



# BILLET D'ÉTAT

WEDNESDAY, 30<sup>th</sup> MARCH, 2022

VI  
2022

## *ELECTIONS AND APPOINTMENTS*

### *Appointments laid before the States*

Appointment of an Ordinary Member of the Office of the Financial Services Ombudsman

Appointment of an Ordinary Member of the Office of the Financial Services Ombudsman

### *Election*

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The Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2021

The Health Service Fund (Closure and Miscellaneous Amendments) Regulations, 2021

The Health Service (Pharmaceutical Benefit and Medical Appliances) (Amendment) Regulations, 2021

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# BILLET D'ÉTAT

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## TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

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I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY the 30<sup>th</sup> MARCH, 2022 at 9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. McMAHON  
Bailiff and Presiding Officer

The Royal Court House  
Guernsey

17<sup>th</sup> February, 2022

**APPOINTMENT LAID BEFORE THE STATES OF DELIBERATION**

**BY THE COMMITTEE FOR ECONOMIC DEVELOPMENT**

**APPOINTMENT OF AN ORDINARY MEMBER OF THE OFFICE OF THE  
FINANCIAL SERVICES OMBUDSMAN**

In accordance with paragraph 1(2) of schedule 1 to the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014, the following appointment, by the Committee *for* Economic Development, to the Office of the Financial Services Ombudsman, is laid before the States of Deliberation:-

- Mr. Antony John Townsend as ordinary member with effect from 31<sup>st</sup> January 2022.

Mr. Townsend has been appointed as an ordinary member until 30<sup>th</sup> January 2026.

The States of Deliberation have the power to annul the appointment.

The Committee *for* Economic Development has concluded that Mr. Townsend is suitable to be an ordinary member of the Office of the Financial Services Ombudsman.

A summarised version of the curricula vitae of Mr. Townsend is provided below.

Mr. Antony Townsend

	<b>Position/company:</b>	<b>Dates:</b>
<b>Career:</b>	Independent Investigator, House of Commons.	2020-to date.
	Financial Regulators Complaints Commissioner.	2014-2020.
	First Chief Executive, Solicitors Regulation Authority.	2006-2014.
	Chief Executive of General Dental Council.	2001-2006.
	Director of Education and Standards (and previously	1991-2001.
	Head of Health, Head of Conduct, and Head of	
	Standards), General Medical Council.	
	Grade 7 (and previously HEO(D) and Administration	1980-1990.
	Trainee), Home Office.	
<b>Qualifications:</b>	BA, English Language and Literature, Oxford University.	1976-1979
<b>Current/recent Non-Executive Directorships</b>	Deputy Board Chair and Chair of Scrutiny Committee, the Professional Standards Authority for Health and Social Care.	2015-to date.
	Chair, Determinations Panel of the Pensions Regulatory (TRP).	2021-to date
	Chair, SME Liaison Panel, Business Banking Resolution Service.	2021-to date.
	Chair, Independent Review Panel, NHS England.	2020-to date.
	Chair, Strategic Advisory Board, Bar Tribunals and	2020-to date.

	Adjudication Service, Council of Inns of Court.	
	Member, Determinations Panel of the Pensions. Regulatory.	2018–2021.
	Member, UK and Ireland Regulatory Board of the Royal Institute of Chartered Surveyors.	2015-2020.
	Chair, UK and Ireland Regulatory Board of the Royal Institute of Chartered Surveyors.	2013-2020.
	Chair, Regulations Board of Association of Chartered Certified Accountants.	2013-2019.
<b>Voluntary work:</b>	Director, Ombudsman Association.	2018-2020.
	Member, Board of Trustees, South Warwickshire Citizens Advice.	2014-to date.

**APPOINTMENT LAID BEFORE THE STATES OF DELIBERATION**

**BY THE COMMITTEE FOR ECONOMIC DEVELOPMENT**

**APPOINTMENT OF AN ORDINARY MEMBER OF THE OFFICE OF THE  
FINANCIAL SERVICES OMBUDSMAN**

In accordance with paragraph 1(2) of schedule 1 to the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014, the following appointment, by the Committee *for* Economic Development, to the Office of the Financial Services Ombudsman, is laid before the States of Deliberation:-

- Mr. Robert Girard as ordinary member with effect from 31<sup>st</sup> January 2022.

Mr. Girard has been appointed as an ordinary member until 30<sup>th</sup> January 2025.

The States of Deliberation have the power to annul the appointment.

The Committee *for* Economic Development has concluded that Mr. Girard is suitable to be an ordinary member of the Office of the Financial Services Ombudsman.

A summarised version of the curricula vitae of Mr. Girard is provided below.

Mr. Robert Girard

	<b>Position/company:</b>	<b>Dates:</b>
<b>Career:</b>	Country Head and Director of Institutional Banking, RBS International.	2019-2021
	Executive Committee Member, RBS International.	2020-2020
	Senior Country Head and Country Head Guernsey, RBS International.	2016-2019
	Executive Committee Member, RBS International.	2009-2019
	Island Director & Regional Director Corporate & Institutional Banking, RBS International.	2009-2016
	Multiple banking roles, RBS International.	1976-2009.
<b>Professional qualifications:</b>	University of Cambridge Institute for Sustainable Leadership Programme.	2020-2021
	RBS Group Executive Development Programme.	2009-2021
	Elected as a Fellow of the Chartered Institute of Bankers.	2007
	Coutts/NatWest Offshore Leadership Development Programme.	2000-2004
	Business Programme, Durham University Business School.	1997
	Associate of the Chartered Institute of Bankers.	1991

Higher National Certificate in Business Studies, 1982  
 Guernsey College of Further Education (Distinction).  
 Ordinary National Certificate in Business Studies, 1978  
 Guernsey College of Further Education (Distinction)

<b>Current/recent Non-Executive Directorships</b>	Board Director, RBS Group Global Captive Insurance Co, Lothbury Insurance Limited.	2009-date
	Board Director, Royscot Guernsey Limited.	2009-2017

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

**ELECTION OF MR STUART KING AS AN ORDINARY MEMBER OF THE GUERNSEY FINANCIAL  
SERVICES COMMISSION**

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled "*Election of Mr Stuart King as an Ordinary Member of the Guernsey Financial Services Commission*", dated 18<sup>th</sup> January, 2022, they are of the opinion:-

1. To elect Mr Stuart King as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 1 April 2022.

The above Proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.



**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

ELECTION OF MR STUART KING AS AN ORDINARY MEMBER OF THE GUERNSEY FINANCIAL  
SERVICES COMMISSION

Presiding Officer  
Royal Court  
St Peter Port  
Guernsey

18<sup>th</sup> January, 2022

Dear Sir

**1. Executive Summary**

- 1.1 A vacancy has arisen for the position of ordinary member of the Guernsey Financial Services Commission (GFSC) following the retirement of Drs Cees Schrauwers as Chairman and ordinary member. In order to ensure there continues to be an appropriate number of Commissioners with relevant industry experience, including insurance sector experience in particular, this report proposes the appointment of Mr Stuart King as an ordinary member of the GFSC for a three year term with effect from 1 April 2022.

**2. Report**

- 2.1 Mr. Stuart King has worked in senior roles in financial services as a consultant, executive, regulator and currently as a non-executive director. He has led major change programmes in the public and private sector, often against the background of tight cost controls, and has sponsored staff development and upskilling programmes. He has extensive experience in a wide range of customer focussed issues and in assisting companies achieve commercial success in regulated environments.
- 2.2 Mr King is presently a non-executive director at Pension Corporation, a UK pension annuity specialist, and an independent consultant.
- 2.3 Previously Mr King, was a Group Compliance Director at Aviva and Managing Director at Promontory Financial Group - a consultancy specialising in strategy, risk and governance issues. At Promontory, Mr King carried out two major reviews of past conduct issues in banking commissioned by the UK regulator.

2.4 Earlier in his career, Mr King worked on a range of regulatory and public policy issues at the UK's Financial Services Authority (FSA) and, before that, at the Bank of England and IMF. During his time at the FSA, he was successively Head of UK Banks Regulation, Head of Retail Intelligence and Regulatory Themes, and Head of Major Insurance Groups Regulation.

2.5 A biography for Mr King is attached to this report as an appendix.

### **3. Consultation**

3.1 The Committee has consulted with the GFSC, which supports the appointment of Mr Stuart King as an ordinary member.

### **4. Conclusion**

4.1 The Financial Services Commission (Bailiwick of Guernsey) Law, 1987, specifies that ordinary members of the Commission should "be persons having knowledge, qualifications or experience appropriate to the development and supervision of finance business in the Bailiwick".

4.2 Based on his significant relevant experience, the Policy & Resources Committee is of the opinion that Mr King meets the criteria of the Law and is pleased to nominate him for appointment as an ordinary member of the GFSC.

### **5. Recommendation**

5.1 The States are asked to decide whether they are of the opinion:-

To elect Mr Stuart King as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 1 April 2022.

### **6. Compliance with Rule 4**

6.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

6.2 In accordance with Rule 4(1)(b), the consultation undertaken with relevant stakeholders in the preparation of the Propositions is detailed in section 3 of this Policy Letter.

6.3 In accordance with Rule 4(1)(c), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

6.4 In accordance with Rule 4(2)(b), it is confirmed that the Propositions accompanying this Policy Letter are supported unanimously by the Policy & Resources Committee.

Yours faithfully,

P T R Ferbrache, President

H J R Soulsby, Vice-President

J P Le Tocq

M A J Helyar

D J Mahoney

**BIOGRAPHY FOR MR STUART KING**

Mr Stuart King is a financial services professional with more than thirty years' experience. Trained as an economist, his early career focussed on public policy and strategy issues working at the UK Treasury, IMF and BP. He moved into financial services with the Bank of England where he was responsible for operational aspects of a transformation programme following an external review of the supervision function. He then moved to the newly formed UK Financial Services Authority where he worked on the supervision of large retail banking and insurance groups and the re-launch of the Treating Customers Fairly initiative.

Since shifting to the private sector, Mr King has focussed on assisting companies working in heavily regulated sectors achieve commercial success. He was a Managing Director at Promontory Financial Group where he worked with insurance and banking clients on a wide range of regulatory, strategy and governance issues. He then became Aviva's Group Head of Compliance. Having moved into a portfolio career, alongside consultancy work, he is currently a non-executive director at Pension Corporation.

Mr King is an advocate of the importance of continual learning both at an individual and organisational level. He works with a number of charities involved with mental health issues.

Mr King was educated at University College, Oxford and University College, London.

## **STATUTORY INSTRUMENTS LAID BEFORE THE STATES**

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

No. 167 of 2021

### **THE HEALTH SERVICE (PAYMENT OF AUTHORISED APPLIANCE SUPPLIERS) (AMENDMENT) REGULATIONS, 2021**

In pursuance of the powers conferred on it by sections 19 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990, and all other powers enabling it in that behalf, “The Health Service (Payment of Authorised Appliance Suppliers) (Amendment) Regulations, 2021” made by the Committee *for* Health & Social Care on 7<sup>th</sup> December 2021, are laid before the States.

#### **EXPLANATORY MEMORANDUM**

These Regulations set out the payments which may be made out of the Guernsey Health Service Fund for the supply of medical appliances.

These Regulations came into force on the 1st January, 2022.

No. 168 of 2021

### **THE HEALTH SERVICE (PAYMENT OF AUTHORISED SUPPLIERS) (AMENDMENT) REGULATIONS, 2021**

In pursuance of the powers conferred on it by sections 14 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990, and all other powers enabling it in that behalf, “The Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2021” made by the Committee *for* Health & Social Care on 7<sup>th</sup> December 2021, are laid before the States.

#### **EXPLANATORY MEMORANDUM**

These Regulations set out the payments which may be made to pharmacists out of the Guernsey Health Service Fund, for the supply of pharmaceutical items.

These Regulations came into force on 1st January, 2022.

No. 170 of 2021

**THE HEALTH SERVICE FUND (CLOSURE AND MISCELLANEOUS AMENDMENTS)  
REGULATIONS, 2021**

In pursuance of section 1 of the Health Service Benefit (Amendment and Miscellaneous Provisions) (Guernsey) Law, 2021 and all other powers enabling it in that behalf “The Health Service Fund (Closure and Miscellaneous Amendments) Regulations, 2021” made by the Committee *for* Health & Social Care on 30<sup>th</sup> November 2021, are laid before the States.

**EXPLANATORY MEMORANDUM**

These Regulations appoint 1st January 2022 as the day for the monies in the Guernsey Health Service Fund ("the Fund") to be paid into the general revenue account of the States. (Under the Health Service Benefit (Amendment and Miscellaneous Provisions) (Guernsey) Law, 2021, these monies within the general revenue account are to be referred to as the Guernsey Health Reserve). They also provide for the recovery of monies due to the Fund and unpaid on 1st January 2022 to be recoverable after that day by the Policy & Resources Committee as a debt, to be paid into the Guernsey Health Reserve on recovery, and for payments to be made out of the Guernsey Health Reserve after that day to creditors of the Fund. They also make some minor amendments to other subordinate legislation consequential to the foregoing.

These Regulations came into force on 1st January, 2022.

No. 171 of 2021

**THE HEALTH SERVICE (PHARMACEUTICAL BENEFIT AND MEDICAL APPLIANCES)  
(AMENDMENT) REGULATIONS, 2021**

In pursuance of the powers conferred on it by sections 13, 18 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990, and all other powers enabling it in that behalf, “The Health Service (Pharmaceutical Benefit and Medical Appliances) (Amendment) Regulations, 2021” made by the Committee *for* Health & Social Care on 30<sup>th</sup> November 2021, are laid before the States.

**EXPLANATORY MEMORANDUM**

These Regulations amend the Health Service (Benefit) Ordinance, 1990 in relation to prescription charges for items of pharmaceutical benefit (drugs and medicines) and the Health Service (Medical Appliances) Regulations, 1990 in relation to charges payable to authorised appliance suppliers in Guernsey and Alderney by persons supplied with Part I, II or III medical appliances, who are not exempt from such charges. These amendments have effect from 1st January, 2022 and from that date charges will increase from £4.10 to £4.30 per item or appliance.

The Regulations came into force on the 1st January, 2022.

No. 175 of 2021

### **THE HEALTH SERVICE BENEFIT (MISCELLANEOUS PROVISIONS) REGULATIONS, 2021**

In pursuance of sections 10, 11 and 35 of the Health Service Benefit (Guernsey) Law, 1990, section 20 of the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, paragraph 3 of Schedule 2 to the Health Service Benefit (Amendment and Miscellaneous Provisions) (Guernsey) Law, 2021 and all other powers enabling it in that behalf, “The Health Service Benefit (Miscellaneous Provisions) Regulations, 2021” made by the Committee *for* Health & Social Care on 14<sup>th</sup> December 2021, are laid before the States.

#### **EXPLANATORY MEMORANDUM**

These Regulations make clear the power of the Committee *for* Health & Social Care to prescribe by Resolution of the Committee drugs and medicines which may be available as pharmaceutical benefit under the Health Service Benefit (Guernsey) Law, 1990 ("the 1990 Law"). Previously, this prescription of drugs and medicines needed to be done by regulations of the Committee, which these Regulations revoke. The 1990 Law as amended by the Health Service Benefit (Amendment and Miscellaneous Provisions) (Guernsey) Law, 2021 ("the 2021 Law") requires Committee Resolutions making such provision to be published on the States of Guernsey website.

The Regulations also make clear that certain Ordinances made under the 1990 Law stay in force until contrary provision is made, notwithstanding the coming into force of the amendments made to the 1990 Law by the 2021 Law.

These Regulations came into force on 1st January, 2022.

No. 2 of 2022

### **THE PAROCHIAL ELECTIONS (ST PETER PORT) REGULATIONS, 2022**

In pursuance of the powers conferred on it by Articles 54(4) and 77C of the Reform (Guernsey) Law, 1948 and all other powers enabling it in that behalf, “The Parochial Elections (St Peter Port) Regulations, 2022” made by the States’ Assembly & Constitution Committee on 13<sup>th</sup> January, 2022, are laid before the States.

#### **EXPLANATORY NOTE**

These Regulations prescribe the date for an election to the office of Douzenier in the Parish of St Peter Port on the 26th January, 2022.

These Regulations came into force on the 13th January, 2022.

The full text of the legislation can be found at: <http://www.guernseylegalresources.gg>

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE POLICE FORCE (BAILIWICK OF GUERNSEY) (AMENDMENT) LAW, 2021  
(COMMENCEMENT) ORDINANCE, 2022**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021 (Commencement) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

**EXPLANATORY MEMORANDUM**

This Ordinance commences the Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021 on the 31<sup>st</sup> March, 2022.





# **The Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021 (Commencement) Ordinance, 2022**

**THE STATES**, in exercise of the powers conferred on them by section 5 of the Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021<sup>a</sup>, and all other powers enabling them in that behalf, hereby order:-

## **Commencement of Law.**

1. The Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021 shall come into force on 31<sup>st</sup> March, 2022.

## **Citation.**

2. This Ordinance may be cited as the Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021 (Commencement) Ordinance, 2022.

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<sup>a</sup> Order in Council No. I of 2022.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE CAPACITY (BAILIWICK OF GUERNSEY) LAW, 2020 (COMMENCEMENT) (GUERNSEY  
AND ALDERNEY) ORDINANCE, 2022**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Capacity (Bailiwick of Guernsey) Law, 2020 (Commencement) (Guernsey and Alderney) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

**EXPLANATORY MEMORANDUM**

This Ordinance brings into force Part 4 of the Capacity (Bailiwick of Guernsey) Law, 2020, which introduces lasting powers of attorney, along with the provisions in Parts 1 to 3 (except sections 17 to 20) and section 77, but solely for the purposes of bringing into force and the operation of Part 4. In addition, sections 78 to 85 are brought into force for all purposes.



# **The Capacity (Bailiwick of Guernsey) Law, 2020 (Commencement) (Guernsey and Alderney) Ordinance, 2022**

**THE STATES**, in exercise of the powers conferred on them by section 85(1) of the Capacity (Bailiwick of Guernsey) Law, 2020<sup>a</sup>, and all other powers enabling them in that behalf, hereby order:-

## **Commencement of Law.**

1. The following provisions of the Capacity (Bailiwick of Guernsey) Law, 2020 shall come into force on 1<sup>st</sup> April, 2022 -

- (a) only to the extent relevant for the bringing into force, and operation, of Part 4 -
  - (i) Parts 1 and 2,
  - (ii) Part 3 (except sections 17 to 20), and
  - (iii) section 77,
- (b) Part 4, and
- (c) sections 78 to 85.

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<sup>a</sup> Order in Council No. II of 2021.

**Extent.**

2. This Ordinance has effect in the islands of Guernsey, Alderney, Herm and Jethou.

**Citation.**

3. This Ordinance may be cited as the Capacity (Bailiwick of Guernsey) Law, 2020 (Commencement) (Guernsey and Alderney) Ordinance, 2022.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE CAPACITY (LASTING POWERS OF ATTORNEY) (BAILIWICK OF GUERNSEY)  
ORDINANCE, 2022**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Capacity (Lasting Powers of Attorney) (Bailiwick of Guernsey) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

**EXPLANATORY MEMORANDUM**

A lasting power of attorney (LPA) permits a person (P) to grant an attorney (A) authority to make decisions in relation to health and welfare matters and/or property and financial affairs matters on their behalf, including when P no longer has capacity to do so. This Ordinance is made under the Capacity (Bailiwick of Guernsey) Law, 2020 ("the Law") and sets out the procedures in relation to the registration, activation, amendment and revocation, of LPAs. Further provision is made in the Law regarding the operation of LPAs. The procedures set out in this Ordinance have been established with the Bailiwick context in mind and in order to provide appropriate safeguards: A is required to apply to Her Majesty's Greffier in person so that an initial capacity assessment is made on registration and a more formal capacity assessment takes place when A considers that the LPA should be activated for use as P no longer has capacity to make significant decisions. The Ordinance also sets out the Royal Court's power to suspend the operation of an LPA where A is not acting in P's best interests and the Committee's powers of investigation where a lack of capacity, undue influence or actions contrary to P's best interests are suspected. Finally, the Ordinance makes some consequential amendments to, and corrects some typographical errors in, the Law.





