



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 29th May 2013

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Alderney Representatives L. E. Jean, E. P. Arditti

The Clerk to the States of Deliberation

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*The Assembly adjourned at 12.30 p.m.
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The Assembly adjourned at 5.34 p.m.

States of Deliberation

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*The States met at 9.30 a.m. in the presence of
His Excellency Air Marshal Peter Walker, C.B., C.B.E.
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

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[THE BAILIFF *in the Chair*]

15

PRAYERS

The Deputy Greffier

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EVOCATION

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CONVOCATION

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The Deputy Greffier: To the Members of the States of the Island of Guernsey I hereby give notice that a meeting of the States of Deliberation will be held at the Royal Court House on Wednesday, 29th May 2013 at 9.30 a.m. to consider the items contained in the Billets d'État Nos VIII, X and XIII which have been submitted for debate.

35

COMMUNICATIONS BY THE PRESIDING OFFICER

40

July meeting Deferral of unfinished business

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The Bailiff: Members of the States of Deliberation, last week you will recall that I e-mailed you with regard to the amount of business that I am expecting is going to be coming before the States in the July meeting. I said that I thought there was a possibility that business would not be concluded on Friday, 2nd August and that, having consulted with the Policy Council, I was minded to suggest that any unfinished business be deferred to the Ordinary Meeting of the States on 25th September. I asked that any Member who held a contrary view should advise me accordingly.

50

Only one Member has advised me that he is of the opinion that unfinished business should be concluded before the end of September. It seems, therefore, that the broad consensus is that unfinished business will be deferred to the September meeting. The final decision in that regard will, of course, be for the States to decide when and if we reach that point on 2nd August, but I thought that might be helpful to you so that, if you are planning holiday arrangements in August or wish to go to the centenary West Show, which would be the normal overflow day, you can plan accordingly.

55

STATEMENTS

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Foreign Account Tax Compliance Act (FATCA) Statement by the Chief Minister

65

The Bailiff: Members of the States, we now move on to Statements, and first of all there will be a Statement from the Chief Minister, Deputy Harwood.

The Chief Minister (Deputy Harwood): Mr Bailiff, I am grateful to you for the opportunity to provide a short update on the negotiations with the US on the FATCA Intergovernmental Agreement and provide an update on developments relating to tax transparency generally, particularly in the run up to the G8 meeting which will be held in Northern Ireland next month.

65 As Members will be aware, the States is engaged in final negotiations with the US to conclude an Intergovernmental Agreement to comply with FATCA; or, as perhaps it is now becoming recognised as, US FATCA.

70 That the conclusion of Guernsey's US FATCA Agreement has taken a little longer than anticipated is unsurprising, given the immense workload that US officials are under in dealing with so many foreign states. I am happy to confirm that there are now no outstanding issues of substance. I am also pleased to report that US officials have confirmed that the Agreement should be ready to sign in June.

75 I think it is also important to communicate that the registration of FATCA Model 1 Intergovernmental Agreement for Foreign Financial Institutions is not required until 1st January 2015 under US regulations, a detail which will be of great interest to our finance industry.

As Members will also be aware, the States is also engaged in finalising an agreement to enter into a FATCA-type arrangement with the UK. As was publicly announced in early March, the key to concluding any agreement was ensuring that satisfactory alternative reporting arrangements were put in place.

80 Alternative reporting arrangements were agreed in principle in March, and we are working jointly with Jersey and the Isle of Man to conclude the final details of these arrangements. Joint meetings and discussions are diarised over the course of the next few weeks to discuss these and other points.

85 Subject to final negotiations being concluded as per the timings that I have just outlined, I would hope to present to the States a report requesting its approval and agreement to these international agreements at the September States Meeting.

90 As I publicly stated in April, I will also be recommending to the States that we engage in the EU FATCA-type pilot which was initiated the UK, Germany, France, Italy and Spain, and I wish to confirm that that recommendation will also be presented as part of the same FATCA report to the States in September.

95 The pace of international movement on automatic exchange of information has been frenetic in the last few months. With the full support of the Policy Council and with your prior knowledge, I have repeatedly sought to emphasise Guernsey's track record of action and leadership in meeting its policy commitment and adherence to international standards in respect of tax transparency and information exchange.

100 As I have said repeatedly, Guernsey is *not* part of the tax evasion problem; it is part of the solution. Let me make it clear that, as a policy, Guernsey has *nothing* to fear from automatic exchange of information. The States has a clear existing policy commitment to being a well regulated tax-transparent jurisdiction. Indeed, full tax transparency does, itself, lend full support to any future defence of our zero general rate of corporate tax.

105 You will know that I have recently received a letter from the UK's Prime Minister, asking for our full support for the G8 agenda. Many have passed comment on the tone of this letter and I agree it is disappointing – it does not reflect Guernsey's long track record of leadership in tax information exchange and beneficial ownership. That said, it does set out that the United Kingdom government, like this one, believes that low taxes are a vital driver of growth and prosperity for all.

