



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Thursday, 17th December 2020

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S. P. Fairclough	L. C. Queripel
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A. Gabriel	G. A. St Pier
J. A. B. Gollop	A. W. Taylor
S. P. Haskins	L. S. Trott
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N. R. Inder	
A. Kazantseva-Miller	

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Alderney Representative S. Roberts

The Clerk to the States of Deliberation

Ms C Foster. (H.M. Deputy Greffier)

Absent at the Evocation

R. M. Titterington, Q.C. (H.M. Comptroller)
Deputy J. P. Le Tocq (*indisposé*); Deputy M. P. Leadbeater (*absent*);
Alderney Representative E. A. J. Snowdon (*indisposé*);

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States of Deliberation

The States met at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCATION

STATEMENTS

Policy & Resources Committee – Brexit update – Statement by the President

The Bailiff: Well, Members of the States, we will resume this morning with the statement that was deferred yesterday afternoon to be made on behalf of the Policy & Resources Committee by the President, Deputy Ferbrache.

5 Deputy Ferbrache your statement please.

Deputy Ferbrache: Thank you very much, sir.

Members will recall that the Policy & Resources last made a statement to the States on Brexit – and the Bailiwick's preparations for the end of the transition period as recently as 25th November. 10 The Committee had anticipated and hoped that, by now, there would be a policy letter for the States to consider: to note the implications of the end of the transition period for Guernsey and the Bailiwick and to make any necessary decisions.

However, whilst that policy letter has been drafted, it has not yet been finalised because the negotiations between the UK and the EU have still not concluded. Given the status of the 15 negotiations, the Committee thought that it was appropriate to provide another update to the States.

Various deadlines for the end of the negotiations have come and gone. The latest were associated with a meeting between the UK Prime Minister and the President of the European Commission last week – and a review of the status of the negotiations on 13th December. On that 20 day, the UK and EU issued joint statements to say:

'We think it is responsible at this point to go the extra mile. We have accordingly mandated our negotiators to continue the talks and to see whether an agreement can even at this late stage be reached'.

No specific date for the next review has been made public yet, albeit I and my colleagues have just received a note from our civil servants to say that perhaps this weekend might be the 25 deadline but we have seen so many so who knows.

One date is certain that is at 11p.m. on 31st December 2020, the Brexit transition period will end. This will impact businesses who trade with the EU and individuals that wish to travel and work within the EU.

30 Many of the issues relating to the rights of British and EU citizens were settled with the
Withdrawal Agreement, which was ratified in January, and that agreement will remain in place. The
agreement being negotiated by the UK now relates to the future economic partnership with the EU:
the terms of trade between the EU and the UK and the terms on fisheries.

35 Whilst it has not been possible during the negotiations to provide you with frequent or detailed
updates, due to the sensitive nature of those discussions, the Committee has, and continues to,
firmly and diligently represent the Bailiwick's interests to the UK in line with the States' Resolutions
from June 2016 and January this year.

I do not intend to reiterate all the points made in the statement of 25th November, but I will
highlight the following.

40 While the UK and EU have stated their intentions to seek a trade deal, the time available to
consider and ratify any agreement between now and the end of December reduces every single
day, every single minute. The final decision about whether the Islands will be included within the
scope of any UK-EU trade agreement will be for each of the Bailiwick's three Assemblies. When the
negotiations have concluded, the Committee intends to finalise and publish the policy letter for
consideration by this Assembly before the end of the year. The Policy & Finance Committees of
45 Alderney and Sark have agreed to use the same policy letter, with the Propositions tailored for their
jurisdictions.

Given the continued uncertainty over the final outcome of the negotiations, as a responsible
Government we continue to plan for all potential outcomes. With only a short time remaining, the
States continues to prepare for the risks associated with what is termed a No Further Negotiated
50 Outcome NFNO where there is no UK-EU trade agreement by the end of the year, or for some other
situation or reason where the Bailiwick is not included. We continue to provide information about
the changes that will happen at the end of the transition period as and when it becomes available.
That includes updating the Brexit-related content on the States' website. The governance
arrangements to manage the issues caused by COVID have been adapted to help manage the
55 Bailiwick's response to the end of the transition period.

The Bailiwick is already a third country to the EU for most purposes, including in relation to
financial services. So, even if an agreement is not reached before the end of the year, there will be
limited changes for many Bailiwick businesses.

60 However, the end of the transition period will bring changes in the rules for trade in goods with
more checks at the border than there are in place today. So it is reasonable to anticipate some
manageable disruption to some supply chains whether or not a UK-EU trade agreement is reached
at the end of the transition period as the UK leaves the EU Customs Union and the Single Market.

Modelling has shown that if there is no trade deal there might be – and I emphasise the word
might – a temporary lack of choice or delays for some EU foodstuffs, but there will be no shortage
65 of food overall. The community is resilient and tolerant as it is well established to weather-related
disruption. I want to remind the community that there is no need to stockpile or panic buy. Indeed
that would be anti-social. (**A Member:** Hear, hear.) Any stockpiling just disrupts supply chains and
denies other people access to essential goods.

70 The States of Guernsey has put various measures in place to help with stability and continuity at
the end of the transition period. That includes the work that extended the Bailiwick's territorial seas
in July of last year; a customs arrangement signed in 2018 with the UK that comes into effect at the
end of the transition period; and the extension of the UK's membership to the World Trade
Organization to the Bailiwick from the end of the transition period. So, at a minimum, Bailiwick
businesses can trade using those international rules and tariffs. New requirements for workers
75 coming into the Islands and for Islanders wishing to travel to, or work in, the EU have also been put
in place for when free movement ends at the end of the year.

One of the most controversial and sensitive parts of the negotiations is about fisheries. Let me
assure the community of this: The Bailiwick is seeking a stable and predictable relationship that
works for the specific interests of the Islands. That includes retaining access to nearby ports, access
80 to EU waters and recognising that reciprocal arrangements may be necessary. The relationship must

ensure that the Islands' – and again plural – fisheries are sustainable through controls on any vessels that we allow to fish in our waters, with licensing and management undertaken by this Bailiwick. (**A Member:** Hear, hear.)

85 The Policy & Resources Committee continues to do all it can, together with the States' committees and the other Islands, to ensure that the Bailiwick is ready for the end of the transition period and for the new relationships with the EU – whatever they might be – and the wider world.

As the negotiations are continuing, we still do not know yet the extent that the Bailiwick may be, or may wish to be, involved in any resulting agreement. We are as prepared as we can be to deal with whatever the end of the negotiations may bring. I would strongly encourage businesses, if they
90 have not already done so, to plan for the changes and the possibility that a new trade agreement will not be in place by 1st January 2021.

With just a fortnight or so left to the end of the transition period, the timescales are challenging and there will be a need to maintain quick and flexible working by, and between, governments and businesses to ensure that the final pieces of the jigsaw are put into place.

95 I am confident as ever, with this Bailiwick and the people that live therein, that we will do that. Thank you very much, sir.

The Bailiff: Thank you very much.

100 There is now an opportunity for some questions to be asked of the President within the context of that statement.

Deputy Roffey.

Deputy Roffey: While probably slightly tangential to trade negotiations can the President tell us if we are any clearer about the extent to which Guernsey will be able to derogate from the UK immigration policy post Brexit, and will he agree with me it is absolutely crucial that Guernsey should be able to continue to employ guest workers and that they should not be impeded from coming to Guernsey?
105

The Bailiff: Deputy Ferbrache.

110 **Deputy Ferbrache:** I think that is a good question; perhaps I should have raised it in the statement.

Those arrangements are in place. I am sure that my colleague Deputy Prow, when he comes to ask a question or make a statement of what he is on about, will do so.

115 Sorry, I did not have my microphone on, I am very grateful to Deputy Oliver. Those arrangements are in place and will be in effect from 1st January.

The Bailiff: Deputy Prow.

120 **Deputy Prow:** thank you, sir.

Would the President agree with me that we have had high level contact with HM Government and we have already ... the Home Affairs Committee have already made arrangements that our work permit policy will differ from that of the UK and that we will not go down the UK points based system but will use our population management system that can include workers from the EE Area and the EU.
125

Thank you, sir.

The Bailiff: Deputy Ferbrache.

130 **Deputy Ferbrache:** I am glad that Deputy Prow has put that statement in the form of a question because he is absolutely right those are exactly the arrangements and I would like to pay credit to everybody that has been involved in that including Deputy Prow and his officers.

The Bailiff: Deputy Inder.

135 **Deputy Inder:** Sir, thank you for the update, through you, sir, to Deputy Ferbrache.
Just for scheduling our next scheduled meeting is towards the end of January and I wondered if he would be able to inform me and Members which of the two scenarios the NFNO or a settled deal would trigger an emergency States' meeting and when that is likely to happen?

140 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Thank you.
It could, I think is the answer to Deputy Inder's question, sir, the matter is that there are various scenarios, just perhaps broadening the question if I may, there will be no deal with the UK and the EU, who knows, there will be a deal that the Bailiwick feels that it can sign up to and will be party to, or there will be a deal between the UK and the EU that the Bailiwick feels that it cannot sign up to. In which case we will have our own arrangements.

150 **The Bailiff:** Deputy Falla.

Deputy Falla: Thank you, sir.
It is reassuring to hear about the certainty of food supplies into the Island. I would just like to ask about the position regarding medicines please?

155 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Sir, I had to absent myself for about 45 minutes or so yesterday afternoon from this States and part of that was to speak with my colleagues in the Isle of Man and in Jersey but also with the Minister of State at the Department of Health and he made every assurance, and I took comfort from that, and also confirmed by our colleagues in Jersey and the Isle of Man that medical supplies ... the supply of medical supplies is solid and he will do his best and believes that that will be achievable. So the concern quite properly raised by Deputy Falla in his question has already been addressed.

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

Deputy St Pier: Sir, could Deputy Ferbrache advise whether there have been any further developments with regard to the tax demands which the EU were purporting to make in respect of well both the UK and the Bailiwick, has there been any developments that he can update us on?

170 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: I am very glad that Deputy St Pier has raised that because that was one of the red lines. At the moment Deputy St Pier will know from his own experience at the moment the position is that that has been withdrawn and that we will enter into bilateral discussions directly with the EU post the transition period. But as I say that is at the moment.

The Bailiff: Deputy de Lisle.

180 **Deputy de Lisle:** Thank you, sir.
An agreement on the fishery remains very uncertain as the President has indicated. Jersey has stated that they will not abide by an unfavourable agreement to it and the protection of its fishery. What is our likely position to be?

185 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Our position will be as I have expressed it in the statement that we want access to the French ports, we want our fishermen to be able to fish basically as they do now but there will be regulations, but those regulations will be controlled by us the Bailiwick of Guernsey and I cannot say what they will finally ... what they will end up being, whether we end up coming to an agreement with the EU over fisheries because that is another red line. We have made it very clear that unless we can get satisfactory arrangements in relation to the fishing industry for the Bailiwick of Guernsey that we will be recommending to this States that any deal is not acceptable.

195 **The Bailiff:** Deputy Gollop.

Deputy Gollop: In further relation to the fisheries I have been co-operating happily with Deputy Inder of Economic Development and Deputy de Sausmarez of Environment & Infrastructure about the potential risk to fish marine stocks on the Island. Will the President of P&R and the States as a whole consider as part of our sustainability talks with the EU and the UK that we should not see any overfishing of particular breeds?

The Bailiff: Deputy Ferbrache.

205 **Deputy Ferbrache:** Indeed and I know Deputy Inder has made this point to me we do not want the States to use his eloquent expression great big French trawlers coming in and taking all our fish, so of course that is an important part of the consideration.

The Bailiff: Deputy Dyke.

210

Deputy Dyke: Could I ask a question regarding our special immigration dispensation. Does that apply only to EU and EEA citizens or does it apply worldwide?

Deputy Ferbrache: I will answer it if he sits down. (**The Bailiff:** Exactly!)

215

Sir, it applies to the citizens that Deputy Prow has indicated, but the general position as we understand it will be. I mean these things ... the situation as explained by Deputy Prow in is question to me is the situation in relation to that category of individuals. The other situation is still to be negotiated and to be arranged in relation to what happens.

220

But frankly I cannot see that that position will change because the regulations really control EU citizens and the other type of citizens that Deputy Prow has referred to.

The Bailiff: Deputy Inder.

225 **Deputy Inder:** Sir, would the President agree with me that static access to our waters is probably at the moment the best case scenario which means effectively the French will have similar access for the same amount of effort to our waters and that is the best likely outcome at the moment, and would he also agree with me that the message to our French and regional counterparts is no ports no fish?

230 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Well, with negotiations you have to compromise.

235

But of course the situation that we currently have, and will have until 31st December, is a situation that is acceptable to the Bailiwick because that is the situation we operate on. That is the situation we would like to see moving forward. But as I say the goals are as set out in the statement that I made on behalf of Policy & Resources. As to whether there has to be any negotiation or any

compromise that will come, but certainly we would not want to be taking a strident position unless we had to.

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

Deputy St Pier: Sir, would Deputy Ferbrache agree with me that with regard to fishing really the access should be no more than that which has been historically available and that has to again be a major issue for us in any negotiation?

245 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Yes, sir, I am happy to agree with Deputy St Pier.

250 **The Bailiff:** Deputy Oliver.

Deputy Oliver: Thank you, sir.
Do we know what is going to happen with our passports yet, or is that still in discussions at the moment?

255 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Well, that is being dealt with. I mean that situation I think has been properly covered. I do not think it is a real issue going forward post the end of the year.

260 **The Bailiff:** Deputy Gollop.

Deputy Gollop: This might also be in a sense relevant to Deputy Prow's mandate but if we unhappily enter a no deal Brexit on 1st January will there be regrettably barriers at the European ports for Guernsey exports of boxes of produce, with customs officers and gendarmes demanding extra money, extra tariffs, extra import duties, or can we avoid that and organise ourselves in a different way?

270 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Well, all I can say is that those negotiations are still continuing and the detail of that is unknown to me and will not be known to me for some time. As soon as it is known to me then Policy & Resources Committee will make sure it is transmitted to the Members of this Assembly.

275 **The Bailiff:** Deputy Inder.

Deputy Inder: Sir, would Deputy Ferbrache agree with me that if there is a no deal and things do get a bit difficult in some of the ports that Guernsey has the ability to sensibly and pragmatically roll over the current SMEF agreement?

280 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Yes, sir, that is my understanding.

285 **The Bailiff:** Deputy Queripel.

290 **Deputy Queripel:** Sir, does the President agree with me that seeing as there is a potential threat to our supplies of food the time has come for the States to purchase some of the larger redundant vineries here in the Island to grow more of our own food. There are currently 251 redundant vineries here, then we would not be so reliant on other jurisdictions for our supply of food. Jersey has done that, Jersey has invested and they actually export vegetables. So I would like to hear the President's view on that please?

295 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: I am quite happy to do my best to answer it I am not quite sure it comes within the ambit of the statement but I am quite happy to answer it.

300 Of course Guernsey should be as self-sufficient, the Bailiwick should be as self-sufficient as it can be.

The Bailiff: Well, if there are no more questions within the context of that statement it is really a case of watch this space, Members, and essentially be as flexible as possible when it comes to the need to sit again before the end of the year, which we will address later in this meeting perhaps.

President Health & Social Care – Update Correction

305 **The Bailiff:** Before we turn to Question Time proper and some people might think we have had a bit of question time already. Deputy Brouard has asked for my permission to be able to correct some information provided by him at yesterday's sitting. So I am going to turn next to Deputy Brouard in that regard.

310 **Deputy Brouard:** Thank you, sir, and thank you for allowing me to make this correction.

Just correcting an answer I gave yesterday to Deputy Oliver. I had assumed incorrectly that the new paediatrician was going to be under the MSG contract in fact the specialist will be employed directly by the States of Guernsey.

Thank you.

315

The Bailiff: Thank you very much.

Questions for Oral Answer

POLICY & RESOURCES COMMITTEE

1942 Prosecution of Guernsey Police Officers

The Bailiff: So turning to Questions, the first question is to be put to the President of the Policy & Resources Committee by Deputy St Pier.

320 **Deputy St Pier:** Sir, following the recent publication of information with regard to the prosecution of a number of Guernsey Police Officers in 1942 during the Occupation. Having taken advice and considered the matter does the Policy & Resources Committee believe that all present

legal routes have now been exhausted to secure appeals or pardons in respect of the convictions whether before the German Military Tribunal or the Royal Court?

325

The Bailiff: Deputy Ferbrache to reply.

Deputy Ferbrache: Thank you, sir,

330 Thank you for the opportunity to respond. The Committee is not aware of 'any recent publication of information' other than the various media reports noting that the judicial committee of the Privy Council had refused an appeal in relation to this issue earlier this year. The matter was briefly discussed as any other business item by Policy & Resources however it has not been formally raised with and considered by the Committee to date, therefore I cannot provide any further information.

335 **The Bailiff:** Supplementary question, Deputy St Pier.

