OFFICIAL REPORT

OF THE

STATES OF DELIBERATION OF THE ISLAND OF GUERNSEY

HANSARD

Remote Meeting, Guernsey, Friday, 19th June 2020

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Present:

Richard McMahon, Esq., Bailiff and Presiding Officer

Law Officers

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

People's Deputies

St Peter Port South

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

St Peter Port North

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

St Sampson

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

The Vale

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

The Castel

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

The West

Deputies A. H. Brouard, A. C. Dudley-Owen, E. A. McSwiggan, D. de G. de Lisle, S. L. Langlois

The South-East

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

Representatives of the Island of Alderney

Alderney Representatives S. Roberts, A. Snowdon

The Clerk to the States of Deliberation

S. Ross, Esq. (H.M. States' Greffier)

Absent at the Evocation

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

Business transacted

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States of Deliberation

The States met virtually at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS
The States' Greffier

EVOCATION

Billet d'État XIII

COMMITTEE *FOR* HEALTH & SOCIAL CARE

V. Modernisation of the Abortion (Guernsey) Law, 1997 – Debate continued

Article V.
The States are asked to decide:
Whether, after consideration of the Policy Letter entitled 'Modernisation of the Abortion (Guernsey) Law, 1997', dated 2nd March 2020 they are of the opinion:-
1. To agree to repeal section 1(a) of the Abortion (Guernsey) Law, 1997 ("the Law"), and any other statutory criminal offence relating to a woman ending or attempting to end her own pregnancy that is in similar terms.
2. To agree to remove the requirement in the Law for a second medical practitioner to be of the opinion required by section 3(1) of the Law.
3. To agree to amend the Law to remove the gestational threshold for abortion procedures falling within section 3(1)(c) of the Law, as described in paragraph 5.29 of this Policy Letter.
4. To agree to amend the Law to increase the gestational threshold to twenty four weeks for abortion procedures falling within section 3(1)(d) of the Law, as described in paragraph 5.29 of this Policy Letter.
5. To agree that professional practice guidance should be issued in respect of the method of calculation of gestational age for the purposes of the Law.
6. To agree to amend the Law to provide for registered nurses and registered midwives to be permitted to perform medical abortion procedures.
7. To agree to remove the requirement in the Law for medical abortions to take place only at the Princess Elizabeth Hospital.
8. To agree to amend the Law to provide that health practitioners who choose to conscientiously object to providing care in relation to abortions shall be required to make a referral without delay to another health practitioner without such objection.

9. To agree to amend the Law to make clear that health practitioners may not refuse to participate in care required to save the life or prevent serious injury to the physical or mental health of a woman.
10. To agree to create a power in the Law for the Committee for Health & Social Care to make regulations making further provision in relation to the circumstances in which the right of health practitioners to conscientiously object to the provision of care in relation to abortions may be exercised.
11. To agree to amend the requirement in the Law to notify the Medical Officer of Health of abortions to a requirement to so notify the Director of Public Health.
12. To direct the preparation of such legislation as may be necessary to give effect to the above decisions, including any necessary consequential, incidental or supplementary provision.

The States' Greffier: Billet d'État XIII – Article V – the continuation of the debate.

The Bailiff: Good morning, Members of the States.

We have had nine amendments submitted to this set of original Propositions from the Committee *for* Health & Social Care. There have been some developments overnight, not in terms of the numbers of amendments that Members will be discussing during the course of today, but with a view to trying to rationalise the debate by grouping some amendments that can be taken together in debate but then voted on distinctly when we come to the end of the debate on those amendments.

In particular, what I have in mind to do, subject to any contrary suggestions from those who are moving the amendment, is to take Amendments 1, 2 and 3 together, subject to the motion under Article 7(1) of the Reform (Guernsey) Law 1948 being approved, and to take Amendment 9 as well.

So the first thing I am minded to do, Members of the States, is to invite Deputy Dudley-Owen and Deputy Graham formally to put the motion to suspend the Rules of Procedure to the extent necessary to permit the Proposition in Amendment 9, which they wish to propose to the States, take a vote on that, and they we will know whether Amendment 9 is also to be debated and then I will turn to the proposers of each of those four amendments to speak to them.

Deputy Dudley-Owen.

Deputy Dudley-Owen: Sorry sir, am I able to speak to this as to why the Rules should be …?

The Bailiff: I do not think you really need to, it should be clear to Members why it is that there is a different time period to be substituted in Proposition 4 if they are minded to debate it. All I wanted to do was to make sure formally that you wanted to be able to lay the amendment and therefore to move the motion first.

Motion under Article 7(1) of the Reform (Guernsey) Law 1948
To suspend the Rules of Procedure to the extent necessary to permit Amendment 9 proposed by Deputy A Dudley-Owen, and seconded by Deputy R Graham to be considered.

Deputy Dudley-Owen: Yes sir, thank you.

The Bailiff: Thank you very much. Deputy Graham, do you second that motion?

Deputy Graham: I support that request sir.

The Bailiff: Thank you very much. Now, Members of the States, I am simply going to put that motion to you, which is the top of Amendment 9, as to whether you are minded to suspend the Rules to allow Amendment 9 to be debated and invite you to vote in the Chat column.

Some Members voted Pour; some Contre.

The Bailiff: I think it is pretty even.

The States' Greffier: We have a request for a recorded vote.

The Bailiff: Members of the States it is quite difficult to determine *aux voix* whether that was *Pour* or against in the majority and therefore I am going to ask that there be a division and there has been such a request from a number of Members and therefore we will go to a recorded vote on the motion. Greffier, please.

There was a recorded vote.

Carried – Pour 26, Contre 12, Ne vote pas 1, Absent 0

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

The Bailiff: Members of the States, the voting on the motion proposed by Deputy Dudley-Owen and seconded by Deputy Graham to suspend the Rules of Procedure to the extent necessary to permit Amendment 9 to be debated was: there voted Pour 26, Conte 12, with one abstention and therefore the motion is duly carried.

Now, Members of the States, the reason for taking these four amendments together is that they deal with changing the wording of Propositions 3 and 4 and some of them seek to have those two elements of gestational threshold inter-related. But I am going to start, even though this might not be the order in which the amendments are subsequently voted on, with inviting Deputy Stephens as the proposer of Amendment 1 and Amendment 2 to speak to those amendments. So Deputy Stephens please.

Amendment 1

To delete Proposition 3 and substitute therefor:

"3. To agree to amend the Law so that whatever gestational threshold applies for abortion procedures falling within section 3(1)(d) of the Law also applies to those falling within section 3(1)(c) of the Law".

Amendment 2
To delete Proposition 3 and substitute therefor:
"3. To agree to amend the Law so that whatever gestational threshold applies for abortion procedures falling within section 3(1)(d) of the Law also applies to those falling within section 3(1)(c) of the Law, except in cases of diagnosis by an appropriate health practitioner of a fatal foetal abnormality and that a diagnosis of fatal foetal abnormality shall not include a diagnosis that a foetus or child has a non-fatal condition such as Down's Syndrome or a cleft palate."

Deputy Stephens: Thank you, sir, I am grateful for your assistance on the matter of the amendments this morning. May I ask for Amendments 1 and 2 to be read, please?

The Bailiff: Of course you can. Greffier.

The States' Greffier read out Amendments 1 and 2.

The Bailiff: Deputy Stephens.

Deputy Stephens: Thank you, sir.

I will begin by saying all the amendments that are going to be laid this morning or during the day will be laid with the utmost respect for women, children and families.

The issue of discrimination in the time limits of gestation for abortion between babies who are developing as expected and those who are not was touched on yesterday in debate. Proposition 3 indicates that there will be a difference in protection by the Law between well and unwell babies, that will continue as it is in the Law that we depend on at the moment. Propositions 3 and 4 suggest changing the limits for abortion for well babies to 24 weeks and for those who are unwell to birth. This allows for the challenge that that difference is discriminatory.

So the first question to Members is do they want the difference in the condition of a baby to allow for different levels of protection in Law? Amendment 1 suggests the alternative of treating all babies in the same way, with no suggestion of what the gestational time limit will be because those decisions will be posed by later amendments.

Moving to Amendment 2, this outlines the same principle of non-discrimination as Amendment 1 but goes on to offer the exception to the principle of babies who, in my own words, may die before birth, at birth or very soon afterwards. So this amendment offers the option of one gestational time limit for abortion for all babies, except those not expected to be born alive or to die very soon after. Fatal foetal anomaly.

Amendment 2 continues and offers the option of describing conditions which are correctable, such as club foot, cleft palate *etc.*, which should not be considered in the words of the current Law as leading to a baby being seriously handicapped. The Guernsey Disability Alliance has contacted Deputies asking that this definition in Law be done.

So the three questions posed across the two amendments are should our Law state that some babies have more protection than others, or should it establish a principle of non-discrimination. Secondly, if that principle of non-discrimination is established, should there then be an exception for babies who are not expected to live? And the third question is should, in that category of babies not expected to live, there be a description of conditions that, although they may not be detectable until late in pregnancy, are not included because they are not fatal and in many cases are correctable?

HSC are likely to say that the choice is entirely the woman's. The challenge for Members is: should it be? So these questions are easy to pose, they are by no means easy to answer and I look forward to the debate.

Thank you, sir.

The Bailiff: Deputy Le Tocq, do you formally second both Amendments 1 and 2?

Deputy Le Tocq: I do so, sir, thank you.

The Bailiff: Can I now invite you, Deputy Le Tocq, as the proposer of Amendment 3 to put Amendment 3 into play for me?

Amendment 3
In Proposition 4:-
(a) for "24 weeks" substitute: "22 weeks, or the point of foetal viability as determined at that time,"; and
(b) delete: ", as described in paragraph 5.29 of this Policy Letter".

Deputy Le Tocq: Sir, could I ask for that to be read, please?

The Bailiff: Of course you can. Greffier.

The States' Greffier read out Amendment 3.

The Bailiff: Deputy Le Tocq.

Deputy Le Tocq: Sir, firstly before addressing the particular points covered in the amendment, I want to just refer back to, I think, some comments made by Deputy Fallaize yesterday, with regards to the *sursis motivé*. These amendments are very much, for me, second best to the opportunity for us to reflect properly on all the information that one would need and certainly that our community needs to know with regards to this very sensitive issue of abortion and, if we are going to, as I said yesterday, draw the line in a grey area, then we need to do so very carefully and not just automatically copy the UK or any other jurisdiction, particularly as those things are changing elsewhere.

This amendment has been challenged already by comments made by HSC and others and one of those was the accusation that babies are not able to survive at 22 weeks. I contend that that is false science. Since 1990, there have been continued improvements in the outcomes for extremely premature babies. We know that; you have seen that and that continues to be the case.

One study, based on a single neo-natal intensive care unit in central London, showed survival at 22 and 23 weeks was zero in the period 1981-1985, but steadily improved to around 50% of babies born alive at this gestational age in the period 1996-2000. A further report, which focuses on survival up to one year of age of all babies born in 2016 in Great Britain, at 22-26 weeks' gestational age, found that 54% of babies born at 22-23 weeks' gestation, who were admitted to a neo-natal intensive care unit survived.

There are ethical reasons to debate the limits, which should not be lightly dismissed by anyone. In response to their consultation, the Committee acknowledged the MBRRACE-UK report, but stated that placing viability at 24 weeks' gestation does not preclude the survival of babies born before this point in time but provides an indication of the very high mortality and morbidity rate, where a small proportion of babies born before 22-24 weeks only survive with very intensive treatment. Those that do survive will very often have significant and ongoing complex care needs.

It is not clear, sir, what proportion of babies born before 24 weeks could survive if they were given proactive care but sir I am sure the Committee would seek to do that if we were intentionally

looking to care for our children, our babies and our mothers, which we are, surely? But it is not a straightforward matter for clinicians to accurately assess long-term outcomes for these babies. The MBRRACE data demonstrates that proactive care significantly improves neo-natal outcomes.

It is unremarkable that outcomes are poor where babies do not receive such care. This data also reflects situations where there were complicating factors, resulting either in natural early labour or induced early labour, or Caesarean section. Therefore it is possible that outcomes could be higher still if these complicating factors were excluded.

That many babies may not survive if born at 22 weeks' gestation also does not negate the fact that some babies do. It is inappropriate that some viable babies should receive proactive life-ending medical intervention at the same gestational ages as others receive proactive life-saving interventions.

It is surely an oddity in Law that some babies are granted full rights and protections of personhood at the same gestational age that others are treated as a medical product. It is also commonly recognised that the estimated gestation of the foetus could be one-two weeks out, hence a pregnancy estimated to have reached the 22nd week of gestation may in fact have reached the 24th.

Therefore any legislation ought to be conservatively drafted in accordance with the precautionary principle, to ensure that viable babies are no terminated for social reasons, moreover decisions should be made about whether to provide care simply based on whether the baby may have a disability, as this reinforces stereotypes about the value and quality of life of persons with disabilities. Clauses on viability have been included in the recent Republic of Ireland law and it is that which has motivated us to suggest this amendment.

Thank you, sir.

The Bailiff: Deputy Dudley-Owen, do you formally second Amendment 3?

Deputy Dudley-Owen: Yes sir, I do.

The Bailiff: Thank you very much and can I now invite you to lay Amendment 9? Deputy Dudley-Owen.

Amendment 9

In Proposition 4 for "twenty four weeks", substitute "sixteen weeks", and delete ", as described in paragraph 5.29 of this Policy Letter".

Deputy Dudley-Owen: Yes, apologies you will have to give me a minute just to prepare my papers. I did not quite expect to be called this early.

The Bailiff: Would you like the Greffier to read it?

Deputy Dudley-Owen: It is very short, but yes that would be helpful, thank you.

The Bailiff: Greffier.

The States' Greffier read out Amendment 9.

The Bailiff: And Deputy Dudley-Owen to speak to that amendment.

Deputy Dudley-Owen: Thank you, sir.

Firstly, I would like to give my thanks to Deputy Graham, who has seconded the amendment. This policy letter seeks to gain our approval for an extension of the gestational threshold to 24

weeks, for a social abortion, i.e. one that is carried out for social reasons under section 3(1)(c) of our Guernsey Abortion Law.

I would like to stress at this point this is not a term that I have coined if anyone finds it rather difficult to accept, it is one that I have heard used by medical professionals. The amendment laid before Members today seeks to reduce the proposed extension of gestational threshold from 24 weeks to 16 weeks, proposing instead that we enable an abortion for social reasons to be carried out at four months pregnancy rather than at six months.

On a personal level, I read through the policy letter expecting to be in full agreement with the proposals because I am a supporter of informed choice for women. Whilst, in the main, I can understand and can support some of the proposals, the one that I cannot reconcile myself with is Proposition 4 to amend the gestational thresholds for abortions under section 3(1)(c) of our Law for social reasons.

The decision to have an abortion can be an easy or difficult one. For some women, it is a very stressful, complicated time. For others, it is straight forward. Each woman and each situation is different. Abortions happen for pregnancies that are both wanted and unwanted and for many different reasons.

My concerns with regard to these proposals are primarily around the increase in gestational threshold, allowing what is termed as a social abortion, and a lack of psychological support being offered around the whole process.

Comparisons have been made about our legislation compared to that of other places but the evidence is not indicating that here in Guernsey we would need to change our Law because of the lack of demand and instances in which the extension would be used. No costings have been given around the extensions and the ethical issues around allowing abortions up to the age of viability are extremely thorny and have caused much consternation and have not been tackled in the policy letter.

The policy letter and communications from the Committee have cited that the changes are consistent with the UK and Isle of Man. I do not think this is at all relevant. We have been entirely inconsistent with how we have handled the Covid crisis and have applauded ourselves and have been lauded by others in our success to date.

What is the requirement for us to align ourselves with the UK on this matter? Seeking equivalence and parity with other jurisdictions is not enough of a reason. Is it, in this instance, even material? Many have argued it is not.

Figures publicly available from the UK Government show that last year in the UK there was the highest number of abortions since the act was introduced in the late 1960's. Comparatively the number of abortions in Guernsey have not peaked at all in this way and with a variable of lowest numbers of terminations carried out in 2017 at 97 and the highest number in 2009 at 146, we have averaged 120 terminations per year over a 10-year period.

In the UK, in 2019, 98% of abortions were performed under grounds C, which is the same as our section 3(1)(c). The UK figures tell us that the percentage performed at 20 weeks has remained the same in 2019 as 2018, at just 2%. So that is 1,717 abortions performed at 22 weeks and over and that 96% of these were undertaken where the heart of the baby was stopped as part of the procedure.

By way of explanation, this is an injection of potassium chloride into the heart to cause cardiac arrest. Based on our historic abortion rate, it would average less than one abortion per year at 20 weeks pregnancy.

The UK data confirms that the vast majority of abortions are justified because of the risk to a woman's mental health. But I would argue that in our circumstance there is a greater risk to the woman's mental wellbeing because of the added psychological impact and potential trauma for a woman travelling to the UK for a foeticide, who then returns to Guernsey carrying a dead foetus inside of her for the remainder of the procedure, knowing that she has chosen this outcome for her unborn baby. Any woman who has miscarried, whether spontaneously or induced, will know the dreadful feelings of carrying a baby inside of her who is no longer alive.

For pregnancies of a gestational age, up to nine weeks, the recommended method is a medical abortion and this is where the lady takes medicine, pills, to induce the abortion. In some countries, for example in France, medical abortion is not recommended for pregnancies over seven weeks.

Pregnancies between nine-14 weeks, a surgical abortion is recommended, preceded by Mifepristone – which causes the placenta to separate from the endometrium; it also softens the cervix and increases uterine contractions to allow the uterine contents to pass – and the repeated doses of Misoprostol until expulsion, which causes uterine contractions so that the woman's body passes the uterine content. Apologies for my mispronunciation on some of those rather medical terms. A vacuum aspiration is performed after the expulsion, to ensure that the uterine cavity is completely empty, though not in all instances.

I feel rather uncomfortable reading all of that. It is medical speak that is not in my language and I am sure that others feel uncomfortable listening to that as well because what I am covering up there is the real human element, the real aspect of what a woman goes through in choosing to have a termination. We cover it up often with medical speech and it becomes a dry, medical procedure that really hides the issues and the ethical issues that I am talking about today.

When the gestational age is more than 14 weeks, the surgical method of abortion is used, which involves forceps for extraction of the foetus after the heart of the foetus is stopped. This has been mentioned in debate by Deputy Paint.

I believe that enabling women to receive an abortion up to 16 weeks will make sure that the very small number of those who need it, who will ask for extra time to consider the future of their pregnancy will get the termination that they absolutely need.

There is research available where evidence gathered suggests later abortions have a detrimental effect on the mental health of a woman and I am happy to share this amongst Members. But I will draw from just one of the available papers about this, which was from 2010 and entitled *Late-term elective abortion and susceptibility to post-traumatic stress symptoms*.

It says the later an abortion is undertaken the larger the potential mental health implications for the woman. The primary aim of the study was to compare the experience from early abortion in the first trimester to a late abortion in the second or third trimester in this instance, relative to PTSD.

Online surveys were completed by 374 women who experienced either a first-term abortion or a second or third-term abortion. Most respondents were US citizens. The later abortions were associated with higher infusion subscale scores and with a greater likelihood of reporting disturbing dreams, reliving the abortion and trouble falling asleep.

They reported that the pregnancies were desired by either one partner and not the other, they experienced pressure to abort, having left the partner prior to the abortion, not disclosing the abortion to the partner, physical health concerns were among other reasons for women receiving late abortions.

Social reasons for the abortion were linked significantly higher to the PTSD total and the subscale scores for the full example and women who postponed their abortions, it was deemed, may need more active professional intervention before securing abortion, based on the increased risks identified.

Another interesting point that I came across in my research was from the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, that has not been mentioned at all in the paper, nor in the presentation. And that is that little consideration is provided to the psychological impact on the healthcare team in provision of a foeticide service, even though it is a general recommendation where terminations of pregnancy at gestations later than 22-23 weeks. This is a matter that we have heard nothing about and what do we consider will be the impact of staff in Southampton who will carry out this careful but extremely sensitive and on occasion controversial procedure?

Medical advancements have seen a significant increase in viability of foetus earlier and earlier in the gestation period and I will not go into any detail because Deputy Le Tocq has covered this very well in his opening speech just earlier. (*A telephone rings.)* Apologies, my phone is interrupting my

speech. Apologies for that sir. I will not continue because I think that this is an opportunity for us to open debate on this subject and I really do appreciate listening to the views of other Members.

Thank you.

The Bailiff: Deputy Graham, do you formally second Amendment 9?

Deputy Graham: I do sir.

The Bailiff: Thank you very much. The first Member I will call to speak on all four amendments is Deputy Roffey, to be followed by Deputy Inder.

Deputy Roffey: Thank you, sir.

It sounds so beguiling as a matter of principle that there should be no discrimination in the way we treat foetuses on the basis of the abnormalities and those abnormalities leading to disability. I do understand the sensitivity here and I understand why many disabled people will feel that any reference in the Law to disability will be seen as devaluing their lives because they are disabled and therefore why should they be regarded as less precious than anybody else?

But with respect, in the real world, I think there are very strong and valid reasons for having those clauses in the legislation. Sometimes the only way you can actually see how legislation, which we debate in principle, works its way through into the real world, is to actually use an example.

Therefore I am going to use an example from my own family, which engages many of these suites of amendments, but particularly I think Amendment 1. Obviously, I am not going to identify the person concerned but it is a relative of mine and I have her full permission to explain this.

This relative of mine fell pregnant some years ago. Now a number of years ago, not that long ago, and she and her partner were absolutely delighted. They wanted to have a child so they were thrilled. When they found out that she was expecting twins they were doubly delighted. They went through all the usual ante-natal procedures, all the scans and monitoring that is normal. None of it left out and absolutely nothing untoward was flagged up whatsoever during the first 12 weeks of pregnancy.

Unfortunately, I think about 13/14 weeks into the gestation, the local gynaecological service became aware that there was something not quite right. They did not know what it was, they were not sure but they referred her to Southampton to try and understand what was going on. She and her partner and other members of the family went across to Southampton and it was a bit of a bombshell. She was told basically that because of a fairly rare genetic condition her twins did have very significant foetal abnormalities, to the extent that she was told four things about her pregnancy.

The first was that her twins were very unlikely to actually go to full-term and therefore if she continued with the pregnancy she should expect them, probably, to spontaneously abort some time between that point and full-term. So, basically being faced with waking up every day wondering, 'Is this the day this is going to happen to me? Is it or is it not?

The second thing she was told that, even if both foetuses did continue to full-term, there was quite a high likelihood that one or both would be stillborn. The third thing that she was told was that if one or both of the twins were born alive then their life would be short, it would probably be months, no more. And that the quality of that life would be absolutely awful. We are not talking Down's Syndrome or anything like that. I am not going to go into all the details but she was graphically told what the life of these children would be like if they were born alive and, as I say, it was quite harrowing.

The fourth thing that she was told was that the longer she carried on with the pregnancy the more she would be compromising her chances of a healthy and normal pregnancy in future because, even though this was a genetic condition, the advice was actually, particularly if it was a single child rather than twins, in future the chances were that it would not become a problem and she would be able to go on and have children normally. But that would be compromised if she carried on with this pregnancy.

Now she decided to have a termination. Obviously, it was a late-term abortion because she was utterly unaware of this until well after the 12-week period where we encourage people who want to terminate to terminate by. I think it was absolutely the right decision. Yes people are right that late-term abortions are not the most pleasant procedure in the world but there are some times when it is absolutely the right thing to do and I believe that this was one such case.

So when I look at Proposition 1, or Amendment 1, where actually it was not saving her life and it was not preventing grave or permanent injury to my relative, and therefore would not be permissible, I say what on earth are you talking about? How on earth can you think that this was the wrong thing to do? I know some people like to see this as absolutely black and white but I do not understand their judgement in this case.

I have also had lots and lots of emails, we all have. Some of them have said, what is the difference? When children are born, whatever their disability, you would not try and kill them when they were born, you would do whatever you could for them, so how on earth is it different before birth? Well, I use this example again. Of course if she decided to carry on with this pregnancy and if, in the unlikely event that one or both of these children had been born alive, of course the medical profession would have done their best for them and they certainly would not try to kill them.

But to project backwards and say that a woman, when the foetuses are actually a part of her, should be forced to carry on with those circumstances, knowing that she could abort any day, knowing that she was likely to give birth to stillborn children at the end of the day, knowing that if it was not, they would have a short and unpleasant life, then what on earth are we doing mentally to women in taking that choice out of their hands? Yet Amendment 1, as I read it, would do exactly that.

I also think we have to be careful about hypocrisy here because I think one could say, what is the problem, this situation was resolved with Guernsey's present Abortion Law. It was because the UK's abortion law is different. I really do not want us to sit smugly thinking that our abortion law has high moral standards and that it is able to show that is more restrictive and therefore, in some people's mind better than abortion laws elsewhere, knowing that we are really only able to hold that line because in the circumstances like the one I have just described, we are able to rely on the UK to actually help us out.

That is the first half of the story, the story of the abortion that did happen because the UK's abortion law allowed it to happen, and rightly so in my opinion.

There is also a second part to this story and it is about an abortion which did not happen, for exactly the same reason. An abortion which did not happen because late-term abortion was permitted in the UK.

Because this relative did become pregnant again, because she was told that the chances that everything would be fine, particularly if it was a single child. Obviously, this time the medical profession was all over that pregnancy like a rash. They knew what they were looking for and they were determined to find out whether the same genetic issue arose. Unfortunately she was absolutely gobsmacked to be told that, yes, this time, it was a single child, a single foetus, but it looked like it had exactly the same condition as the previous twins that she had had terminated and the chances were that exactly the same prognosis would be the case.