## **The Capacity (Lasting Powers of Attorney) (Bailiwick of Guernsey) Ordinance, 2022**

**THE STATES**, in exercise of the powers conferred on them by sections 1(5), 23, 78(1) and 79 of the Capacity (Bailiwick of Guernsey) Law, 2020<sup>a</sup>, and all other powers enabling them in that behalf, hereby order:-

### **Creation.**

1. (1) Subject to subsection (2), a lasting power of attorney is created where -

- (a) the grantor ("P") has executed the relevant instrument,
- (b) P makes an application to Her Majesty's Greffier for the relevant instrument to be registered, and
- (c) the relevant instrument has been registered by Her Majesty's Greffier.

(2) A lasting power of attorney can only be created where, at the time when P applies to register the relevant instrument, P -

- (i) has attained the age of 18, and

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<sup>a</sup> Order in Council No. II of 2021.

(ii) has capacity to -

(A) execute the relevant instrument, and

(B) apply to register the relevant instrument,  
and

(iii) the provisions of the Law and this Ordinance are  
complied with.

(3) For the avoidance of doubt, where -

(a) P executes the relevant instrument, but

(b) the relevant instrument is not registered,

no lasting power of attorney is created.

(4) Where -

(a) any document purports to create a lasting power of  
attorney, but

(b) that document does not comply with the provisions of the  
Law and this Ordinance,

no lasting power of attorney is created.

(5) Subject to subsection (6), the relevant instrument to be executed for the purposes of this section shall be in the prescribed form.

(6) If -

- (a) a document provides the information and authentication required in accordance with section 2(1),
- (b) that document is not in the prescribed form, but
- (c) that document differs only in an immaterial respect in form or mode of expression from the prescribed form,

it is to be treated by Her Majesty's Greffier as sufficient in point of form and expression.

(7) In any proceedings, the Court or the Tribunal may declare that a relevant instrument which is not in the prescribed form is to be treated as if it were, if it is satisfied that P intended it to provide the information and authentication required to create a lasting power of attorney.

(8) For the avoidance of doubt, a separate instrument must be executed for each type of lasting power of attorney set out in section 22(1)(a) and (b) of the Law.

**Requirements as to content of relevant instruments.**

2. (1) A relevant instrument must include -
  - (a) the prescribed information about the purpose of the instrument and the effect of a lasting power of attorney,
  - (b) a statement by P to the effect that P -
    - (i) has read the prescribed information or a prescribed part of it (or has had it read to P), and
    - (ii) intends the authority conferred under the instrument to include authority to make decisions on P's behalf in circumstances where P no longer has capacity,
  - (c) a statement by the attorney ("A") or, if more than one, each A to the effect that A -
    - (i) has read the prescribed information or a prescribed part of it (or has had it read to A), and
    - (ii) understands the duties imposed on an attorney of a lasting power of attorney under sections 3 (the principles) and 6 (best interests) of the Law.

- (2) For the avoidance of doubt, where a relevant instrument -
  - (a) provides the information and authentication required in accordance with section 2(1), but
  - (b) was executed before the commencement of this Ordinance,

that relevant instrument shall be a valid relevant instrument for the purposes of the Law and this Ordinance and accordingly -

- (i) P may apply for it to be registered, and
- (ii) it may be registered,

in accordance with section 3.

**Registration.**

3. (1) An application to Her Majesty's Greffier for the registration of the relevant instrument -

- (a) must be made in the prescribed form, and
- (b) must include any prescribed information.

(2) An application under subsection (1) must be made by P in person.

(3) The application must be accompanied by -

(a) the relevant instrument, and

(b) any fee provided for under rules of court.

(4) A person who, in an application for registration, makes a statement which that person knows or believes to be false in a material particular is guilty of an offence and is liable -

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the uniform scale, or both,

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

(5) Before a lasting power of attorney is registered by Her Majesty's Greffier -

(a) Her Majesty's Greffier may request the Committee to investigate -

(i) whether P has capacity to -

(A) execute the relevant instrument, and

(B) apply to register the relevant instrument, and

(ii) the circumstances in which the instrument has been executed, and

(b) the Committee may investigate the matters set out in paragraph (a) using the powers set out in section 9.

(6) For the avoidance of doubt, Her Majesty's Greffier may refuse to register the relevant instrument where Her Majesty's Greffier reasonably believes that -

(a) P did not have capacity to -

(i) execute the relevant instrument, or

(ii) apply to register the relevant instrument,

when P applied to do so, or

(b) P has been put under undue pressure to execute the relevant instrument or to apply to register that instrument.

(7) Where Her Majesty's Greffier refuses to register the relevant instrument, P or A may appeal to the Court in accordance with rules of court.

(8) Where Her Majesty's Greffier is satisfied that -

(a) P had capacity to -

(i) execute the relevant instrument, and

(ii) apply to register the relevant instrument,

when P applied to do so,

(b) P has not been put under pressure to execute the relevant instrument or to apply to register that instrument, and

(c) P has complied with the requirements of this section,

Her Majesty's Greffier shall register the relevant instrument as a lasting power of attorney.

(9) Where Her Majesty's Greffier has registered the relevant instrument as a lasting power of attorney, Her Majesty's Greffier shall notify P.

**Activation.**

4. (1) Subject to subsection (2), where a lasting power of attorney in relation to property and financial affairs has been registered by P, A may act in accordance



with that lasting power of attorney at any time after such registration (whether before or after a prescribed certificate has been completed in accordance with subsection (4)), provided that P has given A authority so to act, in the relevant instrument or otherwise, at a time when P had capacity to give that authority.

(2) Where P -

- (a) does not give A authority in the relevant instrument to act in accordance with that lasting power of attorney described in subsection (1), but
- (b) gives that authority subsequently,

A may only act in accordance with that lasting power of attorney where P has notified Her Majesty's Greffier in the prescribed form.

(3) Where -

- (a) a lasting power of attorney in relation to -
    - (i) health and welfare, or
    - (ii) property and financial affairs (other than one described in subsection (1) or (2)),
- has been registered by P, and

- (b) A reasonably believes that P no longer has capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is activated,

A must request a prescribed person to assess whether P has capacity in relation to health and welfare or property and financial affairs matters (as the case may be).

(4) The prescribed person shall assess whether P no longer has capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is activated and, if so satisfied, shall complete a prescribed certificate.

(5) Except in the case set out in subsection (1) or (2), A may only act in accordance with a lasting power of attorney where -

- (a) A has provided to Her Majesty's Greffier -
  - (i) the prescribed certificate completed in accordance with subsection (4) which states that P no longer has capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is activated, and

- (ii) any fee provided for in rules of court, and
  - (b) Her Majesty's Greffier has completed the prescribed form.
- (6) Before Her Majesty's Greffier completes the prescribed form -
- (a) Her Majesty's Greffier may request the Committee to investigate the circumstances in which the prescribed certificate has been completed, and
  - (b) the Committee may investigate those circumstances using the powers set out in section 9.
- (7) For the avoidance of doubt, Her Majesty's Greffier may refuse to complete the prescribed form where Her Majesty's Greffier reasonably believes that -
- (a) P retains capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is not appropriate that the lasting power of attorney is activated, or
  - (b) the circumstances in which the prescribed certificate has been completed are such that the prescribed form should not be completed until a further assessment is carried out for the purposes of subsection (4).

(8) Where Her Majesty's Greffier refuses to complete the prescribed form, P or A may appeal to the Court in accordance with rules of court.

(9) Where Her Majesty's Greffier completes the prescribed form, Her Majesty's Greffier shall -

(a) notify A of that fact, and

(b) update the Register accordingly.

(10) For the avoidance of doubt, A may act in accordance with the lasting power of attorney upon notification by Her Majesty's Greffier in accordance with subsection (9)(a).

(11) For the purposes of this section -

(a) A,

(b) A's spouse or civil partner, or

(c) any child of A,

cannot act as the prescribed person in relation to a lasting power of attorney created by P.

**Amendment.**

5. (1) Where P wishes to amend a lasting power of attorney, including by

-

(a) substituting a different A, or

(b) amending any conditions or restrictions specified in the relevant instrument,

P must -

(i) complete the prescribed form, and

(ii) apply in person to Her Majesty's Greffier.

(2) A lasting power of attorney can only be amended where, at the time P applies to register the prescribed form, P -

(a) has attained the age of 18, and

(b) has capacity to -

(i) amend the lasting power of attorney, and

(ii) apply to register the prescribed form.

(3) The application must be accompanied by -

- (a) the prescribed form, and
  - (b) any fee provided for in rules of court.
- (4) Before an amendment is registered by Her Majesty's Greffier -
  - (a) Her Majesty's Greffier may request the Committee to investigate -
    - (i) whether P has capacity as required in subsection (2)(b), and
    - (ii) the circumstances in which the amendment has been made, and
  - (b) the Committee may investigate the matters set out in subparagraph (a) using the powers set out in section 9.
- (5) For the avoidance of doubt, Her Majesty's Greffier may refuse to register an amendment to a lasting power of attorney where Her Majesty's Greffier reasonably believes that -
  - (a) P does not have capacity as required in subsection (2)(b), or

- (b) P has been put undue pressure to amend the lasting power of attorney.

(6) Where Her Majesty's Greffier refuses to register an amendment to a lasting power of attorney, P or A may appeal to the Court in accordance with rules of court.

(7) Where Her Majesty's Greffier registers an amendment to a lasting power of attorney, Her Majesty's Greffier -

- (a) shall notify -

- (i) P, and

- (ii) A, and

- (b) update the Register accordingly.

(8) For the avoidance of doubt -

- (a) where A may act in accordance with the lasting power of attorney as set out in section 4(1) or (2), A must act in accordance with that lasting power of attorney as it has been amended upon notification by Her Majesty's Greffier in accordance with subsection (7)(a)(ii), and

- (b) in any other case, A must act in accordance with the lasting power of attorney as it has been amended when A is authorised to so act.

**Suspension.**

6. (1) Where A believes, or has reasonable grounds to believe, that P has regained capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended, A shall request a prescribed person to assess P's capacity and complete the prescribed certificate.

(2) The prescribed person shall assess whether P has capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended and, if so satisfied, shall complete a prescribed certificate.

(3) Where a prescribed person has completed the prescribed certificate on the basis that -

- (a) P has regained capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended -

- (i) A must immediately, except where A is authorised by P to act in accordance with section 4(1) or (2) -



- (A) notify Her Majesty's Greffier that the lasting power of attorney has been suspended using the prescribed form,
  - (B) notify any other A of the suspension of the lasting power of attorney, and
  - (C) cease to act in accordance with that power of attorney,
- (ii) upon notification in accordance with subparagraph (i)(B), any other A must cease to act in accordance with that power of attorney, or
- (b) P has not regained capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended, A may continue to act in accordance with the lasting power of attorney.

(4) Where Her Majesty's Greffier receives notification under subsection (3)(a)(i)(A), Her Majesty's Greffier must update the Register.

(5) Where -

- (a) a lasting power of attorney has been suspended under subsection (3)(a), and
- (b) A reasonably believes that P no longer has capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is activated,

A must act in accordance with section 4(3).

(6) If, other than where A is authorised by P to act in accordance with section 4(1) or (2), A -

- (a) does not, on the basis of the information known to A -
  - (i) request a prescribed person to assess P's capacity and complete the prescribed certificate, or
  - (ii) notify Her Majesty's Greffier,

in circumstances where a reasonable person might reasonably believe that P had regained capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended, or

- (b) continues to act in accordance with the lasting power of attorney where a prescribed person has completed the prescribed certificate on the basis that P has regained capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended,

A is guilty of an offence.

- (7) Where A is guilty of an offence under subsection (6), A is liable -
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the uniform scale, or both,
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.
- (8) Where -
  - (a) A has disposed of any of P's property, and
  - (b) any of the circumstances set out in subsection (6) apply,

P may apply to the Court to make any order which the Court sees fit -

- (i) for the purpose of -
  - (A) preventing any further disposal of the property in question, or
  - (B) returning that property to P, and
- (ii) for any purpose ancillary to the purposes set out in subparagraph (i).

(9) For the avoidance of doubt -

- (a) the Committee may give guidance as to the meaning of "has capacity" or "regain capacity", especially in relation to cases of fluctuating capacity, in any Code of Practice issued under the Law, and
- (b) any person (including a court) must take any such guidance into account for the purposes of this Ordinance.

**Revocation, etc.**

7. (1) Where P wishes to revoke the lasting power of attorney, P must -
- (a) complete the prescribed form, and
  - (b) apply in person to Her Majesty's Greffier.

(2) A lasting power of attorney can only be revoked where, at the time P applies to register the prescribed form, P -

(a) has attained the age of 18, and

(b) has capacity to -

(i) revoke the lasting power of attorney, and

(ii) apply to register the prescribed form.

(3) The application must be accompanied by -

(a) the prescribed form, and

(b) any fee provided for in rules of court.

(4) Before the revocation is registered by Her Majesty's Greffier -

(a) Her Majesty's Greffier may request the Committee to investigate -

(i) whether P has capacity as required in subsection (2)(b), and

(ii) the circumstances in which the amendment has been made, and

(b) the Committee may investigate the matters set out in subparagraph (a) using the powers set out in section 9.

(5) For the avoidance of doubt, Her Majesty's Greffier may refuse to register the revocation of a lasting power of attorney where Her Majesty's Greffier reasonably believes that -

(a) P does not have capacity as required in subsection (2)(b), or

(b) P has been put undue pressure to revoke the lasting power of attorney.

(6) Where Her Majesty's Greffier refuses to register the revocation of a lasting power of attorney, P or A may appeal to the Court in accordance with rules of court.

(7) Where Her Majesty's Greffier registers the revocation of a lasting power of attorney, Her Majesty's Greffier -

(a) shall notify -

(i) P, and

(ii) A, and

(b) update the Register accordingly.

(8) For the avoidance of doubt, A no longer has authority to act in accordance with a lasting power of attorney when Her Majesty's Greffier has given notification in accordance with subsection (7)(a)(ii).

(9) P's bankruptcy revokes the lasting power of attorney so far as it relates to P's property and financial affairs.

(10) The occurrence in relation to A of an event mentioned in subsection

(11) -

(a) terminates A's appointment, and

(b) except in the cases given in subsection (12), revokes the lasting power of attorney.

(11) The events are -

(a) the disclaimer of the appointment by A in accordance with the prescribed requirements,

(b) subject to subsection (13), the death or bankruptcy of A or, if A is a person holding (or deemed to be holding) a primary

or secondary fiduciary licence for the purposes of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2020<sup>b</sup>, its winding-up or dissolution, or loss of its fiduciary licence held under that Law,

- (c) subject to subsection (14), the dissolution or annulment of a marriage or civil partnership between P and A, and
- (d) A's lack of capacity.

(12) The cases are -

- (a) A is substituted under the terms of the relevant instrument,
- (b) A is one of two or more persons appointed to act jointly and severally in respect of any matter and, after the event, there is at least one remaining A.

(13) The bankruptcy of A does not terminate A's appointment, or revoke the power, in so far as A's authority relates to P's health and welfare.

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<sup>b</sup> Order in Council No. XIX of 2020. This enactment has been amended.



(14) The dissolution or annulment of a marriage or civil partnership does not terminate A's appointment, or revoke the lasting power of attorney, if the relevant instrument provided that it was not to do so.

(15) For the avoidance of doubt -

(a) the Court under section 14 of the Law, or

(b) the Tribunal under section 18 of the Law,

may revoke a lasting power of attorney or A's appointment.

(16) Where Her Majesty's Greffier believes on reasonable grounds that

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(a) A's appointment has been terminated or revoked, or

(b) the lasting power of attorney has been revoked,

Her Majesty's Greffier shall update the Register accordingly, subject to making such enquiries as may be reasonable in the circumstances.

(17) Where A knows or reasonably believes that an event has occurred in relation to A or another A which would -

(a) terminate the appointment of any A, or

- (b) revoke the lasting power of attorney,

in accordance with subsection (10), A must notify Her Majesty's Greffier as soon as reasonably practicable.

(18) Where A does not notify Her Majesty's Greffier in accordance with the requirement set out in subsection (17), A is guilty of an offence.

(19) Where A is guilty of an offence under subsection (18), A is liable, on summary conviction, to imprisonment for a term not exceeding 2 years, to a fine not exceeding level 5 on the uniform scale, or to both.

(20) Without prejudice to subsection (16), where Her Majesty's Greffier has been notified in accordance with subsection (17) -

- (a) Her Majesty's Greffier may request the Committee to investigate whether an event has occurred which would terminate the appointment of any A or revoke the lasting power of attorney, and
- (b) the Committee may investigate the matters set out in subparagraph (a) using the powers set out in section 9.

**Power of Court to suspend exercise of lasting power of attorney.**

8. (1) In addition to any power of the Court under the Law, the Court, on application of the Committee, may direct that -

- (a) A may not act in accordance with a lasting power of attorney, or
- (b) A may only exercise that power, or make specified decisions under that power, with the consent of the Committee,

for a specified period to allow the Committee to investigate if it considers that -

- (i) fraud or undue pressure was used to induce P -
  - (A) to execute a relevant instrument, or
  - (B) to create a lasting power of attorney, or
- (ii) A has behaved, is behaving or proposes to behave in a way contrary to section 30(3)(b) of the Law.

(2) Where the Committee -

- (a) has completed its investigation under subsection (1), and
- (b) reasonably believes that -

- (i) fraud or undue pressure was used to induce P to act in one, or both, of the ways set out in subsection (1)(i), or
- (ii) A has behaved, is behaving or proposes to behave in a way contrary to section 30(3)(b) of the Law,

it shall apply to the Court to decide whether to revoke A's appointment.

(3) Any application under subsection (1) or (2) shall be made in accordance with rules of court.

(4) Where the Court has notified Her Majesty's Greffier that it has made a direction under subsection (1), Her Majesty's Greffier shall update the Register accordingly.

**Power of Committee to investigate.**

9. (1) Without prejudice to any power under an Ordinance made under Part 9 of the Law, where -

- (a) Her Majesty's Greffier has requested the Committee to undertake an investigation in accordance with this Ordinance, or
- (b) the Committee believes that A may -

- (i) have behaved, or be behaving, in a way that contravenes A's authority or was not in the best interests of P,
- (ii) be proposing to behave in a way that would contravene that authority or would not be in P's best interests, or
- (iii) have failed to comply with the requirements of an order made, or directions given, by the Court or the Tribunal (as the case may be),

the Committee may exercise the powers set out in this section.

- (2) The Committee may require A -
  - (a) to provide specified information or information of a specified description, or
  - (b) to produce specified documents or documents of a specified description.
- (3) The information or documents must be provided or produced -

(a) before the end of such reasonable period as may be specified, and

(b) at such place as may be specified.

(4) The Committee may require -

(a) any specified information provided to be verified in such manner, or

(b) any specified document produced to be authenticated in such manner,

as it may reasonably require.

(5) For the purposes of this section, "**specified**" means specified in a notice in writing given to A by the Committee.

(6) A person who, in purported compliance with a requirement imposed under this section, does any of the following -

(a) makes a statement which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,

- (b) dishonestly or otherwise, recklessly makes a statement which is false, deceptive or misleading in a material particular,
- (c) produces or causes or permits to be produced any information or document which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (d) dishonestly or otherwise, recklessly produces or recklessly causes or permits to be produced any information or document which is false, deceptive or misleading in a material particular,

is guilty of an offence.

(7) A person guilty of an offence under subsection (6) is liable, on summary conviction, to imprisonment for a term not exceeding 2 years, to a fine not exceeding level 5 on the uniform scale, or to both.

(8) Without prejudice to any other power of the Committee to do so, where -

- (a) A does not provide any specified information or produce any specified document in accordance with the notice, or

- (b) A has provided the information or produced any document in accordance with the notice, but the Committee believes that A's conduct falls within subsection (1)(b),

the Committee may make an application to the Court in accordance with rules of court to make an appropriate order, including but not limited to, an order terminating A's appointment.

**Disposal of real property.**

10. (1) For the purposes of section 27 of the Law, where the real property is located -

- (a) in the Bailiwick, A must comply with the requirements set out in subsection (2),
- (b) outside the Bailiwick, A must comply with the requirements set out in subsection (4) if P is ordinarily resident in the Bailiwick.

(2) Where subsection (1)(a) applies, A may only dispose of P's real property where -

- (a) A has given at least 28 days' notice to -
  - (i) all other As, and



- (ii) any person of whom A is aware, after reasonable investigation, has an interest (whether vested or contingent) in that real property,

of the application to the relevant court to make an order approving the disposal of the real property, and

- (b) the relevant court has made an order approving that disposal.