Deputy St Pier: Will the Committee formally table and consider the matter or not?

The Bailiff: Deputy Ferbrache.

340

Deputy Ferbrache: I can only speak for myself because I have not discussed it with my four other colleagues, but frankly no. There would have to be some significant reason for that to be considered. If it is going to be tabled then of course it will be considered.

345 **The Bailiff:** Second supplementary question, Deputy St Pier.

Deputy St Pier: Thank you, sir.

350 Sir, notwithstanding that the Committee has not reached a conclusion on whether the legal routes have been exhausted or not to secure appeals or pardons would Deputy Ferbrache agree that if all legal routes have been exhausted then the only remaining route would be a political one if there was a political will in the Assembly to provide a statutory pardon.

The Bailiff: Deputy Ferbrache, are you able to answer that?

355 **Deputy Ferbrache:** I do not think I am, sir.

I do not think that is a matter I could give an opinion or make any reasonable comment thereupon.

360 **The Bailiff:** In that instance, Deputy St Pier, it is probably one best taken up in correspondence afterwards.

COMMITTEE FOR HOME AFFAIRS

Economic crime

The Bailiff: There being no further supplementary questions we turn to the next questions which are also to be put by Deputy St Pier but on this occasion to the President of the Committee *for* Home Affairs.

So Deputy St Pier, please.

365

Deputy St Pier: Sir, thank you for allowing the question to be put and I am grateful also to the engagement with the President of Home Affairs as part of this process of laying this question.

The Bailiwick is due to receive an inspection from Moneyval in 2023 during which the Bailiwick's economic crime credentials and performance will be judged against new criteria.

370 Can the Committee advise how well placed it believes the Bailiwick is for this inspection?

The Bailiff: The President of the Committee Deputy Prow to reply.

Deputy Prow: Thank you, sir.

375 I thank Deputy St Pier for his question.

Sir, as is well known Guernsey will be assessed by Moneyval which is part of the Council of Europe against the Anti-Money Laundering and Combatting of the Financing of Terrorism Standards of the Financial Action Taskforce. This formal inspection is scheduled to take place in 2023 the Committee is acutely aware that there have been changes to the evaluation process since the previous
380 inspection in 2014, with greater emphasis now being placed on the effectiveness of the Bailiwick's regime. Additional focus will also be placed on the intelligence and criminal justice parts of the jurisdiction's frameworks.

The Committee is aware that there is a significant amount of work to be undertaken to enable the Bailiwick's regime to demonstrate the effectiveness for the purpose of any Moneyval
385 assessment.

Further details about the steps being taken with regard to the criminal justice framework I will give in response to the second question to be asked.

Thank you, sir.

390 **The Bailiff:** Supplementary question is it, Deputy St Pier?

Deputy St Pier: Yes, sir, thank you.

If Deputy Prow is aware that training has been arranged for Deputies on compliance and global standard on Anti-Money Laundering and Countering for Funding for Terrorism and how the 2023
395 Moneyval evaluation process will operate in practice would he regard it as essential that every Member participate to better understand what is at stake?

The Bailiff: Deputy Prow to reply.

400 **Deputy Prow:** Thank you, sir.

The short answer is yes I do. The training that is being provided to States' Members and features on the States' Members' calendar forms a very important part of the ongoing States' Members' development programme. Undoubtedly I would indeed encourage every Member to attend the training session in order to better understand the complexities of this area and the importance of
405 Guernsey's measures in addressing and combatting all elements of financial crime, money laundering and terrorist financing.

I again thank Deputy St Pier for highlighting this.

Thank you, sir.

410 **The Bailiff:** Second supplementary question, Deputy St Pier?

Deputy St Pier: Yes second supplementary, sir, thank you.

Does Deputy Prow agree that changes recommended by external advisers with considerable experience in this area in relation to the organisational structure and operating practice as between
415 law enforcement and the prosecutors are required to ensure both preparedness for Moneyval but also effectiveness?

The Bailiff: Deputy Prow to reply.

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

I absolutely do agree. It is paramount that criminal justice framework is angled to deliver the highest levels of effectiveness as required by the Anti-Money Laundering and Countering of Financing of Terrorism Standards of the Financial Action Taskforce.

425 It is precisely what the Committee *for* Home Affairs is striving to achieve through an enhanced collaborative approach between Bailiwick Law Enforcement and the Law Officers of the Crown.
Thank you, sir.

The Bailiff: Supplementary question, Deputy Gollop.

430 **Deputy Gollop:** Yes, forgive perhaps my naivety here, (*Interjection*) but one point of concern in some quarters has been that there might be outside external pressure for prosecutions of professionals on Island to occur when in fact there has not been significant infringement or offences done and Guernsey has had such a great reputation that perhaps these issues are not occurring with any frequency.

435 Does the President have a view on discouraging unnecessary prosecutions?

The Bailiff: Deputy Prow.

Deputy Prow: Thank you, sir.

440 I do not think there is any question of the Committee *for* Home Affairs or indeed this Assembly for encouraging unnecessary prosecutions.

I think the situation is that the previous Moneyval report highlighted the fact that there needs to be effectiveness and it is all about putting the resources in place to ensure that we do meet the standards as set out by FATF.

445 Thank you, sir.

The Bailiff: Your second to the President please Deputy St Pier.

Deputy St Pier: Yes thank you, sir.

450 Does the Committee believe there is a need for the Bailiwick to increase the number of economic crime prosecutions and convictions and if so, does the Committee can be addressed in the time available?

The Bailiff: The President Deputy Prow to reply, please.

455

Deputy Prow: Thank you, sir.

The Committee believes it is very important for the Bailiwick to be effective in bringing to justice those involved in any form of criminal activity including economic crime.

460 The States of Deliberation agreed to fund an increased budget of £1.3 million for the Criminal Justice Authorities which includes Law Enforcement of an amount of £1 million, the Law Officers of the Crown and the Revenue Service back in 2019.

This additional funding is targeted in order to enable an increase in the key resources to strengthen the existing capabilities to investigate, in particular complex cross border acquisitive crime, money laundering and terrorist financing, with a view to bringing such cases before the court leading to successful prosecution. This will be relevant for the purposes of the Moneyval inspection.

465 The Committee has made combatting economic crime one of its top priorities and is taking an active and ongoing interest in the Bailiwick's overall effectiveness.

Thank you, sir.

470 **The Bailiff:** Supplementary question, Deputy St Pier.

Deputy St Pier: Yes, sir, I have two supplementary questions.

475 The first one is does Deputy Prow agree with me that it is very likely that additional resources over and above those set out in his response are very likely to be needed and are another pressure which P&R will need to accommodate?

The Bailiff: Deputy Prow.

Deputy Prow: Thank you, sir.

480 I think the Committee *for* Home Affairs and the Policy & Resources Committee very much hopes that the arrangements that were put in place in the last term and that the money that was allocated will be properly used and that we can upskill and develop our capability in this area.

485 I would add that it is not just about getting skilled investigators in place in addition to the very able ones that we have now, but it is also about developing and upskilling them and this of course will take a period of time.

Thank you, sir.

The Bailiff: Second supplementary question, Deputy St Pier.

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

If Deputy Prow agrees that the Seized Assets Fund may be an appropriate source of funding for any additional resources or for this type of activity can he update the Assembly on when it might expect to be able to consider the much discussed policy letter in relation to the new governance in respect of that Fund?

495

The Bailiff: Deputy Prow.

Deputy Prow: Thank you, sir.

500 Yes actually this question actually leads from the last answer I gave which is about the Bailiwick's ability to finance the additional resources that are required.

Also Deputy St Pier will know that during last term particularly when the accounts were discussed more transparency around seized assets was something that I pursued.

505 I can tell Deputy St Pier that we have an additional Home Affairs Committee meeting on Friday if this States has finished where the policy letter that he refers to is going to be discussed and I very much hope in conjunction with Policy & Resources that this matter can be brought to this Assembly in very short order.

Thank you, sir.

The Bailiff: Any further supplementary questions?

510 Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, sir.

Sorry I was a bit confused about when I was allowed to stand or not.

515 Would the President of the Committee *for* Home Affairs agree with me that it is not just down to the training and upskilling of enforcement it is also down to training development upskilling and support of the finance sector as a whole which lies across the mandate of Education, Sport & Culture and Economic Development as well as Home Affairs?

The Bailiff: Deputy Prow.

520

Deputy Prow: Thank you, sir.

Yes I complete agree with the President of Education, Sport & Culture and I look forward to having further discussions at committee level on this and she raises a very valuable point.

Thank you, sir.

525

The Bailiff: Deputy Inder.

Deputy Inder: Thank you, sir.

530

I got the impression through you, sir, to Deputy Prow that there seems to be a greater effort to look for infractions ...

535

Sorry, through you, sir, I got the impression from the context of the question from Deputy St Pier and the response by Deputy Prow that Guernsey is going to look a lot harder over the next two years before the Moneyval review. Is this a bit like sort of cleaning and tidying up the house before the mother-in-law comes round for Christmas, because it does slightly concern me that we are suddenly going to rush very hard to look for people who might be not playing straight by the rules just because we have got a review coming up.

The Bailiff: Deputy Prow.

540

Deputy Prow: Thank you, sir.

I am not sure comparing Moneyval inspection with your mother-in-law's visit at Christmas is a particularly good one. (*Interjection*)

545

I would say this, sir, this is something that this Bailiwick has to be aware of. There are international standards that we have to comply with and we are regularly inspected. I think the IMF who did the first review was in 2002, we had a subsequent review in 2014. We are now going to have one in 2023 and I think it is entirely right for the Committee for Home Affairs and Policy & Resources to continually review our capability against those standards and not to do so would be to the detriment of the Bailiwick and the Bailiwick's reputation.

550

To answer Deputy Inder's question we have these reviews, we have the standards, we have to meet with them, and it is absolutely right that Government does review this periodically and if it believes that we need to put more resource into it, we come to the States as we did in 2019 and we get the funding and we get on with it.

Thank you, sir.

555

The Bailiff: Deputy Oliver.

560

Deputy Oliver: Would the President agree with me that actually the reason why we are expanding the financial crime unit is because we had a report saying where some weaknesses were and that is why it is doing it, nothing to do with Moneyval it is just looking at our actual ... the structure of everything and the governance of the financial crime and that is why we are actually doing it, to change it for the better?

The Bailiff: Deputy Prow.

565

Deputy Prow: Thank you, sir.

I think I answered this in my last response. This is about Government being responsible, looking at the resources that we have, taking the advice that we have taken over a period of years and responding to it. It is simply a matter of that, but it is more around the financial action taskforce standards that internationally we are expected to respect and that is the real benchmark.

570

Thank you, sir.

COMMITTEE FOR EDUCATION, SPORT & CULTURE

Review of Secondary Education

The Bailiff: On the basis that there are no further supplementary questions to the President of the Committee *for* Home Affairs, we now move on to the third and final set of questions. These are to be asked of the President of the Committee *for* Education, Sport & Culture by Deputy Trott.

So I invite Deputy Trott to pose his first question please.

575

Deputy Trott: Thank you, sir.

In carrying out the review of secondary education models is the Committee *for* Education, Sport & Culture committed to comply with the States' Resolution of March 2020 which directed the review including the terms of reference agreed by that States?

580

The Bailiff: I invite the President of the Committee, Deputy Dudley-Owen to reply.

Deputy Dudley-Owen: Sir, I am grateful to Deputy Trott for his question.

585

The Committee is of course respectful of its obligation to carry out the secondary review in accordance with States approved terms of reference.

The committee is also aware none of us who were part of the debate on those terms in March of this year could have predicted just how much would change since that time as a result of the global pandemic especially financially.

590

The Committee could not be more determined to provide the States with viable and implementable options from which to ultimately agree the number of secondary schools we should have, their location and age range of students within them, but we are convinced that constraining the review so it excludes models that via the ballot box at the General Election our community has indicated it would like to have explored and using as its only benchmark a two school model that those same voters appear to have strongly rejected simply does not sit right with us collectively as a Committee mandated to complete the review and individually as Peoples' Deputies.

595

We fully intend to comply with the spirit of the March 2020 Resolutions, thinking ahead to debate on this subject which has in the past proved so divisive and controversial it is not helpful for this Assembly to be so tightly constrained by the ideologies of predecessor committees (**Several Members:** Hear, hear.) no matter what one's personal view on those ideologies is that we have no regard to the view of the community nor to the stark reality of the Island's current financial position.

600

The Bailiff: Your second question to the President, please, Deputy Trott.

605

Deputy Trott: Sir, if the Committee wishes to vary the terms of the review of secondary education models when and will it invite the States' Assembly to rescind or revise the States' Resolutions?

The Bailiff: Deputy Dudley-Owen to reply.

610

Deputy Dudley-Owen: Sir, the Committee wants to progress at pace and hopes to publish a policy letter in the first quarter of 2021 in line with the timeline set out in the extant Resolutions.

As we firmly that this policy letter will comply with the spirit of the extant Resolutions we see no need to come back via a separate policy letter to seek minor variations. To do so would inevitably introduce a delay and divert limited resources at the very time when the community needs us to progress at pace to find the right solution.

615

But I want to make a clear distinction, as I have done before, between progressing at pace and progressing in haste. We need to learn from the mistakes of the past and we will not work at a pace that is so fast it risks us not being able to bring key stake holders with us on this journey. To do

620 otherwise would be to risk delays and more uncertainty later down the line and our students and school staff deserve better than that.

The Bailiff: Supplementary question Deputy Inder.

625 **Deputy Inder:** I am just intrigued – it might not be supplementary but I am going to give it a go – given that I think that as Deputy Murray mentioned in one of the presentations out of 30 Members of this new, brand new, Assembly mentioned that three schools was their preferred model, would the President agree with me that pursuing the two school model which is effectively dead in the water is worth carrying on?

630 **The Bailiff:** Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you to Deputy Inder for his question.

635 I am not going to pre-empt any decision of this Assembly in terms of how so called 'dead in the water' the two school model is, it is very clear the indication that the community has given this Assembly of what their preferred model is and indeed key stakeholders being our staff in our schools.

The Bailiff: Deputy St Pier.

640 **Deputy St Pier:** Sir, is the Guernsey Institute project proceeding at pace or is it on hold?

The Bailiff: Deputy Dudley-Owen.

645 **Deputy Dudley-Owen:** Not quite sure how it ties in with the previous response, sir.

The Bailiff: I am not directing that that is not a valid supplementary question because of the reference to pace and haste in the answer.

650 **Deputy Dudley-Owen:** Indeed, okay.
The Guernsey Institute project is proceeding.

The Bailiff: Deputy Gollop.

655 **Deputy Gollop:** Sir, as Deputy Meerveld reminded us yesterday reshaping of secondary education has both significant capital construction and revenue ongoing implications. Will the report that Deputy Dudley-Owen has referred to effectively give options to the Assembly that cover both bases because it could be that one model is more expensive in revenue terms but cheaper in capital or *vice versa*?

660 **The Bailiff:** Deputy Dudley-Owen.

Deputy Dudley-Owen: Indeed Deputy Gollop will know that we need to give the Assembly in any policy letter as much information as is relevant to the decision we are asking them to make and so indeed we would be including both areas of finance.

665 **The Bailiff:** Deputy Roffey.

Deputy Roffey: While fully accepting that any new Assembly is free to depart from the established policy of a previous one. Would the President agree with me that it is important to

670 benchmark any future proposals against that established policy in order to explain to the community why we are departing from it?

The Bailiff: Deputy Dudley-Owen.

675 **Deputy Dudley-Owen:** May I ask Deputy Roffey to repeat the question please.

The Bailiff: Can we have a repetition please, Deputy Roffey.

Deputy Roffey: I will try and get it word for word.

680 While any new Assembly certainly has the right to depart from the established policy of the previous Assembly would the President agree with me that it is important to benchmark any future proposals against that established policy in order to explain to the community why we are taking the decision to divert from it?

685 **The Bailiff:** Deputy Dudley-Owen.

Deputy Dudley-Owen: I believe that I responded to that in answer one to Deputy Trott's original question.

690 **The Bailiff:** Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

I think I heard Deputy Dudley-Owen correctly in describing that move away from the fundamental terms of the requête as a minor variation. Now I believe from memory that the wording of the requête in the wording of Deputy Dudley-Owen's requête that was the only model actually specified. So I would say it is a fairly fundamental variation if Deputy Dudley-Owen is, or her Committee is, considering cutting that out, and certainly I find confusing this conflation of a General Election with a referendum on a single issue.

700 So I would ask Deputy Dudley-Owen that if indeed this talk of the spirit of the Resolutions is a euphemism for not including the fundamental terms of her requête whether she will bring a policy letter explaining or asking this Assembly to confirm whether it is happening –

The Bailiff: Sorry I am afraid your time is up so there was no question in the end.

705 I just remind Members that keep an eye on the clock you know the time limits for questions, you know the time limits for answers. If you spend too much time not posing a question but trying to make a speech preliminary to posing the question it inevitably means that you run the risk that the question does not get posed.