However, they said, because they were looking this time that much earlier in the pregnancy and because it was a single child and because of the degree of the abnormality that they were picking up at that time, there was just a chance that actually it would correct itself during pregnancy. The catch was they would not be able to tell her that until 20 weeks into pregnancy. They would not know until she had been pregnant for 20 weeks whether or not that sort of severe disability was going to be present.

So, they said, you can terminate it now, this was really quite early on in the pregnancy, and 'in some ways that is what we advise you to do psychologically'. I was not asked for my advice and I did not offer it but I have to say that would have been my advice too. She took a different view. She really wanted to give the foetus a chance and she decided to carry on. She carried on after speaking about it with her local gynaecologist, knowing full well that if the same situation did pertain as per

with her first, original pregnancy, she would be able to have it terminated after that 20 weeks in the UK.

They went across to the UK, I have to say thank goodness she did not have to pay for it because there were all sorts of specialists from gynaecologists, geneticists and the cardiac specialists and whatever else. After that 20 weeks she was told that actually this pregnancy had corrected itself and it was going to be fine. She carried on with that pregnancy, she gave birth to a child who is now very loved and very healthy and I am sure would not have been born if the limit had been 12 weeks. They really just could not have taken that chance and therefore it was thanks to the fact that the UK's law was more permissive and therefore was there as a safety net that she was able actually to proceed.

As I say, I think it would be hypocritical just to rely on that. I think we have to imagine ourselves as cut-off from the UK – well we have been the last few months, pretty much, although not for medical reasons – but I think we have to imagine what we would do. Because otherwise we are really just having double standards and we are saying we can appear purer than pure because we know we have got that safety net.

I know that those who see this as a … the reality is that whatever we pass today, whatever restrictive amendments we pass, it is not going to stop a single termination, is it? Somebody who really wants to have a termination for whatever reason will have the ability to go to the UK. It might cost them money, but if they are determined to do it they will do it.

Now I understand that those who see it in a black and white situation, that is no good reason for permitting it in Guernsey Law. I understand that. If I try to draw a parallel, I am utterly opposed to clitoral castration and the fact that somebody might be able to travel to some distant land and have it done would be no reason for not saying that it should not be strictly illegal in Guernsey. But that is a black and white situation to me, that that is absolutely wrong.

For the sorts of reasons I have been explaining over the last 10 minutes, I do not think abortion is a black and white situation. I think it is grey situation, where the woman, and I do not believe that terminations are actually done lightly. I cannot say they are never ever done lightly but I think in 99.9% of cases, it is a huge and traumatic decision. Therefore, if that is going to happen anyway, I would prefer it to be, wherever possible, closer to home, closer to support systems and not deemed illegal under your domestic legislation.

What is that saying to somebody? What happened to my relative, under Amendment 1 if it happened in future to somebody else, they would still have the termination, they would have it in the UK, their home territory would be saying, 'Our law says that this is illegal.' I know Amendment 2 is slightly different because it segregates out those where life would not continue going on. But under Amendment 1, we would be making a judgement.

We were talking about sexual offences the other day and we were saying we have got to send out a message, it may not make a huge difference but we have to say, 'This is our judgement.' We will be saying to people in the same situation as my relative, that I have just described, that, 'Our Island condemns you because it would be illegal under our Law. We cannot stop you going somewhere else and having it done but our judgement is that you are doing something wrong.'

I do not think she was and I do not think anybody else in the same situation in future will be either. I think it is so easy to take a moral high ground here. These are life situations and I think usually the best judge is the person concerned. I really think that the woman should have the control. Of course there needs to be some limits around it for the norms of society, but by and large I think we should be allowing the woman choice here.

Also, briefly, on another amendment that has been brought, I am not sure that foetal viability should be the main criteria in deciding on the termination date. The logical extension is that if medical science advances to the point where, in an artificial womb, a newly fertilised egg could be kept alive from days after conception and there is an obligation to do that. I do not think that is a logical argument when taken to extremes but I know others will disagree.

Really I support, very much, the policy letter as it stands. This is not the time for general debate but in particular I think this suite of amendments and in particular Amendment 1 would lead to

what would in my view be a fairly abhorrent situation and I urge Members to vote against these amendments.

Thank you, sir.

The Bailiff: Deputy Inder, to be followed by Deputy Gollop and then Deputy Paint. So Deputy Inder please.

Deputy Inder: Sir, thank you, Members.

It was Deputy Le Tocq's speech on the *sursis* actually, yesterday, that surprised me at the perceived lack of consultation that HSC had conducted with the Guernsey Disability Alliance and I think he mentioned two people, I think it was Mr Platts and Baroness Grey-Thompson. I think Mr Platts, who was a member of the GDA, he said along the lines of the GDA believes HSC has not respected Article 4.3 of the UNCRPD because persons with disabilities have not been actively involved or closely consulted.

Then, regarding Baroness Thompson, as far as I remember, she was not aware of these proposals when they were contacted and while she is supportive of abortion she is very concerned about the disability, discriminatory nature of the proposals, and shocked about the two-week consultation.

So, as a consequence of that, I did write to Catherine Hall last night. Now Ms Hall is education lead for the Guernsey Disability Alliance. I think she either is or was the branch officer for the National Autism Society and she is the GDA rep, certainly, for the Special Educational Needs and Disability Review.

So I contacted her last night just to sort of poke around the consultation period because you have got to bear in mind that some of these, as expressed by Deputy Dudley-Owen, these are very technical and clinical issues that we are not particularly abreast of. It is not my area of expertise in any way, shape or form. HSC will retort and say it was there area of expertise. It may well be, but it is not as individual Deputies. They are not experts in the area and I am certainly not an expert in matters of birth or abortion.

So I wrote to Ms Hall and I asked her what her view was, I suppose to a degree almost to fact-check Deputy Le Tocq's piece on this *sursis*. I asked her where she was as one of the GDA reps on the abortion debate. She said that it did not 'sit particularly well with us'. Under the CRPD there should have been consultation with disability groups about relevant changes.

> CRPD is silent on the issue of abortion but does have a duty to consult with persons with disabilities through their representative bodies about issues that affect them. The GDA was not specifically approached for a view or involved in any consultation. We have a wide range of views about abortion in general, within our membership, so are not commenting on other aspects of the policy letter, but we are aware of concerns that foetal abnormalities referred to in the policy letter are not well-defined. Although it includes those judged not to be compatible with life, it does not specifically limit it. It also references those who would be 'severely handicapped' but does not define what is meant by severe handicap. (I am a bit surprised that HSC would use outdated terminology like handicap in a policy letter.)

She then wrote to me by email and followed up a little bit –

The Bailiff: Deputy Inder, Deputy Soulsby wishes to raise a point of correction, so Deputy Soulsby, please.

Deputy Soulsby: Yes sir, the language was not what HSC used, it is language in the Law and I think Deputy Hansmann Rouxel made very clear that aspect yesterday.

The Bailiff: Thank you very much. Deputy Inder to continue.

Deputy Inder: I am just reading what was written to me, so it is not really a point of correction. She did actually also go onto say in a further email, because I asked her specifically what her thoughts were on the eight amendments, being not particularly expert in the area but realising

there might be a discriminatory element within the proposal. What she did say is that essentially the bit of legislation in the UK law …

> … that is of concern for some disability groups is that while the gestational age limit for abortion on other grounds is 24 grounds, there is no upper limit in cases where foetal abnormality is detected. The policy letter refers to including to severe foetal abnormality incompatible with life but does not specifically rule out abnormalities that are compatible with life, as the UK law does not.

I asked her which of the amendments, I suppose, one as a mother of autistic children, two as a woman and three I suppose as a representative of the GDA. I asked about reducing from 24 to 22 or to 16 weeks and she said:

> Reducing from 24 to 22 or to 16 weeks while retaining no upper limit for foetal abnormality does not address the concerns raised by some disability groups.

I specifically asked her about the amendments and I will not be much longer sir because all I can do is take some information from people who have got more expertise outside the bubble of law-making and sort of second checking in a local context. Amendment 1, she said …

> … ensures no discrimination on basis of disability but does not allow for termination where foetal disability is incompatible with life …

Which is the amendment that we are talking about at the moment. Amendment 2 …

> … ensures no discrimination on basis of disability but does allow for termination where disability is incompatible with life. My personal opinion is that this is better than Amendment 1.

So, having not an awful lot of knowledge on this, I am likely to go for Amendment 1 rather than Amendment 2.

Regarding the Dudley-Owen and Graham amendment I think that for me is down to possibly personal choice. Sixteen weeks, unless I get some email from someone brighter than me over the next couple of hours, seems just better than 24. It seems to show more care and less risk, possibly, to both parties, but I might get the wrong end of the stick.

Right now, I am more likely to vote for Amendment 2 than Amendment 1 and the jury is a little bit out on Amendment 9 but my gut says it is better than 24. I may have drifted into general debate. I do apologise for that. But that is kind of, as a lay person in this area, the best I can offer at the moment and it might not have been that good. So thank you very much.

The Bailiff: Deputy Gollop. Deputy Gollop are you there? You have just muted yourself. Deputy Gollop? I will tell you what I will do, I will call Deputy Paint, allow you to come back into the Meeting, and then I will call you next, Deputy Gollop. So Deputy Paint.

Deputy Paint: Thank you, sir.

First of all I would like to give a very big thank you to Deputy Dudley-Owen for replying to the questions I asked yesterday which were not replied to. She covered just about all my worries and thank you again. Now, the speech I have, or the first part of it, might drift into general debate. I am quite happy to remove that or to give up my right to speak in general debate. I would be happy for anyone to stop me at any time if they think I am going over the top, but anyway, I will start.

How can I put this? Part of my speech, which is the latter part, is very personal but I am only quite prepared to talk about my experiences in the past and still now, so please bear with me. Sir, we now would like to think that we live in a very civilised part of the world, but we are prepared to more or less reprieve the lives of prison sentences, of known terrorist killers, murderers, some of them being killers of women and children. But we are prepared to abort and kill children not yet born, who may be born with nothing wrong with them at all except that nobody wants them. How shameful and inhumane that is.

Even if an unborn child has some sort of deformity, that is no reason to destroy a human being, who has no choice in being in its mother's womb in the first place. Does this not make us, those who vote for this, guilty of aiding and abetting infanticide? I am sorry, to me it does. Yes, there may be a risk to the mother's health but for the baby to be on the way, there cannot have been any sexual distancing if the risk of any danger to the child or to the mother, or to all the parents, for that matter should have been known before.

Nowadays it is simple –

The Bailiff: Deputy Paint, Deputy Tooley wishes to raise a point of order. Deputy Tooley.

Deputy Tooley: Thank you, sir and I apologise for this but I am really concerned about the nature of this speech. I believe that Deputy Paint has just, in effect, accused any woman who has had a termination of a baby that might have been healthy of infanticide and, given that abortion up to the age of 12 weeks is legal in our system, I really have to most strongly object to the nature this speech is taking.

The Bailiff: What Rule are you saying that Deputy Paint is breaking?

Deputy Tooley: I think he is bringing the States into disrepute if he is accusing women of infanticide when they have carried out legally permissible terminations.

The Bailiff: Deputy Paint, I am not going to accept that as a valid point of order from Deputy Tooley. You are entitled to say what you like in the context of this parliamentary Assembly, but you are straying into general debate and you have already indicated that, if you are, then you may forego your right to speak in general debate later. So, if you want to continue in the vein that you are continuing, you will be foregoing that right. Deputy Paint to continue.

Deputy Paint: I accept that fully sir, thank you very much. As I said earlier, we are supposed to be in a civilised Government and a civilised part of the world and we should be showing compassion towards everyone born or yet to be born. There are several couples on earth that, for whatever reason, cannot have children of their own, and would adopt a child if they could. But there are very stringent processes to follow before an adoption can be permitted. Perhaps the so-stringent rulings for the adoption process should be looked at a lot closer, rather than have this drastic proposal passed by our Government.

There are many good people in this Island and other places that are after surrogate parents, for many children. Dozens, in fact, in the cases of some. Has this been looked at before these drastic proposals were put forward?

An event took place when I was very young, perhaps 16 or 17, that affected my way of thinking for the rest of my life as it all lies now and made me think very seriously about my future and that was how I would act if a similar situation came to me. I cannot go into the details, because there are still people living that may relate to it. However, it made me wonder how well would we act if my daughter came home pregnant at a very young age? I came to the conclusion that I would cherish that child as my own, after all, it would be part of me.

A few years later, my wife gave birth to a baby girl, with several disabilities, some of which have been mentioned earlier. Sharon was born with a hare lip and a cleft palate and we later found that she was profoundly deaf. In those days, husbands did not stay with their wives when they were giving birth, so I delivered her to the maternity home and went back home. No sooner had I got back home, my sister came running to my door – we did not have a telephone at the time – and told me I had to get back to the maternity hospital as soon as I could. So I legged it back there.

When I arrived there was a midwife or nurse, I do not know what she was now, it was so long ago, it is 50 years ago in fact, with a baby in her arms, a baby girl. You could see she had virtually no nose, no top lip and a huge great hole where the palate was supposed to be. The lady said to

me, 'Now this is your daughter, you can see what is wrong, do you accept her as your child?' That quite shocked and my answer was, 'Of course I do, what are you talking about woman?' In those days we would not have known that Sharon would have been born like that, there were no scans, as there is today, it just happened.

So what do you do? You cannot abandon your own children, you have got to do something about it and that is live with it. At the age of 21 she was married to her husband, who was also very deaf. They gave us three grandchildren, all boys. There was nothing wrong with them at all. We do not know what actually caused Sharon's disabilities but it is possible that my wife had German measles while she was carrying our daughter.

A few years later, Sharon was diagnosed, at 35, with cancer and she passed away at the age of 44, of the disease. The boys lived with us for most of the time during her illness, while she had to undergo many treatments in the hope that she would survive. After her death, her husband decided to return to the UK, where he came from originally, and the boys did not want to leave Guernsey, but to remain living here with us and they have remained living with us since that time.

We did not want to see our children be unhappy or even end up in the children's home. We feel that they had – and feel – that they had been abandoned from the very ones they completely relied upon. It was our duty as grandparents that the boys would know that someone cared enough for them to ensure their wellbeing and they could rely on no matter what.

As some of you may know, I sponsored children in the Far East, two now in fact since 2003. One of them was living in complete poverty, whose only relation was an elderly grandmother who brought her up. Later I was informed that her mother had died when she was a toddler. The mother had a huge mental problem and was raped and the father was unknown. I sponsored her for her education. This girl passed through secondary school, onto university, and passed as an accountant.

Was this not a life worth supporting and living as everyone's life is? This girl is now 27, married with a child of her own. Would I have changed anything if I had known the facts of her birth? Of course I would not. She is a human being like me and we owe people that much at least. Look at what humanity would have lost if abortion had been readily available in that place at that time. It is just unbelievable, thinking.

I have opened my heart and soul to many of my experiences and I beg you not to vote completely for these proposals. Finally, sir, I have been concerned about these proposals ever since they came out. I have read just about every email for and against, every letter that has been sent to me and message that has been sent to me on this particular subject. I have wondered where this will all end and the future consequences that may come if such drastic things are passed.

In conclusion I would have … sorry, sir, I am just getting a bit wound up. The conclusion I have to come to appears to me that many people do not want to take the responsibility or consequences of their actions and that means both male and female. There are many forms of contraception available from pharmacies throughout the world to ensure that unwanted pregnancies are unlikely. All couples should take full advantage of that, rather than allowing laws to be made to kill unborn children.

We are told that it is what happens in the UK. We do not have to blindly follow UK or anywhere else for that matter. We should be considering what is best for our children and our women and make sure they are okay. So on no account can I possibly vote for these proposals. It is completely and utterly against my conscience. Thank you, sir, that is all I have to say.

The Bailiff: Deputy Gollop, I will call you next, to be followed by Deputy Fallaize and then Deputy Oliver. Deputy Gollop. Deputy Gollop you potentially still seem to be having some difficulties. The last time of asking Deputy Gollop, before I turn to Deputy Fallaize instead and drop you down the list again. We seem to have lost Deputy Gollop, Members. I do apologise for the uncertainty there, so I will call Deputy Fallaize instead please. Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

We have heard two quite moving speeches already this morning, from Deputy Roffey and Deputy Paint, presenting, of course, completely opposite ends of the argument and I respect them both and they are probably representative of the two ends of the argument in the States and there are very many Members who are somewhere in between their two positions.

Now Deputy Paint said that, if the proposals were adopted from the Committee, he was worried where it may end. That is where I want to start, because the evidence suggests that in jurisdictions where abortion legislation is more liberal, if I can use that term, generally speaking, the number of pregnancies which end in abortion is not materially greater than in jurisdictions where the legislation is more conservative.

Perhaps this takes us back to the point Deputy Roffey was making, that if a woman is determined to abort the child she is carrying, particularly late in term, the it is more than likely she will do that and, of course, that was the situation and has been the situation in history, which has always been one of the driving forces and reasons for trying to create in Law circumstances where women were able to have access to safe abortions.

Now, sir, I am going to speak entirely on the amendments but I am going to start by saying that there are essentially two ends to this argument, are there not, on abortion? One is that life begins at the moment of conception and no human being should take an action, which knowingly brings the life of another to an end. That is, in a nutshell, the argument of those who are anti-abortion, or as they would probably call themselves, pro-life. Sometimes that is for religious reasons and sometimes it is not.

At the other end of the argument, the emphasis is placed on the autonomy of the woman to have control over her body, recognising that until birth the foetus is part of the woman's body. Those people would consider themselves to be pro-choice.

Now, I think for both of those groups of people, there must be some discomfort in the inconsistency, in term limits, depending on the characteristics or the condition of the foetus. So I am not really sure that the debate about consistency, which is raised by the amendments from Deputy Stephens, I do not think it is exclusively owned by one or other end of the argument on abortion, generally.

I am much closer to the argument around the autonomy of women over their bodies and women's health, but I do have some difficulty with the inconsistency which exists now in Law, and which it is proposed to perpetuate – I do not think make worse particularly, by the proposals but certainly to perpetuate. The inconsistency that the term limit on abortion is determined by whether or not there is any foetal abnormality present.

It is very difficult to have that in Law and then to reject the claim that, in Law, we are placing some different kind of value between a foetus, which potentially will become a human life with a foetal abnormality and life without a foetal abnormality. I do not really see how one can argue that the inconsistency in term limit does not do that.

The problem I have with the amendments is that I think my principle around wanting to establish consistency, irrespective of the condition of the foetus, clashes with the practical application of these amendments.

What I fear is that, if the principle of consistency is established, it will be downward consistency and the term limits in all circumstances will end up being reduced. It does not have to be the case. The amendments from Deputy Stephens do not set out term limits, they simply say in principle there ought not to be an inconsistency in the Law between the foetus with foetal abnormality and the foetus without.

But in the application of the principle, I fear that there would be downward pressure on term limits. Members do not have to take my word for it. They just need to read these amendments conjunctively, the amendments that we are debating at the moment because, as will not have escaped Members' notice, if all of these amendments that we are debating currently are approved, then the direction of the States will have been to set consistent term limits at 16 weeks.

Now, at the present time, the limit in the instance of foetal abnormality is 24 weeks. I believe that is the case. If I am reading these amendments incorrectly then I am sure somebody will interject with a point of correction. But as I read these amendments, I am talking about either one of Deputy Stephen's amendments and the Deputy Dudley-Owen amendment, it is to equalise the term limits which apply to 3(1)(c) and 3(1)(d) abortions, if I can put it that way, and Deputy Dudley Owen is saying that 3(1)(d) abortion limit should be set at 16 weeks.

So, therefore, if the Deputy Stephens amendments are successful as well, the 3(1)(c) abortions would automatically be set at 16 weeks. So that is the practical effect of all of these amendments. It is okay to argue for consistency in the abstract, but the actual practical effect in the case of some abortions will be to reduce the term limit by eight weeks. I see Deputy Le Tocq –

The Bailiff: Thank you, Deputy Fallaize. Deputy Le Tocq wishes to raise a point of correction, so I was just about to ask Deputy Le Tocq to make his point of correction.

Deputy Le Tocq: I am sure Deputy Fallaize knows this, but he invited a point of correction. Just to be clear, that is only the case he is arguing if all amendments, the ones he has mentioned, are voted through. If just one or other of the amendments that Deputy Stephens and I are voted through that is not the case.

The Bailiff: Deputy Fallaize to continue.

Deputy Fallaize: Yes, of course, I think that was more a point of clarification, as it used to be known, than a point of correction but yes of course Deputy Le Tocq is right, only if the amendments he is seconding are successful and the amendment from Deputy Dudley-Owen loses then all that has been established is consistency in the application of term limits. But if all the amendments are successful, not all nine but the amendments we are debating now, if they are successful, then the term limits will have been equalised at 16 weeks, which is considerably more conservative in some cases than in other cases.

So, that is the practical effect, that is what I fear. I think these amendments have to be read conjunctively and taken together these amendments are an attempt not to create a more conservative or restrictive regime than HSC is proposing but a more conservative and restrictive regime than has been in place in Guernsey for the past 20 years. This is an attempt to unwind reforms that were made to abortion legislation in Guernsey in the late 1990's. That is the practical effect of these amendments if they are all successful.

In the case of the Deputy Stephens amendments, principle clashes with practice. I am wholly sympathetic to the argument around consistency but I cannot vote in favour of consistency when I am fairly certain that it is going to lead to downward pressure on term limits in all cases. In relation to Deputy Dudley-Owen's amendment, I have spoken a lot about principle in relation to Deputy Stephens' amendment. I cannot speak about principles in relation to Deputy Dudley-Owen's amendment, because I cannot find any principles in this amendment.

Deputy Dudley-Owen spent some time yesterday, when she was speaking on the *sursis*, being very heavily critical of the Committee *for* Health & Social Care, because she said they had not engaged in adequate public consultation, amongst other failings apparently, but their proposals were published in early March, including their proposals in relation to term limits.

Deputy Dudley-Owen is now proposing a different term limit, from 24 weeks to 16 weeks, and she has published her proposal and submitted it to the States so late that we have had to suspend the Rules of Procedure to allow it to be debated.

I cannot understand how a Member can argue on day two of this Meeting that the Committee *for* Health & Social Care deserve much criticism because they have not engaged in adequate consultation on proposals that were published three-and-a-half months ago, and then on day three of the debate can submit an amendment, which seeks to impose a completely different set of proposals on probably the key issue in this debate, which is term limits, at such little notice that we have to suspend the Rules of Procedure.

We are not allowed to use the H word, although Deputy Paint has been allowed to accuse those who are going to support these proposals of infanticide, but certainly Deputy Dudley-Owen's arguments are wholly inconsistent today compared with yesterday. Has she engaged in extensive public consultation over the issue of 16 weeks? Has she talked to the Royal College of Obstetricians and Gynaecologists? Has she talked to professional agencies, working with women who are contemplating or who have had abortion, or is her consultation restricted to Twitter and Facebook?

I think if you are going to criticise the Committee for its lack of consultation, when there has clearly been very extensive consultation with those who have experience and expertise working in this field by the Committee, then you really cannot be laying an amendment where there has not been any time at all for consultation with professionals, nor consultation with the public.

The opponents of these proposals, who emailed us, one of their main arguments, often put very respectfully I have to say, was they felt there had been inadequate time for public consultation on the proposals and therefore they should not be debated by the States or, if they were to be debated they should be defeated.

Now we have a Member who, at a few days' notice, if that, is plucking from the air a completely different term limit. Not saying reject the Committee proposals and keep the legislation where it is but change the legislation, make the term limit more liberal in some cases than it is at the present time, but change the term limit, pick a completely different term limit plucked from thin air and have absolutely no consultation on it, no discussion with professional bodies, professional agencies, I think that would be the very worst form of decision-making.

And furthermore there was no argument put for 16 weeks. I think Deputy Inder was very honest when he said he was probably likely to support Deputy Dudley-Owen's amendment because 16 weeks just felt right to him. Well, he is perfectly able to come to that judgement, I respect that, at least he is being honest about it.

But there was no rational argument put in favour of 16 weeks. So, for these reasons, sir, I voted to allow it to be debated because I vote to allow almost every amendment to be debated – most Members of the States do – but I think it would be highly irresponsible for the staff imposing different term limits off the back of an amendment, which has only just been submitted, particularly when the original proposals from the Committee are being so heavily criticised for a lack of public consultation.

So I would urge Members, Deputy Stephens' amendments are rich in principle but for me, I know it will not be the case for all Members, for me they fall in terms of their practical application. Deputy Dudley-Owen's amendment is just opportunist and because it has been submitted so late it is completely unsafe, so sir I urge Members to reject that amendment in particular.

Thank you.

The Bailiff: Members of the States, I think it is time to take the mid-morning break, but before we do so let me just explain briefly what my current thinking is in relation to these four amendments, bearing in mind what Deputy Fallaize has just said. I view Amendment 1 and Amendment 2 as alternatives, because both seek to substitute, in its entirety, Proposition 3. So a vote for all four amendments will only replace Proposition 3 with whichever comes second of those two amendments and I would be minded to take the one that goes furthest, which I think is Amendment 1, to be voted on first and then Amendment 2, rather than the other way around.

In respect of Amendments 9 and 3, it strikes me that they may also be alternatives and to a certain extent I will be guided by Deputy Le Tocq and Deputy Dudley-Owen as to whether that is so in due course. But, if so, the one that goes furthest appears to me to be Amendment 9 and

therefore a vote might be taken on Amendment 9 before a vote on Amendment 3, with a view to substituting the wording in Proposition 4. I simply offer that explanation now so that Members are aware of what I am currently thinking but I have not made my mind up completely.

Deputy Soulsby, you wish to raise a question?

Deputy Soulsby: Thank you, sir. I think it might be worth just listening to points that are made in debate before we decide in relation to those two amendments because, although one might not look more easy and not go as far, that might not necessarily be seen to be the case when we bring that out in debate.

