next year.

2985 The Report was not particularly good. You can snigger if you like, I really do not mind. I can forward it to anybody who wants to actually see it but it is there for everybody to see and it made it very clear that they did not actually want to get involved that would have any upset regarding industrial relations. They did not want to prejudice industrial relations so they steered well away and that was the criticism, I believe, that Deputy Brouard and the rest were quite disappointed about, because the idea was that it was supposed to be looking at what it was all about.

2990 Yes, it was pretty fractious that time as well. I can remember Deputy Trott telling the Bailiff at the time that he was chairing this badly and the Bailiff came back at him and said, 'I am not chairing this badly.' It was not a particularly pleasant experience but nevertheless that is where we were at that time.

2995 If we want the job to be done properly and to be able to get back in time – (*Interjection*) it is here, it is in *Hansard* – if you want to get it back in time, definitely I believe that the Scrutiny Management one is the right one to do. Again, this is what was said this morning: you cannot tell people that they have to attend if it is run via Scrutiny. It is a fallacy to say, 'Let Scrutiny go ahead and do it and when it does not work out you come back.'

3000 Now that it is drawing it out. If you really want to draw it out, support this amendment and then you are going to draw it out for as long as you like. If you want quick action it will be completed a lot quicker than last time. We have heard that already from Deputy Green that he believes, and I agree with that as well, that it will be completed a lot quicker.

3005 I do not think the public are going to accept that Scrutiny should be looking at this or anybody else unless it is independent. Let's clear it up once and for all and enable those that should be attending before the panel to actually do so. I have no doubt that it will probably come out all wonderful; which is fine. That is the only way you are going to squash it from the public and stop all of this. It is daily, isn't it, what is going on?

3010 For me, I will be supporting Scrutiny and ensure that we go ahead as quick as possible and stop all the dilly-dallying and the nonsense of, 'Just leave it to Scrutiny and if it does not work out, we will come back and then we will do it.' That is dragging it out, that would be next term, it would not be this term. Let's clear it up for all involved and all concerned.

The Bailiff: Deputy de Sausmarez.

3015

Deputy de Sausmarez: Thank you, sir.

I welcome this amendment because I think it does something quite important, which is to separate two issues that had been becoming conflated in the debate on the original policy letter, and that is the need for some kind of inquiry and the appropriateness of the mechanism suggested. So for me this does provide an option that speaks to the concerns of people who think that there should be a review or an inquiry, but thought that the tribunal route was disproportionate and inefficient and costly and time-consuming.

3025 I was really surprised by Deputy Green's response to this amendment, actually, because I think I have far more faith in his Committee than he seems to. (*Laughter*) He really talked them down! I think they can do a really good job if they put their mind to it. We have seen Scrutiny do snap hearings, or at least one that I can remember. Two? Yes, I thought there might be two. They have done snap hearings. I am sure they could do a good job.

3030 A lot of people have been talking about whether Scrutiny could be objective. Deputy Trott was one of the first people to raise this and Deputy Gollop expanded on it later. But I think that takes a slightly erroneous assumption that it will be the political Members of Scrutiny Management, the SMC, sitting on the panel itself. Of course it does not have to be. It could be chaired, in fact I am told it could be chaired by anyone, but if we are looking for a local, senior legal figure then look no further perhaps than Advocate Peter Harwood, who of course is a member of the SMC and well-renowned and respected in both positions, in his legal capacity and in his Scrutiny capacity.

3035 Of course, the panel itself could be constituted by people who were speaking to it. Deputy Green was saying, 'Yes we want to see local people.' So that panel itself, the people actually conducting the inquiry, could be led by anyone. It would not have to be Advocate Harwood. It could be led by anyone and it could be constituted in any way that that the SMC saw fit.

3040 So I think the issue of objectivity is a moot point. It is not relevant, we cannot sit here and think of the political Members of SMC – and I do have faith actually that they can look into matters of fact objectively – but we do not have to let that get in the way because there is a systemic approach that gets us around that problem. So I do not see that objectivity is an issue, really.

3045 Deputy Green also talked about the threshold of evidence for this being a matter of public importance and, again, I was a little bit surprised by that because he did imply that the issue – and this was something that Deputy Tindall spoke on and other people – actually it was Deputy St Pier who first said, 'Look, there is nowhere in the policy letter and nowhere in the opening speech where the case has been made for this being a matter of public importance'.

3050 Deputy Green responded to that, in responding to this amendment, by pointing to political involvement in the appointment of a civil servant. But I think it is probably worthwhile pointing out that Rule 56(2) does say that senior officers must take into account the views of the President of a Principal Committee and, through them, the Members thereof, when appointing and appraising senior staff in the service of that Principal Committee.

3055 So I do not see how that particular issue qualifies, whatever the thoughts on the context, as evidence of this being an issue of public importance as opposed – I give way to Deputy Laurie Queripel.

Deputy Laurie Queripel: I thank Deputy de Sausmarez for giving way.

3060 Does she not think, then, aside from Deputy Green's first point, he made the other point and I will make it again, that actually the public's confidence in Government has been greatly damaged by this issue and that damage needs to be repaired? (**A Member:** Hear, hear.)

The best way to repair it is via a thorough and independent process, not by a process that in effect is in-house. So that is of public importance.

If there is severe damage in regard to the confidence in Government of the public, and it seems widespread to me, that sort of thing needs to be addressed and it needs to be resolved.

3065

A Member: Hear, hear.

Deputy de Sausmarez: I do not disagree with Laurie Queripel. I am happy to give way to Deputy Oliver and I will respond to this point afterwards.

3070

Deputy Oliver: Thank you.

3075 When we are talking about public importance, there was an outcry a few months ago when somebody was elected for the head of real estate and property, and yet everybody just seems to have forgotten about that and it is just onto this new one, now, with Education. We have got to be consistent here, I think.

Deputy de Sausmarez: (*Interjection*) I am not going to give way.

3080 I thank both of the Members for their interjections but I concur with Deputy Oliver, but I do not necessarily disagree with Deputy Laurie Queripel, but I do not think we can single out this particular instance as being completely unique. I think there are, as other people have pointed out, a whole range of instances that would probably qualify under the same ground.

3085 For me, I do think, actually having listened to Deputy Le Tocq I am in two minds as to whether to support this. If the amendment is successful, I am in two minds as to whether to support the substantive Proposition, but I certainly will be supporting this amendment because I think it is a good compromise and I certainly prefer it to the original Propositions.

The Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Thank you, sir.

3090 I consider this amendment a waste-of-time amendment because it is instructing Scrutiny to do something that Scrutiny has the power to do itself. So why do they need to be told to go away and do it? I think they have actually taken that on board, they have considered the situation in the past, and they have come to a decision.

3095 I also speak as Vice-President of Scrutiny last term. In fact, for those of you who were on that board at the time, or that Committee at the time, will remember that I actually chaired quite a few of the meetings because the then Chairman was conflicted in most of the cases and had to step aside.

3100 One of the biggest problems we had – I am only telling you what people have already said, I do not want to be too repetitive – but the lack of powers to make people attend and also to get hold of the various documents was something of a nightmare. (**A Member:** It was.) (**A Member:** Hear, hear.) You cannot go down to the bottom of something if you have not got access to all of the evidence.

3105 If people are going to either refuse to attend or to attend, as in one case, very early days, where someone actually refused to answer every single question – he called the Fifth Amendment, and actually said nothing. It went on and on and we ended up having to completely disregard everything that person could have said or could have given us as evidence. It was just a total waste of time. So I really do support the idea that the sooner that these powers are actually given to Scrutiny, the better. (**Some Members:** Hear, hear.)

3110 I also have to say, I am sorry I have been told that some of these terms are a little bit trade unionist. I apologise. I spent 10 years as a trade union leader over here so I am going to tell you that anything that is in-house smells suspicious. It just does. It looks like a closed shop and the people outside in our society are looking to us to have integrity and to speak absolutely with clarity and to be transparent in everything that we do.