Deputy Kazantseva-Miller.

710 **Deputy Kazantseva-Miller:** Following on from Deputy de Sausmarez' question or attempted question I would like to ask whether the President might consider bringing a policy letter that outlines the departure from the details of the requête that were posed last year.

The Bailiff: Deputy Dudley-Owen.

715

Deputy Dudley-Owen: I think that it is important for Members to be reminded those who took part in the debate and those who are new to the Chamber that the requête which was passed on 3rd March was then superseded by a policy letter that was passed on 19th March.

720 **The Bailiff:** Deputy Meerveld.

Deputy Meerveld: Thank you, sir.

725 Would the President agree that the reinterpretation passed on 19th March did constrain the review considerably from the more open requête earlier and actually set criteria that might produce a biased review based on some very questionable assumptions and that you will be coming back to the States with a policy letter looking to see if this Assembly wants to continue with the review in that form or amend it to hopefully produce a quicker review and save costs?

Thank you, sir.

730 **The Bailiff:** All right Deputy Dudley-Owen are you minded to reply to that?

Deputy Dudley-Owen: I thank Deputy Meerveld for the question as I have with all the rest of the questions, but I do not want to pre-empt the detail of the policy letter that we are coming forward with in the next few weeks.

735 So thinking will be developed and we will have to bring it to the Assembly as and when, if required.

The Bailiff: Deputy St Pier.

740 **Deputy St Pier:** Will each of the models (a) to (d) be fully assessed in the policy letter?

The Bailiff: Deputy Dudley-Owen.

745 **Deputy Dudley-Owen:** The policy letter that was passed by the previous States on 19th March dictated specific models of education which should be included in the work that we are doing in order to come back to the Assembly. In broadening out the terms in order to fully explore and to fully inform this Assembly yes we will be looking at the models that were dictated by the previous Assembly.

750 **The Bailiff:** Deputy Trott, your third question to the President.

Deputy Trott: Sir, I believe that the third question has been answered as a consequence of supplementary questions.

755 **The Bailiff:** It still needs to be put, just in case there are further supplementary questions.

Deputy Trott: Okay. Indeed.

Well, I will place a supplementary question at the end of this one, sir.

760 Can the Committee confirm that it will respect its obligation to comply with the extant States' Resolutions on the review of secondary models unless and until the States' Assembly have rescinded or revised their resolutions?

The Bailiff: Deputy Dudley-Owen to reply.

765 **Deputy Dudley-Owen:** Yes. But as I have already explained we intend to broaden the scope of the review to introduce an additional and more realistic benchmark and to ensure we include models that only represent good value for money for the taxpayer but which are palatable for the community and thus deliverable if selected.

770 **The Bailiff:** Supplementary question, Deputy Trott.

Deputy Trott: Sir, there is an important difference between adding to the work that ESC have been directed to do, and replacing the work they have been directed to do. Would the President of ESC agree with me?

775

The Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: There is a difference between the two adding and replacing and what I have said is that we will broaden out the review.

780

The Bailiff: Deputy Gollop.

Deputy Gollop: Thank you, sir.

785

It would appear that over the past year that despite some of the sound arguments for a two school model it was unpalatable to many elements of the community.

How will Deputy Dudley-Owen and her new Committee assess in advance of putting the policy letter what is palatable to the community or not?

The Bailiff: Deputy Dudley-Owen.

790

Deputy Dudley-Owen: Clearly stakeholder engagement which includes the community is absolutely key in this whole process and as with any policy changes, especially momentous ones which change the *status quo* in our community, we need to be reaching out to the community, reaching out to stakeholders in a way that is meaningful and helps to shape the policy direction. The Committee is fully committed to reaching out to the stakeholders and actually the process was already started by the previous Committee for which I commend them, with staff engagement sessions from which we will build and proceed with those in a meaningful way.

795

The Bailiff: Deputy St Pier.

800

Deputy St Pier: Sir, Deputy Dudley-Owen is being very careful with her language and just following on from Deputy Trott's supplementary I want to try and make sure that I have fully understood the position.

805

Does Deputy Dudley-Owen accept that whilst the Committee can broaden the terms of reference it does need to discharge the terms of reference as drafted?

The Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Indeed, which is what I have said.

810

The Bailiff: Deputy Oliver.

Deputy Oliver: Thank you, sir.

815

Will the President agree with me that ... or not agree with me. Are you benchmarking it from the two school model for the new model or are you benchmarking it from the current system of what we have got?

The Bailiff: Deputy Dudley-Owen.

820

Deputy Dudley-Owen: At the States' Members' session a week ago last Monday, we explained to States' Members, so this has already actually been aired for States' Members so everybody who attended will be aware of this already. Clearly members of the public will like to know that the work has already been undertaken to benchmark models against the notional two school model. This

825 Committee believes that in order to provide the case for changing from the current operating model, the current operating model must also be benchmarked against it.

The Bailiff: Deputy Meerveld.

830 **Deputy Meerveld:** Thank you, sir.

Would the President agree with me that no previous States can bind a future States by their decisions, but obviously if a committee wishes to vary those decisions it needs to bring it back to the Assembly for consideration, and that is effectively what the Committee will be doing, will be bringing back their interpretation combining the four sets of new eyes that are now sitting on that Committee that are not influenced by previous issues in the States in the last term?

835 Thank you, sir.

The Bailiff: Deputy Dudley-Owen.

840 **Deputy Dudley-Owen:** Yes.

The Bailiff: Deputy St Pier.

845 **Deputy St Pier:** Sir, just in response to Deputy Dudley-Owen's response to Deputy Oliver and indeed based on the original answer to the question does Deputy Dudley-Owen accept that the current model is not actually a realistic benchmark because it is based on four schools?

The Bailiff: Deputy Dudley-Owen.

850 **Deputy Dudley-Owen:** No.

The Bailiff: Alderney Representative Roberts.

855 **Alderney Representative Roberts:** Thank you, sir.

It may be premature to ask this question as to the unknown future model of Bailiwick schools in Guernsey but can the President please update if swimming facilities will have to be provided within the upgrade as this is also part of our education?

860 **The Bailiff:** I think I am going to rule that question not arising from the answer that was given. Although there is a broadness to the answer and Deputy Dudley-Owen is learning the benefits during the supplementary questions of saying yes and no, which would have been a good answer to this question.

You try getting a supplementary question out of a yes from time to time, but that is a specific question and it is a wait and see option rather than arising out of the answer.

865 Deputy Meerveld, second supplementary question.

Deputy Meerveld: Thank you, sir.

870 Would the President agree with me that any comparison has to be done against the actual known model that is functioning today with a known cost basis. You cannot do a comparison with a theoretical model that has not yet been implemented and therefore the true costs both capital and revenue are yet to be determined.

Thank you, sir.

The Bailiff: Deputy Dudley-Owen.

875 **Deputy Dudley-Owen:** Yes.

The Bailiff: Deputy Burford.

Deputy Burford: If it were the case then to consider the current four school model as the benchmark will the Committee be including the cost of rebuilding La Mare in that benchmark?

880

The Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: The rebuild of La Mare de Carteret does not form part of the current estate.

885

The Bailiff: Your fourth question to the President Deputy Trott.

Deputy Trott: thank you, sir.

All States' Members are in receipt of an interim report on the review of secondary education models. In the interests of openness and transparency will the Committee agree to publish the interim report before the end of the year?

890

The Bailiff: Deputy Dudley-Owen to reply please.

Deputy Dudley-Owen: Sir, whether or not the interim report is published has got less to do with openness and transparency and more to do with fairness and inclusivity.

895

The interim report circulated to States' Members elect as they were at the time was woefully premature it did not take into account the feedback of staff because their workshops did not conclude until 17th November and it was published before the employee representative groups had been given a reasonable chance to comment on the content.

900

Arguably with a policy letter due within the next few months there was and remains little need for an interim report and I suspect the previous Committee would not have contemplated one were it not for its Members' concerns over their political futures in the run up to the General Election.

Sir, a less charitable person might describe the publication of an interim report in those circumstances as ill-judged (**A Member:** Hear, hear.)

905

All that said if there is a clamour to see the content of a report produced in those circumstances the Committee can make it available but it would be published with a serious health warning about the state of play at the time of its production.

910

The Bailiff: Supplementary question, Deputy Inder.

Deputy Inder: This has reminded me, part of the consultation period was the use of something called survey monkey, now survey monkey is a free online application that I can take multiple times by clearing my cookies. I believe there were 2,000 responses and I would not mind knowing and through you, sir, Deputy Dudley-Owen may not be able to answer this but I am fairly sure a lot of the data if any of the data was used from survey monkey there is every strong likelihood that the data was corrupt.

915

The Bailiff: Deputy Dudley-Owen.

920

Deputy Dudley-Owen: I am not sure that ... was there a question in there? Sorry, thinking about the response. (*Interjection*)

The Bailiff: Yes, I think that is how I had read it. I mean it is really a question of are you able to answer that at the moment Deputy Dudley-Owen, or is it something best checked.

925

Deputy Dudley-Owen: I would like to take that away and to receive staff advice so that we can have that conversation with Deputy Inder off line if that is okay.

Thank you.

930

The Bailiff: Deputy St Pier.

Deputy St Pier: Again in the interest of openness and transparency is the Committee planning on circulating the full written feedback from the recent Deputies' session?

935

The Bailiff: Well, again I am not sure that that arises out of the answer to the question which was an answer to a question about what was circulated before rather than what has happened since. So I am not going to permit that question.

Deputy Burford.

940

Deputy Burford: I will give it a go.

We have been told clearly by Deputy Helyar that extra spending means extra tax. Does the President feel that if her Committee's preferred model is more expensive in capital and revenue terms than the currently paused two school model the public will be prepared to pay more tax in order to achieve it?

945

The Bailiff: Once again I am not persuaded that that question arises out of the answer that was given about the circulation of the interim report.

This is not an opportunity to ask questions about the review of secondary education that is taking place it does have to be in the context of the Rules and the answer that was given to the original question.

950

Deputy St Pier, second supplementary question.

Deputy St Pier: Sir, I will try again to ensure that it is within the response to the question. In responding to the question Deputy Dudley-Owen said that the Committee certainly would consider publishing the report if requested to do so if there was a demand to do so. Would you please treat this question as a request to do just that to publish the report?

955

The Bailiff: Deputy Dudley-Owen.

960

Deputy Dudley-Owen: Yes.

Deputy St Pier: Thank you.

The Bailiff: Deputy St Pier is clamouring it is really a question of whether others are also clamouring.

965

Your fifth question to the President please, Deputy Trott.

Deputy Trott: Thank you, sir.

970

Assuming the Committee is committed to openness and transparency and is prepared to publish the interim report can it confirm that the version published will include estimated annual running costs of each of the models under review, since these are now available?

The Bailiff: Deputy Dudley-Owen to reply.

975

Deputy Dudley-Owen: Sir, the Committee is fully committed to openness and transparency and this will be evidenced not only by its ongoing engagement with stakeholders as the secondary

review progresses but also by the financial detail published in the upcoming policy letter that I have already referred to.

980

The Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

I am grateful for the President's response to that and wonder if she would undertake to arrange a workshop on the technical analysis that informs the modelling basically? Having had many conversations with especially new Deputies subsequent to the last presentation that they organised I think that would be something that would be very welcomed in understanding the modelling and the assumptions.

990

The Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: There will be further engagement with stakeholders being the States' Members as we progress up to the building of the policy letter.

995

The Bailiff: Deputy Gollop.

Deputy Gollop: Sir, in relation to the shrewd question Deputy Trott put about running costs, would such an analysis also contain issues of potential educational outcomes and of models whereby the schools were more self-governing, self-managing, rather than part of the current education structure which might make a material difference to running costs?

1000

The Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, sir.

1005

Well, in the same way that what happens inside a house is what makes it a home so it is with schools. Education is what happens in the buildings not the buildings themselves, and some of the best performing schools shine in spite of the school's premises not because of them.

So we really must be extremely cautious about conflating the buildings with the educational outcomes.

1010

School self-evaluation, external inspection, a robust education improvement policy, literacy, SEND reviews and a greater focus on the CPD of school staff and these things are already happening, and it is these things that will lead to better outcomes for students.

A Member: Hear, hear.

1015

The Bailiff: Deputy Burford.

Deputy Burford: Thank you, sir.

1020

At the recent workshop one of the criteria that the Committee highlighted was a desire not to split the sixth form. Could the President tell me please whether the Committee have resolved in favour of that criteria or if not when will that be decided?

Thank you.

The Bailiff: Deputy Dudley-Owen.

1025

Deputy Dudley-Owen: Thank you, sir.

Thank you to Deputy Burford for her question.

As we stated quite clearly at the States' Members' session these are evolving principles that we are looking at trying to elicit feedback from key stakeholders. It is interesting to note that on this

1030 current Assembly 20 individuals in this Assembly noted a preference for a single sixth form centre, and I will leave it at that statistic.

The Bailiff: Your sixth and final question, Deputy Trott, to the President.

1035 **Deputy Trott:** Thank you, sir.

I would like to place on record that I am grateful to my friend Deputy Dudley-Owen for her answers this morning which we all know will be of much interest to many in our community.

So lastly as you say, sir, is Peter Harwood, Advocate Peter Harwood, still the independent overseer of the review and is he actively involved in all aspects of the Committee's review?

1040

The Bailiff: Deputy Dudley-Owen to reply.

Deputy Dudley-Owen: I thank Deputy Trott for his questions sincerely it is lovely to be able to respond.

1045 The Committee discussed Mr Harwood's ongoing role as the independent overseer and confirmed to him that we wanted to retain his services in that regard if he was amenable to that request which he confirmed he was.

1050 However, since then we have learned that he is to head an examination of Guernsey's economy for the newly formed Guernsey Policy & Economics Group we understand that Mr Harwood was appointed to the apolitical role of independent overseer because he was just that apolitical, given his emerging role with GPEG the Committee will now reflect on whether there is or could be any perception of conflict between these roles.

The Bailiff: Supplementary question, Deputy St Pier.

1055

Deputy St Pier: Yes, sir.

Has Peter Harwood expressed any concerns in the way the review has been carried out from March up to this period that Deputy Dudley-Owen may be aware of?

1060

The Bailiff: Deputy Dudley-Owen to reply.

Deputy Dudley-Owen: No concerns, sir, that I have been made aware of.

The Bailiff: Second supplementary question Deputy St Pier.

1065

Deputy St Pier: Yes thank you, sir.

Given the reservations which the Committee are considering in relation to Peter Harwood given that the review is 75% complete, does Deputy Dudley-Owen agree that it would be really quite undesirable to dispense with the independent overseer at this point?

1070

The Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: As I have stated in my response to Deputy Trott's question the Committee will now reflect on whether there is any perception of conflict between his current role and that of independent overseer.

1075

The Bailiff: Deputy de Lisle.

1080 **Deputy de Lisle:** I wonder whether the situation with Peter Harwood is going to lead to a longer period before we actually see this interim report? Well, perhaps the Minister would answer that.

The Bailiff: Deputy Dudley-Owen.

1085 **Deputy Dudley-Owen:** Thank you to Deputy de Lisle for his question. I cannot see why that would delay any further work going on.

The Bailiff: There are no further supplementary questions from Members, so I thank Deputy Dudley-Owen for her responses to those questions and that concludes Question Time Members. We turn to the next Item of business. Greffier, please.

Billet d'État XXVIII

APPOINTMENTS LAID BEFORE THE STATES

Appointment of an Ordinary Member of the Guernsey Competition and Regulatory Authority – Dr Philip Marsden appointed

1090 **The Deputy Greffier:** Appointments Laid before the States – Appointment of Ordinary Member of the Guernsey Competition and Regulatory Authority.

The Bailiff: Well, Members of the States, we note that the appointment has been laid before this meeting of the States of Deliberation and move on to the next matter.

LEGISLATION LAID BEFORE THE STATES

The Income Tax (Approved International Agreements) (Implementation) (Mandatory Disclosure Rules) Regulations, 2020;

The Criminal Conviction Declarations of Candidates (Public Inspection) Rules, 2020;

The Water Charges (Amendment) Regulations, 2020;

Waste Disposal and Recovery Charges Regulations, 2020;

The Wastewater Charges (Guernsey) Regulations, 2020;

The Waste Management Services (Charging) Regulations, 2020

1095 **The Deputy Greffier:** Legislation laid before the States – 21/2020 The Income Tax (Approved International Agreements) (Implementation) (Mandatory Disclosure Rules) Regulations, 2020; 76/2020 The Criminal Conviction Declarations of Candidates (Public Inspection) Rules, 2020; 106/2020 The Water Charges (Amendment) Regulations, 2020; 109/2020 Waste Disposal and Recovery Charges Regulations, 2020; 107/2020 The Wastewater Charges (Guernsey) Regulations, 2020; 108/2020 The Waste Management Services (Charging) Regulations, 2020.