The Bailiff: I am grateful for that Deputy Soulsby. As I say, I have not quite made up my mind between Amendment 3 and Amendment 9 but, because there was a request to take these all together I thought that we would have the debate and during the course of it we would come up with an order for voting and the closure on the debate on these four amendments at that point. But I did in particular want to stress that Amendment 1 and Amendment 2 are simply direct alternatives and Amendments 9 and 3 ultimately must be a degree of direct alternative but the order in which we take the vote will be something that I will reflect upon during the course of the morning.

Members of the States, let us now have our mid-morning break and resume at 11.10 a.m. please.

The Assembly adjourned at 11.04 a.m.
and resumed its sitting at 11.11 a.m.

Modernisation of the Abortion (Guernsey) Law, 1997 – Debate continued

The Bailiff: Thank you, Members of the States.

Deputy Gollop, can I try you yet again please. Are you there this time? Deputy Gollop? Once again Deputy Gollop I will call you when I think you are in a position to respond and therefore I will call Deputy Oliver to be followed by Deputy McSwiggan. Deputy Oliver.

Deputy Oliver: Thank you, sir.

When this policy letter came out, I really read it with interest. Having three children, I thought 24 weeks was probably too late. And I have been thinking of nothing else. I got told I could not have any more children after my little girl and that was okay with me. So how do I feel, and bring this back to the amendments?

Sixteen weeks might seem logical. I did not know I was pregnant until 14 weeks, because I was not expecting to be pregnant. They got me straight to a scan, only to find out it was twins. So that was really a double shock. I do not think it actually sunk in for a good two weeks. Now I had my scan at 14 weeks and the doctor said there might have been problems but let us wait until week 16 to see what was going on. This was because I was not willing to have an amniocentesis, as I am petrified of needles and the thought of needle going through my stomach was just too much.

I am not saying that I would have aborted, but we need to think about this from everybody's point of view, or as much as we can. If I had had bad news at 16 weeks, Amendment 9 would not have given anybody or any woman and partner any time to actually think about what they wanted to do. It would have been too late and that choice would have been taken away from them.

So going to amendment number 22, you then have a scan at 20 weeks and this is a much more in-depth scan and with twins, I can tell you, it takes a long time. Now, if something had gone wrong at that point, you then have to go to Southampton for further tests. This is talking generally. Some

of those tests can take up to three weeks, so you have then missed the 22 weeks opportunity, which is the second amendment.

I just finally came to the conclusion that I am not a scientist and I am not of medical profession and I just think by saying it should be 16 weeks, by saying it should be 22 weeks, 24 weeks has been set for a very good reason by medical professionals. Twenty-four weeks, I think, as I have summarised in my speech, has been set because of where the scans are. The scan is at 20 weeks, so therefore it gives you time to think rationally, prepare yourself for actually what you want to do. So therefore I just think we should actually leave it up to the medical professionals for this for the gestational period. So I will not be voting for those amendments.

Thank you, sir.

The Bailiff: Deputy Gollop, are you able to speak to us at the moment? No, I see Deputy Gollop has decided to try again. So Deputy McSwiggan, please, next.

Deputy McSwiggan: Thank you, sir and my thanks to Deputy Oliver for setting out the real choices that women have to make at various stages of their pregnancy, which absolutely, as she said, informs where the Committee is recommending secondary time limits for categories (c) and (d) abortions.

I want to start in a slightly different place and to ask Members to cast their minds to the organ donation debate we had – what? – only a month ago. The reason why I am asking Members to do this is borne out of the two extremes that Deputy Fallaize talked us through in his speech. He said that there are some people who will argue that life begins at conception and once that has begun we should do absolutely nothing to hinder development of that life or to destroy that life.

He said that on the other hand there are those who believe that up to the point of birth, the foetus is essentially part of the woman's body and it is for the woman to make the choice about what happens with her body.

Neither of those extremes describes my position. Nor am I sure does it describe the position of many Members in this Assembly. What we are faced with today is a really difficult question about the balance of rights between two living entities. So the reason why I ask Members to case their minds back to the organ donation debate is because there are some Members, during that debate – and generally sir I would say that they are Members who today are opposing the proposal that this Committee is bringing forward – who strongly argued that, 'My organs are my organs and even after my death it should be down to my decision what is to be done with them and if I have not consented explicitly to giving them away, even if giving them away will save the life of another, that is my body and my autonomy and the fact that I am no longer alive is not relevant in that decision'.

I would like Members to consider the ethics that they weighed in reaching that decision with the values that they are bringing on their decision today. Because sir in every other field of life, when it involves surrendering some part of your health or your body autonomy, we would not presume to put in Law that you must do that, even if it would save the life of another.

We do not mandate the donation of blood, we do not mandate the donation of bone marrow, we do not mandate the donation of a perfectly healthy kidney if you have got another one you could rely on and your kidney would save the life of someone else. Even if that someone else is your child or your sibling or your parent.

We recognise that we have duties to one another as human beings but those are duties that exist in our ties to one another, not in the framework of the Law and we recognise that it is fundamental that the Law should protect our individual right to make decisions about what our bodies can and cannot bear.

The reason why it is important to have appropriate abortion legislation is because we are asking women, in effect, to carry another living human inside, a being that is entirely dependent on them for its survival and that the period of pregnancy, the experience of birth, not to mention what happens afterwards, but particularly the experience of pregnancy and of birth has an enormous impact on the health, in some instances even the survival of a woman.

It is a very material decision to say, 'I am willing to undergo all that, I am willing to risk all the possible consequences to my body and to my own survival for the survival of this other being.' That is why, sir, these debates about viability and where term limits should sit are so critical and so fundamental to these debates. Because really what we are trying to find is that balance of rights.

At what point could the baby, if born, survive, and is it then at that point that we should draw the line in terms of abortions? That is particularly expressly drawn out in Amendment 3. Time limits are a relatively blunt tool but they are a necessary tool and I want to explain why in a moment, in terms of describing viability.

But I think that is a balance that a lot of States' Members are seeking to find and certainly it is the balance that the Committee *for* Health & Social Care, I believe, was seeking to find, when it recommended that for category (d) abortions, the time limit should be 24 weeks, rather than the 12 weeks it is at present, and that the category (c) abortions, the time limit should be removed.

Just to emphasise a point that I made yesterday, the reason why we recommended the time limit be removed was because a lot of significant foetal abnormalities, as has been recognised, have a direct impact on the viability of that pregnancy. It is not the case that viability is the same in all instances and foetal abnormalities are one of the critical things that tell us whether or not it is likely that the baby, if born, would survive.

So that is the justification for the difference between the general time limit, the category (d), and the different approach for category (c). I think that Deputy Oliver expressed it really well when she made the arguments as to why 16 weeks should not be the time limit for a category (d) abortion but again, I just want to put this to Members, when we come to voting on these there are essentially two pairs or trios of choices that we are having to make. We have got Amendment 3, which suggests a category (d) time limit of 22 weeks, Amendment 9, which suggests a time limit of 16 weeks and the Committee's original proposals, which suggest 24 weeks. Or of course we remain with the current arrangement, which is 12 weeks.

The choice that we make is either to accept nine and 16 weeks, or to accept Amendment 3, with 22 weeks, which I hope Members will do, and accept the Committee's proposed 24 weeks, for the reasons so well set-out by Deputy Oliver.

Then in respect of Amendments 1 and 2, as you have outlined, we have a trio of choices to make in effect between saying that (c) abortions, so abortions in the case of significant foetal abnormalities, should continue to happen at 24 weeks as at present, and that would be Amendment 1, or should continue to happen at 24 weeks except in the case of what have been termed fatal foetal abnormalities, in Amendment 2, or the Committee's original Proposition, which is that the time limit should be removed.

Although, as Deputy Fallaize has pointed out, and I am sorry that there are so many confusing interactions between these amendments, but as Deputy Fallaize has pointed out, if either 3 or 9 is successful, then we will see all time limits for all abortions brought down to 16 or 22 weeks.

Sir, of the four amendments, I think one has merits. I would not encourage Members to vote for any of them, but the one that I think has merit and the one that is worthy of debate is Amendment 2. I do understand what Deputy Stephens and Le Tocq are trying to achieve by this amendment, in terms of narrowing what they see as a harmful definition of significant foetal abnormality.

I think that the wording of the amendment is unfortunate because Deputy Stephens talked in her introduction about her understanding of foetal abnormality being that the foetus would not survive before birth or the baby would die shortly after birth. My understanding of the way that that term has been interpreted, where it has been used in law elsewhere is that, you know, the possibility of the baby being born and not surviving is not necessarily included in that definition.

Some of the consultation responses that we received pointed out that a large number, if not a majority, of babies who would have died shortly after birth, as a result of some form of foetal abnormality, which was detectable, would nevertheless not have fallen within the definition of fatal foetal abnormality in the law. So I do not think that amendment rights the wrong it sets out to do and for that reason I do not think it ought to be voted for.

But of the various options presented to us and of the various arguments given for them, I can understand why that one is there and I think that it is worthy of serious consideration. I am glad Deputy Roffey settled on Amendment 2 as the better option than Amendment 1 and if Members are torn between the two, of those two, I would commend Amendment 2 to them – but with a very strong recommendation to stick with the Committee's original Propositions for the reasons that have been clearly given.

In the case of Amendments 3 and 9, I would ask Members very strongly to reject both. The case for not having a general time limit at 16 weeks has been set out. The problem with Amendment 3, which sets the general time limit at 22 weeks, is a bit more complex and it is not so much for the reasons that Deputy Le Tocq gave in his introduction, which is there might be a bit of a doubt about where the pregnancy originally began, so to err on the safe side we should have 22 weeks rather than 24 weeks, it is in the other part of the amendment, which says that the time limit should be 22 weeks or the point of foetal viability as determined at that time.

I think legally this is either unworkable or extremely high risk because what this does, if it is written into law along the lines that I have described in the amendment is effectively to say on a case by case basis, the viability of this particular pregnancy must be determined before it is agreed whether an abortion can take place at a particular point in time, up to 22 weeks. I think that is so catastrophically open to litigation that it will be hugely damaging to women and to the health professionals who seek to provide them with care.

I do not believe that was the intention of the proposers of this amendment, I certainly hope it was not the intention of the proposers of this amendment, but that second part of the amendment, which talks about determining the point of foetal viability blows it wide open and makes it really susceptible to litigation and client and is really unfit to be in an abortion law, where we need clear, fair guidelines about what is and what is not acceptable.

So, a fixed time limit at 22 weeks, while it would not be as desirable as a fixed time limit at 24 weeks, in my view, would be workable, perhaps, but this amendment does not deliver that and I think this amendment is extremely high risk. I absolutely do not want to push Members towards voting for 16 weeks instead, I think 16 weeks is hugely problematic, but I would just ask Members to approach Amendment 3 with care.

I recognise the factors motivating people to bring these amendments and I think this is really about a balance of rights and I would ask Members to bear that in mind carefully and recognise the proposals of the Committee, the original proposals in the Committee's policy letter, are absolutely finding that balance of rights, putting a time limit into category (d) abortions at a point where a greater number of babies get born and are becoming viable because, despite Deputy Le Tocq's opening, the number of babies born very pre-term at 22 or 23 weeks, survival rates are very low. Deputy Le Tocq talks about survival rates among babies admitted to intensive care, but many babies are so unwell, if born at that age, that they are not even considered for admission to intensive care, so there is a bias built into those figures which needs to be unpacked.

So, notwithstanding what I have said about Amendment 2, and I think it is the only credible amendment in the bunch, I would ask Members for the Committee's proposals in full.

The Bailiff: I will have another try to call Deputy Gollop. Are you there, Deputy Gollop?

Deputy Gollop: Can you hear me?

The Bailiff: I can! Deputy Gollop to be followed by Deputy Graham.

Deputy Gollop: Thank you, hopefully it was worth waiting for. I completely lost a viable wi-fi connection but peace is now restored with a new system. I am always impressed by the speeches that Deputy Fallaize and Deputy McSwiggan make and indeed was very tempted yesterday to not vote for the *sursis* because Deputy McSwiggan made some excellent points about the nature of the

legislation and of the additional devastating effect abortion has on honourable women in extreme circumstance.

I think again, today, she has made an excellent point. But we as policy shapers and legislators have a challenging task, especially when amendments or late amendments come before us. Because Deputy Fallaize rightly said, you cannot have your cake, the penny in the bun, and eat it at the same time because we often complain that Committees or departments who come late with legislation or policies and then, of course, amendments by their nature rarely have had the opportunity for significant consultation and insight for the stakeholders. So I start from that basis.

Like Deputy McSwiggan and especially Deputy Inder, I too have been concerned about the message, we have talked a lot about messages this week and I think rightly so, that we could be sending on the eve of what I hope will be a ground-breaking and successful disabilities and equalities debate to people with disabilities both in Guernsey and elsewhere, about the contradictions within this legislation.

Firstly, it has to be said, there is a kind of differentiation, a kind of discrimination in the 1992 legislation that Deputy Soulsby and her Committee are trying to reform. So there should not be any suggestion of Health & Social Care introducing a discriminatory element, they have inherited an unsatisfactory law and, as Deputy Soulsby has pointed out, an unhappy phrase, an outdated word like 'handicapped' is in the legislation that they have been given. It is not in any sense representative of this States.

But we are where we are and the proposals that they are bringing forward do bring in an element of differentiation and I commend Deputy Inder for the points he made and the representations he has received from the lady with the autistic children *etc*., who is extremely expert in these fields. He is absolutely right to talk about the United Nations convention on the rights of people with disabilities.

Indeed, it could be argued that maybe the States, across our Committees, have not mediated and discussed and worked closely enough with people with disabilities, as well as medical practitioners. So that is where I come from on that basis.

As Deputy Fallaize and Deputy McSwiggan have pointed out, and you sir, too, 1 and 2 are not entirely compatible with each other and represent a different choice. Although my heart would go for 1, because I really do think that we should end as much as possible, any suggestion that babies who might be born with disabilities have less rights than anyone else in society, I do think the wording for Amendment 2 is more appropriate and more in keeping of the Health & Social Care proposals. I think it is more in keeping with the many women who have written to us wanting a greater degree of autonomy in appropriate circumstances. And I think especially it is more workable in terms of realities, as Deputy Roffey reminded us, about the hard choices, Deputy Oliver too of course, that medical practitioners have to make. So, whilst 1 might be an ideal, I think Amendment 2 is preferable and I would wish to vote for Amendment 2.

On the other amendments, I can see Deputy McSwiggan's point that Amendment 3 could be ambivalent but I still think we should, where possible, give potential babies, potential people, the right to life where they cease to be just part of their mother's body but could live independently as a viable human being on the planet and so for that reason, I think I am minded to vote for proposition 3.

I think I should point out again that the nature of this debate is not the final answers. Let us assume we vote for a miscellany of proposals and amendments today and there are issues that legislators, that legal advisors, that draftsmen, that medical practitioners and academics bring to the table subsequently to this process, and that could also be true of the Health & Social Care proposals, to be fair, we can look at those in the scrutinising legislation stage. Because the anomalies that could be there can be ironed out when the legislation comes back to the Chamber. The existing Law will continue in the meantime.

As for Amendment 9, although I might have had reservations about the constant iteration of the social abortion argument, because I do not think if you read the current law, the proposed law that Health & Social Care are coming out with, that they directly sanction social abortions, they very

much keep in play perhaps the ambivalent context of an abortion being damaging to the physical or mental health. It is very much upon health, clinical basis, rather than some social ambition or activity. So I do not like that phrase, although I accept that some people have used it and will use it.

That in no way goes against the tone of the amendment and I think, if we are moving forward, taking the consensus of the community with us, Deputy Fallaize called me out for saying it was a polarising debate, well yes it was and I think perhaps the existing legislation could have gone on for a bit longer because I think it would be implemented in a very fair-minded and appropriate way.

But we are where we are, we have to make a decision now and I would say that the more cautious approach, that balances the demands of women of this Island to have a greater autonomy, equal rights, greater access to a Partnership of Purpose of healthcare that is affordable and appropriate, with the rights of more conservative people, religious people, of people who have really strong humanistic views about the right to life, I think that balance would be better served by our moving forward from the current 12 weeks to the 16 weeks, than going completely to a 24-week model. So I am looking to support and vote for Proposition 9 as well.

Thanking you sir.

The Bailiff: Deputy Graham.

Deputy Graham: Thank you, Mr Bailiff.

My experience of pregnancy, perforce, has been of a precarious nature but it has not been totally without value to me and to my judgement. Mr poor wife, at five feet two and eight stone married a hulk who was six feet four and 15 stone and so pregnancy for her was never really going to be a particularly smooth matter and so it proved. I could say the same of my dear daughter whose carrying of twins for nine months was again quite a trial.

My experience, although it has been of a precarious nature, has been of some value to me. It is against that background that I really wanted to respond, initially, to the comments particularly of Deputy Fallaize, who gave Deputy Dudley-Owen quite a hard time on the business of lateness of notification and plucking periods of gestation out of the air.

We do not use the H word, do we, because we should not, but I actually thought it escaped the lips of Deputy Roffey earlier on but perhaps I misheard. Perhaps one can talk about double standards. I noticed that Deputy Fallaize's objection was mainly that on the one hand whilst proclaiming the need for further consultation, as we did yesterday in the *sursis* debate, to on the other hand submit a fairly late amendment in the middle of it, was a bit rich, to put it mildly.

I have to remind him that on Wednesday, when we were debating the Sexual Offences Law, the draw law, the amendment that I seem to remember he supported, was not only a late amendment to a policy letter it was a late amendment to a draft law. The policy letter had been and gone several weeks, several months ago and the amendment put forward by Deputy St Pier was a very late amendment to a draft piece of legislation and if I recall also, there had been no consultation with the Guernsey Bar on that matter, on the part of Deputy St Pier, but he had bounced it off the Law Officers and the answer had been that the outcome of such a late amendment was unknowable, in legal terms.

So, in terms of risk, which was one of the accusations Deputy Fallaize made against going for a 16-week amendment, was there also for the legislation that I believe he supported. I see he has got a –

The Bailiff: Deputy Graham, Deputy Fallaize has a point of correction.

Deputy Fallaize: Thank you, sir and these never work all that well on Teams but nevertheless I think it is worth saying, I am not critical of the late amendment because it is a late amendment. I have moved lots of late amendments and voted for lots of late amendments and I have got no room to criticise late amendments.

What I was saying was that I do not think a Member who yesterday was criticising the Committee *for* Health & Social Care for inadequate public consultation on proposals, which have been out for three and a half months, should now be laying an amendment so late on the same set of proposals that we have had to suspend the Rules of Procedure. The issue is one of consistency, not of the rights and wrongs of late amendments.

The Bailiff: Deputy Graham to continue please.

Deputy Graham: I accept that is a valid point of correction. It is not for me to accept that it is, anyway, it is you, sir, but Deputy Fallaize also made the point that actually be virtue of being a late amendment it was that much more risky because we had not consulted.

In volunteering to second this amendment I certainly did not undertake to go and consult with the various professional bodies, the Royal College of this and that. Had I done so I know jolly well what the answer would have been. Their minds are probably as closed as mine on this issue and it would have been to no purpose.

But I really wanted to defend the 16-week figure against the charge that it has been plucked out of thin air. Certainly, it has not been in my case. To me, it is a sensible response to criticism of the current law.

The Bailiff: Deputy Graham, sorry to interrupt you again but Deputy Soulsby now wishes to raise a point of correction. Deputy Soulsby.

Deputy Soulsby: Yes, sir and I do apologise for interrupting but I have to counter and correct Deputy Graham's comments that the Royal Colleges will be of a closed mind. It was the Royal College of Obstetricians and Gynaecologists that changed the current threshold from 28 weeks to 24 weeks, based on evidence. Thank you, sir.

The Bailiff: Deputy Graham to continue please.

Deputy Graham: I know of none of these Royal Colleges that would have endorsed a 16-week limit. To me, the amendment responds to the criticism that under the current legislation, the 12 weeks for what we might call category (d) terminations, that unfairly penalises some women, some of them even by the point of 12 weeks, may not have realised they were pregnant or may only have realised they were pregnant fairly close to that mark and have not had time properly to consider their position.

It seemed to me that the 16-week was a reasonable response to that criticism, borne out really by the statistics because we know that there are, on average, 111 abortions performed in Guernsey in any given year and eight that in the past women have felt obliged to go to the United Kingdom clinics to have the abortion performed there.

Of course, we do not know how many of those would have gone there irrespective of the legislation anyway and we do not know how many of those were beyond 16 weeks, but I think it is generally accepted that very few would have been beyond the 16-week period. I do not have the statistics to back that up and I do not know that anybody has in view of the anonymity that has rightly to surround some of these things.

To me, the 16 weeks is a reasonable response to a dilemma that people like me are having to conjure with. On the one hand I feel that if, regrettably, there is a need to bring to an end the life of a developing foetus, if it is necessary, then the earlier it is done the better. To balance that against the knowledge that it is an extremely distressful experience for women, some of whom need more time than others to come to a decision, and trying to balance those two almost conflicting requirements is a difficult art. I am not even sure there is a science to it.

But I am pretty convinced in my own mind that the answer is not 24 weeks and I feel that I am speaking for a substantial proportion, not necessarily of the medical profession, but the substantial

proportion of humanity in making that point. I would urge Members not to look on this so much as attacking the 24-week term, which of course it is, but as being a logical response to the criticisms of the current legislation and enlarging the scope of our abortion legislation to cater for 16 weeks rather than 12, which has been one of the major criticisms of the existing legislation.

Thank you, sir.

The Bailiff: Deputy Prow.

Deputy Prow: Thank you, Mr Bailiff.

I feel I need to address the Assembly at this point because, although I am a Member of Health & Social Care, I may be voting for some of the amendments that are before us, and I really want to speak to those amendments and try not to stray in general debate where I will perhaps more fully outline my reasoning.

So could I first draw attention to section 11.3 of the policy letter and I will quote it as it is important for me. Actually, Deputy Soulsby did mention this in her opening but I would like actually to outline what that section says. It says:

> ... the Committee is unanimously supportive of the value of a debate regarding the proposals being submitted to the States for consideration, but also agrees that it is for Members themselves to vote on each Proposition according to their conscience.

And sir, I am extremely to the rest of the Committee and I think it is commendable that we are having this debate and we are allowing each and every Member of the States that opportunity to look at what their conscience allows them to do.

Now sir, I obviously as a Member of Health & Social Care, I have been in discussion, I have listened to the health professionals and I completely understand and support the Committee in bringing all the proposals. For the avoidance of doubt in anything that I go onto say around these amendments, that is my position.

But the Propositions I have struggled with are Propositions 3 and 4 and all these amendments relate to those Propositions. I would like to thank you, sir, and the movers of the amendments and indeed the rest of my Committee for the ability to take all these together so we can debate these amendments.

I thank Deputy McSwiggan for her speech and she did rightly point out that there is a trio of choices. The gist that I have come to, in going through the Propositions, most of which overwhelmingly I support, although on the two I have difficulty, I set myself a simple test, where I believe that the Proposition goes beyond what my personal conscience will accept.

Interestingly, we have heard some quite emotional speeches and you can tell the difficulty that Deputies are having in putting over those views because you can hear the emotion in their voices, Deputy Le Tocq and Deputy Paint and other Deputies clearly are finding this an extremely difficult issue.

My conscience struggles around the foetal viability. Deputy Fallaize, when he spoke, spoke about principles and whether Deputies could justify their principles. I think conscience and principles are slightly different. It is sometimes very difficult to exactly articulate what conscience finds very difficult. Particularly for me, sir, in Health & Social Care, where I have listened so carefully to the professional advice.

I do not want to stray into general debate but what I would like to see at this stage is that certainly some of these amendments, I am not at all sure about Amendment 1, do survive and go into general debate and become part of the Propositions that we can actually decide upon at the end.

One point I think I must make is that at the moment abortion is a lawful procedure in this Island, now and up to the gestational threshold of 12 weeks and sections 3(1)(d) and 24 weeks in relation to 3(1)(c) and I shall refer to this again in general debate. If I could just briefly say what I need to say at this stage.

Abortion as a procedure is internationally recognised and accepted undertaken lawfully around the globe. However, the proposals before us seek to actually extend the law to 24 weeks or in (c) remove the gestational period. The point I would make is that medical science in this case, in respect of gynaecological care, has in recent years enabled the delivery of babies who have survived after 22 weeks. I will not repeat statistics that other Deputies have provided, but that information is before us.

The facts are that unborn children have a threshold compatible with survival at and before 24 weeks. Putting this very simply, in other words, there are some cases where such babies are delivered and although they require hospital care, survived and became healthy babies and grown-ups. So, for me, my option before we had a choice of any amendments, was to not vote for Propositions 3 and 4.

I think I will leave it there and I will say what I need to say in general debate. I would ask that Deputies do indeed at least vote for Amendments 2, 3 and 9 so that opportunity after general debate is available for Deputies.

Thank you, sir.

The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

I resonated with Deputy McSwiggan's speech earlier today. She talked about the balance of rights between the living entities, which I understand is a complex, thought-provoking question and I think these amendments, sir, try to do something the same.

But it is a balance, as Deputy Graham alluded to, a balance between is it better and, I do not know whether he was talking about the pregnant person or the developing foetus, but is it better to have an earlier termination or abortion or is it better to have more time for the pregnant person to make an informed-based, intelligence-based, led decision, to give that person time to think, to read, to research and to reflect?

I will try to speak of personal experience because I have loved and lost my pregnancies and because I have done that, while I was pregnant I was advised that the foetus I was carrying had an abnormal … was not developing as expected, I think was a term that was used, and had an abnormality. I was advised, I was called into the, I cannot even remember the acronym, but I was called into the place in Guernsey and I was advised that they had made an appointment for me, within a few hours, PEH have an amnio-test to try to determine, whether or not the pregnancy I was carrying at that juncture, had indeed, was not developing as expected.