(3) For the purposes of subsection (2)(b) -

- (a) A may make an application to the relevant court in accordance with rules of court, and

- (b) the relevant court -

- (i) where P is ordinarily resident in Alderney, is the Court of Alderney,

- (ii) where P is ordinarily resident in Sark, is the Court of the Seneschal, and

- (iii) in any other case, is the Royal Court (sitting as an Ordinary Court).

(4) Where subsection (1)(b) applies, A may only dispose of P's real property where A has given at least 28 days' notice immediately preceding the date of that disposal to -

- (a) all other As (where relevant), and
- (b) any person of whom A is aware, after reasonable investigation, who has an interest (whether vested or contingent) in that real property,

of the disposal of the real property.

(6) For the purposes of subsection (4), "**dispose of**" P's real property which is located outside the Bailiwick means dealing with the real property in a way corresponding to one of ways set out in subsection (8) recognised by the jurisdiction in which the real property is located.

(7) For the purposes of subsections (2)(a) and (4), A satisfies this requirement where A sends a notice -

- (a) setting out A's intention to dispose of P's real property and provides sufficient detail to permit the person receiving the notice to understand the nature of the disposal and to object to that disposal when the Court considers making an order approving that disposal or when the real property is otherwise disposed of, and

- (b) satisfies any requirement set out in regulations made under section 19.

(8) For the purposes of this section and section 27 of the Law, "**dispose of**" P's real property means where A deals with the real property by -

- (a) selling or otherwise conveying the real property,
- (b) creating a charge over that property,
- (c) granting a long lease over the real property,
- (d) granting any person a life interest in the real property, or
- (e) granting an *usufruit, droit d'habitation, hypothèque* or servitude over the real property,

and cognate expressions shall be construed accordingly.

**Offences.**

11. (1) Where A -

- (a) may act in the exercise of A's authority under a lasting power of attorney,

- (b) does any thing which is not within A's authority to do, and
- (c) A knows that, or is reckless to whether, this thing is not within A's authority,

A is guilty of an offence.

(2) Where A -

(a) does any thing which -

(i) is not, or

(ii) is no longer,

within A's authority to do under a lasting power of attorney, and

(b) A knows that, or is reckless to whether, this thing is not, or is no longer, within A's authority to do,

A is guilty of an offence.

(3) Where A is guilty of an offence under subsection (1) or (2), A is liable -

- (a) on summary conviction, to imprisonment for a term not exceeding 2 years or a fine not exceeding level 5 on the uniform scale, or both,
- (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine, or both.

**Further provision.**

12. (1) The Committee may by regulations make alternative provision in relation to any requirement in this Ordinance to do any act in person, notwithstanding any provision to the contrary, where the Committee is satisfied that there is a good reason to do so (including, but not limited to, a public health reason).

(2) Any regulations made under subsection (1) may only be in force for a period not exceeding 3 months.

**Non-resident attorneys.**

13. For the avoidance of doubt, an A is not required to be ordinarily resident in the Bailiwick in order to be appointed as, or to exercise the functions of, an attorney in accordance with a lasting power of attorney.

**Other powers of attorney.**

14. For the avoidance of doubt -

- (a) the provisions of the Power of Attorney and Affidavits (Bailiwick of Guernsey) Law, 1995 do not apply in relation

to any lasting power of attorney created in accordance with this Ordinance, and

- (b) this Ordinance does not affect the law of agency or the operation of any power of attorney made in accordance with that Law.

**Savings.**

15. (1) For the avoidance of doubt, nothing in the Law or this Ordinance shall -

- (a) invalidate the registration by the Court before the date of commencement of this Ordinance of any lasting power of attorney created in accordance with the legislation of a jurisdiction outside the Bailiwick,
- (b) prevent the performance of any act or taking of any decision after the date of commencement in accordance with a lasting power of attorney registered in accordance with paragraph (a), or
- (c) prevent the registration after the date of commencement of this Ordinance by any court in the Bailiwick of any lasting power of attorney created in accordance with the legislation of a jurisdiction outside the Bailiwick.

(2) Accordingly, the provisions of this Ordinance shall not apply in relation to the creation, registration, activation, amendment or suspension of a lasting power of attorney created in accordance with the legislation of a jurisdiction outside the Bailiwick.

**Saving of transactions for value without notice.**

16. (1) Subject to any requirement in relation to real property set out in this Ordinance, where -

- (a) A has disposed of any of P's property other than in accordance with A's authority under a lasting power of attorney, and
- (b) that property has been acquired by a bona fide purchaser for value of the goods on the basis of A's ostensible authority to dispose of that property,

the acquisition of that property by that purchaser shall not be impugned by reason of a subsequent determination of any application by a court to decide the lawful ownership of the property or otherwise to oppose the disposal.

(2) Where subsection (1) applies, P's rights shall attach instead to the proceeds of sale received by A or to any property representing the proceeds of sale.

**Appeal from the Royal Court.**

17. (1) An appeal from a decision of the Court made in exercise of its powers in relation to a lasting power of attorney (whether under the Law or this Ordinance) shall, with leave of the Court or the Court of Appeal, lie to the Court of Appeal.

(2) An application to the Court of Appeal for leave to appeal under subsection (1) shall be treated, for the purposes of section 21 of the Court of Appeal (Guernsey) Law, 1961, in respect of -

- (a) the powers that may be exercised by a single judge of the Court under section 21(1) of that Law, and
- (b) the entitlement of an applicant under section 21(2) of that Law,

as if it were an application made under Part II of that Law.

**Applications to the Royal Court.**

18. (1) For the avoidance of doubt, any application for the Royal Court to exercise any of the powers set out in section 30 or 31 of the Law, or any other power under the Law in relation to a lasting power of attorney, must be made in accordance with rules of court.

(2) Further to section 21 of the Law, no permission is required for an application to the Court by the Committee for the exercise of any of its powers under this Ordinance or under the Law in relation to a lasting power of attorney.



**Service.**

19. The Committee may by regulations make such provisions as it thinks fit in relation to the service of any document, howsoever named (but including, for the avoidance of doubt, a notification by Her Majesty's Greffier), for the purposes of this Ordinance.

**Interpretation.**

20. (1) For the purposes of this Ordinance, unless the context requires otherwise -

"**the Committee**", for the purposes of sections 3(5), 4(6), 5(4), 7(20), 8 and 9, includes any person appointed or otherwise directed by the Chief Pleas of Sark, or one of its committees, to deal with safeguarding matters,

"**the Court**" means the Royal Court sitting as an Ordinary Court, which may be properly constituted by the Bailiff sitting unaccompanied by the Jurats,

"**Her Majesty's Greffier**" includes -

- (a) any Deputy Greffier or other person authorised by Her Majesty's Greffier to exercise any of the, or any specified, functions of Her Majesty's Greffier under this Ordinance, and

- (b) any person appointed for the time being by Her Majesty's Greffier for the purpose of exercising any of the, or any specified, functions of Her Majesty's Greffier under this Ordinance in Alderney or Sark,

"**the Law**" means the Capacity (Bailiwick of Guernsey) Law, 2020,

"**long lease**" means a lease granted for a term of years certain of 21 years or more, whether or not at a premium or rack rent and whether or not the lease is or may become terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise, and also any other lease which contains, or in relation to which there exists, a covenant, obligation or option -

- (a) for perpetual renewal, pursuant to which any party to the lease is entitled to enforce (whether or not subject to the fulfilment of any condition) the perpetual renewal or extension thereof,
- (b) for renewal, pursuant to which any party to the lease is entitled to enforce (whether or not subject to the fulfilment of any condition) the renewal or extension thereof (whether on one or more occasions, and whether or not for a specified term) which, if exercised in accordance with the terms of the covenant, obligation or option, and on

whatever number of occasions, would bring the aggregate of terms granted to 21 years or more,

and for the purposes of this Ordinance -

- (c) a lease for a fixed term and thereafter until determined shall be deemed to be a lease for a term equal to the fixed term together with such further period as must elapse before the earliest date upon which the lease can be determined,
- (d) a lease for life or for any term determinable with life or on marriage shall be deemed to be a lease granted for a term of years certain of 21 years or more,
- (e) without prejudice to the generality of paragraphs (a) and (b) above, any covenant, obligation or option to take a lease for a further or extended term shall be taken into account in calculating the length of the term for which the lease was originally granted, and accordingly (by way of example) a lease for a definite term with an option to renew or extend for a further definite term shall be deemed to be a lease for the aggregate term,
- (f) a renewal or extension of a lease which does not contain, and in relation to which there does not exist, a covenant,

obligation or option described in paragraph (a) or (b) above shall be deemed to be a grant of a lease, and

- (g) the expression "lease" includes an underlease or other tenancy, and

**"prescribed"** means prescribed by regulations of the Committee.

(2) Any term used in this Ordinance shall have the same meaning as found in the Law and cognate expressions shall be construed accordingly.

(3) For the avoidance of doubt -

- (a) any person appointed by Her Majesty's Greffier under section 20(1) is a person responsible to Her Majesty's Greffier for the purposes of section 34 of the Law, and
- (b) Her Majesty's Greffier may notify a person for the purposes of this Ordinance in such manner as Her Majesty's Greffier sees fit.

**Amendments.**

21. (1) In the Law -

- (a) in section 1(1) -

- (i) in the definition of "grantor" and "lasting power of attorney", for "21" substitute "22", and
- (ii) insert the following definitions in the appropriate places -

""**dispose of**", for the purposes of section 27(1), means dealing with the real property by way of any legal transaction specified in an Ordinance made under section 23, and "**disposal**" shall be construed accordingly," and

""**full fiduciary licence**", for the purposes of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000, includes a primary or secondary fiduciary licence for the purposes of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2020,"

- (b) in section 29(4)(a), for "created" substitute "activated", and
- (c) in section 34, for "22" substitute "23".

(2) In section 4(4)(b) of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2020 -

(a) in paragraph (iv), for "." substitute ",", and

(b) insert the following paragraph -

"(v) acting as an attorney under a lasting power of attorney created under the Capacity (Bailiwick of Guernsey) Law, 2020."

**Citation and commencement.**

**22.** This Ordinance -

(a) may be cited as the Capacity (Lasting Powers of Attorney) (Bailiwick of Guernsey) Ordinance, 2022, and

(b) shall come into force on 1<sup>st</sup> April 2022.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

**SIMULTANEOUS ELECTRONIC VOTING IN THE STATES OF DELIBERATION**

The States are asked to decide:

Whether, after consideration of the policy letter entitled 'Simultaneous Electronic Voting in the States of Deliberation' dated 31<sup>st</sup> January 2022 they are of the opinion:-

1. To approve the introduction of the system of simultaneous electronic voting, as detailed in this policy letter, for an initial three-year term.
2. To agree that the Rules of Procedure of the States of Deliberation and their Committees should be amended, immediately prior to the system being operational in the States of Deliberation, as follows:

a) for Rule 26, substitute:

**"Closure and voting**

**26. 'Guillotine' motion**

- (1) A Member who has not already spoken in the debate, otherwise than in pursuance of Rule 17(3), (11) or (12), may at any time (but without interrupting another Member who is addressing the Meeting) request the Presiding Officer to close a debate on any matter (including an amendment or a sursis). Neither the Member making that request nor any other may address the Meeting about it. Members who would be entitled to speak and who would intend to speak should the debate continue shall be invited by the Presiding Officer to stand in their places, and thereafter the Presiding Officer shall ask the Member making the request to close the debate whether he or she still so requests, and if he or she does still so request the Presiding Officer shall put the said request to the vote and if the majority of the Members voting support it then (except that the President, Policy & Resources Committee shall be entitled to comment on any financial implications, if he or she has not already done so, and subject to Rules 17(2), 24(7) or 28(3)), the debate shall be closed, and (subject to Rule 27) the matter shall be put to the vote.

## **26A. Proxy voting**

- (1) A Member may, by reason only of absence from a Meeting of the States of Deliberation for the purpose of childbirth or care for an infant or newly-adopted child, by written notice in the form set out in Schedule 4 to these Rules arrange for their vote to be cast in accordance with this Rule by another Member acting as a proxy (a proxy vote) for a maximum duration of six continuous months.
- (2) The Presiding Officer may, from time to time, upon representations from the Civil Contingencies Authority in light of circumstances prevailing in the Island, prescribe certain reasons for absence ('Authorised Absence') from a meeting of the States, which shall entitle a Member to arrange for their vote to be cast by another Member acting as a proxy (a proxy vote) if their circumstances require them to take an Authorised Absence from one or more States Meetings. The manner in which the proxy arrangements between Members will operate in respect of an Authorised Absence will be as directed by the Presiding Officer. Proxy voting arrangements in respect of an Authorised Absence shall only be valid during the period prescribed by the Presiding Officer.
- (3) A proxy vote may be cast on the following propositions:
  - a) original propositions (excluding any propositions from the Presiding Officer);
  - b) secondary propositions; and
  - c) amended propositions.
- (4) A proxy vote, other than one being cast pursuant to Authorised Absence, may be cast only if the Presiding Officer has first certified that the Member for whom the vote is to be cast is eligible under the terms of this Rule and if that certificate, including the name of the Member nominated as a proxy, has been submitted to the Greffier before the commencement of the States Meeting in question.
- (5) A vote cast by a proxy shall be clearly indicated as such in the Official Report and voting records published.
- (6) The provisions of paragraph (1) that enable a Member to vote by proxy do not apply to the Alderney Representatives;

Provided that:

an Alderney Representative may act as a proxy for another Member, other than a Member who is an Alderney Representative.



## **26B. Voting – General Provisions**

- (1) A Member may vote only from a seat in the States' Chamber (except where the Member has been issued with a certificate by the Presiding Officer to vote by proxy). In presidential elections where there are two or more candidates, a Member may vote only from a seat in the States' Chamber.
- (2) On the announcement of the result of a division, any Member may challenge the accuracy thereof and thereupon a fresh division shall take place. Such further division cannot be challenged.
- (3) Unless otherwise stated, in order for a proposition to be carried it needs to be supported by the nearest whole number above one-half of the Members voting on the proposition.
- (4) Where a Proposition is rejected which had proposed that a particular action not be taken, such rejection is not a positive instruction for the action to be undertaken.

## **26C. Vote taken using the electronic voting system**

- (1) A vote shall be taken using the electronic voting system, unless:
  - (a) there is a requirement that the vote is taken by secret ballot;
  - (b) it is a vote on a procedural motion where no division is requested; or
  - (c) it is unavailable.
- (2) The Presiding Officer shall ask the Greffier to open the vote.
- (3) A Member shall -
  - (a) select the appropriate button to vote or, if he or she so wishes, to record his or her abstention; or
  - (b) absent themselves from the vote.
- (4) The Presiding Officer, when satisfied that Members have been allowed sufficient time to vote or record their abstention, shall ask the Greffier to close the vote.
- (5) The Presiding Officer shall then –
  - (a) announce the number of Members voting “Pour” and “Contre” respectively, the number of Members whose abstention has been recorded and the number of Members absent; and
  - (b) declare the result of the vote.
- (6) The voting record will be displayed on Members' devices and online via the States of Guernsey website.

## **26D. Manner of taking vote when electronic voting system unavailable**

- (1) In the event the electronic voting system is unavailable, a Member will announce his or her vote or abstention in a division (appel nominal) and immediately before such an announcement must switch on his or her microphone and switch it off again immediately after he or she has voted or abstained.
- (2) The order of voting on a division at any Meeting of the States shall be the same for each division taken at that Meeting (including a Meeting adjourned in accordance with Rule 6, and including a division on a matter adjourned from a previous meeting) but shall be rotated by groups of five members, listed alphabetically, between each Meeting and the next.

## **26E. Manner of taking votes on a procedural motion**

- (1) A vote shall be taken *de vives voix* on a procedural motion unless a Member requests a division.
- (2) Where voting is carried out *de vives voix*, any Member may, before the Presiding Officer rules that the matter was carried or was lost, or immediately after such a ruling, claim a division."

b) in Rule 11.(5), for "Rule 26(8)" substitute "Rule 26D(2)":

c) in paragraph (1) of Rule 30 in the definition of "Member", for "Rule 26(13)" substitute Rule 26A(6) and insert the following definitions:

""**division**" means a vote taken using the electronic voting system or, unless it is unavailable, an appel nominal.

"**procedural motion**" means any proposition or motion which is not an original or secondary proposition."

3. To agree that paragraph (3) of Rule 16 of the Rules of Procedure of the States of Deliberation and their Committees should be amended, immediately prior to the system being operational in the States of Deliberation, as follows -

a) For "Where, in any election by the States, the number of candidates exceeds the number of vacancies:", substitute:-

"In any election or appointment by the States, voting shall be carried out by secret ballot. Where the number of candidates exceeds the number of vacancies":

b) Delete subparagraph (a);

- c) Re-designate subparagraphs (b), (c) and (d) as (a), (b) and (c).
- 4. To rescind States' Resolutions 2 and 3 on Article 6 of Billet d'État XX dated 20<sup>th</sup> August 2010, 'Record of Members' Attendance at Meetings of the States of Deliberation, the Policy Council, Departments and Committees and Sub-Committees Thereof'.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

**SIMULTANEOUS ELECTRONIC VOTING IN THE STATES OF DELIBERATION**

The Presiding Officer  
States of Guernsey  
Royal Court House  
St Peter Port

31<sup>st</sup> January 2022

Dear Sir

**1 Executive Summary**

- 1.1 On 28<sup>th</sup> October, 2018, the States of Deliberation agreed in principle that from no later than the start of the next States' term, voting within the States of Deliberation shall be by means of a system of simultaneous electronic voting.
- 1.2 The States directed the States' Assembly & Constitution Committee ('the Committee') to recommend to the States the purchase and use of a suitable system of simultaneous electronic voting, and any further changes to the Rules of Procedure of the States of Deliberation which may be necessary, at the earliest possible opportunity within that States' term (i.e. before May 2020).
- 1.3 Work was undertaken from 2019 to early 2020 by the previous Committee to identify and cost a suitable system however it agreed in March 2020 to pause the workstream in light of more pressing workstreams (including remote Meetings of the States of Deliberation and postponing and subsequently reorganising the General Election for October 2020).
- 1.4 Further to the election of the Committee in October 2020, the workstream was set as a high priority for delivery by the Committee. Priority 4 of the '[Government Work Plan 2021 – 2025](#)' is entitled 'Reshaping Government' and the workstream to introduce simultaneous electronic voting in the Assembly is listed under the heading 'Enhance the operation of Government'.
- 1.5 This policy letter sets out:
  - Section 2: The decision to introduce simultaneous electronic voting and work undertaken to identify a suitable system
  - Section 3: The recommended simultaneous electronic voting system
  - Section 4: The cost and implementation of the proposed system

- Section 5: The changes required to the Rules of Procedure of the States of Deliberation
- Section 6: Potential future benefits
- Section 7: Record of Members' Attendance at Meetings of the States of Deliberation and Committee Meetings

1.6 If the propositions attached to this policy letter are approved at the States' Meeting on 30<sup>th</sup> March, it is intended that the system will be operational from the June 2022 States' Meeting.

## **2 The decision to introduce simultaneous electronic voting**

2.1 Between 2002 and 2018, there were a number of debates regarding introducing simultaneous electronic voting in the States of Deliberation. Appendix I summarises the history of these debates.

2.2 On 26<sup>th</sup> October 2018, the States resolved as follows:

(a) *in principle that, from no later than the start of the next States' term, voting within the States of Deliberation shall be by means of a system of simultaneous electronic voting along the lines envisioned in the policy letter entitled "Simultaneous Electronic Voting in the States of Deliberation" (Article 18, Billet d'Etat XIX, 2011); and*

(b) *To direct the States' Assembly & Constitution Committee to recommend to the States the purchase and use of a suitable system of simultaneous electronic voting, and any further changes to the Rules of Procedure which may be necessary, at the earliest possible opportunity within this States' term.*

2.3 The case for and against simultaneous electronic voting has been made in the many debates that predate consideration of this policy letter and, given the States have already agreed in principle to introduce such a system, the Committee will not repeat these arguments in this policy letter.