3115 Now I do not know exactly what has happened up at Education, not since I have stepped out of the box, but I have been stopped by several people in the High Street, in this lunch hour, who have actually said, 'For heaven's sake, make sure that there is full inquiry. We want a proper tribunal. We do not want to find that this is going to be blocked by ESC and/or P&R, because P&R are going to get clipped in this because they were copied into the email.'

3120 This is not me speaking but I do sympathise with what they are saying, so I will repeat it. The people that stopped me were actually hoping that those people would actually declare a conflict of interest and not actually vote one way or the other. Indeed, Deputy Trott has already said that is what would happen in his case. But this is the sort of feeling outside in the big outside world.

3125 We are 40 people; 38 from Guernsey, two from Alderney, who have been elected here to conduct business on behalf of the people of Guernsey. They expect us to do it openly and honestly. No favours for mates or allowing somebody to get on with the job, it does not matter how you get there or what you do in order to do it. You cannot do that. We are here as representatives of the people; delegates here who are actually answerable to the electorate.

3130 I tell you now, if there is any kind of a fudge going on, or a perceived fudge going on, then you are going to have a blooming hard job getting re-elected when it comes around to June. I promise you that, because people out there are far more politically aware than they ever have been and you have given them the chance now, with Islandwide voting, to actually have a say about every single one of you. You cannot go and say, 'I'm just going to look to my little corner of the Island and I can pick one or two little things that are going to be great little numbers that get me elected.' You are going to have to expose all of your policies to all of the people and you are going to have to be seen as squeaky clean. And some of this smacks of not being squeaky clean.

3135 Just in case anybody is thinking that I am prejudging anything, I am not. I am not prejudging the guilt or participation in any events that have happened because I do not know what has happened.

3140 But you have heard Scrutiny. You have got a Scrutiny Committee. You have elected the people that you thought were the best people to carry out the Scrutiny function of this Chamber. And you have got the best people in there. And you have heard what they have told you. They have told you, 'We would like a proper inquiry. We haven't got the tools in the box to deliver what we want to deliver'.

3145 You have heard it. They have told you! So why on earth are you then saying, 'We don't want to listen to what you are saying, we want to impose something else on you'? That is absolutely stupid. They told you what they think should happen. Take their advice. They are the best people to give it to you. And for heaven's sake, get on with it.

3150 All of this, the amendments and bits and pieces, smacks of wasting and drawing out stings and things. What is the intention? To actually let things go on and on so they filter down to next to nothing, or other things come in to take their place and we end up not actually getting around to doing anything about this?

3155 This also, of course, gives people on ESC and P&R a chance to explain and exonerate themselves. No one is predetermining what the outcome is going to be. We should not be, anyway. There could very well be quite reasonable arguments for why things have happened. I, as President of Education, exercised a right of veto. It happens. It is within the Rules.

3160 What you must not do is to say that they have not happened, or try and hide them, or to try and explain them away in some other way. People want to know the honest truth and the only way that you are going to get that is by a full inquiry, not by some half-hearted or even though best-intended, attempt at doing it in-house. In-house is not going to satisfy the public. You are going to weaken and water down the whole inquiry and people will not forgive you.

Thank you. (*Applause*)

Some Members: Hear, hear.

3165 **The Bailiff:** There were several people standing who have sat down now. I do not know. Is anybody wishing to speak?

Deputy Soulsby.

Deputy Soulsby: Sir, yes I will be brief.

3170 I found Deputy Le Pelley's speech quite interesting actually because he did attend a public hearing of the Scrutiny Management Committee –I think it was over a guerrilla marketing campaign at some point – on behalf of his Committee.

Is he telling me that that public hearing was not worth the time that he spent at it? Is he saying that he did not say the truth or others who attended did not say the truth? Is he saying that those people who should have been there refused to turn up?

3175 It is interesting because if that is the case do we then question the whole point of having public hearings? (**A Member:** No.) No, I will not sit down.

Deputy Le Pelley: Point of correction sir.

3180 **A Member:** You asked the questions.

The Bailiff: Point of correction, Deputy Le Pelley.

3185 **Deputy Le Pelley:** There was indeed a snap investigation, I forget the exact term. (**Deputy Green:** Snap hearing.) Snap hearing. But no-one refused to attend to it. My Committee did attend and we did give honest answers. But that does not mean that every question that should have been asked was asked.

I would also point out that P&R and the Information Officer were allowed to speak both at the beginning of that inquiry and at the end of it, and in fact you had what I considered to be a very

3190 unbalanced hearing. If that had been in a Court of Law and if there had been people in there with proper legal representation, I think you might have had a different outcome.

The Bailiff: I think that went beyond the point of correction.
Deputy Soulsby.

3195

Deputy Soulsby: It is interesting that Deputy Le Pelley talked about the right questions were not asked and this was the point I was going to make in response to what Deputy Lowe was saying as well, in terms of the tribunal. 'Oh we will get the tribunal; it can finish in time.' We hear Deputy Le Pelley say, 'Not all the right questions were asked at the Scrutiny public hearing.'

3200 But you have got no control over what the person or the panel appointed to that tribunal does, what direction they go in and how long they will take. The power is given to those people appointed to that panel to do as they wish. All control disappears from that point of view.

3205 I thought Deputy de Sausmarez made an excellent point about referencing non-States' members. I think last term, as part of the debate over the machinery of Government, we had a lot of discussion about the value of non-States' members and how important they were and I am sure we have actually dealt with issues just like this, where we could say they were absolutely independent members of the Scrutiny Committee who could provide a different aspect. I absolutely think she made a really useful point there.

3210 I would like to go back to powers and not having the powers to compel people or papers or records. I would reiterate what I said in my speech earlier today. The power that Scrutiny does have is the power to name and shame. (*Interjections*)

3215 I should demonstrate this in terms of what has happened in the UK. Mark Zuckerberg, Members might know, he lives in America and not in the UK, and whichever select committee it was at the time tried to get him to speak, but could not get hold of him. But they could put his name on a desk and demonstrate that this person was asked and they have not come.

3220 In any event, although those select committees have the power to call people, paper and records, they *very* rarely do, because virtually all of the time people turn up and the information is provided. We have only had one or two tribunals before this and the last one was years ago. The inference is that this information will not be given, but I have not yet had anything to tell me that it will not be.

I have had nobody at Scrutiny say, 'We have tried to find out all the people that are needed and we know they are not going to help, and we know we are going to get a whole load of redacted information'. We just have not heard that, so I do not find that argument compelling.

3225 It is probably no surprise to Members that I will support this amendment. I think it makes perfect sense and it is the way to go forward. Thank you.

The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

3230 I do believe this amendment was made with good intentions. I do not doubt the credibility of Deputy Yerby and Deputy Ferbrache for one moment, but I simply cannot support it. There are several reasons.

3235 We have not had it read out but, if we look at Proposition 2, it is to delete any costing or any funds to such review. So there is actually no indication of cost on here at all. But more alarming to me is that Scrutiny will have to, and I will read this:

... subject to an appropriately detailed financial request ...

– go to P&R to get any monies required.

That really does give me grave concern, sir, because Policy & Resources are implementing and potentially could be witnesses to any public hearing, but we have got to go to them ... I mean it is

3240 objective to be fair, but 'appropriately detailed financial request'. Is that a letter, saying – I will quote Deputy Le Tocq here – 'Justice'?

If you want to have justice you need to have an independent adviser on the panel that they have convened for a completely different review that has nothing to do with this at all. If you want to have an independent adviser then we will need to go and ask P&R for the finance. Actually they
3245 are implemented, potentially, in becoming witnesses themselves. That does not sit right at all with me, sir.

Deputy Yerby: Point of correction sir.

3250 **The Bailiff:** Deputy Yerby.

Deputy Yerby: The reference to the Policy & Resources Committee having delegated authority to approve expenditure is taken directly from the original Propositions in the Scrutiny Management Committee's Report, so there is no way that Deputy Merrett can have a problem
3255 with the amendment unless she also has a problem with her own Report.

Deputy Merrett: What we are asking the Assembly to do today, under the original Propositions, sir, is for this Assembly to decide, all Members in this room to decide, whether or not they wish to delegate authority to Policy & Resources to approve expenditure up to £250,000.
3260 So 40 Members would have a vote on that and that would be the direction to P&R.