1100

**Motion to Annul The Waste Management Services (Charging) Regulations, 2020 –
Not carried**

1105 **The Bailiff:** Members of the States, this is a fairly novel matter, well, not novel but an unusual matter for us. We have a motion of annulment that has been submitted by Deputy St Pier seconded by Deputy Trott and in accordance with the Rules I invite the President of the Committee which made the Statutory Instrument. This Statutory Instrument as I understand was made by the Waste Disposal Authority and therefore the States' Trading Supervisory Board to speak to the matter because it is being proposed at the meeting when the Statutory Instrument is being laid so I am going to invite Deputy Roffey as the President of the States' Trading Supervisory Board to speak to this matter.

1110 **Deputy Roffey:** Sir, I have very little to say at this stage because I think the matter is incredibly straight forward. Obviously the motion to annul I need to speak on when I understand the reasons for the motion to annul. So I would prefer to speak after Deputy St Pier.

1115 **The Bailiff:** You will not be entitled to speak after him; you will be entitled to respond to the entire debate, Deputy Roffey.

1120 **Deputy Roffey:** Ah, I thought I was free to speak at any point during the debate and I was going to try to come in early. My understanding with my Vice-President that is if it is really necessary, he would come in at the end of the debate to respond on behalf of the Committee, but if you prefer me to do it right at the end I will. I just think I could cut things quite a lot shorter if I was able to come in earlier in that debate.

1125 **The Bailiff:** Well, I am looking at Rule 19(6) which talks about after general debate, if any, the President of the Committee is entitled to respond to the debate. If you want to switch around you can.

1130 **Deputy Roffey:** Well, in that case, sir, I will probably have to open debate and try and be prescient about the reasons that may be given for the motion to annul which is a strange act but I think can probably – well, we will see whether I get it badly wrong but I think I can probably get it right so I will take your offer up, sir, of actually a discussion on this.

The Bailiff: Very well.

1135 **Deputy Roffey:** Sir, luckily I am able to come at this issue from first principles rather being overly defensive of the Committee's stance on charging, because I was not on either STSB or indeed E&I when they devised the charges for Guernsey's new waste disposal system.

Indeed I opposed the current formula because I would have preferred a different balance between fixed charges and bag charges, but of course all of that is now history, but I would like to start by looking back at the charges that were agreed two years ago and posing a question.

1140 Were those in charge of the programme naïve in thinking that they would prove to be sustainable? Well, perhaps they were. But I think we need to cut them some slack. It is not true that they did not predict that waste arisings would fall considerably, or that more waste would be recycled, they predicted all of that. Where they did get it badly wrong was by predicting that the timescale for those trends would be considerably longer than has actually proved to be the case.

1145 Sir, any predictions for future human behaviour are always likely to be proved wrong, particularly when you are predicting how people are going to react to a completely new set of circumstances.

So I am certainly not going to hammer the politicians or the officers responsible for those faulty forecasts, particularly if when you think back they were under extreme pressure both from this Assembly and the wider community to keep the new charges as low as possible.

1150 Just imagine the public and political reaction if the charges had been set at a level which generated a very significant profit from household waste disposal. Well, I suppose having heard his pitch for my job that situation might have been welcomed by Deputy St Pier but I suspect he would have been pretty much alone in that sentiment.

1155 The other thing I want to say before getting in to the detail is that although this problem is one I have inherited rather than created it is also a problem I very much welcome, because it is a symptom of our new waste disposal system not only living up to all expectations but far exceeding them. Members I would far prefer to tackle the thorny problem of insufficient income than the opposite one of waste figures remaining stubbornly high and therefore the programme extremely well funded. (A Member: Hear, hear.)

1160 That said we have all known all of us from day one that one of the basic conundrums at the heart of a pay as you throw system is that the more successful it is in encouraging waste minimalization and recycling the greater the financial challenges that throws up.

1165 Indeed I was one of those pointing that out *ad nauseum* several years ago but eventually I had to accept that this was simply an unavoidable feature of the new pay as you go system and would have to be dealt with as it arose. As it happens it has arisen far earlier than predicted, but as I repeat this is an unalloyed good outcome.

1170 Has the response, as has been suggested in some quarters, been to punish Islanders for doing the right thing by minimising and recycling their waste. Not a bit of it, conversely it has been to reward them by passing on the cost savings arising from those laudable trends directly back to households.

1175 When the new waste system was brought in the STSB and E&I of the day told the States and the Island that it would require charges averaging £6 per household per week to fund the strategy. It was never suggested that those charges would not need to keep pace with inflation and so the estimated charges today two years on would be by that estimate about £6.30 per household. Instead partly because of the outstanding response of Islanders and the consequent ability to strip costs out of the process the charges next year, if the motion to annul is rejected and the increases are approved, will average just £4.60 per household a very considerable reduction.

1180 Now that is partly and I confess it partly a result of the patent miscalculation of the correct charging policy at the outcome, but it is also that lower sum is supplemented as a direct benefit of Islanders doing the right thing and the cost savings being passed on.

1185 But sadly the cost reductions are not and never can be *pro rata* to the volume reductions for two reasons. Firstly there are some fixed costs involved in the system that can never be stripped out and secondly because there are no direct charges attached to recycling but there are considerable costs in dealing with recyclates. Now of course we could, we could charge for recycling, but we believe that would be a wrong approach which would send out all of the wrong messages.

So while we are able to pass on many of the cost savings created by the overwhelming success of the new system those savings are never going to be enough to ensure no increases in the annual fixed charge or the bag charges. Indeed read my lips I cannot rule out any further such increases in future years.

1190 Guernsey Waste made a loss before depreciation in 2019 of about £1.4 million on top of that there was a very considerable additional accounting loss through depreciation, but the intention was never to pass that charge on to the users because of the service because this Assembly took a deliberate decision to fund the capital element of the new programme from the Capital Reserve.

1195 Now I voted against that and Deputy Parkinson actually said yesterday maybe it was a mistake. Maybe it was but that was the decision of the States, and as we have heard in recent questions the decisions of the States until varied must be respected.

1200 So there is a £1.4 million funding gap effectively to bridge and this increase would only generate about a quarter of a million, so that leaves more than a million still to be found. Now the first resort is to bridge that gap through efficiencies and innovation. Some cost savings have already been made, for instance we have taken advantage of the two year extension clause in the contract for

the original export of refuse derived fuel from three years to five years and in that renegotiation we have managed to improve the deal from Guernsey's perspective and to save money.

1205 We are currently looking to find further savings through renegotiating our contract for food waste, and further efficiencies are constantly being sought, innovations come along in the waste industry all the time and they are being constantly examined.

Indeed if the point of this motion is to spark a complete review of how the waste programme is funded then it is completely unnecessary. Guernsey Waste has already set up an Efficiency, Innovation & Pricing Committee to examine how best to marry income with expenditure.

1210 I warn Members that that is likely to be a mixture of both savings and increased charges but please let us get those increased charges in some sort of perspective. If you pass these charges today the average cost per household will go up by 20p a week or £10 a year. I am not trying to be dismissive I know some people are living on the breadline and any increases are bad news for them, but let's get it in perspective. 20p a week or £10 a year. Described in percentage terms it sounds big about 8% on bag charges somewhat less on the fixed charge but they translate into tiny sums.

1215 But even those percentages are misleading because inflation has risen by about 5% so current charges were set, so the real terms increases are about 3% on bag charges and less than that on the fixed charge. Taken together that translates to a real terms increase of less than 6p a week on the average household or £3 a year.

1220 But more to the point these costs exist, they cannot just be wished away. When they indicated that they were mindful to bring a motion to annul I emailed Deputy St Pier and Deputy Trott and asked where are you coming from on this issue, and the answer I got from Deputy Trott was that he felt that this was the wrong time to be taking money from Islanders' pockets. But Members all this motion does is to stop us taking cash from Islanders right pocket and means that we take it from their left pocket instead, because whatever shortfall there is in user charges will have to be made up through taxation.

1225 Now of course we could if we chose to, we could fund the Island's waste disposal from General Revenue, but every pound we spend getting rid of our rubbish will be a pound less to spend on health, or education or the Police Force or whatever.

1230 Sir, STSB thinks the original idea of making the waste programme self-funding in revenue terms remains the right one. That is exactly what we intend to do over the length of the entire programme, but its huge initial success will mean that in the early years it will see a deficit which will have to be covered by an overdraft from P&R.

1235 I think we need to remember here that the original intention had been to cover both the capital and revenue costs of the Waste Strategy from user charges, that would have equated to about £7 per household per week reflat to £7.35 today. Then the States decided to fund the capital element from the Capital Reserve leaving just the revenue costs to be covered by the users.

1240 I do not think it would be right to give up on that intention and just run to General Revenue the only other possible source of funding to plug the gap. I do not think that would be wise at any time, but particularly unwise now when General Revenue is under so much pressure, so much strain to provide the basic services that this Island needs and expects.

1245 Having said all of that there are actually two items of expenditure that are being paid for out of the waste charges levies on householders that I would at least like re-examined. The first is the £400,000 per year costs of monitoring a host of historical landfill sites in both public and private ownership to ensure that they remain safe in terms of landfill gases. Personally I believe that when the States decided that the new Waste Strategy should be self-funding in its revenue costs they probably meant that the current strategy should wash its own face rather than it should have to pick up a host of legacy costs to be paid for out of bag charges.

1250 Secondly when the States decided to fund the capital cost of the strategy out of the Capital Reserve I think they clearly believed that the building and everything to do with it was being provided by the taxpayer and just the revenue costs of running the programme had to be picked up by bag charges. So my question is whether they thought the Strategy was going to be charged

£300,000 a year ground rent for the waste transfer station. Again I would quite like a discussion with P&R about that.

1255 But these are not silver bullets they are no reason to support the motion to annul that is about to be laid for three reasons. First of all I am going to make sure they are looked at with or without this motion to annul. Secondly if these costs are lifted out of the bill which Guernsey people have to meet from their waste charges, we are not actually saving them, we are not wishing them away, those costs will still be there and they will need to be met by general taxation at a time as I say when the exchequer is under extreme strain. Thirdly these two big ticket items would still only bridge about half of the funding gap which exists in the strategy so significant increases in charges will still be required.

1260 So, sir, to recap, which is a slightly lengthy introduction to an order laid before the States it is a good problem to have but we do have a funding problem and there is no denying it. We are well aware of this and we do not need to vote for this motion to get us to address it because that work is already being done.

1265 Contrary to folk lore any cost savings engendered by waste reduction and recycling are being passed on to the householders, that is one of the reasons why the typical household is paying less than originally predicted.

1270 This motion will not save the people of Guernsey one penny it just means they will be funding the Waste Strategy differently from a different pocket. If the motion succeeds then the strategy will need an additional quarter of a million pounds from General Revenue in overdraft.

1275 Then unless we completely abandon the decision to fund the revenue costs of the strategy through user charges that overdraft will have to be paid back anyway from future waste charges. So actually thinking about it, it does not even stop the States taking money out of Islanders' right pockets and using their left ones instead it I still going to take the money out of their right pockets it just defers payment and invokes extra interest payments to be met by user charges down the road, a classic head in the sand resolution.

1280 Members I am sure that this motion is well intentioned and I welcome the focus and debate on the Waste Strategy that it has engendered. Members of STSB always like talking rubbish but it is a complete waste of time. It simply makes a challenging situation that bit worse, and when you think about it bearing in mind inflation it will mean that next year waste charges in real terms will be 5% lower than they were when they were first introduced a couple of year ago, and with the benefit of hindsight it is quite clear to everybody that those charges were patently set rather too low at that time, so it makes a bad situation worse.

1285 Sir, this motion is not facing up to the realities of the situation at all and I invite Members when it is laid to reject it.

The Bailiff: Thank you very much.

1290 I now turn to the proposer of the motion to annul this Statutory Instrument Deputy St Pier to move that motion.

[Motion to annul](#)

To resolve that the aforementioned Regulations made by the Waste Disposal Authority, in exercise of the powers conferred on it by sections 1 and 3 of the Waste Management Services (Charging) Ordinance 2018, be annulled

Deputy St Pier: Thank you, sir.

1295 I am delighted to be moving what you describe as an unusual motion. I am also very proud of Deputy Roffey he gave exactly the speech I would have given if I was the President of the Waste Disposal Authority. He described it as a waste of time and in that he was perhaps echoing comments from Deputy Ferbrache only yesterday on another amendment.

Sir, this motion is undoubtedly a – I should also congratulate Deputy Roffey on being very prescient I think his speech actually which had obviously been very well prepared was perfectly

capable of being delivered without hearing what I was about to say so he has been very prescient indeed.

1300 Sir, this motion is a blunt weapon with statutory instruments as an Assembly we are only able to approve or annul the regulations. We are not able to present any alternative proposals.

Of course the increase in charges does seem small £5 a year per household in fixed charges 5.8% or 20p per large black bag 8%, and Deputy Roffey has spoken to what that means per week and so on for each household.

1305 Now of course for most of us even I would say a majority of the community that is completely manageable, but for many it will not be and it will not give them any succour to say well, you are paying less than we anticipated you might have been expected to have paid a few years ago because they are dealing with the reality of where they are in their lives today. It will of course be well above the 1.5% increase in Excise Duties and TRP which P&R have recommended and the States have now approved in relation to the Budget.

1310 These regulations were approved before the presentation of the Budget and I cannot actually believe that the STSB or the Waste Disposal Authority would have put forward these proposals had they known in advance that the new Policy & Resources Committee would be taking a line – I realise this is not hospitality which was one of the reasons they moved the proposals in relation to Excise Duty but they did also cite the line that the community cannot take any further indirect tax increases of which of course waste charges surely is one that is above the rate of inflation,

1315 Now I do just need to take Members back through how we ended up here with the charges structure. Deputy Roffey has touched upon that but I hope it will be of use to those who did not sit through what seemed like interminable debates on the subject.

1320 The Waste Disposal Authority presented the States with a suite of alternatives a sort of pick and mix choice between bag charges at different levels and fixed household charges at different levels or indeed no fixed charge at all, and at one stage of course there was discussion for charges for recycling bags as well but that was subsequently dropped.

1325 The point is that where we ended up and the balance between fixed and user charges at £85 per household per annum and £2.50 per bag was not scientific, it was not objective, it was at the end of the day a subjective political judgement by the States as a whole.

1330 It is also important to remember that the model, in other words the assumptions that the amount of black bag waste and the amount of recycling was also a model based on some trials and making assumptions about changes in behaviour. Deputy Roffey is exactly right that the misjudgement was the speed at which the community have moved to adopt greater recycling and to throw away less, and Deputy Roffey by his own submission has admitted that it was a patent miscalculation to use his language.

It was always accepted that the model was just a model and it would need to be informed by experience and indeed he has admitted that himself and that it should be subject to review.

1335 From memory Deputy de Sausmarez and I think possibly Deputy Burford both when she was in the Assembly and when she was not were among those from memory who said that the model was wrong and said that in their view the community would chuck less and recycle more, she and others were right, this is exactly what has happened and as a result Guernsey Waste has suffered a significant loss of income based on its model.

1340 Their response to increased charges is simply not in my view the right response and as Deputy Roffey has said it will only raise an additional £255,000 towards the £1.4 million deficit estimated for the next year. It is the equivalent of sticking a Winnie the Pooh Elastoplast on the suppurating wound.

1345 Even if this motion to annul is rejected the regulations and their increase in charges will barely touch the sides of the overall deficit a mere 18% overall. Neither is it the right response. Frankly this is just like Motor Fuel Duty we cannot keep raising it at above the rate of inflation to compensate for the drop in volume, and we are actually on a hiding to nothing. Of course the irony is that it is Deputy Roffey who as we heard during the Budget debate yesterday took the lead in making this

1350 very point in relation to fuel who is now holding this particular baby and is seeking to defend frankly the indefensible.

It is an irony too that Deputy Roffey wearing another hat as the President of the Committee for Employment & Social Security will be the first to recognise that this charge is regressive it will disproportionately impact the poorest in our community. If he did not have to defend these increases he would I know based on experience call these hidden taxation or stealth charges.

1355 Indeed, ironic again, this did in essence form the basis of his pitch against mine to become the President of the States' Trading Supervisory Board and again he did refer to that in his opening speech.

So I do not think we can punish our community for doing the right thing if they continue to recycle more are we going to do the same again next year.

1360 So what is the right response? The right response is for the WDA to accept as it appears to have done that the assumptions behind the charging model have been proven based on real life experience to have gone a little awry.

1365 Now the community do not want to wait for another committee. I heard reference to I did not catch its full name but I think it is something placing committee to make a decision, they want action today, we know that, and I think it is not about right pocket and left pocket, this will need to be funded in the short term until the Waste Disposal Authority have come back with new proposals as to the whole Waste Strategy, the funding of the whole Waste Strategy effectively from the back pocket, which is how we are funding the rest of the Budget, namely through the deficit of £23 million.