Now because I had loved and lost many times prior, I had already done the reading, the researching and the reflecting, sir, so I had already made the decision with my partner that if this was the case, we did not wish to take the risk, because there are certain risks associated with amnio-tests, we were not going to take that risk and our preference, even in full knowledge that I may not be able to carry the pregnancy to full term, even with that full knowledge that the risk of a miscarriage from the amnio-test was not a risk we were prepared to take.

It was our first child and I am very pleased to say that I did carry the pregnancy to whole term and I have a beautiful child as a result of that. But the fact is there was time pressure to go and have this test. I do not take pressure of time, sir, I do take time to read, research and reflect and so I asked the person who was advising me of the risks of miscarriage of what they called not-developing as expected, foetal abnormalities they suspected and were concerned of. But this was going to be our first child and so we had already made our decision.

So it was my decision. It was time for me to make a decision and if I had been, I cannot remember what the terminology, it was not an archaic parent but certainly older parent should I say. But if I was perhaps younger, I will never know sir, but if I was younger I may not have had that time to think, read, research and reflect. That is I think of paramount importance, that the person concerned, the person who is carrying that pregnancy, that they have enough time to consider how they want to go forward.

Also, Deputy McSwiggan compared this to donations of parts of one's body or not. I also resonated with that, because subsequently to that pregnancy, being pregnant subsequently to it and one moment I was pregnant, developing perfectly as expected – when I say perfectly, I think every child born is pretty perfect, regardless of any perceived abnormality, so let us just get the terminology right. The pregnancy was one scan, absolutely fine, no problem, the next scan there was no heartbeat and there was no baby. There was nothing, sir.

I could not understand this. I said where has this baby gone? I was advised that sometimes if the foetus is not developing as expected, your body will literally re-absorb the foetus in some way. It horrified me then and quite frankly it horrifies me now. But that is the reality of what can happen to our bodies and during pregnancies and this is personal to me, it is personal to my family, but sometimes when Members have spoken earlier and they have used examples, it is very difficult I think, unless you have actually experienced it, to be able to understand the very difficult choices. And they are choices.

I think we forget that even if under the law you are able to do something, it does not clearly mean you have to do it. It is the person's conscience and what they decide. But laws barring them from even making an informed, intelligence decision really concern me. Especially as I was offered further tests on my live pregnancy, live birth, and I was advised it is best to know so you are informed.

Well, I looked at all of the possibilities, all the different types of foetal and I was not concerned. I said I would deal with whatever – that was me, sir, and that is not necessarily somebody else. I ought to also emphasise this is no judgement on anybody else, I just think everyone should be able to make their own decisions.

Also, what we discussed after the live birth of our beautiful child, was that, during subsequent pregnancies, would we make the same decisions? Those were conversations between myself and my partner. They are not for anybody else to have. They are our decisions, they are our choices, but I want to be able to make them in an informed manner and in an informed, intelligence-based manner and I would argue that would be incredibly difficult under – I have not got a hard copy of Amendment 9 but I think it is 16 weeks – I honestly do not know how a person could have time, unless of course we all do the research and reading or we all have multiple miscarriages and so therefore you have plenty of time to consider all the different possibilities, permutations is probably a better word, of pregnancy.

I am attracted to Amendment 2. I am not attracted to the wording of it but I am attracted to Amendment 2 and I think it is really unfortunate that Deputy Stephens and Le Tocq have decided to put in non-fatal conditions such as Down's Syndrome or a cleft palate, as if they are the only … They are given as examples but how unfortunate to do that.

My concern with that is it is already highlighting two areas of concern in our community that there is some thought process that if we do this every child who potentially has one of these particular conditions is potentially under more threat than another child with another condition and that is unfortunate to say the very least. I would say it is harmful, it is more than unfortunate.

What I do not really understand in Amendment 2 and I hope Deputy Stephens can advise on this when she sums up and maybe it is just my reading of it, but it says, 'except in case of diagnosis by an appropriate health practitioner of a fatal foetal abnormality'. Is that if that is fatal … well if you can define foetal that would be amazing, because I cannot get that myself. Maybe actually the Law Officers need to advise us, I do not know if they can. Does that mean only if the diagnosis is while a foetus is in the womb or does it mean if the foetus …? I assume so because I do not suppose you could have an abortion unless it is in the womb.

Or is the fatal foetal abnormality when, at birth could be fatal, as in the foetus may not survive the birth process, or is it that it may not survive for very long after the birth or within a certain timeframe? That bit I simply do not understand, so I look for some clarity on that.

I am warm to Amendment 2. My major concern is that the other amendments, certainly Amendment 9, they put in a date or dates where the medical practitioners, professionals, may not be in a position to be able to give the pregnant person the information for them to make an

informed, intelligence-based decision on whether they wish to progress the pregnancy or not, or whether in fact they will even … I think that is really my biggest concern.

It is saying we, as Deputies, know much better than you, as medical practitioners, and we do not believe a pregnant person needs 24 weeks, actually we just believe it is 16 weeks. That is what we think it is, even though that pregnant person ostensibly will not have the information or intelligence to be able to make an intelligence-based decision because in my experience and in the experience of others, they simply may not have the time to reflect.

So I will go back to the balance because it is very difficult. This is the balance that we allow people, enable people I should say actually … *[Inaudible]* to make decisions they are able to make based on the intelligence that is given to them, the information that is given to them, from the medical professionals, so we give them time to read and reflect.

It can also be, the miscarriages that I have had I have not gone and told friends and family that I am pregnant, because I have had so many miscarriages, and one friend of mine, because I have a drink or two, and if I go to the bar and buy the drink and it just looks like wine but actually it is not, or I say I am not drinking at the moment, and they might give me a little wink, that is it. I do not go into the great depth of it because every loss is horrific and that loss and, for clarity sir, that loss could be the loss through miscarriage or the loss through abortion.

Lastly, sir, many who have spoken have said that it is a horrific experience for the woman, it is great mental health duress and awful. For some women it is an absolutely huge relief. It is a *huge* relief and I think that has not been mentioned yet in debate, and I think it should be. Some pregnant people will be hugely relieved that they are not carrying a pregnancy that they do not want to carry for reasons known to them, and I think the reasons known to them should be to them only unless they want to share them further and it has to be a decision they make with their conscience.

So I cannot support amendments which just, in my opinion, do not allow people to make decisions based on an informed way. But I think Deputy McSwiggan articulated why I am warm to Amendment 2, although I would like some clarity around that and I do thank you and I thank Members for listening to me because I do appreciate that it is a complex and emotive issue. I want just to ring my partner now and let him know what I have said.

The Bailiff: I am just pausing briefly. Deputy Hansmann-Rouxel.

Deputy Hansmann-Rouxel: Thank you, sir.

I feel I need to start by trying to articulate in a better way what I said yesterday since the speech of Deputy Inder seemed to gloss over some of the points made around the CRPD. Now I understand that he might have been in touch with representatives of different disability rights.

There is not a question that the disability rights organisations feel that they have not been properly consulted about this area. We would have all been contacted by the GDA in that respect and Deputy Le Tocq did mention it in his speech. But I wanted to clarify the kind of consultation and it gets back to what HSC were saying about the consultation about the rights.

I think a meaningful engagement in creating the guidance and the language around abortion and in this case what is glaringly obvious is the actual wording within the legislation, which I quoted from the Centre for Disability Law and Policy, which referenced the UK law yesterday, but is the same, actually offensive wording, and it has been mentioned a couple of times in debate already.

When that wording remains in legislation, I think it has an effect and the effect is more than just the effect of the legal ramifications. The effect permeates further than the enforcement of that law and this is what I think Deputy Gollop touched on in his speech and it is how we talk and how we place concept in our legislation does affect how we look and treat people beyond that.

So, when looking at this legislation and the policy letter, I was contacted by Rob Platts and it was in the midst of me trying to reconcile what the rights organisations and that is the CRPD and the human rights organisations view as a way of removing the potential discrimination in abortion legislation.

It becomes very tricky when you start, as Amendment 2 does allude to, Deputy Merrett alluded to, to some degree, was when there are different conditions mentioned or the exceptions become this or that, it becomes very difficult to write that in legislation that does not start to create the groundwork where we start ending in territory where we start thinking this condition or that condition is better or might lead to this. We are in danger of falling into the trap of starting to say this disability is better than that disability or this person's life is better living than other people's.

That is not the intention, I believe, of anybody in this Assembly but it is the complexity in this kind of legislation. When I mentioned yesterday the Centre for Disability Law and Policy and their recommendation is that if there is a disability selective abortions, we advocate that women should have access to abortion where she believes that to continue the pregnancy would constitute a risk to her health and the health grounds should be broadly interpreted to ensure respect for reproductive autonomy and should prioritise the woman's own views as to what would constitute a risk to their own physical or mental health.

Now how do you write that into legislation? I think that is the trickiness that we are experiencing looking at this. In looking at the different legislations, I looked at New Zealand, who have just gone through a very similar process to ourselves. I realise I am speaking quite generally but this is all about the different amendments and the effect that they have.

New Zealand has gone through a very similar process to ourselves in modernising their abortion law and it is interesting to look at New Zealand as an example, particularly from my perspective, because we have looked at New Zealand's disability discrimination legislation and their equalities law when deciding on what model to seek to try to adapt for our own legislation.

So it was particularly interesting to look at New Zealand in this context. What is also very interesting is their approach to decriminalisation of abortion and they were also, in a similar way to what HSC is doing with their Partnership of Purpose, better align the regulation of abortion services with other healthcare services and modernise the legal framework for abortion.

So there were a lot of similarities with what they were doing. As well as them also adopting the social model of disability and a lot of their legislation is a lot more mature than ours. So they have bits of legislation surrounding their healthcare which I believe is their Health and Disability Care Act. As a jurisdiction they are more mature in terms of where they were, but they were experiencing a similar issue in that their abortion law was still the crime act and they wanted to remove it and it makes sense to look at what they have done with their wording.

Now we do not have the luxury of moving completely to what they have done, purely because we still have a greater connection with the United Kingdom, as we have discussed throughout this debate, the fact that when we do go over to Southampton we have the effect where the current differences between ourselves and the UK do create some perverse inconsistencies between people's ability to access abortion.

Were it just up to us, I would have liked to have looked at amending it more along the lines of what New Zealand have done. What they did, instead of the focus being on the foetus and viability, they have two provisions. One is unrestricted access below 20 weeks and then, post-20 weeks, their provision is a provision of abortion services to women more than 20 weeks pregnant – a qualified practitioner may only provide abortion services to a woman who is more than 20 weeks pregnant if the health practitioner reasonably believes that the abortion is clinically appropriate.

Again, the wording there is 'clinically appropriate' in the circumstances. When they make that decision, in considering whether the abortion is 'clinically appropriate in the circumstances, the qualified health practitioner must consult at least one other qualified health practitioner' and, b, have regard to, '1, all relevant legal, professional, ethical standards to which the qualified health practitioner is subject; and 2, the woman's health, their physical health, mental health and overall wellbeing; and, 3, the gestational age of the foetus.'

So it takes the onus on putting limitations within the law and that is unfortunately how our current law is drafted. We do not have the ability to completely unpick that but the reason why I highlight New Zealand is what they have done is the effect of taking it out of the criminal justice system and bringing it squarely into health and aligning it with all the principles of health. In our

case we do not have the same level or the same maturity in our discrimination legislation and we do not have the same maturity in all our statutory protections but we do have a much smaller service and a much smaller Island.

Therefore the guidance and the regulation and the overall care and this brings me back to the HSC, in their policy letter do outline the Partnership of Purpose and how the care is around that service. Now that better aligns with what all of the CRPD and the disability and rights organisations recommend than putting in restrictions and arbitrary restrictions, which can have, as we have discussed, different effects on how the care around the woman and her pregnancy is given.

So the decisions around care should not be limited by the law and that, I think, is one of the problems with the amendments. Although they seek to address problems with the current legislation, my concern is that instead of addressing them they are actually going to make them worse and it is up to us, as Members, to consider the effect of the legislation and, if the ultimate effect of the legislation is going to be to reduce the ability of those health practitioners to provide the best care for those individuals, I think we need to be very careful about voting because by putting in some of those restrictions, it makes us feel better.

I understand because, like Deputy Graham, I also feel uncomfortable when the threshold of viability is approached. But, looking at the whole package of care, if there is an informed and full focus on all of these different elements that make up that decision-making process and it is not just the medical, it is the mental health and it is also when we are designing the screening process.

And this is something I have been in touch with HSC about as well. It is about the conversations that happen at that time and, yes, I think with the Black Lives Matter movement I think one thing that has come out of that is people are starting to realise, certainly some people, it is not about just simply saying, 'I do not believe I have prejudice', but I think the Black Lives Matter movement is bringing into the consciousness that actually the unconscious biases that we all carry around and you can be unconsciously biased against somebody or have your own prejudices that you did not even realise you had but they inform the way that you talk and inform the way that you might relay information.

So that piece of guidance and information that needs to happen around the screening process and how we talk about foetal abnormalities and the process around that, that piece of work needs to happen with active engagement with those from the disability community and parents of different children with different disabilities, so that when the screening process does take place, people are able to make, give informed consent and that informed consent should be without having any information that is given with the best of intent but might be prejudiced by somebody's views of what is and is not … I will not say it.

I think there is a desire amongst some Members to try to square their discomfort but in doing so I would urge you to think of the effect that that is going to have and the effect of having words and potentially asking somebody to make decisions based on thresholds and not based on what is the best care for them and their pregnancy.

In closing, I would just like to say that from the Nairobi Principles on Abortion, Pre-natal Testing and Disability. It is from one of the rights organisations and what it does say that all prospective parents should be able to make informed decisions about continuing or terminating their pregnancies and this is through affirmative measures, such as combating ableism in pre-natal testing and counselling processes, ensuring all parents are operating in an enabling environment and have the social and economic supports that they need to raise any child, including a child with disabilities or who is otherwise social excluded and promoting the rights and inclusions of all persons with disabilities in all spheres of public and private life.

I think it is very important for us not to latch onto parts of discrimination and instead look at the whole and the whole process and the whole holistic care that we provide pregnant people and the holistic way that we as a society operate.

Thank you.

The Bailiff: Members of the States, if any Member has a short contribution to make I could potentially take it before rising for lunch? But equally if there were no further Members wishing to speak in debate on the four amendments then I will take this opportunity if I may to ask Deputy Tooley, not for an oral answer, but to contact me during the course of the luncheon adjournment as to whether she is minded to reply on behalf of the Committee to all four amendments in one go or whether she would prefer to take each separately and to have a vote on them separately.

I would also repeat my request to Deputy Le Tocq and Deputy Dudley-Owen as to which of Amendment 9 and Amendment 3 should be voted on first. They will be the first two amendments to be voted on, followed by Amendment 1 and then Amendment 2 in due course and the way that we manage closing.

So if we could have an exchange over the luncheon adjournment as to how to handle that, I would be most grateful. But, as it has just gone 12.30 p.m. and I know there are other things going on at lunchtime for some Members, I am minded to rise now until 2.30 p.m. unless anyone makes a request that we continue for a little bit.

Deputy Tindall: I make the request to continue, sir.

The Bailiff: My difficulty is that I really do need to know from Deputy Tooley whether she is in a position to speak on behalf of the Committee to all of those amendments.

Deputy Tooley: Deputy Tooley here, sir. I think, given that Deputy Soulsby, President of this Committee, although I appreciate it is me that is going to be responding, will need to be at a press conference for 1 p.m., it would be inappropriate for us to continue with this debate at this stage.

The Bailiff: I think I agree with that. So, on that basis, Members, as nobody else is indicating a wish to speak before I turn to Deputy Tooley, on that basis, we will now adjourn until 2.30 p.m. please.

Deputy Tindall: Sir, sorry, that is why I interrupted. I do wish to speak, sir, I am just having problems getting that to you. I agree with Deputy Tooley it should be after lunch.

The Bailiff: Very well, we will still adjourn until after lunch now, Members. Thank you all very much, 2.30 p.m.

The Assembly adjourned at 12.32 p.m.
and resumed its sitting at 2.30 p.m.

Modernisation of the Abortion (Guernsey) Law, 1997 –
Debate continued

The Bailiff: Good afternoon, Members of the States.

I am going to call Deputy Tindall next, to be followed by Deputy Dorey and then Deputy Parkinson. Deputy Tindall, please.

Deputy Tindall: Thank you, sir.

There are four amendments under debate. The majority of the Committee oppose each and every one as we feel that these are retrograde steps and go against Public Health advice. Advice, which we have received from people in which we have placed our trust over the last few months. Advice set out in our policy letter, which has had extensive consultation and extensive feedback. At lunchtime today, Dr Brink said she has trusted our community throughout the pandemic so please reciprocate and trust her and her team in respect of these proposals.

I agree with Deputy Prow that we must acknowledge the sincerity of everyone's views and we do so, gladly. It is clear all views are deeply held. HSC are no different, as we are sharing our views. But we are also sharing clinical views and views of girls and women who do not wish to share their highly personal stories in public.

I sincerely thank Deputy Oliver for clearly explaining the choices faced by a woman during the stages of pregnancy and why the time limits are set as they are in our proposals and why she rejects all these amendments. Deputy Merrett, I too thank, for she recounted a very personal story and highlighted the need for time. I thank her for that but I wish that these conversations would not need to be told in public to enable necessary changes to the law. I wish those discussions on difficult decisions of women and girls could be kept to the privacy of the consulting room.

I also thank her and Deputy Hansmann Rouxel for pointing out the discriminatory nature of Amendment 2, which claims to do the opposite. I feel I need to address one aspect and again I say that the Committee strongly refutes any suggestion that the different thresholds within which abortion procedures can occur under section 3(1)(c) and 3(1)(d) of the Law is driven by discrimination on the basis of disability.

Deputy Dudley-Owen talked about the numbers of women who have had abortions over 16 weeks but each of these women are people. They are not numbers and each need to have compassion, informed choice and the time to make difficult decisions. They need to talk to professionals, not hear States' Members try to talk about a subject none of us are qualified in.;

We have all received a letter from the GDA refuting the way in which their comments, made by Deputies, have been interpreted. They state their aims in respect of amending the current archaic language and, as Deputy Hansmann Rouxel said in her speech, we at HSC are looking as part of those Propositions in the policy letter to ensure we modernise the language used and we are looking at other jurisdictions, such as New Zealand, who have developed abortion laws qualified by clinical judgement but without using discriminatory language.

I can reassure the GDA that there is no need to challenge HSC to revise the language but we need to have the proposals in this policy letter approved to do so and unamended. Deputy Graham appears to know the views of a substantial number of humanity. Can I point out that half the population of this Earth is female and we need to take account of the fact that this debate is about those with a uterus and their choice. Let us be empathetic here and consider what half of humanity seek, not what the other half may want to impose.

Deputy Paint said he could not vote against these amendments because of his conscience and that goes to the nub of the issue. If, sir, a Member wishes to vote for clinical best practice, fair treatment of women and girls without the financial means to go to the UK, then they should vote against these amendments. But, if a Member's conscience says abortion is wrong, then I cannot see why they would support these amendments, which are to a Law which allows abortion.

Maybe the dilemma of this choice shows the complexity of conscience to which Deputy McSwiggan referred to in her speech. I wish to point out for the benefit of the Alderney

Representatives that abortion is unregulated in Alderney and if this law is passed by Guernsey, the States of Alderney can then approve it and provide the appropriate protection, sorely needed for the women and girls in Alderney. Changes, which are totally supported by their medical practice.

All of these amendments make women's lives more difficult but do not remove the right to have an abortion. All these amendments seek fundamentally to restrict the ability to provide abortions to Guernsey women and girls but will mean those who can afford it will go to the UK. All of these amendments risk compounding the emotional distress for women at a significantly challenging time in their lives. They compound the difficulties of our ability to provide a service to women and girls in awful situations. They conflate issues and compromise the care we can offer now.

I sincerely hope Members realise the effect of these amendments because if any or all of them are successful, untold harm will be done. Because some of these amendments, in combination, will be actively harmful, not only to the women and girls in our care but also to the health professionals we are responsible for. These decisions today are not about a gut instinct of a need to pacify some people who hold very strong beliefs. This is about making decisions, which will have a serious effect on women and girls.

I ask Members to consider whether they should make decisions today if they do not fully appreciate the effects of any one of the amendments and certainly not how they would work in combination. I ask Members instead, reject them, and allow the clinicians who understand this complex area to make the right decisions on what changes to the law are needed and enable women and girls to have the best possible care. I ask Members to reject all of these amendments. None of them enable better care. None of them enable less discrimination and none of them are fair. I ask Members to reject all of these amendments sir.

Thank you.

The Bailiff: Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

This is a fundamental issue. Many people in the Island have very strong views, as per the emails that we have received and any change in this area deserves, in my view, a better process than what we have had leading up to this policy letter. My views are influenced by the lack of what I think is an acceptable process, so I will be conservative, as I believe that before we make some of the far-reaching changes proposed in this policy letter, we should have had a robust process, similar to that in the 1994, 1996 debates on abortion, when a discussion document for public comment was informed by a report from a working party populated by politicians, religious leaders, doctors and medical consultants. It is unfortunate that that process was not followed for these changes.

My views on the amendments are as follows. On 1, I do not agree. On 2, I will support because I think there needs to be the 'except' clause for fatal foetal abnormalities, so the threshold is different in these cases. The speech by Deputy Roffey highlighted this and I presume the case he outlined will be covered by that clause, although I am not 100% certain.

Amendment 9, I will support. I do not support 24 weeks and I go back to the 1996 report, which said …

> … the majority of the Board rejected the concept of abortion on demand and felt that the British law allowing abortion up until 24 weeks approached too close to the limits of viable independent existence. By a majority the Board therefore supported the recommendation of the working party that it would not be unlawful to terminate a pregnancy up until the 12th week …

… of the pregnancy. These words are even stronger today when the advances in medicine since 1994 means that actually there is a greater chance of viable, independent existence, of a 24-week-old baby. I agree with Deputy Graham – and it is interesting Deputy Tindall's remarks saying it was from a male, but the amendment is proposed by Deputy Dudley Owen – I agree with his remarks, I have heard the criticism of 12 weeks, which was the proposal back in 1996 and I think 16 is about right. So I will support Amendment 9 –

The Bailiff: Deputy Dorey, Deputy Tindal wishes to raise a point of correction, so Deputy Tindall please.

Deputy Tindall: Thank you, sir. Deputy Dorey implied that I was referring to a comment made by Deputy Graham as if it was because he was a male. I was not referring to the speaker, I was referring to the comment.

The Bailiff: Deputy Dorey to continue please.

Deputy Dorey: Okay, that is my interpretation of what she said. Amendment 3 I will also support but 22 weeks is very close to 24 weeks, except it is slightly shorter. But, if successful, I would be very unlikely to support the amended Proposition when we vote at the end of the debate.

On the order of the voting, I think we should vote on 9 and 3 before we vote on 1 and 2, as 1 and 2 both refer to 3(1)(d) and we would know what the amended threshold, or not, is for that before we vote on 1 and 2, if we voted on 9 and 3 first. So I would ask if we could take them in that order, please sir.

Thank you.

The Bailiff: Deputy Parkinson to be followed by Deputy Le Clerc.

Deputy Parkinson: Thank you, sir.

This must be one of the most subjects that this Assembly has been called upon to debate, with strongly held convictions on all sides of the argument. There have been several powerful speeches and my mind has shifted as the debate has unfolded. I have only a few observations to contribute but I hope they may be useful to those who, like me, are struggling to decide how they are going to vote. My speech, sir, does go beyond the amendments, so I will forego my right to speak in general debate.

Firstly I do not agree with a fundamentalist approach to the debate. Deputy Fallaize said the argument is split between those who believe that a foetus has the status of a human being from the moment of conception, to those who believe that until the foetus emerges into the world as a new-born baby, it is an extension of mother and she must have control over her own body.

I am in neither of those camps and I do not think that many other people see the issue as that black and white. Rather, I see these issues as a balance between the rights of the mother and the rights of the unborn child, a balance that shifts during the course of the pregnancy and which may be affected by the condition of the foetus. This is, in my view, the way the current law works but I realise that many Members would reject a distinction based on foetal abnormality.

I think that most people, including me, consider that in the early weeks of the pregnancy, a mother's rights are dominant. If a woman does not want to carry a baby to term, she is allowed to have an abortion. But as time passes the foetus gradually acquires more rights, if you like, against the mother, to the point where, after a certain time, the mother is not allowed to abort the pregnancy.

The fact of foetal abnormality alters this balance of rights. If the foetus is non-viable, I think most people would agree that the mother should not be compelled to carry it to full term. Even if it might live for a short time after birth. In this case, the rights of the mother overrule the rights of the unborn child at any stage of the pregnancy.

Foetal abnormality which does not render the foetus incapable of independent life is an area which is fraught with moral difficulty, where we see some of the strongest divergence of opinion. Some say that a foetus should not be aborted simply because the baby will live with a disability, while others say that the mother should not be expected to give birth to a child if she does not think she and her partner will be able to cope with it. Again, a balance has to be struck but I do not

share the view of others that the law should not differentiate between abnormal and normal foetuses in this regard.

I think extreme disability should be grounds for a lawful abortion, perhaps within different time limits, or time limits that differ from those which apply to normally foetuses. The fact of severe abnormality, in my view, ought to shift the balance back from the foetus to the mother, to some extent. The question which I find hardest to answer is what does severe mean?

In the case of a normal foetus and in the absence of other special circumstances, the proposal from HSC, is that the mother's right to end the pregnancy terminates after 24 weeks. In effect, the foetus acquires a right to be born after that time. I do not know whether this is the right period of time and I have some sympathy with Deputy Dudley-Owen's amendment and the other amendment, which would shorten that period.

