



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

**St James' Assembly and Concert Hall, Guernsey,
Wednesday, 18th March 2020**

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Present:

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

Law Officers

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

People's Deputies

St Peter Port South

Deputies P. T. R. Ferbrache, 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, J. I. Mooney

St Sampson

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

The Vale

Deputies M. J. Fallaize, N. R. Inder, M. M. Lowe, L. B. Queripel,

The Castel

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

The West

Deputies A. H. Brouard, A. C. Dudley-Owen,
E. A. McSwiggan, S. L. Langlois

The South-East

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

Representatives of the Island of Alderney

Alderney Representatives S. Roberts

The Clerk to the States of Deliberation

S. Ross, esq. (H.M. States' Greffier); C. Foster (H.M. Deputy Greffier)

Absent at the Evocation

Deputies P. R. Le Pelley, J. C. S. F. Smithies, S. T. Hansmann Rouxel, B. J. E. Paint, M. H. Dorey,
D. de G. de Lisle, V. S. Oliver, Alderney Representative A. Snowdon (*indisposé*)

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States of Deliberation

*The States met at 9.30 a.m. in the presence of
His Excellency Vice-Admiral Sir Ian Corder, K.B.E., C.B.
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE BAILIFF *in the Chair*]

PRAYERS

The States' Greffier

EVOCATION

CONVOCATION

The States' Greffier: Billets d'État VII, VIII and IX of 2020. T 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 Courthouse – now relocated at the St James' Assembly and Concert Hall – on Wednesday, 18th March 2020, at 9.30 a.m., to consider the items the listed in these Billets, which have been submitted for debate. Billets VIII and IX are convened according Rule 2(4).

Members are reminded that the microphones are all live.

Procedural – Order of Business

The Bailiff: Members, if I can just explain what is going to happen at the start of this Meeting. We will take first the SACC policy letter on proxy voting. If that is approved, there will then need to be a brief adjournment to enable the Civil Contingencies Authority to meet to consider whether to make representations to me and, on coming back into the Chamber, I will then announce the criteria by which any Members may appoint a proxy, if that is what is recommended and approved.

We will then move to the motion to amend the Order of Business and we will take amendments from the floor, if there are any amendments proposed to that. Once we have done that, we will be able to start the business.

Billet d'État IX

STATES' ASSEMBLY AND CONSTITUTION COMMITTEE

I. Remote Attendance of Committee Meetings and Extending Proxy Voting at States' Meetings – Propositions carried

Article I.

The States are asked to decide whether, after consideration of the policy letter entitled "Remote attendance at Committee Meetings and extending proxy voting at States' Meetings" dated 13th March 2020, they are of the opinion:-

1. To agree that the Rules of Procedure of the States of Deliberation and their Committees should be amended with immediate effect as follows:

a) Insert the following immediately after paragraph (3) of Rule 26 as paragraph 3A:

"(3A) The Presiding Officer may, from time to time, upon representations from the Civil Contingencies Authority in light of circumstances prevailing in the Island, prescribe certain reasons for absence ('Authorised Absence') from a meeting of the States, which shall entitle a Member to arrange for their vote to be cast by another Member acting as a proxy (a proxy vote) if their circumstances require them to take an Authorised Absence from one or more States Meetings. The manner in which the proxy arrangements between Members will operate in respect of an Authorised Absence will be as directed by the Presiding Officer. Proxy voting arrangements in respect of an Authorised Absence shall only be valid during the period prescribed by the Presiding Officer."

b) In paragraph (5) of Rule 26 after the words "A proxy vote", insert ",other than one being cast pursuant to Authorised Absence,"

c) Substitute paragraph (13) of Rule 26 to read:

"The provisions of paragraph (3) that enable a Member to vote by proxy do not apply to the Alderney Representatives;

Provided that: an Alderney Representative may act as a proxy for another Member, other than a Member who is an Alderney Representative", and

d) Insert the following paragraphs immediately after paragraph (7) of Rule 40:

"(8) Paragraphs (9) and (10) shall have effect only when the Presiding Officer has made a determination upon representations from the Civil Contingencies Authority in light of circumstances prevailing in the Island which make it appropriate for them to have effect; and those paragraphs shall have effect only until the Presiding Officer makes a further determination upon representations from the Civil Contingencies Authority that they shall cease to have effect.

(9) A member of a Committee of the States who is in communication with the other members by telephone, live television link or any other means of telecommunications, so that each member can hear or read what is said or communicated by each of the others, is deemed (subject to paragraph (10) below) to be present and participating at the meeting of the Committee for all purposes, including the quorum and voting.

(10) In the event that the link fails or is corrupted or confidentiality is compromised, the person presiding at the meeting shall have discretion at any point during the meeting to determine that a member who is in a remote location can no longer be regarded as in attendance."

2. To direct the States' Assembly & Constitution Committee to review the operation of and requirement for Rules 40(8) to (10) and 26(3A) and, if it considers that changes are necessary, to return to the States with proposals no later than the end of 2020.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

15 **The Bailiff:** So without delay, we will go into the SACC policy letter on the remote attendance of committee meetings and extending proxy voting at States' Meetings, Article I of Billet IX, Deputy Inder.

20 **Deputy Inder:** Sir, thank you. Members, I am pleased to present this policy letter to the States today, which seeks Members' agreement to amend the Rules of Procedure to enable Committees to hold meetings remotely and would extend proxy voting arrangements to cover certain emergency or emerging situations. The provisions recommended in this policy letter would only have effect if the Presiding Officer determined that they were needed, upon representation from the Civil Contingencies Authority, in light of circumstances prevailing in the Island and would cease to have effect when the Presiding Officer made a further determination, upon the same representation from the CCA that they were no longer needed, in effect fairly temporary.

25 Work has been undertaken to ensure Members can use new remote working and collaborating tools, which will assist in Meetings being run remotely. I would like to sincerely thank the IT staff for their hard work in setting this up. I hope Members will agree. Members have been informed, by email now, how the proxy voting arrangements will work. For the avoidance of doubt, please note that this new Rule on proxy votes includes the Alderney Representatives.

30 Whilst proxy voting for parental absences does not apply to Alderney Representatives, given they can send an alternative Member, the Committee wish to ensure that they continue to have a voice in this Assembly if circumstances have precluded their physical attendance. Members may be aware that the States of Jersey is also considering proposals today, which seek to enable Members to attend States' Meetings electronically, as if they were in the Chamber, i.e. vote, ask questions, speak *etc.* and form part of the quorum of the States.

35 Whilst the States of Guernsey could implement the technological infrastructure to enable this, the Committee did not believe it was practical to seek to introduce such a system and is content that its proposals for today are pragmatic and proportionate. I ask Members to support the Propositions as drafted and move quickly to the vote. Thank you.

40 **The Bailiff:** Is there any debate? Yes, Deputy Tindall.

45 **Deputy Tindall:** Thank you, sir. I support the Propositions. Obviously we live in unprecedented times and we have technology to assist. Although not mentioned in the policy letter, Members will recall I and Deputy McSwiggan made an amendment for remote attendance in 2018. I mention this for two reasons, the first being that I hope Members who voted against that amendment do not vote against this for the same reasons, because they think it is a slippery slope to general remote attendance. Clearly remote attendance is being recommended only in very specific circumstances, which are within the mandate of the Civil Contingencies Authority and the legislations, both Propositions, incorporate compliance by the Presiding Officer on their advice. It is also a temporary measure and the Rules are to be reviewed by SACC.

50 Naturally, I hope that it is proven to be an example to future States, to show how it can work, but it is obviously not a given that future States will later endorse a more general approach to remote attendance. I do ask one question, however. As part of preparing the amendment in 2018, it was suggested that confirmation of the location of the Meeting, for the Committee, was required and we included an extra Rule, 39A, which said:

A Meeting of any committee shall be convened for a specific time, date and place. The person chairing a meeting shall be present at that place.

I included it because it was in the 2014 Propositions at paragraph 56, albeit was based on the then Rules. It may be that this addition is not necessary, but I mention it for completeness.

60 Another effect of the pandemic is consideration for the importance of short speeches, and with this in mind, I conclude by asking Members to support the Proposition. Thank you, sir.

The Bailiff: Yes, Deputy Tooley.

65 **Deputy Tooley:** Thank you, sir. I will be very brief, I wanted to say that I am among those who
voted against the Proposition that was placed for remote attendance at committee meetings, but I
will not be voting against the Proposition on this occasion. I do think this is a very different
circumstance in which we are asked to debate this. The main reason for me standing, though, is that
70 I am not entirely comfortable with the notion that we could have large numbers of proxy votes on
issues in the States going forward. While I will not be voting against these Propositions today, I will
vote for them, I would like to think that SACC would continue to consider other options around
electronic attendance at Meetings.

Because if we got to a position where we had a quarter or a half of the States being represented
by proxy votes, I would feel increasingly uncomfortable with the notion that that was really working
75 towards proper attendance and understanding of what was going on. So I would like to know that
SACC would continue to consider other options, but for now I am happy to vote for these
Propositions. Thank you, sir.

The Bailiff: Deputy Gollop.

80 **Deputy Gollop:** Thank you, sir. I, like some other Members of the Chamber, believe it important
we continue to meet as much as we can and that we continue a rigorous process of scrutiny,
parliamentary behaviour and analysis of everything that goes forward. I do think, perhaps, some of
the items being brought before us, if some Members have to be absent for indisposition or other
85 reasons, perhaps could be postponed to the point where the whole Assembly can meet, but that is
a different question. I am a little bit confused on page 6, about the role of Alderney Representatives,
because it states that:

The Committee believes the proposed new paragraph (3A) should also be applicable to the Alderney Representatives
and therefore recommends that paragraph (13) of Rule 26 should be amended to make it clear that it is only paragraph
(3) which does not apply to the Alderney Representatives:

But under 3A it makes it clear that the Presiding Officer may, from time to time, prescribe certain
reasons for absence from a Meeting of the States ...

... which shall entitle a Member to arrange for their vote to be cast by another Member acting as a proxy ... The manner
in which will be directed by ...

90 In this respect, presumably, unfortunately an Alderney Representative who was prevented from
attending the Meeting could only do it through an alternative Alderney Representative, rather than
through another States' Member who represented a Guernsey district and I think we need clarity
on that because there may well be transportation issues from Alderney as well, either linked to the
current crisis or some other reason.

95 One area where I think I agree with Deputy Tooley, for different reasons, is I am, a bit concerned
that the quorum of the States in attendance remains at 21, because that is somewhat against the
purpose of this, if a large number of Members were required not to attend in person. I think maybe
21 is too high a quorum and the Civil Contingencies Authority, in conjunction with SACC, should
consider whether a more appropriate number would be 14 or 15, or whatever. But I do support
100 these Propositions.

The Bailiff: I see no one else rising. Sorry, I could not see you over there in the dark! Deputy
Lester Queripel.

105 **Deputy Lester Queripel:** No problem, sir. Due to my tinnitus, I am struggling to hear what
people are saying. Could I ask the technicians, through you, to turn the volume up on the
microphones, please?

The Bailiff: Would it help if you were closer to a speaker, Deputy Queripel?

110 **Deputy Lester Queripel:** I do not even think it is working, sir. I cannot hear anything coming from there.

The Bailiff: Maybe, when we have the short break in a moment, maybe that can be looked at?
(**Deputy Lester Queripel:** Thank you, sir.) There is a loop here, but it only operates for those who
115 have a hearing aid, unlike in the Royal in the Court Chamber, there is not a loop that can be used by those who do not have a hearing aid.
Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir. Just a very quick suggestion to SACC, if I may. I believe
120 Deputy Gollop's question is answered in Paragraph 3.10, which does indeed set the CCA being able to make such provisions. I think a lot of the confusion before this debate around whether the Alderney Representatives were included in this provision or not relates to the way in which it is set out, as 3A, as opposed to a separate number.

Now it all comes down to a technicality of whether we see 3A as a sub-set of three or not, and I
125 understand that is not the case. We are not supposed to see 3A as a sub-set. But I am concerned that people going forward might read the Rules in that way and so I would ask that SACC, at the next opportunity, would re-number the Rule to make it quite clear and to give it a separate number. Thank you.

130 **The Bailiff:** I really do not think anyone else is standing now, so Deputy Inder will reply.

Deputy Inder: Thank you, sir. I knew Deputy de Sausmarez should never have left the Committee. She knows the Rules better than I do. The question has been answered so I would like to remind Members that, unlike the rest of the Guernsey House, the Alderney States' Members can
135 always send a representative. I am not giving way.

Deputy Tindall: Point of order. We cannot hear Deputy Inder over here very well, so if he would not mind speaking up, I would be grateful.

140 **The Bailiff:** Would it help if you were perhaps closer to your microphone? Maybe if you remained seated and spoke into the microphone a bit closer like that.

Deputy Inder: I could try? Does that help?

145 **The Bailiff:** Maybe you need to remain seated, Deputy Inder?

Deputy Inder: Through you, sir, does that help at all? I think there are reverb issues in this actual building. Does that help at all? We have now got feedback. Long story short, we are in *extremis* circumstances, we have done what we can in a very short period of time. We will continue to review
150 the situation and I ask people to move to the vote as quickly as possible.

The Bailiff: We go to the vote, then, on the remote attendance at Committee Meetings, extending proxy voting at States' Meetings. Those in favour; those against?

Members voted Pour.

The Bailiff: I declare it carried. There will now be a short recess to enable the Civil Contingencies
155 Authority to meet.

*The Assembly adjourned at 9.46 a.m.
and resumed at 11 a.m.*

**Procedural –
Proxy Voting**

The Bailiff: Members, thank you for your patience while the Civil Contingencies Authority was meeting. I can confirm that I have had representations from the Civil Contingencies Authority, in light of the circumstances prevailing in the Island with the coronavirus pandemic, and have therefore agreed that those Members who are absent by reason of complying with guidance issued from time to time by Public Health Services, those Members may appoint a proxy to vote for them in their absence.

The procedure will be that there is a form, which can either be sent in in hard copy or emailed electronically, to email addresses that have been circulated to you and, in that form, the Member can nominate a Member of the States of Deliberation, either an Alderney Representative or a Deputy, so all Members, whether they are from Alderney or Guernsey, are treated equally. Any Member may nominate another Member as their proxy and if that Member has to be absent because they, too, are absenting themselves and eligible to appoint a proxy, then it can cascade down to the second person.

If, during the course of a Meeting, there are some people who have to absent themselves, you can appoint another proxy to take the place of that person. So the Rules will operate slightly differently from that they operated in respect of maternity proxies. For now I have been advised that a number of Members who are sadly not with us, and I am sure the thoughts of all of us are with them and their families, and we hope that they will remain safe and healthy and that we will see them back as soon as possible (**Members:** Hear, hear.); but a number of Members have given notice.

For the record, I can confirm that I have accepted that Deputy Le Pelley has appointed Deputy Meerveld and, if he were unable to be here, Deputy Lowe as his proxies; Deputy Smithies has appointed Deputy Leadbeater, or if he were unable to be here. Deputy Dudley-Owen; Deputy Hansmann Rouxel was *indisposée* when we started and, as far as I know, we have not received a proxy nomination from her, but maybe one will come in during the course of the morning. If it does, as soon as I am informed, if we get to a vote, I will let you know,

Deputy Paint has nominated Deputy Inder; Deputy Dorey has nominated Deputy Langlois; Deputy de Lisle has also nominated Deputy Langlois, or alternatively Deputy Mooney; Deputy Oliver has nominated Deputy Prow or, in his absence, Deputy Inder and Alderney Representative Snowdon has nominated Deputy de Sausmarez or, if she were not able to be here, Deputy St Pier. Those are the ones of which I have been advised so far. So thank you for that.

As I announced, when we first opened the Meeting, we will now move on to a motion to be laid by Deputy St Pier ... Sorry, Deputy Le Clerc?

Deputy Le Clerc: Yes, sir, may I just ask a question about the proxy voting? Because if we go *aux voix* and the vote is close, would you then go to a recorded vote?

The Bailiff: The proxy voting only applies when we are having a recorded vote. Under Rule 26(4), I remind Members that a proxy vote may be cast only on original Propositions, secondary Propositions and amended Propositions. So, for example, if it were to be a guillotine motion that we were voting on, proxies could not be a vote for that vote.

Anything other than an original proposition, a secondary proposition or an amended proposition, anything other than those, only the Members present can vote for themselves. Does that answer that question?

POLICY & RESOURCES COMMITTEE

**Motion to Amend the Order of Business at the
Meeting of the States to be held on 18th March 2020 –
Proposition carried**

The States are asked:

To resolve that the business to be dealt with at the Meeting of the States to be held on the 18th March 2020 shall be taken in the order set out in the attached Appendix.

200 **The Bailiff:** So we move to the motion to amend the Order of Business, to be proposed by Deputy St Pier, seconded by Deputy Trott. Deputy St Pier?

205 **Deputy St Pier:** Sir, I move it. It has been circulated. I have nothing to add. I think it is self-explanatory.

205 **The Bailiff:** Does anybody wish to propose any amendments? No, in that case, we go to the vote on that motion. Those in favour; those against?

Members voted Pour.

The Bailiff: I declare it carried.

Procedural

210 **The Bailiff:** Now, what we have agreed is that we will follow the procedure laid out and the first thing is communication by the Presiding Officer, fortunately there are no In Memoriam tributes, but I would just like to thank all those who have made it possible for us to meet here. As we have explained, because of the proximity of seating within the Royal Court Chamber, it would not have been possible to maintain social distancing in that Chamber.

215 I am very grateful to St James' and all their staff, who have organised the layout here, so that everybody is at a distance. To the staff at the Greffe, who have assisted, and of course to Joys, who provided the technical equipment, and to the BBC, who have made it possible to broadcast, which is most important because, as we are at the moment, we are not able to have members of the public present, although the media will be present.

220 If I could just make a couple of other housekeeping announcements, the Sherriff, or the Sherriff's Deputy will remain close to that door, to make sure that we do not have any unauthorised entry. There will be no facility to pass notes around, but if a Member wishes to pass a note to another Member, I have no objection to you getting up and walking around and delivering the note yourself to the other Member.

225 I would suggest that, having taken seats, that you stay with the same seat, so we do not have a risk of contamination by people moving from seat to seat. I was going to propose that about half-way through the session, we adjourn so that people have an opportunity to just go and wash their hands, in order to comply with Public Health guidance, but you have had the opportunity to do that during the break, which has just finished. But maybe this afternoon I will be making that recommendation.

230 I think that is probably what I needed to say about that. There has been a request from the media to photograph and film us in this Assembly and what I would like to put to you is a proposition that we permit the media to come and take photographs and film of us when we resume immediately after lunch. Those in favour; those against?

Members voted Pour.

235 **The Bailiff:** In that case the media can come and film or take photographs when we resume after lunch, whenever that will be.

Congratulations to the newly appointed States' Greffier, Simon Ross

The Bailiff: Just one other thing, very quickly, Members will be aware that a States' Greffier has now been appointed. The Reform Law provides that the Clerk to the States is HM Greffier. That has not been amended, but he has delegated his functions in respect of the States to the States' Greffier, and on behalf of you all, I would like to congratulate Simon Ross. (*Applause*)

STATEMENTS

Committee for Employment & Social Security – General Update

240 **The Bailiff:** That is enough from me. We will move onto statements and we have a general update statement, to be delivered by, I think, it is the President of ESS – I have not got my normal agenda in front of me! It is the President of Employment & Social Security to make the first statement. So Deputy Le Clerc, your general update statement.

245 **Deputy Le Clerc:** Thank you, sir. I thought Deputy St Pier would be doing a statement first, but that is fine.

The Bailiff: He will be making a statement at some point, but if we could start with your statement?

250 **Deputy Le Clerc:** Okay. Sir, as this is the last President's update – it may change, actually – I will have the privilege to give, I would like to mention a few of the Committee's accomplishments over this political term. The successful implementation of Income Support is something we are very proud of. With the support of this Assembly we successfully merged the previous Supplementary
255 Benefit and Rent Rebate schemes into a unified system. Despite some nervousness around how the implementation would be achieved and what would be the consequences, the results of the first full year, 2019, have turned out as close to budget as you could reasonably hope for, being £200,000 below the £41 million budget.

260 ESS has launched a number of digital products this term to improve our customers' experience. We introduced an Uploads App as a simple, efficient and cost-effective system for Income Support claimants to provide information regarding their wages, thereby allowing their benefits to be paid promptly. It has also reduced the number of claimants coming into the office to provide this information. Just to note that will be very useful over the forthcoming weeks.