1370 The two costs – Deputy Roffey referred to two costs – that should not be, in his view, be in the Waste Strategy. Some of the capital costs and some of the costs of managing pre-existing waste facilities. I think actually we as the Assembly and the community perhaps more importantly are entitled to have the answers to those questions as to where those costs should sit before we seek to raise the charges through the Waste Strategy.

1375 So the reality of this situation I think is one that we do have to recognise that the model was wrong in terms of the speed and the right response now is to put these charges on hold. I think that will increase the pace of work for the whatever it was placing committee to undertake its work on the Waste Strategy charging bring that back to this Assembly through the Waste Disposal Authority so we can make fully informed decisions rather than this sticking plaster which by the
1380 President's own admission is just that, a sticking plaster.

The Bailiff: Deputy Trott – do you formally second the motion?

1385 **Deputy Trott:** I rise to second this debate and will speak now, with your permission.

The Bailiff: Well, let's just wait and see whether anyone has anything else to say first.

Deputy Inder: I am going to try a 24(4) – I believe this is a secondary motion.

1390 **The Bailiff:** Madam Procureur – I do not think that it is a motion that is available to Deputy Inder under Rule 24(4). I have so indicated to him.

1395 Although Rule 24 is headed secondary propositions and the definition of secondary proposition in Rule 30 paragraph 1 includes a motion to annul a statutory instrument. When I look at paragraph 4 it simply says immediately after an amendment or sursis has been proposed and formally seconded which is the position we have reached at this stage and before any speech by its seconder or further debate which is why I stopped Deputy Trott at that point.

1400 Any Member may request the Presiding Officer to invite Members who support debate on the amendment or sursis. It does not extend beyond amendments and sursis in my interpretation of that. So I am simply inviting you to tell me whether I have got it wrong please, Madam Procureur.

The Procureur: Sir, on a strict reading of 24(4) you are absolutely correct the wording only relates to amendment or sursis the header is somewhat misleading because it does refer to amendment sursis etc. in the catch all of secondary propositions but on strict reading of 24(4) the only terminology used is amendment or sursis.

1405

The Bailiff: Thank you very much.

On that basis Deputy Inder I am not going to permit a motion under Rule 24(4) to be put. If it needs to be expanded at some stage that is a matter for the States' Assembly & Constitution Committee to be put on its massive list of things to change. *(Laughter)*

1410

Deputy Trott, you wish to speak at this stage?

Deputy Trott: I will very briefly, sir.

The Bailiff: I will call Deputy Trott on the basis that he is seconding this motion after which if she stands again I will call Deputy Aldwell.

1415

Deputy Trott.

Deputy Trott: Sir, on the basis that it will be Deputy Aldwell's maiden speech I am happy to concede.

1420

The Bailiff: If you are going to do that fine, thank you very much.

Deputy Aldwell you did stand, I would have called you in the normal circumstances because it is your maiden speech but as Deputy Trott is the seconder of the motion I am always inclined to take those who are party to a motion as well.

1425

So Deputy Aldwell I invite you to deliver your maiden speech please.

Deputy Aldwell: Thank you, sir.

Having been a Constable over the past few years and attended endless monthly meetings with the Guernsey Waste before, during and after the new Waste Strategy was put in place, I feel I have an understanding of the system and the impact of these new system charges on small households on fixed incomes and how unfair these charges really are.

1430

I hear Mrs Le Page mentioned regularly over the years and actually I do know her very well. *(Laughter)* She is a person who does not do Face Book or Twitter but she listens to her radio for company. She is not frightened to say what she thinks. She will happily telephone me at home or pop into the Douzaine and I was always happy to chat over her concerns.

1435

One concern in 2020 was: why was she charged £107 for her waste collection where her brother Mr de Bojeas was charged £67 in the Castel? Explaining even when sharing a contract with St Pier du Bois and the Forest there were only 1,900 properties spread across the parishes but Castel had 3,500 it really was all down to density and demographics and what the contractors charge the parishes. But I could understand £40 more did seem unfair.

1440

In 2017 when households were charged on TRP Mrs Le Page was living on her own in a two up two down on a fixed pension, she paid £62 per year all in for her waste. She was an avid recycler, her next door neighbour had a large four bedroom house with two teenage children, they paid £233 per year which was approximately four times Mrs Le Page's waste rate which seemed equitable.

1445

Move on to 2020 and the same pensioner with her fixed income approximately £12,000 is now charged in three parts, parish collection £107, fixed charge £85, and one black sack a month a total of £224 up from £62, or £162 more. Yet the next door neighbour in the four bedroom is paying the same collection charge, the same fixed charge, and probably two bags of waste, an extra £70. So they are up £262 from £233 just £29.

1450

Having prepared five *remedes*, my parish budgets, I understand that budgets need to be balanced or we will be taxed in other areas to make up the shortfall, so I will not be voted in favour

1455 of the motion of annul. But I will be asking the States, and I have heard from Deputy Roffey, to seriously look at a fairer system. How can it possibly be fair to charge a single person with an income of £12,000 the same as a four person household with an average income of £84,000 as was reported in *The Press*, calculation on TRP was fairer, we need to look at these charges, how they are calculated across the board and making it fairer for everyone.

Thank you. (*Applause*)

1460 **The Bailiff:** Deputy Trott.

Deputy Trott: Sir, some in this Assembly want to, and I quote, 'keep the States out of people's pockets'. There is no question that Deputy St Pier and I want to give the Assembly the opportunity to reflect at such concerns as a consequence of this procedure to annul.

1465 Deputy Roffey said, and he said it in context, I accept, but he uses the words 'insufficient income is a welcome outcome' in any context insufficient income is not a welcome outcome, it is not a sensible approach, it is never a sensible approach. It is particularly not sensible in this context because the problem is quite clearly structural, it will not go away, it must be addressed. It cannot ... in fact the more our recycling rates improve the worse the problem gets.

1470 So the losses are absolutely embedded and in our view should be addressed immediately. He also used the words again in a slightly different context but they are salient 'we do have a funding problem' the problem is significant and what will happen is that the treatment will effectively be very similar to the treatment of Aurigny's losses, they will grow, and they will grow, and grow until such time as the States will capitalise those losses and invariably such capitalisation will come from the Capital Reserve further diminishing the amount that we can spend on infrastructure.

1475 So it really is not sensible to proceed in this way. Now I do take some comfort from the fact that a group that Deputy St Pier referred to when he replied is being set up to address this issue. I am not sure whether it is as a consequence of this motion to annul – it is not – well, that is reassuring because there are significant structural problems that need to be addressed.

1480 Now I do not think Deputy St Pier and I expect this motion to annul to be successful but what it has done is it has brought to the fore and exposed the issues around many of the structural problems that we face.

1485 We want, and I do not intend this to sound sarcastic but invariably it will, we do want action this day, we are very much in line with Deputy Ferbrache's view and indeed the thoughts of Deputy Helyar, but we really must address these things and address these things swiftly, these are priority issues. (**A Member:** Hear, hear.)

Thank you, sir.

The Bailiff: Deputy Burford.

1490

Deputy Burford: Thank you, sir.

1495 I may reluctantly support this motion to annul, and I say reluctantly because I am well aware that waste management is a service that has to be paid for. I followed the developments of the Waste Strategy closely over the last decade and more, indeed it is what brought me into politics in the first place. I also sat for two years on the Public Services Department and participated in vigorous discussions around the table on charging strategies and the amount by which we could expect to see black bag waste full.

1500 After marching and waving placards against a £93 million incinerator the cost of which was closer to a quarter of a billion when all was said and done, it seems rather churlish to be standing up here arguing about 10p, 20p or a fiver.

The reason I am doing so is because I want to place on record in the hope that it might be taken into account if this motion is successful or even if it is not, my concerns with the quantum of waste costs which are included in the standing charge element.

1505 During my time on PSD I argued unsuccessfully that to place so much of the cost on to the standing charge was to penalise two cohorts of people in particular, those who make a concerted effort to minimise their waste, and those who live alone.

1510 We need to remember that in addition to the bag cost and standing charge there is also a parish charge, I have no issue with the latter it is a necessary cost and in any case it is the responsibility of the parishes, but it also still a fixed cost on households irrespective of the amount of waste one creates. Thus a small or single person household putting out one black bag a month, eminently possible if one takes care, effectively finds itself paying the equivalent of £16 a bag when all charges are taken into account. Whereas a larger household putting out two bags a week is paying the equivalent of around £4 a bag.

1515 Of course I realise that the service itself has many fixed costs which occur regardless of the amount of waste or recycling included and I understand that the recycling has to be paid for, but that notwithstanding I think the standing charge is too great.

1520 I also understand that some of the same arguments which apply to Fuel Duty, that is a tax or a charge on a reducing volume, also apply here, but I am keen that the fundamental pay as you throw principle of the Waste Strategy is not further undermined by another increase in the standing charge.

So in closing I ask the STSB if this motion is successful or even if it is not to consider reviewing the balance between the fixed and variable elements of the charge as householders can do something about the latter by reducing the amount of waste they produce which after all was the original aim of the strategy.

1525 **The Bailiff:** Deputy Queripel.

Deputy Queripel: Sir, thank you.

1530 Sir, my brother former Deputy Laurie Queripel and I laid an amendment back in October 2018 that sought to make dealing with our waste a true user pays initiative and Deputy St Pier voted against that amendment as did Deputy Trott, as did Deputies Ferbrache, Gollop, Parkinson, Leadbeater, Meerveld, Inder, Le Tocq, Dudley-Owen and Prow. Deputy de Sausmarez chose to abstain from voting for some reason.

1535 The amendment did not get the support it needed to succeed so consequently we do not have a true user pays system in place. Seeing as Deputy St Pier and Deputy Trott both voted against the amendment I am wondering why they are seeking to annul this motion, which they knew full well would be the eventual outcome.

1540 So my concern is that as former Deputy Vale Deputy Graham Gill often said it is very rarely about what it is supposed to be about. So what exactly is this about? Now I need clarification on that from Deputy St Pier when he responds. They both had the opportunity to change the whole approach to the way Islanders pay to deal with their waste and they voted against the motion so why the change of heart. I did not hear the reasons for it in either speech made by Deputy St Pier or Deputy Trott.

1545 Of course it also concerns me a great deal that they do not offer an alternative and I heard what Deputy St Pier said that the Rules do not allow to offer an alternative but that is no excuse, they could have come up with an alternative and they could have asked the States to suspend the Rules through the Chair and then laid that amendment in front of the States. So to me that is just half a job and I am surprised at both Deputies for doing half a job. I thought they would have come up with – I give way to Deputy Trott, sir.

1550 **Deputy Trott:** Thank you.

Sir, I remember the debate with reasonable clarity one of the problems with the user pays principle is that it disproportionately impacts on those who do not have the facilities to recycle. A pretty good example would be someone living in a tenable building who may be on very modest income who simply does not have the facilities. Now, many of us will have recycling bins in our own kitchens I certainly do which makes the process much easier. This is an example of where – and I

was very careful when I was quoting Deputy Roffey to say that the context, I was deliberately taking things out of context to highlight the high level principles, it is example of where outcomes of debate are taken out of context. The user pays principle works most of the time not every time.

1560 **Deputy Queripel:** Well, picking up on that point, sir, of impacting on some and not others. I resonate with Deputy Aldwell's point. There are three charges in place here, there is the States' fixed charge, there is the parish fixed charge, and there is the black bag charge. Someone who puts out a bag every three months puts out four bags a year and still ends up paying the two fixed charges. How can that be fair? It is not fair.

1565 In fact going back to the debate prior to the debate on the waste in October there was a gentleman in the media, Mr Kent, he said exactly that. He said this is so unfair I am prepared to not pay the rate and go to prison whereupon Deputy Ferbrache asked me to give way to explain that you cannot be sent to prison for that kind of offence, but that is just by the by. This gentleman was saying he is prepared to go to prison, and others followed on from that they also said the same thing and not just pensioners. Mr Kent was a pensioner, but it was not just pensioners. So I rally against what Deputy Trott has just said, because of the unfairness of asking people to pay – and I do not know what the charges are – I apologise for that – I think it is something like £85 States' charge £75 or £85 or whatever parish you live in parish charge and then the black bag charge on top of that. Now that is not a true user pays system nowhere near, nothing like. It was referred to as a user pays system at the time which was a nonsense but the majority of the previous Assembly voted against the amendment that my brother Laurie and I laid. In their speeches they said we want a true user pays system, absolute nonsense. You have got three charges.

1570 So I will just get back to my speech, sir. I hope I do not get interrupted by too many Members because, to state the obvious, the more interruptions you get the longer your speech takes. People can say what they want to say when they speak, they have not got to keep on getting up and asking Members to give way, you can say what you want to say in your own speech. If Deputy Trott did not say what he wanted to say in his speech well, why didn't he say it? When you are making a speech, sir, you have to try and – when you are presenting a motion to annul an amendment or requête or whatever you have to say everything. Deputy Trott said very little and Deputy St Pier said very little. I am only hoping he has got a lot to say when he responds because we all need to hear it.

1580 Just backtracking, sir, asking for your indulgence for a moment, it is not tedious repetition, sir, but it is repetition. *(Laughter)*

1590 **The Bailiff:** I will be the judge of whether it is tedious, Deputy Queripel. *(Laughter)*

Can I simply remind all Members, at the risk of interrupting Deputy Queripel's flow, bearing in mind what he has just said, that the charging will still be the same if this Statutory Instrument is annulled, it will just be at a slightly lower rate, so it is only really about the increase not about the principles that is relevant to this debate because it is the two charges that are raised on behalf of the States, there is the black bag charge, and the standing charge, and this Statutory Instrument increases those two elements. It has nothing to do with parish charge at all.

Deputy Queripel to continue.

Deputy Queripel: Sir, I understand that, thank you.

1600 Sir, as I was saying Deputy St Pier and Deputy Trott could have come up with an alternative, they have not, why haven't they. *(Interjection)* they could have asked the States to suspend the Rules. The States suspend the Rules all the time.

So I am really bemused by this motion to annul, but what exactly is it about?

1605 I want to emphasise, sir, before I go any further, I have got great respect for Deputy St Pier and Deputy Trott I have worked with them long enough to know that they are both honourable men with an abundance of integrity *(Interjections)* but in a sense they are blotting their copybook and I am surprised and disappointed at that.

1610 Now I took no comfort or enlightenment from anything Deputy St Pier said in his opening speech. If we are to be asked to annul regulations or whatever on the basis that we should not be adding to the cost of living by increasing charges to Islanders then why this?

I might be on the wrong track completely there, sir, but why haven't they rallied against any increases to anything before now, but why just this? There is probably a justifiable perfectly understandable answer to that question, sir, and I will get it no doubt from Deputy St Pier when he responds.

1615 In his speech Deputy St Pier said he thought the whole model is wrong and it needs to be reviewed, but the outcome of rejecting the amendment I referred to earlier, it was not rocket science, it was blatantly obvious, this was always going to happen, hence my being totally bemused. I did explain all of that in my speech when I presented the amendment back in October 2018 and so did my brother Laurie, we went to great pains to explain all that, pages of it in *Hansard* which I could recite in support of my case but in an attempt to be pragmatic I will just rely on colleagues having read the *Hansard* report –

I give way to Deputy Oliver.

Deputy Oliver: Point of order, sir.

1625 I just cannot see what this has to do with the actual charges, this is to do with the structure which is nothing to do with what the motion to annul is about.

The Bailiff: Well, Deputy Oliver, I simply remind you first that if you have a point of order you announce that you have a point of order, rather than standing in silence.

1630 Deputy Queripel, it is important in the context of this motion to annul as I tried to explain just before that debate is relevant to the matter before the States and the consequences of the matter before the States if this motion to annul were to carry.

So if you can try and focus on that please in the context of your speech rather than straying outside that context, please.

1635

Deputy Queripel: Sir, I will indeed.

As I say when Deputy Oliver got up to express a point of order I was actually commenting on something Deputy St Pier said in his opening speech, so I do not get the relevance of that at all. That is beyond me.

1640 So, sir, dispensing with a page of my speech in response to your request why did it take so long for Deputy St Pier and Deputy Trott to get the message. They knew this was going to happen. It seems, sir, mas though to employ the services of a term we often hear during debates in this Chamber neither of them thought the issue through. Sir, I did not hear anything as I said earlier in Deputy St Pier's speech, opening speech, or Deputy Trott's speech that explained this change of heart, so I very much look forward to Deputy St Pier's response.

1645

Thank you, sir.

The Bailiff: Deputy de Sausmarez.

1650 **Deputy de Sausmarez:** Thank you, sir.

While like the STSB I am always happy to talk rubbish – always very keen to do so; really rather good at that, though I say so myself. *(Laughter)*

1655 What I do not welcome is a broad debate without the anchoring of a policy letter to make sure that that debate is informed on the whole issue of waste charges, which as anyone who has been in the States or has observed the States over the last few decades will know is not a short debate. So I really would welcome slightly more focus on the issue at hand.

Deputy St Pier when he opened on his annulment his motion to annul explained that he is concerned about the rising cost. Deputy Roffey when he opened on debate explained that actually

1660 that is well recognised within the Waste Disposal Authority and there was already a body set up to deal with that, which everyone is very excited about most of all me, absolutely brilliant.