2.4 In July 2021, the workstream was listed in the [Government Work Plan 2021 to 2025](#) under 'Priority 4'. As stated in paragraph 5.34 of that report:

**"... this term will see the delivery of a number of specific improvements to government processes and systems which will complement any wider reform, including changes to Royal Assent processes, the automation of the electoral roll and the introduction of simultaneous electronic voting in debates".**

Next 18 months		Remaining Term		Held in abeyance		PRIORITY 4	
2021	2022	2023	2024	2025	2026	ENHANCE THE OPERATION OF GOVERNMENT	AREA OF FOCUS: EFFECTIVE GOVERNMENT
Secure changes to Royal Assent							
Identify options to independently determine States-Members and Non-States Members remuneration							
Review how government works to meet islanders' needs							
Automate the electoral roll							
Introduce simultaneous electronic voting in the assembly							

**Figure 1:** The [Government Work Plan 2021 to 2025 \(page 71\)](#)

### (a) The system proposed in 2011

- 2.5 The 2018 resolution directed that the simultaneous electronic voting system should be along the lines envisioned in the 2011 policy letter.
- 2.6 In 2011, the then Committee stated it had been provided with a budget estimate of £20,000 for *“the procurement and installation of a wireless SEV system specifically designed, tried and tested for parliamentary voting and capable of being fully integrated with the DSP audio system”*.
- 2.7 The system recommended using voting handsets which were small and had three buttons. The system allowed a full analysis of results and the ability for the results to be printed out. The £20,000 estimate included:
- 50 delegate handsets
  - central console and power supply
  - all necessary receivers, aerials, interfaces and software
  - delivery and installation / programming.
- 2.8 When the subject returned to the States in the policy letter ‘States’ Meetings – Simultaneous Electronic Voting’<sup>1</sup> dated 20<sup>th</sup> August 2014, the then Committee stated it had obtained indicative cost estimates from possible suppliers of simultaneous electronic voting systems. The basic cost estimates for voting equipment, installation and software were as follows:
- Fixed, wired-in system     £22,000
  - Wireless system             £17,000.
- 2.9 The Committee sought an update in 2019 on the functionality and cost of the option proposed in 2011, given the estimated costs provided in the previous reports. The update received by the then Committee provided estimated costs for implementation of the system as £25,000 with an annual running cost of £20,000, reaching a maximum of £105,000 over a five-year period.

<sup>1</sup> [States Meeting on 29th October 2014: Billet d'État XXI: 7. States' Assembly & Constitution Committee - States Meetings - Simultaneous Electronic Voting, p. 2484](#)

- 2.10 **The 2011 policy letter did not make it clear that the estimated cost set out in that policy letter was the annual cost of running the voting system, not the full cost of the implementation and ongoing operation of the system.**

**(b) Work undertaken to identify a suitable system: 2019 to 2021**

- 2.11 Further to the resolution of the States in October 2018, an assessment of the system's functional requirements was undertaken in 2019 and it was agreed that the system should:

- have the ability to record States' Members' attendance at the start of each day of States' Meetings;
- have the ability for States' Members to vote electronically and simultaneously on all propositions;
- have the ability to electronically record 'open' votes – where Members vote 'Pour', 'Contre' or 'Je Ne Vote Pas' – and promptly transmit these results to the Greffier and the Presiding Officer;
- electronically record votes by secret ballot in elections and immediately transmit these results to Greffier and the Presiding Officer; and
- the flexibility to enable the order of propositions to be changed and for new propositions to be added (e.g. amendments laid during a Meeting, procedural motions etc.)

- 2.12 It was also requested that the system should have the functionality to enable the voting record to be:

- displayed on a screen in the Assembly;
- published automatically on the [www.gov.gg](http://www.gov.gg) website; and
- published immediately on social media.

- 2.13 Research into potential options to meet the resolution was undertaken throughout 2019 and in early 2020. The then Committee looked at the main options available in 2019 which can be summarised as follows:

- Hard-wired voting buttons in the States' Chamber
- Voting handsets
- E-voting tablets
- Online voting system or an app.

- 2.14 In 2019 the e-voting tablet was identified and recommended as the strongest solution out of the options evaluated. Work was ongoing up to March 2020 to finalise the costs to progress the relevant policy letter. Initially, the estimated costs for implementation and change management were approximately £100,000, with estimating running costs of approximately £9,000 per annum.

However, further work was required to finalise costs as it was then estimated that the solution was likely to cost in between £59,000 and £170,000, with potential ongoing annual costs of £7,500 - £24,000 depending on devices chosen and the refresh cycle.

- 2.15 The advent of COVID-19 and the resultant impact on priorities saw the Committee agree in March 2020 to pause the workstream to focus on more urgent workstreams (including remote Meetings of the States of Deliberation and postponing and subsequently reorganising the 2020 General Election).
- 2.16 The newly elected Committee considered its extant resolutions in late 2020 and agreed that bringing a proposal for a simultaneous electronic voting system to the States was a high priority for the Committee.
- 2.17 It agreed that given the advances in technology and its use by Members during the COVID-19 era, there was merit in reviewing the options available and it agreed to invite the Chief Information Officer to a meeting to brief the Committee on the subject and the potential options for the system.
- 2.18 The meeting was held in January 2021 and it was agreed that a simple, robust and easy to use 'app' or web-based based approach using a device would be pursued. It was agreed that options for such an app or web-based approach would be investigated and reported back to the Committee. Liaison has taken place between staff and an on-Island company between March to October 2021 to develop a prototype system.

### **3 The recommended simultaneous electronic voting system**

- 3.1 The proposed bespoke web-based system has been developed over six months with a local company to meet the specific needs of the States of Deliberation, with the flexibility to accommodate changes to the Rules and procedures in the future. This means that the system – and further development of the system in line with the needs of the States of Deliberation – is flexible and will not face the constraints that an 'off the shelf' solution might have.
- 3.2 The system has been developed looking at the requirements of:
  - The voting Members of the States of Deliberation
  - The officials responsible for the administration of the system
  - The public who will be able to view the system.
- 3.3 Appendix II explains in detail how the system will work and be used by Members of the States of Deliberation. It has been designed to focus on ease of use, regardless of digital capability, with the flexibility for the system to be accessed on any device with an internet connection.
- 3.4 The clear and timely presentation of voting records to Members and the public has been a key factor in design and will be accessible from the system as a



standalone website and via the [www.gov.gg](http://www.gov.gg) website, as well as posted on social media.

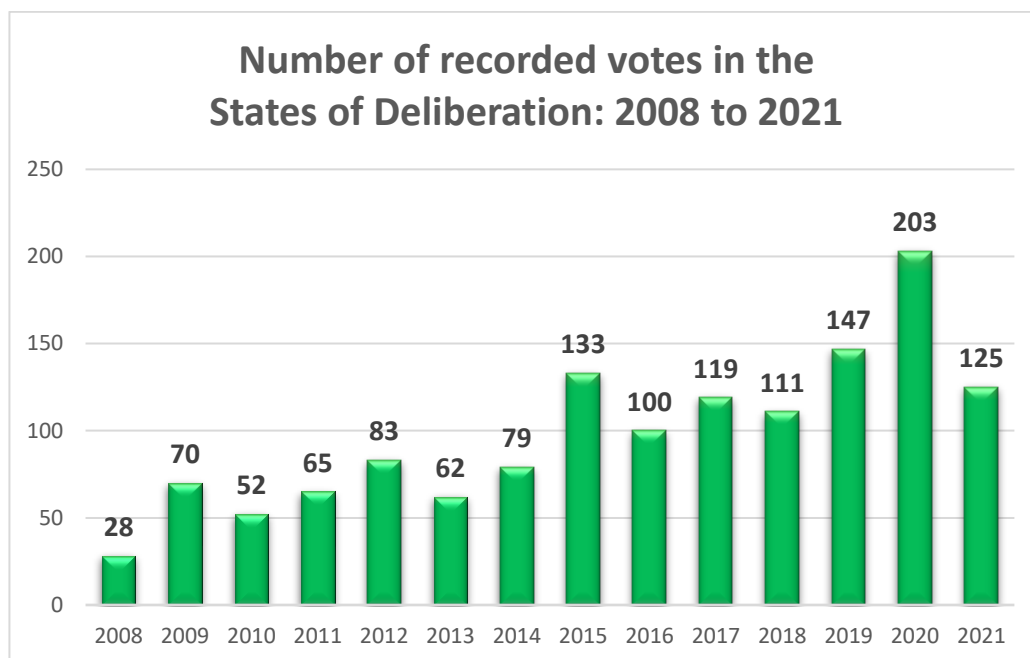
- 3.5 A further positive of the system designed is the ability for the data to be exported into a machine-readable format for use elsewhere, including making the voting records searchable and sortable by the Member or the vote cast (they are currently manually produced individually and published as PDF documents). This is covered in section 6. There is also a full audit log which contains every action and activity that occurs in the system which can be audited or scrutinised by administrators if required.
- 3.6 A key benefit of this system will be that it will be identical in use for both physical, remote or hybrid sittings, providing flexibility should Meetings of the States of Deliberation need to be held in a different venue, in a hybrid format or fully remotely in the future, as experienced during the current pandemic.

**(a) How the simultaneous electronic voting system will be used**

- 3.7 Under the current voting system, there are two methods used when a vote is required on a proposal (excluding secret ballots in elections):
- A vote *de vives voix*: the Presiding Officer asks all those in favour of a proposition to call out 'pour' and then those who oppose a proposition to call out 'contre'. Such votes take less than 10 seconds to conduct. The Presiding Officer will then judge which side has majority support. If it is unclear which side has the majority, the Presiding Officer will direct an 'appel nominal' is held.
  - A vote by *appel nominal* (recorded vote) is held if the result of a vote *de vives voix* is unclear; if a Member exercises their right to claim a division or where a motion requires the support of a specific number of Members to succeed. The procedure involves the Greffier reading out the names of each Member of the States who was either present at the Roll Call, subsequently relev  (e) or issued with a certificate by the Presiding Officer to vote by proxy. When a Member's name is called, if they are in their seat in the States' Chamber they will answer 'pour', 'contre' or 'je ne vote pas' (if they wish to abstain from the vote).

In the case of a Member voting by proxy, the name of the Member will be called, followed by the name of the Member nominated to cast their vote on their behalf e.g. Deputy X via their proxy Deputy Y. The votes are then counted and the Presiding Officer announces the result. Such votes typically take three to four minutes to be taken and declared. A voting record template document is manually populated with the proposition and voting information by the Parliamentary Team which is later published on the States' website.

- 3.8 The majority of votes are currently carried out *de vives voix*. The graph below shows the increase in the number of recorded votes in the States of Deliberation between 2008 and 2021.



- 3.9 Consideration was given as to whether the States of Deliberation should:

- maintain the vote *de vives voix* and for the simultaneous electronic voting system to only be used on request by Members (as recommended in the 2011 policy letter and operated in other Crown Dependencies); or
- use the system for all votes.

- 3.10 After careful consideration, the Committee agreed that if a system of simultaneous electronic voting is introduced, it should be introduced for **all** votes (excluding those undertaken by secret ballot and votes on a procedural motion where no division is requested), which would provide for maximum possible transparency and accountability regarding the way that all Members' vote. Voting on proposals is arguably Members most important function as a Member of the States of Deliberation. This would enable the public to be clear on how their elected Members vote on all proposals brought before the States. As stated in the then Committee's 2014 policy letter on the subject:

*"Knowledge of how Members voted is an integral part of the democratic process: it contributes to accountability and informs the public's choices at elections".*

- 3.11 The Committee believes that it is unsatisfactory that significant propositions can be taken by a vote *de vives voix* where the way that a Member voted, who abstained or was absent from the vote, is unknown. The system proposed will ensure that there is greater understanding of what takes place in the States of

Deliberation and presents a full picture of all votes.

- 3.12 Transparency in how Members currently vote (or abstained or were absent from the vote) is only achieved in the current system when a recorded vote is requested. Such requests can only be made by Members of the States or directed by the Presiding Officer when the vote is too close to call. Therefore, whilst a member of the public might wish to know how a particular item was voted upon by individual Members, they are dependent on a Member requesting a recorded vote on that item.
- 3.13 The Committee believes that given the States of Deliberation have agreed in principle to introduce a system of simultaneous electronic voting, in order to achieve real transparency and accountability, a recorded vote should be taken on all propositions (bar those taken by secret ballot and votes on a procedural motion where no division is requested).

**(b) Voting by secret ballot in elections and on appointments**

- 3.14 Consideration was given to electronically recording votes by secret ballot in elections. Voting is carried out by secret ballot where, in any election, the number of candidates exceeds the number of vacancies under Rule 16. Given the additional complexity that such an option would present in the system's development to ensure the votes of Members were taken anonymously, and the consequential increase in cost, it was concluded that for the relative rarity of such votes being taken, continuing with a secret ballot under current processes would suffice.
- 3.15 Votes held in order to elect a person to a Committee where there is only a single candidate are usually held *de vives voix*. However, in 2019, voting in an election for a single candidate was carried out by secret ballot on one occasion, further to requests being made for a recorded vote on the proposition.
- 3.16 At the States' Meeting held on 22nd May 2019, a proposition to elect the President of the Development & Planning Authority was contained in Billet d'État VII. There was only one Member nominated. Further to the speeches from the proposer and the candidate, the then Presiding Officer advised:

*"Normally we would go straight to the vote on an aux voix vote, but in a move that I think is unprecedented, quite exceptional, I have had several requests for a recorded vote, and a recorded vote would normally be an open vote, as you are aware."*

*The Rules provide that where there is more than one candidate voting should be by secret ballot. It seems to me it would be consistent with the spirit – the Rules just do not envisage a situation where we have a recorded vote on a single candidate, but it would be in my view consistent with the spirit of the Rules that it should be a secret ballot."*

*So what I am going to put to you is a motion that the recorded vote that has been requested shall be by secret ballot. I put to you that motion that the recorded vote shall be by secret ballot. Those in favour; those against”.*

- 3.17 Members voted in favour of the motion *de vives voix* and a secret ballot held. Members were advised that Members who wished to vote in favour of the candidate should write the candidate’s name on the voting slip, and those who did not should return a blank or spoilt paper. The result of the secret ballot was that the Member was elected as President of the Development & Planning Authority with 20 votes in favour and 18 spoilt papers and they were therefore declared elected.
- 3.18 In May 2021, a recorded vote was requested and taken on the uncontested election of the Chairman of the Guernsey Financial Services which was permitted and the voting record subsequently published.
- 3.19 The Committee considered whether it was appropriate to enable recorded votes on all uncontested elections or appointments under the proposed system, noting that the system could facilitate this. Having considered the votes taken in 2019 and 2021, the Committee has agreed to propose that any election or appointment by the States should be carried out by secret ballot to remain consistent with the ‘spirit’ of the Rules.
- 3.20 The Committee appreciates, however, that some Members may wish to have a ‘recorded vote’ on uncontested elections and appointments and may therefore wish to reject such a proposal. The Committee has therefore included the proposed change as a separate proposition (Proposition 3) to enable a separate vote on the matter, which, if rejected, would enable a recorded vote on uncontested elections and appointments.

#### **(c) Votes on a procedural motion where no division is requested**

- 3.21 Whilst the proposed move to simultaneous electronic voting making votes *de vives voix* redundant for the majority of motions put to the vote, it is proposed that the ability to vote *de vives voix* is retained for procedural motions. This will include motions under Rule 26(1) and Rule 24(6), motions to reorder business or proposing that the duration of the Meeting is extended etc. It will still be possible for Members to request a division on such motions.

#### **4 Cost and implementation of the proposed simultaneous electronic voting system**

- 4.1 The Committee is under resolution to recommend to the States the purchase and use of a suitable system of simultaneous electronic voting.
- 4.2 The local company that developed the proposed system of simultaneous electronic voting will licence the system to the States of Guernsey. The first-year

cost of the system will be £40,000 which will cover the licence and technical implementation costs and testing, training on the system and hands-on support from the developer for the first few Meetings when the voting system is introduced. In subsequent years, the ongoing licence and support costs will be £15,000 annually.

- 4.3 A one-off budget is required in 2022 of £25,000 to cover the technical design, configuration, implementation and managed hosting costs on the States of Guernsey network.
- 4.4 The system uses a consumption model for storage and data transactions which requires a budget for hosting costs which is estimated to be £3,000 per year.
- 4.5 States' Members will have to bring their States' issued laptop to each Meeting – or a personal, alternative device – to enable them to vote during the meeting. A budget of £5,000 is requested in year one to purchase a small number of back-up devices in the event of a Member's hardware failing during a Meeting but there will be a limited supply.
- 4.6 The table below shows the total cost for delivering the system. The year one cost will be £73,000 in total and this will reduce in years two and three to £18,000 per annum and can be negotiated further for future years.

Year	2022/23	2023/24	2024/25	Total
<b>SEV system</b>	40,000	15,000	15,000	70,000
<b>Initial Hosting setup</b>	25,000	0	0	25,000
<b>Annual Hosting</b>	3,000	3,000	3,000	9,000
<b>Hardware Budget</b>	5,000	0	0	5,000
<b>Total</b>	<b>£73,000</b>	<b>£18,000</b>	<b>£18,000</b>	<b>£109,000</b>

- 4.7 Following consideration of the Government Work Plan 2021-2025, the States resolved, inter alia, *“To authorise the Policy & Resources Committee to approve transfers of funding from the Budget Reserve and General Revenue Reserve to Committee budgets and make specific allowance in recommended Cash Limits for 2022-2025 in order to resource: .... v. Reshaping government initiatives ....”*. The Policy & Resources Committee has agreed, subject to States approval of the introduction of this system of electronic voting, to make available the requested funding totalling £109,000.
- 4.8 To put the ongoing annual costs into context with other digital parliamentary services, an annual budget of £30,000 is currently allocated to the production of the 'Official Report' (the 'Hansard' of the proceedings of the States of Deliberation). Other digital services provided by the Parliamentary Team including the livestreaming of States' Meetings via MS Teams, the production of the published 'log notes' for each session and the live 'tweeting' of the Meeting, are delivered using the existing resources in the Parliamentary Team.

- 4.9 It is intended that the policy letter will be considered by the States at its Meeting on 30<sup>th</sup> March 2022. If approved, the system will be finalised and tested in April and May 2022 with a view to the system going live for the Meeting scheduled for 14<sup>th</sup> June 2022.
- 4.10 The Parliamentary Team and the Committee will monitor the operation of the system, if approved, and ensure that it accommodates any changes to the Rules and/or procedures during the political term, and respond to any other changes identified as required. Given the system has been designed with a local company, there is flexibility for further development of the system.
- 4.11 As well as the continual monitoring of the system, the Committee will undertake a review of the system prior to the end of the political term to enable a decision to be taken as to whether the States wishes to continue with the system into the following political term, whether it or the Rules of Procedure require modification, and any other changes that might be required.

## **5 Amendments to the Rules of Procedure of the States of Deliberation**

- 5.1 The key Rule requiring amendment to facilitate simultaneous electronic voting in the States of Deliberation is Rule 26, 'Closure and Voting', predominantly to introduce provisions to facilitate the use of electronic voting and how votes would be taken if the electronic voting system was unavailable.
- 5.2 As a result of the proposed changes to Rule 26, consequential changes are required to Rule 11, 'Question Time' and the definition of a Member under Rule 30(1). There is also a proposal to amend Rule 16 in line with Section 3(b) of this policy letter, 'Voting by secret ballot in elections and on appointments'. The Rules of Procedure will be updated immediately prior to the Meeting where the voting system will be introduced, and the relevant propositions reflect this.
- 5.3 Further to consultation with the Presiding Officer, the Committee is proposing that Rule 26 is restructured in a logical manner. It is important to note that this policy focuses on the amendments required to facilitate the introduction of electronic voting, and does not seek to amend the wording of the Rules relating to the 'guillotine' motion or proxy voting. The following table explains how existing Rule 26 is proposed to be restructured under relevant headings:

<b>Rule</b>	<b>Heading</b>	<b>Existing Rule 26 paragraphs to be included under this heading</b>
26	The 'guillotine' motion	1
26A	Proxy voting	3, 3A, 4, 5, 6, 13
26B	Voting – general provisions	2, 9, 10, 11
26C	Vote taken using the electronic voting system	*New paragraphs*
26D	Manner of taking vote when electronic voting system unavailable	2, 8 (as amended)

Rule	Heading	Existing Rule 26 paragraphs to be included under this heading
26E	Manner of taking votes on a procedural motion	7 (as amended)

- 5.4 It is proposed that paragraph 12, which relates to a vote recorded by electronic equipment shall have the same status as a vote by appel nominal is deleted.
- 5.5 Proposition 2a requests Rule 26 is deleted and substituted with the text set out in the proposition. Appendix III shows how Rule 26 is proposed to be amended with tracked changes and the changes explained below in the following sections. The Committee agreed that it would propose that for clarity in reading the proposition, it would simply propose substituting Rule 26 to reflect the changes in Appendix III.