What we are saying with this amendment is, 'Go away SMC, work up an appropriately detailed financial request and then just go to five Members or three of P&R and ask them if they will release the funds for you'.

That is what it says here. I think that is actually a substantial difference because we are then
3265 having to go and ask P&R, and P&R could say no, but then we could go public and say 'They said no'. Oh, what a mess. That is my concern there.

My other concern is, and I will put it down to naivety, that we can just constitute a panel from anyone. Anyone can be on this panel. Somebody referred to Advocate Harwood, sir, who signed the policy paper saying that his preferred choice – yes, his name is most definitely here – was to
3270 go down the Tribunal of Inquiry. He has already considered this and his consideration is that the Tribunal of Inquiry is the right route, not this.

I was not keen to put this on public record but I will make a public record, when we do a hearing, Members of Scrutiny, as political Members, have parliamentary privilege. The other members of the panel do not. So I would be uncomfortable with asking members of our
3275 community to sit on the panel when they have no parliamentary privilege, so that I do not have to sit on that panel. Again, I really do struggle with that.

The difference is, and I do not know why we are going off on these tangents but we have, so I will rebut them. The snap hearing that Deputy Soulsby referred to: those were politicians on that snap hearing. There were politicians and the civil servants supporting those politicians or
3280 supporting that Committee.

This panel that will need to be convened, the witnesses that will potentially be called forward – I have said earlier I have absolute confidence that Education, Sport & Culture and Policy & Resources will give us unredacted information and we will decide what we would like to ask for, or the inquiry will. They have already ready promised us that and I have no problem with that all and
3285 I respect them for that and I thank them for that.

But this is not just about those politicians and some civil servants. This is about members of our community. We could potentially ask members of our community to come forward and that, to me, is quite a distinct difference from a snap hearing, which is really aimed at particular politicians and that particular Committee.

3290 So, no, I would not be prepared to name and shame a member of our community who I have asked to come onto a panel and they said, 'No.' I would not be prepared to do that to any

members of our community. So I do not think we can go down the route of, 'We will name and shame if they do not come on it.' I just could not do that.

3295 That is why I am going to oppose this amendment. I think what has fundamentally been lost in this amendment, is the fact that the Scrutiny Management Committee, as convened, of the four Members that were there, came to the decision that they did not believe that they have powers or the independence to actually deal with this matter in a way that they thought it should be dealt with.

3300 This amendment does not actually do anything other than direct us to do something that we potentially would do anyway. There is no time limitation on this amendment, so we could do like other committees have done and just say, 'Well, it is an extant Resolution but actually we are not going to do that because we have only got nine months left of the political term, so actually we are not going to do it.'

3305 So, Members, do not go away thinking if we vote for this, that is okay, Scrutiny is going to crack on and do this, they are going to have a little chat with P&R about the appropriately detailed financial request, P&R are going to say, 'Yes, of course, have as much as you want.' Three of them have put on record they do not want to give us any money. So please do not be under that illusion, because I am certainly not.

3310 The last illusion I want to bust is the timetable because this will clearly take longer. What we want to do today is resolve from this Assembly, from 40 Members, if they want us to have a public Tribunal of Inquiry, an independent review to come to the bottom of – and again I will say it, sir, this has got nothing to do with a snap hearing from Education, this has got nothing to do with the earlier extant Resolutions. This is about the establishment of facts and circumstances surrounding the appointment of the role of Head of Curriculum and Standards.

3315 That is what it is about, okay? So can we all focus on what this is about because even the amendment does not take that out. The amendment leaves that in, so it is still the same thing we are trying to achieve, which is, in the Scrutiny Management Committee's opinion, the four Members present when they debated it, is that a Tribunal of Inquiry is the way to go. Therefore, I hope Members vote against this amendment. I will be asking for a recorded vote – I have just done it – in fact and then we can move back to the main Proposition.

3320 Thank you, sir.

The Bailiff: Deputy Stephens.

3325 **Deputy Stephens:** Thank you, sir.

I feel Deputy Le Pelley's suggestion that, as a Member of the Policy & Resources Committee, I would act to obscure truth from view, and Deputy Merrett's suggestion that Policy & Resources Committee would seek to influence the outcome of a review through the withholding of funds, both unfair and unreasonable.

3330 I am willing to offer the truth and funding should the Scrutiny Management Committee seek it from me and therefore, in that spirit of willingness, I will vote for the amendment.

Thank you, sir.

Deputy Le Pelley: Point of correction, sir.

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The Bailiff: Deputy Le Pelley.

3340 **Deputy Le Pelley:** I was referring to perceived reality. It is what the public outside will perceive to be the truth. I am not making any allegations against P&R and/or ESC. I said quite clearly that I had no presumed outcomes whatsoever. But people outside do need to have something absolutely clearly and openly discussed and discovered, and that is the only way you are going to be able to do it.

The Bailiff: Deputy Tindall.

3345 **Deputy Tindall:** Thank you, sir.

Whilst listening to this debate, I thought it would be worthwhile just reviewing the policy letter, which happened to be in the States in February 2016, regarding extending the powers of the Scrutiny Management Committee, which we do know has already produced a draft piece of legislation. It is a Law, so it is going to take a while to come in. So we do know those powers will not be around, probably, in time, if Scrutiny will go ahead with this.

3350 But I wanted to read these particular paragraphs out, there are only three, because it sheds light on the reasons why these powers were going to be introduced. First of all, it was to be introduced and the intention was for May 2016 – so that just indicates how long it has taken to get there. But on compelling both attendance and evidence, 2.6:

It is hoped that in the vast majority of cases those who are requested to attend proceedings would choose to do so voluntarily; indeed, the experience of Parliaments which have these powers elsewhere indicates that they are rarely used. However, if the SMC is to be given these powers to compel attendance, it is necessary to consider how, in practice, such powers would be exercised. In the view of the Joint Committees, the appropriate legal infrastructure will need to be in place to ensure the enforceability and legality of the proposed approach.

3355 It does go on to mention how those powers would need to be used sparingly. Further, 2.8: SRC's second policy letter ...

The SRC's second policy letter acknowledged that, as a result of the SMC having the powers to compel, there would be a need to review the Code of Conduct for both Members of the States of Deliberation and the Civil Service Code. As noted above, it is envisaged that the vast majority of those persons requested to attend hearings or to provide documentation would do so voluntarily. However, an appropriate strengthening of the respective Codes of Conduct would enhance this notion of voluntary attendance.

3360 Then the last one, which is 'Extending rights of privilege', on which I refer to Deputy Merrett's comments. There seems to be a misconception as to what these the rights of privilege, to whom they would be extended. The heading is 'Extending rights of privilege to any person giving evidence to scrutiny reviews' to Scrutiny reviews. That is what this is about. This is what it says in the policy letter as to the reason. I will just read 2.15:

The effectiveness of the SMC would be strengthened further by extending the rights of privilege enjoyed by Deputies to any person giving evidence to scrutiny panels and hearings.

I will give way to Deputy Green,

Deputy Green: Thank you.

3365 I am grateful to Deputy Tindall for giving way.

I think I can update her. She is obviously quoting accurately from the policy letter but what has become clear since the drafting of the legislation is that there was an omission in the Scrutiny and Public Accounts policy letters regarding this, that actually the non-States' members who take part as part of a panel when cross-examining witnesses, actually are not covered by parliamentary privilege. That was something that was not canvassed in that policy letter and has only subsequently become clear.

3370 That is a factor that I know my colleagues on the Committee who are non-States' members, regard as a serious omission and it is something that needs to be corrected.

3375 **Deputy Tindall:** I thank Deputy Green for that intervention.

However, and again maybe he will correct me if I am wrong, and I am just very quickly checking, that the privilege point was not drawn out when we were looking at the legislation. I do not recall that. For me, therefore, that is new information. If I am wrong I apologise. The point being, that it seems to be new information today for the rest of Members and I think that is

3380 relevant. However, the reason I mention it is not in respect of parliamentary privilege, certainly in respect of the other aspects of the policy letter, is that these powers were to be used rarely.