110 As I have made clear, Guernsey is fully supportive of the UK's G8 agenda. We remain committed to meeting all international standards on beneficial ownership, as indeed demonstrated by our existing implementation of the FATF recommendations. The actions that we have taken in Guernsey emphasise that we fully support international co-operation on the transparency of and access to beneficial ownership information.

We are part of the tax transparency process and we look forward to continuing to play our part. The message from Guernsey is clear: Guernsey is not a jurisdiction of choice for those who want to hide.

115 Thank you, sir.

The Bailiff: Members, we may now have a period of 15 minutes for Question Time.
Deputy Trott.

120 **Deputy Trott:** Just the one obvious one. It is now more than a decade since we first signed a Tax Information Exchange Agreement with the US. The Chief Minister has advised us we are now

weeks away from having a FATCA agreement with the US. Is he able to advise this Assembly how soon we are likely to have a Double Taxation Treaty with the US as a consequence of these developments?

125

The Bailiff: Chief Minister.

The Chief Minister: As much as we would *like* to establish a regime of Double Tax Agreements, the opportunity of negotiating a Double Tax Agreement with the United States is not, I believe, first and foremost in *their* mind, but it is something that clearly we will pursue, and as part of the FATCA packages that we are trying to negotiate is the ability to put in place Double Tax Agreements.

130

The Bailiff: Deputy Bebb.

135

Deputy Bebb: Further to your Statement in relation to the initiative on FATCA arrangements with EU member states, could I ask whether there would be a further pursuance of FATCA and other advantageous agreements between Guernsey and *all* EU member states, and that this should be progressed as part of the current arrangements?

140

The Bailiff: Chief Minister.

The Chief Minister: Sir, in reply to Deputy Bebb, I believe that the reason why the United Kingdom government is keen to seize the initiative in relation to the G8 is actually to encourage and to entice other EU states to agree to that style of FATCA arrangement.

145

We have already committed that we will, in principle, subject to the approval of the States, join the pilot scheme of the Group of Five, the G5 group of the EU member states. Clearly, it is hoped that will then build up a sufficient momentum to extend out to the wider EU membership.

150

The Bailiff: Deputy Gollop.

Deputy Gollop: Sir, bearing in mind Guernsey's exemplary record in regulation and compliance, how easy is it for Guernsey, at a senior official or political level, to convey to Her Majesty's Government that we should not be put in the same category as some other jurisdictions, and in particular point out certain G8 countries that have anomalies within their own taxation and regulation regimes?

155

The Bailiff: Chief Minister.

The Chief Minister: I can assure Deputy Gollop that we lose no opportunity to remind the UK government, and indeed other governments, of our exemplary conduct in relation to tax transparency and to money laundering and other related matters.

160

Clearly, it has been the wish of the Crown dependencies to distance ourselves from other offshore jurisdictions for which the UK government has some responsibility, and that is a message that we will continually convey, but I think one has to recognise, in particular in relation to the recent communication we have received from the Prime Minister, that there is a lot of political grandstanding going on and it serves the United Kingdom government's interest, I believe, in the international negotiations that it is conducting around FATCA arrangements, to be able to demonstrate that it can 'deliver' Crown dependencies and overseas territories.

165

I can assure Deputy Gollop that we do constantly remind the UK government that we should not be treated in the same bracket as other international financial centres for which the UK government has responsibility.

170

The Bailiff: Deputy De Lisle.

175

Deputy De Lisle: Can the Chief Minister indicate what impact this is going to have on business, particularly in the Guernsey finance industry? Are we, in fact, becoming a soft touch; and are we going to lose business as a result? Have studies been actually put together on the impact of this FATCA resolution that the States are bringing forward in terms of its effect on business as we go forward?

180

The Bailiff: Chief Minister.

185 **The Chief Minister:** Sir, I can assure Deputy De Lisle that, certainly in the context of the...
before any commitment was made to consider entering into US FATCA, that discussions were
held with the industry in order to try and make an assessment – a preliminary assessment, albeit –
of the likely impact of complying with that.

The message that was received from industry was that the cost of compliance, although it was
190 recognised as an additional burden, was not excessive, and actually it was in the Island's interest
and the industry's interest that the Island continued with the negotiation of an Intergovernmental
Agreement with the US authorities and that that far outweighed any potential cost to industry.

The Bailiff: Anyone else? No.

195

Guernsey Electricity
Electric cable connectivity
Statement by the Minister for the Treasury and Resources Department

200

The Bailiff: In that case, we will move on to the next Statement.

There are going to be several Statements delivered by the Minister for the Treasury and
Resources Department and the first one will relate to Guernsey Electricity. Deputy St Pier.

205

Deputy St Pier: Thank you, sir.

Mr Bailiff, Members of the States, since the failures of the cable links between the Channel
Islands and France last year, Guernsey Electricity has been working with Jersey Electricity to
develop a strategy for future electricity cable connectivity to the Islands.

210 With the support of Commerce and Employment and the Energy Policy Group, I am absolutely
delighted to be able to report to Members that Guernsey Electricity has, this morning, entered into
an agreement with Jersey Electricity to further develop cable connectivity between the Islands and
France – an agreement that will deliver significant benefits for Guernsey, in terms of the security
and affordability of electricity supplies, within a relatively short timeframe, and these will be
delivered under the umbrella of the Channel Islands Electricity Grid.