265 We are pleased to be working with Agilisys at the forefront of the States digital transformation and look forward to continuing to improve our processes with the innovative use of technology in future.

270 I am pleased to say that the proposals to introduce automatic enrolment into private pensions and to establish what has been called Your Island Pension, or YIP for short, received strong support in this assembly and was approved in February of this year. With the assistance of our selected administration firm, Smart Pension Limited, we are confident that Guernsey will have a secondary

pension scheme, Your Island Pension, which will be easy to use, have a low annual management charge and will encourage people of working age to save more for their retirement.

One of the first jobs for the new Committee will be to appoint a shadow governing board to assist in these matters and prepare for the Secondary Pension scheme's commencement in 2022.

275 I am also very pleased to report good progress on a reciprocal agreement on social security pensions with Latvia. Since Guernsey received an entrustment from the UK, in March of last year, to undertake its own negotiations with Latvia, there have been two rounds of meetings and the text of the agreement is very near final. We are hopeful that the Agreement will be signed between Guernsey and Latvia before the general Election. The Agreement will not be immediately effective, 280 because it will need an ordinance, which should be an early matter for the next Assembly. But I am pleased that we will have brought this piece of work so close to completion.

One of the Committee's highest, and most resource-intensive, priorities during this term has been developing the proposals for a new discrimination ordinance. The proposals are now lodged for debate, in April. If approved, the subsequent legislation will make it unlawful to discriminate on 285 the basis of disability, carer status, and race.

While the Committee's original consultation included ten grounds of protection, the decision was made in November to scale back and refocus on a smaller number of grounds, as there was a significant amount of additional work that was required to make changes following the feedback gained through the extensive consultation process. The other grounds of protection have not been 290 forgotten. The proposals also seek approval for the future development of discrimination legislation on the grounds of age, religious belief, sexual orientation and for further work to be undertaken to extend existing protection on grounds relating to sex.

We have worked extremely hard to find a compromise solution that takes into consideration some of the main concerns from the business community, while ensuring the legislation still delivers 295 its objective of protecting people from discrimination. The reality is that discrimination does happen in Guernsey and we have a responsibility to those Islanders whose rights remain unprotected to bring in discrimination legislation without further delay. Discrimination legislation will play a vital role in fulfilling the promise made in the Policy & Resource Plan to make Guernsey a place where everyone has equal opportunity to achieve their potential.

300 Another achievement that I would like to acknowledge is the approval by this Assembly of the Legal Aid Ordinance. This formalised the Legal Aid Rules, which was a piece of work that had been outstanding since 2003, long before it came under the Committee's mandate after the reform in 2016. Codifying the structure and operation of the Legal Aid Service has put it on a proper legal footing.

305 I would like to update Members on some of the good work that has been done in Housing. In October 2018 the Single Gateway to Social Housing was introduced, bringing together the waiting lists for States Housing and the Guernsey Housing Association properties into one route of access. It uses a single set of eligibility criteria and replaced the old points-based allocations system with a banding system linked to need and waiting times. This has created a much fairer and more efficient 310 system.

In seeking to meet the Island's affordable housing requirements, during this political term the Committee has worked with the GHA to complete the development of 164 affordable housing units. Of these, 69 have been for social rental, 65 for partial ownership, 22 for key worker, and also an also an eight-unit autism facility at Le Vieux Jardin. There are also a further 81 units either under 315 construction or approved for development.

While the development of these units has made significant inroads in meeting the Island's social rental and partial ownership waiting lists, securing more land is a priority if the Island's wider affordable housing requirements are to be met. There are no further confirmed development or redevelopment sites. While the GHA is making every effort to secure new sites, we have to be 320 mindful that, at present, none are guaranteed.

Unless more sites can be secured and approved for development, the Island's social rental and partial ownership waiting lists will increase; key workers will continue to be housed in what is widely

considered unsuitable accommodation; the wider affordable housing requirements of the Island will not be met in an efficient or appropriate way. Seeking to identify and project the Island's affordable housing requirements – across all tenures within – is a priority. Only then can an appropriate development and redevelopment plan be made. Work has begun in seeking to achieve this and will continue beyond this term; it is hoped that significant and appropriate steps will be made early in the next Term.

Next, I would like to talk about the progress made by the Supported Occupational Health and Wellbeing programme, SOHWELL, whereby phase two is now complete and its third and final phase is soon to start. The programme aims to reduce the rising trend in long-term incapacity by transforming the way short-term incapacity claims are managed.

To give you an idea of the sums involved, the cost of benefits in 2019, for short and long-term sickness, and for people on Income Support by reason of incapacity, was £20.1 million. I understand that the annual costs of sickness absence for UK businesses is around £554 per employee, and so we can estimate that the cost to businesses is around £15.6 million on top of that figure.

It is about changing behaviours and enabling people to return to work sooner, if, of course, it is possible and appropriate for them to do so. To recap, phase one delivered a redesigned medical certificate and work capability assessment and resulted in case managers and doctors working in a different way and with a greater emphasis on occupational health and vocational rehabilitation.

Phase two focussed on employer engagement and raising awareness of the important relationship between work and health. Promoting SOHWELL has encouraged employers to consider occupational health in a broad context and to re-evaluate their processes and policies.

We have received good feedback from employers, who tell us the new certificate provides more opportunities for open and honest conversations with staff, helping them to manage sickness or a condition. Looking forward, phase three will focus on adopting a multi-team approach, working closer together with HSC and the medical profession and employers to really listen and understand how we can continue to improve our processes.

It is important that I provide an update on the steps we have taken to support the fight against Covid-19. We have moved quickly to simplify our processes and make it easy for those individuals who are self-isolating following Public Health advice and who need to make claim for sickness benefit to do so without seeing a doctor.

Claims can be made by contacting the Incapacity Benefits team. Social Security will be taking claims digitally where possible so that claims can be made while self-isolating. We will be doing our utmost to make pragmatic decisions as more information becomes available and as the situation unfolds. Thank you, sir.

The Bailiff: Just before I call for any questions, I can just inform Members that Deputy Hansmann Rouxel has nominated Deputy Merrett as her proxy and, if Deputy Merrett were unfortunately not able to be here, Deputy de Sausmarez. Are there any questions for Deputy Le Clerc? Deputy Merrett.

Deputy Merrett: Thank you, sir. I would like to ask the President, in a question regarding the discrimination policy letter, which I believe is in three stages. The only potential protected ground that was in phase three, is sexual orientation. Could the President please advise me as to why this is the potential ground with no current legal protection, and why it is in phase three? Thank you, sir.

The Bailiff: Deputy Le Clerc.

Deputy Le Clerc: I keep wanting to press the button! Sir, we have decided that we will put sexual orientation in phase three because there is already some limited protection under the Sex Discrimination Act. If we have the resources available and we do well with our phase two, there is a possibility that we can bring that forward.

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

Deputy Laurie Queripel: Thank you, sir. Deputy Le Clerc mentioned, in her statement, affordable housing sites, or the lack of sites for affordable housing, and I just wonder where the Fontaine Vinery site fits into that. With that in mind, have any discussions taken place with the STSB in regard to when that site might be accessed for affordable housing? Thank you, sir.

The Bailiff: Deputy Le Clerc.

385 **Deputy Le Clerc:** Sir, it is my understanding that there are regular discussions with the States' Property Services. At the moment, I understand that the access to that site would have to come through a business that is located there and that is part of the reason of the delay. But I understand there is also some work ongoing with IDP for planning permissions on that site. It is essential. That is a really important site, owned by the States, and we will do everything we can to expedite that work, so that we can start building on that site, as soon as possible.

390 **The Bailiff:** Deputy Inder.

Deputy Inder: Thank you. Through you sir, to Deputy Le Clerc, thank you for the update and congratulations on the work on managing Covid-19 and of course her presidency over the last four years. Following on from Deputy Laurie Queripel's question, talking about affordable housing sites, does her Committee have any view whether Guernsey, using the word loosely, investing in the Leale's Yard would have any benefits for our future housing stock?

400 **Deputy Le Clerc:** Sir, we have recently been asked for comments on the Leale's Yard redevelopment. We do see some potential there, for affordable housing. I think one of the comments that we are feeding back is that it is really important that the site is looked at as a whole, so under GP11, that we may actually be able to benefit from affordable housing. That is a comment that we have fed back.

405 We would not want the whole of the site for affordable housing. I think it is more important that there is some mixed tenure on that side. But, again, it will be another key part of our development programme, going forward. But we understand that that will take time and we are saying it is actually in the immediate future that we need to develop the sites.

The Bailiff: Deputy Green.

410 **Deputy Green:** Thank you, Mr Bailiff. Given the current Covid-19 pandemic, can I ask Deputy Le Clerc, and I thank her for her update statement this morning, can I ask how she sees the challenges in relation to that pandemic, which are specific to her Committee and to her Committee's mandate?

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

Deputy Le Clerc: Sir, I can feed back to Deputy Green that we have already seen an increase over the last week in telephone calls and inquiries to our Income Support team, where people have already unfortunately already lost their employment. We are working with P&R and the rest of the team on putting an emergency fund together. I think Deputy St Pier will be giving an update to this Assembly on that.

420 But our priority will be to ensure that people have sufficient funds at the end of each week to be able to purchase food. I think that is our priority at the moment, so the team are working really hard and dealing, as I say, with a substantial amount of inquiries and phone calls.

425 **The Bailiff:** Deputy Brehaut.

Deputy Brehaut: Thank you, sir. It is not entirely unrelated. With aspects of the hospitality sector in almost hibernation and assuming a number of people need top-up payments, could Deputy Le Clerc inform us whether she has the staff to meet that demand and, with people arriving at Edward T. Wheadon House, can they ensure the type of social distancing that we have in this room today?

Deputy Le Clerc: Yes, sir. We are obviously conscious of the need for social distancing. Some of the IT apps that I mentioned in my speech will help us and it will mean that people will not have to come into Wheadon House. If there are people in vulnerable groups, we are taking more claims over the telephone. We will be doing all of that.

We have actually got teams, I met with the management team on Monday, and we are transferring staff from the Job Centre team and they are able to help out on the telephones, on the Income Support. So we are doing everything that we can to ensure that all claims are supported in a timely manner.

I think one of the key things is that there are rigid rules on Income Support, and we are also looking at flexibility of our Income Support, for those people that may not be eligible for Income Support but they are in urgent need of some financial assistance and that is what we will be working with, with other committees, over the forthcoming week, to develop that scheme.

The Bailiff: Deputy Lester Queripel.

Deputy Lester Queripel: Thank you. Sir, can Deputy Le Clerc please tell me whether or not ESS will be reviewing the way in they decide upon the rates for the Winter Fuel Allowance, which is currently decided in June? I did ask the question in a previous debate. I was informed the Committee had far more important things to pursue, but I am asking the question in the hope the Committee will be reviewing the way in which they decide upon the rates of Fuel Allowance during this current term.

The Bailiff: Deputy Le Clerc.

Deputy Le Clerc: Who knows what will happen over the next few weeks about whether this Assembly, or our term, will be extended. We already appreciated that some of the work that we will need on the review of the Winter Fuel Scheme would be undertaken by the current Committee and we would pass those recommendations on for the Uprating Report in October of this year.

But actually we have secured funding to review the Winter Fuel scheme in its entirety, because we do realise that does need to be looked at overhauled. So it will be one of the priorities, if the current Committee continue, or if the new Committee, when the new Committee comes in. We will be coming back with, hopefully, some revised proposals in our October Uprating Report.

The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir. I thank the President for the answer to my first question, but what I am struggling to understand is why sexual orientation is the only potential protected ground that is in phase three. If that is due to resource, why is that protected ground, not any other, during phase three?

The Bailiff: Deputy Le Clerc.

475 **Deputy Le Clerc:** Sir, I can only say that the amount of work that has gone into phase one, to
bring our policy paper to this States, has been almost overwhelming for the staff, a small team at
Wheadon House, and I think we have to be realistic that the work in phase two, of just age, is going
to be a substantial piece of work, as well as the other protected ground. As I have already explained
to Deputy Merrett, there was already some limited protection under the Sex Discrimination Act. If
480 it is possible for us to get additional resources, we will attempt to do so. But I can say, in all honesty,
that resources for this anti-discrimination work have been the poor relation of this States' Assembly
so far.

The Bailiff: I see no one else.

Transport Licensing Authority – General Update

485 **The Bailiff:** There is another general update statement, which would have been delivered by
Deputy Paint, who is President of the Transport Licensing Authority. Instead it will be delivered by
the Vice-President, who I believe is Deputy Meerveld. Deputy Meerveld.

490 **Deputy Meerveld:** Unfortunately, sir, this is the first I have heard of it. So I do not have the
update statement to hand.

The Bailiff: Would you like me to hand it to you? (*Laughter*)

Deputy Meerveld: Thank you, sir, that would be very kind of you!

495 **The Bailiff:** Incidentally, Deputy St Pier has just passed to me a note suggested that, from a
sound quality point of view, it may be preferable for people to remain seated to speak into their
microphones. So if people wish to remain seated, I have no objection to them doing so. Obviously,
they will need to stand, so I can see they want to speak, but once I have called them, if they wish to
remain seated, then I have no objection.
500 Deputy Meerveld.

505 **Deputy Meerveld:** Thank you, sir. In 2018, the States approved proposals from the Committee
for Economic Development for a *quasi*-open skies policy under which airline operators serving
routes, other than routes that were designated as 'lifeline routes' would be exempt from the need
to hold a Guernsey air transport licence.

The lifeline routes from Guernsey are Gatwick and Alderney. As a consequence of the adoption
of that policy, the Transport Licensing Authority has had no licence applications to determine since
my last statement in June 2019.

510 I do not anticipate that the Authority will need to meet until such time as an operator is
appointed to provide air transport services to Alderney under a public service obligation. In the
event of such an appointment, the role of the Authority is clearly set out in the Policy Statement
approved by the States in 2018.

515 As I have reported previously, the States' Assembly and Constitution Committee, in consultation
with the Committee for Economic Development, the Policy & Resources Committee and the
Transport Licensing Authority, is charged with carrying out a review of the role and constitution of
the Authority. Thank you, sir.

The Bailiff: Are there any questions? Deputy Gollop.

520 **Deputy Gollop:** Sir, I am a Member of the States' Transport Licensing Authority, but I would like to ask the Vice-President, whether we can, working with other committees, make progress on two grey areas. The first grey area is whether the States' Transport Licensing Authority will acquire other functions, relating to the licensing of C ranks, taxis, buses etc., which is an ongoing issue. The other is whether an application, for the sake of argument, to Stansted or London Heathrow, if it could be
525 argued that it in some way interferes with Gatwick connectivity, should be adjudicated by the Authority on the grounds that it has an effect on the lifeline route, according the original air policy that we had.

The Bailiff: Deputy Meerveld, are you able to answer?

530 **Deputy Meerveld:** Yes, sir. As regards adopting other potential responsibilities, there have been discussions going on for a number of years about the role of the Transport Licensing Authority and it would come down to the Transport Strategy of the Environment & Infrastructure Committee and other Committees, if they wished to delegate authority or assign authority to our Transport
535 Licensing Authority to adjudicate over those and I am not aware of any immediate plans to do so.

Regarding Stansted, or other airports in proximity to Gatwick, under my understanding of the policy adopted by the States of the semi-open skies, only applications on the lifeline routes will be considered by the Authority and it would not be in our remit, as it currently stands, to look at routes from places like Stansted, even though they may have some impact on the lifeline routes, Thank
540 you, sir.

The Bailiff: Now, we have three further statements. There is going to be one from Deputy St Pier, another from Deputy Soulsby and one also from Deputy Fallaize. They are all coronavirus related. What I was proposing, well I have been asked, that Deputy Soulsby makes her statement
545 immediately after Deputy St Pier's statement and that there be an opportunity to ask questions of both of them, because the two statements cover the same issue, in effect, but one or other of them may be best placed to answer them.

So there will be no questions immediately after Deputy St Pier's statement, but there will be an opportunity to ask questions of him after Deputy Soulsby's has delivered hers. Can I just ask, would
550 you prefer Deputy Fallaize to go first or to go after you, Deputy St Pier?

Deputy St Pier: Forgive me, I am indifferent, sir.

The Bailiff: It is related to Liberation Day.
555

Deputy St Pier: I think, probably follow, sir.

The Bailiff: Probably follow.

Policy & Resources Committee – Covid-19 – Proposed Initial Economic Response

560 **The Bailiff:** In that case, I call Deputy St Pier to make a statement.

Deputy St Pier: Thank you, sir.

Last week, the UK's Prime Minister said that the coronavirus pandemic was the greatest public health threat in a generation. He was wrong, very wrong. It is in fact a crisis like no other that the

565 world has faced in modern times. It is the first truly global emergency for at least 100 years, in terms of its scale and reach and no jurisdiction is immune.

This disease is no respecter of location or GDP. For Guernsey, it is the gravest public health emergency since the island's population was starving in the winter of 1944, towards the end of the Second World War. That war was declared on 1st September 1939, but it was a phoney war that did not touch our shores until the Occupation began on 30th June 1940. We are now in the phoney war in the fight against coronavirus, which will touch our shores in earnest in the weeks ahead.

In the weeks before the Occupation, the Island shipped as many people out of the Island as we could; in the weeks before this virus invades, we must get as many people back home to our island as we can – and then they must stay here. And if they return after midnight tonight, they must go into mandatory self-isolation for 14 days. And self-isolate properly – no exceptions, other than those required to meet the community's needs.

This will apply irrespective of age or whether they do, or do not they have symptoms; and irrespective of where in the world they have come from including, of course, importantly, the United Kingdom. The Civil Contingencies Authority has met this morning and approved Emergency Powers Regulations which will be published today and laid before this Assembly as soon as is possible in accordance with the Civil Contingencies Law. Suffice to say that they give the Medical Officer of Health the powers to direct and enforce self-isolation.

How much has changed in a week. This time last week, I had a beard. I was sat in Jersey Airport and realised I was touching it too much, and it had to go, for reasons of public health. I was looking forward to a weekend away. And now, this week we are talking about 'repatriation ships' and imposing the greatest restrictions on the civil liberties of Islanders since the Occupation. It has been and is surreal.

Every single one of us will have those we love for whom we are concerned. For me, I have one daughter who has an underlying health condition, for which there is limited experience about any specific risks from Covid-19. And I have an 80-year-old mother in West Sussex. She was diagnosed with dementia last year but is still living independently. My stepbrother and I are trying to work out how we can remotely support her physical and emotional needs. We will all know someone who is likely to experience grief before this pandemic is over.

The extent to which our community will suffer casualties from this deadly virus is largely – and literally – in the hands of the community. Every woman, man and child need to understand their role, their responsibility – not to themselves but to others – to their parents, their grandparents, their neighbours and to perhaps most importantly of all, to those they have never met and never will.

Members will understand the significance when I say: never has the call been so great, for so many, to do so much for the vulnerable few.

Public Health Services believe that 60% of cases can be avoided by good infection control – in other words hand washing, not touching your face and ensuring social distancing. In short, we all have a duty to listen and then follow the advice from Public Health and follow it as it changes. This is not a hoax. This is not over-stated. This is not a practice. This is for real and this is deadly serious.

Before I turn to the economy, I want to take this opportunity to put on the permanent record on behalf of myself and I hope everyone in this Assembly and the community, our enormous thanks to the hundreds working in public services right now, to help the community plan and prepare to minimise the impact of this situation.

Our health teams are about to put through their paces and will need all the support we can give to get through it. I have never been more proud to be part of any team than in the last week. Everyone is working around the clock in a fast-changing environment under extreme stress, but they are doing so with good humour, energy, urgency and calm efficiency. When this crisis is over, can we please remember this moment? This is why we pay our taxes; this is why Government is critical to the life of our community. So to each and every one of you – and you know who you are – thank you.

In economic terms, this is the biggest demand shock to our economy since the quadrupling of oil prices in the crisis of 1973 – but is even faster than that one. If we do nothing, perfectly decent businesses will go to the wall. We must not let that happen. Whilst I cannot over-promise that no jobs and no bankruptcies will occur as a result of this crisis, it is a reasonable objective to say, as far as possible, no business should be lost simply as a result of this crisis.