The second point being, as I mentioned in my speech about using independent persons and as Deputy de Saumarez articulated better than I did, was that that can be used and therefore there is this element of ability to utilise our current approach for what, to me, and this is the
3385 fundamental point, is not something exceptional. It is not something that has jumped out at us that means that this legislation that has been nearly four years coming to gestation suddenly requires those sorts of powers.

That is my view.

I will give way again to Deputy Green.

3390

Deputy Green: I really was trying not to do this, but I will just make this point.

There have been occasions and I wonder what Deputy Tindall's view on this would be and I am grateful for her giving way again. But there have been occasions in this political term and there have certainly been occasions in the last political term when the Scrutiny function in Guernsey has
3395 not been able to get hold of relevant documentation that, if it had got hold of, would have made a fundamental difference to the scrutiny concerned.

Several Members: Hear, hear.

Deputy Tindall: Again, as far as I am concerned, I did say in my speech about the element of, as I called it, discovery/disclosure. I do understand those points. However, we have already had many intimations by individuals of the access to that information; the core subject matter is in the remit of Deputies and civil servants and again I do not feel difficult.

I have just checked the notes in respect of what was given to the Legislative Review Panel and which will be given to the States when we look at this piece of legislation and there is no
3405 reference to this privilege point.

However, as I say, this is a matter of judgement. For me the outcome, I would like to say, is unanimous in the sense that we want to make sure that we regain the trust of the public by having a review that is such that will get to the nub of the issue and will make necessary
3410 observations or recommendations to address it.

The point is how we achieve it. We have the right to disagree on the way we achieve it, simply because there is the sum of money, the timing, and of course the necessary way in which we use the facilities, the services of what we already have and the structure we have in place.

For me, again, I think this amendment succeeds in encapsulating everything I was trying to say
3415 in my speech and I am grateful for that and I will support it.

The Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Thank you, sir.

I just wonder if there would be as many supporters of this amendment if we were in a similar
3420 situation and it was Home Affairs facing a tribunal and the email in question had been composed by Deputy Mary Lowe. I think the numbers would be slightly different. (*Interjections*)

The Bailiff: Deputy Ferbrache.

3425

Deputy Ferbrache: I only rise to deal with that last point. I have made the point that I made in my speech, just before lunchtime. In a way I take exception to what Deputy Leadbeater has said because I have been a great supporter of Home Affairs throughout their difficulties and I would have made exactly the same point. I am not going to give way.

3430 I would have made exactly the same point if it had been Home Affairs as if it is Education. It has got nothing to do with the individuals in the Departments concerned. It has got everything to do with the principles and the practicalities.

Deputy Leadbeater: Point of correction, sir.

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The Bailiff: Deputy Leadbeater.

Deputy Leadbeater: I was referring to the supporters of the amendment, not the bringers of the amendment. *(Laughter)*

3440

Deputy Ferbrache: My goodness me!

Generally I have only ever known it when Deputy Webber and Deputy Gollop used to bring it up, where sometimes Deputy Gollop would second the amendment and then vote against it, in the years gone by. But generally, if you second an amendment, you support it.

3445

But I am surprised at Deputy Leadbeater, who is an intelligent person, that he should think I do not support this amendment. I am not giving way again –

Deputy Leadbeater: Point of correction, sir.

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Deputy Ferbrache: If it is a point of correction then, of course, I will sit down.

The Bailiff: Deputy Leadbeater.

Deputy Leadbeater: I actually said if the numbers would be the same, if as many. I was not saying that Deputy Ferbrache was not supporting this amendment. I just want to make that clear, sir.

3455

Deputy Ferbrache: Thank you, sir, I have finished.

3460

The Bailiff: Deputy Meerveld.

Deputy Meerveld: Thank you, sir.

I am going to talk generally about this in the general Proposition plus the amendment and I am going to break it down into why we need to be doing this, how we should do this and the costs.

3465

Let's start with the 'why' and a little bit of background. There have been a lot of excellent speeches today. Particularly, I liked Deputy Paul Le Pelley's most recent one, which is I think one of the most passionate speeches I have heard him make in this Chamber, but also his earlier speech where he has been told, as I have, by members of the public, that they believe that the perceived transgressions of the Committee for Education, Sport & Culture, that this inquiry is potentially being endorsed around, are the tip of the iceberg.

3470

There are also concerns, that I think Deputy Inder referred to, that Deputy Gavin St Pier and our Chief Executive were copied into the original email – I think it was 18th April – and why did they not pick up on what, on the face of it, seems to be an egregious breach of good governance, at the very least, demonstrated in that email? Why did it not come forward?

3475

Picking up on what Deputy Emily Yerby said, let's deal with the facts, let's deal with what is in front of us right now – what we know today. We know that there is an email that has been confirmed to be legitimate by Deputy Matt Fallaize, which on the face of it, on the read of it, does seem to be an egregious breach of good governance and several other Rules of this Assembly. The Assembly is also aware that I have made a Code of Conduct complaint –

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Deputy Fallaize: Sir, on a point of correction.

Deputy Meerveld has said that the email I sent was in breach of several Rules of this Assembly. Is he able to explain which ones they are?

3485 **Deputy Meerveld:** To correct that to start with, I say, 'appears to be', and I have made a Code of Conduct complaint, a very detailed Code of Conduct complaint, detailing exactly where I believe those breaches are. That Code of Conduct Complaint has been found to have *prima facie* evidence and an investigation panel will be convened to review it.

3490 I have also confirmed to all Deputies that when challenged by Deputy Fallaize that if I thought there were egregious breaches of Rules that I should take it up with the Administrator of Population Management and the Head of Law Enforcement, that I have actually done that. I can also confirm that they have confirmed to me the Administrator of Population Management is conducting an investigation into potential breaches of Section 46 of the Population Management Law.

3495 So investigations are ongoing.
I give way to Deputy Ferbrache.

Deputy Ferbrache: Sir, two points.

3500 Deputy Meerveld says that he has made a Code of Conduct complaint; he has listed the alleged breach of Rules in that Code of Conduct. What Deputy Fallaize has asked, and he has not answered the question, so I ask can he please answer the question, and I am not privy to the Code of Conduct complaint: can he say, when he resumes his speech, what Rules he says have been breached thereby?

3505 Secondly, he said about potential criminal cases, criminal investigations. It may be the same point Deputy Le Pelley was dealing with previously, I do not know, it might be for a different reason. Whether you are before –

[A mobile phone rings]

3510 **A Member:** Yes, hang up! *(Laughter)*

Deputy Ferbrache: I did Strictly Come Dancing years ago, so ... *(Laughter)*.

3515 Anyway, whether you are before a civil court, whether you are before a criminal court, unless you are actually a defendant and you are answering questions in relation to the charge that is being brought against you – and you have the right not to give evidence, by the way, in a criminal case – but in any other case, if there is an allegation of criminality put against you, the judge or the Chairman of the Inquiry would have to advise any witness that they do not have to answer that question if they do not want to do so.

3520 It is perfectly proper and no inference can be drawn against them if they say, 'I am not going to answer that question.' So I am not sure. You go to an inquiry – *(Interjection)*

Thank you, Deputy Laurie Queripel, do you want me to sing into it or speak into it? *(Laughter)*

It would be perfectly proper for any witness, Mr X, Miss Y, to say, 'On the advice of the Bailiff, on the advice of the Chairman of the Inquiry ... I do not have to answer that question because I might possibly incriminate myself. I am not going to answer those questions.'

3525 That can happen anywhere. So I do not understand the point that Deputy Meerveld is making and that is a very well-ordered, well-respected, well-established principle that anybody, a witness in any inquiry or any court can do. As I say, the only exception to that is if you are a defendant and you are being asked questions about the charge or charges against you, then clearly you have to answer those questions.

3530 **Deputy Meerveld:** Thank you.

I am not asking Deputy Fallaize to answer any questions. I am stating facts of what is actually underway at the moment that may have a bearing on these considerations and also the perspective of the public of this Assembly and the Committee *for* Education, Sport & Culture, and through connection, through association, their proposals for transforming our education system.