215 Members will be aware that, since the cable failures last summer between Guernsey and Jersey
and between Jersey and France, the proportion of the Island's electricity requirements that
Guernsey Electricity has been able to import has fallen from around 80% to just over 30%,
resulting in the need to generate significantly more on Island.

220 In spite of the complete repair of the Guernsey-to-Jersey cable, the permanent failure of the
oldest Jersey-to-France cable means that there remain limits on what can be imported to Guernsey
and risks do remain to the security of these remaining limited supplies.

Furthermore, of course, the costs of generating electricity on Island are significantly higher
than importing it, and this was reflected in the 9% increase in tariffs that was required in October
last year.

225 On-Island generation also brings with it a number of environmental issues, notably the higher
emissions associated with running our diesel generators.

230 Against this background, Guernsey Electricity has signed an agreement with Jersey Electricity
to participate in the delivery and evaluation of a number of major new cable initiatives, and these
are as follows: firstly, the Normandy 3 project, which will see the installation of a brand new cable
between Jersey and France in 2014; secondly, the Normandy 1 project, which will see an overlay
of the failed EDF 1 cable between Jersey and France – subject to planning permission from the
French authorities, it is anticipated that this will be completed in 2016; thirdly, the so called GJ2
project, which will involve the full scoping, assessment and evaluation of a project to install a
second additional cable between Guernsey and Jersey.

235 We should be very clear that these projects will deliver a number of significant strategic
benefits to Guernsey that are consistent with the Island's Energy Policy in the short and medium
term. This will deliver affordable and secure energy supplies, as well as support the drive towards
decarbonisation.

240 Firstly, the delivery of the Normandy 1 and 3 cables will significantly improve Guernsey's
importation capacity through Jersey from its present low level of 16 megawatts to a much
improved level of 60 megawatts. This new level of import will allow almost 90% of the Island's
current electricity demands to be sourced by the existing Jersey-Guernsey import cable. Guernsey
Electricity has confirmed that this will reduce its production costs by reducing its reliance on

245 higher-cost electricity generated on Island. Once these cables are in place, this will provide an opportunity to reduce electricity tariffs.

250 Secondly, the reduction of on-Island generation that Normandy 1 and 3 will allow is entirely consistent with the objective of the Island's Energy Policy to decarbonise our energy supplies through the importation of electricity from renewable and sustainable sources. Currently, 30% of the electricity imported through the cable comes from hydroelectric power stations. It will also significantly reduce environmental problems – such as noise, vibration and emissions – associated with on-Island generation.

255 Thirdly, the active progression of plans for a second cable between Guernsey and Jersey will further improve the Island's security of supply position by removing the network's single point of failure between Guernsey and Jersey, which we obviously suffered from last year. The intention is that this project will be fully evaluated, such that a decision can be made during the course of this year on whether or not to commit to this project. If a decision is made to go ahead, it is anticipated that the cable could also be installed by the end of 2016.

260 I should say that Guernsey Electricity is also continuing to evaluate the possibility of a direct cable from Guernsey to France; however, current estimates put the timescale for delivering this at between six and 10 years. It is more likely that the possibility of such a direct link will be considered in conjunction with the replacement of the existing cable between here and Jersey, which will be reaching the end of its economic life in the next 10 years or so.

265 It is anticipated that Guernsey Electricity will be contributing just under £30 million towards the capital cost of Normandy 3 and Normandy 1, and this contribution is based on the proportion of the importation capacity to which the company is contractually entitled under the agreement.

270 The intention is that this commitment will be financed on a debt basis, following the States resolution during the 2013 Budget debate in December that enables the company to borrow to finance its capital expenditure. Given the significant strategic benefits that these proposals can offer the Island, my board feels that it would be appropriate to facilitate this through the authorisation of the necessary borrowing.

275 Members of the States, I am particularly pleased that these initiatives are to be progressed under the umbrella of the Channel Islands Electricity Grid (CIEG). It is my firm belief that the Islands are at their strongest in dealing with the challenges that face them when they work together. The CIEG is an excellent example of this philosophy working in practice. Indeed, progress in these commercial arrangements is a positive, and actually perhaps the most tangible result so far, of the regular and direct dialogue between the two Treasury and Resources Departments, in which I and my opposite number in Jersey, Senator Ozouf, have been engaged in the last 12 months.

280 Finally, sir, it is true to say that the failure of the cables between the Islands and France during the course of last year has presented some major technical challenges for Guernsey Electricity, both in terms of maintaining supplies and in undertaking repairs to the cable between Guernsey and Jersey within a remarkably short timeframe. The company has addressed those challenges with great determination and has worked diligently with its colleagues in Jersey to revise and develop their strategy for the future, and I would like to place on record my appreciation for the tenacity and hard work of the directors, the management and the staff.

285 Thank you, sir.

The Bailiff: Does any Member wish to ask any question?

290 Deputy Trott.

Deputy Trott: Sir, may I ask the Minister for the Treasury and Resources Department – are there safeguards in place to ensure that Guernsey's requirement for electricity importation are treated with equivalence to that of Jersey's, going forward?