Although the duration and magnitude of the economic shock is highly uncertain, and it will challenge cash flows and increase demand for short-term credit for households and working capital for businesses, the economic and fiscal policy response must focus on preventing unnecessary job losses and business failures, through the flexible use of the government's balance sheet.

I have spent eight years seeking to repair our fiscal position and return us to balanced budgets and surplus. A week ago, I was confidently expecting that by the end of this term, I could safely say that the public finances would be considerably stronger than they were in 2012. But that is out the window for now – at least for this year.

Opening the financial sluice gates does not come naturally to me, but that is exactly what we must now do. Let me make it very clear that we can and will make available whatever resources are needed to support the measures I am announcing today. This is intended to be a financial firehose to put out the Covid-19 induced economic inferno and meet the needs of our business community and those it employs.

Yesterday, in one of our now regular media briefings I stressed that the situation in Guernsey remains under control. What I said yesterday in relation to the health issues, applies equally to the economic ones. What we are doing now is what is required for our immediate needs; and we are planning ahead for more measures that may be required for when we actually need to deploy them – and businesses and taxpayers should assume that, at the right time, we will.

I know from our regular dialogue with our Jersey cousins that they will be announcing further measures today – maintaining that dialogue is immensely important and will help inform our own decision making. But it is inappropriate for business to be looking to other places as a guide as to what to expect to meet our Island needs – our economy is different. We all need to ignore what is happening elsewhere and take steps that are well judged, proportionate and relevant to the Bailiwick's needs.

But there is only so much that Government can do to plan and prepare. Self-evidently, the States cannot support the whole economy. As with individuals, businesses cannot abdicate responsibility to Government. Businesses must act responsibly towards their employees, their customers, and their suppliers. But if we act now, together, we will be able to keep our economy going, ready to pick up when this crisis passes – which it will. Businesses should act now to engage openly with all stakeholders – employees, customers, suppliers, landlords and their banks.

However, we enter this pandemic in an extremely strong financial position. The Core Investment Reserve, established to be used in the exceptional and specific circumstances of severe and structural decline in public sector finances or major emergencies, ended 2019 with a balance of £195 million. The current position is precisely the kind of event that warrants use of that Reserve. However, the general strength in our public finances, prudent approach to planning and excellent performance in 2019 mean that there is no immediate requirement to turn to the Core Investment Reserve.

It is the intention of my Committee to lay an emergency policy letter for consideration later during this States' Meeting, seeking delegated authority for the Policy & Resources Committee to act swiftly and decisively to support our community and businesses throughout this period.

It is absolutely vital that our government recognises the very real need to provide appropriate financial support at this time – and the very real impacts already being felt in certain sectors. We are all well aware that those in the travel and hospitality sectors have felt the full force of the travel restrictions put in place and encouraged by national governments. If we are to retain a strong and vibrant hospitality sector for the future, now is the time to provide help to tide them over this difficult period.

Therefore, the Policy & Resources Committee and the Committee *for* Employment & Social Security have agreed the following immediate measures, which are designed to help our companies with their costs and, in particular, their cash-flow and support them to keep operating. I understand that the Committee *for* Economic Development has also been briefed on, and is supportive of, these initial measures aimed at all non-regulated businesses, who are in the front line right now:

- Businesses will be allowed to defer the payment of employer's Social Insurance contributions due in the first and second quarters of 2020 to support their cashflows;
- The collection of commercial TRP will be deferred over the same period and I would urge landlords to pass this on to tenants. This will provide further relief on outgoings over this difficult period;
- Where the States of Guernsey is a landlord to a local business, consideration will be given to deferring rent and we would hope that private and commercial landlords will also consider such measures;
- Similarly, the mooring fees for commercial fishermen will be waived over this period in recognition of the particular difficulties faced by that sector;
- Where the States of Guernsey is a creditor to local businesses, every effort will be made to pay swiftly and not wait for standard credit terms;
- Where the States of Guernsey is a debtor in other capacities, then every effort will be made to treat customers sensitively and supportively at this time.

These steps will, of course, inevitably put pressure on the States' own cash flow. We are actively thinking about how we can manage that, including of course seeking our own credit lines, so that we don't have to sell financial assets in our investment portfolios at precisely the wrong moment – namely a falling market. If we need more authority from the States to facilitate this, we will return to this Assembly to seek it.

It is important that the States take a leading role in the measures that are put in place, but it is not only the responsibility of the States. On Monday, we met with the hospitality and retail sectors, facilitated by the Chamber of Commerce. The Committee *for* Home Affairs are now considering relaxation of the Population Management Law, to remove any red tape for employees seeking to move from one job where they are under-employed, to another which may be required as jobs need backfilling.

By way of example, to help keep our school system open as long as possible, we may need more help cleaning whilst the hospitality sector may be able to supply those who can help. The Committee *for* Economic Development are looking at whether the rules around self-catering could be relaxed so we can create more self-isolation or staycation space on the one hand and provide some replacement of income for the self-catering sector on the other.

Yesterday, we met the banks who are, will and expect to be businesses' first port of call for assistance when businesses need support. We can support the banks to enable them to relax their lending criteria in view of the extraordinary situation in which we are living. So we have been working with the local banks and co-ordinating with colleagues in Jersey and the Isle of Man to seek to expeditiously ensure liquidity support is available to those businesses who need it. We hope to be able to make firm announcements over the next two weeks about a pan-island scheme.

The measures I have outlined so far have been focussed on business, but we also wish to recognise the impact on individuals, particularly those who might be facing significant hardship and would not otherwise be entitled to States' benefits. Therefore, we will also be allocating £5 million initially to a 'hardship fund', to be administered alongside our social security benefits, which will seek to target support to those in that situation.

Work is ongoing to develop the policy, principles and criteria for all of these measures which we expect to be able to release in detail next week. The package of measures I have outlined today is our initial response. We know that the prevailing situation is temporary, but we do not know how long it will last or the route it will take. We will keep the situation under continuous review and be prepared to take further measures, either macro or micro-targeted at a later date.

For example, work on the review of the Government framework for air operations has been progressing. However, the view of the Policy & Resources Committee is that the review cannot, at this stage, be formally concluded and brought to the States of Deliberation. This is because we are now in this extraordinary period, which we are having, and will continue over the coming weeks or may be months, and it will have a profound effect on our air and sea links connectivity.

Aurigny is reassessing its schedule and routes in order to ensure a minimum level of service, to protect the welfare of its employees and passengers, and to stem as far as possible, the significant financial losses that, like all other airlines, will need to absorb during this period. It is inevitable that further financial support will be required, and the emergency policy letter being prepared will also include proposals for increasing the overdraft facility available to Aurigny.

The current environment is also impacting airports – not just Guernsey airport, but those to which we travel. The next few weeks is likely to change the aviation sector for the short and medium-term. The review will now actively take account of the impact of this period on the Government framework for air operations and take into account the recovery of our air links infrastructure when we are through this challenging period.

In relation to the PSO process, following the recommendations from the Committee for Economic Development, and further investigations, the Policy & Resources Committee has identified and confirmed a preferred bidder. Commercial discussions are ongoing, but in the current context of air travel uncertainty, these discussions will now take longer, obviously, to progress.

It is important for Guernsey and Alderney residents and taxpayers that we get this right. Given the service changes that will be in place for the next few weeks, the Policy & Resources Committee will continue to oversee the work with the preferred bidder in order to bring a policy letter to the States of Deliberation at the earliest juncture.

In closing, I would just like to reiterate that we are not locking down our community or economy, because we do not need to – or not yet anyway. We may not be leaving the Island unless absolutely essential over coming weeks, but we can continue to safely educate our children and still support our local economy by shopping locally and going out, provided we rigidly adhere to the Public Health advice in relation to personal hygiene and social distancing, particularly for those in vulnerable groups.

Our economy has not and does not need to come to a complete halt and, while Government is playing its part with the measures I have outlined today, the community can also continue to keep our economy going, and maintain a semblance of the new-normal daily life until the crisis is over. We will get through this. As a community, we have the spirit to survive what we are about to endure. And we also have the financial strength to do so too. Thank you very much, sir. *(Applause)*

Committee for Health & Social Care – Global Covid-19 Situation

The Bailiff: I will next invite Deputy Soulsby to make a statement, as President of the Committee for Health & Social Care, and then there can be questions after that, directed to both Presidents. Deputy Soulsby.

Deputy Soulsby: Thank you, sir. Thank you for allowing me to give another update to the Assembly on the Bailiwick's continuing response to the global coronavirus situation. Since my last statement to Members on 2nd March – just two weeks ago – the global situation regarding Covid-19 has escalated at an unprecedented pace. A pandemic has been declared by the World Health Organisation. There have been over 198,000 confirmed cases worldwide – the majority now being outside of mainland China. There have been over 7,900 deaths with multiple hotspots identified globally.

Locally we have tested 185 Islanders with one positive case to date, confirmed on 9th March. We are awaiting results on 58 cases. The Public Health England laboratory continues to support our testing programme but are having to manage an increase in demand for testing generally. The Committee for Health & Social Care has reprioritised its estates programme in order to set up a Category III laboratory in our Pathology Department and has ordered the necessary equipment to process Covid-19 testing on Island. This facility will be delivered, commissioned and ready for use within seven weeks.

Dr Nicola Brink and her team in Public Health Services continue to provide exceptional, evidence-based advice as the situation evolves. As Deputy St Pier has already advised you, the command and control of this dynamic situation has now been escalated to include the Civil Contingencies Authority, the Strategic Coordinating Group and the Tactical Coordinating Group. This means we have very robust decision-making processes to support our response to Covid-19.

Sir, we continue to be supported by teams across the Bailiwick. I would like to take this opportunity to thank all States of Guernsey staff working on this, the Joint Emergency Services Control Centre who facilitated the coronavirus helpline in their disaster recovery suite at the fire station, the St John Emergency Ambulance Service team for their incredible support in manning the helpline, our colleagues at the Medical Specialist Group, Primary Care and the third sector who are working with us to mitigate the impact of Covid-19 on Island.

I would also like to thank the community for their help so far in sharing the information that is being issued by the States of Guernsey communications team. We need them to continue with this good work in spreading the facts and debunking the myths that are spread on social media. We all have a personal responsibility to keep people well-informed about the situation and not generate fear or anxiety.

Our communications continue to focus on public awareness and information as well as providing specific guidance as required. This week we have issued news releases and guidance about events, school trips, States' Meetings moving location and stricter border controls being implemented. I would be grateful if Members could continue to familiarise themselves with this information. We are updating the community at an unprecedented rate and as States' Members we also have a responsibility to reassure the community.

And just to highlight that, today the Director of Public Health will be issuing a clear policy directive to schools under the Santé Publique legislation setting out measures required to be taken to prevent the spread of infection. This includes the cancellation of assemblies, non-essential meetings, direct contact activities such as contact sports and group eating in canteens.

In addition schools are being told to, amongst other things, examine business continuity plans and how they will work in the event of staff shortages and to prepare for the possibility of school closures and how educational services could be delivered remotely. An enhanced cleaning policy is also to be brought in with immediate effect, including twice-daily cleaning and at least daily decontamination of surfaces.

I would like to emphasise that the Director of Public Health is not advising the need to close schools at the moment. It must be understood that closures are highly disruptive and would seriously impact the availability of key workers. The cautious actions we have taken in terms of travel and the fact that we have had only one positive case and no evidence of community seeding, means there is no reason to close schools now. Whilst I understand this is happening in Jersey, we are not Jersey, we are not the UK. We will continue to make decisions that are appropriate for Guernsey. **(Several Members: Hear, hear.)**

Sir, I would now like to turn to the measures that HSC are putting in place to manage any escalations of this rapidly changing situation. Every effort is being made to minimise disruption to service users, to support our staff and ensure that we are as prepared as possible.

We recognise that we have to have the ability to cope with spikes in demand arising from Covid-19 and this means creating flexibility in ward and clinician capacity. To support this, as of next Monday, scheduled elective surgery will be postponed. Those Islanders requiring urgent and critical

care will not be affected, but Islanders whose planned treatment is not time critical are being contacted to advise them that their scheduled treatment will not be going ahead as planned.

I appreciate that those Islanders affected will be disappointed, but this is a necessary move in the unprecedented circumstances. Postponing elective surgery will provide time to provide specific Covid-19 training to staff and in particular to quickly increase our clinical resilience in respect of critical care provision. The current decision to postpone treatment is limited to next week in order to allow this training to take place. After which, it will be kept under constant review.

HSC recognises that the ability for families and friends to visit loved ones within the hospital is important. Visitors are asked to ensure that they make sure they wash their hands and use the hand sanitizers available at every ward entrance. If possible, we would ask that visitors use technology options if possible for some of their contact with patients and make sure that they do not visit if they are unwell or otherwise asked to self-isolate as a result of following advice from Public Health Services.

From Thursday of this week we will also be implementing changes in the Gloucester Room restaurant at the PEH. Hot and cold food options will continue but there will be restrictions on the number of dishes available. Food will be available as takeaway rather than eat in for the foreseeable future. For those who have to eat in, seating options will be reduced to enable social distancing.

Staff who are professionally registered but not currently working in a clinical setting, such as colleagues working within governance or in a teaching/lecturing capacity, may be asked to support front line services. This response may also include recently retired healthcare professionals and will also involve additional agency staff in due course, as and when necessary. We may also need to reconfigure wards to manage Covid-19 patients separately from other patients if this becomes necessary to do so.

HSC appreciates the support of the community and all of its staff in managing the response to this incredibly dynamic situation. I apologise for disruption that managing this may cause but hope that members and the community understand that these are not measures we implement lightly. Our position may change again in the coming weeks and months and we will continue to provide public messaging as and when required.

Sir, we are witnessing a global pandemic which is escalating in a way that has not been seen before. Members can be reassured that our staff are trained to response to emerging and unpredictable events. We need to take the community with us on this journey. The website www.gov.gg/coronavirus continues to be updated daily, we have social media messaging on Facebook, Twitter and Instagram and are holding two media briefings a week which are now being live streamed via Facebook. I will continue to provide members with updates as and when required as this ever-evolving situation continues. In the meantime, we will be working tirelessly to serve our community and ask the community to work with us too.

The Bailiff: We can now have questions to both Deputy Soulsby and Deputy St Pier. Deputy Ferbrache.

Deputy Ferbrache: Sir, I have got a question for Deputy St Pier, but I would like to commend both Presidents for their excellent statements and the excellent work they have done and for the team of people who have supported them through this crisis. (**Several Members:** Hear, hear.) I am sure they have all our support. The people of the Bailiwick of Guernsey will come through this, but we are facing a dark period.

Deputy St Pier mentioned the Occupation. Now, in the UK and other places they had things called war bonds. We are going to be in a position whereby where we are going to need great economic resources. The people of the Bailiwick, if given the option, would be able to show their commitment to this crisis, a crisis like we have never faced before in peacetime, if there were the availability, the equivalent of war bonds. Has Deputy St Pier given any consideration to that or will he do so in the future?

The Bailiff: Deputy St Pier.

Deputy St Pier: Thank you to Deputy Ferbrache for that question, sir, and thank you also for his and indeed all Members' support in the last week or so to this effort and indeed the support that has been expressed by the public as well. It is hugely appreciated and encouraging for all those that have been involved in this.

In relation to the specific question have I given thought to it, not a great deal more since he mentioned it to me over coffee at 8.40 this morning, but I will say publicly what I said to him then, which is think it is absolutely an idea that is well worth consideration. As my statement suggested, the States itself will need to give careful consideration to its own cash and Treasury management.

We clearly would not want to be taking foolish decisions that we would not otherwise be making in relation to our portfolios, and the kind of solution that he is talking about may well play a part. But as I suggested, the pace of development of this over the last only six days, really, has been such that clearly he would not expect – and I know he does not expect – that we could have given any detailed consideration to this matter. But it is absolutely worthy of consideration in the context of the management of this over the next few months, so I thank him for the question sir.

The Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir. Can either of the Presidents please tell us if measures at ports are being introduced to track movements coming into the Bailiwick, either for the purposes of communication, if for example a test result came back positive of someone in a vehicle coming into the Bailiwick, or indeed for potentially enforcement measures?

Deputy Soulsby: I thank Deputy de Sausmarez for that question. I can advise that what has been done before has been really ramped up following the announcement yesterday, about a country being Group A and B or C. A great presence at the ports to ensure that people are all given the information that they need to know what they have to do and self-isolate. We are looking at landing cards so information can be obtained from people, so we know who they are and where they are going, and I think there will be more that will be announced on that later today. Certainly, the whole communication at the borders is being ramped up to a significant extent, today.

The Bailiff: Deputy Roffey.

Deputy Roffey: Thank you, sir. Obviously I echo the praise for both my fellow Deputies and the broader workforce that have been involved in some very difficult work over the last few days. I have two quick questions, if I may. Deputy St Pier announced the launch of a £5 million hardship fund. We know that we have many wealthy and philanthropic-minded people in Guernsey who would, in a time of great stress, be quite happy to help with those who are less well-off to see them through, so I would ask whether that would be open for voluntary donation, as well as our £5 million, for other people to make donations?

The second point, if I may just, for clarification, there is a tension between social isolation and trying to support our economy. We have heard Prime Minister Johnson in the UK saying do not go to restaurants, do not go to bars. What is the advice here, particularly for those who may not fall inside the most at-risk groups? One wants to support the hospitality trade, but nobody wants to do anything irresponsible.

Deputy St Pier: Sir, excellent questions, if I may say, from Deputy Roffey. I have to say I do not think any consideration had been given to opening up the fund in the way he suggested. I can see no reason not to and I thank him for that. It is something worth further investigation. As both Deputy Soulsby and I said at the media conference yesterday and in my statement today, what we are seeking to do with our measures is ensure that we can build and give the community the confidence

that the measures we have taken in our own community are entirely appropriate for where we are in the progression of disease and that, accordingly, they are in a position to go about their lives as far as is possible, whilst respecting Public Health advice.

So the very radical action we have seen in France, in Germany and Italy, of quite literally detaining people in their own homes, is not something that is remotely necessary at this point here in Guernsey. If we are able to remain in the contain phase for as long as possible, that may be completely avoidable, so that is clearly the objective.

Therefore, specifically in relation to the question of socialising in public places, as the statement did make clear and it is worth repetition, for most of us who are not in vulnerable groups, if we adhere to the social distancing advice and follow the advice in relation to infection control and good hygiene, we should not regard ourselves as prohibited from visiting and supporting local shops, local restaurants and so on.

But it is down to each and every one of us to make those judgements of what is appropriate for us and our own circumstances, and it is, of course, the responsibility of businesses to make sure that they are creating an environment, which is safe and welcoming, and I think the hospitality industry on Monday, I think it was, I have lost track of time, understood their responsibility in that regard and I hope that they will step up to it. That may include, for example, removing two in every three tables in a restaurant, so that there is appropriate distance between those that are coming.

The Bailiff: Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you, sir. I would just like to ask Deputy Soulsby if she could provide some further detail or clarity around the testing kit or testing kit situation. I have been contacted by some Islanders who are concerned. It seems that Jersey are already ready to go in regard to their testing kits and we have to wait, I think, seven weeks before we are in that situation. Could Deputy Soulsby either provide some clarity or an update on that, or perhaps dispel any concerns that Islanders have about the testing kit situation and how long they have to wait to be sufficiently kitted up, as it were?

Deputy Soulsby: I thank Deputy Queripel. This is another example, as I was trying to say in my statement, we really need to the information that is coming from gov.gg, from our own communications. There is a lot of myth and supposition going on. We really must just take a step back and just understand what we are saying and take that version of the truth.

I am not aware of Jersey being able to do any testing. Indeed, we were looking at them and being reliant on our testing and being able to use our testing facilities. Whether they got some shortcut measure of doing something, I have no idea, but we are certainly not aware of them being able to put a whole path lab together with the necessary equipment that short space of time.

We have one piece of equipment that is ready to arrive shortly. That needs training for staff and testing. That training will be done remotely now, because of the new way of travel restrictions. Another piece of equipment is being made in Australia and, as soon as that comes, it is a plug and play situation. The path lab is being redesigned, redeveloped. The actual area that the testing needs to be done is being made into a negative pressure zone, which is required, and then we will have all the training, and everybody is up and running.

The advantage we have, we have not got people who can do this testing, because it is not just about the equipment, it is like ventilators, you could have a million and one ventilators but if you have not got enough staff you are not going to be able to use ventilators. We are lucky we have qualified staff who can actually use this equipment. So, as soon as it arrives, we are ready to go. Seven weeks, we are hoping we can get it faster than that, but that is where we are at the moment.