#### **(a) Rule 26: Closure and Voting**

##### Rule 26: The guillotine motion

- 5.6 It is proposed that Rule 26(1) is headed as above and is retained as Rule 26(1). There are no other proposed changes to Rule 26(1) at this time and Members are asked to note that this Rule will be reviewed separately in 2022.

##### Rule 26A: Proxy voting

- 5.7 It is proposed the paragraphs relating to proxy voting in Rule 26 are grouped under one heading. These paragraphs are: 3, 3A, 4, 5, 6 and 13. At present, paragraph 13 cross-refers to the provisions of paragraph (3) and the paragraph has been updated accordingly in the proposition.

##### Rule 26B: Voting – General Provisions

- 5.8 It is proposed that this Rule is included to cover provisions relevant to voting by simultaneous electronic voting, by appel nominal (in the event that the electronic voting system is unavailable), secret ballots and *de vives voix*.
- 5.9 It is proposed that the first two sentences of paragraph 2 of Rule 26 as currently drafted are included in this Rule, with a minor amendment (shown in bold/strike through below) given the predominance of ‘free seating’ in the States’ Chamber:

*A Member may vote only from ~~his or her~~ **a** seat in the States’ Chamber (except where the Member has been issued with a certificate by the Presiding Officer to vote by proxy). In presidential elections where there are two or more candidates, a Member may vote only from a seat in the States’ Chamber.*

- 5.10 It is proposed that paragraphs 9, 10 and 11 of Rule 26 as currently drafted are included as subsequent paragraphs under this heading.

##### Rule 26C: Vote taken using the electronic voting system

- 5.11 It is proposed that Rule 26C will set out how simultaneous electronic voting will

work in practice. The Committee has agreed that the length of time Members are allowed to vote should be at the discretion of the Presiding Officer, rather than being prescriptive within the Rules:

- (1) A vote shall be taken using the electronic voting system, unless:
  - (a) there is a requirement that the vote is taken by secret ballot;
  - (b) it is a vote on a procedural motion where no division is requested; or
  - (c) it is unavailable.
- (2) The Presiding Officer shall ask the Greffier to open the vote.
- (3) A Member shall –
  - (a) select the appropriate button to vote or, if he or she so wishes, to record his or her abstention; or
  - (b) absent themselves from the vote.
- (4) The Presiding Officer, when satisfied that members have been allowed sufficient time to vote or record their abstention, shall ask the Greffier to close the vote.
- (5) The Presiding Officer shall then –
  - (a) announce the number of Members voting “Pour” and “Contre” respectively, the number of Members whose abstention has been recorded and the number of Members absent; and
  - (b) declare the result of the vote
- (6) The voting record will be displayed on Members’ devices and online on the States of Guernsey website.

Rule 26D: Manner of taking vote when electronic voting system unavailable

5.12 It is proposed that, should there be occasion when the electronic voting system is unavailable, there should be provision under this Rule to enable a vote via ‘appel nominal’:

- (1) In the event the electronic voting system is unavailable, a Member will announce his or her vote or abstention in a division (appel nominal) and immediately before such an announcement must switch on his or her microphone and switch it off again immediately after he or she has voted or abstained.
- (2) The order of voting on a division at any Meeting of the States shall be the same for each division taken at that Meeting (including a Meeting adjourned in accordance with Rule 6, and including a division on a matter adjourned from a previous meeting) but shall be rotated by groups of five members, listed alphabetically, between each Meeting and the next.



Rule 26E: Manner of taking votes on a procedural motion

- 5.13 Whilst the proposed move to simultaneous electronic voting make votes *de vives voix* redundant for the majority of propositions put to the vote, it is proposed that the ability to vote *de vives voix* is retained for procedural motions. It will still be possible for Members to request a division on such motions and paragraph (7) as currently drafted has been adapted as shown in (2) below.

- (1) A vote shall be taken *de vives voix* on a procedural motion unless a Member requests a division.
- (2) Where voting is carried out *de vives voix*, any Member may, before the Presiding Officer rules that the matter was carried or was lost, or immediately after such a ruling, claim a division.

- 5.14 Given the inclusion of paragraph 26C(1), paragraph (12) as currently drafted is redundant and it is proposed it is deleted:

- (12) A vote recorded by electronic equipment authorised for that purpose by the States of Deliberation shall have the same status as a vote by appel nominal.

(b) Consequential amendments

- 5.15 As the result of the restructuring of Rule 26, it is necessary to amend the definition of “Member” under Rule 30(1) as follows:

**“Member”** means any Member of the States other than (except in Rule 10) Her Majesty’s Procureur (and note qualification in Rule 26A ~~(13)~~ (6) for purposes of proxy voting);

- 5.16 It is also proposed that “division” and “procedural motion” are defined as follows:

**“division”** means a vote taken using the electronic voting system or, unless it is unavailable, an appel nominal.

**“procedural motion”** means any proposition or motion which is not an original or secondary proposition.

- 5.17 Rule 11(5) currently reads as follows:

- (5) When more than one question is asked at any Meeting the order in which questions are put shall be determined in accordance with the order of voting prescribed in Rule 26(8);

...

- 5.18 As a result of the proposed amendments to Rule 26, the reference to Rule ‘26(8)’

needs to be amended to Rule '26D(2)'.

**(c) Rule 16: Elections**

5.19 Rule 16(3)(a) currently reads as follows:

(3) Where, in any election by the States, the number of candidates exceeds the number of vacancies:

(a) voting shall be carried out by secret ballot;

5.20 In line with the Committee's proposal that all uncontested elections and appointments should also be carried out by secret ballot, it is suggested to amend the first sentence of Rule 16(3) to read as follows, and this is set out in Proposition 3:

"In any election or appointment by the States, voting shall be carried out by secret ballot. Where the number of candidates exceeds the number of vacancies:  
...

and delete sub-paragraph (a) and re-designate subparagraphs (b), (c) and (d) as (a), (b) and (c).

**6 Potential Future benefits**

6.1 As highlighted in paragraph 3.5, a benefit of the system is the ability for the data to be exported into a machine-readable format for use elsewhere. It is therefore possible for third parties to use the data.

6.2 In the UK, the website [www.theyworkforyou.com](http://www.theyworkforyou.com) launched in 2004 which takes voting data and other information from Parliamentary sources and enables people to see how politicians represent them. It is run by a UK charity [www.mysociety.org](http://www.mysociety.org) and is not politically aligned.

6.3 Jersey developed a version of "they work for you" (<https://theyworkforyou.ie/>) in 2017 inspired by the above website. The website states:

*"All of the data on this website is available publicly. The States Assembly information is licensed under the Open States Assembly Licence – Jersey v1.0. We have just organized it in a way that is easier and simpler to access.*

*This website was inspired by a similar website in the UK (theyworkforyou.com) developed by a non-profit organization called mySociety. The Jersey version of this website was developed by the second 2017 cohort of students enrolled in a six-month coding programme run by Digital Jersey.*

*Ongoing management and development of the site is being provided through a*

*collaboration amongst the Jersey Policy Forum, Digital Jersey and the States Greffe. Technical support for the site is provided by The Infuse Group”.*

- 6.4 There is therefore similar scope with the introduction of simultaneous electronic voting for a similar initiative to be introduced in Guernsey.

## **7 Record of Members’ Attendance at Meetings of the States of Deliberation and Committee Meetings**

- 7.1 On the 29<sup>th</sup> October, 2010<sup>2</sup> the States resolved, after consideration of the Report dated 5<sup>th</sup> July 2010 entitled ‘Record of Members’ Attendance at Meetings of the States of Deliberation, the Policy Council, Departments and Committees and Sub-Committees Thereof’:

1. ...
2. *That departments and committees shall maintain a record of their States Members’ attendance at, and absence from meetings and that the reason for absence shall also be recorded.*
3. *That the records referred to in 2 above, together with a record of States Members’ attendance at meetings of the States of Deliberation, shall be published from time to time as an appendix to a Billet d’État.*

- 7.2 When previous Committees have laid this report before the States, they have drawn attention to the fact that the tables in the reports record only the attendance by Members of the States at States and Committee meetings. They do not show attendance at Committee sub-committee meetings or presentations. Nor do they show the amount of work or time spent, for example, on dealing with issues raised by parishioners, correspondence and preparing for meetings.

- 7.3 As stated in section 3, voting on proposals is arguably Members most important function as a Member of the States of Deliberation. The introduction of simultaneous electronic voting on all propositions (bar election and appointment propositions) will show the public how Members’ voted on propositions, who abstained and who was absent therefore showing the public who was present for those votes, and negating the need for attendance records to be produced individually.

- 7.4 The Committee concurs that the attendance records required to be collated by all Committees and then by the Committee to produce an appendix report are not a true reflection of the work undertaken by Members. It therefore proposes that these resolutions are rescinded and Proposition 4 relates.

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<sup>2</sup> Billet d’État XX dated 20<sup>th</sup> August 2010: [Resolution on 29<sup>th</sup> October 2010, VI. 2 & 3](#)

## **8 Compliance with Rule 4**

8.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be appended to propositions laid before the States.

8.2 In accordance with Rule 4(1):

(a) The propositions fulfil an extant resolution and one of the workstreams under Priority 4 of the Government Work Plan by presenting proposals for the introduction of simultaneous electronic voting in debates in the States of Deliberation.

(b) The Committee consulted with the Chief Information Officer and the Parliamentary Team in the development of the system proposed. It further consulted with the Policy & Resources Committee and the Presiding Officer further to the development of the system.

(c) The propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

(d) The financial implications to the States of Guernsey have been set out in section 4.

8.3 In accordance with Rule 4.(2):

(a) The propositions relate to the duties of the Committee to develop and implement policies in relation to "the procedures and practices of the States of Deliberation and committees of the States".

(b) It is confirmed that the propositions accompanying this Policy Letter are supported unanimously by the States' Assembly & Constitution Committee.

Yours faithfully

Deputy C.P. Meerveld  
President

Deputy L.C. Queripel  
Vice-President

Deputy S.P. Fairclough  
Deputy J.A.B. Gollop  
Deputy L.J. McKenna

## Appendix I: The history of debates on simultaneous electronic voting

1.1 Over the last twenty years, there have been numerous debates regarding introducing simultaneous electronic voting in the States of Deliberation.

1.2 On 17<sup>th</sup> May 2002<sup>3</sup>, after consideration of the joint report of the States Advisory and Finance Committee and the States Procedures and Constitution Committee regarding the Machinery of Government in Guernsey, the States resolved,

*“To direct the States Procedures and Constitution Committee to report to the States and submit appropriate proposals...for...voting in the States of Deliberation, to include provision for simultaneous electronic voting.”*

1.3 In 2006<sup>4</sup>, after consideration of that policy letter, the States resolved not to introduce simultaneous electronic voting and to retain the present voting system.

1.4 The report entitled “Simultaneous Electronic Voting in the States of Deliberation”<sup>5</sup>, debated on 30<sup>th</sup> November, 2011, asked the States to agree to the introduction of a system of simultaneous electronic voting in the States of Deliberation. The proposals were rejected (Pour: 21; Contre: 23; Abstained: 1; Absent: 2).

1.5 On 22<sup>nd</sup> May 2012, a Requête<sup>6</sup> entitled ‘Simultaneous Electronic Voting in The States of Deliberation’ was submitted for consideration by the States. The propositions were identical to those contained in the 2011 report. On 25<sup>th</sup> July 2012, having approved an amendment to the propositions attached to the Requête, the States resolved:

*To direct the States Assembly and Constitution Committee, in consultation with the Treasury and Resources Department on aspects relating to capital expenditure, to prepare a balanced and comprehensive report setting out –*

- *arguments for and against Simultaneous Electronic Voting in the States of Deliberation (SEV);*
- *the costs of different systems of SEV;*
- *the practical and procedural effects of establishing SEV;*

1.6 The Committee submitted a report entitled ‘States’ Meetings – Simultaneous

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<sup>3</sup> [States Meeting on 14th May, 2002: Billet d'État VII: States Advisory and Finance Committee and States Procedures and Constitution Committee - The Machinery of Government in Guernsey](#)

<sup>4</sup> [States Meeting on 27th September, 2006: Billet d'État XVI: 21. House Committee - Simultaneous Electronic Voting in the States of Deliberation, p. 1745](#)

<sup>5</sup> [States Meeting on 30th November, 2011: Billet XIX – Volume 2: States Assembly And Constitution Committee - Simultaneous Electronic Voting In The States of Deliberation, p. 2657](#)

<sup>6</sup> [States Meeting on 25th July, 2012: Billet d'État XIX: 2. Requête - Simultaneous Electronic Voting in The States of Deliberation, p. 1837](#)

Electronic Voting<sup>7</sup> dated 20<sup>th</sup> August 2014. This was debated at the 29<sup>th</sup> October 2014 States' Meeting. The policy letter set out four options (the status quo and three options for how simultaneous electronic voting might be used). The Committee recommended the States continue with the present system of voting during meetings. An amendment was submitted to introduce facilities and procedures for simultaneous electronic voting along the lines of 'Option 4'<sup>8</sup> of that report however this was rejected (Pour: 11; Contre: 30; Absent: 6). On 12<sup>th</sup> November 2014, the States agreed "*to continue the present system of voting during meetings of the States of Deliberation*".

- 1.7 The policy letter entitled 'Amendments to the Rules of Procedure of the States of Deliberation and their Committees' dated 10<sup>th</sup> September 2018 was considered by the States of Deliberation at the States' Meeting on 26<sup>th</sup> October, 2018. An amendment<sup>9</sup> was successfully made to the propositions and the States of Deliberation subsequently agreed (Pour: 24; Contre: 15; Absent 1 ):

(bb)

...

(ii) *in principle that, from no later than the start of the next States' term, voting within the States of Deliberation shall be by means of a system of simultaneous electronic voting along the lines envisioned in the policy letter entitled "Simultaneous Electronic Voting in the States of Deliberation" (Article 18, Billet d'Etat XIX, 2011); and*

(iii) *To direct the States' Assembly & Constitution Committee to recommend to the States the purchase and use of a suitable system of simultaneous electronic voting, and any further changes to the Rules of Procedure which may be necessary, at the earliest possible opportunity within this States' term.*

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<sup>7</sup> [States Meeting on 29th October 2014: Billet d'État XXI: 7. States' Assembly & Constitution Committee - States Meetings - Simultaneous Electronic Voting, p. 2484](#)

<sup>8</sup> Option 4 (*the system used in the other Crown Dependencies*) – *The default position would remain voting de vives voix. In any circumstances where at present an appel nominal could or must be held then simultaneous electronic voting would be used. Members could ask for the detailed results to be read out.*

<sup>9</sup> [States Meeting on 24 October 2018: Billet d'État XXIII: 14.States' Assembly & Constitution Committee - Amendments to the Rules of Procedure of the States of Deliberation and their Committees - Amendment 4 \(Soulsby/Lowe\)](#)

## **Appendix II: Voting using the proposed simultaneous electronic voting system**

- 1.1 Members will be able to log onto the system using their existing States of Guernsey log-in so there is no need for additional usernames or passwords. The system is not device specific which will mean that Members can use any device to vote e.g. laptop, smart phone or tablet, ensuring that the system is flexible. Members will be able to set the system as a favourite on their device to ensure ease of access. Whilst it is possible that a Member could log in on more than one device at the same time, the device voted on last would be where the vote that would be counted would be taken from (and the devices would be updated to show that vote). The system does not allow one person to register more than one vote.
- 1.2 Whilst a Roll Call will continue to be taken in the normal way at the beginning of each day of a Meeting, the Greffier will update the voting system to show the Members who are présent(e) or absent. If a Member is relevé(e), the system will be updated to show this and enable them to vote.
- 1.3 The complexity of the system arises from the number and variety of votes that can take place during the course of a meeting, how these votes can interlink and how these can be created on the system retaining those links for ease of viewing. As well as original propositions, there are often secondary propositions lodged against specific original propositions, and motions that can be moved against both types of propositions, often more than one e.g. a Rule 24(6) motion followed by a Rule 26(1) motion against the same secondary proposition, which itself has been lodged against the original proposition(s).
- 1.4 The complexity of the system only applies to the administrative side of the system managed by officials and will be simple for Members to use and the public to view.
- 1.5 The system enables the Greffier(s) to upload all known propositions in advance of a States' Meeting but also to respond during the course of the meeting to any further propositions that may be submitted. There is inbuilt flexibility for a range of circumstances e.g. motions moved from the floor, a change of order of the business, propositions being amended etc. and for such changes to be implemented smoothly and promptly. The motions that can be moved against propositions as set out in the Rules have been built into the design and can be selected immediately by the Greffier if requested in the course of the debate.
- 1.6 During a debate, as well as the direction of the Presiding Officer, prompts will appear on the Members' device when certain items are under discussion and when voting will begin. Members therefore do not need to perform any actions aside from using the voting buttons as the interface will change automatically prompting Members to vote. A Member may vote only from a seat in the States' Chamber (except where the Member has been issued with a certificate by the Presiding Officer to vote by proxy).
- 1.7 The system allows for propositions to be grouped together for a vote (in the event

that Members intend to vote the same way on multiple propositions) or for separate votes to be taken on all or some propositions (if Members wish to vote differently on different propositions).

- 1.8 To vote, members will click on 'pour', 'contre' or 'je ne vote pas' on their device. The system will then confirm to the Member on the screen how they have voted. A Member can change their vote up until the vote closes. The system will not display to anyone – including the Greffier or the Presiding Officer – how other Members have voted whilst the vote is being held.
- 1.9 The ability for proxy voting to be facilitated has been incorporated into the system. A Member who has been nominated by another Member to act as their proxy will have clear instructions on their device as to how to cast their own, and the proxy vote, during a vote on a proposition.
- 1.10 Once the Presiding Officer directs the Greffier to close the vote, the result of the vote will be displayed on the devices used by the Presiding Officer and Greffier and the Presiding Officer will then declare the result orally to the States' Chamber.
- 1.11 The result of the vote and how individual Members voted will then be shown on the Members' devices and on the system visible to the general public. The voting results will be sortable by Members alphabetically or by how Members voted: Pour, Contre; Ne vote pas; Absent. It will also be available pictorially on the website with a pie chart showing the vote split. The Greffier will be able to immediately publish the result on social media, rather than having to manually complete a voting record template and upload this when possible after the vote is taken, as is the case now.

#### **Managing transition from the current to proposed system**

- 1.12 The Committee is aware that bringing in change to an established process requires careful management and planning. In the lead up to the debate on this policy letter, a session will be organised for all Members to see the proposed voting system in practice and how Members will use it.
- 1.13 It is intended that, if the States agree the proposals, one-to-one training will be offered to all Members in advance of the system being used at a States' Meeting, as well as a full rehearsal with all States' Members and parliamentary officials to ensure confidence in the system.
- 1.14 States' Members will need to bring their States' issued laptop to each Meeting – or a personal, alternative device – to enable them to vote during the meeting. The onus will be on Members to ensure they bring the equipment issued to them – or their own device - with the relevant charging cables. Back-up devices in the event of a Member's hardware failing during a Meeting will be available but there will be a limited supply and Members should always bring their own device.



- 1.15 The Wi-Fi has been enhanced twice in the last 12 months in the Royal Court House to meet the developing needs of Meetings of the States of Deliberation, in line with the increase in Members using devices in order to access papers etc. The use of the Wi-Fi is now monitored so that the service can support the requirements of Members in the Chamber.

Appendix III: Amendments to Rule 26

Closure and voting

26. ‘Guillotine’ motion

- (1) A Member who has not already spoken in the debate, otherwise than in pursuance of Rule 17(3), (11) or (12), may at any time (but without interrupting another Member who is addressing the Meeting) request the Presiding Officer to close a debate on any matter (including an amendment or a sursis). Neither the Member making that request nor any other may address the Meeting about it. Members who would be entitled to speak and who would intend to speak should the debate continue shall be invited by the Presiding Officer to stand in their places, and thereafter the Presiding Officer shall ask the Member making the request to close the debate whether he or she still so requests, and if he or she does still so request the Presiding Officer shall put the said request to the vote and if the majority of the Members voting support it then (except that the President, Policy & Resources Committee shall be entitled to comment on any financial implications, if he or she has not already done so, and subject to Rules 17(2), 24(7) or 28(3)), the debate shall be closed, and (subject to Rule 27) the matter shall be put to the vote.