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

Deputy St Pier: Yes, within the contractual arrangements, clearly that is one of the key issues for Guernsey Electricity, and indeed the Island, of course – and that is that there is greater stability around that in the new contract that was signed this morning than in the previous one.

The Bailiff: Deputy Lester Queripel, then Deputy Brehaut.

Deputy Lester Queripel: Thank you, sir.

305 I am wondering why we are not pursuing the idea of obtaining our electricity from Alderney when they install their tidal power plant, and I would like the Minister's thoughts on that idea, please, sir.

The Bailiff: Deputy St Pier.

310 **Deputy St Pier:** Sir, that idea is not ruled out. If Alderney can and do produce power, then it clearly remains an option, but I think the reality is that remains some years away from being able to produce commercially viable supplies at the level which Guernsey would require them.

315 These initiatives are enabling the Island to move, in the short term, very quickly – as I say, 2016 in relation to the cables from Jersey to France, and possibly from here to Guernsey. That is a timeframe which is simply not feasible or envisaged in relation to Alderney.

320 Clearly, in the longer term, as part of the evaluation of whether it would be better to have a direct cable to France, which I referred to in the statement, which is perhaps a 6-to-10-year timeframe, then I think Alderney will stack up against that, if it is viable, and it will certainly be considered.

The Bailiff: Deputy Brehaut.

325 **Deputy Brehaut:** Thank you, sir.
I just wanted to know whether they had a fibre optic capability as well as electricity.

The Bailiff: Deputy St Pier.

330 **Deputy St Pier:** I believe it is absolutely standard practice now for all these cables to have that capability.

The Bailiff: Deputy Gollop.

335 **Deputy Gollop:** Yes, sir.
I too wish to ask the Minister about why the States and Electricity do not look at the potential viability of a link directly to Alderney, perhaps via Sark and Breghou, that then goes on to France – that would perhaps resolve several problems in one initiative.

Also, I would like to know how Treasury and Resources evaluated the potential costs to the consumer, both personal and business, of this change in capital investment.

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

Deputy St Pier: Yes, sir.
In relation to the idea of cable links from here to Alderney, Sark, Brechou, or wherever, these have to be commercial decisions, and given the populations, I think it would, commercially, be
345 very difficult to justify some of those routes.

Clearly, if there is power being supplied from the waters of Alderney, that is a different proposition – that would obviously be an export proposition for Alderney – but there has to be a balance here between perhaps the social objective that you might be considering and the overall commercial objective. These cables are not cheap pieces of kit to put in.

350 I am sorry, I have forgotten the second question now.

Deputy Gollop: The costs that... *[Inaudible]*

355 **Deputy St Pier:** Yes, I am sorry: that very much, clearly, was part of the Guernsey Electricity's business case as presented to Treasury and Resources as the shareholder, seeking to understand. As I say, the expectation is that the payback period is short and it should be able to lead to reductions in tariffs for businesses and private consumers in short order, and that is one of the things which make this such an attractive and important proposition.

360 **The Bailiff:** Deputy Burford.

Deputy Burford: Could the Minister advise if these cables are also available for export, should that become feasible?

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

Deputy St Pier: I believe that to be the case. I would need to specifically confirm that, but I believe that to be the case.

370 **The Bailiff:** No-one else wish to ask a question?
Deputy Sillars.

Deputy Sillars: Sir, I am pleased to hear that we are looking at going direct to France, via who knows where, but actually we have got several pipes coming into Jersey, which is good, and several pipes coming out of Jersey to Guernsey, but the problem I have always had is that Jersey, whatever that means, is the single point of failure. So can the Minister confirm that that somehow has been got round?

Thank you.

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

Deputy St Pier: Thank you, sir.

When all these projects go ahead, there will be three cables from France to Jersey. At the moment, there is a single point of failure between Jersey and France because there is only one cable functioning. Even with those three cables from Jersey to France, clearly we will still have a single point of failure between Guernsey and Jersey and that is precisely why we are looking at the second cable link between here and Guernsey to overcome that issue. But again, as I say, the decision on that will be made later this year, again assessed against the commercial viability of that. The second alternative is a direct cable link, which would again overcome the single point of failure issue, but the reality is, as I have said, that that is at least six to ten years away.

390 So, even with additional cables between here and Jersey, Deputy Sillars is quite right to observe there will still be a single point of failure risk between here and Guernsey unless and until we either have a second cable to Jersey or we have a direct cable to France.

395 **The Bailiff:** Deputy Kuttelwascher.

Deputy Kuttelwascher: Yes. I only rise because of Deputy Gollop's question. I would just like the Minister to confirm that, with a 60 megawatt import capacity, with the two new cables being laid from France to Jersey, this would reduce current production costs by between £10 million and £12 million per annum, which equates to a 25% reduction in current production costs, which on a really good day could mean a 25% reduction in tariffs.

The Bailiff: Is this a question, Deputy Kuttelwascher?