The Bailiff: Deputy Prow.

970 **Deputy Prow:** Thank you, sir. Can I please echo all the words that have been said about the
excellent statements that have been made by Deputy St Pier and Deputy Soulsby and also the
support given to the professionals. I just wonder, this is an opportunity in question time, if I could
ask Deputy Soulsby to perhaps reinforce the advice to people who may be feeling unwell and
displaying some of the symptoms around whether they should go to work and for how long they
975 should absent themselves at this particular time, particularly where there employment might be
difficult to achieve social distancing? Thank you, sir.

The Bailiff: Deputy Soulsby.

980 **Deputy Soulsby:** Yes sir. We are asking everybody if they have the slightest feeling of symptoms
that they should not go to work and if they are at work they should go home immediately and self-
isolate. It is really because we have got to treat everybody the same, just so as we can stop the
potential spread of the virus.

The Bailiff: Deputy Lester Queripel.

985 **Deputy Lester Queripel:** Sir, in my opinion we should have gone into lockdown mode by now.
It concerns me that we have not. Surely it is better to be safe than sorry, especially in relation to
those travelling into and out of the Island. So can Deputy St Pier tell me please why we are not
banning all travel into and out of the Island, apart from on medical grounds?

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The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, if I may say I actually think Deputy Lester Queripel's question and the
premise behind it is actually irresponsible. What is required is the need to give the community the
995 assurance that we are doing everything that is appropriate for our own community's needs at this
stage in the progression of this disease.

We are not imagining that it is possible to keep this disease out of the community entirely, we
cannot cut ourselves off from the world, indefinitely, so we have to manage our community's
exposure to it in a way that the health services can cope. If we moved into a complete lockdown, as
1000 Deputy Lester Queripel is suggesting, it would have a significant impact on the life of this Island for
a very extended period of time, for no significant benefit.

We are required to make judgement based on sound advice and the most recent evidence and
that is the basis of everything we have done so far. But I am sure Deputy Soulsby will have something
else to say.

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The Bailiff: Deputy Trott, I think wanted to ... Sorry, Deputy Soulsby wanted to reply as well.

Deputy Soulsby: I think it is important for people to understand that just locking down and
hoping it will all go away shows a complete lack of understanding here. The virus will not go away.
1010 It is throughout the world now and if we think we can lock our doors and it will never reach these
shores, we are thinking in a very odd manner.

What we are trying to do is flatten the curve. We know that the virus will come here. We know
that will happen eventually. We cannot put up a big wall like Donald Trump and even his wall will
not work, if it comes to coronavirus. We have got to understand that it will arrive here, but it is
1015 about flattening the curve and making sure that we do not spread the virus so quickly that the
whole infrastructure of the Island grinds to a halt and people unnecessarily die.

What we want to do is flatten the curve so that we can continue to treat people as and when
and how they need to be treated. Usually it is down to those who are more seriously impacted and
how we can look after them. If we have a huge peak, we will have a lot of very seriously unwell
1020 people that we will not be able to treat, and we will have unnecessary deaths. That is what we are

trying to stop. We are trying to flatten that curve for as long as possible, through the summer and then, hopefully, by the end of the year, there is a vaccine, which we can then apply to the most vulnerable in our community, just like we do with the flu every year, and that then gives us that ability to have a herd immunity, without the impact that it would have on individuals and too many deaths, which we should be trying to avoid. I hope that makes it clear.

The Bailiff: Deputy Trott.

Deputy Trott: Thank you, sir. The level of co-operation and team work displayed during this last couple of weeks has been unprecedented, during this term of the States, and long may that continue. The President of P&R stated that the duration and magnitude of the economic shock remains uncertain, but I think we would all agree that this is, however, just the start. It is in every sense a new paradigm.

In order to manage realistic expectations, would he agree with me that planning for six months of disruption is in no way an unreasonable time horizon and we should plan for the worst and hope for the best in any event?

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I would agree with that. This is a novel virus, a new virus, therefore its progression and development is unknown and, in particular, whether there will be a second or even a third peak, which is common with these sorts of infections.

So I think the assumption that it could be a period of six months, or indeed longer, is a safe planning horizon and to plan for the worst and hope for better outcomes is precisely what we should be doing. I should add, in response to Deputy Trott's questions, that that is another reason why taking precipitative action to shut down our economy, when it is not required, would not be in the community's interests at all.

The Bailiff: Deputy Leadbeater and Deputy Inder have both stood another time, so I will call them and then Deputy Fallaize and Deputy Merrett. Deputy Leadbeater.

Deputy Leadbeater: Thank you, sir. I thank Deputy St Pier for the economic measures that he has outlined today. Certainly, I thank him for the suspension of mooring fees for commercial fishermen. Obviously, 80% of the fish caught locally is for the export market, mostly traditionally via the French ports but, unfortunately the French ports are closed so the only option they have left at the moment is landing the fish in the UK. Only a few of our local vessels are a large enough to be able to do this on their own.

There was a suggestion from Deputy Barry Paint that maybe the States could look at commissioning chiller trucks. If it gets to that stage, well it has come to that stage, the only place that fish can be landed currently is the UK, with the smaller vessels that would have to tie up because they could not get their fish over there, could the President of P&R confirm to me that this is something they would consider?

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I think looking at those sorts of alternative routes and solutions is exactly the kind of innovative thinking that we need to be engaged with, working with the industry and so yes, I can confirm that, in light of that suggestion, which seems eminently sensible, giving that there will of course continue to be freight ships ploughing back and forth between here and the UK to supply the Island, that that is a route that should perhaps be explored and actually, in light of that question sir, this is a good opportunity to pay tribute to our logistics and supply chain.

Again, the amount of work that has gone on there to plan for this, is an admirable level of engagement, benefiting considerably from the work that was undertaken in the no Brexit deal planning last year, has coincidentally helped considerably, but I think the response by the freight industry has been very responsible and by Condor, to provide, effectively, a clean ship and also to improve resilience, is absolutely to be welcomed and I think we should publicly acknowledge and thank them for that, as well, sir. But I thank Deputy Leadbeater for his excellent suggestion and will ensure that it is fed into the system for consideration.

The Bailiff: Deputy Inder.

Deputy Inder: Thank you, Deputy St Pier. The two greatest threats to businesses are having no customers and no cash flow and in some instances that is where we are. In this statement, he did say, if I understood correctly, he was considering asking landlords whether they might defer payments for struggling businesses. Now the other great threat to the landlord, of course, is not having any businesses ... sorry, the greatest threat to commercial landlords is not having any business to rent to.

Can I ask, then, if the landlords do not play ball by being asked to defer payments, would Deputy St Pier and Policy & Resources give consideration to some kind of executive orders to ensure that the landlords are mandatorily obliged to give certain time off, effectively, to businesses as the situation develops?

Deputy St Pier: Sir, I thank him for that question. Deputy Inder has provided a significant challenge to our natural capitalist economy. I would not wish to speculate too far ahead in terms of this and going back to Deputy Trott's question about the duration that this is likely to play out. One also has to consider that the commercial landlords themselves could well be under significant cashflow and financial pressure. Again it will vary, from landlord to landlord.

I do not think it is as easy as perhaps just directing that a particular sector waives more payment. I think the first responsibility is to encourage everybody to be stepping up to the plate and to be talking to each other in an open way about their position and what pressures they are under and how they can help.

But, given that we do not know the duration of this, further measures, as I indicated in the statement, are likely to be required, the nature of those, six days into this, I do not think it would be worth speculating on.

The Bailiff: Deputy Fallaize and then Deputy Merrett.

Deputy Fallaize: Thank you, sir. It is conceivable that we may, sooner, rather than later, get to a position where the States' Assembly cannot physically meet more than it would be contrary to Public Health advice to do so and that States' Committees cannot physically meet. We are in a position where, in any event, the States' delegation to Committees is quite limited from the States' Assembly and the Civil Contingencies Authority was only ever intended to be a body, which would meet temporarily and make decisions over a very short period of time.

Now all of these things being so, it seems to me that it is not inconceivable that it may be sensible at some point to move to an arrangement to provide for proper continuation of Government, which was similar to that which applied during the Occupation, and for the States' Assembly to delegate, essentially, all of its functions to a controlling committee or its equivalent.

Can I ask Deputy St Pier whether any thought is beginning to be given to that option and to ask him to lay a policy letter before the States so that, in the event that such a move is necessary, the authority would be delegated by the States' Assembly, rather than the through the Civil Contingencies Authority? I think if such a drastic step of governance, delegation of powers has to be made, it should be through the States' Assembly and it ought to be done while the States' Assembly is still able physically to meet?

1125 **The Bailiff:** Deputy St Pier.

Deputy St Pier: Sir, I think it is quite obvious to anybody that our normal system of Government is completely unsuited to manage and respond to a crisis such as this. Having said that, the Civil Contingencies Law, and the Civil Contingencies Authority is certainly perfectly adequate to manage the response on that. It clearly is what has happened in the short-term.

1130 I think Deputy Fallaize's question is entirely valid. Again it is to speculate about the longevity of this and therefore, in fact, whether the Civil Contingencies Law and Authority is an appropriate body to be discharging functions of Government, when it was clearly designed for shorter term emergencies than perhaps was envisaged when the Law was written, than may appear in this case.

1135 I think it is clearly appropriate that we need to ensure good governance and good democratic control wherever possible and, wherever possible, measures should go through the Committee system and come to this Assembly in the normal course for approval. But he has identified the risk that we may no longer be quorate, or it may no longer be advisable to meet in the way that we are today, and it may be a necessity for alternatives.

1140 Again, I do not wish to speculate. Has active consideration been given to it? No, simply because it has not been one of the priorities in the last six days. Does consideration need to be given to our long-term ability to govern this Island, in the same way that the States' Assembly and Constitution Committee have considered the viability of holding an election in a few weeks' time? I think it is an appropriate question to consider.

1145 I think I would be foolhardy to give him the undertaking that he seeks, that it would be a decision of this Assembly, because the speed of this has progressed so fast, I cannot give any certainty as to the direction of this over the next few weeks. But his points are very well made and noted, I think, by all Members of this Assembly.

1150 **The Bailiff:** Deputy Merrett.

Deputy Merrett: Thank you, sir. The current, calm and consistent communication is key to informing our community at this time, arguably relevant members of our demographic are not able to access gov.gg and they are relying on snippets on information from the media. I am aware that there have been some leaflets dropped to some households on the Island, but I was just wondering if Deputy St Pier or Deputy Soulsby would consider having regular and daily, or at a pertinent time, communications, so members of our community know when to tune in *per se*?

1160 That is my first question. I think it is not really supplementary, sir, but there are a lot of questions and answers that our community need to have consistently and calmly, and it appears to me that Deputies Soulsby and St Pier would be in a position to do so. So I was wondering, whilst going forward, the communications strategy, so that we can ensure that all of our community are getting consistent, current and calm messaging.

The Bailiff: Deputy St Pier or Deputy Soulsby?

1165 **Deputy Soulsby:** Thank you, sir. I thank Deputy Merrett for really worthwhile questions. There is clearly a concern. Obviously we know that not everybody has access to the internet. The vast majority of Islanders do but not some, and particularly some of those who are in the most vulnerable groups. There is a communications strategy, which has been developed and there is a workstream, or cell, as these things are called nowadays, in terms of how we get the communication out to all Islanders and for people in different situations, say people just coming off the boat, or somebody who might just have fallen ill, who have not travelled anywhere.

1170 So making sure we have targeted communication but also getting all the basic information to Islanders. There are plans for every household to receive information about what they need to do, in terms of symptoms and contacts and basic information that will support people. We are looking

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at seeing whether we can have information put out in the media at specific times of the day, so people then know when to tune in, exactly as Deputy Merrett said, and we are holding twice-weekly, it might become three days a week going forward, and then it might be daily press conferences with Deputy St Pier, myself and the Chief Executive and others. So we are keeping people informed all the time.

Those are being live streamed as well, so people can tune in and watch that, if available. Whether they can be broadcast on media other than on the internet I do not know but that is definitely something that we are trying to do and put out. That will change and we will be adding more information, wherever and whenever we can, but clearly communication is so key in this particular situation we are in at the moment. So just to give that assurance to Deputy Merrett, yes we are heavily thinking about what we can do and putting things out as we speak.

The Bailiff: Deputy St Pier wants to add to that answer.

Deputy St Pier: Sir, if I may just add very briefly to Deputy Soulsby's answer, two further points. One is traditional media, print and broadcast, are of course a very relied upon source by some of those that Deputy Merrett was referring to and, again, this is an opportunity to thank them for the work they have done in the last few weeks. I think they have acted highly responsibly and to ensure that the right information has got out.

The second point to add is we are also giving consideration to how we can access other specific groups, including for example, the young, who may have their own specific concerns and so working with organisations that have an interest in that area is something else we need to give consideration to. Of course, again, doing it in a way that does not involve any unnecessary meetings, having regard to the social distancing advice.

The Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, sir. I also wish to add my thanks to my colleagues for the work that they have been putting in at the moment. I think we also need to remember that we are a committee system and we need to default, where necessary, back to the committee system. We do need to have the emergency powers, *etc.* but the skills of the whole of the Assembly need to be used as well as the skills of the few. I would also just ask, if we can a little bit of reassurance for our colleagues in the other parts of the Bailiwick, in Alderney and Sark, who are also experiencing this.

Obviously, we are taking the lead, as Guernsey. I think we are doing a really superb job in that way, but I think it would be just very helpful for those in the other Islands, for us to understand their position and their needs may sometimes be different from ours. So any reassurance on that would be greatly appreciated.

Deputy Soulsby: I thank Deputy Brouard and, yes, Members have got a role to play, of course. There are things that have had to be taken, decisions made very quickly, but we have gone through due process and that is what we are planning to do. Yes, everybody has a role within the committees to ensure things are moving in support of the major decision-making that is going on.

Plus Sark and Alderney do have representatives on the CCA and today both parties were in the meeting that we had this morning and we have that from a political level, we have that dialogue. There is also daily dialogue between public health services and supporting those in Sark and Alderney and really it is understanding Alderney and Sark have different positions and Sark is in a very different position to Alderney, but also ensuring that we are getting those key messages out and making sure that things are tailored to each location. I can assure him that there is very close working across the Bailiwick.

The Bailiff: Deputy St Pier, do you wish to add anything?

Deputy St Pier: Yes, sir, again a brief addition. The political executive group to provide oversight to some of this work, of course has now been constituted, with the consent of committees, who have delegated authorities to their presidents to participate in that. The premise clearly was that decisions should be continued to be made in committee, where time permits, otherwise at that level and, failing that, at the CCA. That remains the order at the moment, subject, of course to Deputy Fallaize's previous questions.

The Bailiff: Members it is now 12.30 p.m. I suspect that Members must have so many questions in their mind, we could probably carry on for a very long time. Can I just have an indication of how many people who have not yet asked a question would like to do so? Yes, just Deputy Green standing, and Deputy Gollop.

We have already had over half an hour of questions, I wonder whether perhaps we have another five minutes or so of questions, to enable those who have not put a question yet to do so. There is also, as I have mentioned earlier, a statement to be delivered by Deputy Fallaize, in relation to Liberation Day, which also touches on the present situation. That, I think, would be a relatively short statement, would it not Deputy Fallaize?

So I would like to suggest that we continue to, say, 12.45 p.m., to enable a few more questions on the two statements that we have had, enable Deputy Fallaize to be able to deliver his statement and then, if there are any questions arising from that, we could have a few questions, but rise at 12.45 p.m. I put that to you, Those in favour; those against?

Members voted Pour.

The Bailiff: Deputy Green, you may ask your question.

Deputy Green: Sir, thank you very much. It is a question to Deputy Soulsby, and it is something that has been raised with me by a constituent of mine. It is about the position with regards to whether we have adequate amounts of medicine and pharmaceuticals currently on the Island, in order to specifically deal with the symptoms and others of Covid-19 and, if not, whether Guernsey can rely on receiving such supplies from the UK or elsewhere, given there will be increased demands on those supplies as well. I heard Deputy St Pier say a moment ago about there were no particular issues with the ongoing supplies, but it would be helpful if Deputy Soulsby could give a clear answer, specifically in relation to medicine and pharmaceuticals.

The Bailiff: Deputy Soulsby.

Deputy Soulsby: We have no issues at the moment. We had quite good levels before we came into this situation. We are still going through the NHS supply chain, but it is fair to say that due to where the UK is at the moment, delays are creeping in and we are trying ensure that those communication lines continue as they have been and Deputy St Pier and myself have had conversations with Lord Keen, Ministry of Justice, and with Health & Social Care counterparts in the UK to ensure that those supply chains continue and it is not just pharmaceutical medicines it is also ensuring we have got PPE equipment, masks, gowns etc.. They are well aware of our needs and to ensure that we do get all the equipment and supplies when we need it.

The Bailiff: Deputy Gollop.

Deputy Gollop: Really, two questions. The first is directed to Gavin St Pier and is perhaps more to ask him and Policy & Resources and the emergency group to consider that we had a rather random announcement yesterday from the United Kingdom's Member of Parliament and Chancellor of the Exchequer, the Rt Hon Rishi Sunak, talking about using 15% of the UK GDP in some mysterious way to underwrite business and economic losses because, like many other

Members of the States, I am as concerned about the economy as I am about the health risk. Will Policy & Resources, *etc.*, be considering that kind of use of rainy day funds, as it is a rainy day for us, but proportionate to our circumstances?

1280 My question to Deputy Soulsby is some leading mental health areas, where people can chat and talk about their issues have already closed, not on a clinical level, but on a social distancing level. What advice, in terms of communication, coming on the points Deputy Merrett and Deputy Lester Queripel have already raised, can Health & Social Care and the States as a whole give reassurance to mentally fragile people, who will be feeling even more stressed and isolated than they may well be, especially as normal communication and social activities will be more restricted?

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The Bailiff: That is two questions, rather than one. Deputy St Pier.

Deputy St Pier: Sir, if I deal with the first one and leave the second for Deputy Soulsby. The United Kingdom's announcement yesterday, of course, is not in respect of spending any rainy day fund they may have, because they do not have one. They, of course will be funding any measures either out of either money printing or debt.

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I think the more important thing to note about the measures is that they are principally about loan guarantee-type schemes. We, in considering our own measures, will naturally be informed by the sorts of measures that are going on in the UK, the kind of structures they are setting up, particularly of course given that our own banks are familiar with those and it is part of the architecture for their own parent businesses.

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Similarly, we are obviously going to be looking at what is happening in Jersey and applying as appropriate to the Guernsey situation. So I hope that gives Deputy Gollop some reassurance that what is happening elsewhere is informative, but we will continue to make judgements on economic issues and the same with any health issues and applying them proportionately and appropriately to our own situation at any given time.

1300

The Bailiff: Deputy Soulsby.

Deputy Soulsby: Yes, I would just like to pick up Deputy Gollop's question, his asking what the States of Guernsey would do, I think the particular issue that he was talking about there really demonstrated how Government and the community can still help each other. In terms of particular areas for people feeling mentally fragile being closed down, there may be opportunities there to go online, get groups, online groups, people can talk to each other and support each other that way.

1305

1310

I do know that there are groups already in existence that people might want to make use of. Healthy Minds are available and online, people can directly refer and use the tools on there that Healthy Minds, the primary mental health service provides. I understand they are also looking at putting packs together and finding more information and support for people who are self-isolating as well.

1315

The Bailiff: Deputy Lester Queripel is wanting to ask a question. We will have one more question and then we will move onto Deputy Fallaize's statement. Deputy Lester Queripel.

1320

Deputy Lester Queripel: Thank you, sir. The difference may be perfectly obvious to some people but in order that we can all be absolutely clear on this, can Deputy St Pier explain to me please what is considered to be non-essential travel and what is considered to be essential travel? I ask the question because the leaflet that has been posted through our letter boxes here in the Island does not make that clear. It merely advises to only travel off-Island if essential. Or for important medical appointments.

1325

The Bailiff: Deputy St Pier.

1330 **Deputy St Pier:** Sir, the position of course has changed and, effectively from one-minute past midnight tonight, there is not really a distinction between essential and non-essential. Anybody who travels off the Island will be returning to the Island in the knowledge that they will be required to self-isolate, with the emergency powers to enforce that self-isolation if they fail to do so.