The Efficiency, Innovation & Pricing Committee, thank you Deputy Roffey. So we can look forward to hearing much more about that. It is absolutely brilliant I was really encouraged by many of the things that Deputy Roffey was saying.

1665 But Deputy Roffey and indeed Deputy St Pier both referred to perspective and one of the things that always amuses me when we are talking about waste is this sort of fundamental assumption that waste is an inevitability and some people almost seem to blame it on the States as through we have sent round special little States' pixies going and putting waste in peoples bins that they then have to pay for to dispose of, but actually waste is what we ... we buy that waste and we put it in our own bins, so we have got admittedly over the bin sticker element only a good degree of control
1670 about how much we pay for the waste that we are responsible for generating. I say this as someone who is in a large family, and in a large family with four children including a baby when the stickering system first came out, and I think we generate one small bag a fortnight if that, so we are currently paying in the region of £36.40 I think a year for our black bag waste on bin stickers and that is set to rise to about £39.

1675 Now like Deputy Roffey I am not going to be amongst those who disparage a rise of £10 on a household budget, I have been, I know what it is like to have incredibly squeezed household budgets and not being able to pay for food and all the rest of it, so I know how difficult it can be, but I do think this word perspective is important.

1680 A figure that I would like to draw to Members' attention is the amount that the average Guernsey household, this is local data, spends on creating food waste, and that is £800 a year. Now that is not a waste stream that they are charged for, it is ideally waste that does not go into the black bag at all, it is collected free at point of use and dealt with, but that is £800 that the average Guernsey household is spending on food that they do not eat, and the majority organic material that is not consumed and the majority of that is food that could have been eaten and could have been used.

1685 So for anyone that is concerned about putting additional financial pressure on households that are feeling the strain and feeling the financial burden then please let's do them a far bigger favour than saving them £10 a week through annulling this – sorry £10 a year by annulling this Statutory Instrument, please let's raise some awareness about how they can save themselves having to spend that money in the first place because there are some really simple and effective things that
1690 households can do that are going to save them very significantly more amounts of money than what this Statutory Instrument is hoping to achieve.

I will direct everyone very quickly to lovefoodhatewaste.gg which is our local resource for doing precisely that, and I really would encourage Members to familiarise themselves with it and please let's help spread the word among the community because if we want to save millions of pounds to
1695 the local community a year that is how we can do it.

I cannot really see any point in supporting this Statutory Instrument, I think it has provoked a very useful response from STSB I am really delighted to hear that this a subject that they are dealing with, but I do not think that this particular debate is the right time to have a wide ranging discussion on waste charges.

1700 Thank you.

The Bailiff: Deputy Falla.

Deputy Falla: Thank you, sir.

1705 Having spent 30 years working professionally in public relations and communications I can assure Members I have seen some rubbish campaigns, but I must comment on the success of the kerbside recycling scheme, far from being a rubbish rubbish campaign it has been a very good rubbish campaign, an almost text book example of behavioural change, a great job.

1710 It is regrettable that it is hoisted on its own petard by being so successful it is unsustainable which indicates that the Authority perhaps underestimated the effectiveness of their persuasive

powers. But in that connection and I make no apology for slightly repeating points made by one or two of the other Members this morning.

1715 During my election campaign an issue arose on the doorstep and at meetings of Age Concern which I visited and this surrounds the level of the waste standing charge which I do think perhaps warrants revisiting. The issue is that single occupants of households as you have heard are often senior citizens on low incomes feel it is unfair they are required to pay the same standing charge as a household of perhaps four, five or more occupants. I do recognise that the bin man still needs to visit their kerbside but these people not only produce less waste due to a lower rate of consumption than larger householders they are also often people who grew up in the post War era with a make do and mend mentality and for them it is simply not in their DNA to produce large amounts of waste.

1720 So I am unsure whether I support the annulment of the Statutory Instrument but when there is an excellent opportunity to review the charges I would request that the Authority gives serious consideration to a lower standing charge perhaps making up the difference by increasing the cost of the black bag labels.

1725 Thank you, sir.

Several Members: Hear, hear.

1730 **The Bailiff:** Deputy Meerveld.

Deputy Meerveld: Thank you, sir.

I must admit I am confused by this amendment – I am not confused by the content, I am not confused by the objective it is trying to achieve, but I am confused by the fiscal strategy behind it.

1735 I respect both the proposer and seconder of this amendment both have served as our Treasury Ministers when that committee or department existed, both are ex Chief Ministers, and over the last four years of my service in the previous term and they were obviously serving as Chief Minister and Vice-President of P&R, I listened to them numerous times extolling the virtues of user pays and proposing many increases in indirect taxation.

1740 Now on the first day of the Budget debate Deputy St Pier did say that in his new position he can now take a new stance on policies mind you again I fail ... I have difficulty understanding how that works I must admit my own political convictions continue regardless of my position, for instance education it does not matter if inside the committee or outside I believe three schools is the best solution for Guernsey and I keep fighting for it.

1745 So I am very confused by this almost Jekyll and Hyde transformation that seems to have happened with these two Deputies in the last two or three months from their change in seating arrangement in the Assembly.

What I would ask the proposer of the amendment please whether it be Mr Jekyll or Mr Hyde who responds to please explain –

1750 **Deputy Trott:** Sir, that has to be on a point of order.

The Bailiff: Point of order Deputy Trott.

1755 **Deputy Trott:** That has to be unparliamentary behaviour and again it is a demonstration of bad behaviour I believe from the President of SACC.

The Bailiff: Deputy Trott I agree with that.

1760 Deputy Meerveld this Assembly does not go around identifying fellow Members by fictional characters who are treated in a particular way that they have a bad side to them. So I would invite you – there is no need in the context of debate to personalise this in the way that you have, so I invite you to withdraw that comparison to the two Deputies who are moving this motion to annul.

Deputy Meerveld: Sorry, sir, I unreservedly withdraw that statement and apologise.

1765 **The Bailiff:** Thank you very much.

Deputy Meerveld: Anyway going back to my question to the proposer I would like the proposer please to explain the new fiscal strategy that they are looking for here and whether they now support direct or indirect taxation and why and the fiscal motivation behind this amendment.

1770 Thank you, sir.

The Bailiff: Deputy Kazantseva-Miller

Deputy Kazantseva-Miller: Thank you, sir.

1775 Members, the Island has fought long and hard for its Waste Strategy it has taken a few decades I believe. I believe this is also a 20 year strategy and we are in year two of that Strategy and no increase in charges were levied this year so the combined effect of these increase proposal charges would have been halved if an increase in charges was levied last year.

1780 So I would like us to take a bit of a perspective, it has taken so long to get to a point of a strategy which as Deputy Falla said has been working really successful and we are now trying to meddle in the affairs of one of our assets.

1785 I was very heartened to hear the update from Deputy Roffey about what is actually happening and what is under way. Clearly some other Deputies have highlighted the issues of fairness and perhaps the proportionality of the standing charge versus the black bag charge which is being discussed. I was also heartened to hear that we have an innovation group in the Waste Authority now that is pretty phenomenal I think they should be applauded.

So I would say let our Waste Authority get on with their business and let the rest of the States get on with the rest of our business of revive and thrive. I do not see the point of this motion I will not be supporting it.

1790 Thank you.

Deputy Inder: Sir, I am going to invoke Rule 26(1) or try and invoke 26(1).

Deputy Gollop: Oh, I have been cut off again.

1795

The Bailiff: Well, can I therefore invite those Members who have not yet spoken in this debate on the motion to annul but who wish to speak on it to stand in their places. Deputy Inder in the light of that – thank you to the Members who stood.

1800 I am going to put to the Members that debate on this motion to annul be closed subject to the usual winding up and in this context the usual winding up is contained in Rule 19(6). Those in favour; those against.

Members voted Pour.

The Bailiff: I will declare that carried. Which means that I will now invite the President of the Board Deputy Roffey to respond to the debate after which I will invite the proposer of the motion to respond to the entire debate.

1805 So Deputy Roffey please.

Deputy Roffey: Thank you, sir.

1810 I feel slight sorry that that motion has gone through not because I think we should talk rubbish all day but I certainly think that having asked Deputy Parkinson to hang back and speak later in the debate I think his insights would have been really useful, but there we go such is life. I am going to respond to some of the things said.

1815 Starting with and I will come back to him at the end but starting with Deputy St Pier. He said that these charge increases are a bit like a sticking plaster on an infected wound. Well, I do not know whether many people in the same position as I have been in when I was almost killed by a tsunami and I was covered in infected wounds you could smell me I tell you, and I could not get out to a hospital because no helicopters could get in because the trees were all down and I actually accepted while I was waiting to get to the hospital it was never going to be a cure but I accepted the contents of travellers medical bags to put on in the meantime because it at least did some good until we got to the other end.

1820 So if he is trying to say this is not a substitute for a proper hospital treatment i.e. a real review of where we are going with the waste charges then he is right. But if it means there is an excuse for doing nothing in the short term no it is not. Why would we want to make the situation worse while waiting to address it root and branch?

1825 He pointed out that I was one of the first to suggest that putting up petrol charges when less petrol was being sold was not an answer, this is slightly different because the way we pay for our Waste Strategy is twofold, it is through the variable charges i.e. the bag charges but it is also through the fixed charge and that theme came up quite a bit during the debate which did I think spill over slightly from the actual content of the motion to annul but there we go.

1830 He pointed out that with my other hat on I should realise that these charges were regressive absolutely that is why ESS brought in a special supplement to income support to cover the perceived likely average charges for households in receipt of it when this charging was first brought in, and I did ask them I did say should we be adjusting that in any way as a result of these small additional charges, their view was actually the typical household charge was still below what was initially estimated and it was really in the margins and there was reason to do that at this stage.

1835 Deputy Aldwell and Deputy Burford could have been me speaking to be honest. I was really against moving from and I know we are probably getting on to the parish charges, which are not covered, but it was brought up in debate. I think it is important to actually say moving from the TRP charges to a standard household poll tax, if you like.

1840 There are people living in mansions in Guernsey who are paying a lot less for their waste disposal now than they were paying before. I regretted that, I lost that argument, it is a question of how much you flip-flop and the same is true really of Deputy Burford's point and I think it was also made by Deputy Aldwell about the balance between the fixed charges and the bag charges.

1845 I wanted a lot more on the bag charges and I wanted less on the fixed charges precisely because there are households that are not in a position to minimise their waste because they produce so little waste now and the typical single pensioner does not put out much waste and therefore the chances of bringing it down are very low.

1850 Deputy de Sausmarez says the average household is wasting £800 on uneaten food, but actually the frugal elderly single pensioner tends to not be in that category, they tend to eat just about everything they could buy, they would like to buy a bit more food and eat some of them and certainly listening to Deputy Queripel you would think that.

1855 So I think there is a correct allegation of unfairness here. Why hasn't this been addressed? Well, lots of reasons but the two main ones is the current STSB took over a very short time ago, this order that is being asked to annul had been drafted actually, I think my predecessor nearly signed it and the only reason it was put off was they were slightly worried ... no I will not say why we won't do it because it might actually invoke some behaviour over the next few day, yes go on I will say it, that people might stockpile for the sake of 20p they might go out and stockpile a few labels if it was announced too early that from 1st January bag stickers would be going up by 20p. That is one reason.

1860 The other reason is it ain't that easy to make it fair because I suspect Deputy Parkinson might have said, had he been able to speak, actually the only robust form ... stream of income is the fixed charge. It is the unfair part of it because you cannot control it by reducing your waste but if we are going to reduce it significantly it will need a significant increase in bag charges. I think that is fairer but it is likely to accelerate, and that is great in some ways, accelerate the success we have seen

1865 already of waste minimisation and you do end up chasing your own tail because then your income comes down over all. So it needs to be looked at, it is going to be looked at, whether or not this motion to annul goes through, it is going to be looked at, but there are not easy solutions to it.

To try and be fair and yet make sure that you have robust funding mechanism to make sure you can actually cover the revenue costs of the strategy is going to be really difficult nigh on impossible.

1870 However, we do have this Efficiency, Innovation & Charging Committee set up by Guernsey Waste and Guernsey Waste is not chaired by a politician it is chaired by John Hollis who is a very well respected person from a business background who has lived and breathed waste ever since the strategy was first brought in and he was put in charge of this particular board. So I think we should have some confidence that if anybody can look at it and come up with a *compos mentis* answer to this conundrum that they will, but I do not think that there is going to be a way of
1875 balancing complete fairness with making sure that we can come to this Assembly and say actually the costs of the scheme are going to be covered.

I can tell Deputy Trott this Committee was set up well before this motion to annul was announced.

1880 I think that also covers what Deputy Queripel said not in relation to his amendment that he wanted to revisit but more how is it fair for somebody that puts out four bags a year, I do not think it is fair because I put out four bags a year. I also go and use the bring banks actually rather than kerb side because it just suits my lifestyle and I sometimes have a lot of glass to get rid of (*Laughter*) well jam and coffee are very popular in my house. (*Laughter*)

1885 Deputy Falla is right it is a great success and Deputy Trott is right that I should not dismiss the fact that that brings a funding problem. The point I was trying to make it is not that I am not worried about the funding problem, of course I am, that is why we are looking at it seriously, just that I would prefer to have this problem on my plate to tackle than actually bring in the new system and finding it made absolutely now difference at all and every household was putting out as much general waste as they were at the beginning.

1890 Deputy St Pier started his speech by saying his speech by echoing something that Deputy Ferbrache said that what is needed is action today. This motion to annul is inaction today. It absolutely achieves nothing other than making sure that the funding gap we know the charges are insufficient to cover the revenue costs, they will be more insufficient to cover the revenue costs if this motion to annul is accepted.

1895 I understand a lot of the criticism of the system, I urge Members including Deputy Burford not to use this motion to annul as a way of flagging up the fact that they have some concerns about the system. Let me assure everybody that those concerns will be taken on board. I am not sure there is a perfect solution but they will be taken on board but do not put us a further quarter of a million pounds in the red just to prove a point. We are listening we are going to try and do something
1900 about it. Please reject this motion.

Several Members: Hear, hear.

1905 **The Bailiff:** Finally I turn to the proposer of the motion, Deputy St Pier, to reply to the debate.

Deputy St Pier: Thank you, sir.

Sir, as Deputy Trott said when he spoke he and I did not expect to win this motion and in terms of it being action today the action today is very much having this debate and I have absolutely no regrets whatsoever at bringing the motion it is not going to worry me in the slightest in being a
1910 minority in this Assembly I am sure it is not going to bother Deputy Trott a jot either.

Being in a minority in this Assembly does not of course mean that they are failing to discharge our duty and responsibility to those who voted for us.

1915 Deputy Queripel recited his reference to user pays and why did Deputy Trott and I oppose that. I cannot speak for Deputy Trott but I would say first of all in relation to the whole user pays principle of course Deputy Roffey has identified the concept may be simple but what you include within that

1920 principle, the devil is in the detail, in other words do you include the capital costs as Deputy Roffey said, of course the States had already decided not to fund the facility by way of loan so that avoided the interest but there was a decision to defray the capital costs by way of depreciation charge, and do you include the cost of other waste sites. So user pays is a simple principle but the devil is always in the detail.

1925 Both he and Deputy Meerveld are sort of bemused by the change in position. The change in position simply reflects the change in our roles within this Assembly, it is as simple as that. We are not on any of the responsible committees that deal with this matter and therefore you do have a different perspective and indeed a different responsibility to those who are charged with leading those committees.

1930 I think a number of people have said that ... again Deputy Roffey has said that he accepts the allegation of unfairness about the charging structure and he has already referred to the existence of a patent miscalculation. I think really if this debate has achieved ... if this motion today and the subsequent debate has achieved anything surely it will be that this regulation cannot return in its current form this time next year. There must be some pressure from the fact that we have had the motion and the debate and the comments that have been made by a number of people that would make it unacceptable to the Assembly and to the community for us to be in the same position this time next year. It has been widely accepted that the current methodology is not entirely fit for purpose and is not entirely working.

1935 I am delighted to hear the Guernsey Waste Efficiency, Innovation & Pricing committee has been up and running for a while it clearly needs to get on and expedite its work in order that this Assembly can consider all the issues which a number of people have raised which are outside the scope of this motion that have been touched on in order that we can enjoy, Deputy de Sausmarez can enjoy yet another lengthy debate on rubbish, and I hope that it does take place before the Waste Disposal Authority attempts to bring any further increase in charges based on what is now accepted is a flawed model.

1945 **The Bailiff:** Well, Members of the States, I now invite you to vote on the motion to annul the Waste Management Services (Charging) Regulations, 2020 which is proposed by Deputy St Pier and seconded by Deputy Trott.

Deputy Queripel.

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

1950 **The Bailiff:** There is a request for a recorded vote, so Greffier, we will call the votes, please.

The Deputy Greffier: The voting this session begins with Deputy Haskins.