405 **Deputy Kuttelwascher:** It actually equates to a saving, once these cables are on, of £400 per household, and I just wonder if the Minister could confirm that. (*Laughter*)

The Bailiff: Deputy St Pier.

410 **Deputy St Pier:** Yes, of course I thank my Deputy Minister for that question and for perhaps his over enthusiasm in relation to the issue.

Yes, there are, as I alluded to, significant paybacks from this project in short order. I do not wish to put a number on that in relation to prospective tariff reductions at this point – clearly, that will depend on the various alternatives, in terms of power, production or import at the time that those cables go live – but the expectation is that there will be an opportunity for reductions in tariffs. Clearly, as shareholder, the shareholder will be encouraging Guernsey Electricity to achieve that as far as is possible and as quickly as possible, again subject to the commercial viability of any changes in the tariff structure.

420 **The Bailiff:** Deputy Bebb.

Deputy Bebb: Thank you.

Personally, I welcome this Statement, and given the very large capital costs that will be involved, could I ask whether the shareholder will also be encouraging Guernsey Electricity to give due consideration for schemes where we would have insulation of houses and therefore

reduced energy necessity, and therefore reducing some of the import of energy, which overall would be a better prospect for the Island?

430 **A Member:** Good point.

The Bailiff: Deputy St Pier.

435 **Deputy St Pier:** Sir, I am not sure that that question arises directly from the Statement. Those initiatives are clearly not part of what I have announced today. However, it remains a current and live issue which is discussed at the Energy Policy Group and initiatives are being considered and looked at.

440 Clearly, the point that Deputy Bebb has made is well made in relation, again, to some of the payback from those kind of initiatives, but again there is a capital cost associated with that and that needs to be considered, but it is being looked at.

The Bailiff: Does anyone else wish to ask a question within the context of the Statement?
Deputy Gollop.

445 **Deputy Gollop:** Deputy Trott, I remember, contributed to the previous Energy Policy debates, and I wish to know whether the current Treasury and Resources Department endorses the importance, however uneconomic, of maintaining a strategic production generational capability on Island.

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

Deputy St Pier: Again, I do not think that is an issue purely for the Treasury and Resources Department, but clearly the whole question of our security of supply policy, which is currently n-2, which means that we could lose two of the largest forms of production or supply and still be capable of meeting all of the Island's demands.

455 That is a very expensive commitment which is borne by all consumers. That is something that should be looked at as a result of changes in the network and changes in terms of our ability to supply, whether it is through importation or on Island.

460 So, again, it is an issue which the Energy Policy Group has considered, whether that policy remains appropriate, but it will not be a change which the Treasury and Resources Department would be leading on its own.

The Bailiff: Deputy De Lisle, do you have a second question?

465 **Deputy De Lisle:** I would like to ask the Minister whether the £30 million borrowing will be coming back to the Assembly for approval. I know that we had agreed to borrowing in the region, I think, of £5 million in the States some time back, but I am just questioning the £30 million.

The Bailiff: Deputy St Pier.

470 **Deputy St Pier:** Sir, it is not intended to bring that back to the Assembly for approval. We have been working with the authorisation that was given in the Budget. There were some numbers around that, but I think again, in relation to Deputy De Lisle's questions that he posed at the Budget debate, it was envisaged that this contract would be part of the solution to our supply, so Treasury and Resources do not consider it necessary to come back for further authorisation.

475 **The Bailiff:** I see no-one else rising.

480 **Financial Transformation Programme (FTP)**
Statement by the Minister for the Treasury and Resources Department

485 **The Bailiff:** We will move on to the next Statement, which will also be from the Minister for the Treasury and Resources Department, and this time on an update on FTP and the financial position.

Deputy St Pier.

Deputy St Pier: I would like to say thank you, sir. *(Interjection by the Bailiff and laughter)*

490 Sir, thank you for the opportunity to update the Assembly on the progress of the Financial Transformation Programme during the first five months of 2013 and the overall financial position of the States at the end of the first quarter of the year.

This is a lengthy Statement, so I hope you are comfortable. I make no apologies for that, as it covers much detail of great importance. Much of it has been in the public domain this year.

495 Sir, the States debate on the FTP in January gave the Assembly the opportunity to reaffirm its commitment to this vitally important initiative, and I was delighted, as a People's Deputy, as Treasury and Resources Minister and as the Policy Council's FTP Champion, that it chose to do so resoundingly.

I am also delighted to be able to inform the Assembly that, following that political endorsement, the FTP has had one of its most successful periods to date. In the first five months of 500 2013, FTP projects have released £5.35 million of savings, bringing the total saved by the programme to £16.15 million. This is on track and an increase of almost 50% from the end of last year and represents a significant improvement in the momentum of the programme.

I am also pleased to be able to inform the Assembly that the majority of these savings – some 505 £3.85 million or 72% – have come from improvements in our efficiency, as opposed to increased fees and charges or changes to grants and subsidies. I can also confirm that, as instructed by this Assembly, the programme team have provided the Public Accounts Committee with a full breakdown of the benefits that have been signed off since the beginning of the year.

510 The level of savings that have been delivered by Departments so far in 2013 is a significant achievement, and I would like to take this opportunity to recognise the hard work that has gone on across the States to make it happen.