1335 So we move to instead of talking about essential and non-essential to talking about the exceptions to that 14-day mandatory period, and there will need to be exceptions to enable us to receive those who are essential to maintain public services. That could be visiting medical staff, it could be those that are required to maintain our critical national infrastructure and so on. That is under development today and will be made available so that the appropriate decisions can be made by all concerned, so that as people come through the border, they will know that they either are
1340 subject to an exception or, if not, they would need to self-isolate.

The Bailiff: Deputy Soulsby, do you wish to add to that? No?

1345 **Deputy Soulsby:** No, I just think further to that leaflet, as I said earlier, things have been ramped up at the border, so people will be far more aware of what that is about and what essential travel is when they book. It will be all over the booking websites, so they will not be able to miss it.

Committee for Education, Sport & Culture – Statement on Liberation Day celebrations

The Bailiff: Deputy Fallaize, your statement on Liberation Day.

1350 **Deputy Fallaize:** Thank you, sir. The Committee for Education, Sport & Culture is the States' Committee responsible for organising the celebrations to commemorate the Liberation of the Islands from Nazi Occupation on 9th May 1945. Of course, this year is the special 75th anniversary of the Liberation and, as such, we have been planning celebrations bigger and better than ever, funded by increased States' investment and generous private and community sponsorship.

1355 Sadly, today I must advise that plans for Liberation Day will be radically re-shaped and reduced, with most of the public events cancelled, as a result of the Island's efforts to combat coronavirus. Following consultation with the organisers of a number of events, and in conjunction with the Bailiff, the Committee has decided to provide the community with certainty now about the need to reshape how the day will be marked this year. The visit to the Channel Islands of their Royal Highnesses the Duke and Duchess of Gloucester will also no longer take place.

1360 We are sure that the Islands will still wish to commemorate the 75th anniversary of their Liberation, to the greatest extent possible, while respecting the advice of public health services to avoid inessential gatherings of groups of people. In the days and weeks ahead, the Committee will work with officials and other organisers to develop different ways in which our community can mark Liberation Day.

1365 For example, more use will need to be made of technology to broadcast commemorations, which allow people to mark the anniversary from their own home. The details of the re-shaping of the day, will be announced in due course, not least because the Island's efforts to combat coronavirus are evolving and we cannot yet know the circumstances which will be prevailing by 9th May.

1370 We appreciate that this news, while perhaps inevitable, will come as a great disappointment to many. They can be assured that, with the community's unstinting enthusiasm and support for Liberation Day, we will make every effort to continue to mark the anniversary appropriately, while respecting the advice of Public Health. In doing so, we will continue to emphasise the need to acknowledge, in particular, those who lived through the Occupation.

1375

Several Members: Hear, hear.

**Procedural –
Questions for Oral Answer to be answered in writing**

The Bailiff: Just before we rise, can I just say that we would normally move onto Question Time. There were five questions from Deputy Gollop to the President of the Committee for Economic Development. In the present circumstances, he has agreed that those maybe re-presented as questions for written answer and they will be dealt with in that way.

1380

There were then questions that Deputy de Lisle was going to be posing to two Presidents, but sadly he is not with us. He had asked me if Deputy Langlois could pose those questions. We have Rules that govern proxy voting, we do not have Rules that govern proxy question asking, so I am afraid, if Deputy de Lisle wishes to do so, I am sure those Committee Presidents will be very happy to treat those as questions for written answer as well.

1385

So, with that, I propose that we come back at 2.30 p.m. unless anybody wishes to suggest that we take a shorter lunch hour? Nobody is rising to do that. So we will rise now, resume at 2.30 p.m., when there will be photographs and filming.

*The Assembly adjourned at 12.44 p.m.
and resumed at 2.30 p.m.*

**Procedural –
Photographs and filming postponed**

The Bailiff: It is unfortunate we are having photographs and film taken and the Chief Minister is not here. Is he expected shortly, do you know, Deputy Trott?

1390

Deputy Trott: He indicated to us over lunch that he may be 15 minutes late. As you would imagine his schedule is particularly busy at the moment. If we could defer for 15 minutes, I think he may well be here.

1395

The Bailiff: And Deputy Soulsby is not here either.

Deputy Trott: They are absent for the same reason.

1400

The Bailiff: If you are all in agreement, then, shall we ask that the media do not film or photograph for the moment and we wait until we are all here? Those in favour; those against?

Members voted Pour.

The Bailiff: If you are happy to wait a little bit, can you wait until we are more complete? Thank you.

Billet d'État VIII

ELECTIONS AND APPOINTMENTS

POLICY & RESOURCES COMMITTEE

I. Election of ordinary members of the Guernsey Financial Services Commission – Mr John Aspden and Mr Philip Middleton elected

Article I.

The States are asked to decide:-

Whether, after consideration of the Policy Letter dated 2nd March 2020, of the Policy & Resources Committee, they are of the opinion:-

- 1. To appoint John Aspden as an ordinary member of the Guernsey Financial Services Commission for a three-year term with effect from 3rd April 2020.*
- 2. To appoint Philip Middleton as an ordinary member of the Guernsey Financial Services Commission for a three-year term with effect from 3rd April 2020.*

The Bailiff: So, we move on. Mr States' Greffier.

1405

The States' Greffier: Billet d'État VIII, Article I. Policy & Resources Committee, election of ordinary members of the Guernsey Financial Services Commission.

The Bailiff: And the Vice-President of the Policy & Resources Committee, Deputy Trott, will open on this.

1410 **Deputy Trott:** Thank you, sir. The Policy & Resources Committee ask the Assembly to re-appoint John Aspden and Philip Middleton as ordinary members of the Guernsey Financial Services Commission for a three-year term, with effect from 3rd April. Sir, their exceptional CVs are appended to the States' Report and I know I speak for all my colleagues when I say we are very pleased to note that we continue to recruit and retain people of these exceptional qualities at this difficult time.

1415

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

Members voted Pour.

The Bailiff: I declare that carried.

Billet d'État VII

SCRUTINY MANAGEMENT COMMITTEE

I. Tribunal of Inquiry – Debate commenced

Article I.

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Tribunal of Inquiry', dated 11 February 2020, 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 appointment to the post of Head of Curriculum and Standards in accordance with the following Terms of Reference:

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 and 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 examine such other associated relevant matters as the Tribunal may think fit; and

e) to make such recommendations as the Tribunal considers appropriate.

2. To direct the Scrutiny Management Committee to request the Royal Court to appoint an individual or individuals to constitute the Tribunal of Inquiry.

3. To delegate authority to the Policy & Resources Committee to approve expenditure as required up to £150,000 in order that the Tribunal of Inquiry may be established and discharge its functions.

4. To resolve that the Tribunal of Inquiry should forward its resultant report to the Presiding Officer of the States of Deliberation for publication as an appendix to a Billet d'État.

The States' Greffier: Billet d'État VII, Volume I, Article I. Scrutiny Management Committee – Tribunal of Inquiry.

1420

The Bailiff: Deputy Inder. Sorry, Scrutiny Management, is it not? Deputy Green. Good thing you are not filming!

Deputy Green: Thank you very much for re-appointing me to the role, sir! I must start by saying about five minutes ago I accidentally tripped on a cable in this building and I have rather jarred my back, so I am going to try and keep this to a minimum. I am actually going to prefer to stand, sir, because it is more comfortable. I thank colleagues for beckoning me the other way.

In relation to this policy letter, clearly the outlook with coronavirus does put a different perspective on this matter, but my Committee has considered whether we should still lay this policy letter and the view of my Committee was they still wanted the matter to be laid for debate. Of course, the coronavirus situation can and will interrupt the enacting of any States' Resolutions, if the States does support this policy letter, but nevertheless my Committee still wishes for the States' Assembly to determine for itself this issue, one way or the other.

Clearly there would be delays in setting up any tribunal, but we are sure that best endeavours could be used to try to ensure that any tribunal could be done as and when feasible. Sure, a certain amount could be done by technology but, if need be, this review by a tribunal can be done further down the line and as and when appropriate.

The view of my Committee was very much that life has to go on to some extent. Issues of concern do not evaporate overnight, and my Committee would like certain States' Resolutions to be in place, but if their enactment has to be delayed, then so be it.

I am going to keep this relatively brief, for the reasons I have already alluded to. Despite our best efforts, my Committee has not been able to make much progress with the independent review in the way that we would have wanted. In such circumstances, my Committee have sought to refer this matter back to the States and, once again, we are seeking a Tribunal of Inquiry to deal with the matter in question.

No doubt Members have read the policy letter. In my view there are three very material points to make here. Firstly our independent reviewer basically has not been able to view all of the relevant evidence. Originally evidence was submitted to my Committee, with substantial redactions. The reasons given for those significant redactions included legal concerns regarding data protection and consent not having been provided by certain key witnesses for their personal information to be released.

Secondly, the introduction of the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2020, has meant that if my Committee does wish to obtain full, unredacted documents, we would have to undertake not to publish certain documents, or otherwise not make reference to them in a report or in a public hearing, if they touched upon the personal details of those who have not given their consent.

In those circumstances, our major concern here is that we will not be able to publish a truly meaningful, full and frank report, or hold an effective public hearing, in the absence of consent from certain key players. That is the tenor of the advice that we have received. But of course, this would all fall away if a Tribunal of Inquiry was established, because under that Law there would be a much greater liberty in what could be published in any event.

Thirdly, the third key point, is in relation to the cost of all this. It simply will not be financially prudent for SMC to publish a heavily redacted final report, spending a further £100,000 or so of public money on an external reviewer to do an independent report, without statutory powers, which we consider would constitute half the job when, by comparison, a Tribunal of Inquiry can be carried out for £150,000 and will deliver a much more effective outcome.

I am not going to labour these points any further, Clearly in September of last year, Members of the Assembly had an opportunity to support a Tribunal of Inquiry at that stage, but at that stage, sir, Members of the Assembly effectively told the SMC that it was incumbent on my Committee to try to conduct a review ourselves of the Head of Curriculum and Standards matter, within our current existing powers, and if we encountered problems in progressing that review, then we should return to the Assembly and seek redress, and that is what we are doing.

The reality is that when the Assembly rejected the proposals for a Tribunal of Inquiry last September, it has meant that nearly six months of time has been wasted, through no fault of my

1475 Committee, nor our external reviewer, so that therefore it is now absolutely essential for the States to enable a properly effective, independent and transparent review, by way of a statutory tribunal, even given the circumstances that we find ourselves in.

Any review of this issue, given everything that has gone on hitherto, since September 2019, in my Committee's view, must be de-politicised and the best way to do that is via these Propositions.
1480 A review in any other way will not do that.

Finally sir, on the statutory test set out in the 1949 Law, we say that this issue is indeed a matter or urgent public importance. It may be 30-odd weeks since this story first broke in the pages of the *Guernsey Press*, but that ignores how subsequent efforts to investigate the facts have been largely frustrated one way or the other. Time has passed, yes, but the questions and issues have not gone
1485 away. The passing of time has only added to the need for this to be investigated properly, in my Committee's opinion and whether this community can really have confidence and faith in the States of Guernsey's recruitment processes is still an issue of real public concern.

So that is all I am going to say. Clearly, events have overtaken the submission of this policy letter to some extent, but I am still asking the States to support these Propositions.

1490 **The Bailiff:** Just before we move on, can I just say it seems to me the sound quality has improved considerably. I hope everybody could hear that very clearly. I certainly can. I have got my own personal ghetto blaster here! I do thank Regency Events, who have replaced the microphones that we had this morning, as you may see. We have different microphones, which now have an on/off
1495 switch. So when you speak, you need to take care to make sure that you turn your microphone on. I do thank Regency Events for all that they have done.

I gave the credit to the wrong firm this morning. It is Regency Events who have set us up here and they have sourced these microphones from outside the Island, so they have done absolutely everything they possibly can in a very short period of time, and I do thank them.

1500 Having said that, I will next call the amendment, which was to be laid by Deputy St Pier, seconded by Deputy Trott and, in the absence of the President, will be the Vice-President of P&R, who will propose the amendments to be seconded by Deputy Stephens. Deputy Trott.

[Amendment 1](#)

To delete Propositions 1 to 4 and substitute therefor:

1. To direct the Scrutiny Management Committee, having regard to the commencement of the Scrutiny of States and Public Bodies (Guernsey) Ordinance, 2020, to resume its review of the facts and circumstances surrounding appointment to the post of Head of Curriculum and Standards in accordance with the following Terms of Reference:

(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 and 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 examine such other associated relevant matters as the Committee may think fit; and

(e) to make such recommendations as the Committee considers appropriate.

2. To direct the Scrutiny Management Committee to submit a report on the outcome of its review, together with such recommendations as it considers appropriate, under cover of a Policy Letter and accompanied by suitable Propositions before the end of September 2020.

Deputy Trott: Thank you, sir. Because this is a matter of reasonable public interest I would like to ask the States' Greffier to read the amendment, please.

The States' Greffier read out the amendment.

The Bailiff: Deputy Trott.

1505 **Deputy Trott:** Thank you, sir. Whilst I was not intending to present this amendment as its proposer, I would argue it is probably opportune that I am because, during my time as Chief Minister, I was subjected to a Tribunal of Inquiry into the firefighters' dispute at the Airport. Now that inquiry, sir, incurred significant cost and it concluded that, not only had I behaved entirely
1510 appropriately, as Chief Minister, and it exonerated me of any blame, it also went on to compliment me and say that no self-respecting Chief Minister would have behaved in any other way. It was, frankly, an utter but extremely expensive farce.

Now the Scrutiny Management Committee has the mandate, tools and funding to complete the current review, further to the introduction of new data protection regulations. However, it has had
1515 some difficulties in publishing under these regulations the evidence on which it may predicate its regulations, and I think we all understand and accept that.

The Policy & Resources Committee is cognisant of forthcoming legislation, specifically the scrutiny of States and Public Bodies (Guernsey) Ordinance, 2020, which will confer statutory powers on the Scrutiny Management Committee intended better to enable the committee to undertake its
1520 independent scrutiny function.

Those statutory powers would enable the Scrutiny Management Committee to overcome many of the challenges described in the policy letter. Section 1 of the Scrutiny of States and Public Bodies (Guernsey) Ordinance, 2020, provides for the Scrutiny Management Committee to apply to the Royal Court for an order imposing a formal requirement on a party to (a) produce documents to
1525 the Scrutiny Management Committee, or (b) appear before the Scrutiny Management Committee or a Scrutiny Panel to give evidence, or to give evidence and produce documents where a request to do so from the SMC has not been complied with.

Now, the PRC notes that the timetable for the progression of the new Scrutiny of the States and Public Bodies (Guernsey) Ordinance, 2020 is such that the new Ordinance could be in force as soon
1530 as 4th May this year. Further, if a Tribunal of Inquiry were to be established, it is unlikely that the Royal Court would be able to appoint the Members before the scheduled sitting of the full Court on 4th May 2020.

The PRC is therefore confident that the Scrutiny Management Committee would have the opportunity to resume the investigation to be undertaken by the independent reviewer, under the political oversight of the SMC, with the additional powers and, importantly, legal protection
1535 provided by the forthcoming Scrutiny of States and Public Bodies (Guernsey) Ordinance, within this political term.

In addition, it believes that it should be in a position formally to submit a report back to the States by the end of September 2020. So that is the case, I confess a very strong one, for supporting
1540 the amendment.

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

Deputy Stephens: I do, sir.

The Bailiff: Deputy Green, do you wish to speak at this point?

Deputy Green: I do sir, yes please. In the view of my Committee, sir, there are a number of problems with this amendment. First of all we have been told all along, by those who advise us, that
1550 when publishing a report on this issue, following an independent, non-statutory review, that it would face real problems with data protection, Employment Law concerns, and maybe even human rights issues. No such issues would pertain if there were to be a statutory tribunal.

Now the new legislation that Deputy Trott referred to on scrutiny powers is actually entirely silent on these areas in the context of publication of any reports. So I do not see how we can simply
1555 or safely assume that these data protection and other issues, which have blighted this review from

the very beginning, will now all fall away if we end up trying to publish a final report in the context of a non-statutory, independent review.

Of course, the additional scrutiny powers will allow us to, in theory, get hold of all of the documents that we have not yet seen, and it will enable us, again in theory, to summon witnesses to attend. But we should not assume that the requests for documents and for witnesses will not be initially turned down or rebuffed, meaning that we would have to make a formal application to the Royal Court for an order to compel the production of documents or to compel witnesses to attend.

How long may that take? If the application is contested, it could take a while. But the new scrutiny powers Ordinance is not a get out of jail free card for anyone and that is the one point, if Members do not remember anything else from what I am saying in this speech, this is the point to keep hold of: the new legislation for the scrutiny powers is not a get out of jail free card. It really will not help with the practical difficulty of getting a full and frank report published and I will explain why that is.

The Ordinance itself, at section 1, subsection 3(b) provides for SMC to undertake to receive documents in confidence, which implies a restriction from publishing them where appropriate, while section 5.1(b) allows the person appearing before SMC or a panel to request an undertaking not to publish, or publish only in redacted form, oral evidence or documents.

To be clear, the Data Protection Law operates in parallel with the new scrutiny Ordinance. This means that, where the Ordinance is silent or confers a discretion, provisions of the Data Protection Law definitely still apply. Section 5 of the Data Protection Law itself says:

So far as it is possible to do so, an enactment must be read and given effect in a way which is consistent with this Law.

I also note that there are no provisions in the scrutiny powers Ordinance itself for SMC to publish its findings come what may. We confidently predict, as a committee, that any report following the sort of review intended by this amendment would face substantial redaction due to the withdrawal of consent issues and would end up satisfying virtually nobody, all at great public cost. This is not a recipe for a full and frank report.

Let me be explicit. This amendment will, if carried, militate against the final report being a full and transparent explication of what has occurred and if the States wants that then on their own heads be it. The Tribunal of Inquiry would not encounter such issues, that is why we should adopt that approach, in any event.

The P&R letter of comment to this policy letter says that the scrutiny Ordinance would allow my Committee to overcome 'many' of the challenges described in the policy letter. But, crucially, not the challenge about publication of a no-holds barred written report in the public domain. This amendment, sir, if supported, will practically guarantee that the resulting report will be incomplete, redacted and that is not what my Committee wants from this process. So that is the first reason why Members should think extremely carefully before they endorse this amendment.

Secondly, we know that an independent review, as envisaged by this amendment, lacks transparency as a matter of principle. Under a statutory tribunal, the proceedings are in public. Under this, they would not be. They would be private and behind closed doors. If Members want justice to be done and to be seen to be done, this is not the way to do it.

Thirdly, I think it does need to be said that the costs of recommencing an independent review process like this would be broadly the same or maybe more in totality than a Tribunal of Inquiry. But far less effective, due to the problems with publication.

We have already spent, sir, about £60,000 on our QC to examine the evidence and it is of course true that P&R were prepared to make available a sum of a further £100,000 for the QC to examine the witnesses and to write a report. But spending that sort of money, public money, taxpayers' money, is in my Committee's view not an efficient use of public funds, when we know that we will not get to produce the sort of frank and robust report that we need, because, as I have already said, we suspect the whole process will be absolutely dogged by data protection and Employment Law issues, as this whole case has been dogged and blighted from the beginning.

An independent review, as envisaged with this amendment, will not be a good use of public money. By contrast, spending £150,000 on a statutory tribunal that will cut through those

publication issues, because a tribunal would have all of the powers of the Royal Court, would not in my Committee's view, be an inefficient use of public funds by comparison.

Fourthly, it simply will not be possible for this review to be done by September of this year. Coronavirus has probably seen to that. But even without that, there could well be delays. The experience we have had to date in trying to progress this review, by way of an independent process, we can hardly disregard the very slow progress that we have been able to make so far and not all of that was down to the lack of powers of my Committee.

Also, if we do not get quick access to the documents and to the witnesses, we will need to go to court to get those orders and there is no clarity about how quick that could be done. This would mean that any process would only be able to start in May, if the powers are in place by then. Of course, as things stand, we have heard this morning that the election may well be put back, but as things stand the election is going to be in June of this year. The next SMC would only be elected in July and would have probably very limited time to get to grips with this to produce a report for the September deadline.

The other point, again, it is going to be very difficult to meet this timeline, because of the nature of a review like this is going to require a very methodical and laborious process before it is published and before it sees the light of day.