3535

As far as specific complaints, all Deputies have been emailed a copy of my Code of Conduct complaint, so Deputy Ferbrache does have a copy and I will be quite happy to circulate that to the public as well. Everybody in the Assembly has had it.

3540

Moving on, we have Code of Conduct complaints that have got *prima facie* evidence, an investigation will be mounted. There are formal investigations going on into potential breaches of the Law; and we have an email which on the face of it to me, seems to be an egregious breach of good governance, far worse than anything Home was accused of.

3545

Those are facts. Those are out there in the public domain. Those are stirring up lots of negative sentiments towards this Assembly and to the Committee *for* Education, Sport & Culture. So it is becoming increasingly important that this Assembly addresses that and is perceived to address it in a way that is proper, correct, arm's length, etc. We had Deputy Gavin St Pier say we had not met the great public importance criteria for requiring a tribunal. Really?

3550

First of all, I personally think these accusations, which have yet to be judged by various bodies, whether it be the Code of Conduct Panel, the Administrator of Population Management, or a tribunal or Scrutiny Management Committee, they have got to be adjudicated and all of us need to know whether there are any grounds behind these accusations. In fact, Deputy Fallaize and the Members of the Committee have already stated that they believe there are no grounds, they are innocent.

3555

But there needs to be a presentation to the public, that they can trust, to preserve the perceived integrity of this Assembly and this States and the perceived integrity of the Committee *for* Education, Sport & Culture. The problem is if we let this perpetuate it has several knock-on effects. One, I would say, this Assembly is probably plumbing all new-time lows as far as the perception of the public is concerned. Certainly we do not seem to be held in much esteem and that will only get worse unless we address issues like this.

3560

Also, 'great public importance'. This Committee, Education, Sport & Culture, the next policy letter we are debating, is asking for us to delegate authority for them to go and spend £157 million, to be trusted with that, without coming back to this Assembly for further review and approval. That is a big ask and if this is not addressed that will haunt that entire project. And we are talking about a project here that is further reaching than anything that has been dealt with by this Assembly in this term.

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Two hundred million pounds for upgrading our IT systems? That is an upgrade. Even the transition of the health services, nearly £100 million: that is a progressive process of improving what is already there. What we are being asked to do in Education is to throw out an established system and replace it with something completely different –

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The Bailiff: This is straying way beyond the policy letter that is before us and the amendment into debate on something that we are going to come to later in the week - possibly. *(Laughter)*

Deputy Meerveld: Okay, let me bring it back to it then, sir.

3575

My concern is, if the issues around the perceived integrity of the Committee are not addressed in a forceful way and in a proper way that is perceived by the public to be above reproach and independent, then that will overshadow that implementation, going forward, and brings into question whether we should be approving it until such time as these issues of integrity are reviewed, because it brings into question the integrity of the proposals themselves.

3580

That is the why. We have the issue of the perceived integrity of this entire Assembly, the perceived integrity of the Committee. We have the issues of its impact on the future plans for developing Education and whether it is likely to erode public confidence in them as well and also,

I think, as Deputy Le Pelley said, the perception of this Assembly and its Members as we go into another election cycle.

3585 Then we come to the 'how'. Again, several people have mentioned it. We have elected Scrutiny Management to do a specific role. They have come back and quite clearly stated they do not have the powers to properly investigate this and there will not be that perception of being arm's length. They have proposed a tribunal to do this. I support that, absolutely. That is an independent, arm's length process, with no political influence from us. Once it is set in train it will come back with a finding and they have assured us it will be a finding in a relatively timely manner and that if we try to direct them to do it, it may cost as much and it may take longer. So there are no potential savings there.

3590 Then let us go on to cost. We talk about cost; we talk about £250,000 being a shockingly large amount of money. Well, we have just approved £96 million for Health, we have just approved £200 million for IT, and we are just about to debate £157 million being allocated to the Committee, with delegated authority, whose integrity is potentially brought into question.

3600 Two hundred and fifty thousand pounds is 0.16% of £157 million. It is a tiny fraction of what this States spends every single day. So I do not believe that the cost amount is so significant when you look at the areas it comes to bear in, that we should simply overturn this on cost basis at all. In fact, what is the cost of your reputation?

Here, at risk, is the reputation of this Assembly. If we do not proceed with this in the right way it will come back to haunt this Assembly, both in the remainder of this term and at the next election and I personally think £250,000 to preserve our good reputation is a damn good investment.

3605 Thank you, sir.

The Bailiff: I see no one else.

Deputy Yerby will reply to the debate on the amendment.

3610 **Deputy Yerby:** Thank you, sir.

I am going to thank Deputy Leadbeater for giving me an 'in' that I otherwise would not have used. He asked us what the numbers would have been if the Committee in question had been Home Affairs rather than Education. Of course, as we remember, there was a governance report recently, which accused, rightly or wrongly, the Committee *for* Home Affairs of very similar behaviours to those which the Committee *for* Education, Sport & Culture is accused of.

3615 How many of us in this room have called for a Tribunal of Inquiry? Not one. So the answer to Deputy Leadbeater's question is zero.

More to the point, I want to continue with the comparisons for a moment and I hope you will indulge me with this –

3620 **Deputy Prow:** I thank Deputy Yerby for giving way.

I think the comparisons are very different. In fact, with the HMIC Report and where a lot of the criticism was repeated in the Governance Report, there was a Scrutiny inquiry and the report that was appended was debated in this Assembly and so, from that point of view, there was a great deal of scrutiny. In this particular instance there has been none.

3625 Thank you, sir.

Deputy Yerby: I thank Deputy Prow for making my point to me.

3630 Not only did not one of us call for a Tribunal of Inquiry into the conduct of the Committee *for* Home Affairs, but I know that I, and I believe others, somewhat chewed off the ears of Members of Policy & Resources behind the scenes for putting us in what we felt was a difficult position in terms of their response to the report on Home Affairs.

I would say that I feel the reaction at that time was disproportionate and, more importantly, unconstructive, and the reaction by the Scrutiny Management Committee at this point in time is

3635 disproportionate and unconstructive. I do not think in either situation we behaved in a way that was going to lead to better outcomes for the public. I think we have an opportunity to remedy that now.

Finally, to draw one last illustration from the situation in respect of Home Affairs, at the time public interest in that report was at its height, I was approached by a BBC reporter who drew out
3640 some comments from the report about rates of imprisonment and convictions in Guernsey, and because I have gone on the record previously talking about my concerns about imprisonment and convictions in Guernsey, I was asked if I could speak to them on that topic.

My response, which was very brief, was that, 'My views on and concerns with the States' approach to criminal justice policy are a matter of public record. But if I take the opportunity to air
3645 them again now, they will be construed as direct comment on the recent Home Affairs Governance Report and I am not ready to do that. I am sorry to disappoint you on this occasion.' So instead of leaning in to the public outcry about the Home Affairs Report I did what I thought was good leadership and tried to manage that and not play the politics of it.

I will give way to Deputy Leadbeater.

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Deputy Leadbeater: Sir, I thank Deputy Yerby for giving way.

I would just like to clarify it was not my intention whatsoever of putting any sort of slant against Deputy Yerby for bringing the amendment and for Deputy Ferbrache for seconding it. I have just heard a couple of Members speak for the amendment, and I do not think they would
3655 have been speaking for that amendment if the circumstances had been different, as I had outlined.

Deputy Yerby: I understand and appreciate that, but I think we will have to agree to disagree. I found it helpful because I think the parallels between this situation and that and our response on
3660 this occasion has been more dramatic than the circumstances merit.

Rather than responding to each point of debate in turn, I just want to summarise it in three points.

The first question is do we have confidence in the Scrutiny Management Committee? Deputy Soulsby drew that out well in her speech. Are we saying that all the previous snap hearings and
3665 reviews carried out by the Scrutiny Management Committee were ineffective, not up to scratch, not fit for purpose? Because if we are not, there is nothing so materially different about the circumstances we are asking Scrutiny to investigate now that we should not be confident in Scrutiny's capability to investigate it openly and fairly and promptly.