In my view, it is now clear that the States is beginning to think differently, plan differently and act differently in the way it delivers services to the Island, and in many Departments this is having a positive impact.

515 In addition, the period has seen highly encouraging progress in some of our longer-term projects. For example, Members have, of course, been presented with the initial findings of the Strategic Asset Management Plan, which will allow us to align our land and property with the States goals and objectives, it will allow us to make sure that our land and buildings are fit for the purpose for which they are being used and it will allow us to ensure that we take account of operational requirements in deciding on property use, so it will enable us to spend less. The 520 implementation of this initiative will fundamentally change the way we approach land and buildings and have a life far beyond the end of the FTP. A States report on this initiative will be brought back to Members shortly.

525 Despite all of these encouraging signs in the first part of 2013, we are not out of the woods yet, not by a long shot. The savings signed off so far predominantly relate to small and medium-sized projects specific to a single Department and delivery of the larger departmental projects and our interdepartmental or cross-cutting programmes remain a significant challenge. The notable exception to this is the first tranche of savings relating to the SAP/Hub projects of £1.25 million. Sir, I will return to that project at some length later.

530 It is anticipated that further benefits in line with the business case will be signed off as the project is ultimately delivered into business as usual and as the States really starts to use the tools and analysis available through the enhanced system. However, it is encouraging that material savings have already been achieved.

535 But it is of significant concern to the Policy Council that the forecast benefits for the whole FTP have, for the first time, dropped below the £31 million target, especially bearing in mind too that that was a minimum target and that Departments were asked to identify projects capable of overachieving on their targets by 10%. This was in recognition of the fact that some projects might deliver less than forecast and some simply will not come to fruition and deliver at all. The overall estimate currently stands at just short of £30 million, having been as low as £28 million at the end of March.

540 I, as the Policy Council's FTP Champion, have written to all Departments, requesting that they look for additional opportunities not already in their portfolio, that they seek to accelerate any projects that they can, and that they examine whether existing projects are capable of delivering further benefits. All Departments have responded that they are doing everything possible to deliver against their targets, and unfortunately no significant new projects have been identified.

545 Partly as a response to this and the opportunities present, the Policy Council has recently agreed with the Social Security Department to set a savings target for that Department's formula-led budget of £2.4 million, although only half of this may benefit general revenue. Projects are currently being developed that could make significant contribution towards the FTP target. In

550 addition, and encouragingly, that Department is also applying the same rigour and questioning to the expenditure from its Social Insurance Fund, which may materially reduce expenditure in that area.

Members of the Assembly should also be made aware that the Policy Council agreed to the Education Department's request to treat as FTP savings £435,000 of benefits resulting from changes in the higher education grant funding that accrue in 2015, 2016 and 2017. Everybody needs to clearly understand that this decision will still leave us with the challenge of managing the Education Department's cash limits up to 2017.

555 Whilst speaking of the Education Department, it is worth noting that they have over-performed in the quarter, having signed off around £1.2 million of benefits compared to a forecast of £400,000. The Minister for Education has informed the Policy Council that, whilst there are risks in delivery, he is confident that his Department can deliver on its FTP targets for 2013 and 2014, provided they receive the necessary support from this Assembly.

560 As was acknowledged last year, when the Education Department's targets for 2013 and 2014 were switched around, they came to the party very late; but the Minister, his board and staff must be congratulated for their hard work and engagement on FTP in the last year. They have made fantastic progress.

565 Sir, I would like now to turn my attention to the Shared Transactional Services Centre (STSC), commonly referred to as the Hub and the SAP projects, and to provide Members with an update on progress and issues encountered with their implementation.

570 Members will be aware that these projects involve the centralisation of some administrative staff within the Hub and the development and extension of the States' main business system, SAP, to cover a broader range of finance, procurement and HR functions, as well as the development of a corporate asset management system. It is worth bearing in mind that SAP itself is not new to the States, having been operated for 10 years or so.

575 At this point, I think it would be useful just to reflect for a moment on why the States has repeatedly made the commitment to these projects and what is driving them. The successful delivery of these initiatives will deliver major improvements in the way in which back office functions are operated throughout the States by centralising and streamlining them and by reducing duplication of effort. The benefits will include, firstly, the release of considerable and ongoing efficiency savings through reduced duplication, which obviously translates into cash savings across the States; secondly, the development of a much clearer picture on the States' past, present and future spending, which will help to deliver savings through better procurement; and thirdly, improved financial controls that will significantly reduce the future risk of fraud in the States.

580 Members will recall that in my Statement to the States in March, I set out in detail the critical role that SAP and the Hub are already now playing in improving the robustness of our controls – and as an aside, I will welcome the Public Accounts Committee review of those controls.

585 This short summary of what is driving these projects should not disguise the huge scale of the change that has been involved for people inside and outside the States, involving fundamental and far-reaching restructuring, staff redeployment, cultural changes, new processes and new systems in almost every part of the States. This is understandable, given that we have moved from an arrangement where systems were focused on political structures and silos to a model where they can best be organised to support the Island's Government as a whole.