Fifthly, sir, and perhaps most importantly, it can be said to be somewhat questionable governance for one of the two committees potentially subject to Scrutiny activity on this, or any other issue, to be seeking to direct the way in which that Scrutiny is actually done. We should aspire to better governance, in my view, sir, and that is why we need to de-politicise this whole process by a statutory Tribunal of Inquiry.

So, sir, there you have it. This amendment will not get around the serious difficulties in relation to publication of a truly meaningful and frank report. It will not enable a truly transparent review process, because it will be in private, not in public. It will cost another £100,000, but that will not be a good or efficient use of public money, due to those issues with publication. Delay will inevitably mean that the September deadline is totally unrealistic, and I am afraid it does not represent the best governance.

So in conclusion what we have experienced to date, since September, suggests that trying to commission an independent review on a non-statutory basis, is just not the way to do things in a timely or effective manner. What possible confidence can we have that the next SMC, or this SMC will be able to publish a full and frank report in a timely way, with all of the data protection issues that we have seen.

Sir, respectfully, Members cannot separate out the alleged argument for this amendment with the very limited progress that we have been able to make since September of last year and I ask Members to reject this amendment.

Procedural – Pause for filming and photography

The Bailiff: Members, before I call the next speaker, as you can see, Deputy St Pier and Deputy Soulsby have now arrived. Just for your information, we did delay the photograph session until you were here. So now that you are here, I suggest that we just pause to allow photographs and film to be taken.

So that those of you who are hiding under the gallery can be seen, I have suggested that photographs be taken both from there and from this end of the hall as well. So, it may take a little bit of time, but I ask you to bear with us. I am sure this is a matter of public interest, for the public to see how the Government is actually assembling in these extraordinary times.

There was a pause for filming and photographs to be taken.

**Tribunal of Inquiry –
Debate continued**

1650 **The Bailiff:** We will resume. Who wishes to speak next? Deputy Tindall. I can just about see you in the dark over there!

1655 **Deputy Tindall:** Thank you, sir. The independent scrutiny into the appointment to the post of Head of Curriculum and Standards has dragged on, but I believed on first reading of P&R's comment, it adequately explains why the imminent changes reinforces my previous decision, I had made not to approve the setting up of the tribunal. So I originally supported this amendment.

1660 That said, and this is the art of the debate, I have listened to an excellent speech from Deputy Green, so will await the response to debate before deciding on my vote. I do wish, however, to draw attention to something mentioned in that letter of comment, which jumped out at me, and gives me concern about the way in which the Data Protection (Bailiwick of Guernsey) Law, 2017 is being interpreted.

It says:

Further, the Policy & Resources Committee has been advised that, if the processing of information had commenced upon the legal basis, in terms of Data Protection Law, of being in the public interest, rather than on the basis of consent, these barriers to publication would not have applied.

1665 So, I discussed this with HM Comptroller, for which I thank him for his advice, because this illustrates to me the apparent lack of appreciation and consistency of application by committees and, I have to say, in business, as well. This is not anyone's fault in particular in respect of interpretation, because it is complex. But it is with regard to the Data Protection Law.

There is an argument that paragraph 5 of part 1 of Schedule 2 might apply and maybe what the paragraph at the top of page 3 of this letter is referring to. Schedule 2 sets out the circumstances in which processing, which includes disclosure, is lawful. Paragraph 5 is in the following terms:

The processing is necessary for the exercise or performance by a public authority of (a) a function that is of a public nature; or (b) a task carried out in the public interest.

1670 HM Comptroller's advice was then that the relevant committees could consider this as an option. However, the individual data subjects can still object to the public interest gateway being used and, in that event, section 18 of the Law would apply. If they were to object, this would require processing to cease, unless the public interest in the object of that processing outweighs the data subject's significant interests.

1675 So he confirmed that this is an issue that the individual data controller committees would need to consider and take views on. When I asked if we needed regulations and guidance on this, the response was also that a resolution of the States could do the trick as well, confirming that, in their view, there was a public interest in SMC undertaking a review and requesting Committees to collaborate with the review, although even then, individual committees would need to consider the position in the event that any data subject objected to the use of the data under section 18.

1680 As can be seen, he concluded, as I have said, it is a very complex subject. However this does really reiterate the whole thing that I have been saying since GDPR the initial document draft was issued many years ago, that we need to have regulations and guidance issued to help clarify this very complex subject, to help us all to have a common understanding and I am sorry, but that is what I believe is deficient. A States' Resolution could have isolated this one incident, but it is that underlying, understanding that other legislatures have that I feel is missing.

So, for me, I hope that reflecting on this advice, how the data protection issues, as well as others mentioned by Deputy Green, can be overcome, is of highest importance. But in particular, when individuals have already said they do not consent to the publication. Thank you, sir.

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The Bailiff: Deputy Inder.

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Deputy Inder: Sorry, just getting to push the button. I have got huge sympathy for the Scrutiny Committee. I think they have tried their damndest under difficult circumstances to deliver something that they knew that they could never deliver. How on earth we ever got to a point where there is a submission of what looks like 1,400 pages to what was effectively a recruitment process, I would worry less about the £60,000 spent on the QC, I would love to know what the price was of delivering some of the documents for the submission process in the first place. That must have been horrendously expensive.

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I will not be supporting this amendment, sir, and I am going to also talk in general debate as well. Mainly because it looks to me, and with the greatest respect, a kick into the long grass. I think the best thing that Policy & Resources should have done is not laid an amendment and just voted against the Tribunal of Inquiry, because I genuinely do not think that Deputy Green ... Deputy Green knows, as an advocate, and I have got to take advice from him, he is going to know this more than me, he knows that he will not be able to deliver it under this amendment.

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I will then move onto now, sir, the Tribunal of Inquiry itself. This does not get any better actually. This morning we heard from Deputy Michelle Le Clerc and Deputy St Pier about where we are, where we are likely to be, in the economy, over Covid-19, and what I do not want Covid-19 to be, is the new Brexit. If you remember, before Brexit, Brexit was the excuse to do absolutely nothing at all. We carried on doing something, but Covid-19 seems, in terms of the state of our revenue in the next year or so, is going to be an awful lot worse.

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I will just read what Deputy Michelle Le Clerc said. She has already stated that, as a consequence of Covid-19, there are indications of people using her committee's services. So we are already looking at changes in the economy, within a week and a half. Deputy St Pier, in his statement, he said it is the greatest crisis in 100 years. Covid-19 is no respecter of borders and importantly, he said GDP. No respecter of GDP. This is a crisis like no other. He went on to say it is the biggest demand shock to the economy and he gave fair warning that the short to medium issues for the economy will suffer. Not only is there a demand shock, there is likely to be a revenue shock.

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Now I have been a diver, on and off, for probably 25 years. Less so now than I used to be. As soon as I get cold, the first thing happens is that the extremities of your arms get cold because the blood rushes to your inner organs, to try and save the economy and to keep, effectively, the body alive. I have been too close to it sometimes, I can tell you that now.

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I think this is where we are. Right now, this is basically a get-out clause for Education. I think we should have gone down this route in the first instance and that was a decision that should have been made by this Assembly. But I cannot deny what has happened in the last six days or so, rather than six weeks. More like the last six days, where we are.

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Now I have got to look at the price tag and someone will tell me I will know the price tag of everything and the value of nothing. Well, there you go, that is me. I will not be spending £100,000 of public money on something that I suspect is not really going to achieve a lot, even with the QC involved. I think we are in the realms of the extremity of the fingers and we are in a position now, where we need to have to protect the heart, the lungs, the brain and the liver of our economy.

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But, now this might be music to the ears of Education, it might be music to the ears of Policy & Resources. But it is not just here. As I go forward in this crisis, anything that looks like a waste of money and can be done better, I will be voting against it. I will be voting against it from this point onwards. Before anyone gets too excited, looking at the Inert Waste Strategy, which has no fixed cost on the end of it, I will be voting against that as well. Because, if after two or three years you come back not with a price, do not come back to me asking me to vote for it.

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This is where I am, from this day forward, future. If it looks like a waste of money. If it looks like extremities. If it is not saving our economy, our community, our public services, I simply will not be voting for it. I am sorry, Members of the Scrutiny Management Panel, under any other circumstances I would have supported you, but everything has changed over the last two weeks.

Deputy Lester Queripel: Sir, I rise to invoke Rule 26(1) please.

The Bailiff: Yes, Rule 26(1). Will those who have not spoken and wish to do so, that is who have not spoken on this amendment and wish to do so, please stand in their places. We have seven people standing. Do you wish to proceed Deputy Lester Queripel?

Deputy Lester Queripel: I do, yes sir, please.

The Bailiff: I put to you, then, the Proposition that debate on this amendment be terminated. Those in favour; those against?

Some Members voted Pour; others voted Contre.

The Bailiff: I think we will have to have a recorded vote on that, but of course it is not an original Proposition, nor an amendment, so no proxies may be exercised on this. It is only those who are present within this hall who can vote.

There was a recorded vote.

Carried – Pour 18, Contre 11, Ne vote pas 2, Absent 8

POUR

Deputy Soulsby
Deputy Roffey
Deputy Ferbrache
Deputy Parkinson
Deputy Lester Queripel
Deputy Leadbeater
Deputy Mooney
Deputy Trott
Deputy St Pier
Deputy Stephens
Deputy Meerveld
Deputy Fallaize
Deputy Inder
Deputy Lowe
Deputy Graham
Deputy Le Tocq
Deputy McSwiggan
Deputy Langlois

CONTRE

Deputy de Sausmarez
Alderney Rep. Roberts
Deputy Tindall
Deputy Brehaut
Deputy Gollop
Deputy Le Clerc
Deputy Merrett
Deputy Laurie Queripel
Deputy Green
Deputy Brouard
Deputy Dudley-Owen

NE VOTE PAS

Deputy Prow
Deputy Tooley

ABSENT

Deputy Oliver
Alderney Rep. Snowdon
Deputy Le Pelley
Deputy Smithies
Deputy Hansmann
Rouxel
Deputy Paint
Deputy Dorey
Deputy de Lisle

The Bailiff: Members, the voting on the guillotine motion was 18 in favour, with 11 against and two abstentions. I therefore declare it carried.

Deputy Trott, you have the right to reply to the debate on the amendment, do you wish to do so?

Deputy Trott: Yes please, sir. There were no questions of me but there were a couple of matters, which I think that I should reply to. The first was, I think it was Deputy Green who raised governance issues. I think I want to make clear that I am able to move this amendment entirely impartially. As I understand it, there was nothing discoverable with regard my involvement. I had absolutely no

1765 involvement whatsoever, not one scintilla, zilch, zero. So I am not going to be part of this process in any shape.

But the two substantive points I wish to make are these: how can a fully independent Tribunal of Inquiry even function? How are they going to get here? Deputy Inder's comments were particularly relevant. It is a whole new paradigm. Things as simple as that are now going to pose a very real issue and, in fairness to Deputy Green, he did say in his remarks that coronavirus has put an end to any inquiry completing before September 2020. I give way to Deputy Green, sir.

1775 **Deputy Green:** I am very grateful to Deputy Trott for giving way and I think he was making the point, but he would no doubt agree with me that, if this amendment is carried, the same problem would apply to an independent review other than a statutory tribunal. Because certainly, if the SMC is tasked with this review, we would still use the same QC, who is not based in Guernsey.

1780 **Deputy Trott:** I think the second part of what Deputy Green said, again, is particularly relevant, and that is that everything has changed. Everything looks completely different, as Deputy Inder stated earlier. The truth is, sir, we have far greater priorities everywhere we look. Which was why I was delighted that Deputy Lester Queripel brought the guillotine motion. Because things are different. Whether you vote for this amendment or otherwise, is a matter clearly for your own conscience, but what we must do is deal with the things that really matter and, right now sir, this does not.

1785 **The Bailiff:** We vote, then, on the amendment proposed by Deputy Trott, seconded by Deputy Stephens.

1790 **A Member:** A recorded vote, please sir.

The Bailiff: We will have a recorded vote and, of course, proxies will be in play. So those who hold a proxy can vote on behalf of the person for whom they hold the proxy. Does anyone need an adjournment, in order to just check how their principal would be voting? No. We will go straight to the vote then, on a recorded basis.

1795 *There was a recorded vote.*

Lost – Pour 11, Contre 22, Ne vote pas 6, Absent 0

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Soulsby	Deputy de Sausmarez	Deputy Roffey	None
Deputy Tindall	Deputy Prow	Deputy Ferbrache	
Deputy Brehaut	Deputy Oliver*	Deputy Tooley	
Deputy Parkinson	Alderney Rep. Roberts	Deputy Fallaize	
Deputy Le Clerc	Alderney Rep. Snowdon *	Deputy Graham	
Deputy Trott	Deputy Gollop	Deputy Dorey*	
Deputy St Pier	Deputy Lester Queripel		
Deputy Stephens	Deputy Leadbeater		
Deputy Le Tocq	Deputy Mooney		
Deputy Brouard	Deputy Le Pelley *		
Deputy Langlois	Deputy Merrett		
	Deputy Meerveld		
	Deputy Inder		
	Deputy Lowe		
	Deputy Laurie Queripel		
	Deputy Smithies*		
	Deputy Hansmann Rouxel*		
	Deputy Green		
	Deputy Paint*		
	Deputy Dudley-Owen		
	Deputy McSwiggan		
	Deputy de Lisle*		

* denotes Deputies who voted by proxy.

The Bailiff: The voting on the amendment itself was 11 in favour, with 22 against and six abstentions. I declare it lost.

General debate. I will take you in order. Deputy Roffey, Deputy Ferbrache, Deputy McSwiggan. I will go in that order. Deputy Roffey.

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Deputy Roffey: What to say about this and should I even say anything at all, because in some ways I could be seen as too conflicted and I am certainly not going to vote. But there are a couple of things I want to get off my chest. The first is that Deputy Inder could not be more wrong. He said a lot that made a lot of sense, actually, but he also said that this could be seen as a get-out clause for Education and Education will be relieved that he is now taking this stance. Nobody more than Education throughout this whole episode has wanted a light shone on it and brightly and clearly. I did, I do because I know I have done absolutely nothing wrong whatsoever.

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Another thing I want to get off my chest is that I have never found myself in a more frustrating position in local politics. Within 48 hours of Scrutiny writing to us, asking for our background papers to be provided, I had printed up every single bit of correspondence or other documentation I had on the subject and put it in a file for their attention. I had also taken time out of what was then a busy schedule to write a lengthy, personal submission, explaining what I knew of the events that they wanted to probe.

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Now my knowledge was maybe a little bit less than some others, because these events took place at a time when I was semi-detached from local politics, for personal reasons. But what I knew, I wrote down to submit, with my background papers, because I wanted to be as helpful as I possibly could be towards the SMC investigation.

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Having prepared all of that, almost by return of post, as it were, from their original request, events since have ground out at a glacial speed. Why? Well, some of the emails that I printed off for submission mentioned other people, as did my covering submission. Indeed, some of the emails were part of email chains, where third parties had been participants. As a result, I was advised by the States' legal advisers, that unless every one of those people gave their express permission for me to release those documents, then I would be acting illegally by doing so, under the data protection legislation, and would be potentially liable for very heavy penalties indeed.

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1825 So, all of the relevant people were written to, seeking their consent. Not by the political Members
of my Committee or P&R, but by the Civil Service. We were later told that some of them had refused
to give that consent, while others had only given qualified consent. By the way, neither I and I am
sure no other political Member of ESC or P&R have any idea of which people refused permission or
only gave qualified permission. Quite rightly, we were not told. I could guess, but it would be just
1830 that: guesswork.

Anyway, as a result of full consent being withheld by a number of people, all of the documents –
not just mine but those provided by my colleagues and indeed by the Members of P&R and the
other players involved – would need to be redacted. I am sorry about that because, while I
desperately wanted to co-operate with SMC. I do have some red lines. Being told that I would be
1835 breaking the Law is one deal-breaker. I do not get in the habit of breaking the Law if I can help it.
The prospect of losing my house to pay any fine was another red line, I have to say, and maybe an
even greater one than the moral turpitude of being a law breaker.

All of us desperately wanted to provide the information and I have to say the President of ESC
more than any of us. Indeed, we really did have to restrain him, almost physically at times, from
1840 acting illegally and handing over all of the paperwork, because he was desperate to be open. So
what happened then is that experts at St James' Chambers painstakingly went through, first P&R's
submission and then ESC's submission, making the appropriate redactions, after which the
submissions were handed over.

Fast forward slightly. An order was made by the Home Affairs Committee, which appeared, at
1845 first, to open the door for us to provide the un-redacted information. We were delighted. It was
what we had wanted to do all along. I can even – I am not sure I am allowed to mention emails from
other people because I am a data controller, but I am going to do it – I recall an email from Deputy
Fallaise, which included the word 'yippee'. Maybe not the most statesmanlike of expressions, but it
conveyed the feeling of relief that at last we could do what we had wanted to do all along.

1850 But, not so fast, the lawyers stepped in again and told us that the wording of the order made by
Home Affairs was very specific. It would only be legal to hand over the un-redacted paperwork if
and when we had received an assurance from SMC that it would not be published without the data
subject's express permission.

As a result, we requested, as I think did P&R, who were in exactly the same boat as us, a fair
1855 processing notice from SMC, giving this undertaking. So far, that has not been received. I
understand why not, I understand why they would regard that as an unsatisfactory situation. But, if
we had received it, those documents, un-redacted, would have been handed over straight away.

So, now we are debating another call for a Tribunal of Inquiry into events that took place nearly
a year ago. Is it the most absurd, ludicrous, bonkers situation that one arm of an organisation cannot
1860 share information with another arm of the same organisation? Yes, in my opinion it is. (**Several
Members:** Hear, hear.) Did I or any other Members of ESC or P&R help to design our data protection
legislation, which stops it from happening? I do not think so. I certainly know that I did not.

We are where we are, and would I like a Tribunal of Inquiry or not? That is today's question.
Frankly, I am torn. On a personal level I would really welcome it. It would be yet another distraction
1865 from the day job and, my goodness, ESC have faced enough of those over recent months. It seems
at times we have spent more time servicing various sorts of inquiries than getting on with what this
Assembly elected us to do.

So it would be another distraction, but at least it would be a chance to clear my name, even
though I do not really see why I have to do so. For the sake of the record, sir, I know we are not
1870 under oath in this Assembly but always, throughout my States' service, I have regarded what I say
in speaking here, or across the way, as almost to the equivalent of being under oath. I have never,
ever, deliberately misled this Assembly. So, if it helps Members I can tell them this: at no time did I
try, in any way, to influence the Members of the selection panel or subvert its independence. I
categorically did not.

1875 Not only was I absent, actually, for much of this time, but I just would not do such a thing. As a
former long-term member of the Civil Service Board, the proper process of interview and selection

is far too precious for me. Did I expect a certain outcome? Well, yes I did. Short of lobotomies, none of us can prevent ourselves from expecting things.

I expect Deputy Gollop to be re-elected in June, or whenever it may be.

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Deputy Gollop: I might not be alive!

Deputy Roffey: Whether that expectation proves to be well-founded, time will tell. The point is that that expectation is not subverting the democratic process. It is just human nature. Likewise I had expected a certain outcome here, but once it had been decided to go to an open recruitment process, I can promise Members, through you, sir, that at no time did I improperly try to rig that process in any way whatsoever.

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Likewise, despite being somewhat surprised by the outcome, at no time did I contact the panel's first choice, nor ask anybody else to do so, in an attempt to persuade them not to take up the job. Any such suggestion is categorically untrue. I was surprised, when I was told later of the make-up of the Appointments Panel, as a former CSB member who had been involved in countless appointment processes, I was astonished over which Members were invited to vote. But none of that was the appointee's fault. The appointee had been appointed, or I think they were, the appointee was someone who I liked very much indeed and had enormous respect for. There was no way I wanted that person to be unfairly treated.

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Sir, remember this was not an ESC appointment, it was a Civil Service appointment, and it was the Civil Service who contacted our Committee some time afterwards, some days afterwards, to tell us that the panel's first choice had decided not to accept the job and therefore the Civil Service had automatically offered it to the panel's second choice.

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To this day, I have absolutely no idea why. Why the first appointee decided not to take up the post. I have told Members these things and I have told them that, when I am speaking in this Assembly, I regard it as the equivalent of speaking under oath. They can draw from that what they want to, or what they do not want to.