26A. Proxy voting

- (1) A Member may, by reason only of absence from a Meeting of the States of Deliberation for the purpose of childbirth or care for an infant or newly-adopted child, by written notice in the form set out in Schedule 4 to these Rules arrange for their vote to be cast in accordance with this Rule by another Member acting as a proxy (a proxy vote) for a maximum duration of six continuous months.
- (2) The Presiding Officer may, from time to time, upon representations from the Civil Contingencies Authority in light of circumstances prevailing in the Island, prescribe certain reasons for absence (‘Authorised Absence’) from a meeting of the States, which shall entitle a Member to arrange for their vote to be cast by another Member acting as a proxy (a proxy vote) if their circumstances require them to take an Authorised Absence from one or more States Meetings. The manner in which the proxy arrangements between Members will operate in respect of an Authorised Absence will be as directed by the Presiding Officer. Proxy voting arrangements in respect of an Authorised Absence shall only be valid during the period prescribed by the Presiding Officer.
- (3) A proxy vote may be cast on the following propositions:
  - a) original propositions (excluding any propositions from the Presiding Officer);
  - b) secondary propositions; and

Deleted: 3

Deleted: 3A

Deleted: 4

c) amended propositions.

(4) A proxy vote, other than one being cast pursuant to Authorised Absence, may be cast only if the Presiding Officer has first certified that the Member for whom the vote is to be cast is eligible under the terms of this Rule and if that certificate, including the name of the Member nominated as a proxy, has been submitted to ~~the~~ Greffier before the commencement of the States Meeting in question.

Deleted: 5

(5) A vote cast by a proxy shall be clearly indicated as such in the Official Report and voting records published.

Deleted: HM

(6) The provisions of paragraph (1) that enable a Member to vote by proxy do not apply to the Alderney Representatives;

Deleted: 6

Provided that:

an Alderney Representative may act as a proxy for another Member, other than a Member who is an Alderney Representative.

Moved (insertion) [1]

Deleted: 13

Deleted: 3

## 26B. Voting – General Provisions

(1) A Member may vote only from ~~a~~ seat in the States' Chamber (except where the Member has been issued with a certificate by the Presiding Officer to vote by proxy). In presidential elections where there are two or more candidates, a Member may vote only from a seat in the States' Chamber.

Deleted: his or her

(2) On the announcement of the result of a division, any Member may challenge the accuracy thereof and thereupon a fresh division shall take place. Such further division cannot be challenged.

Moved (insertion) [2]

Deleted: (9)

(3) Unless otherwise stated, in order for a proposition to be carried it needs to be supported by the nearest whole number above one-half of the Members voting on the proposition.

Deleted: (10)

(4) Where a Proposition is rejected which had proposed that a particular action not be taken, such rejection is not a positive instruction for the action to be undertaken.

Deleted: (11)

## 26C. Vote taken using the electronic voting system

- (1) A vote shall be taken using the electronic voting system, unless:
- (a) there is a requirement that the vote is taken by secret ballot;
  - (b) it is a vote on a procedural motion where no division is requested; or
  - (c) it is unavailable.

(2) The Presiding Officer shall ask the Greffier to open the vote.

Deleted: (2) A Member may vote only from his or her seat in the States' Chamber (except where the Member has been issued with a certificate by the Presiding Officer to vote by proxy). In presidential elections where there are two or more candidates, a Member may vote only from a seat in the States' Chamber. Immediately before announcing his or her vote in a division (appel nominal), a Member must switch on his or her microphone and switch it off again immediately after he or she has voted.

- (3) A Member shall -
  - (a) select the appropriate button to vote or, if he or she so wishes, to record his or her abstention; or
  - (b) absent themselves from the vote.
- (4) The Presiding Officer, when satisfied that Members have been allowed sufficient time to vote or record their abstention, shall ask the Greffier to close the vote.
- (5) The Presiding Officer shall then –
  - (a) announce the number of Members voting “Pour” and “Contre” respectively, the number of Members whose abstention has been recorded and the number of Members absent; and
  - (b) declare the result of the vote
- (6) The voting record will be displayed on Members’ devices and online via the States of Guernsey website.

#### 26D. Manner of taking vote when electronic voting system unavailable

- (1) In the event the electronic voting system is unavailable, a Member will announce his or her vote or abstention in a division (appel nominal) and immediately before such an announcement must switch on his or her microphone and switch it off again immediately after he or she has voted or abstained.
- (2) The order of voting on a division at any Meeting of the States shall be the same for each division taken at that Meeting (including a Meeting adjourned in accordance with Rule 6, and including a division on a matter adjourned from a previous meeting) but shall be rotated by groups of five Members, listed alphabetically, between each Meeting and the next.

#### 26E. Manner of taking votes on a procedural motion

- (1) A vote shall be taken *de vives voix* on a procedural motion unless a Member requests a division.
- (2) Where voting is carried out *de vives voix*, any Member may, before the Presiding Officer rules that the matter was carried or was lost, or immediately after such a ruling, claim a division.

**Moved up [2]:** (9) On the announcement of the result of a division, any Member may challenge the accuracy thereof and thereupon a fresh division shall take place. Such further division cannot be challenged. ¶

¶ (10) Unless otherwise stated, in order for a proposition to be carried it needs to be supported by the nearest whole number above one-half of the Members voting on the proposition. ¶

¶ (11) Where a Proposition is rejected which had proposed that a particular action not be taken, such rejection is not a positive instruction for the action to be undertaken.

**Deleted:** ¶

¶ (12) A vote recorded by electronic equipment authorised for that purpose by the States of Deliberation shall have the same status as a vote by appel nominal. ¶

**Moved up [1]:** (13) The provisions of paragraph (3) that enable a Member to vote by proxy do not apply to the Alderney Representatives; ¶

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

**Deleted:** (13) The provisions of paragraph (3) that that enable a Member to vote by proxy do not apply to the Alderney Representatives; ¶

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

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

SIMULTANEOUS ELECTRONIC VOTING IN THE STATES OF DELIBERATION

The President  
Policy & Resources Committee  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

31<sup>st</sup> January 2022

Dear Sir,

**Preferred date for consideration by the States of Deliberation**

In accordance with Rule 4(3) of the Rules of Procedure of the States of Deliberation and their Committees, the States' Assembly & Constitution Committee requests that the propositions and policy letter entitled 'Simultaneous Electronic Voting in the States of Deliberation' be considered at the States' Meeting to be held on 30<sup>th</sup> March 2022.

Yours faithfully

Deputy C.P. Meerveld  
President

Deputy L.C. Queripel  
Vice-President

Deputy S.P. Fairclough  
Deputy J.A.B. Gollop  
Deputy L.J. McKenna

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

**ESTABLISHMENT OF A DEVELOPMENT AGENCY**

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'Establishment of a Development Agency' dated 31<sup>st</sup> January 2022, they are of the opinion:-

1. To direct the Policy & Resources Committee to establish a development agency as a company limited by guarantee, wholly owned by the States of Guernsey, that will be tasked with (a) the production of a long-term development plan setting out the options for the provision of infrastructure along Guernsey's east coast working within the strategic direction set out in this policy letter; and (b) the delivery of the development associated with such options, working to the operating principles set out in this policy letter;
2. To agree to establish the political oversight group (set out in paragraph 5.9.2.7);
3. To direct the Policy & Resources Committee to invest seed funding of £1 million in total for the first two years of the establishment of the development agency (see section 7);
4. To direct the Policy & Resources Committee to (a) establish a clear land management transfer policy; and (b) consult with the States' Trading Supervisory Board on the areas of land to be transferred from the States to the development agency; and (c) to effect that transfer once the development agency is established; and
5. To direct the Development & Planning Authority to complete the Local Planning Briefs for the St Peter Port and St Sampson Harbour Action Areas by December 2022.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

**ESTABLISHMENT OF A DEVELOPMENT AGENCY**

The Presiding Officer  
States of Guernsey  
Royal Court House  
St Peter Port

31<sup>st</sup> January 2022

Dear Sir

**1 Executive Summary**

- 1.1. The Seafront Enhancement Area programme has been identified as a priority in the Government Work Plan. In June 2021, the States of Deliberation directed the Policy & Resources Committee to submit a proposal to the Assembly for the establishment of an arm's length development agency to oversee and then deliver that work on behalf of the States and in partnership with the commercial sector and with other stakeholders. **This policy letter relates to the establishment of a development agency and purposely not to the specific development and regeneration projects the agency may undertake in the future on behalf of the States.**
- 1.2. The development agency will be owned by the States of Guernsey and responsible for implementing the States of Guernsey's strategic direction, and will manage land assets on behalf of the States. It will do this by facilitating development from private sector developers and social enterprises and, where it is necessary or appropriate, by partnering with other parties in delivery. Ownership of States' land assets will not change.
- 1.3. The development agency will be a delivery vehicle. It will manage land assets in the seafront enhancement area, establish commercial partnerships and work with developers and the community to deliver regeneration projects. Establishing a development agency will enable development and regeneration projects to be delivered with the certainty and stability required for long-term projects, including through the establishment of effective community partnerships and increased community participation. The overall purpose of the development agency is to secure co-ordinated development along Guernsey's

east coast in a way which includes Guernsey's future harbour requirements and successfully delivers economic, social and environmental outcomes through the management of land and infrastructure as a strategic resource.

1.4. The establishment of a development agency will enable the delivery of other priorities, including:

- Setting out a clear plan for Guernsey's future harbour requirements, in consultation with Guernsey Ports, the Harbourmaster, the States' Trading Supervisory Board, the Development & Planning Authority and the Principal Committees of the States;
- Supporting the development of economic and environmental opportunities in the blue economy and the green economy;
- Enhancing the visitor economy through investing in Guernsey's tourism product and heritage;
- Supporting the development of a Bridge Strategy;
- Making the centres of St Peter Port and St Sampson more attractive as places to live, as well as work, whilst also meeting current housing needs through new homes in regeneration projects;
- Supporting decarbonisation of the island by taking into account the States' long-term energy objectives in regeneration projects;
- Providing increased momentum to complete essential infrastructure maintenance and coastal defence projects and harbour maintenance whilst building resilience to climate change and helping to mitigate and reduce environmental risk;
- Bringing forward development opportunities through implementation of the Development Frameworks for the Regeneration Areas adjacent to the harbours; and
- Bringing forward development opportunities through implementation of the Local Planning Briefs for St Peter Port Harbour Action Area and St Sampson Harbour Action Area.

1.5. The Policy & Resources Committee is proposing the establishment of a company limited by guarantee, wholly owned by the States of Guernsey, with an independent board appointed by and ultimately accountable to the States. This will lead to the establishment of a development agency that is autonomous, in corporate form, and accountable through transparency and trust. This structure will provide the development agency with sufficient powers to achieve its strategic goals and provide it with the framework to facilitate development outcomes and to co-ordinate multi-agency and government initiatives to encourage economic development.



- 1.6. The development agency will be fully accountable to the States and will report its progress to the States on annual basis, beginning at the end of its first year of establishment. It will:
- Have States oversight as the sole shareholder;
  - Have its own legal persona;
  - Have non-executive directors providing strategic oversight and relevant expertise;
  - Promote accountability and transparency through publishing annual reports, against which its performance will be measured by the political oversight group;
  - Have independently audited accounts; and
  - Publish information on its activity and strategy outside of its annual reporting process.
- 1.7. The political oversight body will comprise the Treasury lead for the Policy & Resources Committee, President of the Committee *for* Economic Development and the President of the Committee *for the* Environment & Infrastructure, given that these are the three Committees with the critical mandate for development and regeneration policy on behalf of the States. If required those three Committees may also appoint alternates. It will act as the shareholder of the development agency on behalf of the States.
- 1.8. The States will set the strategic direction for the development agency to work; operational principles to which the development agency will work; approve the appointments of the chair and board members of the development agency; and agree the funding for the development agency.
- 1.9. The Policy & Resources Committee will work with the development agency, in consultation with the States' Trading Supervisory Board, to transfer the management of the land assets owned by the States to the development agency. This will be undertaken in the transition to the formal establishment of the development agency, and in the interim the work will be assisted by the Policy & Resources sub-committee. The agreed land will be transferred in tranches rather than as a whole, prioritised in order of potential use.
- 1.10. An initial budget of £1 million in total for the first two years of the development agency is to be invested as seed funding to support the establishment of the agency. The development agency will provide a plan for its longer-term funding before the end of year two of its existence, with the objective of moving to a model that is cost neutral to the States. Over time, the work of the development agency will enable savings to be made in the States by taking on commercial and management functions that previously the States would have had to undertake. In addition, the work of the development agency will add value to the States' land assets through the work it undertakes and manages.

- 1.11. The Policy & Resources sub-Committee that has prepared the ground for the establishment of the development agency will remain in place until the development agency is formally established and will assist in the transition.
- 1.12. The Local Planning Briefs for the St Peter Port and St Sampson Harbour Action Areas (“HAAs”) will be completed by the Development & Planning Authority by December 2022. The former has already been funded; the latter has funding allocated to it on the Government Work Plan and will be provided to the Development & Planning Authority at their formal request in order to begin this work.
- 1.13. If the development agency is successfully established, the political oversight group will discuss with the States of Alderney how the model may be extended or adapted to support development opportunities in Alderney.

## **2. Regeneration of the eastern Seafront Enhancement Area**

- 2.1. The Seafront Enhancement Area (“SEA”) programme was initially identified as one of the States of Guernsey’s policy priorities in the Future Guernsey (Policy & Resource) Plan. At that time, the SEA programme was concerned with coordinating multiple existing and emerging States of Guernsey work streams in order to provide a single, consolidated approach to the provision of infrastructure and to progress economic, environmental, social and cultural opportunities along Guernsey’s east coast.
- 2.2. In the previous term of Government, a Steering Group was established and tasked with bringing forward the SEA Programme. Whilst the work of the Steering Group did not result in significant development, valuable stakeholder engagement was undertaken which remains relevant to the work of the current Policy & Resources Committee sub-Committee, and sets the foundation for the sub-Committee to identify a vision, objectives and operational principles for the Development and Regeneration Board which is now known as the development agency.
- 2.3. The sub-Committee was established in April 2021. The sub-Committee was tasked with (a) the development of a draft mandate for a development agency that includes a vision, objectives and operational principles, and (b) building on the foundation set by the Steering Group so that the development agency, once established, can act promptly in discharging its mandate through clearly defined areas of responsibility.
- 2.4. The Policy & Resources Committee appointed Mr Stuart Falla, CBE as chair of the sub-Committee; and Mr John Hollis, Mr Andrew Haining and Ms Anna Guggenheim, QC as formal members. In addition, Mr Simon Holden and Mr Chris Sherwell have also been directly involved in the sub-Committee’s work. All of the

members gave their time and expertise for free. The Policy & Resources Committee's lead on this matter, Deputy Mark Helyar, is also a member of the sub-Committee.

2.5. At the States' meeting on 16<sup>th</sup> June 2021, the States of Deliberation considered a Policy Letter entitled 'Future Harbour Development'<sup>1</sup>, which identified a number of specific possibilities to address future harbour requirements including development of St Peter Port and St Sampson's harbours or the creation of a new harbour. At this meeting, the States of Deliberation resolved:

- To direct the States' Trading Supervisory Board to submit by the end of December 2022 a Policy Letter together with suitable propositions, which provide for a scheme to develop within St Peter Port Harbour a 'Pool Marina' with associated marina facilities and which includes costings and a delivery plan;
- To direct the Policy & Resources Committee to establish a Development and Regeneration Board, as an arm's length body of the States or similar entity, to replace the interim sub-Committee established by the Policy & Resources Committee to advise it on the development of the Seafront Enhancement Area;
- To direct the Policy & Resources Committee to develop Propositions and an accompanying Policy Letter, for consideration by the States of Deliberation at the earliest opportunity and not later than December 2021, which shall include recommendations on:
  - A. The mandate, membership, accountability, funding, and involvement in the preparation of the long-term development strategy for the Seafront Enhancement Area of the Development and Regeneration Board; and
  - B. A timeline and set of steps to develop the seafront masterplan, which shall include within St Peter Port Harbour a 'Pool Marina' with associated modern marina facilities, by December 2022.

2.6. The steps required to establish a plan for the co-ordinated development of infrastructure along the eastern seafront are set out below in sections 4 and 6 of this Policy Letter. A more detailed timeline will be established subject to the approval by the States of Deliberation of the Propositions in this Policy Letter.

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<sup>1</sup> [Billet d'État XIII of 2021, Volume 2, Article 12](#)

### **3. Work of the Policy and Resources sub-committee**

- 3.1. In July 2021, the Government Work Plan was approved by the States of Deliberation<sup>2</sup>, replacing the Future Guernsey Plan as the overarching strategic direction for the States of Guernsey. Within the Government Work Plan, under 'Regeneration', specific reference is given to the establishment of a development agency and the start of work on the development of the seafront as priority actions for the current term of government.
- 3.2. The Government Work Plan agreed by the States in July 2021 makes clear that government needs to be prepared to step back and work in partnership or let others take the lead and apply their expertise and capacity. The funding and investment plan agreed as part of the Government Work Plan makes clear that the States should work in partnership with the private sector to deliver capital schemes. Therefore, the approach to establishing the development agency is firmly underpinned by the Government Work Plan in all respects, and the approach set out in the policy letter will help to deliver those principles.
- 3.3. In response, the sub-Committee was tasked with the preparation of a Policy Letter setting out the rationale for the formation of an adequately funded and constituted development agency that can deliver the strategic objectives of the States of Guernsey through the provision of infrastructure along Guernsey's east coast. In the sub-Committee's view, the establishment of a development agency would support the following Government Work Plan aims:
- Resilient and sustainable infrastructure and connectivity;
  - Greater innovation and creativity in existing and new sectors; and
  - Effective community partnerships and increased civic participation.
- 3.4. Likewise, the sub-Committee noted that the establishment of a development agency would enable the delivery of other priorities, including:
- Setting out a clear plan for Guernsey's future harbour requirements, in consultation with Guernsey Ports, the Harbourmaster, the States' Trading Supervisory Board, the Development & Planning Authority and the Principal Committees of the States;
  - Supporting the development of economic and environmental opportunities in the blue economy and the green economy;
  - Enhancing the visitor economy through investing in Guernsey's tourism product and heritage;
  - Supporting the development of a Bridge Strategy;

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<sup>2</sup> [Billet d'État XV of 2021](#)

- Making the centres of St Peter Port and St Sampson more attractive as places to live, as well as work, whilst also meeting current housing needs through new homes in regeneration projects;
  - Supporting decarbonisation of the island by taking into account the States' long-term energy objectives in regeneration projects;
  - Providing increased momentum to complete essential infrastructure maintenance and coastal defence projects and harbour maintenance whilst building resilience to climate change and helping to mitigate and reduce environmental risk;
  - Bringing forward development opportunities through implementation of the Development Frameworks for the Regeneration Areas adjacent to the harbours; and
  - Bringing forward development opportunities through implementation of the Local Planning Briefs for St Peter Port Harbour Action Area and St Sampson Harbour Action Area.
- 3.5. Also noted was the alignment of the Government Work Plan with the United Nations Sustainable Development Goals. The establishment of a development agency would result in further enabling sustainable development goals being met in respect of Industry, Innovation and Infrastructure (Goal 9), Sustainable Cities and Communities (Goal 11), and Partnerships (Goal 17).

#### **4. Objectives and principles**

- 4.1. As a starting point, the sub-Committee considered the objectives and principles previously identified by the Steering Group. As the objectives and principles were developed following significant public and stakeholder engagement, it was the view of the sub-Committee that there was value in retaining the overarching direction of these documents, but that they should be realigned to better represent the more pragmatic approach of the proposed development agency towards the enhancement of Guernsey's east coast and to better reflect the new mandate.
- 4.2. The sub-Committee undertook an indicative scoping exercise in which potential developments for Guernsey's east coast were identified. The purpose of this exercise was not necessarily to inform the content of any ultimate strategy setting out the development that will be delivered by the development agency, but rather to explore the potential scope of possible development that could come forward, and so should be enabled within the overarching guidance and direction given to the development agency once established.