But, second question: does the Scrutiny Management Committee have confidence in its own capability and, more importantly, its own integrity? I want to go right back to Deputy Gollop's
3670 speech, because Deputy Gollop said it is difficult for the Scrutiny Management Committee – and it is – because they will be stepping into an arena where, no matter what they decide, they will face accusations of factionalism in terms of the conclusions that they come to.

But I am sorry, we appoint Scrutiny to do that difficult job. We appoint them because we trust
3675 their personal integrity and I do trust the deep personal integrity of all three political Members of the Scrutiny Management Committee and their non-political associates. I believe that they can summon the courage and the will to step into this arena to examine the facts fully and to publish a fair summary and fair recommendations in response to it.

It will require courage and I say that with a full understanding of the *Yes, Minister* connotations
3680 about that, that courage is something that dooms your political career. But I do believe that SMC are up to it and will do it well. But I will give way to Deputy Queripel.

Deputy Laurie Queripel: Thank you, sir; and I thank Deputy Yerby for giving way.

It is very good to hear that she and hopefully the Assembly have confidence in the Scrutiny
3685 Management Committee and they feel that we have integrity and we have confidence in our ability to do the work that we are directed to carry out, but in this one matter there is a point that

has not been made yet and it is this: issues exist about whether, after conducting a review – and this is the review we are being asked to conduct by the amendment – the SMC will be able to publish an unredacted final report based on advice by HMP.

3690 HMP might say you cannot publish an unredacted report. That will take away from the effectiveness and the meaningfulness of the review. That issue would not exist if a Tribunal of Inquiry was conducted.

Thank you, sir.

3695 **Deputy Yerby:** I am relieved to hear Deputy Laurie Queripel say that the Committee have confidence in their ability to carry this work if they are assigned it because they were, at the beginning of this debate, dramatically under-selling themselves and I do not think that was actually fair.

3700 I appreciate the concerns about not being able to publish a fully unredacted report but again I do not think that the circumstance that SMC is being asked to investigate are so materially different to other circumstances they have had to investigate this term, that that should be a particular concern in this case whereas it has not been at any point to date.

3705 My final question is: are we shaped by public opinion or do we dare to have the leadership to try and shape it? In posing that question I recall a time when I was a civil servant, so I suppose I should give my redacted version of this (*Laughter*) when I witnessed two politicians who I both respected, who had worked together for some time, finding themselves on opposite sides of an argument in which one of them had to turn around and effectively say, 'Show me the evidence before I trust you again'.

3710 The Scrutiny Management Committee, of course, has to stand aside and say, 'Show me the evidence.' That is absolutely the position that we put them in, to say we are going to have a fair and impartial and open process and that is what I hope Members will support this amendment and entrust them to do. But if somebody tells me the sky is falling, my first reaction is not going to be to run around and say, 'Help, help, the sky is falling!' My first reaction is going to be to take what I know and weigh it against what I have been told and respond reasonably and, I hope, maturely to public concern, rather than just saying, 'Oh, the public is concerned, therefore there must be an issue'.

We must allow the Scrutiny Management Committee to investigate but I do not think it is wise and mature of us to lean into the panic and say just because there is a panic, there must be a fire.

3720 Scrutiny's investigation will allow us to come to a fair and final position on that, but I think there was something to be said, in the context of Home Affairs and the same something needs to be said in the context of Education, Sport & Culture.

3725 So, sir, I would ask Members not to sleepwalk into spending large amounts of Government money on a Tribunal of Inquiry simply because we feel there must be an investigation. This amendment offers an entirely reasonable and appropriate way of investigating the concerns that are in front of us. It uses the parliamentary mechanisms we have and relies on the integrity of those we have appointed to the positions for good reason, because they can do the job and do it well.

So, sir, I ask Members to support it.

3730 **The Bailiff:** We have had a request for a recorded vote on the amendment so we vote on the amendment proposed by Deputy Yerby, seconded by Deputy Ferbrache.

Over to you, Greffier.

There was a recorded vote.

Carried – Pour 16, Contre 15, Ne vote pas 8, Absent 1

POUR
Deputy Le Tocq

CONTRE
Deputy Green

NE VOTE PAS
Deputy Graham

ABSENT
Deputy Mooney

Deputy Brouard	Deputy Paint	Deputy Dorey
Deputy Yerby	Deputy Dudley-Owen	Deputy Roffey
Deputy de Lisle	Deputy Prow	Alderney Rep. Roberts
Deputy Langlois	Deputy Kuttelwascher	Alderney Rep. Snowdon
Deputy Soulsby	Deputy Gollop	Deputy Tooley
Deputy de Sausmarez	Deputy Lester Queripel	Deputy Trott
Deputy Oliver	Deputy Leadbeater	Deputy Fallaize
Deputy Ferbrache	Deputy Le Pelley	
Deputy Tindall	Deputy Merrett	
Deputy Brehaut	Deputy Meerveld	
Deputy Parkinson	Deputy Inder	
Deputy Le Clerc	Deputy Lowe	
Deputy St Pier	Deputy Laurie Queripel	
Deputy Stephens	Deputy Smithies	
Deputy Hansmann Rouxel		

The Bailiff: The voting on the amendment proposed by Deputy Yerby, seconded by Deputy Ferbrache, was 16 in favour, with 15 against and 8 abstentions. I declare the amendment carried.

3735 Does anyone wish to speak in general debate who has not already spoken in general debate? Yes, Deputy Laurie Queripel, you have not spoken yet.

Deputy Laurie Queripel: Thank you, sir.

3740 When Deputy Brouard spoke this morning and I did write this down, so I have got it word for word, he said he did not want – and I presume that the rest of Policy & Resources Committee agree with him – a Tribunal of Inquiry to take place but he wanted Scrutiny to ‘give it a go’. To give it a go.

3745 That to me speaks to me of the culture or the approach towards scrutiny generally speaking within this Assembly. (**A Member:** Hear, hear.) We want the perception that there is scrutiny taking place. We want the idea that scrutiny is taking place but there is not really a great appetite for really effective and penetrating scrutiny.

Several Members: Hear, hear.

3750 **Deputy Tindall:** Point of correction, sir.

The Bailiff: Deputy Tindall.

3755 **Deputy Tindall:** Scrutiny is about the job we do; it is not about how we do it.

Deputy Laurie Queripel: Sometimes, sir, it is about how we do it and the way that we do it. The Scrutiny Management Committee felt, after great reflection, after great deliberation, that the best way, in this particular issue, was to call for a Tribunal of Inquiry.

3760 Now, what has happened today is the very thing we were trying to avoid. We did not want an investigation, a review to take place on the floor of this Assembly. We wanted it to be done in an impartial setting without limitation. That is not going to happen now. I think it is a sad day for this States, personally. (**Several Members:** Hear, hear.)

3765 I think it is a sad day for the States. I do not care what anybody else says. It is a sad day for this States, sir, and it will do nothing. I really hope that people have picked up on my point when Deputy de Sausmarez very kindly allowed me to interject, that she picked up on one of the points Deputy Green made but she did not really pick up on the other one.

3770 At the moment, and I have heard what Deputy Yerby said about us being leaders and not being led by the public, but actually Government is a balance of both, Government is a balance of being leaders but also listening to and taking the temperature of what is happening out there in our community.

There is no doubt that the reputation and the integrity and credibility of this States, for whatever reason, has been greatly damaged by this issue. (*Interjections*) You can mumble and

groan all you want. What we wanted to do was, in good faith, try and help to restore that confidence, that belief in Government.

3775 Now, whatever efforts the Scrutiny Management Committee make in regard to this review that we have been directed to take place – and we will do our very best – that might not happen now, sir; whereas I think with a Tribunal of Inquiry, there was a better chance that confidence could have been restored. So this Assembly has missed a trick, sir, and I think it has missed a trick because it is not that keen, generally speaking, on the kind of scrutiny that will really make a difference. **(Several Members:** Hear, hear.)

3780 Secondly, sir, and also, when I interjected when Deputy Yerby was speaking, did Members not hear what I said? **(A Member:** No.) Did they not hear what I said? That we might not be able to produce an unredacted report once this review is done. *(Interjections)* How will that speak to the States and how will that speak to our community? **(A Member:** It is what they want!) It is absolutely appalling.