Unfortunately, I have first-hand experience of the state of development of a foetus at 22 or 23 weeks because I lost twin sons at that stage of their pregnancy. By that stage, a foetus has many human characteristics and I do not accept Deputy Tindall's view that this is an issue to be resolved solely by women.

However, I think I have to defer to the medical experts on a subject of which I have only peripheral knowledge and I was impressed by the speeches of Deputies Tooley and Merrett, to the effect that 16 weeks is too early to allow the mother to reach a considered view. And I noted Deputy Graham's observations that few abortions take place after 16 weeks under the current law. However, it is possible that adoption of HSC's Propositions might change that behaviour.

I will wait for the closing speeches before finally making up my mind on this issue, though, sir, these are not questions which lend themselves to black and white answers; we are debating issues that lie in the grey areas, with views which are to me very troubling. I respect that HSC have made a sincere and considered attempt to get the balance right. But I supported the *sursis* yesterday because I thought it was important for them to carry with them as many of our population as possible, accepting of course that total agreement by everyone will never be achieved.

The rejection of the *sursis* will, I fear, leave many people believing that their voices have not been heard and that full consideration has not been given to all the arguments. Inevitably the whole subject will be an election issue as a result. At the moment I am undecided how I will vote on Amendments 2 and 9 but I will listen to the remainder of the debate attentively.

Thank you.

The Bailiff: Deputy Le Clerc, to be followed by Deputy Brouard.

Deputy Le Clerc: Thank you, sir.

I will be brief but I have a couple of questions. Starting off, if these amendments are passed, particularly if 1 and 9 are passed, and this potentially leads to an increase of people deciding to go away to the UK or elsewhere to fund their own abortion, would a person be liable to prosecution upon their return to Guernsey?

Secondly, what is the position regarding health care provision from Guernsey health providers if something happened, linked to the procedure undertaken in another jurisdiction, upon their return to Guernsey, and would they also be treated as a private patient and incur additional costs being treated as a private patient because they undertook the treatment off-Island?

Thank you, sir.

The Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, sir.

I think many of us have thought a lot about this and I particularly would have wished for the extra time to allow further public debate, hence I supported the *sursis* yesterday. But not all pregnancies go well and not all conceptions are from a loving relationship. On balance, for me, the mother is best placed to make very difficult decisions such as these and I agree with much of what

Deputy Roffey this morning said and also with much of what Deputy Parkinson this afternoon said. I am not going to recall my story or anything like that, but I will be voting in line with the Committee and taking the professional advice at this stage.

Thank you very much sir.

The Bailiff: Members, I am pausing very briefly. Deputy St Pier and then Deputy Soulsby.

Deputy St Pier: Thank you, sir.

I too, I think, can be relatively brief on this matter. I think it is one of those topics where positions are often quite firmly set and I think in particular those who are opposed have referred to a lot of evidence, or seek to identify evidence that they believe should be presented to support their case but the reality is that they just do not, fundamentally, agree with the proposals.

It often appears to be dressed up in other language and that does concern me. For me, this is a Public Health matter. I think clearly every individual should have the ability and the right not to choose to abort if that is their choice. That is absolutely is paramount. But I think also each individual should have the right to the best healthcare to allow the, to consider what they wish to do with a pregnancy in very difficult circumstances, which is why I think the package as Deputy Brouard has said, is one that I feel entirely comfortable supporting, given the work which the Committee *for* Health & Social Care has undertaken with the professional advice that has been input into that.

We have clearly been making many decisions in the last three months, which are in reliance and dependence upon that advice from a similar source and I can see absolutely no reason to depart from it in this case and I will therefore be supporting the Committee in all the Propositions as they are presented.

The Bailiff: Deputy Soulsby.

Deputy Soulsby: Thank you, sir.

This is a rather, probably rambling speech I am afraid, just making notes of some of the comments. These amendments, at least 1 to 3 indeed, they are not about disability discrimination or any of the other excuses given for why these amendments are needed. Of course they are not. They are distraction techniques of the first order.

Deputy Stephens does not really believe that gestational limits should be the same for categories (c) or (d) abortions. If she did, she would have spoken at far more length than she did about why it made sense. She did not as she does not believe in abortion at all. I am happy for her to confirm or deny that and correct me if I am wrong.

Similarly, Deputy Le Tocq using statistics in a very selective way does not believe in abortion. Members therefore need to ask themselves why they are laying these amendments. They are not doing so because they think our proposals are not well thought-out. It is not about whether we have consulted enough people or not, it is because these amendments are Trojan horses, with no basis in fact, designed to undermine the proposals, which have the full endorsement of the medical professions and professional body.

I thank Mr Platts from the GDA for clarifying that organisation's position and that of Ms Hall after the comments made this morning. I actually think it is quite disgusting, Deputies Le Tocq and Stephens have basically weaponised people with disabilities in their aims. If our proposals were discriminatory, do Members really think that the disability champion, Deputy Hansmann Rouxel and Deputy McSwiggan, who has done so much to bring disability rights to the fore, would support our proposals if they really believed they were discriminatory? I just really need Members to think about that.

On the terminology front, I think Deputy Tindall did reference this. Yes, the current Law, it is just terrible. It is so outdated, using words like handicapped. Those are words that we want to get rid of as well, which is why the Propositions in the policy letter will enable that to happen, but not if people decide that they want to reject them. I think that is a really important point to reference.

There is absolutely solid ground and reasons why there are different time limits between abortions undertaken due to a foetal abnormality and others in relation to a woman's health or in relation not that of her existing children. Category (d) is based on viability and that is based on evidence.

Others have said why 24, not 16, not 22? Neither of them are based on the current evidence and I reference back to what I said yesterday, in terms of the 24 weeks. That is based on evidence that is in the domain and from peer-reviewed work. It is not by somebody who has got a particular beef about this and has put out a report, which has not been peer-reviewed. This is peer-reviewed work, the Royal College of Obstetricians and Gynaecologists, saying 24 weeks. That is where things stand.

Not 16 and 16 is – really, I think talking about viability, Members do need to understand that any child born before 32 weeks is going to need assistance and certainly child around 24 weeks or less will need to go to the UK for intensive care treatment. So any child born around 16 weeks, if it can possibly survive, 22 weeks, even 24 weeks, will probably have to go to the UK for intensive care treatment and all the requirements required. That means the baby will be in the UK for several weeks if it is able to survive and return.

I also remember that abortions at around 24 weeks are very, very rare and for women, in usually dire situations, who have experienced violent, domestic abuse. Still we are getting this idea that the women are just saying, 'Oh, we will have an abortion', just that sheer thought that 'that will make my life easier'.

Can you not imagine, even at 24 weeks, how difficult it would be to know what you are going through in that moment in time? I cannot and just even the thought of it really just fills me with horror the fact that the reasons why they are having to make those decisions, nobody is going to want to do that at that particular moment in time. So that is why it is 24 weeks. It is meant to be around viability.

In relation to category (c) in terms of foetal anomalies, that is because there is no time limit. A screening is a pathway, a continuum. It happens throughout a pregnancy. Having no threshold, therefore, allows for a fully formed decision for the very small number of women – it is just about one in eight years we are talking about here – who cannot receive an accurate prognosis until a later stage, when that information becomes available.

Those are the reasons why it is different. It is not just so women can say. 'Oh well, it has got a cleft palate so I want to abort the baby.' I cannot imagine any mother who would want to do that and I think any indications of that are tiny and minuscule, that that would happen. Things are being tried to be twisted as if that is what women think.

I know when I was pregnant, I wanted my children as much as I possibly can, but I was fortunate, living in a loving relationship, a settled relationship, and not having to worry about those things but some really are not and we must think about those women. That is why I have really struggled with some of the comments I am hearing about not putting yourself in those women's shoes and knowing what they are going through.

I hope that has answered Deputy Parkinson, actually, for the reasons why, again, the 24 weeks for category (d) and getting rid of the time limit for category (c). Just touching on Deputy Le Clerc's comment, questions, which I think are very pertinent indeed, undertaking an abortion, clearly, outside of any time limit in Guernsey here would be illegal. I can only reference what has happened in Ireland and women who have had an abortion in England have been arrested because of the abortion that they have had. This is why a lot of women who go off to the UK to have an abortion do not use a local postcode because they are worried about how this might play out.

In terms of care provided in Guernsey, should anything happen, yes, they will be treated as a private patient and clearly the care will be provided and clearly with our other Propositions, we would expect any medical practitioner to support any mother who is going through that situation, but they would be treated as a private patient not as part of our contract.

So I do find the amendments frustrating. I have been living and working in an atmosphere of listening to the evidence and how important that has been over the last few weeks. I would say again, these proposals have the full support of the Director of Public Health, who we have listened

to and followed for the last three months and it has held us in good stead and we can back up what we do. We can tell people we are doing it because of the evidence.

Members need to understand if they vote for these amendments, what message that will give to the community after all that we have done over these last three months, to then say, 'It is alright for that but we will not bother with it for women's health.' I just think that the message that will go out will be truly shocking and I do not think Members really appreciate the groundswell of opinion that would come out as a result.

We might have people who do not like abortions at all telling us they think they have not been consulted but, by golly, if these amendments go through, your inboxes will likely be very hot over the coming weeks and certainly anyone standing in the next election will have a lot of explaining to do if they support these amendments.

Thank you, sir.

The Bailiff: Members of the States, I am pausing very briefly to see if any other Member wishes to speak on these four amendments, before we come to the wind-up phase of this debate. What I have indicated is that, perhaps unusually, we will have all the speeches closing on these four amendments and then we will turn to the voting afterwards, rather than having speeches, vote; speeches, vote.

The way we are going to do it, despite what Deputy Dorey has encouraged me to do, is to follow the request of those who are moving these amendments and that is therefore that I will invite Deputy Tooley first, to speak on behalf of the Committee, on Amendments 1 and 2, taken together, and then Deputy Stephens, as the proposer of those two amendments, to effectively reply to the debate on them. Then move to Amendment 9 with Deputy Tooley and Deputy Dudley-Owen, and then finally Amendment 3, Deputy Tooley and Deputy Le Tocq. Then we will take the votes in that order, 1, 2, 9 and 3. So Deputy Tooley, please, on behalf of the Committee, on Amendments 1 and 2.

Deputy Tooley: Thank you, sir.

It is always rather strange, with amendments, or listening to the response of debates to amendments. One can end up fighting against a proposal one thinks poor, rather than heralding a proposal one thinks good. I have no intention of falling into that trap. I am going to take this opportunity to tell the States what the Committee of our Department of Public Health are recommending and why.

The Committee's Propositions in relation to these amendments are 1:

> To agree to amend the Law to remove the gestational threshold for abortion procedures falling within section 3(1)(c) of the Law, as described in paragraph 5.29 of …

… the policy letter. And 2:

> To agree to amend the Law to increase the gestational threshold to twenty four weeks for abortion procedures falling within section 3(1)(d) of the Law, as described in paragraph 5.29 of this Policy Letter.

And paragraph 5.29 says:

> The Committee therefore recommends that, consistent with the position in England with whom Health & Social Care shares clinical pathways, there is: (i) no upper limit on the gestation at which a pregnancy can be ended when a significant foetal abnormality is detected under section 3(1)(c) of the Law (Proposition 3); and (ii) that the current threshold for abortions under section 3(1)(d) of the Law is increased to 24 weeks gestation.

The Law currently prescribes different gestational thresholds for abortion procedures that occur under these two sections of the Law. We are proposing changes to the gestational thresholds, within which an abortion can occur under both categories and we strongly refute any suggestion that the

different thresholds within which an abortion procedure can occur under these sections is driven by discrimination on the basis of disability.

The scope of conditions encapsulated by section 3(1)(c) are far broader than issues relating solely to disability. For example this includes ensuring that sufficient time is available for fully informed decision-making, where a foetus is presenting with a cardiac condition, for example where they would not survive after birth.

In those, or similar circumstances, a woman should not be forced to continue a pregnancy to birth if she does not wish to do so and indeed, to quote from the Northern Ireland Human Rights Commission Judicial Review, which took place in 2018:

> Restricting provision solely to fatal foetal abnormality is not possible without forcing some women to continue pregnancies, which will end in infant death, which is in contravention of their Article 8 rights, as in the Supreme Court judgment in this matter.

All health professionals involved in providing abortion care agree that abortion procedures should take place as early as possible. As early as is possible. However, it is also recognised that as much information as possible should be available to support that decision-making process. Applying any gestational threshold for category 3(1)(c) would not support fully informed decision-making, as information about the prognosis of the foetus may not be available by that date or may be uncertain.

In the event that these Propositions, the ones proposed by the Committee, are not agreed, the Committee are extremely concerned that if a reduction for category 3(1)(c) abortions came in, bringing us down to 12 weeks, or 16 weeks, this would cause a major issue. The difference in gestational thresholds between these two categories is related to the amount of time that is required to undergo the necessary screening and diagnostic tests for a multi-disciplinary team of specialists, to consider the results of the tests and advise on the prognosis of the foetus and for the woman to have time to consider the information and make a decision about whether she wishes to continue with the pregnancy or to have an abortion.

Routine ultrasound scans are offered to all pregnant women at 18-20 weeks gestation, to screen for foetal abnormality. In some cases, such as higher maternal body mass index or abdominal scarring or even sub-optimal foetal positioning, it could be necessary to perform this scan again because of poor visibility on ultrasound. A second scan is not always even enough.

If an anomaly is detected during this routine scan or subsequent re-scans, various detailed assessments, which may include specialist ultrasound assessments, counselling, invasive diagnostic procedures and both invasive and non-invasive therapy will be offered to provide the pregnant woman with the information she needs to make an informed decision.

That is because it is not generally possible to determine severity or progression of a severe foetal abnormality, based on the original routine anomaly scan. For women in Guernsey, that further testing could require visits to foetal medicine units in the United Kingdom. There are also some situations whereby accurate prognosis does not become clear until after 24 weeks of pregnancy.

As was raised in the speech by Deputy Roffey, pushing this out of our jurisdiction and into others does not solve the problem because regardless of the legal threshold locally, the option would still remain for a woman to receive care elsewhere to end the pregnancy. So those who might believe that they are, as Deputy Roffey says, applying a higher standard, need to be aware that the overall effect is to do nothing of the sort.

It is recommended that the gestational threshold for category 3(1)(d) should be increased to 24 weeks. The Committee stands firm that the decision as to continue with pregnancy or not, in the case of a diagnosis of foetal abnormality, must be allowed to rest in the hands of the woman, with the advice of her doctor and other medical expertise.

It is a clinical and deeply personal matter, which has to take place at an individual level, to ensure that care is provided to the woman, which supports her to make the best decision for herself, reflective of the unique and difficult circumstances of her pregnancy. The Committee fundamentally

believes that these conversations are better held by doctors focusing on the specific needs of the patient in front of them.

And I suspect that everybody listening into this Meeting, whether they are a participant in it or somebody listening to the machinations of the States, would agree that doctors should be making these decisions; that women with the advice of doctors should be making these decisions. But during debate we have heard Members of the States say that they will vote for *x* or *y*, they will vote for this or that, because in their gut it just feels better.

Public Health are extremely concerned about Amendments 1 and 2 and the resultant effect of common thresholds for categories (c) and (d) abortions if this was to lower gestational category to less than the current 24 weeks. They have asked me to remind the States that 100% of the professionals consulted supported the removal of a gestational limit for category (c) abortions – 100% of the professionals consulted. Eighty-eight per cent of the professionals consulted supported the increase of the gestational limit for category (d) abortions to 24 weeks.

These are extremely complex situations and a woman would not have all the information from screening diagnostic tests to make a decision about whether to continue with her pregnancy, with a lower gestational limit set. It is highly unlikely she could do this with the information available to her until screening has been completed at 20-22 weeks. Even then, there is a concern that the current limit of 24 weeks is challenging in this respect, forcing rushed decision-making.

We are on an Island bound by the sea, subject to wave and wind and fog and weather. People's acceptable dates and limits can be moved by things completely outside control of man or beast.

The first trimester screening takes place between 10 and 14 weeks. That will indicate a high or low risk only. Second trimester screening, which takes place between 14 and 20 weeks, indicates a high or low risk only. The anomalies scan, which takes place at 30 weeks or thereabouts, would detect approximately 50% of anomalies. Further investigations or tests would be offered at this point.

These screenings are set at the earliest gestation, where risks of anomalies are detectable. If identified as high risk from those screenings, further diagnostic tests are offered. One of the outcomes of those or screenings or diagnostic tests is to provide the woman with the information needed to make decisions about her pregnancy. The pathways for category (c) abortions are usually managed by referral to an NHS provider. That pathway would be removed if category (c) is reduced to a lower threshold before the results of screening or diagnostics are available.

So, in the case of a woman whose screening test shows that there is a high risk, possibly even certainty, of severe, foetal anomaly, a move to a lower threshold would remove the ability for us to refer that woman to an NHS provider for her treatment before she had received the screening. In the case of foetal abnormalities, it would be very complex for a woman to navigate this for herself. Outside of the support of the health professionals locally and it would be highly costly to do so. This is also more likely to result in abortions at later gestations than otherwise.

Much has been said about the impact on a woman's health of having an abortion. Far less has been said about the very significant impact on a woman's health of having an abortion in those circumstances. We do not want the decision to be made today to drive forward unsafe abortions and that is what Public Health are worried Amendments 1 and 2 till do.

Let me make that very clear. Public Health are concerned that the passing of Amendments 1 and 2 will drive unsafe abortions. If Amendments 1 or 2 are approved, with the exception of fatal foetal anomalies in A2 and (c) remains at 12 weeks, this would be significantly detrimental and would tie the hands of health professionals, locally, to refer and support a woman for off-Island care, because they would be risking outside of local legislation.

I need to make it very clear to the States that anything less than the current 24 weeks would completely restrict informed decision-making. On the surface of it all these proposals do is set the limit for abortions – sorry, I am just using my note – set the limit for all abortions, or abortions where the foetal abnormality is not classed as fatal at 24 weeks. But we cannot judge them that way, of course, because there are other proposals put forward by largely the same Members, which would seek to change that gestational limit, to reduce that gestational limit.

Just briefly, I want to respond to some of the things that were raised, specifically in debate. Deputy Fallaize, of course, raised that issue, that consistency, as referred to in these amendments, could be to raise the gestational limit, but nobody thinks that is what the aim is here.

Deputy Paint, well I am both very sorry for what he has suffered and very glad that he was able to support and care for his daughter, but I abhor the way in which he spoke about women who have made this difficult choice and the lack of compassion he showed for them, coupled with the notion that all unwanted pregnancy would be solved with better contraception and better responsibility.

I can respect his position with regard to abortion and his opinion that abortion is something he would never vote for. If that is the case, I will expect him not to vote for the amendments, all of which set limits within which abortion can take place.

Deputy Inder talked about the experts he had spoken to, which was very interesting but of course the experts he had spoken to were not experts on the subject of women's medicine, they were not experts on the subject of abortion, they were not experts in the subject of diagnosing foetal or severe physical conditions –

The Bailiff: Deputy Tooley, Deputy Inder wishes to raise a point of correction. Deputy Inder.

Deputy Inder: Sir, at no point in my speech did I use the word that I had spoken to experts. I spoke about talking to a member of the Guernsey Disability Association. So she can withdraw that and stop that part of her speech, because it is just not true. Again.

The Bailiff: Deputy Tooley to continue please.

Deputy Tooley: Thank you, sir. I apologise. I thought that Deputy Inder was referencing these people because he thought they had expertise and therefore their opinion carried more weight than that of other people. So I apologise to him if that is not what he meant.

I too am the mother of an autistic child. I too am a woman. I too am a representative of the population. If we are to regard people with that kind of experience as experts then we have heard from hundreds of experts over the last week or two who have contacted us. Over 66% of them saying that they support the proposals that are put forward by HSC in terms of reform, much-need reform to the 1997 Abortion Law.

I thank Deputy Oliver for the speech that she made, which I think very accurately described the real effect that this situation has on women and I am going to talk personally here about the effect that this would have had on me. I have never had an abortion, I want to make that quite clear. I have had four successful pregnancies, one of those being a twin pregnancy, so when Deputy Graham mentions his daughter with her physically difficult twin pregnancy, I probably do not know how she felt but I know how it can feel to carry a heavy twin pregnancy to term. My twins were, collectively, just under 14 pounds. So I absolutely know how that feels.

I do not think I know how a woman feels when she is facing a pregnancy, which she thinks for whatever reason she cannot continue, but there we go. Having had three very successful pregnancies with three very successful live births, I discovered I was pregnant with my fourth baby, as I then thought, as it turned out it was twins. Despite that being a pregnancy I had not expected to happen at quite that time, at no point did I, in a settled, loving relationship with money coming in to buy food, etc., contemplate terminating that pregnancy.

Then we came to this point where we were heading towards the first scan and I began to wonder, if there was an issue with that pregnancy, would it be fair to my other children if I were to continue that pregnancy, and I had to start to think about those issues that a woman might face in that situation. Then of course the scan came and the scan confirmed not that there were abnormalities, but in fact that there were two babies there and therefore the screening process is more complex when there are two, because there are tests which are done on amniotic fluid and so on, which

simply cannot be done in quite the same way if there are two babies, because it is a little bit less certain which baby is sending the signals out that you are reading, and so on.

So I had to think about not just what I would do if there was a problem with the baby I was carrying but what I would do if there was a problem with one of the babies I was carrying, knowing that anything that I might choose to do to terminate one of those babies, possibly because there was an issue, might potentially, inadvertently, lead to the termination of the other potentially healthy child.

I was again incredibly fortunate. There was not a problem with those. It was not a decision I had to make. But even that level of having to contemplate this means that I absolutely and completely cannot understand how anybody could think that this is a decision a woman goes into lightly.

These are not decisions women make lightly. These are not decisions women can make quickly. We talk about a woman being 16 weeks pregnant, 24 weeks pregnant or whatever and I think we forget that for the first two weeks of that counting number, the component parts of the baby, the egg and the sperm, have not met. Because we start to count pregnancy two weeks before fertilisation occurs. We start to be aware of pregnancy, at the earliest, really, around two weeks after that has occurred, when a woman is four weeks pregnant technically, she might realise that menstruation is late and therefore there is a chance she is pregnant.

So the journey then, from that potentially four-week awareness, and actually in the case of a pregnancy that a woman is not necessarily expecting to be beginning, often it is later than four weeks before she really realises that things have not happened quite where she was expecting them to and so on, but let us lay that aside. From there to 12 weeks, which is our current limit is, at most, eight weeks.

It is ironic, then, that we are being told that the consultation process for this is too short to give people the opportunity to make decisions when the opinion of many seems to be that eight weeks should be more than ample for a woman to make these enormous decisions that she will need to make. I apologise I have gone off my notes and gone off track. I will pull back

Deputy Graham talked about … no, I will leave that for later, sorry. I do apologise. I thank Deputy Hansmann Rouxel for her comprehensive explanation of the complexity of comparing viability and for her comments about the work that has been done by the Centre for Disability Law and Policy. Crucially among that, what stood out for me was that women should have access to abortion and should have the right to have an opinion and to make a choice about what happens on the basis of what would be the effects on her life and health, both physical and mental, of the pregnancy that she is in. That women should have access to an abortion because of those things.

Deputy Le Clerc, I think Deputy Soulsby answered those questions. So, I want to close this speech, and I am sorry it has been a little bit all over the place, but I want to close this speech with an explanation really, I suppose, perhaps of why this is possibly a bit disjointed. That is because I almost cannot contemplate that it appears we are standing on the brink, no pun intended, of making decisions, which will make matters worse for women; which will make things harder for women who are finding themselves in an incredibly challenging point in their life.

And we are standing at the brink of that for no reason other – potentially, and I do hope we are not – for no reason other than it would appear some Members are more willing to listen to their gut instinct than they are to all the medical advice from all the medical professionals who are consulted, from the real experts like the Royal College Obstetricians and Gynaecologists, like the Royal College of Midwives and Nurses, like the British Pregnancy Advisory Service, like our own Public Health team under Dr Brink. Please reject these amendments. They are not here to help women. They are not here to improve public health.

Thank you, sir.

The Bailiff: The proposer of Amendments 1 and 2, Deputy Stephens to reply to the debate on those two amendments, please. Deputy Stephens.

Deputy Stephens: Thank you, sir.

I will begin by reminding Members of the three questions that I posed across the two amendments at the beginning of the debate. The first question was should some babies have more legal protection than others, should our law establish a principle of non-discrimination? If that principle of non-discrimination is established, should there be an exception for babies who are not expected to live? And the third question was should, in that category of babies not expected to live, there be a description of conditions that, although they may only be detectable late in pregnancy, are not included because they are not fatal?

Now I, like Deputy Parkinson, find this subject troubling and so I think I will not trust myself to respond to Deputy Soulsby's accusation of disgusting behaviour. I do not need to do that. She may not be aware that I have a long history of work with and for disabled people and children and some of that, in tandem with Deputy McSwiggan, in one of her former roles, and I was the first disability champion.

So I think that I am entitled to my opinion that a vote for either Amendment 1 or 2 gives added protection to disabled babies with a detectable condition and that is not a disgusting intention to have.

I thank Members for their consideration of these difficult issues around principles versus practice and values and rights and I do admit that promoting this discussion was partly my motivation for laying the amendments. But it is the protection for disabled children that remains my main concern.

Members will, of course, vote according to their conscience and so will I. I do not think that really there is anything else I can add to the discussion, but I do thank Members for participating so wholeheartedly in discussing these amendments.

Thank you, sir.

The Bailiff: As I indicated earlier, we are going to have all the closing speeches on the amendments and we are going to deal with Amendment 9 next, so I invite Deputy Tooley, on behalf of the Health & Social Care Committee, to reply to the debate on that, before turning to Deputy Dudley-Owen. Deputy Tooley.