- 4.3. Building on the foundation set by the Steering Group, and following the scoping exercise, the sub-Committee identified the following overall objective for the development agency:

*“Create great places to live, work and visit more easily.”*

- 4.4. To support this overall objective, the sub-Committee resolved that the development agency should not only meet the priorities outlined in the Government Work Plan particularly in relation to delivering economic potential and opportunity, but should also rank the projects it ultimately considers, to ensure that priority is given to projects where:

- There is improvement to infrastructure which enables the effective and efficient functioning of the Island;
- Improvement is made to the land connection between the two Main Centres along the east coast waterfront such that the Integrated Transport Strategy is respected;
- Opportunities are taken to mitigate current and future environmental threats, environmental objectives agreed by the States, and to support the emerging Blue Economy Supporting Plan;
- Guernsey’s maritime culture and heritage (which add to its attractiveness as a maritime destination) are celebrated and respect is accorded to the emerging Blue Economy Supporting Plan, the Tourism Strategy and the Strategy for Nature;
- Exceptional quality of design is on offer, and in particular where designs are of iconic merit; and
- The political mandates of the Principal Committees of the States of Guernsey are recognised and supported.

- 4.5. It is the view of the sub-Committee that the principles under which the agency should operate will be just as important as the high-level backdrop of the Government Work Plan. The sub-Committee resolved that the development agency, once established, should be able to deliver the following:

- Guernsey’s future harbour requirements, in consultation and collaboration with the States’ Trading Supervisory Board and other Principal Committees of the States;
- Set out the issues and opportunities for identified areas of the Eastern Seaboard and give practical guidance to developers, investors and others as to how the area can be developed beneficially in accordance with established land use policies;

- Establish clearly defined responsibilities between the various parties to projects and identify specific outcomes, outputs and benefits with clear dates for delivery;
- Create investment opportunities for local and overseas developers and investors to participate in the island's infrastructure development projects. All projects should be affordable and fundable to encourage private sector participation;
- Support and embed ESG (environmental, social and governance) principles and outcomes;
- Work with development partners where only a ground rent is paid or in a partnership between the States and the private sector to achieve a particular objective. There will be circumstances when the States invest directly in certain infrastructure or public amenity;
- Establish which projects will bring in revenue, which projects are likely to be revenue-neutral, and which projects will need an injection of funding. It should ensure a risk assessment of each project, and that projects can be funded from available sources of finance and align with any sourcing constraints;
- Develop a joint-venture strategy to support projects that requires the agency to work in partnership with the private sector. It should also prepare an acquisitions strategy for land assembly should that be necessary;
- Undertake or commission any relevant research and investigations into the viability of various projects. It will investigate other regeneration projects of similar scale to learn from both successes and pitfalls;
- Take responsibility for establishing contracts with advisers and designers, overseeing any tendering process and applying for specific planning permission;
- Aim to optimise the use of local contractors and suppliers providing that value for money, capacity, expertise and capability are aligned; and
- Respond to changes in the local market to match the level of available resources and labour skills required to successfully deliver a project, and to match the ability of potential suppliers to deliver the required goods and services so that much of the value enters the local economy.

4.6. Subject to approval by the States of Deliberation, the development agency will be tasked with the production of a long-term development plan, setting out the options for the provision and delivery of infrastructure along Guernsey's east coast, which will incorporate the work undertaken on Guernsey's future harbour requirements. The long-term development plan will follow the strategic direction set by the States of Deliberation in relation to east coast development, which is

set out in section 9 of this Policy Letter seeking the support of the Assembly, and will be informed by an analysis of economic, social and environmental opportunities for the east coast carried out by or commissioned by the development agency to support the identification of the prioritised projects in the long-term development plan. It will also be cognisant of the mandates of the Principal Committees of the States of Guernsey.

- 4.7. The agreed strategic direction will outline, at a high level, the way in which targeted and coordinated infrastructure provision can deliver the strategic objectives of the States of Guernsey, as set out in the Government Work Plan. The long-term development plan will establish the priorities for development and will also identify where these priorities require government involvement in order to realise benefit.
- 4.8. The production of the long-term development plan will run concurrent with the development of Local Planning Briefs (“LPBs”) for the St Peter Port and St Sampson HAAs, which will also follow the guidance and direction in the strategic direction set out in this policy letter. This will ensure consistency between the long-term development plan and the LPBs so that prioritised projects for the HAAs can be delivered through land use policies for these areas.
- 4.9. During production of the long-term development plan and the LPBs, engagement between the development agency and the Development & Planning Authority will be essential, so that the content and recommendations of the long-term development plan and Local Planning Briefs are aligned. Once approved by the States of Deliberation, the LPBs will set the policy and direction for the HAAs and will provide clear guidance, alongside the long-term development plan, to prospective developers and investors, whose development proposals must align with both the long-term development plan and LPBs.
- 4.10. Development may also be proposed on the east coast which falls outside of the HAAs. Where this is the case, the proposals – which may include strategic infrastructure projects – will be guided by and must align with the long-term development plan and the requirements of the established land use policies, which may include Development Frameworks or LPBs for particular sites in accordance with those policies.
- 4.11. The long-term development strategy will be developed by the development agency in partnership and collaboration with the States and with external community stakeholders, and in alignment with government objectives monitored by the political oversight group. This long-term strategy for the east coast is therefore not a single high-level spatial plan but is rather a combination of co-ordinated components which act together to provide strategic direction, enabling policy development and a plan for implementation through prioritised and funded projects and investment opportunities.



## **5. The establishment of a development agency**

- 5.1. Development agencies are widely used by the governments and local authorities of the British Isles to help facilitate development and regeneration. In order to be effective a development agency needs to be enabled to make commercial investment decisions, but this must be balanced with the need for accountability for the use of public resources and assets. In the UK and other Crown Dependencies, generally, the approach has been to establish a company that has effective ministerial oversight and clear strategic direction.
- 5.2. However, in the context of Guernsey and its machinery of government, consideration needs to be given to the sort of model which would provide the same clear lines of accountability and oversight, whilst enabling the development agency to make commercial investment and development decisions in relation to land which it is managing on behalf of the States.
- 5.3. In 2019, the Isle of Man Government commissioned a report from PwC on possible models of development agencies to inform the creation of a development agency in the Isle of Man ('the PwC Report') ([Isle of Man Government - Report into Urban Development Agency Models](#)). The Isle of Man Government was looking for an initiative to secure development of unused urban and brownfield sites in the Isle of Man. The PwC Report included a review of comparable jurisdictions including the Jersey Development Corporation, the Guernsey Seafront Enhancement Area Programme, and agencies in the UK such as that responsible for the Titanic Quarter in Belfast. The Isle of Man parliament, Tynwald, subsequently approved the creation of a development agency to work in partnership with the Isle of Man Government and the private sector. This led to the creation of the Manx Development Corporation ([Isle of Man Government - Manx Development Corporation](#)).
- 5.4. The PwC Report focused on the need for development agencies to be nimbler than government in delivering construction projects. This makes the proposition more attractive for commercial investors while maintaining the balance of accountability over public assets. A critical component that has been missed in some other jurisdictions is the need for clear strategic direction set by government. Whilst it is important that the strategic direction is high level so as to not place undue restriction on the development agency and thereby curtail its ability to act nimbly, it is nonetheless important to clearly set out the high level parameters within which the development agency can operate from the outset.
- 5.5. The PwC Report made the following general recommendations (which generally are not specific to the initiative in the Isle of Man):
  - Establish a development agency that is autonomous, in corporate form, and accountable through transparency and trust;

- Provide the development agency with sufficient powers to achieve its strategic goals, set within an agreed plan;
  - Identify strategic redevelopment areas and provide the framework to deliver cost neutral development outcomes;
  - Establish and maintain a flexible fiscal and funding environment in which development is economically viable;
  - Coordinate multi-agency and Government initiatives to maintain economic development.
- 5.6. The PwC report set out that the key balance to consider when creating an agency to carry out activities on behalf of a government is for that agency to operate at arm's length within clear parameters as well to be accountable. PwC concluded that, in the case of the Isle of Man, the development agency should:
- Be a body corporate – have its own legal persona;
  - Have ministerial oversight as the sole shareholder;
  - Have apolitical executive directors, ideally recruited from off island, with freedom to operate without political interference;
  - Have non-executive directors providing strategic oversight (with no more than one political member) and relevant expertise;
  - Promote accountability and transparency through publishing annual reports; audited accounts; and information on its activity and strategy.
- 5.7. The PwC report suggested that alongside the establishment of a development agency, governments can streamline the ability for these agencies to achieve their objectives. For example, there is significant benefit in aligning government policy and procedures to the agreed work of the company, in a non-discriminatory way, such as providing financial incentives for development that favour both land in the control of the company as well as that which is privately held. This alignment of policy and procedures will mean a close working relationship between the development agency and government which is highly desirable.
- 5.8. The need to have direct oversight of an agency from a minister in the context of Guernsey and its machinery of government, in the absence of ministerial government, will provide particular challenges. The provision of oversight through a decision-making process by Committee or the Assembly may frustrate the need for the clear fast-paced direction needed for the development agency to operate effectively with the confidence of commercial investors. That is why the recommendation includes a political oversight group to ensure clear dialogue between the development agency and the wider States.

5.9. Following wide-ranging research, two final options for the governance structure of a development agency in Guernsey have been considered in detail:

*5.9.1. Option 1: Committee of the States*

5.9.1.1. A committee could be formed by resolution of the States of Deliberation. The role and membership of the committee would be defined by its mandate and constitution. This could frame powers expressly granted to that committee to the extent the States' Assembly is willing to delegate those powers. It would be desirable from a democratic perspective to ensure that a majority of members of such a committee were members of the States, a principle already established for the States' Trading Supervisory Board. The committee would be subject to the usual governance arrangements for committees of the States under the Rules of Procedure.

5.9.1.2. This option would not be distinct from the States of Guernsey and would not have a separate legal persona. While this would provide the maximum level of accountability it would not provide the distance from government recommended to help the agency meet its objectives. This option is very close to the arrangement in the previous term, which is not viewed to have been effective nor to have made sufficient progress and does not align with the intentions of the Government Work Plan for government to be prepared to step back or work in partnership with others where this would better deliver strategic objectives.

*5.9.2. Option 2: Establish a company limited by guarantee*

5.9.2.1. The approach adopted by the Isle of Man and Jersey, advocated by the PwC Report, is for the governments to establish a company, as a separate legal persona, which can act on a commercial basis. The articles of association could be framed in a way that ensure the appropriate governance arrangements, including the constitution of the board of directors, the transparency requirements and role and mandate of the company.

5.9.2.2. The States of Deliberation could establish the company setting out clearly the way in which government will interact with the company and the overall strategy. A detailed strategy set by the States would need to be agreed and kept under review.

5.9.2.3. The company will need to have sufficient control of the land identified for investment, either through having these assets transferred to it, or through a defined relationship with the landowner (in this case the States of Guernsey).

- 5.9.2.4. The greater the independence to act, the more commercial the decision making can be and, equally, the greater the need for defined and well-structured lines of accountability. Safeguards to prevent perceived and real conflicts of interests will be required.
- 5.9.2.5. In order to provide for accountability, the board of the development agency would be appointed by the States of Deliberation at the nomination of the Policy & Resources Committee. Reporting mechanisms can also be defined in the Memorandum and Articles of the business as well as other governance issues such as confidentiality and liability. The power to raise capital, enter into commercial contracts or establish companies or partnerships with private sector investors could also be defined.
- 5.9.2.6. The board of the development agency could be given powers to appoint and define remuneration of staff. As well as recruitment from the private sectors, civil servants could also be seconded to the body.
- 5.9.2.7. It would be neither appropriate nor necessary for the development agency to have States' representation on the board. Instead it is proposed that an oversight group of three political members is established to ensure good governance in line with the principles set out in paragraphs 4.5 and 4.6. The political oversight group should be comprised of Members of the Committees of the States that have responsibility for the development and regeneration of Guernsey. With that in mind, the proposed membership of the political oversight group is:
- Treasury lead on the Policy & Resources Committee, Chair;
  - President of the Committee *for* Economic Development or a delegated alternate from that Committee; and
  - President of the Committee *for the* Environment & Infrastructure or a delegated alternate from that Committee.

If required, those Committees may also appoint alternates.

- 5.9.2.8. The political oversight group will have oversight of the appointment process of a board for the development agency. The establishment of a development agency will provide the opportunity to appoint an independent chair together with other non-States members to emphasise the continuity of the agency outside of electoral terms. The membership will be comprised of independent subject-matter experts that are most qualified to deliver on its mandate with the chair of the oversight group attending all meetings. The board will total up to six people including the chair. All of the appointments will be made via an open and transparent process, beginning with the recruitment of the chair, who will then support

the oversight group in the recruitment of board members. All of the board appointments will be remunerated in line with non-political voting members of the States' Trading Supervisory Board.

5.9.2.9. The board will require experience and skills which should include:

- An understanding of influencers and stakeholders in Guernsey;
- A strong link into the business community and third sector with an understanding of the environmental, economic, social and value drivers required to futureproof the island and harness this opportunity;
- An understanding of the real estate market and transactions at a high level; and
- A clear understanding of local entrepreneurial organisations that are capable of enlivening the areas and can be encouraged to effect change in the immediate future.

5.9.2.10. The political oversight group will also ensure that States' processes do not unduly inhibit the ability of the development agency to discharge its responsibilities or meet its objectives, and will see to ensure any barriers to progress are removed, acting as the shareholder on behalf of the States.

5.9.2.11. To further strengthen governance, the Policy & Resources Committee, as the sponsoring Committee of this policy letter, will be the conduit for States' Members to ask Rule 11 and Rule 14 parliamentary questions in respect of the development agency, and will provide responses to those questions in consultation with the political oversight group of the development agency.

## **6. Post-establishment steps for the development agency**

6.1. The development agency will be obliged to follow the strategic direction set out in section 9 of this Policy Letter and the States' land use policies set out in the Strategic Land Use Plan and the Island Development Plan<sup>3</sup> or any subsequent land use and development plans, as may be modified by the LPBs for the HAAs in both St Peter Port and St Sampson or any other LPB required by the States' land use policies. The Local Planning Briefs for the St Peter Port and St Sampson HAAs will be completed by the Development & Planning Authority by December 2022.

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<sup>3</sup> [Island Development Plan](#)

- 6.2. Once the States has approved the LPBs, the development agency will finalise its medium-term plan for development as a first phase of the final long-term plan. This plan will identify themes for development intended to provide comprehensive guidance to those that hold land. Where there are non-speculative enabling infrastructure projects that need to be delivered and where the market does not provide an option, the development agency may be best placed to take forward these projects, and these should be set out in the plan.
- 6.3. This first phase of the long-term development plan will require skilful analysis to identify those key enablement projects that, when taken together, offer the greatest opportunity for regeneration and the best return on investment (which could be environmental, social and cultural benefits as well as economic). This will require an analysis of economic, environmental, social and cultural opportunities for the east coast to support both the identification of the themes for development and prioritised projects in the long-term development plan. The commitment to these projects will encourage further development by landholders on neighbouring land.
- 6.4. The agency will set out Guernsey's future harbour requirements, in consultation and collaboration with the States' Trading Supervisory Board and other Principal Committees of the States. This will draw upon the work coordinated by the States' Trading Supervisory Board for the 2021 policy letter on Guernsey's future harbour requirements and will undertake consultation with stakeholders.
- 6.5. The agency will also transform into a delivery enablement vehicle. Consultation, feasibility, commercial reviews, business cases and development briefs will be analysed before any project can be presented to the Development & Planning Authority for planning considerations. Enablement projects will commence once the development agency is satisfied that they are viable and fundable, and it will be the task of the development agency to ensure their delivery.
- 6.6. At all times, the agency will adhere to operational principles that are outlined in paragraph 4.5.
- 6.7. The development agency will deliver an annual report to the political oversight group and the States against which its performance will be benchmarked and its scope reviewed.
- 6.8. The following is a summary of the likely objectives, targets and activities for the development agency:

<b>Timeline</b>	<b>Development Agency Activity</b>	<b>Governance</b>
Q1 2022	Establishment of Development Agency – Appoint three members of staff (chief executive, commercial development officer and administrator) at £250k. Set up office, IT, etc at £250k.	Policy & Resources Committee budgets against policy letter requirements
Q2 2022 to Q1 2023	Analysis of economic, social and environmental opportunities carried out or commissioned by the development agency (in consultation with relevant stakeholders), to support identification of prioritised projects in the long-term development plan. This will run concurrent with the development of Local Planning Briefs by the DPA for the Harbour Action Areas. Analysis of the economic social and environmental opportunities will cost circa £500k.	Approval of LPBs by the States in Q1 2023
Q2 2022 to Q1 2023	Production of a long-term development plan, setting out options for the provision of infrastructure on Guernsey's east coast, including identification Guernsey's future harbour requirements and of development themes (medium term plan), to provide guidance to landholders.	Future harbour requirements to be undertaken in consultation with the States' Trading Supervisory Board. Approval of medium-term and long-term development plan by Agency Board in Q1 2023
December 2022	Delivery of annual report to the Policy & Resources Committee	The Policy & Resources Committee considers annual report
Q1 2023	The agency will transform into a delivery enablement vehicle.	The Policy & Resources Committee agrees details of agency budget (not exceeding £1m) for 2023, to cover staffing costs and operations.
Q1 2023 to Q4 2023	Investigate options for payback mechanisms to ensure that the development agency is cost neutral to the States from Year 3 onwards	Agency Board to consider options for funding, in consultation with the Policy & Resources Committee
Q1 2023 to Q4 2023	Carry out consultation, land assembly, feasibility studies, identification of funding mechanisms and investment opportunities, commercial reviews, business cases and development briefs. Projects commence once the development agency is satisfied they are viable and fundable, and it will be the task of the development agency to ensure their delivery.	Agency Board to analyse detailed project proposals and ensure consistency with the objectives of the States and all other strategic requirements, before submission to the DPA for planning approval.

Q4 2023	Development agency submits development proposals to the DPA for planning approval.	DPA to consider and determine individual proposals in line with the Planning Law
December 2023	Delivery of Annual Report to Policy & Resources Committee	Political oversight group to consider annual report
January 2024	Continuation of work on delivering the long-term development plan through land assembly, securing finance and identifying investment opportunities, securing developers, securing construction partners, preparing development proposals, etc.	Agency Board provides stop/go gateway for specific projects and ensures consistency with the latest objectives and the strategic direction set by the States.
Q4 2024	Agree and establish mechanisms for payback to the States to ensure Agency is cost neutral to the States after Year 3.	Agency board and P&R to agree mechanisms to ensure agency is cost neutral to the States of Guernsey

## 7. Resources for the development agency

- 7.1. The States will need to invest seed funding for the establishment of the development agency for the initial two-year period. It is the intention that future funding for the agency will be generated through the property and land assets managed by the development agency. It may also be provided by partnerships with the private sector on projects.
- 7.2. The development agency will be small and efficient but with the ability to draw in consultants and expertise as appropriate and with authority to implement the long-term development plan once finalised. It is likely that at least three permanent members of staff will be needed: A Chief Executive role, a commercial development role, and an administration role. The lead individuals will need an understanding of influencers and stakeholders in Guernsey and be well linked into the business community and third sector, with an understanding of the economic social and value drivers required to future proof the Island. This team would be supplemented by consultant expertise, including real estate consultants and architects.
- 7.3. It is estimated that the costs of work undertaken and commissioned plus staffing would be around £500,000 per annum, based on the table set out in paragraph 6.8 and drawing on examples of similar bodies in other jurisdictions and arm's length bodies in Guernsey and commissioned bodies. Therefore, at this stage it is recommended that a budget of £1 million is provided for the first two years of the development agency's establishment. A longer-term business plan and budget will be developed by the agency and considered and approved during that period. Should further States' funding be required, this will be incorporated in normal States' planning through the Government Work Plan and the Annual



Budget. However, the objective is that the agency moves to a model that has no cost for the States.

7.4. The potential return on this investment will include:

- Providing returns to the taxpayer that are, overall, higher than direct land sales. Were the States to sell land it would get back some money for the taxpayer, but the States would no longer own the land and would have less control over the public spaces created. By developing the land in this way, the States would increase the value of its assets and receive rental income, while creating lasting, appropriate public spaces;
- Developing attractive community spaces and a public realm with environmental, social and cultural value;
- Increasing the value of States-owned assets through its management and development of those assets;
- Supporting the economy by generating work and infrastructure for businesses to grow;
- Providing alternative schemes for tenants to choose from;
- Providing a land assembly function to ensure that sites are not developed individually, but are assembled for maximum economic, social and environmental benefit; and
- Providing a service that does not currently exist in the States to proactively ensure development that has received permission is delivered as soon as possible whilst meeting States' and community objectives.