There was a recorded vote.

Not carried – Pour 3, Contre 33, Ne vote pas 1, Absent 3

POUR

Deputy St Pier
Deputy Trott
Deputy Gollop

CONTRE

Deputy Haskins
Deputy Helyar
Deputy Inder
Deputy Kazantseva-Miller
Deputy Le Tissier
Deputy Mahoney
Deputy Matthews
Deputy McKenna
Deputy Meerveld
Deputy Moakes
Deputy Murray
Deputy Oliver

NE VOTE PAS

Alderney Rep. Roberts

ABSENT

Deputy Le Tocq
Deputy Leadbeater
Alderney Rep. Snowdon

Deputy Parkinson
Deputy Prow
Deputy Queripel
Deputy Roffey
Deputy Soulsby
Deputy Taylor
Deputy Vermeulen
Deputy Aldwell
Deputy Blin
Deputy Brouard
Deputy Burford
Deputy Bury
Deputy Cameron
Deputy De Lisle
Deputy de Sausmarez
Deputy Dudley-Owen
Deputy Dyke
Deputy Fairclough
Deputy Falla
Deputy Ferbrache
Deputy Gabriel

1955 **The Bailiff:** Members of the States, the voting in respect of the motion to annul proposed by Deputy St Pier seconded by Deputy Trott was that there voted 3 Members *Pour*, 33 Members *Contre*, 1 abstention, 3 absences, and that is why the motion to annul is declared lost.

Urgent Propositions Pursuant to Rule 18

CIVIL CONTINGENCIES AUTHORITY

Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 10) Regulations, 2020 – Approved

The States are asked to decide whether they are of the opinion to approve the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 10) Regulations, 2020.

The Deputy Greffier: Propositions laid pursuant to Rule 18 of the Rules of Procedure – Civil Contingencies Authority – Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 10) Regulations, 2020.

1960 **The Bailiff:** I invite the Chairman of the Authority Deputy Ferbrache to open debate on this Proposition.

1965 **Deputy Ferbrache:** Sir, I am hoping for very limited debate because these Regulations are just a follow on from the last Regulations, there are some consequential amendments but they are not amendments of substance.

The battle to fight this terrible virus is still going on. Today the vaccination process has started but it has got a long way to go.

So I simply just commend these regulations to the Assembly.

1970 **The Bailiff:** Deputy St Pier.

Deputy St Pier: Sir, Deputy Ferbrache knows that I will make a couple of comments.

I will of course be supporting these regulations which as he said self-evidently remain essential to protect our community but I do have two points to make on this occasion.

1975 The first arises in respect of investigations and prosecutions and I am grateful to both Deputy Ferbrache and Deputy Prow for providing me with information from Law Enforcement on the number of these. I think this would actually be of interest to others and I would ask that this is shared actually with all States' Members for information.

1980 I understand the Authority will be considering whether there is any merit in the use of fixed penalty notices.

The second point I wish to make is in relation to the heart of what is relevant right now from these regulations namely Regulation 4 which together with Schedule 1 is what ensures that inbound travellers are required to self-isolate and this is where I want to concentrate my few comments today.

1985 But firstly just a very quick recap of the categories which have applied from 15th October. Category One is a territory that has a prevalence rate that is equivalent to Guernsey with no community seeding and requiring no test on arrival or self-isolation; Category Two is a territory with a prevalence rate of less 30 per 100,000 which requires a test on arrival and one day seven with self-isolation only required with a negative result from the first test following which the individual must have enhanced passive follow up to day seven; Category Three is a territory that has a prevalence rate that is between 30 and 100 per 100,000 and that requires a test on day one self-isolation until the results of the day seven test followed by enhanced passive follow up until day 14; and finally Category Four is a territory that has a prevalence rate that is more than 100 per 100,000 which requires self-isolation for 14 days.

1995 Now these categories were set by the outgoing Authority making a political judgement very much on the conservative side of the scientific and public health advice offered, recognising that the second spike was leading to rising prevalence rates elsewhere and that was not the time to take or to be seen to take or be seen by the community to take more risk.

2000 As a result only the Isle of Man is in Category One, everywhere else of relevance right now is in Category Four, and I totally support that. It is effectively this policy which has kept this community safe since 19th March.

2005 At this point actually I would like to just digress a moment to actually congratulate and thank Deputy Ferbrache for changing his position since becoming the Chair of the CCA I realise that he is only one Member of the Authority but I am sure he would agree with this he is an important one and there are thousands of Islanders who are grateful that his actions since assuming the role have not matched his words before the Election when he called for a more open borders policy. It is reassuring to many that when faced with the evidence he has wisely changed his mind on that point.

2010 References to a Category Two, Three or Four country are a country as specified for the purpose on the States' website. In practice recommendations regarding prevalence rates for Categories come from STAC the Scientific Technical Advisory Committee via the Medical Officer of Health on which the CCA then makes a decision. If the CCA decides to raise the prevalence rate for example for Category Four from about 100 in 100,000 to above 250 in 100,000 then we will be taking more risk. Conversely if we lower the number per 100,000 we will be lowering the risk of undetected cases entering the community.

2015 Sir, on 4th November in the Assembly whilst debating the No. 8 Regulations I asked Deputy Ferbrache if the Authority would consider publishing in an appropriate form the modelling underpinning the decision around categories. I was advised this week that at its meeting on Monday the Civil Contingencies Authority considered my request and concluded not to publish this modelling as requested at this time. I was told as you will understand the fundamentally important element of the Authority's role is for voting Members to fully and frankly discuss and challenge the advice of officers without any restrictions such as a concern that their deliberations may be subsequently published. I do of course understand this, and of course I endorse it too.

2025 But the issue is this and at some point relatively soon prevalence rates elsewhere will start to fall. At this point understanding the risks from each category will become relevant to this Assembly's scrutiny of the Authority and its Regulations.

So let's just take an extreme example. If the modelling were to show that with a prevalence of 100 in 100,000 there would be a risk of one undetected case entering our community in every 750,000 passengers travelling, it might be reasonable to challenge whether at that level it is proportionate and reasonable to require passengers to self-isolate for 14 days rather than seven.

2030 At the other end of the spectrum if the modelling suggested that at 30 in 100,000 there was a risk of 10 undetected cases entering our community each month we might want the Authority to reduce that risk by requiring longer periods of self-isolation.

2035 Now I must emphasise that I know from experience that these are fine judgements being made with sound advice from well informed professionals including from the Law Officers who have statutory duties in relation to the Authority's work and we cannot second guess those decisions. But these are never entirely black and white but rather shades of grey. I know too as the Chair of the Authority that frankly I really would not have wanted any bothersome external scrutiny and I can perhaps hear Deputy Soulsby chuckling to herself once again following the change in roles, but I know too that Deputy Ferbrache will know that this challenge around the risk at different prevalence rates is actually an entirely reasonable one for scrutiny by this Committee.

2040 I have absolutely no desire in any way to undermine the critical work of the Authority I have worked with it for too long and have too much respect for and understanding of its importance in managing this pandemic to risk that, but I fear that the nature of my request has not been fully understood. So I will articulate my thoughts in writing on the very limited additional information which I think could be safely made available to States' Members without undermining the Authority's work, following which perhaps the Authority could reconsider its position before we debate the matter again at the end of January.

2045 I hope that Deputy Ferbrache will regard this as a reasonable approach from someone with knowledge and experience in this area who is looking to use that experience to better enable colleagues in this Assembly to provide effective scrutiny of the Authority's work absolutely without undermining it.

The Bailiff: Deputy de Lisle.

2055 **Deputy de Lisle:** Thank you, sir.

I note that only half have chosen to undergo the test on the 13th day and indeed a positive result in the optional day 13 Covid test has been found. So I would ask that the Authority gives consideration to making the day 13 test compulsory, and I think in addition to that I think the incomers should also be compulsory tested as they come in.

2060 So I would like to ask for those two considerations to be considered by the Authority.

Thank you, sir.

2065 **The Bailiff:** Now I invite the Chairman of the Authority to reply to that short debate. Deputy Ferbrache.

Deputy Ferbrache: Sir, I view this with no side at all. I very much respect the contribution that Deputy St Pier made when he was Chair of the Authority, and I very much respect the approaches that he has made and he has given me due notice, etc.

2070 I do not want him to think and I do not want the Assembly to think that the response that he got back after Monday's meeting was dismissive, that was not intended to be, and if he writes and he says he will write so, I know we will put that before the Authority and we will come back. Now that does not mean that we will agree necessarily with Deputy St Pier, I think he accepts that, but we will considerate it, because it is a situation as he said that is constantly under review. So I do not think I can say much more than that. I am grateful for his contribution.

2075 Now Deputy de Lisle's point I think may go a bit beyond these particular Regulations but it does not matter, I will answer it. As I have sat here today there is absolutely no wish to make any test compulsory. There is no wish to do that at all. We do not live in that kind of society. People have consequences if they are given a chance to take a test and they do not want it in a sense they have got to stay in isolation for a longer period of time. That is their choice. We live as I say in a democratic society.

2080 So I say no more and I ask for these Regulations to be approved, sir.

The Bailiff: Members of the States, there is a single Proposition asking you whether you are minded to approve the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 10) Regulations, 2020. All those Members in favour; all those against.

Members voted Pour.

The Bailiff: I declare the Proposition duly carried.

CIVIL CONTINGENCIES AUTHORITY

Emergency Powers (Coronavirus) (Vaccine) (Limitation of Liability) (Bailiwick of Guernsey) Regulations, 2020 – Approved

The States are asked to decide whether they are of the opinion to approve the Emergency Powers (Coronavirus) (Vaccine) (Limitation of Liability) (Bailiwick of Guernsey) Regulations, 2020.

2090 **The Deputy Greffier:** Civil Contingencies Authority – Emergency Powers (Coronavirus) (Vaccine) (Limitation of Liability) (Bailiwick of Guernsey) Regulations, 2020.

The Bailiff: Once again I invite the Chairman of the Authority Deputy Ferbrache to open debate.

2095 **Deputy Ferbrache:** Again, sir, I would like to address my gratitude to Deputy St Pier because he raised some points previously and as a result a couple of days ago both a memorandum from me and the advice we received from the Law Officers was circulated. I do not intend to repeat that advice because that hopefully showed that this is intended to deal with what I call a temporary situation whereby we may have to use a particular type of vaccine before it is fully authorised by the relevant authorities.

2100 Now I just want to give people that may be listening to this take comfort from the fact that will only be done anyway when we were as sure as we possibly could be that that vaccine could be used, but sometimes it takes a time for the vaccine to be formally approved by the relevant authorities. That is all this particular Regulation if approved by the States is intended to cover.

2105 **The Bailiff:** Well, as nobody wishes to ... Deputy Oliver.

Deputy Oliver: Just a really quick question on this.

If the Assembly decides not to agree with this what actually happens with the vaccine? Does that mean we cannot have the vaccine, and also what are the damages actually limited to?

2110 **The Bailiff:** Well, as nobody else wishes to raise any points in debate I will turn to the Chairman of the Authority Deputy Ferbrache to deal with that question.

2115 **Deputy Ferbrache:** Sir, this would limit the liability of the States in the very unlikely event that there was a problem as a result of using a temporarily authorised and not finally authorised vaccine.

So at the moment because it is unlikely that the type of vaccine that has been approved would be sufficient to meet the needs of the community going forward that if there was a significant delay in getting relevant approval from the regulatory authorities that we might need to use a vaccine that was not therefore approved in that way.

2120 Now as I say of paramount concern is the safety of the people who would take the vaccine, that is absolutely beyond doubt, beyond any question, and we would receive and have received excellent advice that any vaccine that may be used would be safe.

2125 So they wouldn't not be used it would just mean that the States of Guernsey would have a liability which would not be capped and that would not make sense in circumstances when the States was doing its absolute best to make sure that the health of the community was protected and the economy of the community was protected.

2130 **The Bailiff:** So Members once again there is a single Proposition whether you are minded to approve the Emergency Powers (Coronavirus) (Vaccine) (Limitation of Liability) (Bailiwick of Guernsey) Regulations, 2020. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare that Proposition duly carried.

Billet d'État XXVIII

COMMITTEE FOR HOME AFFAIRS

I. The Parole Review Committee (Validation) (Guernsey) Law, 2020 – Approved

Article I.

The States are asked to decide:

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Parole Review Committee (Validation) (Guernsey) Law, 2020", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

The Deputy Greffier: Article I – Committee for Home Affairs – The Parole Review Committee (Validation) (Guernsey) Law, 2020.

2135 **The Bailiff:** I invite the President of the Committee, Deputy Prow. The only reason I was pausing is that on the front page of the Billet it says Policy & Resources Committee, but we will treat that as a slip when I authorise that – oh it was not me that authorised it I see (*Laughter*) but Deputy Prow to open debate on this matter.

2140 **Deputy Prow:** Yes thank you, Mr Bailiff.
That was spotted and I hoped the message had got through to you, sir.

The Bailiff: No, not to me, but never mind.

2145 **Deputy Prow:** Thank you, sir.

In August of this year the previous Assembly approved the appointment of the Chairman of the Parole Review Committee retrospectively with effect from 1st January 2019. The Chairman having been first appointed in 2016 for a three year term.

2150 It is understood that an administrative oversight meant the Chairman was not re-appointed at the appropriate juncture. The August policy letter rectified this situation and also proposed the preparation of legislation which would seek to validate decisions made by the Committee during that period.

The legislation laid before you is a result of that policy letter and an Ordinance which the Committee urges this Assembly to support.

2155 Thank you, sir.

The Bailiff: Deputy Taylor.

2160 **Deputy Taylor:** Not sure on the policy how to go about this, but just to declare an interest that my father is the Chairperson in question.

The Bailiff: Deputy Gollop.

2165 **Deputy Gollop:** Sir, I certainly support this policy letter but I have one or two points to raise.

It makes it clear in the text that all of the actions taken by the Committee in the sort of interregnum of 16 months were validly constituted but of course individuals presumably were either refused or gained parole and then re-entered the community, hopefully rehabilitated and in a good state, so it actually effected the community even though with hindsight at the time it was not strictly legal, which is an interesting point.

2170 But we have kind of had already a minor discussion as to whether this is part of Policy & Resources or more correctly Home Affairs, but I do not know if it is a political failing this from this Committee or a previous Committee or strictly speaking an operational administrative failing and if so which is the pathway. Is it the Home secretariat, or is it perhaps the Royal Court secretariat, or Policy & Resources, or information technology because even in this term we have had numerous diary clashes and things.

2175 We kind of need a procedure at the level of the States, maybe the States' Greffe at which or legal services, not the Law Commission but legal resources whereby all these things are identified in advance in a failsafe kind of way and there was one senior officer across the States responsibly for updating these.

2180 So I hope out of what is hopefully a minor error will come out of it a more systemised approach rather than perhaps the brickbats being thrown at a political committee.

The Bailiff: Deputy St Pier.

2185 **Deputy St Pier:** Sir, I think the legislation I mean clearly is needed, and I will of course support it, but it is highly unfortunate and far from satisfactory that we actually have to pass a Projet requiring of course Royal Sanction to retrospectively ratify the actions taken by a committee, The Parole Review Committee, which was not validly constituted and I think embarrassing does not really do it justice.

2190 The obvious questions that arise are how did this happen and can it happen again? So I would like to know what changes have been made to procedures to ensure that this cannot happen again with this or indeed any other body?

The Bailiff: I turn to the President of the Committee, Deputy Prow to reply to that short debate.

2195 **Deputy Prow:** Thank you, sir.

Starting first with Deputy Gollop I thank him for supporting the Proposition.

2200 Perhaps to respond to his first query it is worth pointing out the Chairman does not have an original vote, however, will cast a deciding vote should there be a split decision on a case and specifically the Chairperson has no power to act alone under Parole Law except for the signing and dating of decisions. 55 decisions were made by the PRC since 1st July 2019 and only one of these required the Chairperson to cast a vote, this application has since been reviewed and ratified.

Clearly in responding to Deputy Gollop – I give way to Deputy Oliver.

2205 **Deputy Oliver:** Thank you.

It might be helpful just to answer Deputy Gollop's question from the President that we had been given on several occasions, I think it was five from memory that the diary had been sorted out and there was no reason for concern, unfortunately this was just one that slipped through the net, it was just an unfortunate slip, but they had in Home Affairs in my time sorted the diary out so that should
2210 continue for Deputy Prow's time.

Deputy Prow: I am very grateful to Deputy Oliver for giving that clarification which I think partly answers Deputy Gollop's question and to some extent Deputy St Pier.

2215 On the question of responsibility the Home Affairs Committee is responsible for these matters under the Law and I do recall following on from what Deputy Oliver said that the then President of Home Affairs did offer an apology and yes it was unfortunate and I do agree that there is a degree of embarrassment, but mistakes are made from time to time and all this is seeking to do is to rectify this and I sincerely hope that this does not happen not only in Home Affairs but to other administrative functions that the States is responsible for.