Deputy Tooley: Thank you, sir.

Sorry, I am just trying to get my notes to open up, one window over another, trying to work on one laptop to do everything. Members will be pleased to hear I am not going to speak for as long on this amendment as I did on the other two. This amendment is proposing an arbitrary gestational limit, which is based on absolutely zero scientific evidence. It appears to be based simply on a feeling that, okay, we accept maybe 12 weeks is not long enough, how about 16? Let us split the difference. Four months sounds better than five and so on.

Actually, it creates little improvement whatsoever on the current situation. Commenting in December 2019, in relation to the new legal framework for abortion services in Northern Ireland, the Royal College of Obstetricians and Gynaecologists stated that:

> Restricting access to abortion care at arbitrary gestations before 24 weeks, only resolves to create barriers for women.

That is what I believe this amendment is attempting to do. It is attempting to create barriers for women, to prevent them from accessing the medical care that they may well need.

The Committee anticipates that, given the evidence in England and Wales, very few abortions would occur to women in the period beyond 16 weeks and up to 24 weeks of gestation. In England and Wales, only 7% of all abortions occur in that period that exists between 13 and 19 weeks. Only 2% of all abortions are performed at 20 weeks and beyond.

So, well over 90% of abortions occur before 13 weeks. But it is likely that abortions that could be performed in those later periods are likely to be for some of the most vulnerable women in our community. Allowing women in the most difficult circumstances to have more time to decide whether they wish to continue with their pregnancy does not encourage others to delay seeking care.

Can I just repeat that? There was something in Deputy Dudley-Owen's speech, where she talked about, I think her words were the 'postponement of abortion'. No woman is seeking to postpone her abortion to make her life more convenient. There may well be women who need time to organise childcare for their older children. There may well be women who need to find a time when it is possible for them to still earn the money they need to put food on the table and take a little time off to have an abortion. There may well be women who need to choose a slightly later date.

But women are not choosing to prolong pregnancies that they have made a decision they need to end and therefore any restrictions in place before 24 weeks are likely to have a detrimental impact for those women who are most vulnerable or disadvantaged. For instance, victims of domestic or sexual abuse. Those experiencing social or economic deprivation, those women who have a disability or who are most likely to present at later gestational –

The Bailiff: Deputy Tooley, Deputy Dudley-Owen wishes to raise a point of correction. So I will call Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, sir.

I do apologise, sincerely, to Deputy Tooley, because I know it is really irritating being interrupted during your speech. I needed to clarify, apologies but it is a point of correction, those were not my words; they were words that I was quoting and I do apologise if I did not make that clear on reading them. They were from research papers entitled *Late-term elective abortion and susceptibility to post-traumatic stress symptoms* and the wording in the summary there does use the term 'postponement of abortion', women who postpone their abortions 'may need more active professional intervention'. That is their words, not mine.

I would not have used that and therefore Deputy Tooley may seek to reconsider what she was saying about my view on abortion. Thank you.

The Bailiff: Deputy Tooley to continue, then, please.

Deputy Tooley: Thank you, sir. I am afraid I am not going to reconsider what I was saying about Deputy Dudley-Owen's view on abortion because that was the selective quote she had chosen to make from there in order to highlight, I assume, her opinion that these were facts that would be useful to support her argument.

The Bailiff: Deputy Dudley-Owen, you want to raise another point of correction, but can I remind you that you do get the final word on this amendment, so can you not deal with them then?

Deputy Dudley-Owen: No, I am afraid not, sir. I actually –

The Bailiff: What is your point of correction, then?

Deputy Dudley-Owen: I actually read the whole piece, I did not take quotes selectively to back up a point of view. I took the time to read the whole piece of the summary. Thank you.

The Bailiff: Deputy Tooley to continue please.

Deputy Tooley: Ah, thank you, sir. Clearly a selection was made of a piece of literature, which Deputy Dudley-Owen selected because it supported the opinion that she was putting across that delaying abortions or abortions being delayed until after 16 weeks was more detrimental to the mental health of women than having them sooner.

This amendment will result in the existing two-tier system to access abortion care based on ability to pay being exacerbated, being continued and so on. Women who are able to make arrangements to travel to the UK and are able to afford an abortion privately, will be able to do so

and in that way, and the cost of that, let me make that quite clear, runs to thousands of pounds per individual.

Between 2009 and 2018, a yearly average of around 8.3 abortions had been performed in England and Wales for women who provided a Guernsey postcode. We know that women who travel to the UK to have abortions because they are coming from places where that abortion would not have been possible under the legal framework that exists, routinely provide postcodes which are not that of their own home state.

I am going to read you the story of a member of the public who emailed me during debate, actually, because she heard things that had been said earlier and she decided that this was the time that her story needed to be told, and it is relevant to this amendment.

> I was 18 weeks when I found out that I was pregnant, and 19 weeks when I had an abortion. This is my story. I got married, a white wedding as so many people do, and we were blissfully happy for three years and I had a daughter and we were overjoyed and she was beautiful and life was good and my husband had an affair and he left.
> Six months later, I met someone else and more quickly than would have happened under any other circumstances, found I was pregnant because I was clinging to the need to be loved. We had my second child, as it turned out his third child, and things became very difficult. He became stressed. That is what he blamed. That is what I blamed the first time he hit me. It is what I blamed the second time he hit me.
> Then one day, in the supermarket, a woman said to me: 'I have to ask you, has he hit you yet?' I had never seen this woman before but it turned out that she was my partner's first wife. Her story and mine were almost identical. While we had coffee, because obviously, while I might have ignored her had he not hit me more than once, while we had coffee she asked me if he had yet made certain comments to my child. Comments of a suggestive nature. Comments I did not want anyone to say to my child.
> I was shocked. I walked away. It took me three weeks to ask my daughter, in a roundabout way, if anybody had ever said anything that sounded like x or y or z, to her, and she told me that he had. In the heartbreak and the agony and the difficulty over dealing with that, I did not notice a missed period. I did not notice until I was 18 weeks pregnant that in fact I was expecting another child.
> My parents paid over £1,000 for me to have an abortion in a private clinic, because it was not possible for me to have one at home. I had to put my two children, the one from my marriage and his child, first. They had to be my priority. I could not leave him while pregnant, I could not leave him with a tiny baby and two existing children. I got out. I got out, but I had to go through the trauma of travel to the UK, of having an abortion on my own, because it was not possible within the legal system and I did not enter my postcode to the clinic where I went.
> The clinic was full of women and girls from countries where abortion is not legal. I met a girl who had saved up from 13 weeks to 23 weeks, because that was how long it took before she could afford to be there.

If we agree an amendment that sets our limits at 16 weeks, we do not make it possible for women like this one to change the situation they have found themselves in and I urge you, I urge Members to vote against this amendment.

Thank you, sir.

The Bailiff: Now, Deputy Dudley-Owen as the proposer of Amendment 9, to reply to the debate on that amendment please. Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, sir.

Firstly, thank you to all Members today, not only to those who have contributed but also to those who have spent time listening carefully, no doubt, to the debate on this suite of amendments. We have heard some really challenging and thoughtful contributions and this is exactly the type of debate that we need to have about this subject. The type of debate that I so wish we had further allowed the Guernsey public to take part in.

The amendment that Deputy Graham and I have laid before Members today seeks to reduce the proposed extension of gestational threshold from 24 weeks to 16 weeks, proposing instead that we enable an abortion for social reasons to be carried out at four months pregnancy, rather than six months.

Ideally, we would all like mothers to be able to make a decision before 12 weeks, but that is not always possible. An extension to 16 weeks gives women a further four weeks' consideration to decide what choice they would like to make for the future of their pregnancy. The Committee

proposals seek to allow women to abort healthy, viable pregnancies, that is to say terminate the life of a baby at six months pregnancy.

There has undoubtedly been a lack of data presented by the Committee either in the policy letter, presentation or on deeper inquiry to demonstrate the evidence of need to double the time limit of gestational threshold from 12 weeks to 24. We know that the greatest proportion of procedures performed are undertaken by nine weeks, well before the current 12-week limit and that there are very few which take place after 13 weeks. This is corroborated also by the UK figures, where there is a significant decrease for terminations between 20 and 24 weeks, whose legislation we are seeking to follow by way of these proposals.

The policy letter states that the current restrictions, of which a 12-week threshold is one, are likely to have a detrimental impact on the most vulnerable and disadvantaged women in Guernsey. I really needed to see the evidence behind this before I can be sure of the likelihood, but it has not been demonstrated, either by the Committee or during the research that I have done in the Guernsey context, that the likely detrimental impact requires us to extend the gestational threshold to such a degree.

Predictions such as this, on which proposals are built, must be supported by actual data. We cannot be making such decisions without the evidence of need. Members were copied in with my questions to the Committee, along with my intention to bring an amendment on the basis a reduction of gestational threshold and mental health care on 9th June. I only received responses to these this week, on 16th.

Just to reiterate, some of the questions I asked were: in the last five years, how many requests have there been for abortions during the second trimester, i.e. weeks 13-26 of a pregnancy? Can those be specified between weeks 13-16 and gestation weekly to 24 weeks? Can the above be split between requests made on medical grounds and social grounds? How many women have been denied the service between 16-24 weeks and have had to go to the UK to have a procedure carried out there?

The responses that I have received to date have demonstrated no evidence that there is a demand for late terminations beyond 16 weeks. Only 4% went beyond 13 weeks in 2008 and we do not know if these were under section (c) or (d) of the Law.

I gave notice that I intended to lay the amendment during the same email and, in fact, invited other Members to contact me if they were also intending to lay motions. Waiting for the responses from HSC unfortunately impacted my ability to submit the amendment in good time, so I have been very grateful to the States for their patience with me on this matter. They are a very busy Committee at this time and I absolutely understand the demands upon them and levy no criticism towards them.

Deputy Graham raised many pertinent points to consider during his speech and he has also well-articulated that this amendment is no different to Deputy St Pier's amendment, earlier in the week, against the Sex Offences Law, which will have a profound effect on our justice system. If I did not hear Deputy Fallaize make any comment during that debate about the lack of relevant consultation or the timing of the laying of that amendment, maybe he did, but I just did not hear him.

The Bailiff: Deputy Dudley-Owen, Deputy Fallaize wishes to raise a point of correction, so Deputy Fallaize please.

Deputy Fallaize: Thank you, sir.

This is the second time I have had to make this point of correction. I was not critical of Deputy Dudley-Owen for submitting a late amendment, I am never critical of the submission of late amendments. It would be hypocritical for me to be critical of the submission of late amendments.

What I said was, given that she had been so critical of the Committee *for* Health & Social Care for allowing three and a half months of public consultation on their proposals, it was a bit rich for her to be laying an amendment, which makes very substantial changes to gestational term limits that are set out in the policy letter, and indeed in current legislation, when to make this proposal

the States have had to suspend the Rules of Procedure to allow her because the amendment was submitted so late. It is an issue of arguing one thing on one day and the opposite the following day.

Thank you.

The Bailiff: It is the point that Deputy Fallaize made before, Deputy Dudley-Owen, so please continue now.

Deputy Dudley-Owen: Thank you.

Thank you for that reiteration, Deputy Fallaize, of arguing one thing on one day and arguing another thing on another day. You made my point for me. Deputy Fallaize says that I have not undertaken consultation on this amendment. I have spoken to professionals and I am not surprised that they have been unable to provide any view on the ethics of termination at this point.

Personal beliefs are normally left to one side in these conversations and as reflected by the policy letter, this matter was approached as a medical procedure. Generally, in the UK, I understand that medical organisations such as the BMA and the Royal College of Obstetricians have taken no view on whether the 24-week limit should be reduced, leaving it to parliament to decide.

The professionals I have spoken with merely comment on the current Guernsey data and the need for exceptional cases beyond 16 weeks to be consistent with best practice as demonstrated in the UK. Certainly, for Guernsey, we have no evidence of need. I am proposing 16 weeks in my amendment because I believe that there is evidence of the demand for abortions, albeit a very small number, up to this limit, but not beyond.

The evidence beyond that in Guernsey is just not there. Where is the research to say that we need to fall into line with the UK? How many women have expressed a desire to abort at 24 weeks? Is this a choice that is being made on behalf of women that stands up to scrutiny? Why are we seeking to move to 24 weeks now? There is a scientific threshold and a related ethical threshold.

Deputy Parkinson has articulated very clearly his thoughts about the rights of the mother and the foetus. He has put forward a very balanced view and I appreciate his comments, which I have found very useful. I am pleased that he has again reminded the Assembly that this is not just purely a women's issue.

An important consideration that we have to make is at what stage of pregnancy would we have to move to where all abortions would have to be carried out in the UK and what happens, then, if the UK moves its threshold earlier? We have in front of us a proposed extension to a 24-week threshold, based on UK law. I wonder leading on progressive social policy and women's rights, does this put the UK in an arbitrary position, given medical evidence on viability, ethical stances, social care and support improvements for the most vulnerable? If we adopt the UK position, could we end up in an anomalous position?

Deputy Oliver spoke about her own experiences but she did not address the ethical issues of social termination. It is these ethical issues, which have been spoken about by others in debate, which form part of the rationale for this amendment. How do we deal with the ethics of allowing elective terminations up to 24 weeks? Just at the point of when the foetus, the baby, is beginning to feel and hear. It is moving its head towards those sounds and starting to move and, in this knowledge, we are met with proposals to allow healthy, viable babies like this to be aborted.

Deputy Roffey made a case that the UK should not be used as a safety net for our healthcare provision. But it is a safety net for our healthcare provision. We cannot carry out many procedures on-Island. We have to rely on their resources that it would be impractical to provide here due to expense, our population size and professional practice guidelines.

The Committee has told me that it is not aware of any case where a woman's request to have an abortion has been refused, where her circumstances meet criteria in which an abortion can legally occur. They have gone onto say that data is not available to demonstrate how many women may not have been able to access abortion services because their pregnancy has progressed beyond the current gestation thresholds.

We have been made aware of arguments being made, which emanate from research, which does demonstrate that restrictions on abortions past 20 weeks gestation disproportionately impact on women who are disadvantaged socially and those experiencing reproductive coercion and other forms of domestic violence.

I would argue the case strongly, however, that where this research is incomparable in certain respects with us, as a very small, very wealthy jurisdiction like Guernsey, with a population of 63,000 people, where the nature of Social Services, with public and third sector offers strong support to those most vulnerable and making huge efforts to reverse the disadvantage that they face in our society.

If we have to push the extension to the 24 weeks limit then we have some serious questions that we need to address about our failings. In fact, I would go further, than an extension to this extent could be deemed an admission that we are failing in some areas, and I really do not think this is the case. Yes, we can do better, but failing would be too strong a word, and therefore does not support the extension.

The consultation that the Committee undertook, would surely have been able to extrapolate data to show if women had presented to their GPs as pregnant and revisited later in the pregnancy to ask if she could abort and happen to be over the current 12-week limit. I spoke to one of the professionals at length about this matter, given the lack of data, and was told that in their 20-year career locally, they had come across one instance of a late-term abortion at 20 weeks. That says to me that the demand will be very low.

We currently support with effort and funding, the survival of so-called non-viable babies to survive before 24 weeks where the mother suffers a condition such as pre-eclampsia and yet we are proposing to willingly allow the termination of the life of a viable pregnancy at 24 weeks in this policy letter. This is more than a conundrum, it is a matter of ethics.

Deputy Merrett made some very strong points and I thank her for allowing deeper exploration of this matter and for sharing with us her most personal of stories. I will finish by summarising that personally I am uncomfortable with this particular amendment and it is because I cannot reconcile that the original proposal, with the termination of healthy babies at six months, who are capable of surviving outside of the womb, with our attempt as a mature community to give support to women to achieve not just equal opportunities in our society but also to thrive.

We are seeking to extend the period to 16 weeks as a sensible cut-off point for social termination, not for medical reasons. The trend globally looks like it might be changing to roll back from 24 weeks if we use New Zealand as an example. After 16 weeks the impact on mental health issues is likely to increase, not just for the women but also other related parties –

The Bailiff: Deputy Dudley-Owen, I am sorry to interrupt you again but Deputy Hansmann Rouxel wishes to raise a point of correction, so Deputy Hansmann Rouxel.

Deputy Hansmann Rouxel: It was a point of correction on the 20 weeks in the New Zealand case. The 20-week threshold is not based on foetal viability, but rather on the complexity of the procedure itself. I just want to make that very clear, that Deputy Dudley-Owen is misunderstanding the reports from New Zealand.

The Bailiff: Deputy Dudley-Owen to continue please.

Deputy Dudley-Owen: Thank you. After 16 weeks, impact of mental health issues is likely to increase, not just for the women but also other related parties. After 16 weeks, the complexity of the procedure increases and the cost of the procedure will inevitably increase as well. These points, along with the ethics and the lack of evidence for the demand for late terminations to the extent suggested by the proposals, is where I ask Members please to give this amendment their support.

Thank you.

The Bailiff: So now we come to the closing on Amendment 3 and I invite Deputy Tooley on behalf of the Committee to speak to Amendment 3 and then I will turn to the proposer, Deputy Le Tocq. So, Deputy Tooley please.

Deputy Tooley: Thank you, sir.

My own children are just returning from school so I hope there will not be too much noise as they come through the doorway. The Committee's Proposition that relates to this amendment is:

> To agree to amend the Law to remove the gestational threshold for abortion procedures falling within section 3(1)(c) of the Law, as described in paragraph 5.29 of this Policy Letter.

As is the case with all of the Propositions, the Committee has made its recommendations based on robust, scientific evidence. Medical professionals in specialities that are relevant to abortion care are in agreement that viability is appropriately set at 24 weeks of gestation. Perinatal mortality data, including data form the Bailiwick, are collated annually regarding the outcomes of those infants born very prematurely to guide future practice.

If it ever becomes apparent that the age of viability needs to be reconsidered, the recommendation will be driving by the specialists who are qualified to speak on this matter. When the age of viability in the UK law was reduced from 28 weeks to 24 weeks, it was reduced because the Royal College of Obstetricians and Gynaecologists had noted the significant progress in neonate survival rates and subsequently recommended that the age at which a foetus should be considered viable should be 24 weeks, and parliament subsequently agreed to amend the Abortion Act on their advice.

The amendment is only likely to achieve disruption to the abortion service, a vital component of women's reproductive health services, by pro-life organisations and false science. The amendment will also mean the ability to pay for an abortion will continue to dictate whether a woman can access a health service that she might need, because if she is able to pay and make arrangement for herself to travel to England to have an abortion privately, beyond 22 weeks, she may do so.

The second part of this amendment, though, which talks about the point of foetal viability as determined at that time, gives the Committee *for* Health & Social Care enormous concern. Because the potential for legal challenge here would make it impossible to implement this and we were so concerned about this that we asked the Law Officers for an opinion and they told us that they could not immediately point to a definition that could be adopted for the purposes of legislation and they referred to the risk of litigation that might ensue if the concept were adopted without clear definition.

They said that they could not think of a definition of foetal viability that would not involve some sort of medical opinion, which would of course be open to potential challenge. They told us that, if this amendment were to carry, and the subsequent Proposition was approved, it was their opinion that further research, consultation and policy work might well be required, together with further States' approval of any proposed definition or practice.

This proposal, this amendment aims to further restrict the practice of expert medical professionals and to do that through legislative requirements that are not supported by scientific evidence. There is no scientific evidence that underlies this amendment. This is another amendment, which does not do what the original Propositions do. The original Propositions, in the policy letter, support the medical evidence, the medical advice and the opinion of the experts on this. Thank you, sir.

The Bailiff: The proposer of Amendment 3, Deputy Le Tocq, to reply to debate on it.

Deputy Le Tocq: Thank you, sir.

I think it I has been a helpful and frank and honest debate on these issues and before I go into the particular issues on this amendment, I just need to address something that Deputy Soulsby said, particularly. That is she said that I am coming at this from an anti-abortion viewpoint.

I think I have made my position very clear on that already but the point is, Members will note, that I am jointly supported in this by Deputy Dudley-Owen, who is pro-choice in position. I think that should indicate to Members that it is not just a simple matter of being on one side or the other. Many in our community who have contacted us fall somewhere in between for all sorts of different reasons, they are uncomfortable with the Propositions as they stand and they may want to, therefore, have something in between that. A pragmatic compromise somewhere in between.

That sir, as I said yesterday, when we were debating the *sursis motivé* is why I believe that those people need to be listened to in some way and brought along as much as possible to a position we can, as a community, live with. It is a bit like policing with consent. We need, particularly on these sorts of issues, to galvanise as much as possible the support of our community.

That does mean compromise, does mean time. We have not had as much time as we would like, so we are dealing with some issues here that, arguably, as some people have said, are arbitrary gestation periods. But Deputy McSwiggan said, she alluded to I think in her speech, and referred back to the organ donation debate that we had.

I would say that for many people here we are not talking about organs here and, whilst she referred to bodily autonomy, her Committee, HSC, is recommending that the Assembly restrict pregnant women in terms of bodily autonomy after 24 weeks in certain circumstances. They are not recommending that all of these regulations and restrictions are removed.

That I think demonstrates why we are in this grey area that Prof. Regan said and it means that all of us will have slightly different views, depending on what our experience is, depending what we have read, depending on what we have felt from listening to other people's stories and we need to take time to do that listening.

That 24 weeks that they are recommending, basically on the basis of the law in Great Britain, could be described equally as an arbitrary gestation period. The reason for that, and it has been alluded to by others in debate, I think Deputy Soulsby alluded to it, it was once 28 weeks. On the recommendation of the Royal Colleges it was reduced to 24 weeks and at the time the argument was largely because, whilst at the time it was set at 28 weeks, no babies were surviving outside of the womb below 28 weeks.

It was moved to 24 weeks when there were examples of a few – and certainly a very much smaller percentage than we are seeing below 24 weeks – a few babies that began to survive and thrive outside of the womb at 26 and 27 weeks. And 24 weeks was chosen because it was a safe period for all the reasons that have already been given in debate. I will not go over that.

Sir, whilst 16 weeks, therefore, could be set as another arbitrary, particular date and time period, 22 weeks has some logic to it also. But I accept all of these could be taken as arbitrary and, if you wanted to go in that direction, then the only answer is to say we should have no restrictions on any sort of abortions, right up to birth.

I would challenge Deputy Le Clerc, who asked legal questions about – and I know we are going to deal with – the issue of criminality and some may agree with that and some may want to remove the criminality aspect, which I can completely understand. But nevertheless, the current way it stands what happens to those who seek abortions outside the current law or under the proposals for abortions that do not fit into the category beyond 24 weeks, that is a question to ask.

Again, it is a matter of the community that we are in and the policing with consent. I do not think it is a reason for us to abandon everything and to give up. I think it is a reason to think very carefully before we just go in the direction that a select group of medical professionals are recommending. We must take their views into consideration. But as many have said, this is not simply a matter of listening to medical experts, otherwise it would be like any other operation and we would not really be debating it in the way that we have here.

I want to make some comments regarding viability and link into that to a certain degree the fatal foetal conditions, because people have asked about that, how would this work here. I have mentioned to the Law Officers, because they have raised this with me as well, that the Republic of Ireland brought in a new law on abortion in 2018 and, in that law, it defines the condition of a fatal foetal abnormality in this way:

> A condition likely to lead to the death of a foetus: 1, a termination of pregnancy may be carried out in accordance with this section where two medical practitioners, having examined the pregnant woman, are of the reasonable opinion, formed in good faith, that there is a present condition affecting the foetus that is likely to lead to the death of the foetus, either before or within 28 days of birth.

Sir, they have got a similar definition in terms of viability and when we deal with the legal challenge, because that has been mentioned, that might well happen in the future but, as it currently stands, that law has not been subject to legal challenge.

Deputy McSwiggan said yesterday, in terms of the UK law, we should just continue with these reforms, irrespective of legal challenges. She alluded to the UK law having been subject to many legal challenges. Actually the Abortion Law in the UK has not, strangely, been subject to many legal challenges until recently and mainly due to the issue of disability, the disability community feeling that their voice has not been heard and they are discriminated against.

So I just want to finish with a comment from Baroness Tanni Grey-Thompson, because I spoke to her again this morning and she says this:

> I remain shocked that disabled people and their representatives, such as the Guernsey Disability Alliance, seem to have been proactively excluded from the formal consultation on these proposals –

The Bailiff: Deputy Le Tocq, we have lost you at the moment.

Deputy Le Tocq: Hello?

The Bailiff: We can hear you again now. You were just going to quote from Baroness Tanni Grey-Thompson.

Deputy Le Tocq: Yes, she said this to me:

> I remain shocked that disabled people and their representatives, such as the Guernsey Disability Alliance, seem to have been proactively excluded from formal consultation on these proposals. I remain very concerned of the currently unfelt and unexpressed effect this will have on their wellbeing in Guernsey. Affording opportunities for discrimination in law on the ground of disability is a hallmark of a past generation, which we are beginning to wake up to. Guernsey may want to modernise its Abortion Law but expanding provisions to include non-fatal disability means expanding it to cover people like me, telling us we may as well have not been born, just because we have a non-fatal disability.

I will leave it there, sir. Thank you.

The Bailiff: Members of the States, I think it is going to be helpful to have the four recorded votes on these four amendments before we break.

Deputy Tooley: Sir, it is Deputy Tooley. I wonder if I might ask a question?

The Bailiff: Yes, I was going to turn to that, Deputy Tooley.

Deputy Tooley: I do apologise sir. Deputy Dudley-Owen and Deputy Le Tocq have now had another amendment circulated to Members, in which they propose a term limit of 20 weeks, instead of 16 weeks and 22 weeks respectively, which they are committed to in their current amendments that are in play. I wondered whether, as we have run these amendments together in order to have a single debate on the gestational term limits, you are intending to invite debate on that amendment, now, so that a vote can be taken in this series of votes?