7.5. In establishing the development agency, the Policy & Resources Committee will set out clear financial arrangements based on the following principles:

- A seed funding budget of £1 million over two years to establish the development agency will be provided by the States;
- The development agency will need to provide a clear plan for longer-term funding during year two of its establishment. Public-private funding opportunities should be fully explored;
- Agreement will need to be reached on the policy of any surplus funds or profits generated by the development agency and how any such surpluses should benefit the States and the public purse; and
- The criteria by which the States may be asked to invest in potential future development opportunities.

## **8. Strategic direction for the development agency**

- 8.1. It is important for the effectiveness of the development agency that it works within defined parameters established through a high-level strategic direction by the States (as advocated by the PwC report). The proposed strategic direction is set out in section 9 of this policy letter and Proposition 2 of this policy letter is asking the States Assembly to approve it. It is also important that Local Planning Briefs for development on the east coast, including for the HAAs, follow the same strategic direction so that the components that form the 'masterplan' are aligned and project delivery can be realised. The strategic direction must be aligned to the delivery of the States' priorities as set out in the Government Work Plan.
- 8.2. Investment in infrastructure has been recognised as critical for economic recovery and sustaining our quality of life, whilst balancing the protection of the natural environment.
- 8.3. The Government Work Plan has identified the need to establish a development agency and enable work to begin on the development of the components that together will form the long-term plan for seafront regeneration and development as one of government's ten critical actions to be given immediate priority.
- 8.4. Developing detailed proposals for future harbour development is also an agreed action within the 'Enable Opportunities for Regeneration' workstream in the Government Work Plan and has interdependencies with the development agency and the strategic direction it is set. This work will inform the infrastructure plan required to deliver effective harbour operations in Guernsey. The LPBs for the HAAs also fall under this work stream and they will need to be developed alongside, and take account of, the findings of the future harbour requirements work stream as it develops.
- 8.5. Under the Island Development Plan, a co-ordinated approach to the planning of mixed-use development within the HAAs is required. This includes looking at opportunities beyond the functional requirements of the ports, to promote wider social, economic and environmental objectives. The LPBs for the HAAs, once agreed by the Assembly, will set the guidance and land use policies which development proposals within those areas must accord with. The Strategic Direction is intended to ensure that the HAAs are not considered in isolation but interlink with the ports' infrastructure requirements and the long-term development plan which will help deliver the objectives and requirements and realise the opportunities set out in the Local Planning Briefs for these areas.
- 8.6. LPBs are required for the HAAs as there are strategic land use implications and a number of local policy issues that will need to be resolved. LPBs allow for a co-ordinated approach to large scale development on sites in multiple ownership,

so that the potential of these areas can be achieved giving benefit to the whole community. The process also presents an opportunity for new policies to be set for that specific area. LPBs have effect for 10 years subject to further extension by the States but can also be amended within the 10-year period through a statutory process.

- 8.7. The Government Work Plan also included a Recovery Action to complete Development Frameworks for all the Regeneration Areas by the end of 2021. Regeneration Areas have been identified through the Island Development Plan as areas where a coordinated, flexible, focused and positive approach to development could attract inward investment in the Main Centres and are most likely to provide economic, social and environmental improvements for the benefit of the community. Development Frameworks set out the issues and opportunities for each area and give practical guidance to developers, investors and others as to how the area can be developed beneficially in accordance with land use policies and can act as a catalyst for development. Three of the Regeneration Areas are located on the east coast and have a relationship with the harbour areas. All Development Frameworks have been completed and approved.
- 8.8. There is also a Government Work Plan Recovery Action to develop a Bridge Strategy with a focus on coastal defence considerations. This action will establish a localised plan to guide co-ordinated action on long-term solutions for flood/coastal defence, traffic, access and movement, connectivity and public realm improvements on the Bridge frontage (the action has a strong interdependency with the potential development of the Leale's Yard Regeneration Area).
- 8.9. The strategic direction will also need to demonstrate that other approved States' strategies and policies have been considered, including in relation to climate change, energy, transport, nature, and disability and inclusion.
- 8.10. Through the Energy Policy 2020-2050<sup>4</sup> the vision for Guernsey's energy future established that the vast majority of Guernsey's energy supplies will come from clean, low carbon sources and residual emissions will be offset by 2050 at the latest. It is essential that Guernsey's energy supply is resilient, secure and sustainable and future infrastructure should incorporate and facilitate this. The vision states that "Guernsey will be aligned with global efforts to reduce emissions and development of renewable technologies".
- 8.11. The effects of climate change are already being experienced and the need for urgent and meaningful action is widely recognised. The majority of the last decade has been warmer than average and there is more extreme weather

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<sup>4</sup> [Billet d'État XI of 2020, Article 8](#)

(more intense rainfall, greater frequency of storm damage, and flooding to name a few examples), along with sea levels rising. The Climate Change Policy & Action Plan<sup>5</sup> was agreed by the States of Deliberation in August 2020, formally setting the target of net zero emissions (or carbon neutrality) by 2050 in relation to greenhouse gas emissions. This includes Scope 1 and 2 emissions and Scope 3 emissions as a result of waste management and off-island travel. These targets will only be achieved through a co-ordinated approach from government, businesses and individuals and need to be carefully considered in the Strategic Direction.

- 8.12. The Strategy for Nature<sup>6</sup> was also endorsed by the Assembly in 2020 and incorporates a framework of high-level objectives that encompass the latest advances in mainstreaming biodiversity (implementing Biodiversity Net Gain as one example) and horizon scanning for pressures on nature, through increasing community awareness of nature and its health and wellbeing benefits whilst realising its economic potential. Building resilience of our species and the health of our marine and land environments to adapt to climate change is a strategic need for the Island and therefore needs to be integrated into wider States strategies and policies, including this Strategic Direction, to enable the objectives of the Strategy for Nature to be met.
- 8.13. The need to reduce Scope 1 emissions – all direct on-island emissions – has been recognised for some time and is reflected in the vision the On-Island Integrated Transport Strategy<sup>7</sup>:

“To facilitate safe, convenient, accessible and affordable travel options for all the community, which are time and energy efficient, enhance public health and the environment and minimise pollution”

The Integrated Transport Strategy also recognises the importance for connected and accessible infrastructure to enable increased journeys made by active travel modes including by foot, bike and bus whilst also improving safety for all users.

- 8.14. The Disability and Inclusion Strategy<sup>8</sup> was agreed by the States in 2013. The strategy aims to improve the quality of life of disabled Islanders and their carers through changing attitudes towards disabled people and carers so that they can be active and engaged socially, economically and culturally. A disabled person and carer must never be treated worse than others, excluded from or denied access to goods, services, education, work or social life on the basis of their disability or because they provide care for a disabled person. The Strategic

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<sup>5</sup> [Billet d'État XVI of 2020, Article 8](#)

<sup>6</sup> [2020 Strategy for Nature](#)

<sup>7</sup> [On-Island Integrated Transport Strategy](#)

<sup>8</sup> [Billet d'État XXII of 2013, Article 9](#)

Direction will need to consider how provision for disabled people and carers can be embedded into development and promote an inclusive attitude towards disability. This will also support the ageing demographic when potentially more Islanders will have impairments.

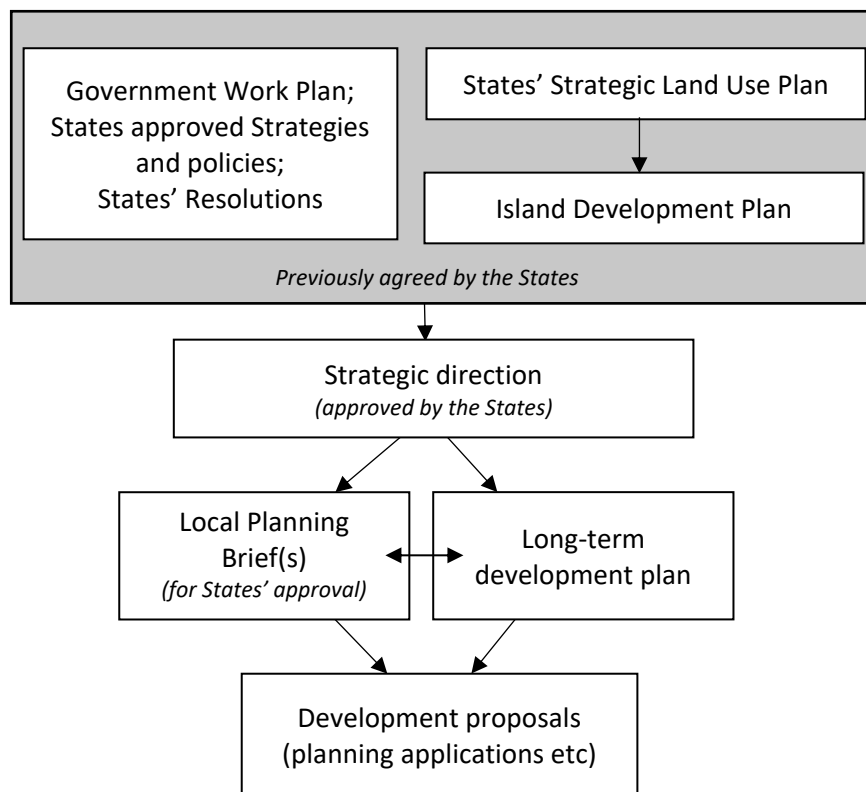
## **9. The strategic direction**

- 9.1. This strategic direction sets the overarching approach that the States of Guernsey wishes to take towards the provision of infrastructure on the east coast for **at least** the next 20 years and sets the wide parameters for both the work of the development agency and the development of States of Guernsey strategy and policy in relation to east coast development.
- 9.2. The overall purpose of the development agency is to secure co-ordinated development along Guernsey's east coast in a way that successfully delivers economic, social and environmental outcomes through the management of land and infrastructure as a strategic resource.
- 9.3. The strategic direction will:
  - Provide the parameters for the operation of the development agency in its role of producing a long-term development plan for the provision of infrastructure along Guernsey's east coast, setting the parameters for what the Development Agency can consider for inclusion in the long-term development plan;
  - Set the broad and long-term agenda and priorities for the approach to the provision of infrastructure along Guernsey's east coast, which will inform the work of the Development Agency and States of Guernsey;
  - Provide guidance and direction for the development of the St Peter Port and St Sampson's HAAs, as well as any other Local Planning Briefs or significant infrastructure projects proposed along Guernsey's east coast, in order to ensure a consistent approach between the work of the Development Agency and the supporting strategies and policies of the States of Guernsey;
  - Enable the States of Guernsey to set an overarching long-term direction for the provision of infrastructure along Guernsey's east coast, which any future developments must adhere to;
  - Enable the development agency to achieve continuity of approach to development across Government terms by providing a strategic framework for the Development Agency to confidently work within, whilst also providing accountability of the development agency to the States of Guernsey through an overarching goal and set of objectives;

- Provide confidence to potential investors, by providing a framework which aligns specific developments with the ultimate goals of the States of Guernsey, as set out in the Government Work Plan;
  - Maximise the overall potential of land and resource use, by creating an overarching framework which encourages development to be considered holistically, rather than in a piecemeal approach; and
  - Ensure that developments are aligned with the strategic objectives of the States of Guernsey, as agreed in the Government Work Plan or subsequent strategic plans of the States of Guernsey.
- 9.4. In order to achieve the States priorities, the strategic direction sets a number of core objectives, which set out the priorities for the long-term provision of infrastructure along Guernsey's east coast. As set out in paragraph 3.4, proposed development should:
- Support the development of economic and environmental opportunities in the blue economy and the green economy;
  - Enhance the visitor economy through investing in Guernsey's tourism product and heritage;
  - Support the development of a Bridge strategy;
  - Support the Strategy for Nature;
  - Make the centres of St Peter Port and St Sampson more attractive as places to live, as well as work, whilst also meeting current housing needs through new homes in regeneration projects;
  - Support decarbonisation of the island by taking into account the States' long-term energy objectives in regeneration projects;
  - Set out a clear plan for Guernsey's future harbour requirements, in consultation with Guernsey Ports;
  - Provide increased momentum to complete essential infrastructure maintenance and coastal defence projects and harbour maintenance whilst building resilience to climate change and help mitigate and reduce environmental risk;
  - Bring forward development opportunities through implementation of the Development Frameworks for the Regeneration Areas adjacent to the harbours; and
  - Bring forward development opportunities through implementation of the Local Planning Briefs for St Peter Port HAA and St Sampson HAA.
- 9.5. Furthermore, the strategic direction requires that proposals should be facilitated and prioritised where:

- Improvement is made to infrastructure which enables the effective and efficient functioning of the Island;
  - Improvement is made to the land connection between the two main centres along the east coast waterfront;
  - Opportunities are taken to mitigate current and future environmental threats;
  - Guernsey's maritime culture and heritage (which add to its attractiveness as a maritime destination) are celebrated;
  - Exceptional quality of design is on offer, and in particular where designs are of iconic merit; and
  - The political mandates of the Principal Committees of the States of Guernsey are recognised and supported.
- 9.6. As a key principle underpinning the approach to achieving the strategic direction, policy formulation and proposed developments for the east coast should be consistent with the strategic objectives of the States of Guernsey, as set out in the Government Work Plan or subsequent overarching strategic plans of the States of Guernsey and other approved States strategies.
- 9.7. The development agency should focus initially on developments that support the delivery of the St Peter Port and St Sampson's HAAs and the Regeneration Areas which are located adjacent to the harbours. To inform identification of priority projects the development agency should carry out analysis of economic, environmental and social opportunities for the east coast. There is merit in focussing on these areas as:
- they are identified areas of strategic redevelopment opportunity (as advocated by the PwC report) where land use policies will enable large scale development;
  - development will support the main centres along Guernsey's east coast and the States approved spatial strategy; and
  - limiting the initial focus to these areas will in turn focus investment and potentially maximise benefit arising from said investment.
- 9.8. However, there may be other opportunities that come forward as the development agency investigates the long-term development plan which fall outside of the areas identified above. In such instances, the development agency will be required to make a case to the political oversight group, explaining how the development is aligned with the strategic objectives of the States of Guernsey and also represents sufficiently significant strategic merit for inclusion in the long-term development plan.

- 9.9. By initially focusing on the HAAs and the Regeneration Areas adjacent to the harbours, the route for potential development to move from a plan to physical development is simplified. Both the long-term development plan and LPBs will be required to align with the strategic direction, which should act to ensure the outcomes/recommendations of both sets of documents are complementary. However, as the long-term development plan and Local Planning Briefs will be developed simultaneously, it will be integral that there is engagement between the development agency and States of Guernsey in order to ensure both documents are informed by, and influence, one another.



- 9.10. As shown in the figure above, aligning the development of the Local Planning Briefs and the long-term development plan so that they are developed simultaneously will enable physical development proposals to come forward via planning applications in a much shorter timeframe than if the plans were developed sequentially. Subject to the States of Deliberation's approval of the Local Planning Briefs, this approach represents a comparatively simplified approach to large-scale developments which will enable the development agency to confidently engage with prospective investors in the knowledge that there is a clear mechanism for turning plans into action.



9.11. The role of the development agency in this process will be to:

- Engage with the Development & Planning Authority particularly, and other relevant States of Guernsey service areas, throughout the production of the long-term development plan;
- Analyse the economic, social and environmental opportunities for the east coast;
- Produce a long-term development plan, setting out the optimal approach to the long-term provision of infrastructure along Guernsey's east coast, which achieves the objectives and adheres to the principles of the strategic direction. The political oversight group will work with the development agency to ensure that the long-term development plan is aligned with the strategic direction; and
- Identify particular development opportunities and engage with interested parties and developers in order to secure investment to ensure the delivery of the long-term development plan.

9.12. The role of the States of Guernsey in this process will be to:

- Approve a broad overarching strategic direction which will inform the work of the development agency and other States of Guernsey policies and strategies (including Local Planning Briefs relevant to development on the east coast) with regards to infrastructure provision;
- Develop and approve the St Peter Port and St Sampson HAA LPBs (and any other LPB required to bring forward strategic infrastructure on the east coast) which will provide the planning framework to enable development to come forward; and
- Periodically review the strategic direction to ensure that it remains aligned with the overarching strategic objectives of the States of Guernsey.

9.13. A comprehensive review of the strategic direction will be undertaken every four years by the political oversight group in consultation with relevant Committees to ensure it is performing as intended and continues to enable delivery of the States' strategic priorities, or to identify amendments that are required to achieve that objective. However, if on behalf of the States the political oversight group identifies a need to amend or update the strategic direction, a review can be carried out sooner. If any changes to the strategic direction are required, agreement from the States will be obtained through the submission of a Policy Letter.

9.14. Notwithstanding the five-year review, the outcomes of the strategic direction will be regularly monitored to ensure that it is playing its part in making the most of opportunities and enabling delivery of strategic objectives. Annual reports will

be submitted to the Policy & Resources Committee by the development agency and these reports will be published. These will also provide an important 360-degree review function to identify if the strategic direction continues to support the development agency's objectives, or where it considers that amendments are required to deliver its mandated responsibilities.

## **10. Management of land assets to be transferred to the development agency**

- 10.1. Subject to the agreement of the States of Deliberation, further work will be undertaken to clarify the land assets for which the management will be transferred to the development agency from the States, including assets currently held by the Ports. The development agency will manage the land assets and property that is agreed, in line with the strategic direction set by the States, the operating principles also agreed by the States, and the financial arrangements that are put in place by the Policy & Resources Committee.
- 10.2. There are many potential options to be considered in respect of the land assets and property for which the management is to be transferred, and these are dependent on the long-term development plan, the anticipated work required to mitigate sea-level rises and the significance afforded to port infrastructure improvements.
- 10.3. There are some areas and properties in both St Sampson and St Peter Port that have traditionally been under the control and influence of Guernsey Ports that have little importance to Ports operations and can act as distractions to the Ports team. However, it should be noted that they may contribute positively to the Ports' financial position in respect of non-maritime revenues, and this will be recognised in any land or asset transfer. Equally, there are various smaller Ports-owned properties around the harbour area which are used to support Ports operations but are not critical to operations in their exact location. Detailed analysis will establish whether the current use can be relocated and amalgamated as part of the proposed reconfiguration and redevelopment of existing harbour infrastructure.
- 10.4. The Policy & Resources Committee will oversee the process by which the development agency and the political oversight group will discuss and agree with the States' Trading Supervisory Board which of the Ports properties are needed for Ports operations and which are either not essential or can be transferred as part of wider redevelopments. A policy approach to land transfers will be coordinated as the transfer of properties will inevitably develop over time as the strategic needs of the island change and as the long-term development plan emerges. The agreed land will be transferred in tranches rather than as a whole, prioritised in order of potential use, and to ensure that the governance structure put in place is effective.

## **11. Compliance with Rule 4**

11.1. Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

11.2. In accordance with Rule 4(1):

- a) The propositions contribute to the States' objectives and policy plans by seeking to deliver one of the top ten prioritised Recovery Actions in the Government Work Plan, to 'Establish a development agency and enable work to begin on the development of the seafront regeneration masterplan'. The establishment of a development agency will contribute to the progress of many other Recovery Actions in the Government Work Plan, across several workstreams including: Enable Opportunities for Regeneration; Invest in Nature and the Natural Economy; Secure transport Connectivity and Infrastructure; and Meet Housing Needs.
- b) In preparing the propositions, consultation has been undertaken with the Committee *for* Economic Development, the Committee *for the* Environment & Infrastructure, the States' Trading Supervisory Board and the Development & Planning Authority.
- c) The propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- d) The financial implications to the States of carrying the proposal into effect are anticipated to comprise an initial budget of £1 million in total for the first two years of the development agency, to be invested as seed funding to support the establishment of the agency. The development agency will provide a plan for its longer-term funding before the end of year two of its existence, with the objective of moving to a model that is cost neutral to the States.

11.3. In accordance with Rule 4(2):

- a) The propositions relate to the duties and powers of the Policy & Resources Committee to advise the States and to develop and implement policies and programmes relating to the leadership and co-ordination of the work of the States, which includes promoting the States' overall policy objectives and facilitating cross-committee policy development.
- b) The propositions have the unanimous support of the Committee.

Yours faithfully

P T R Ferbrache  
President

H J Soulsby  
Vice President

M A J Helyar  
J P Le Tocq  
D J Mahoney