But if it is not sufficient for Members, then go-ahead, I say, and establish a tribunal. I have nothing to fear from it all. So why am I torn over whether it is the right thing to do? Well, there is the issue, as Deputy Inder pointed out, of the money at this particular time and the same would have been true if the amendment had gone through. I would have been delivering this same speech about whether to have that review as well.

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So that is a consideration. It is not just that, though. It is also a feeling that we are actually blowing these events out of all proportion and if we lead to a tribunal on the basis that committee has given one of the Committees of the States a savaging and a social media storm has then ensued, then we may be proving to be building a rod for our own back and we may be seeing quite a few tribunals over the years ahead.

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But my real reason for being torn is this. As I said at the beginning of this speech, I have no idea which data subjects have withheld their full permission for data sharing. But I can guess, and I suspect it may well be some of the parties who no-one in this Assembly, not even the most ardent critic of ESC, would suggest were in any way blame-worthy or at fault for anything. Third parties who want a line drawn under these events and to get on with their lives and their jobs.

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So while I very much want my name cleared, I do wonder if I have the right to drag them forward as reluctant participants in what will inevitably turn out to be a media circus, probably early next year, because, with coronavirus, that is the earliest it could happen. A media circus just to establish what I already know to be my probity. To engulf them in a storm in a teacup, stirred up for political reasons.

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I personally would like it to happen, but I do not know if I have got the right to do that. It is a poser, and as I said earlier, I am going to abstain. Now I never, ever, abstain for reasons of not being able to make up my mind, but certain principles were dinned into me when I first joined the States. There was no fancy induction process back then. You just learned the ropes as you went along. But certain things were made clear and I can remember Alan Grut and Roydon Falla telling me, in no

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uncertain terms, that you do not vote on matters like this when you are the subject that has been discussed. You leave that to the judgement of your peers.

For a while, I took that so literally that I never voted for myself in committee elections. It was only once, when I scored a grand score of two, when standing for an election, and other Members speculated that either my proposer or seconder must have voted for somebody else, that I realised I was probably taking it too literally and you were allowed to vote for yourself.

These days I am less pure! I was young and idealistic then. Now I am old and quite idealistic. But this is clearly a matter where those principles explained to me by Alan Grut??? and Roydon Falla do apply. So I will abstain, and I will fully respect the decision of my peers, whatever it is. All I say is, do not take too long making up your mind, just decide one way or the other and let us get on with it.

The Bailiff: I said I would call Deputy Ferbrache next.

Deputy Ferbrache: Thank you, sir. I quite enjoyed the journey through Deputy Roffey's political life just now. I fully accept every syllable and every word of what he has just said, and his integrity and I believe that what he has said is absolutely the truth. I abstained in relation to the amendment, but I am going to vote against the main Proposition.

Yesterday, I celebrated my 39th anniversary as a Guernsey advocate and in July I will celebrate my 48th anniversary as an English barrister, so I have been a lawyer rather a long time and, what I would say in relation to the Law, is that can be a complete – and I use this in a non-pejorative sense – a complete ass. And it is in this particular case because I spit out the words 'data protection', because data protection has caused this particular problem.

Now Deputy Trott, wisely and accurately, when he is, well he still is Chairman of Guernsey Finance, but I was a Member of the Guernsey Finance Board for about 18 months or so and I remember him say, when he was talking about amendments to the data protection legislation, we have got to go along with this; it is something that we have absolutely got to go along with, it does not matter whether it is logical or not, because we want to be able to sell our financial products into the world market for them to be available. He was absolutely right then, he is absolutely right now.

So that is the reason we have got data protection. But it is a nonsense. The fact that it took one Committee two-and-a-bit months, another three-and-a-bit month, to produce highly redacted documents, was no doubt because the lawyers were there with their thick black pens. The fact that we then had the nonsense that Deputy Roffey just talked about was again because lawyers were there with their thick black pens. I am sure they were right, but it almost makes me ashamed to a member of a profession that I have been a member of all my working life, because it takes away the public gaze.

If people could have seen the bits of paper, the case would be proven or not proven beyond any doubt. They cannot see the bits of paper. But what I am convinced about is we now must move forward. We have got a virus that is literally killing people in the world. We have got massive financial pressures upon our financial stability and economic base going forward and to spend, it might be just another £90,000 or £100,000 in these circumstances, to me, is an absolute waste of money. We have got to start moving forward.

Whether Education covered itself in glory or not, I do not really care now. I just think that we have greater problems to resolve. And we have got to say, in relation to all this, I would say to the data protection people who administer it in this Island on occasions, administer it with a bit more common sense than they actually do. If that causes offence, well it will have to cause offence. I can only speak from practical experience of dealing with them. But in relation to that, going forward, we have got far more important things to do in the next six to 12 to 18 months than to spend another £90,000 to £100,000 of public money on something that should be moved on and forgotten about.

The Bailiff: Deputy McSwiggan.

Deputy McSwiggan: Thank you, sir. I did not vote for the amendment, because there are only so many times that you can lead a horse or perhaps in this case a Guernsey donkey to water and expect it to drink. The Scrutiny Management Committee have made it quite clear that they are either not willing or not able to deliver this review with their own existing powers and resources.

But the Scrutiny Management Committee must not take that as a commendation of their proposals within this policy letter. There are just two new things that I would like to add to the debate, in addition to what Deputy Roffey and Deputy Ferbrache have said, and to commend the speech that Deputy Inder made during the amendment debate, because I think he set the right context for all the decisions that we are going to be making in the next little while. Although I know I am going to disagree with him on almost every question, of what is a wise use of Government resources or not, I think that is the framework we all need to be thinking within.

The first additional point I want to suggest, sir, is that the question of prioritisation is not just about financial resources. I think that the Scrutiny Management Committee should have thought twice before asking for this level of public resource to be spent on something that is, even through a Tribunal of Inquiry, likely to be a report that will satisfy no one and that will prove to be an extensive waste of States' money, to borrow Deputy Green's words.

But I also think that they should have thought twice about how they prioritise their own focus and their own energies in what is an extraordinary time. We are responding to a crisis in a way that a crisis needs to be responded to, but inevitably that means the normal structures of democracy are changing and where there are those sort of grey zones around what is democratic and what is necessary in the context of a crisis, we need our Scrutiny Management Committee to have its eyes open and completely on that ball. This should not be a priority for the Scrutiny Management Committee at this time.

The other new point, I suppose I want to unpack slightly further a point that Deputy Roffey made and again I want to just draw attention to words that Deputy Green used several times. He said this work has been dogged and blighted by data protection and Employment Law issues and maybe even human rights issues. It does sound like the Law is an obstacle, as Deputy Ferbrache said, but we have to pause and ask ourselves what is that Law doing?

Now, I do not think that any of us look particularly fondly on Data Protection Law, but what about Employment Law? We are a very small community. We rely on the goodwill of people in our community to do their jobs and to continue to do their jobs. We rely on good quality people wanting to have jobs in the public sector, and if they do not have the protection of effective Employment Law and know that, effectively, the dirty linen of their employment processes are going to be aired in public, I think we can no longer guarantee that we can rely on that.

Similarly, human rights are about protecting the basic privacy and liberty of our citizens. This is not something that the Scrutiny Management Committee should be rushing to run roughshod over, and that is what we are being asked to do. Deputy Roffey made it quite clear that this is not about politicians withholding or withdrawing information; the politicians appear to be, and I believe that they are, quite desperate to have their say. Almost up until the moment of this debate, I was toying with whether I should just vote for the Tribunal of Inquiry this time around and let them have that opportunity to get it all out in the open and let a final judgement be made,

But there are people in this process who have no right of reply. I do not know whether it is the candidates, whether it is other people in the process, who are involved in various aspects of the decision-making, but they do not have the same liberty to speak out and defend themselves that we, as politicians, do.

In talking about removing the barriers of data protection, of Employment Law, of human rights, the Scrutiny Management Committee is asking us to ride roughshod over their basic protections. That would be an extraordinary request, sir, even if we were in extraordinary times. But now, in a crisis, and at the cost that this report would take, I think it simply cannot be justified at all.

The Bailiff: Deputy Le Clerc.

A Member: Can I invoke Rule 26(1) please, sir.

2035 **The Bailiff:** Right, another 26(1). Will those who have not spoken in general debate and wish to do so please stand in their places? We have 10 people standing. Do you wish to go ahead?

A Member: Please, sir.

2040 **The Bailiff:** I put to you the motion that general debate be terminated. Those in favour; those against.

Members voted Contre.

The Bailiff: I believe that is defeated. Deputy Le Clerc, I said I would call you next.

2045 **Deputy Le Clerc:** Thank you, sir. I am going to pick up on the theme of Deputy McSwiggan and she has put far more eloquently what I was wanting to say than I can do, but I absolutely agree with her. There are people that applied for these positions, not necessarily internal candidates because it was an open recruitment process, but applied in good faith, and now they are in danger of having all of their details aired in a public inquiry.

2050 They may be people living on-Island, they may be people from the UK. They may not want their existing employer to know that they applied for that position and I absolutely agree with the points that Deputy McSwiggan has made. However, I want to say that I am not against openness and transparency but, up to a point, where I think it does infringe on human rights.

2055 I think when I originally read this document and, in fact, I am almost pleased that it was delayed, because I think it went under my radar for the last debate, so I have a little bit more time to look at it. But this Tribunal of Inquiry (Evidence) (Guernsey) Law, 1949 was of interest to me. I thought, why this Law? Was it something to do – I am always interested in things to do with the Second World War – was it something to do with some secrecy or some documentation that needed to be aired through this inquiry process, due to the Second World War?

2060 I went along to get out the original debate, where it was discussed, and this tribunal came about, this Law came about because, and I will just read it shortly.

The Tribunal appointed by the States to inquire into allegations made by –

– I will call it Mr X –

– at a meeting of the States on 17th December 1948 concerning behaviour of certain members of the States' Civil Service, sat on 29th December and heard evidence given by [Mr X] and [Mr Y], the only witness available. Each of the witnesses spoke of specific acts of bribery of civil servants.

2065 Bribery of civil servants. We have dug out a Law from 1949 that was enacted to deal with what were very serious offences at that time. We should not be using this Act to go on a witch hunt to go through a recruitment process and I ask Members to throw out the Propositions in this Billet. Thank you, sir.

2070 **The Bailiff:** Deputy Graham.

Deputy Graham: Thank you, Mr Bailiff. I shall be very brief. I was not going to speak but I am prompted to do so by something that Deputy Inder said earlier on. I could actually repeat, almost word for word, what Deputy Roffey said earlier on certainly as the matter applies to me. I am not going to do so.

2075 He mentioned in passing that the President of ESC, Deputy Fallaize, had to be restrained, really, from saying, 'publish and be damned'. I have to say my instincts were very much the same. I tended

to have a pretty gung-ho attitude to this. But, like Deputy Roffey, I concluded that I could not consciously go against very clear advice that to do so would be breaking the Law.

2080 But the reason I was so keen to do so was not only, as Deputy Roffey has explained, to clear ESC's name, it was also because I know, out there, there are persons who deserve to be brought to account and I am pretty keen that they are brought to account. But I do not see any way that they can be, other than in some form of inquiry, which allows everything to come out.

2085 Of course it is in their interests and not, Deputy Inder through you sir, it is not in the interests of ESC that the stain that might persist on ESC's reputation, which I have to say some colleagues occasionally bring out and give a polish to, it is not in ESC's interest that that stain remains, it is the person that I have in mind. I do not have the privilege, really, to point the finger there.

2090 So where does this leave us? I wish the truth could come out. I have got to the stage, one is almost worn down by this, where you say, almost. 'I can live with this'. At what cost would the truth come out and I think there is nothing like the current situation that the Island and, in fact, the universe finds itself at the moment, to really emphasise the question. At what cost? I will not be voting on this particular Proposition, for reasons, which I hope are obvious, but I think I have made my views clear.

2095 **The Bailiff:** Deputy Prow, then Deputy Lowe.

Deputy Prow: Thank you, sir. I would perhaps like to try and bring a little bit of balance to this debate. I completely accept the situation that the Island faces, and that situation was outlined in this particular debate very well, by Deputy Inder. But we live in a democratic society and we have a parliamentary system. One of the fundamental planks of that democracy is a scrutiny role.

2100 Why I am going to support Scrutiny Management is because they have considered this at great length. Not only have they considered it, this is the second debate. I made a schoolboy error when researching this, where I was going to have a cup of tea and I printed off the Hansard report of the debate. It comes to 50 pages.

2105 If you look at the debate, a lot of it is around, Deputy Graham and Deputy Roffey have made the point very powerfully, around that Committee wishing to clear their names, but it is about this parliamentary democracy having the ability to be able to scrutinise the conduct of the Assembly and the decisions we make.

2110 What price do you put on that? We are not talking about exceptional amounts of money. Talking about the priority of this, in any case, in either option, whether it is a tribunal or whether the Scrutiny Management Committee deals with this another way, the important factor to me is we have voted very able Deputies onto Scrutiny Management. They have looked at this and they consider, to do their job properly, they need a tribunal. If that is what we are being recommended, we could not make a proper decision, the very long debate we had ended up completely in no man's land, we voted an amendment and then voted it down again.

2115 We did not look very good as a democracy in our ability to be able to scrutinise ourselves. I do not think, actually, starting to have that debate on the floor of this Assembly is particularly helpful. Why I am going to support this Proposition is because I do have faith in Scrutiny Management, and I think they should be supported in this. Thank you, sir.

2120 **The Bailiff:** Deputy Lowe.

2125 **Deputy Lowe:** Thank you, sir. It started off with Deputy Ferbrache saying that data protection was the cause of this problem. No it was not, Deputy Ferbrache, data protection was in place before we actually brought the report to the States a couple of years ago. It was already in existence. The only difference being now is actually that companies are fined if they do not look after data. There is this myth that, actually, the data protection scheme that came forward was new. No, it was not, and he should know that. I am sure he is aware of that.

2130 So for data protection to be used time and again as excuses actually does not reflect particularly well, I think, on the States who still are using that as an excuse or blaming data protection. We all voted for it and I thought everybody understood what it actually meant. It was now enforcing a fine, making people more responsible.

2135 So where am I with this one? I have not actually changed my mind at all. I think we owe it to the staff involved here and I think it is important that we send out the right message to the staff that we do have a duty and we are denying them that opportunity. They have made it very clear that they wish to be involved with the inquiry that is going to take place and for it to happen in an independent manner, away from Scrutiny, because Scrutiny have tried, Home Affairs tried to assist – as you know – by making the stipulation there and changing the regulation.

2140 I think, what has everybody got to be afraid of here? Why are we trying to sort of block justice or trying to actually give people that opportunity, who left their job – remember that – because they were not prepared to sign a document that would go against the Law. Now I take my hat off to anybody who will do that, when you give up a job that you really want to do. Was it right, was it wrong? It is not for the 39 of us in here to make a judgement. We are not sitting here listening to all the evidence. We have not got everything before us.

2145 It may be that Education, Sport & Culture did absolutely everything right. Great. So why block this? Why not go ahead with it and support the Scrutiny Panel to be able to get on with the Tribunal of Inquiry. It was also said about the courts, what will actually happen with coronavirus, being able to make sure we have got somebody independently? Well, the courts are going to continue to deal with all essential matters and any necessary steps to be taken to ensure the courts can and will operate.

2150 Again, it is not for the States to decide how the courts will operate. We have some major court proceedings that are taking place or coming up to take place. Are we saying to the courts, actually you must not ask so and so, because they might have to do this and might have to do that? Absolutely not. That is not our job to do that. So I think, again, if this report from Scrutiny is supported, it will be up to the courts of how they deal with that and that is the right route to do that. It is not for us to block it because there might be a problem.

2155 We can make as many problems as we want to on this one and we can come up with all sorts of reasons as not to do something. For me, I would prefer to actually send out a nice clear message that, actually, we are transparent, we are happy to actually go ahead with this, we have got nothing to hide. Let justice be done and allow those staff that were involved their time to be able to express, in the right arena, whether they felt there was justice or not. Whatever the outcome of that, then we can actually just say it has had a full and a fair hearing. Thank you, sir.

The Bailiff: Deputy Fallaize.

2165 **Deputy Fallaize:** Thank you, sir. Can I stand to speak?

The Bailiff: Whichever you prefer, Members may either stand or sit.

2170 **Deputy Fallaize:** Thank you, sir. I did not speak when this was debated in September, nor did I vote, and I will not vote today, or I will abstain when we vote. But I think it is necessary to speak because, in two respects, the circumstances are different than they were when the Proposition was debated in September and I want to remind the States of those two ways, although I am not going to reach any conclusion about asking the States to vote for or against the Proposition.

2175 Before I come onto those two points, I think Deputy Lowe just said something, which requires correction. She said that one reason for supporting the proposals of the Scrutiny Management Committee was to support members of staff, one of whom had left their job because they were not prepared to fill out a form illegally.

Well agents, if that is the right word, acting on behalf of Deputy Lowe's Committee, in relation to its population management functions, investigated the claim that the application for an

2180 employment permit was illegal, or improper, and they found that there was no case to answer. Now
I, or no other Member of the Committee, we were not involved either in the making of the
application or in the investigation of the application, but I think that for Deputy Lowe to imply, or
not even imply, she used the word, there was an illegal application, was a careless thing to say, at
best. I will give way to Deputy Lowe.

2185 **Deputy Lowe:** Thank you Deputy Fallaize, for giving way. If it helps to sort of clarify, I was talking
about and I should have probably expanded a bit more, it was the quote from the individual
concerned who had been asked to do that, rather than coming from Home Affairs if that helps. I
am sorry if there was some confusion.

2190 **Deputy Fallaize:** I accept that the individual concerned may have been of that view, but the
investigation carried out by the Population Management officials, or agents, or whoever they were,
concluded that there was no case to answer. Now the two things I think have changed that need to
be brought into this debate, are the story around the request for documents to be submitted – now
2195 I am not going to go through all the details because Deputy Roffey has covered them. I think Deputy
Green and his committee would probably accept, I think they have said publicly, that as far as they
are concerned, they have not seen any evidence of my Committee trying to obstruct ...

I will give way to Deputy Green.

2200 **Deputy Green:** Sir, thank you. I am grateful to Deputy Fallaize for giving way. I probably should
have said this when I opened, but it is absolutely true, and I thought about this when Deputy Roffey
was speaking. Certainly I have seen no evidence to suggest that there has been any deliberate
obstruction from any politician involved in with this.

2205 **Deputy Fallaize:** I thank Deputy Green for that. So the request for the submission of documents
has really come in two phases. The first was very early, after the States rejected the proposed
Tribunal of Inquiry. Members of our Committee and officers provided the documents they provided
– in the case of Members of the Committee, it was all of the documents, which we held, or hold in
un-redacted form – provided them to the office of the Committee and made them available to be
2210 forwarded to the Scrutiny Management Committee and it was on the grounds of data protection
legislation that the office of the Committee was advised that they could not be submitted in
unredacted form.

Deputy Lowe said, I think she was conflating the recent GDPR legislation with the whole issue of
data protection, it may well be that the changes that were made as a result of the legislation, which
2215 her Committee put before the States in this term, have had no bearing at all on the course of this
case, but it is absolutely true that it is data protection legislation generally, however far it dates
back, which has prevented unredacted documents from finding their way to the Scrutiny
Management Committee.

So that was where the first phase of the attempt to submit documents stopped and the Scrutiny
2220 Management Committee got documents, which were redacted. Not redacted by our Committee. I
do not know which redactions were made. I have not seen the documents to this day. I just
submitted all of the documents I held in unredacted form.

Then what happened is the Committee *for* Home Affairs made a regulation, which permitted
documents held by States' Committees to be forwarded to the Scrutiny Management committee,
2225 irrespective of other data protection considerations, provided that the Scrutiny Management
Committee notified that it would not publish those documents. It is because our Committee has
not received notification from the Scrutiny Management Committee of its undertaking not to
publish the documents that we have just simply not been able in Law to forward them.

I do not in any way criticise the Scrutiny Management Committee for that. I have not discussed
2230 with Deputy Green why they have or have not done any of these things but, for reasons that may

very well be justified, they have not been able to provide that assurance, which is required in the Law.

So the position for our Committee was, quite clearly under data protection legislation, we were advised that, if we submitted the documents unredacted, without the assurance of the Scrutiny Management Committee that the documents would not be published, we would be doing so unlawfully. And there was a judgement to be made and some Members of the Committee, me included, were not immediately persuaded that the document should not be submitted because of the wish to be open and transparent about the document.