Thank you, sir.

The Bailiff: I was not going to, on the basis that I have no idea whether Amendment 10 is going to be placed. It has been submitted but we have had a debate on these four amendments so I think

we should move to a vote on all four of these amendments and then people can take stock. So, we are going to have a vote first, Members of the States, on Amendment 1, which is proposed by Deputy Stephens and seconded by Deputy Le Tocq, which was substitute new wording as Proposition 3. It is a recorded vote. Greffier.

There was a recorded vote.

Amendment 1
Not carried – Pour 5, Contre 32, Ne vote pas 2, Absent 0

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

The Bailiff: Members of the States, the voting on Amendment 1, proposed by Deputy Stephens, seconded by Deputy Le Tocq was as follows: there voted Pour 5, Contre 32, there were two abstentions and therefore I declare Amendment 1 lost.

We move to the vote on Amendment 2 next, which similarly has the effect of deleting Proposition 3 and substituting new wording. It is proposed by Deputy Stephens and seconded by Deputy Le Tocq and once again there will be a recorded vote. Greffier.

There was a recorded vote.

Amendment 2
Not carried – Pour 10, Contre 27, Ne vote pas 2, Absent 0

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Gollop	Deputy Parkinson	Deputy Dudley-Owen	None
Deputy Lester Queripel	Deputy Le Clerc	Deputy Prow	

Deputy Mooney	Deputy Leadbeater
Deputy Stephens	Deputy Trott
Deputy Inder	Deputy Le Pelley
Deputy Lowe	Deputy Merrett
Deputy Smithies	Deputy St Pier
Deputy Paint	Deputy Meerveld
Deputy Dorey	Deputy Fallaize
Deputy Le Tocq	Deputy Laurie Queripel
	Deputy Hansmann Rouxel
	Deputy Graham
	Deputy Green
	Deputy Brouard
	Deputy McSwiggan
	Deputy de Lisle
	Deputy Langlois
	Deputy Soulsby
	Deputy de Sausmarez
	Deputy Roffey
	Deputy Oliver
	Alderney Rep. Roberts
	Alderney Rep. Snowdon
	Deputy Ferbrache
	Deputy Tindall
	Deputy Brehaut
	Deputy Tooley

The Bailiff: Members of the States, the voting on Amendment 2, proposed by Deputy Stephens, seconded by Deputy Le Tocq, was as follows: there voted Pour 10, Contre 27, there were two abstentions and therefore I declare Amendment 2 lost.

We now turn to a recorded vote on Amendment 9, which is proposed by Deputy Dudley-Owen, seconded by Deputy Graham and has the effect of substituting words in Proposition 4 and deleting some of the words. Greffier.

There was a recorded vote.

Amendment 9
Not carried – Pour 11, Contre 27, Ne vote pas 1, Absent 0

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

Deputy Ferbrache
Deputy Tindall
Deputy Brehaut
Deputy Tooley

The Bailiff: Members of the States, the voting on Amendment 9, proposed by Deputy Dudley-Owen and seconded by Deputy Graham, was as follows: there voted Pour 11, Contre 27, there was one abstention and therefore I declare Amendment 9 lost.

We now turn to the final vote in this suite of amendments, which relates to Amendment 3, proposed by Deputy Le Tocq, seconded by Deputy Dudley-Owen, which also deals with Proposition 4. A recorded vote, Greffier, please.

There was a recorded vote.

Amendment 3
Not carried – Pour 14, Contre 25, Ne vote pas 0, Absent 0

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

The Bailiff: Members of the States, the voting in respect of Amendment 3, which was proposed by Deputy Le Tocq, seconded by Deputy Dudley-Owen, was as follows: there voted Pour 14, Contre 25, and so I declare Amendment 3 also lost.

Now, Members of the States, when we resume after the break, unless Deputy Dudley-Owen and Deputy Le Tocq as the proposer and seconder of the amendment that has just been circulated, Amendment 10, wish to lay that one next, which logically, because you are still thinking about Proposition 4, would make sense, I am going to invite Deputy Le Tocq, seconded by Deputy Stephens, to lay Amendment 8, which will be the next one to deal with. The reason I am doing that is that it affects three of the extant Propositions, by attempting to substitute a single Proposition.

So I will turn to Deputy Dudley-Owen immediately after the break and find out whether Amendment 10 is to be laid and there would have to be the motion under Article 7(1) before that and, if it is not to be laid, then we can put that to one side and turn to Amendment 8 and we will resume at 4.35 p.m., so that is nine minutes' time.

The Assembly adjourned at 4.26 p.m.
and resumed its sitting at 4.35 p.m.

Modernisation of the Abortion (Guernsey) Law, 1997 –
Debate continued

The Bailiff: Now Deputy Dudley-Owen, as the proposer of Amendment 10, have you had time to reflect on whether you want to lay Amendment 10 with the preceding motion?

Deputy Dudley-Owen: Indeed, yes. Deputy Le Tocq and I have exchanged messages and we would like to withdraw the amendment, please sir.

The Bailiff: It does not need to be withdrawn, it just simply will not be laid. Therefore, although it has been submitted, we will pass over it. So we come to Amendment 8, please, Deputy Le Tocq.

Amendment 8
To delete propositions 8 to 10 and replace therefor:
"8. To agree to amend the Law in order that, for the purposes of section 5(1) of the Law, a medical professional or other staff may exercise their Article 9 Convention Right to freedom of conscience from participating in any activity under the Law, including preparing for, aftercare, supporting or performing an abortion, except in the cases of an emergency necessary to save the life of the woman."

Deputy Le Tocq: Thank you, sir. Can I ask the Greffier to read it please, sir?

The Bailiff: Of course you can. Greffier.

The States' Greffier read out Amendment 8.

The Bailiff: Deputy Le Tocq.

Deputy Le Tocq: Thank you, sir.

When I first read the policy letter and then read the Propositions, Propositions 8-10 seemed not to correlate very well with what was said in the policy letter, nor indeed with some of the presentations that we have had. I got some legal advice and I was advised that one of the problems with the existing 1997 Law is the definition of 'treatment' in the case of where a conscientious objection could be made.

So I had initially drafted an amendment that sought to define that in law and was going to lay that until I saw the response to some of the amendments from HSC and from BPAS. Now BPAS says it acknowledges that Propositions 8-10 go beyond the law in Great Britain, which gave me some concern, although BPAS of course say they strongly support this position but without any real justification for doing so.

So this amendment that Deputy Stephens and I are laying would better define the options for conscientious objection rather than restrict it, as it seems to be the intent of the Propositions. It would ensure that the law provides a right to conscience, in line with Article 9 of the European Convention of Human Rights, for both medical and ancillary staff. Everyone has the right to freedom of thought, conscience and religion. Conscience is also protected by resolution 1763 (2010) of the Parliamentary Assembly of the Council of Europe.

It will be based on the conscience exemption active in the UK, in section 38 of the UK's Human Fertilisation and Embryology Act of 1990, which states that:

No person who has a conscientious objection to participating in any activity governed by this act shall be under any duty however arising to do so.

I encourage Members to support it sir.

The Bailiff: Deputy Stephens, do you formally second Amendment 8?

Deputy Stephens: I do sir, thank you.

The Bailiff: Thank you very much. Who wishes to speak on Amendment 8? Deputy Inder.

Deputy Inder: Sir, there are elements around this which for similar reasons I did not vote for assisted dying all those moons ago. I had some concerns that staff would be put in positions where they did not want to be. They were employed under certain contracts and when we drop laws and ideas on people it may be the case that they had not been consulted in any way. I suspect staff have not here, more than that, for the same reasons that I voted against assisted dying, I will be supporting this amendment.

The Bailiff: Deputy McSwiggan.

Deputy McSwiggan: Thank you, sir.

I want to just refute … no, refute is unfair. Deputy Inder felt that staff might not have been consulted on this proposal. That is factually not the case. As I said to Members this morning, we consulted with all staff groups who are involved in the provision of care to pregnant women, including abortion care, about the development of these proposals and there was, not unanimous on all counts, but overwhelming on all counts and unanimous on some counts, support for what the Committee is proposing.

It is important that a right of conscientious objection to abortion remains in place, in law, but I think there is some misunderstanding of the Committee's proposals, perhaps, among those who would like us to vote for this amendment because the Committee proposals do retain that right of conscientious objection, but they are clear that where a professional is providing care to a person that is not directly part of the abortion procedure, it remains part of their professional responsibility to continue to do that.

In the development of these proposals we were made aware of instances, for example, where a health professional who conscientiously objected to abortion in Guernsey, might have, that did refuse to answer the call bell from a patient who had come in for an abortion. But the provision of care not directly related to the abortion remains an important professional duty and it is not appropriate that professionals should be able to refuse to have anything to do with a patient who has come in for an abortion.

We would not want to be providing a health service to the public where women would have to accept that, if they had come in for an abortion, there would be some members of staff who would treat them simply as if they were dirty and they would have nothing whatsoever to do with them.

So the Committee's proposals are simply to try and steer the right course between where conscientious objection is permissible and morally understandable and where it becomes a form of tarnishing the person who has sought an abortion rather than acting on one's own moral code. I think the proposals do that but the amendment does not.

I would just make one further point in respect of Deputy Inder saying, 'this is what I was worried about in the context of assisted dying'. Because assisted dying would have been an entirely new approach for Guernsey and I think that Deputy Inder and I shared many of the same concerns about that. But abortion is not. Health professionals in Guernsey have known that they have been working a health system where abortion is offered for the past 25 years. So navigating professional boundaries around abortion is not new.

Expecting that there would be an opportunity to conscientiously object but also understanding that there are duties that one must still continue to observe has been part of the reality of health professionals in Guernsey for the last 25 years, so the two are not analogous. I think the proposals offer a much fairer and more equitable approach towards the care of women who come in for abortions, than this amendment would do.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

I think Deputy McSwiggan was quite kind and gentle towards Deputy Le Tocq's amendment when she spoke. I am opposed to it as well, but I do not believe this amendment has anything to do with conscientious objection. There is actually, I think, a legitimate debate, although the Committee *for* Health & Social Care is not proposing to go this far, but I personally think there is a very legitimate debate about whether there should be the concept of conscientious objection in this area of the law at all. But that is outside of the scope of what is being debated today.

But this amendment, the *raison d'être* cannot be conscientious objection in the way that Deputy Le Tocq is suggesting. Let us just say that somebody is a pacifist and is conscientiously objecting from fighting in war. If that person was then provided with a legal right, if they were a medic, not in a war zone but in a civilian zone, to which soldiers were being returned, if that person was given a legal right to withhold medical care from a person who had been injured in warfare, I do not think that is conscientious objection, I think that is neglect of professional duty.

That, I think is what Deputy Le Tocq is proposing to permit in this amendment. He is not restricting the right of the professional to object to being involved directly in abortion. He is proposing that, but so is the Committee. But he is seeking to extend it to the full range of medical services that may be provided to a woman before and after the carrying out of an abortion. Deputy Yerby has provided one such example but there are many other examples –

The Bailiff: Deputy Fallaize, I have reminded other people before, it is Deputy McSwiggan.

Deputy Fallaize: I am sorry, sir. I always do that. I am even worse than Deputy Trott for that and I profusely apologise to Deputy McSwiggan. Sorry. So Deputy McSwiggan provided one example but there are many other examples. There are many ways in which women who are contemplating abortions or who have undergone abortions may have to come into contact with medical services or non-medical health and care services and Deputy Le Tocq is proposing an amendment, which would permit any professional working in any of those services to, as he puts it, conscientiously object from caring for that woman.

I think, sir, that is simply allowing a professional medical or care individual to withdraw their care and I think it is simply permitting neglect of the care of the woman who should be entitled to it. I accept that there is going to be a form of conscientious objection remaining in the legislation, because nobody is proposing to remove it in the circumstances of the carrying out of the abortion itself, but this amendment, really, takes us to quite an extreme position, and I reject the idea that it is to do with conscientious objection.

It is basically to do with a medical professional being able to symbolically demonstrate their philosophical opposition to abortion by having nothing whatsoever to do with a woman who is considering or who has undergone an abortion. I think that tips the balance far too far and for that reason this amendment should be rejected.

Thank you, sir.

The Bailiff: Does any other Member wish to speak on Amendment 8? Because if they do not then I will turn to Deputy Tindall, this time, on behalf of the Health & Social Care Committee, to speak before turning back to Deputy Le Tocq. So Deputy Tindall.

Deputy Tindall: Thank you, sir.

This particular amendment seeks to use the second part of Article 9 to basically remove many of the limitations that the Committee *for* Health & Social Care are proposing to bring in, in order to assist with an understanding and an alignment with the professional standards and duty of care for roles within these medical specialities.

The second part of Article 9 says:

> Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Sir, we believe that the proposals that we have put in place do just that and that this amendment goes much further. Not only for the reasons Deputy Fallaize and Deputy McSwiggan have named, it also removes Propositions 8, 9 and 10 and I would like just to cover why we think those Propositions are appropriate.

The Committee respects the right of medical practitioners to object to taking part in an abortion procedure, Proposition 8, however, seeks to balance the rights of healthcare professionals to act within their own ethical principles and the rights of patients to access medical care.

It is the duty of a healthcare professional to ensure that someone is able to access the healthcare they need, which means that their conscientious objection should not obstruct or delay the pathway for abortion care or prevent the woman from receiving care. This requirement is in line with professional standards.

With regard to Proposition 9, the removal of this results in a healthcare practitioner being able to refuse to participate in care required to save the life or prevent serious injury to the physical or mental health of a woman who has undergone an abortion, even if she is pregnant, subject to the amendment.

Proposition 10 is intended to provide additional legal clarity on those areas of practice where professionals can object to being part of and others where there is not appropriate. This is welcomed by managers who are operationally responsible for the service. This will clarity, for example, that a member of staff with a conscientious objection does not and would not have to play a direct role in the administration of medication to initiate an abortion or take part in a surgical procedure, for example, but could not refuse to provide the no longer pregnant women with pain relief, if required after a procedure.

It is intended to clarify conscientious objection in accordance with professional standards. The limits of the scope of conscientious objection were clarified by the UK Supreme Court in 2014 – *Greater Glasgow Health Board v. Doogan* – where it upheld an appeal against a court ruling in Scotland, which would have enabled healthcare staff to refuse to carry out care duties, which were far removed from abortion procedures. This found that under the Abortion Act legislation, participate means taking part in a hands-on capacity.

Sir, we have received responses from BPAS, mentioned previously in amendments, and I would like to read out some sections, which they have helpfully provided.

> Conscientious objection refers to the refusal to perform certain activities on moral or religious ground. In the law related to abortion, conscientious objection refers to the legal right of healthcare professionals, including doctors, nurses, midwives, pharmacists and other healthcare professionals, to opt out of providing abortion services. BPAS supports the legal provision of conscientious objection to allow healthcare professionals to practise in line with their personal beliefs, alongside guidelines that make clear the obligation of an individual with a conscientious objection to ensure their patient can access appropriate care.
>
> Under existing law, section five of the Abortion (Guernsey) Law, 1997, provides for conscientious objection as of abortion provision, along the same lines as the provision in the Abortion Act 1967. Specifically it provides that no person shall be under any duty where, by contract or by any statutory or any other legal requirement, to participate in any treatment authorised by this Law, to which he has conscientious objection.

The interpretation of these provisions was laid out in this 2014 Supreme Court judgment that I have previously mentioned. The operation of the guidelines issued by medical bodies make clear

that those individuals who have a conscientious objection have certain legal and ethical obligations to patients including not refusing to treat a particular patient or group of patients or the health consequences of lifestyle choices because of an individual's personal beliefs about them, doing their best to ensure that patients are aware of their objection in advance, being open with employers, partners or colleagues about their conscientious objection, ensuring the patient has enough information to see another professional, in an emergency not refusing to provide treatment necessary to save the life of or prevent serious deterioration in the health of a person because the treatment conflicts with personal beliefs.

Sir, the recommendations in the document go further than the law in Great Britain but rightly seek to eliminate the impact of those professionals, who go beyond conscientious objection to conscientiously obstruct patients from accessing legal medical care. The legal provision for conscientious objection must seek to balance the rights of the healthcare professionals to act within their own ethical principles and the rights of patients to access legal medical care.

Healthcare professionals have a particular duty of care to their patients, which is not negated when they exercise their right to conscientious objection. It is essential to the functioning of an effective care system that patients can expect that, regardless of which healthcare professional they encounter, their best interests will be at heart.

So BPAS strongly supported our recommendations in 8, 9 and 10, which this particular amendment seeks to remove. I therefore ask that our proposals are not removed. That indeed our proposals are supported and this amendment is defeated.

Thank you, sir.

The Bailiff: I invite the proposer of Amendment 8, Deputy Le Tocq to reply to the debate. Deputy Le Tocq.

Deputy Le Tocq: Thank you, sir.

I will be brief because it has been a brief debate. But I will just start with the comments that have been made in response from Deputy Tindall. I actually do not disagree with her or indeed the Committee's intention. What I said was I was not convinced on reading this that Propositions 8-10 actually do that and particularly, since reading the BPAS comments and the comments that she just made, they go beyond the current law in the UK.

I do not believe we should do that. I do not think that is a good precedent to set in this respect. Whilst I might disagree with certain conscientious objectors and, to pick up Deputy McSwiggan's point she said they did a consultation and presentation to staff and they were not unanimous, that is probably not surprising, is it, because there were probably a few conscientious objectors that did not agree with these things, because it goes beyond the UK law and that has already been stated.

All I am trying to do is to return to that and I do not disagree that our current law needs updating and clarifying. So what is proposed here would fit exactly into the clauses and the wording on conscientious objection that exists in the UK under the 1990 Act and I encourage Members to support that.

Thank you, sir.

The Bailiff: Members of the States, we have come to the vote on Amendment 8, which is proposed by Deputy Le Tocq, seconded by Deputy Stephens. Deputy Fallaize has requested a recorded vote, so we will have a recorded vote please, Greffier.

There was a recorded vote.

Amendment 8
Not carried – Pour 8, Contre 31, Ne vote pas 0, Absent 0

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

The Bailiff: Members of the States, the voting on Amendment 8, proposed by Deputy Le Tocq, seconded by Deputy Stephens, is as follows: there voted Pour 8, Contre 31, and therefore I declare Amendment 8 lost.

Amendment 4
Immediately after Proposition 4 to add a new proposition numbered 4A:
"4A. To agree to amend the Law so that pregnant women are offered the option of foetal pain relief after 18 weeks of gestation."

The Bailiff: Now Members of the States, we have four amendments left, each of them wishes to add an additional proposition. I am going to start with Amendment 4 and take Amendment 4 discretely, that is to be proposed by Deputy Le Tocq, seconded by Deputy Dudley-Owen, if you wish to place it Deputy Le Tocq?

Deputy Le Tocq: Sir, I do, please, and I ask for it to be read please.

The Bailiff: Thank you very much. Greffier, if you could read it for us please.

The States' Greffier read out Amendment 4.

The Bailiff: And Deputy Le Tocq to open debate on this amendment please.

Deputy Le Tocq: Thank you, sir.
I would like to begin by referring to a current case. It is in the pre-action phase in the UK, concerning a lady called Anna Maria Tudor, who feels that her rights as a woman were seriously

trampled on in the way that her abortion was handled. She was 23 weeks pregnant when she had a termination at a BPAS clinic.

She asked repeatedly to see the scan images of her baby before the abortion, but these requests were refused. After the abortion she was deeply upset when she discovered two things that she had not been told by the clinic, which she argues means that she was denied the ability to provide her informed consent to the procedure.

First, the babies had been born and survived at 23 weeks. Second that the scientific evidence about the ability of babies to feel pain in the womb is now hotly contested at this stage of gestation and she feels that, as the mother, she had a right to know that and would have been given the option of analgesia for the baby.

In this regard, 10 years ago when the RCOG guidance was produced on foetal pain, it was thought that babies were effectively asleep for the entirety of pregnancy. Now, evidence suggests that they are awake for 10% of the time. One of the experts who contributed to the RCOG report of 10 years ago published research in January of this year in which he concluded he concluded that he felt the evidence was such that he had now changed his view and concluded that babies may be able to feel pain from the second trimester and that women should be given the option of pain relief from this point.

For the record, he is by no means the only expert to think this but it is particularly significant because he was on the working group that produced the RCOG 2010 guidance that has been quoted to us.

Anna Maria found out that her baby was terminated at 23 weeks, without pain relief, by dismemberment. This is a very interesting and disturbing case because while of course it has regard for the unborn, the case is actually about the right of the woman, Anna Maria Tudor, whose right to know, so she could have given informed consent, were trampled on.

Considered from the perspective of the unborn, though, it is particularly troubling when seeing the context of statutory protections are provided for vertebrate animals in the UK, if their lives are ended in the womb, in order to provide them with what the Animal and Scientific Procedures Act describes as a 'humane death' during later pregnancy, two thirds gestation limit, under law in the UK.

But unborn humans of a similar gestation are afforded no such statutory protections. As we make our law in 2020, we must have regard for such things and even though at present we know abortions will not be carried out on-Island at 23 weeks, we have a responsibility not to craft careless legislation that does not deal with this point and without regard for how things might change in terms of service provision capacity in the future.

If our Law engages with the latest research rather than the outdated RCOG guidance then, while it will not be binding on the mainland, it will hopefully provide grounds for us to ask that in any late-stage abortion, provided to a Guernsey resident, pain relief will be offered. And I emphasise that, this is the option of pain relief.

I raised this question with Prof. Regan, both last week at the presentation and subsequently in a conversation, and she did agree that it was a moot point and she did believe that foetal sentience, which a lot of research has gone into, certainly there is evidence increasing that the foetus will feel pain and sensation after 18 weeks and I asked her what would happen, for example, in procedures of a late-term abortion, in say 26 weeks or so, where obviously a foeticide, an injection into the heart of the foetus, is given first and that is not successful, or other complications occur.

She said, admitting whilst they were very rare when that does occur she believes that a second injection very quickly would resolve the matter and the pain, if there is any, would be very short-lived, but also anaesthetic from the mother could possibly have affected the baby. But it is known that research into this and concern about this is rising everywhere.

So we will have, through this amendment, the opportunity to respond to the very latest research and lead the way in a manner that is actually driven by respect for the rights of women like Anna Maria Tudor. But as I say it is only to offer pain relief.

Thank you, sir.

The Bailiff: Deputy Dudley-Owen, do you formally second this amendment?

Deputy Dudley-Owen: I do.

The Bailiff: Thank you very much. Who wishes to speak on it? Deputy Hansmann Rouxel.

Deputy Hansmann Rouxel: Thank you, sir.

It really is just to point out to Deputy Le Tocq, I am glad that he brought up the concept of informed consent but I do not understand how that would be resolved by this amendment. I think if Deputy Le Tocq was to examine the court case and actually learn from that then perhaps making an amendment requiring informed consent is a better option. Although I appreciate the use of the story, I think it is a bit of a false logic and a way of crow-barring in a different concept into the debate.

Now I understand where the impetus comes from regarding this, but again I think when we are directing the drafting of legislation, we need to be very careful how prescriptive we are because that would then, there can be unforeseen consequences, and although it seems benign, the idea of offering, it feels to me that there could be unforeseen consequences as a result of putting things in legislation such as this.

Had Deputy Le Tocq worked around informed consent, which is something that is in the New Zealand legislation, then it would make sense to have brought up that story but I do not think that the amendment itself is necessary at this stage in the process.

The Bailiff: I am pausing briefly to see if any other Member wishes to speak on Amendment 4. If there is no further contribution to the debate on this amendment then I will turn to Deputy Tooley, I think it is going to be, to speak on behalf of the Committee, in respect of Amendment 4. Deputy Tooley.

Deputy Tooley: Thank you, sir.

I am afraid my computer went down mid-way through the debate then so I transferred to my phone, so I did not miss very much at all but it does mean I have got to get some windows open to find my notes, so I do apologise. Amendment 4. Thank you and thank you to the States for their patience in waiting for me to find that and be ready.

The Committee *for* Health & Social Care are unsure as to the relevance of this amendment to Guernsey Law. Or rather we are pretty sure that this amendment would not be relevant to Guernsey law. Procedures at 18 weeks gestation would not be carried out on-Island and would be supported by a specialist foetal medicine unit elsewhere in England, as at present.

It is currently anticipated that only those abortions up to 14 weeks gestation will be carried out locally. Due to the need to maintain skills, it is extremely unlikely that procedures above 18 weeks gestation would be carried out in Guernsey at any point in the future, due to the small numbers of procedures and because of the specialist nature of the support provided by these dedicated foetal medicine units.

So including this in Guernsey legislation is therefore considered, at best, unnecessary, because a woman once in the care of a clinic in the UK would be subject to the rules and regulations, which apply there, and not the rules and regulations, which apply here. It also, potentially, would lead to a situation where a woman just below 18 weeks was not offered the option of foetal pain relief because our law said that she would be offered it after 18 weeks gestation.

So HSC Committee, our view is that this is, at best, unnecessary and largely pointless and, at worst, could actually do the exact opposite of what we believe the intention is of the proposer and seconder.

Thank you, sir.

The Bailiff: The proposer of Amendment 4, Deputy Le Tocq, to reply to the debate on it. Deputy Le Tocq.

Deputy Le Tocq: For a while, there, the silence was deafening, and I think that just exemplifies how much we as a community do not want to talk about this subject. So, when we begin to shine a light on it and read some of the articles on it, and that is why I quoted that case particularly, I think like other issues in our society that were once taboo we have to face the awkward and the unwanted truth that foetuses can feel pain. It is because of that that I have raised it here.