3785 I was slightly entertained this morning, but rather bemused by the things that Deputy Brehaut and Deputy Le Clerc said when they spoke. It was rather like the wolves converging, when they have feasted regularly at the third-party consultants, outsourcing a work teat. There are many Committees within this Assembly who have the mandate, who have the budget and by default they regularly go out and engage consultants to do the work that they should be doing. They regularly do that. There are millions of pounds spent every year on engaging third parties, consultants, etc. Millions and millions of pounds.

3790 Yet when Scrutiny come to the Assembly and says, 'After very careful deliberation, on this occasion – and we have never called for it before – because we think the issue justifies it, we want to engage an outside party to do this work via a Tribunal of Inquiry.' And we are shouted down. Yet these are the very people that spend millions of pounds, every year, on consultants and third parties. **(Two Members:** Hear, hear.)

3800 We will make our best effort. We will do this work in our very best way but we cannot guarantee the effectiveness of it or the meaningfulness of it and I think, actually, there is a much better chance that could have happened via a Tribunal of Inquiry. I really was, like I say, amused and quite bemused by the bullishness of people who spoke this morning and the richness of saying what they said when they themselves spend millions of pounds on consultants every year.

3805 The idea of a Tribunal of Inquiry ... Members have said the Scrutiny Management Committee, that there is a policy letter coming to the States in the near future, and legislation that will give us the powers that we need. I do not know how many Members of the Assembly are going to vote for that. I wonder, if I ask now, if there would be a majority vote to give the Scrutiny Management Committee the powers that they need in order to do that job effectively.

Now, Deputy Trott has already said he will not vote for that.

3810 **A Member:** Yes.

Deputy Trott: I explained why.

3815 **Deputy Laurie Queripel:** Okay, he explained why, but that does not make any difference to me.

Whatever the system of Government, surely if you can find a way to beef up, to up the ante, to make scrutiny more effective and more meaningful, surely you would take it? So although Deputy Trott explained why, I think it was quite a weak reason why he would not support it.

3820 There will be other Members, I am sure, that will not support it. Now, what will that tell the Members of our Community when they see that actually that policy letter, or that legislation, has got through, or it has not got through; or it has got through only perhaps by a majority rather than all the Assembly voting for it?

The reason to go for a Tribunal of Inquiry, as I said, and I am talking in the context of the powers that we do not have at the moment and the powers that hopefully we will have soon, sir,

3825 was that we cannot rely on goodwill. We just cannot rely on goodwill when it comes to an investigation of this magnitude, of this importance to the public. **(A Member:** Hear, hear.)

It is all well and good saying most people will comply, most people will provide the material. But you need to put that beyond doubt. Very often when we look at legislation, at the Legislation Review Panel and Deputy Tindall often comments on it, there is a phrase that says, 'For the avoidance of doubt.' That is one of the reasons why we have brought these proposals to the States today, because we wanted to make sure, for the avoidance of doubt, that we could absolutely compel witnesses and material.

That is now in doubt. There would have been no doubt about it had a Tribunal of Inquiry been allowed to be conducted.

3835 So, sir, I think it is, like I say, a sad day for the States. I think it is a sad day for democracy, for accountability, for Scrutiny, because we felt we needed to go that stage further on this occasion. But we will do our very best to carry out this work.

Thank you, sir.

3840 **The Bailiff:** Is there anyone else?

Deputy Brehaut, you have already spoken in general debate. It was at 11.55 a.m., so it was a long time ago!

Deputy Dudley-Owen.

3845 **Deputy Dudley-Owen:** Yes, sir.

I will be brief because I think Deputy Laurie Queripel, he has been so articulate and he has said an awful lot that resonates with me. Really, I am disappointed because I feel that vote on the amendment really has undermined the Scrutiny Management Committee today.

3850 Actually, I entered into this debate earlier today, many hours ago now, feeling quite interested in terms of an academic exercise of listening to everyone's points of view, because I really did not know where I stood in regard to a Tribunal of Inquiry, whether Scrutiny Management should undertake the inquiry themselves. Actually it was Deputy Merrett's speech earlier today that really did sway me and give me a much better and clearer understanding of the nuances of how the Committee is run, the limitations on their powers, how they really feel that asking a third party to undertake this for them is going to be the best way of scrutinising this particular issue.

3855 They know best and we have undermined that knowledge, I feel today, with this particular amendment. So I feel quite deflated, actually, because it was my questions, essentially, that started off this scrutiny by the Rules, and that Scrutiny Management Committee, by the Rules, have tried to do their best by the people of Guernsey in order to get to the bottom of this affair and I am not sure that we are ever going to be able to.

3860 People have hunkered down underneath the headwind in order to see out the scrutiny and the biggest disappointment to me about this whole episode is that we did not have to get to this point. **(A Member:** Hear, hear.) Had the Education, Sport & Culture Committee been open and transparent in my attempts at scrutiny from the beginning, we did not have to get to this point. I did things by the book. I took this to P&R. I had meetings with senior individuals in this Government, right from the get-go. It did not have to get here. So that is my last word on this.

Thank you very much.

The Bailiff: Anyone else?

3870 Deputy de Sausmarez.

Deputy de Sausmarez: Thank you sir.

I have just a couple of really quick – because we do have more important things to talk about, I think, despite the importance of this debate itself – just a couple of outstanding questions.

3875 From what Deputy Laurie Queripel said, what I did not understand, which may be addressed in the summing-up is: what makes this particular instance, out of the very many examples that I am

sure we can all think of, that could be argued to have undermined public trust, etc., what makes this one so materially different, as Deputy Yerby broached in her speech on the amendment?

3880 The other question that is just nagging me is I just do not understand, who would be motivated, given we have had assurances that all the people that have anything to defend –

3885 **Deputy Laurie Queripel:** Point of correction, sir, we have not had assurances from members outside of this Assembly that might have had to come before a panel at a public hearing. We have not had assurances from them. There are members outside of this Assembly who we might wish to speak to at a hearing. We have not had assurances from them that they will come to that hearing or attend that hearing.

3890 **Deputy de Sausmarez:** I thank Deputy Laurie Queripel, but what motivation would they possibly have to withhold information? (*Interjections and laughter*)

The impression I get is that everyone is very keen to actually share the information and they need a formal framework in which to do that. (*Interjections*)

Look, I am genuinely undecided as to how I will vote, so if someone would like to answer my question then I might be tempted to support it. But if no-one can answer the question ...

3895 The main protagonists in this, if you like, are the people who have already said that they are very willing to co-operate and all the rest of it, so members of the public – I give way to Deputy Le Pelley.

Deputy Le Pelley: Thank you for giving way.

3900 You asked the question and if I may answer it, I will do my best. There will be many people out in society who will have evidence that is very important but, in giving it, will put themselves at risk – (**A Member:** Hear, hear.) At risk of losing their jobs, at risk of not getting promoted, at risk of being almost sent to Coventry by their workmates.

3905 I do not know which part of the world you have been working in in a previous life, but where I have been from, I am telling you there will be people there who will have to be forced, really, to come and give evidence. They will not want to give it willingly, because it will be so damaging to their prospects.

If you do not believe me, you are not even living in the right world.

3910 **The Bailiff:** Deputy Inder?

Deputy Inder: I was not sure if –?

The Bailiff: You have spoken in general debate?

3915 **Deputy Inder:** Have I?

The Bailiff: Yes. Just after lunch.

3920 Is there anyone else who has not spoken in general debate who wishes to do so? No? In that case, Deputy Green will reply.

Deputy Green: Sir, thank you.

3925 I think the last time I was in this position, the last time the Scrutiny Management Committee brought a policy letter to this Assembly, it was also amended so the basis of the Propositions that I had to respond to was entirely different from the original policy letter and we are in exactly the same position this afternoon.

The debate that we had for probably at least 60% of this debate was on a set of Propositions which no longer exist. So I think I am going to take the judgement not to respond individually to

all over the points that I would have otherwise done. I would say to the 15 Members of the States who voted *Contre* on the amendment to vote *Contre* in terms of the final Propositions.