But, in the end, the weight of advice that we would be acting unlawfully to submit the documents carried the day. That is where we rest with submissions. I am not sure, Deputy Green may be able to provide more information on this when he sums up, necessarily that a Tribunal of Inquiry would result in all the documents being published in un-redacted form. I think there are circumstances where that may not necessarily be the case. I do not think the States could compel the tribunal to publish all of the documents in un-redacted form.

The second issue, which I think the States should take into account, is that recently there was a code of conduct case against all of the Members of the Committee, heard by the Code of Conduct Panel, because of a complaint made by Deputy Meerveld and the statement from the Code of Conduct Panel after they had heard the case – and they interviewed more than one senior officer who was involved in the appointments process, as well as all of the Members of our Committee and Deputy Meerveld, obviously, and they advised – and Deputy Meerveld’s complaint in relation to what is before the States today was – that Members of the Committee had expected a particular candidate to be appointed and therefore had required civil servants to breach their code of conduct.

So the Code of Conduct Panel finding was, and I am not quoting the whole thing, but this is quoting directly from their release:

In summary, Deputy Meerveld alleged that they each –

– this is the Members of our Committee –

– had not acted correctly because they acted to ensure a particular candidate was appointed, irrespective of the merits of any other candidates. He also alleged that the Members expected and encouraged staff to progress such an appointment and that meant that they were expected to breach the Civil Service Code.

Now, in relation to the other four Members of the Committee, who were cleared of all of the complaints made by Deputy Meerveld, I need not say any more because they were cleared. I was found to have breached the code in two respects, and issued with a caution, which I accepted. The two respects were, one, apparently not being sufficiently familiar with the Civil Service Code and the second was sending a discourteous email.

But in relation to the central case, that I and other Members of the Committee required a certain candidate to be appointed and therefore required civil servants to breach their Code of Conduct, the Code of Conduct Panel said, this is speaking about me:

However, although he was not happy with the outcome of the interview process for the position, which led to the aforementioned email being sent, because he had expected and assumed that a particular person would be appointed, he had not required that to happen.

Now, Members will decide how much weight they place on that, but this was an investigation carried out into the very matter, which the Scrutiny Management Committee is proposing there should be a Tribunal of Inquiry and the conclusion of the Code of Conduct Panel was that there was no requirement, not by me, nor by any other Member of the Committee, to any civil servant, to have any candidate appointed. That was their judgement.

I am not going to make any comments about whether the Tribunal of Inquiry would be a sensible use of taxpayers’ money or when or it might or might not be able to go ahead, in view of the current

travel restrictions. But I thought it was important to advise the States of those matters which have happened since the September debate.

2275 The position, as far as if the Proposition is lost for a tribunal, the position remains that our Committee could submit all of the un-redacted documents to the Scrutiny Management Committee if the Scrutiny Management Committee agreed not to publish the documents. If we received that undertaking, we would obviously forward the un-redacted documents and we would be pleased to do so.

2280 So, it seems to me that the whole thing hinges on whether every single document needs to be published. Because, actually, the Scrutiny Management Committee could carry out a review. Now, it could engage somebody who could publish a report and could publish their own conclusions, but it would not be able to publish every single document that was submitted to its reviewer. That is the position as I understand it. But, as far as the voting on this matter is concerned, I think the only
2285 proper and reasonable thing for me to do is to abstain.

The Bailiff: Deputy Le Tocq.

Deputy Le Tocq: Thank you, Mr Bailiff. Sir, I will be brief. I will not rehearse the arguments that
2290 have been made by Deputies McSwiggan, Inder and Ferbrache, but I echo those, suffice to say. However there are two things I would just like to raise. One is in the form of a question. Both of these are reasons why I will not be supporting the Propositions of the SMC but, bearing in mind what the President of the SMC said, when he opened, my concern is, whilst I believe there should be occasions, and they should be rare occasions, when we use Tribunals of Inquiry, by what he said
2295 is he making an argument that Scrutiny Management Committee will regularly now, if not always, using or suggesting a Tribunal of Inquiry because they are not satisfied with the powers that they will be given under the new legislation when it is enacted in a few weeks' time?

That is a concern of mine, sir, because as I said, whilst I believe it is right and proper that we should do that, I think at the moment, this is certainly not an issue that requires that and, if they are
2300 making that argument then it seems to me it would only be correct to say that they will be making it in nearly every incidence.

The second reason, and I think I raised it in September, when this issue first came before us, is that I will not be supporting this because I am not satisfied that it will achieve the objectives, specifically ones relating to greater assurance and trust in Government, greater transparency, I do
2305 not believe that, in this instance, it will achieve those objectives, so it will be a lot of effort and a lot of resource that we cannot afford, at the moment, to achieve something that actually is in-achievable, so I cannot be supporting it.

The Bailiff: Deputy Tindall.

2310 **Deputy Tindall:** Thank you, sir. I wholeheartedly agree with Deputy McSwiggan, who summarised many other Members' points, so I do not wish to go into that. However, Deputy Lowe's speech makes me rise to dispute what she said. Whilst Deputy Lowe pointed out that we had a Data Protection Law before the 2017 Law, and that is correct, the 1986 Law was replaced by the 2001
2315 Law and then the 2017 Law. But I cannot accept that it is as straight forward as she said and that we should all understand what it means. We do not. If we did, sir, we would not be in this mess.

I explained the complexity in my speech to the amendment and stressed the need for further regulations and guidance to enable that understanding and consistency to assist in future and that is the role of Home Affairs. I repeat that request. I echo what I also finished my speech with, which
2320 is the main point raised by others, and that is the effect on those who have already refused consent and what a tribunal would mean to them. I just hope that we can learn lessons from this and agree that, the general time that we live in, I cannot support this policy letter.

Thank you, sir.

2325 **The Bailiff:** Deputy Merrett, then Deputy Laurie Queripel.

Deputy Merrett: Thank you. *[Inaudible]* I am concerned at the governance in place, that full disclosure ... *[Inaudible]* ... why some Members would be ... *[Inaudible]* Deputy McSwiggan. The last HMC question regarding ... *[Inaudible]* ... any circumstances in which ... *[Inaudible]* ... if necessary ... *[Inaudible]*

2330 Ultimately ... *[Inaudible]* ... Tribunal of Inquiry, it would be up to the courts and not political Members. It would ... *[Inaudible]* ... full and frank investigation. ... *[Inaudible]*

2335 It is at times like this that we need to have faith, trust and ... *[Inaudible]* ... We need to govern how we govern, but we also need to ensure that the governance standards are, or rather were, maintained during this important process. It really is that simple. Do we want disclosure? Do we want to investigate this and do we want to come to a court or ... *[Inaudible]*

It does sound as if we are trying to actually hold this on the floor of the Assembly. ... *[Inaudible]* ... I would encourage them to do so.

2340 And lastly sir, coronavirus can be used as a reason, but it cannot be used as an excuse. Thank you, sir.

[Deputy Merrett's microphone was turned off during her speech which meant her words were not loud enough to be heard for complete transcription]

2345 **The Bailiff:** Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you, sir. I would like to start by trying to address one of the points that Deputy Le Tocq made. Deputy Le Tocq said, will the Scrutiny Management Committee be bringing proposals or Propositions for a Tribunal of Inquiry on a regular basis? Could I ask Deputy Le Tocq, aside from September 2019, when has the Scrutiny Management Committee come to the Assembly with those sorts of Propositions and can Members remember in the last term when the Scrutiny Committee came to the States with requests for a Tribunal of Inquiry.

2350 I have sat on Scrutiny committees in the last term and in this term, and that has never happened before in my time, so it is a very rare occurrence. I give way to Deputy Le Tocq, sir.

2355 **Deputy Le Tocq:** I thank Deputy Laurie Queripel for giving way. That was not really my point of looking backwards I was dealing with the arguments that have been made by his President with regards to the future and particularly with regards to the new powers that have come in, where his President indicated that they would not be sufficient and therefore in my mind raised the risk that, in the future, there would be more expectations that tribunals would take place.

2360 **Deputy Laurie Queripel:** Thank you, sir. The new powers would be most welcome, and the new powers will lead to a more effective scrutiny process, certainly a more meaningful scrutiny process. But they are not a miracle cure or a miracle facility. In this particular case there will be times when they will not tick the box, but those powers will clearly lead to the Scrutiny process being bumped up to being more effective and being more meaningful. But they will not tick the box every time and this is why, with this particular issue, we are calling for a Tribunal of Inquiry. It will not be a regular occurrence, I am certain of that.

2370 I am glad, sir, when Deputy Prow spoke, he spoke about the need to introduce some balance into this debate, because a number of Members, sir, of this Assembly, have taken the opportunity during this debate to demonstrate how virtuous they are and how much integrity they have got; and that is fine. But nonetheless sir, I think this Assembly, or the Members that voted against the Propositions in September 2019 should now be rebuking themselves. They made a wrong decision then, it was very poor judgement and they should have then voted for the Tribunal of Inquiry.

2375 It is not an excuse to say, I know we live in very different times now, almost unprecedented times, but it is not an excuse to say this matter is irrelevant, simply because of the times that we live in.

What has taken place since that time is the Scrutiny Management Committee, despite its best efforts, has gone on a merry-go-round journey and got pretty much nowhere. What has taken place, in effect, has been a war of attrition. Now the reasons for that and who is involved in that, of course, I cannot make a judgement, but nonetheless that is what has happened. Time has passed and not really much has changed.

Now I believe Deputy Roffey to be an honourable person and he said he has done nothing wrong. As I say, he is an honourable man but clearly something has gone wrong, something has gone awry, something has gone askew and we do not know what that is. We believe, as a committee, that without a Tribunal of Inquiry, it is unlikely that that is going to come to the fore. We are not going to reach a satisfactory conclusion.

The amendment put forward by Deputy Trott has been defeated. That process now is gone. If these Propositions are defeated, it is likely this matter will be dropped. Now, regardless of the times that we live in, this issue is a deep wound, and it will not easily be healed and if it is dropped I think the public interest in it will continue.

So I ask Members to bear that in mind. Regardless of the times we live in and regardless of Members thinking now that this matter should be kicked into the long grass, or it is not as important as it was, there are many Members of the public that will believe, regardless of the times that we live in, that this is an important issue and it needs to be addressed and addressed properly. We believe, as a committee, the only way for it to be addressed properly, is via a Tribunal of Inquiry and there are many members of the public that believe that same thing too.

Actually I do have some sympathy with the points made by Deputy Inder. Once again, we live in extraordinary, almost unprecedented times. I know what he is saying. Deputy St Pier, hopefully, will remember that I emailed him a few days ago and I said, bearing in mind the short-term and probably more importantly the longer term consequences of what we are facing now, if things get bad despite our best efforts, there may need to be a considerable fighting fund of money put aside to help deal with the short and longer term consequences of this virus.

So I know what Deputy Inder is saying but, if Members recall, this morning a number of Members said that despite this situation that we are facing, they said that despite that good process, due diligence, governance, scrutiny, accountability, should not be sacrificed. Now we are in danger, if we do not agree to these Propositions, that those things will be sacrificed in regard to this particular matter.

So, whatever times we are living in, there is always a need for those things, good governance, scrutiny, accountability, and there is always a need to address things when it looks like they have gone wrong. So, sir, I would say to Members, think very carefully before you vote against this and before you say, or believe that, because of the times we live in, it does not matter any more. It does matter, it matters if we want the States to retain or regain credibility in the eyes of the public, if we want them to have respect for Government, this matter, matters. So I ask Members, please vote for this Tribunal of Inquiry. Thank you, sir.

The Bailiff: Deputy Gollop.

Deputy Gollop: Thank you, sir. I must admit that I could think of three very good reasons, or two and add a third, not to vote for this. The first is that put forward eloquently by Deputy Inder and Deputy Ferbrache, about money being needed for more essential issues in our society at this particular time.

The second concerns the feeling that Education have been through a lot and this Committee, whether you necessarily politically support them or not, have been on a marathon the last few months and have a lot of difficult tasks to work on at the moment and this is a degree of a political distraction.

The third reason, Deputy Le Clerc and Deputy McSwiggan put across the perspective that, because we lack in Guernsey robust employment protection, it could make certain members of staff, certain candidates for jobs, put in a very vulnerable position, and I accept that.

2430 But this chapter has not been a very happy one in recent political history and I do feel, with the exception of a minority view, the view from the public that we can gather, has been that some kind of review should go ahead and the Scrutiny internal review has failed. I must admit it is not just the credibility of the recruitment process and, to a certain extent P&R and Education, Sport & Culture have been under the microscope, it has also been the Assembly as a whole and the Scrutiny Management Committee. The Scrutiny Management Committee have so far had three failures out of this. The first was when they came to put a report back in the autumn and actually got a rebuff, both in terms of the amendment winning and then the amended Propositions faltering.

2435 Then Scrutiny, bravely, as you might say in *Yes Minister* or *Yes Prime Minister* went ahead with a review anyway, although you could have interpreted the double negative vote as a do-nothing instruction. They have spent, I do not know what they have spent, £80,000? – £60,000 so far on what appears to have been a merry-go-round and they are now talking, and Deputy Laurie Queripel has just made the point very clearly, that they may abandon the whole thing altogether. So that is £60,000, six months of work down the pan, effectively.

2440 That really will only exaggerate the public's already sceptical viewpoint on this. So when one looks at the chapter, I was certainly interested in what Deputy Lowe and I think Deputy Ferbrache and later on the response from Deputy Tindall on the data protection issues, because I of course sit on the Legislation Select Committee and I remember two things about the process. The first is Deputy Tindall is absolutely right that data protection has existed for the best part of 20 years and it was only the new law and the new penalties that have changed.

2445 Secondly, she in particular wanted the Committee, chaired by Deputy Green, of course, and Deputy Queripel as alternate chair, to scrutinise the legislation with great diligence. There was a thought, not from Deputy Trott but generally that this is a must for the Island's financial and corporate sector to continue and what you did not want to do was to have the world's best data protection law. So I think we actually ended up with a more moderate, fit-for-purpose document than could have been the case.

2450 Nevertheless, I actually am inclined to agree with Deputy Ferbrache to a degree that regulation in a small community that is diligently done is partly an educational experience, a training work, of which the data protection body does wonderful work within the media as well. But it can come across as over the top at times and I do not believe, when we supported data protection, that we had in mind either that it would stop legitimate inquiry into political or governance matters, or as Deputy Le Clerc worried us, that it can only be overcome by what amounts to a kind of reconciliation tribunal after a war. There has to be a happy medium.

2455 I would hope that if a Tribunal of Inquiry, under the 1949 Law goes ahead, it will be sufficiently carefully done, perhaps involving people with local connections, especially in view of the current situation, so that the kind of sensitive issues Deputies McSwiggan and Le Clerc have averred to, could be held in camera and redacted and the persons not exposed to public or media glare.

2460 But, nevertheless, a Tribunal of Inquiry does go ahead, because the current route has not worked and when one looks at the report in more detail and we have had a little bit more chance to consider it, you see on page one, it is alleged that politicians sitting on the Committee *for* ESC interfered with the appointment process by attempting to predetermine the outcome.

2470 Now not only do we need clarity in that, but I would argue that, especially at a time when I think, inevitably, we will be considering changing our machinery of Government, temporarily and maybe more permanently, that we actually do need clarity where political involvement begins and secretarial, professional involvement ends.

2475 I am going to come up with a maverick view here, but I think it is quite common in many places and not necessarily bad for the Island if politicians with a strong vision do wish to see people involved in key delivery of services, who do have a particular attitude to getting things done and a particular approach to their task and who are able to work constructively with a minister or a President or a committee, or a States' Resolution.

I think if you see the opposite, that an internal machine turns up somebody who happens to fulfil various criteria of the bureaucracy, but it is not in sympathy with public or political view, that would not be satisfactory either.

So I think we need more than just sweeping this under the carpet and I am just confounded that we have had 1,200-1,400 pages of document that data protection has been used, that we changed the law and yet it still was not successful, that we could not actually publish anything, that we are not holding meetings in public because Scrutiny have done well with their public hearings this year and in the past they have done well with reviews.

But if we cannot rise to the standard of a select parliamentary committee and actually get testimony from senior public servants, without lots and lots, you could say grandstanding, lots of obstruction, lots of concerns, then we are not doing our job. So my view is, despite the urgency of the times we live in, we should support Scrutiny and get this done.

It does not have to be done instantly but, if indeed we are continuing this Government, this term for a little bit longer, it is all the more reason to support this to ensure there is public confidence and I am not in any way suggesting anyone has done anything wrong, I just think we need a public and impartial of evaluation of the subtle boundaries between political decision-making and operational decision-making, so I say support the report.

The Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Thank you, sir. We have heard all the extremely valid arguments about what is currently important, given the Coronavirus situation, we have heard about the cost, about data protection *etc.*, but for me Deputy Gollop just touched on it there, now. This is more about public confidence. The public have little confidence in the States as it is and rejecting these proposals will only perpetuate that, so I would just like to reinforce the comments of Deputy Gollop and urge Members to support SMC's proposals. Thank you.

The Bailiff: Deputy Tooley.

Deputy Tooley: Thank you, sir. My speech is not long, and I will try to cut bits of it so there is not too much repetition. So much of this is, it appears, about the redactions, which have been made under GDPR by individuals where they are mentioned in the paperwork. A tribunal will still have to determine what it is and is not appropriate for them to release into the public domain and what should be more sensitively treated and therefore potentially be kept out of public notice when it decides to publish whatever it comes up with, following if this is adopted or decided upon today.

I do not know who asked to have their details redacted from the pack that was provided. I do know that it was not any of the political Members of the Committee for Education, Sport & Culture. I know, too, that there are often individuals who have applied for and are interviewed for posts but who, if they do not take up those positions or are not offered those positions, do not want the general public or indeed their existing colleagues and service users to know that they applied for the post.

I imagine that, in that case, such an individual might well ask to have their data redacted. Equally, there are potentially details about the lives and families of individuals who might be incidentally mentioned in the papers, which those individuals might, quite understandably, have requested that those details were redacted.

Would a tribunal choose to publish those details? Well, I would assume not. So a ToI would not necessarily lead to a fully unredacted report. Deputy Green spoke of the need to preserve or restore confidence and faith in the recruitment process and I absolutely agree with him that that needs to be done.

But I am not sure that we would meet that by informing potential candidates for job roles in the States that there is a chance that all of their data could be published publicly with or without their permission and, in fact, potentially against their express wishes and requests under GDPR.

But for all that, I was seriously very tempted to vote *Pour* to this request for a ToI. And in fact, when we were due to debate this last month I sent Deputy Green an email in which I told him that not only was I very tempted to vote for, I was also minded to have a conversation with my ESC colleagues about doing the same thing. Why? Because I know that I, and my fellow Committee

2535 Members requested no redactions and so their removal makes no difference to me whatsoever.

And I know that, from under the cloud that this has placed over our heads over the last seven or eight months, I have longed to be allowed to remove the duty of care that has been placed upon us over this whole situation and tell everybody exactly what happened and what might be in there.

Do not vote against this because you think ESC have been through a lot. That is not a reason to vote against this. I genuinely believe we have nothing to fear from a ToI, and potentially much to gain from it. But, and write this down, because you might never hear it from me again, 18th March at 1636, Deputy Inder is right! This is not the time to spend money on things, which are not necessary.

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I am not so precious about removing the cloud from above my head that I think it deserves huge amounts of money, be that the £150,000 suggested in the policy letter, or the £500,000 suggested by Deputy Ferbrache in the last debate, to do so. There are always better uses for that sort of money and today, of all days, I think we could all write a long list of those.

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So, though tempted to vote for a ToI, today I will abstain on the motion again, as I did at the last debate. Not because I am undecided, not because I have anything to fear from a ToI. I will be abstaining because it is not right for me to vote against something that potentially holds me to inquiry. I have nothing to fear from this tribunal, but I do not think this is the right thing to do.

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The Bailiff: Before I call the next speaker, we have been here for two hours. I do not know whether Members would wish to have a short break to wash hands? That is the recommendation from the medical advice that one should do, so and we should also be setting an example, so I propose we just pause for five minutes to enable people to go and wash their hands. We do not have hand sanitisers for everybody, unfortunately.

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*The Assembly adjourned at 4.36 p.m.
and resumed at 4.47 p.m.*

Due to technical difficulties, the audio of the remainder of the sitting is currently unavailable.