590 Members will be aware that the Hub and the extended SAP system went live on 1st January. Significant efforts were made to prepare the States at all levels ahead of this date. This included the involvement of all Departments in extensive blueprinting, development, testing and training. Departments were also supported in developing change-management plans to help them prepare.

595 The SAP STSC project board made the decision to go live after reviewing and accepting that wide-ranging resonance criteria across the functions in Departments had been met. At the time, it was agreed that operations should commence on the understanding that important elements – the budgeting and planning module, and the so-called dashboard reporting facility – were not available but would be delivered within a month.

600 The Hub is now fully staffed and operational and the extended SAP solution has been deployed. Within SAP, several modules are now working as planned, including employee and manager self service, estate management and managers' reporting systems.

605 The payroll system is working effectively and accurately. In April, the accuracy of the payroll run was between 99.5% and 100% across the different pay groups.

The management of vendor master data, such as payment details for our suppliers, which of course is absolutely critical in the context of, for example, the mandate board that we suffered last year – it is a critical element in the security of our controls – is running effectively with no backlogs. Our cashiers and receipting functions are running normally, albeit later than planned, e-

610 recruitment is now being rolled out across the States, and the HR administration function has been successfully established.

I will not shy away from some of the problems that have also been encountered, but in listing just some of the examples of our success it can be demonstrated that, having made the commitment to the project, the States has made significant in-roads in transforming itself, and we should acknowledge the determination and professionalism shown by all those involved in getting this very challenging project to the operational stage.

So, where are the main problem areas, and what are the challenges?

615 Despite the significant efforts and resources that were put into preparing for the change, it is evident that collectively we have significantly underestimated the extent of the changes involved and the time needed to bed them in. Expectations were mismanaged and consequently unrealistic. There was a perception and expectation that the go-live date on 1st January represented the *end* of the project, when in fact it was clearly just the start of the implementation phase.

620 The project's senior responsible officer and project board have acknowledged the scale of support needed to support the initial operational stage was underestimated and as a result insufficient resources were in place to address issues that have arisen since going live. This is now being addressed through the formal extension of the project to the end of this year and the re-establishment of the project team to support the change management, communication, training and support processes for users.

625 Staff within the Hub have successfully addressed many of the issues that arose immediately following going live. These included technical problems, issues around the quality of data provided by Departments to the project in the planning stages, and user training.

Nevertheless, there are still important outstanding issues relating to the financial systems and to dealing with unpaid invoices.

630 There have been problems with the electronic purchase to pay processes. This was caused by inaccurate or incomplete staff approval structures in Departments at the stage that the system was being configured, and by the ongoing habit for procurement to be undertaken around the States without raising an electronic purchase order. The absence of the purchase order means the three-way match process, which is essential to enable the Hub to pay invoices promptly, involving the matching of an invoice with a purchase order and goods receipt, is seriously compromised and delays payments to suppliers.

635 Whilst there have obviously been processing delays at the Hub, it must also be recognised that some of the delays have been caused by delays in Departments forwarding invoices to the Hub for processing or by delays in Departments approving payments in the system to allow the Hub to release funds to the supplier.

640 Some suppliers may also have become used to payment by return from some Departments, whilst the States' normal terms of business are 30 days. That is subject to agreement to the contrary, such as there being discounts for early payment, for example.

645 The purchase to pay process employed by the Hub has been reviewed by the Internal Audit department since go-live. The audit has confirmed that the controls being employed are not only appropriate, but are essential to safeguard use of the States' resources.

650 So, whilst I am pleased to report that the usage of purchase orders has increased substantially, from the low teens in January to 65% at the end of April, this still falls below the level we would expect, and all Departments need to be aiming for 90%. This will be the simplest and quickest means of improving the speed with which accounts are paid.

655 Other ongoing issues which are being managed actively by the project team with suppliers are problems with the operation of the bank reconciliation system. The automated bank reconciliation model is not working as expected and the project team are working with the contractor to address this.

660 This situation was further complicated by the fact that, despite having been signed off, not all the bank reconciliations at 18th December had been completed to the standard expected – this together with the fact that, through our fragmented management structure, we have managed to acquire 82 bank accounts across the States to be reconciled, and that is proof positive, if any further is required, that the whole project is absolutely essential to drive common and minimum standards across the States.

665 Also, additional resources have now been deployed to ensure that outstanding issues around the year-end reconciliations are resolved so that the States accounts can be published and debated in July.

670 As an aside, sir, I should say that, whilst the accounts were laid before the Assembly in May last year, it was recognised that the accounts might not be prepared on this timeline this year – that was recognised as one of the risks around the project – and this has indeed proved to be the case,

although publication in July is consistent with prior practice. A plan has been agreed by my board to recover the situation in respect of the 2013 reconciliations, and this is being implemented.

There are also problems with the HSSD variant of the procurement module and the operation of interfaces between SAP and legacy departmental IT systems.

675 Another issue is that – unbelievably, in 2013 – there is a lack of SAP support for internet browsers such as Google, Chrome and Internet 10, and that interacts with the... that has affected the recruitment module and workarounds are being developed for that. Further, internal and external IT issues have resulted in some areas being unable to access SAP or reducing the speed of access.