It is true that, at the moment, certainly, abortions, do not happen at 18 weeks on-Island but of course there is no indication from the policy letter whether there is an intention to move in that direction in the future, with abortion providers such as BPAS and others coming to the Island to provide. I do not know that.

But that is not the primary reason for laying it. The reason for laying it is 18 weeks is currently deemed to be … the latest research shows that there is evidence at 18 weeks gestation for the foetus to feel pain and hence, at the moment, there would not be a need to operate below that. But informed consent, to pick up Deputy Hansmann Rouxel's points, should be already there, already part of the procedure. This is to ensure that proper information is given and if we do not do this, I fear we will be affected by legal challenges, as indeed the UK is currently. So I do encourage Members to support this because it seems logical and right for us to do so if we are modernising our Abortion Law.

The Bailiff: Members of the States, we come to the vote on Amendment 4, which is proposed by Deputy Le Tocq, seconded by Deputy Dudley-Owen, which will if carried insert Proposition 4A. There has been a request for a recorded vote and therefore I will ask the Greffier to call Members to vote.

There was a recorded vote.

Amendment 4
Not carried – Pour 13, Contre 23, Ne vote pas 3, Absent 0

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

The Bailiff: Members of the States, the voting on Amendment 4, proposed by Deputy Le Tocq and seconded by Deputy Dudley-Owen is as follows. There voted Pour 13, Contre 23, there were three abstentions and therefore Amendment 4 is declared lost

Amendment 5
Immediately after Proposition 11 to add a new proposition numbered 11A:
"11A. To agree to amend the Law so that, before performing any abortion procedure, a health practitioner is required to confirm with the woman concerned that she freely consents to the termination of her pregnancy and has not been coerced into so doing."

The Bailiff: Amendment 5 is next and is the first of the Proposition 11As. Although there has been some suggestion that we might take the final three amendments collectively, I am going to take them separately, just because it will be easier that way as there are different people involved in proposing and seconding them and we have already experienced taking several amendments together. So Deputy Stephens, if you want to lay Amendment 5, I invite you to lay Amendment 5 now.

Deputy Stephens: Thank you, sir. May I ask to have it read please?

The Bailiff: Of course you can. Greffier, could you read Amendment 5 for us please?

The States' Greffier read out Amendment 5.

The Bailiff: And Deputy Stephens to propose that amendment.

Deputy Stephens: Thank you, sir. This amendment is simple. It is self-explanatory, so I will not be saying a great deal. But it is possible that coercion may be applied to a woman to seek an

abortion from a partner or a family member or another. This amendment provides an opportunity in addition to the signing of a form of consent for a procedure or treatment, where a woman has freely given consent can be discussed and should be discussed.

The health professional, at a point to be yet decided but certainly in the early stages of an application for an abortion can of course only give an opinion based on the information given by the woman but it would be an additional opportunity to clarify freedom of consent in a non-pressured environment.

Thank you, sir.

The Bailiff: Deputy Le Tocq, do you formally second that amendment?

Deputy Le Tocq: I do, sir, thank you.

The Bailiff: Thank you very much. I am going to call Deputy Gollop first and then Deputy Oliver. So Deputy Gollop please.

Deputy Gollop: Thank you, sir.

Although I am not 100% clear on the practicality of this and the definition of medical practitioner, I do in principle support this amendment because I think a lot has been said and written in the Report about the issues and about the significant social problems that many women find themselves in.

They are sometimes linked to poverty, sometimes to abuse, sometimes to violence or abusive partners or very difficult situations in their home life and perhaps historically a medical health system that was not as affordable and as available as it could be. I accept all those reasons and have always pressed for more reform in both attitudes and funding for those elements.

But I think we should not be too biased and on occasions there may well be circumstances where peer pressure, employer pressure or partner pressure, or ex-partner pressure, or parental pressure even or religious pressure, might be placing pressure on a woman to have an abortion they are not entirely certain about and I think if there is additional guidance of this kind in an amendment that they follow, additional opportunities for professional, unbiased counselling, then I believe that will strengthen the reforms of the Law.

Let us make it clear, I am broadly pro-choice, I am broadly for the modernisation of the Law in appropriate circumstances but I do feel that maybe we have overdone the scientific evidential base and not put enough humanistic psychology into acknowledging that, while abortion is a component part of what we offer people, obviously women, it should not necessarily be seen as the best solution to issues and therefore I would really hope that it is put in its context as something that people are entitled to have but nevertheless there are issues to overcome in making that choice and it has to be a free choice, without coercion and with due guidance and therapeutic help where appropriate.

Thanking you sir.

The Bailiff: Deputy Oliver.

Deputy Oliver: Thank you, sir.

I have got mixed views about this amendment because, unfortunately, I have had a number of operations due to various things and every time, apart from one, it got to the stage where I was asked nearly six or seven times whether I wanted to proceed with this and I was happy to proceed with the operation. There was only one where I was not asked and it was my hip, but I had passed out due to the pain so I was in no place to say yes or no and my mother took on the role of saying, 'Yes, can you just do it.'

Now something placenta previa, when the placenta partially or totally covers the cervix can actually come away and it can cause haemorrhaging very badly. Now in a type like that I would still expect them to say, 'Is this okay to go ahead and do?' But there are going to be times, I think, where,

if the mother's life is at risk or something is happening that the baby needs to be aborted straight away, otherwise the mother's life is going to be in serious danger, that I do not know if this is going to be possible. So, on a practical level, I do not know if this is going to be possible but, on a theoretical level, I think it is great and I think that it should happen every time. So thank you.

The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

I can actually pick up quite nicely from where Deputy Oliver left off on the practical level. I think Members should be aware that at any point during any consultation with any health practitioner that the pregnant person may be before, they can ask for the partner or for anybody accompanying that person to step outside for a moment of privacy for the person being pregnant, for whatever reasons.

Certainly, I would like to think that if a health practitioner in this regard thought there were any potential feeling of coercion, for example the signs could potentially be that the pregnant person is asked a question and the partner continues to answer those questions, rather than leaving it to the person to whom the questions are actually directed. So Deputy Oliver says at a practical level, the practical level that I would suggests, and in my personal experience, the partner is asked to step outside so that the person can have questions asked or some comments made or a general conversation about it.

I think it would be rather naïve sir, if medical practitioners, or as this amendment says, health practitioners, were not aware of the signs and were not already doing that, without having to be directed by law *per se* to do that.

I am very concerned, not a bit concerned, I am very concerned that Deputy Stephens, I believe she said, if they relied just on the information given by the woman. Who else would have given the information by them, quite frankly? That implies to me, sir, and alluded to by Deputy Gollop actually we could have a psychologist or psychiatrist involved in this and you have to ensure that the pregnant person is sound of mind, is able to give free consent. That really concerns me.

That reminded me of an email that we received from a member of the community, basically, women are 'feeble-minded' and can be 'easily coerced' by men. I was not sure if they were coerced to have the sexual act in the first place to actually conceive or easily coerced … actually it might not have been to Members it might have been just to me, so I had better make that clear, about apparently feeble-minded women, they could be easily coerced, I did check for clarity but I have not heard from them yet, but either for the sexual act in the first place or to having an abortion or termination. I think actually that is quite concerning in the year 2020 that we are all so feeble-minded. I do not feel feeble-minded, sir.

This health practitioner and the generality around it is of huge concern to me because it looks to me as if Deputy Stephens, and obviously when she sums up and Deputy Le Tocq I am sure will also apprise us, that that is not their intent, that they do not think that a pregnant person should see a psychiatrist or a psychologist to ensure that they are able to fully consent.

As I said, in absolute practical terms, in my experience at any juncture a medical practitioner, medical professional can ask the partner to step outside or ask for a private consultation. And so could the patient. I understand the coercion situation that the signals are usually clear, certainly clear to somebody that is qualified, but I am not, and I would say the person who is trying to ensure that the consent would have the relevant training or qualifications to ensure they are able to … certainly if they have concerns about coercion, that there would be a practice in place to follow.

So I think this is just unnecessary. I think it implies that our current health professionals simply are not able to recognise signs of coercion and I honestly do not think that is the case. This would have no practical implication, other than if we are seriously not going to believe the information by the the woman – I was going to say 'person' but that is just a false difference, because who else could the information be given from?

Are we saying, or is Deputy Stephens saying, and Deputy Le Tocq, that actually the pregnant person should have to go for an assessment to ensure that they fully consent and that they have not been coerced into doing so? That to me would seem unnecessary. The practical application of this amendment, if it passes, I think could do more harm than the current positions that we have got before us to consider in the original policy paper. Therefore, I have so many concerns over this amendment that I cannot.

The Bailiff: Members of the States, it has just gone 5.30 p.m. In other words, time is up, I am going to put to you a motion first that you continue sitting to conclude debate on Amendment 5 including voting on it and then perhaps we take stock. I know other Members might want a more extensive motion put to you first but the motion that I am going to put to you is that we conclude debate on Amendment 5. All those in favour?

Members voted Pour.

The Bailiff: Members of the States, I am satisfied that there was a clear majority in support for sitting to complete debate on Amendment 5. Deputy Le Tocq had indicated a wish to speak, so I will call Deputy Le Tocq next.

Deputy Le Tocq: Thank you, sir.

I am happy to second this amendment but I have to alleviate some of Deputy Oliver's concerns. I just refer to the fact that when the Isle of Man considered reform of the legislation in 2018 and 2019 they included this very requirement for the medical professionals, as part of the abortion and education process, to:

> … record that to the best of their knowledge and belief of the relevant professional or pharmacist that the woman freely consents to the termination of a pregnancy and is not being coerced into so doing.

That is section 17(1)(c)(ii) of the law. So I do think it is certainly possible and I believe right that we should include this. It is true that this sort of thing should be going on but I think we need, certainly, to have more data and I know that is a subject of another amendment, but I think this goes alongside that, particularly because much has been made, rightly so, of the connection between abortion and abuse. So I encourage Members to support it.

Thank you.

The Bailiff: Does any other Member wish to speak on Amendment 5? On that basis, Members of the States, I will turn to Deputy Tindall, who is going to speak on behalf of the Committee in respect of Amendment 5. So Deputy Tindall please.

Deputy Tindall: Thank you, sir.

I must admit this, probably because of my legal background, gave me a great deal of perplexion, I was going to say, but that is probably a new word. It is late. I am sure Members know what I mean. Because as is the case with all medical procedures the health practitioner would always ensure the full consent of the individual concerned, before proceeding with any type of treatment.

I find the implication that this should be included in the Law actually quite insulting to our excellent professional healthcare practitioners in that it implies that they do not already fulfil their duty and ensure informed consent. Deputy Gollop says he agrees with additional guidance. That is fine but this is not what this amendment seeks. The amendment seeks to include it in the Law.

This area is complex and in my view, as the professionals have done, it should be in guidance. Deputy Le Tocq advised of a reason for it to be in the Law but to be fair I did not feel convinced that there was any reason to change what we already had that works. It is included in RCOG guideline seven: The Care of Women Requesting Induced Abortion. Evidence-based clinical guidance seven, section 3.7: issues relating to consent to treatment. The British Medical

Association's guidance on law and ethics of abortion, updated in 2008 and the GMC's guidance Consent: Patient and Doctors Making Decisions Together, published and set out good practice in this area.

Deputy Oliver also raises a valid question about when consent can be obtained, let alone try to ascertain whether there is coercion. At any stage of a medical procedure, health practitioners must ensure that a woman has not been coerced into having an abortion and that needs to be fully resolved before going ahead. This is operational matter. That is why it is in guidance and, as Deputy Merrett has said, all women will have the opportunity to be seen alone, to discuss any potential coercion.

This amendment does feel to me that there is a lack of understanding by the proposer and seconder of the pathway of a pregnant woman and the protections already part of that pathway. This is standard medical practice and does not require an additional legislative provision in respect of abortion care. I ask Members to reject this amendment.

Thank you, sir.

The Bailiff: I turn to the proposer of Amendment 5, Deputy Stephens, to reply to the debate on it. Deputy Stephens.

Deputy Stephens: Thank you, sir.

A short debate, but there are some very useful points being raised. To Deputy Oliver's points, I would say that I did say in my introduction that this conversation is something that would happen early in the application process and it would be in addition to any later signing of a consent form for a procedure.

To the points Deputy Merrett made, I would say that if there is any detection by a health professional that a woman seems to be in some sort of difficulty, the opportunity, the requirement for a professional to ask a question concerning the willingness of the woman to undergo an abortion, is a lead-in to a conversation that might not actually happen in that same way.

The amendment does not specify who the practitioner might be and it is not a conversation that would in any way mean that there would need to be any additional consultation other than to what is usually needed.

To Deputy Tindall's point, I would say that in my view this sort of conversation is an added safeguard for all involved in the procedure. It is a conversation that would take very little time and the point of including it, I think, would be best illustrated if a woman did then agree that she was being coerced, because that is something that would not be appropriately discussed at the point of signing a consent form for the procedure. So, just in closing, I would say that this amendment demonstrates care for the woman and I would encourage Members to vote for the amendment.

Thank you, sir.

The Bailiff: Members of the States. There has been a request for a recorded vote. So we will have a recorded vote in a moment on Amendment 5, which is proposed by Deputy Stephens, seconded by Deputy Le Tocq, and if carried will insert an additional Proposition relating to consent and coercion. Greffier.

There was a recorded vote.

Amendment 5
Not carried – Pour 12, Contre 26, Ne vote pas 1, Absent 0

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

The Bailiff: Members of the States, the voting on Amendment 5, proposed by Deputy Stephens and seconded by Deputy Le Tocq is as follows: there voted Pour 12, Contre 26, one abstention and therefore I declare Amendment 5 lost.

Motion to Adjourn – Sitting adjourned to 24th June

The Bailiff: Now, Members of the States, what I need to clarify from Deputy Roffey was whether he is inviting me to put a motion to you that we sit until the whole of this article, so that is the two amendments, plus general debate, plus voting, is completed or whether it was something less than that. Deputy Roffey can you clarify for me please?

Deputy Roffey: Yes, certainly. It was indeed that sir. Many people said that their contribution to general debate was really made on the first four amendments that we discussed together. I think this is such a crucial debate, to break off part-way through for what would be about 12 days, if your proposals for, I think, 1st July, goes ahead, seems wrong. So I would like to carry on until we finish.

The Bailiff: Members of the States, I will potentially put that to you. Does anyone wish to speak in respect of that before I do so?

Deputy Merrett: Only to support Deputy Roffey, sir.

The Bailiff: Can you please not vote at the moment, Members, because I cannot count what is going on until I set you running on that particular route. Deputy Le Tocq, I am particularly conscious

of the Members who have got the two amendments that are yet to be put and I am particularly conscious of the Committee, bearing in mind there will be a reply to any general debate as well. So Deputy Le Tocq.

Deputy Le Tocq: Sir, I am certainly happy, if the Assembly is, to deal with the two amendments, we could probably put them together. As to whether everyone or anybody else wants to speak again in general debate I would not like to say. That is my view, sir.

The Bailiff: Deputy Oliver.

Deputy Oliver: Sir, I do not mind doing the two amendments, but the general debate as well, I think that might be a bit too much. Could we not meet next week?

The Bailiff: And Deputy Tooley.

Deputy Tooley: Thank you, sir.

I just wanted to add my voice, obviously, as one of the Committee but I think probably the Committee as a majority feel that actually this is a debate, which has taken a long time to come to fruition and is one where there are many women whose lives will be affected by how long this takes to begin to set the process onward from here, if we are successful in getting these proposals through the States.

Lives will be affected by timings here and I think it is important that, if we are able to conclude this debate tonight, we should do so. I also think there is a major risk of other business, which is important to the States, being carried over, if this goes on into subsequent days. I am not quite sure which lofty relative it is of a Member of the States who said it, but debate tends to fill the space we allow it. Thank you.

The Bailiff: Deputy Le Clerc, you want to ask about the scheduled for the next States' Business.

Deputy Le Clerc: Apologies sir, I was just going to ask, if we delay this debate to 1st July, we will not have the Schedule of the next States' Business agreed until that date, which is a long way off. So it just delays that Schedule of Business. I think most of us would probably like some certainty on what is going to be on 15th July. If we are only agreeing on that on what is the 1st, or even 2nd or 3rd July, I just wondered, that seems to me quite an important issue to know what is happening on that 15th July.

The Bailiff: Deputy Ferbrache?

Deputy Ferbrache: It is just –

Audio connection lost.

The Bailiff: You have muted yourself again, Deputy Ferbrache.

Deputy Ferbrache: I apologise, that was out of frustration, I think. I have not spoken all day. Can we just vote on whether we are going to sit all night or whether we are going to adjourn? We are spending ages just debating whether we are going to vote on it. Can we not just vote on it?

The Bailiff: I was using my discretion, Deputy Ferbrache, to at least invite a few comments. I will just call Deputy Lowe and then I will put the Proposition to you. Deputy Lowe.

Deputy Lowe: Thank you, sir.

I was going to propose that we actually meet next week and carry on with as much business as we can. Approve the Schedule today for in a fortnight's time and therefore we would be able to get, hopefully, some of this session out of the way next week, with the rest carried forward for the next Schedule, which is in a fortnight's time. That is the Proposition that I was going to put to you to put to States' Members that we continue next week.

It is too important to rush. Members want to actually have their amendments debated and I think there will be a general debate. It is an important matter. Yes, we could have probably finished it a lot earlier but we have to take it as it comes. That is democracy.

Thank you, sir.

The Bailiff: Deputy Soulsby.

Deputy Soulsby: Sir, I am very much of a mind of Deputy Ferbrache. I think we will get through this and I think we should try. Our staff have spent a lot of time on this already. They have got other things, as Members might appreciate, urgent matters that we are dealing with as well. So I think we ought to go on literally as long as possible.

The Bailiff: In that case, Members of the States, no I am not going to call anyone else at this point. Members of the States, I am going to put to you the motion that the States continue this evening until debate on this article, including the two amendments, general debate and final voting on whatever Propositions are in play at the end of that, be concluded today. So, if you want to vote now.

Some Members voted Pour, some voted Contre.

The Bailiff: Members of the States, it looks pretty even to me, without counting everyone and, on that basis, if it had gone *aux voix,* I would probably have been in the position of saying I cannot decide and therefore we will have to go to a recorded vote one way or the other on that particular motion. Greffier.

There was a recorded vote.

Not carried – Pour 17, Contre 22, Ne vote pas o, Absent 0

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

Deputy Prow
Alderney Rep.
Snowdon
Deputy Ferbrache

The Bailiff: Members of the States, the voting on the motion as to whether the States should continue sitting to conclude debate on this article, the Modernisation of the Abortion (Guernsey) Law, 1997, was: there voted in favour of the motion 17, against the motion 22, and therefore I declare the motion lost, which means that we are now in the position of concluding this Meeting and deciding to when we are going to adjourn.

I indicated yesterday evening, Members of the States, that I thought adjourning to a week on Wednesday, 1st July, would be the most sensible conclusion at the moment and that is what I was minded to put to you and therefore that is what I will put to you unless any Member wants me to put something different.

The important piece of information for you is that the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 3) (Amendment) Regulations, 2020, were made by the Civil Contingencies Authority today and a consequence of that for your context, at the moment, is that by virtue of Regulation 1(5) the ability of the States of Deliberation to sit remotely, has been revoked, with effect from tomorrow, which means that whenever the States next meets it will have to be a physical Meeting that will take place in the Royal Court Chamber and there will be some information provided to you in advance of that.

To give us all time to take stock in respect of that, that is why I am going to propose going to 1st July. If I put that motion to you I could then put a second motion to you to meet earlier than that, as I indicated yesterday, otherwise we would simply be deferring business, but we would deal with the Schedule at this point before doing so.

Members voted Pour.

The Bailiff: Members of the States I am satisfied that you want to adjourn to a fourth day, currently on 1st July, at 9.30 a.m. in the Royal Court Chamber. Now, does any Member want me to put a different motion now? Various people are suggesting things. It might be easier if somebody, Deputy Lowe wanted me to put a motion to you, so I will invite Deputy Lowe and then I will invite Deputy McSwiggan whether wants to modify that, to address the States, Deputy Lowe.

Deputy Lowe: Yes please, sir, I would like to put a motion that we meet next Wednesday and carry on this debate next week and indeed some more on the agenda, that we have got on the Billet, if Members are happy to do that, if not just finish this item next week. I see, what we have actually got coming forward, it would make more sense to carry on the Billet next week, sir. Certainly, my proposal is to see if Members agree that we meet next Wednesday in the Royal Court. Thank you, sir.

The Bailiff: Members of the States, Deputy Brouard, what do you want to say?

Deputy Brouard: Thank you, sir.

It was just that it is very short notice and there are many other meetings going on. We were meant to be having this new system of meeting every three weeks, had a system to it and we seem to be, every Meeting, it is almost like a lottery as when we are going to sit again and it is very difficult for people to make plans. I think sticking with your original plan of 1st July.

The Bailiff: Deputy Mooney.

Deputy Mooney: Yes, sir. I have got an issue in relation to the 1st, I have actually got a course, so I was thinking would you consider Thursday?

The Bailiff: Deputy Inder.

Deputy Inder: Just briefly sir. You will all be aware, actually, that the SACC policy letter is fairly imminent. We are on the verge of being able to tidy up and submit it. My fear is that, if we sit Wednesday, this Wednesday coming, there may be no appetite for sitting Wednesday, 1st July, and the way things are going at the moment. So, from a SACC perspective, I think it is fair to say that we are comfortable with 1st July because the danger of next week is there may be no appetite to sit on the following Wednesday.

The Bailiff: Members of the States, what I am now going to put to you is a new motion that, instead of adjourning to 1st July, we adjourn to 24th June instead, but Deputy McSwiggan, you wish to speak.

Deputy McSwiggan: Thank you, sir.

Sorry, I was not sure if you were going to invite me to address it after the next motion. The comment is open in the Chat is whether we could meet on probably just one day next week to conclude the business on this particular item, on the basis that it is probably in everyone's interest to get it concluded as soon as possible. Not only because we need to move ahead with whatever the proposals are but also for the reason that Deputy Inder has given it is likely that more business will come forward for the adjourned Meeting.

In order to give all business on the Agenda, because it is all pretty important, a fair hearing, it would be better to conclude this debate as soon as we can. I do not know if it would be possible to modify Deputy Lowe's proposal so that we just meet, say, next Wednesday or perhaps even next Monday to conclude the business on this item?

The Bailiff: Members of the States, this is turning into a bit of a pick and mix motion at the moment. Under the old system, if a Meeting did not conclude on the third day of it, the adjournment was to a week on Wednesday, which is why I went a week on Wednesday on 1st July. Deputy Lowe wishes me to put an alternative motion, now, having got approval from you that we will adjourn to July 1st, to adjourn to 24th June. That is the motion that I am now going to put to you.

That will simply be an adjournment. Just a minute, please Members, can you please wait until I tell you that voting is open, because it becomes impossible in the Chat function to keep an eye on things, as you know from your own screens that you have to go backwards and forwards. You cannot vote at the moment. If anyone votes at the moment I will not be able to count it.

Members of the States, what I am going to do is I am going to put a motion to you that the States stand adjourned until 24th June. At the end of 24th June, if that were carried, then it would not automatically be an adjournment into 25th June. One would have to decide when to resume because we are in territory which is not covered by the Rules at the moment because the Rules say that, after three days of Meeting, you close the Meeting and you defer all unfinished business to the next ordinary Meeting.

That is why we have already got a date of 1st July and now, starting in a few seconds' time, I will ask you to vote as to whether you would like to modify the decision that you have just taken and bring forward the adjourned date to Wednesday, 24th June. You can now start voting please.

Deputy Lester Queripel: Could we have a recorded vote sir, please?

The Bailiff: There has been a request for a recorded vote, so we will have a recorded vote on that particular motion. Thank you Deputy Lester Queripel. Greffier.

There was a recorded vote.

Carried – Pour 20, Contre 18, Ne vote pas 0, Absent 1

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

The Bailiff: Well, Members of the States, the voting on the revised motion for when the next sitting day will be was there voted Pour 20, Contre 18 and therefore the States will adjourn to 24th June at 9.30 a.m. in the Royal Court Chamber.

Procedural – Anniversary of 1940 Evacuation; Last Remote Meeting of the States and Bailiwick response to pandemic

The Bailiff: Now, Members of the States, that is potentially going to conclude the sitting today. I would like to do a couple of things before we rise for the short weekend, plus adjournment. That is to start by reflecting on the fact that it was 80 years ago today that the announcement was made inviting those who wished to evacuate this Island with the threat of an invasion coming forward and that was particularly relevant for school children, young children and their mothers and men of military age.

The Evacuation, as we know, then took place on subsequent days and it just struck me that it was an anniversary that we ought to reflect upon. The fact that you are adjourning now to next week gives us another opportunity then.

But we are also, Members of the States, in the fortunate position this year, 80 years later, to be moving from phase 4 to phase 5, overnight today in the exit from lockdown and it is that move that means that this is the last occasion, certainly for now, on which the States of Deliberation will meet by these remote methods and we will have the opportunity and the joys of seeing one another again next week.

I would like to do two things, therefore, and that is to therefore in a moment to thank in an appropriate way all of those who have helped facilitate the remote Meetings that have been conducting for the last few Meetings, since physical Meetings were no longer possible back in March and secondly I would like you once again to take the opportunity to congratulate all the members of our Bailiwick communities for the way in which they have supported the response to the pandemic in such a great way that means we are now reaching this stage. Without them we would not be in the good position we are.

So, once again, as we conclude this Meeting, Members of the States, I would invite you to open your microphones and join me in thanking everyone who has played their part.

Applause and cheers.

The Bailiff: Thank you all very much, Members of the States. I hope you enjoy your weekend and look forward to seeing you on Wednesday morning and I will now ask the Greffier to close the Meeting with the Grace.

The Assembly adjourned at 6.12 p.m.