3930 Clearly, if the Propositions are carried and they become States' Resolutions, then the Scrutiny Management Committee will in good faith approach the wording of the replacement Propositions and we will do our best, but that is subject to the concerns that we have put on record about the fact that this may well take longer than a Tribunal of Inquiry, this may well cost as much as a Tribunal of Inquiry and will probably be, in reality, more ineffective than a Tribunal of Inquiry
3935 because of the lack of powers. I give way to Deputy –

Deputy Hansmann Rouxel: I thank Deputy Green for giving way, just to clarify before voting on the final Propositions, if the Propositions were not carried what would be the intention or the next steps for the Scrutiny Management Committee?

3940

Deputy Green: That is an extremely good question and I will answer that.

What we would do, having taken the temperature of the Assembly as such, we would have a meeting as soon as we could convene and we would obviously decide on how we would take this forward in the absence of any States' Resolutions.

3945

We would obviously consider our options again and take into account the temperature of the Assembly, irrespective of a States' Resolution. I think that would be the correct thing to do in the circumstances. But I think it is important for me to say, Mr Bailiff, that we brought this policy letter in good faith and I have been comforted to some extent by the number of Members who have spoken about their confidence in the membership of the Scrutiny Management Committee
3950 (**A Member:** Hear, hear.) and our ability to do the job. So I do draw comfort from that.

But like Deputy Dudley-Owen I am somewhat deflated because I think we are in a position, which many people in the community are not really going to understand and I think that is what we are probably left with. I think if indeed the States votes for the amended Propositions, there is an inherent risk in that. That is why we sought the comfort to put beyond doubt, as Deputy Queripel said, to do it in a more effective way, via a Tribunal of Inquiry, but we are faced with doing it in a way which does have a certain level of risk.

3955

I could drone on, but let me give way to Deputy Trott.

Deputy Trott: I am grateful to you, Deputy Green, for so doing.

3960

I think the question that the community will now want to know is how quickly you think your Committee will be able to meet, deliberate and conclude? And, whilst it is a slightly unfair question, because this is a process that you did not wish for, are you able to offer the Assembly any guidance as to how long you think this will now take?

3965

Deputy Green: We will endeavour to meet next week, I am sure, once the States' Meeting is over. Hopefully, on Monday or Tuesday, I would have thought.

In terms of how long this will take I think the first question really is how exactly we would seek to discharge the Resolution, in the event this becomes a Resolution, because there are different ways of doing it. Obviously, I think my preference at the moment would be to consider an independent reviewer, because even without the powers, that would be a more independent way of doing it. But there might be members of my Committee who think actually having listened to what Members have said, that there is merit in a public hearing, which probably could be done much quicker.

3970

So we will have to consider that, is the answer, and I think I would be unwise to say any more than that. But we do think, generally, that the timing of this now will take longer than the original proposal that we made.

3975

In the circumstances, I ask for the 15 Members of the States who voted against the amendment to continue with their opposition to these amended Propositions.

The Bailiff: Deputy Lester Queripel.

3980

Deputy Lester Queripel: I just rise to ask for a recorded vote, please sir.

The Bailiff: We will have a recorded vote, then, on the substantive Propositions which, as you are aware, are as amended, as a result of the successful amendment.

There was a recorded vote.

Not carried – Pour 13, Contre 14, Ne vote pas 12, Absent 1

POUR

Deputy Brouard
Deputy Yerby
Deputy de Lisle
Deputy Langlois
Deputy Soulsby
Deputy de Sausmarez
Deputy Ferbrache
Deputy Tindall
Deputy Brehaut
Deputy Gollop
Deputy Parkinson
Deputy Le Clerc
Deputy Hansmann Rouxel

CONTRE

Deputy Green
Deputy Paint
Deputy Dudley-Owen
Deputy Prow
Deputy Kuttelwascher
Deputy Lester Queripel
Deputy Leadbeater
Deputy Le Pelley
Deputy Merrett
Deputy Meerveld
Deputy Inder
Deputy Lowe
Deputy Laurie Queripel
Deputy Smithies

NE VOTE PAS

Deputy Graham
Deputy Dorey
Deputy Le Tocq
Deputy Roffey
Deputy Oliver
Alderney Rep. Roberts
Alderney Rep. Snowdon
Deputy Tooley
Deputy Trott
Deputy St Pier
Deputy Stephens
Deputy Fallaize

ABSENT

Deputy Mooney

3985

The Bailiff: Members, the voting on the Propositions, as amended, was 13 in favour, with 14 against and 12 abstentions. I declare them lost.

Billet d'État XVI

POLICY & RESOURCES COMMITTEE

VII. Review of the Fiscal Policy Framework – Motion withdrawn

Item VII

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Review of the Fiscal Policy Framework', dated 1 July 2019, they are of the opinion:

1. To adopt the Fiscal Policy Framework as outlined in the Policy Letter.

3990

The Bailiff: It is almost 5.30 p.m. Members will be aware, I believe, that Policy & Resources Committee have indicated that they wish to bring a motion to withdraw their policy letter on Review of the Fiscal Policy Framework.

Rather than start the substantive Education debate, because I imagine the President's speech will be quite a long one – in fact, he has told me it will be more than a few minutes. I suggest that we take now that motion to withdraw and then we will adjourn for the evening.

Deputy St Pier.

Motion to withdraw:

To resolve that the proposition be withdrawn.

3995 **Deputy St Pier:** Sir, yes, I wish to lay the Motion to Withdraw, which has been seconded by Deputy Trott, if you need me to speak to it briefly.

The Bailiff: If you wish to speak to it briefly.

4000 **Deputy St Pier:** Yes, very briefly sir, as Members will have heard in the Financial Update Statement this morning, the Policy & Resources Committee have identified numerous spending pressures emerging and have become a little clearer since the policy letter was drafted. These of course include the NICE TAs; the various Budget pressures I mentioned; the secondary pensions, which will be a demand upon the community; Supported Living and Ageing-Well Strategy; and
4005 potential increases in Social Security contributions.

The Policy & Resources Committee has been working with the Committee *for* Employment & Social Security, to consider how all this can be managed, and I did refer to that this morning as well, in terms of the debate, that helps the States make informed decisions.

We do currently believe that the 24% limit on Government spending within the fiscal rules
4010 remains sufficient to accommodate all of these pressures, given where our spending currently is as a proportion of the economy, but we do think it would be prudent to go away and do further work, to draw all of those spending pressures together and consider any alternatives before presenting them back to this Assembly with the appropriate evidence, so that the States can then make an informed decision.

We do want the States to be in that position before it makes decisions around our long-term
4015 fiscal principles. The original timescale chosen and hence the reason that we have presented it for this States' Meeting, was to fit it in ahead of the Budget Debate. But we now think it probably makes more sense to wait until early next year and combine it with that work that we have been undertaking with the Committee *for* Employment & Social Security and the Committee *for* Health
4020 and Social Care.

That is the reason for seeking to withdraw this policy letter, with a view to bring it back in a slightly different form, with more information, to enable the States to make a fully informed decision, sir.

4025 **The Bailiff:** Deputy Trott, do you second that?

Deputy Trott: I do sir, thank you.

The Bailiff: Anybody wish to debate it? Deputy Gollop.

4030 **Deputy Gollop:** Sir, I am pleased to support the withdrawal, although I do not usually with this sort of thing, because I think many of the most interesting speeches and speakers, and maybe even potential amendments about something of such fundamental importance as our political structure, or even straitjacket, I think there are many speakers and Members of this Chamber who
4035 wish to contribute to that but our minds have been not so much on holiday, but they have been involved in other elements of States' policy, from the Disability Strategy to the Education issues.

So I think it is timely to defer this Item.

The Bailiff: Do you wish to reply, Deputy St Pier, or shall we go straight to the vote?

4040 **Deputy St Pier:** I do not. No comment.

The Bailiff: So we go straight to the vote on the Motion to Withdraw the policy letter on the Review of the Fiscal Policy Framework. Those in favour; those against.

Members voted Pour.

4045 **The Bailiff:** I declare it carried, and we will resume tomorrow morning at 9.30 a.m. with the substantive policy letter from the Committee *for* Education, Sport & Culture.

The Assembly adjourned at 5.27 p.m.