2220 Thank you, sir.

The Bailiff: Well, Members of the States, there is a single Proposition as to whether you are minded to approve the draft *Projet de Loi* those in favour; those against.

Members voted Pour.

The Bailiff: I declare that Proposition duly carried.

COMMITTEE FOR ECONOMIC DEVELOPMENT

II. The Financial Services Ombudsman (Bailiwick of Guernsey) (Amendment) Ordinance, 2020 – Approved

Article II.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled "The Financial Services Ombudsman (Bailiwick of Guernsey) (Amendment) Ordinance, 2020", and to direct that the same shall have effect as an Ordinance of the States.

2225 **The Deputy Greffier:** Article II – Committee for Economic Development – The Financial Services Ombudsman (Bailiwick of Guernsey) (Amendment) Ordinance, 2020.

The Bailiff: I turn to the President of the Committee for Economic Development, Deputy Inder, to open debate if he wishes.

2230

Deputy Inder: Thank you, sir.

Sir, Members the office of the Financial Services Ombudsman is a statutory body which provides an independent dispute resolution service for unresolved complaints involving financial services provided in or from Guernsey, Alderney and Sark.

2235 On 19th August 2020 so this is a bit of background the States approved a policy letter to amend the Financial Services Ombudsman Law, 2014 and I am going to use the FSO just because it is easier, the FSO Ordinance 2020 amends the Law to one remove the reference to appointing a member for a minimum period and two inserts provision for the avoidance of doubt that a member is eligible for reappointment.

2240 Now a further amendment was required in order to meet the policy objective to affect the amendments in relation to both ordinary members and the Chairman of the FSO board. The amendments are consistent with the appointment period in relation to the statutory bodies such as the Guernsey Competition & Regulatory Authority for which the Committee has oversight.

2245 The Committee believes that these amendments to the Law will improve the operational efficiency of the FSO and are the right thing to do for the Island's finance sector and our reputation. Thank you, sir, Members.

The Bailiff: Deputy St Pier.

2250 **Deputy St Pier:** Sir, once again I will be brief.

These are technical changes and they do seem uncontroversial and I of course will support them.

2255 But in looking at the item I did notice that the original 2014 Law does provide that the States may, Section ... one of the schedules the States may on the recommendation of the department terminate the appointment of the Chairman subject to certain conditions. That of course is very similar to the situation we found ourselves in with the Aviation Law which makes similar provisions in respect of the Director of Civil Aviation.

2260 In light of our recent experience in relation to that and how I think we all accepted that it was pretty unsatisfactory that we were seeking to deal with the termination actually within this Assembly I would hope that action will be taken to amend this type of provision in this legislation, and I understand again I am grateful for engagement with Deputy Inder and his Committee I have raised it with them and I understand that they do not wish to deal with it by amendment to this Ordinance and I can absolutely understand why, but I do hope that it will not get kicked into, or so far into, the long grass that we do come to regret that should we ever need to remove another statutory official again.

2265 I do understand that Deputy Soulsby has picked this up as one of her actions on a very long task list in relation to the so-called arm's length bodies and I welcome that.

2270 But it is really just to draw attention to other Members of the Assembly that this is another example of what was an unfortunate provision I think in the Aviation Law and hopefully it will be addressed at some point, but in the meantime, I will certainly support Deputy Inder and his Committee.

The Bailiff: No-one else is rising.

Deputy Inder, strictly speaking you can reply to that point, if necessary.

2275 **Deputy Inder:** I will and I think I am grateful for Deputy St Pier. Certainly what he is doing if he is taking on this back bench role is basically forewarning Members of the various committees that these questions are going to be asked so I am grateful for that. I was aware these were coming, almost inevitable.

2280 But as a consequence of that, those of you who were in that email exchange, will understand some of these things again there is nothing we can particularly do. I cannot make – Deputy Soulsby offered that there is effectively an extension of the arm's length process that they are going through and that is something I am sure she will complete adequately at a process in due course, but we

must remind people that some of this will involve Law Officers and they are a bit busy at the moment, they have got things like Brexit and Covid to deal with amongst other things.

2285 So what I cannot do, and Deputy St Pier has not asked for, I cannot give a commitment that anything will be done in a short sharp period of time because there are other matters arising. But it is not always the case because this States have to deal with difficult things that they are necessarily wrong and I did take some advice, this is a legal note from our team I just want to explain as, not I particularly understand it, as we understand it how we have got to this point.

2290 I am just going to read a couple of notes, there is a briefing note that we got from our officers and I take it the legal team as well.

'The power to terminate a member or the Chairman of the FSO is a States' of Deliberation power rather than the Committee one and it reflects the independence of the Committee. It may be the case that once we go through this process the assumption that everything should be within the Committee may have its own political risks. It may be the case for the sake of transparency allowing the independence of bodies that it is absolutely right that the States ultimately makes the ultimate decision on behalf of the recommendation of the Committee.'

So I would not necessarily assume that it is going to head in a certain direction, but we have made a commitment, we have made a commitment to look at it.

2300 From the Committee's view it was understood that it was not felt appropriate for the Committee to have this ability, as in the case of the FSO, by the way to potentially raise questions in respect of conflicts and FSO interdependence. The concern being, and I will read this directly, that:

the Committee has a mandate for supporting the finance sector and at the same time would have the power to remove the members of the board of a body with responsibility for investigating complaints against and sanctioning members of the finance sector.

2305 Now the Committee – and I say the Committee, it would probably be the previous two Committees – had that view, I have not necessarily put this in front of our Committee but at first blush that does not seem too unreasonable.

So it is a fact that Deputy Soulsby will be basically taking on a role of looking at the arm's length committee of which I am quite happy to hand the work over to here, it is less for us to do.

2310 But what I will say is it is not necessarily guaranteed once there has been a consultation, and advice has been given, that it is going to go the way that Deputy St Pier thinks it might do. Right at this point I just do not know.

But I thank him for the question and I ask the States to vote for this.

The Bailiff: Members of the States, there is a single Proposition whether you are minded to approve the draft Ordinance. Those in favour; those against.

Members voted Pour.

2315 **The Bailiff:** I declare that Proposition duly carried.

**Continuation of sitting to conclude all remaining business –
Motion carried**

The Bailiff: Now, Members of the States, it is time to adjourn for lunch but there are two matters left to conclude the business of this meeting.

So I am going to put to you the motion that the States continue to sit and to conclude the business of the entire meeting. Those in favour; those against.

Members voted Pour.

2320 **The Bailiff:** I declare that carried and invite the Greffier to call the next Item then please.

COMMITTEE FOR HOME AFFAIRS

**III. Data Protection: United Kingdom Adequacy and Data Sharing –
Propositions carried**

Article III.

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Data Protection: United Kingdom Adequacy and Data Sharing', they are of the opinion:

- 1. To approve the continuation of the designation of the UK as an authorised jurisdiction for the purposes of the Data Protection (Bailiwick of Guernsey) Law, 2017; and*
- 2. To approve the Ordinance entitled "The Data Protection (Authorised Jurisdiction) (Bailiwick of Guernsey) (Amendment) Ordinance, 2020".*

The Deputy Greffier: Article III – Committee for Home Affairs – Data Protection: United Kingdom Adequacy and Data Sharing.

2325 **The Bailiff:** I invite the President of the Committee for Home Affairs, Deputy Prow to open debate.

Deputy Prow: Thank you, Mr Bailiff.

2330 Sir, I wish to present to the States' Assembly the policy letter entitled Data Protection: United Kingdom Adequacy and Data Sharing and the associated draft Ordinance namely The Data Protection (Authorised Jurisdiction) (Bailiwick of Guernsey) (Amendment) Ordinance, 2020, and I will hereafter refer to that Ordinance as the 2020 Ordinance.

2335 Sir, approval of the 2020 Ordinance today is necessary to ensure that the *status quo* regarding the continued free flow of personal data between the Bailiwick and the UK is maintained for a further year in the event that the UK does not receive an adequacy decision in respect of data protection by 31st December 2020, this is crucial for ensuring that both public and private sector data flows can continue to take place without interruption with the UK currently being Guernsey's biggest data sharing partner.

2340 In January 2019 the former Assembly agreed the Data Protection (Authorised Jurisdiction) (Bailiwick of Guernsey) Ordinance, 2019 which designated the UK as an authorised jurisdiction for a specified time period. This ensured that the free flow of personal data between the Bailiwick and the United Kingdom was maintained in the event of a no deal Brexit.

2345 The 2019 Ordinance included a sunset clause, in order to provide the UK with a suitable window of time to achieve its own adequacy decision from the European Commission. The 2019 Ordinance was specified to expire at the end of 31st December, a date at which the UK was expected to have received that decision from the Commission.

Whilst the UK is still expecting to receive an adequacy decision by the end of 2020 there is a real risk this timeframe will not be achieved. If this were to be the case the Bailiwick would be left in a position where the sharing of personal data with the UK would be unlawful and technically would have to cease.

2350 The Committee is cognisant of the necessity to have legislative contingency plans in place as such it recommends that the Assembly improves the 2020 Ordinance to extend the sunset clause and to ensure that the UK continues to be an authorised jurisdiction until 31st December 2021.

2355 Sir, the 2020 Ordinance is crucial to ensuring the continued free flow of personal data from the Bailiwick to the UK in this extended period of uncertainty, and with the end of the year around two weeks away I urge this Assembly to support this policy letter.

Thank you, sir.

The Bailiff: Deputy St Pier.

2360 **Deputy St Pier:** Sir, again I will be brief.

Again, I have given notice to the Committee as Deputy Inder said, that is the approach I am choosing to take. I wholeheartedly endorse the need for the extension to the sunset provision in the 2019 legislation for the reasons that Deputy Prow has outlined very clearly.

2365 However, the policy letter is silent on the risks *vis a vis* the EU for the Bailiwick transferring data to a third country namely the UK without adequacy status. So if after the 1st January the UK does not have adequacy status and we choose to continue to transfer data using this very necessary provision what is the EU's attitude?

2370 I have given the Committee advance notice that I would raise this in debate. I would be interested to know if we have any further information available since the legislation was adopted in 2019 with regard to European Commission's position on this point? They were keeping their cards close to their chest then, I imagine they probably still are, but I think it is pertinent to raise the issue now so that Members are aware of what the risks may be, even though we probably can do absolutely nothing to mitigate them, and I would be grateful if Deputy Prow could respond to that as best he is able to when replying to the debate.

2375

The Bailiff: There are no other contributions to this debate, so I will turn to the President Deputy Prow to reply to that point, please.

Deputy Prow: Thank you, sir.

2380 I certainly do appreciate the advance notice of the couple of points that Deputy St Pier has raised.

2385 I did mention the risks generally in my opening but, sir, the greatest risk for us transferring data to a third country, i.e. the UK in this case that does not have adequacy status is that this would be unlawful under both the GDPR and our own Bailiwick Data Protection Law. This would mean that the Bailiwick of Guernsey would be acting unlawfully as a jurisdiction and that the European Commission could nullify our current status as adequate.

The practical consequence of this would mean to remove the ability for us to freely transmit data to and from a European Economic Area which could be extremely detrimental to both our private and public sectors who are reliant on this.

2390 Sir, it is important to note that GDPR and our Bailiwick Data Protection Law do actually contain provisions that allow the transfer of data to non-adequate jurisdictions, for example binding corporate rules and standard contractual clauses. These, however, do not apply to a whole jurisdiction and each business would be required to implement their place themselves and the cost of doing so would be great and in some cases crippling.

2395 One possible scenario if our adequacy status was removed is that we would have to consider some kind of privacy shield like the United States. However, this has now been rejected twice by the European Commission.

2400 Sir, with regard to the final point that Deputy St Pier made I, like him, have no real way of knowing the position from the European Commission on this but the application is in process and we hope that it will be successful.

Thank you, sir.

2405 **The Bailiff:** Well, Members of the States, there are two Propositions put before you relating to this, I am going to put them both to you together, unless anyone disagrees. Those Members in favour; those against.

Members voted Pour.

The Bailiff: I declare both Propositions duly carried.

POLICY & RESOURCES COMMITTEE

IV. Schedule for Future States' Business – Approved

Article IV.

The States are asked to decide:

Whether, after consideration of the attached Schedule for Future States' Business, which sets out items for consideration at the Meeting of the 27th January, 2021 and subsequent States' Meetings, they are of the opinion to approve the Schedule.

The Deputy Greffier: Article IV – Policy & Resources Committee – Schedule for Future States' Business.

2410 **The Bailiff:** Deputy Ferbrache, is there anything to say about this?

Deputy Ferbrache: Nothing at all, sir.

2415 **The Bailiff:** I have not been given notice of any amendments to the Schedule for Future States' Business, but you were leaping to your feet Deputy Inder.

2420 **Deputy Inder:** I just wanted to ask a question if it was possible. It is just ... I have just actually forgotten, we have got ... the Committee has recently appointed two non-voting members and we have not added this to the Schedule, but it might be useful that we need to get them in play before the February meeting. I am wondering if it was possible. I had just forgotten, sir, and I wonder if it is possible if we could speak to – if this is the approval date, if effectively we could potentially sneak something in between the approval and the next meeting.

2425 **The Bailiff:** It will not affect, I imagine, the approval or otherwise of the Schedule for Future States' Business as I am sure you remember from the office that you held under the previous term it is always open to invite the Presiding Officer to add business to a meeting once it has been convened by the Billet d'État under Rule 2(4).

2430 In those circumstances Members of the States, where there are no amendments to the Schedule I am simply going to put the Schedule for Future States' Business to you. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare that duly carried.

**Procedural –
Potential extra Meeting of States of Deliberation regarding Brexit**

The Bailiff: Now, Members of the States, before I invite the Greffier to close this meeting, I am simply going to raise three points with you, if I may.

2435 The first is, as Deputy Ferbrache touched upon during the course of the statement related to Brexit, there may be a need to convene the States between now and the end of this month.

If there is a policy letter and a set of Propositions relating to something Brexit related and I am satisfied that it is appropriate to exercise the powers to convene a further meeting before the end of the year, which I have indicated I would be if a policy letter is submitted in relation to it.

2440 Then what I am going to be asking the States Greffier to do is to circulate all of you by email to find out those half days between now and the end of the year. It will not include Christmas Day, and it will not include 28th December come what may, but the other half days as to when it would be least convenient – in other words, when you have already got a commitment and whether that commitment is capable of being moved. Just so that there is some flexibility in identifying when any further meeting might properly be convened for in order to reach decisions of this Assembly.

2445 So that is just to forewarn you that the States' Greffier will be emailing you and obviously the quicker the responses come back the easier it is to see what those options properly can be to deal with something that could be quite important.

**Covid-19 –
First vaccinations; appreciation of Health Services**

2450 **The Bailiff:** Now, again, it has been touched on during the course of today, again by Deputy Ferbrache, that it is a momentous day for the Bailiwick today, in that the first vaccines against Covid-19 or in respect of it, however you like to describe it and I am not a doctor, have started to be administered. The first one to Sue Fleming as I understand it.

2455 Those Members who were in the States earlier on in the year particularly when we were meeting virtually rather than in person will remember the occasions on which those of us presiding invited Members to show their appreciation for all the health care workers who have done so much to keep our community safe during the course of this pandemic.

I think in the last scheduled meeting of the States of Deliberation this year particularly today when we are in a position hoping that there is another significant step in the battle against the virus that it would be appropriate for all of us just to take a moment to express our appreciation to all those who have worked so tirelessly on our behalf, and to thank the entire community for the way they have responded to the crisis which has put us in the great position that we are currently in.

2460 So I am going to invite you to show your appreciation to all of them in the customary fashion.
(Applause)

Christmas felicitations

2465 **The Bailiff:** Finally, but certainly not the least significant point that I wish to make before we break, is to wish you all, your families, your loved ones, wherever they may be, and in particular if they are elsewhere and facing different consequences for their Christmases than would be the case if they were in the bosom of their families here and enjoying what will be as near a normal Christmas I hope for everyone, to wish you that Merry Christmas, to hope that you have some sort of break over the festive period so that when you resume debate in January, and you resume your committee

2470 responsibilities after that break, you come back refreshed ready to face whatever is going to be before you in the course of 2021.

So I do sincerely hope on behalf of myself and the Deputy Presiding Officer that you have a lovely Christmas, have a rest and come back in 2021 ready for the next round of business.

Deputy Gollop.

2475 **Deputy Gollop:** Sir, if I can thank you very much, sir, for the warm words and advice that you have given us, and I will certainly have to mind my *p's* and *q's* and diets and not pull too many crackers and so on.

2480 But I very much want to extend the Bailiff's, the Presiding Officer's wish to everybody all Members, staff and of course yourself, sir, as Presiding Officer that you, your family and friends, have an outstanding Christmas, and I do so as one of the longest serving Members.

Thank you very much.

The Bailiff: Thank you very much indeed, Deputy Gollop.
I will now invite the Greffier to close this meeting.

The Assembly adjourned at 12.47 p.m.