680 The management information module is not yet providing all the information that was promised of it, but it will do so, and again we are working with the contractor and supplier to address this. However, it should be emphasised, despite some rumours to the contrary, that current year up-to-date accounting information is in the system and is accessible by managers.

685 As I have said, the project team and the staff at the SAP are addressing these issues. We continue to benefit from a good working relationship with the contractor and supplier and the outstanding development issues within the system itself. There is a triage process in place at the Hub to support prioritisation of problems, together with strong risk management, issue management and change control processes.

690 An extensive programme of user training is in place, and since the start of this year over 500 members of staff have attended SAP-related training. In addition, there have been 4,800 log-ons to the e-learning facilities for SAP that are available on line.

Staff are also being supported by the help desk, which has dealt with over 26,000 enquiries since the start of the year. The feedback from Departments on support offered by the help desk has been positive.

695 Over 60 quick reference guides have also been published on the States intranet to assist users. More resources are being deployed to assist with training on the job. However, it is important to recognise that training is a two-way process and it appears that we may yet need to overcome some cultural barriers so that users are committed to learning and using the new systems.

700 Staff at the Hub are also engaging proactively with different users at their own workplaces. They, for example, met with head teachers, representatives of the Chamber of Commerce and individual suppliers to talk through and resolve their issues. An accounts payable group has been established to engage with those involved in this specific area and regular meetings are now being held with departmental representatives to improve communications and understanding.

705 However, it cannot be left to the project team and the Hub alone. It is essential to work together to resolve these critical issues. This requires visible support and sponsorship from States Members, the chief executive and his team, chief officers and senior civil servants, who collectively must take a lead in promoting the need for business change and reinforcing the message that this is an absolutely vital States initiative.

710 In this respect I think it is fair to say that, whilst there has been support for change at all levels in the States, my board has been disappointed to note evidence of reluctance – or even, indeed, outright resistance to change – in some quarters.

715 This is highlighted by a number of fictitious claims that have appeared recently in the media. For example, it was claimed that subscriptions to websites by the Education Department had not been paid, resulting in problems with homework and lesson planning. Staff at Education have confirmed there was no substance to this claim. It was claimed that the SAP system played a part in the engineering and technical difficulties encountered recently by the Guernsey Dairy and the subsequent timeframes for repairs. Again, Commerce and Employment Department have confirmed this is simply not the case.

720 My message to the Assembly today, sir, is ultimately a simple one. We have embarked on a project that is of significant strategic importance to the States. The project *will* deliver financial savings, more efficient processes, stronger financial controls and improved management information.

725 It is a transformational project and managing the associated processes of change has and continues to be challenging. We are taking steps on an ongoing basis to manage those challenges. We must not shy away from those challenges, and I ask Members for their support in now embedding throughout the States the necessary changes to which we have committed to ensure the successful completion of this project this year.

Has everything gone smoothly? No, self-evidently not.

Will we succeed? Yes, we will, and we must: failure is not an option.

730 Would we do things differently? Yes, clearly we would.

Was it the right decision to progress with the project? Absolutely, without a shadow of a doubt.

Sir, I should also say something about the political oversight of the projects and the political response to these early implementation problems.

735 As Members are aware, T&R provides a political Member to most project boards and this one was no different. That political representative changed from Deputy Langlois to Deputy Collins after the election. In Deputy Collins' absence, I attended the last project board meeting, on 8th May, and I also will now be replacing Deputy Collins on that board for the remainder of the project term. The project board will be meeting monthly from here on.

740 The project's senior responsible officer will be reporting by exception at each T&R meeting. He will also be formally reporting to both Treasury and Resources and the Policy Council monthly after each project board meeting.

The Treasury and Resources board has also requested that additional resources be deployed to addressing the backlog of bank reconciliations.

745 We have also asked the Internal Audit team to undertake a piece of work to confirm that all steps that should have been taken in response to the situation have indeed been undertaken. We approved the terms of reference for that work yesterday at our weekly meeting and I undertake to report back to the Assembly on the outcome of that work in due course.

Sir, I would like now to turn to the financial position of the States at the end of the first quarter and our forecasts for the remainder of the year.

750 ETI collections were down on the budgeted estimate for this point in the year by £2 million, or 4%. An adverse variance is currently being forecast to persist throughout the year, although the expectation is that it will be negated by an increase in other individual tax take and likely improve the terms from the banks, where the downward trend appears to be not as severe as was originally anticipated.

755 The estimated Income Tax from companies includes the £12 million arising from extending the 10% intermediary Income Tax rate. Assessments of just over £4 million have been issued to date and we remain confident that the £12 million estimate is realistic.

Customs duties and document duty receipts are currently under budget, but the projection is that they recover as the year progresses and ultimately will be in line with the overall budget.

760 Overall, at this early stage, income is being forecast to end the year at around £372 million, which is in line with the budgeted position.

Turning to expenditure, most Departments and Committees are reporting underspends after the first three months of the year and are forecasting delivery within budget by the year end.

765 Two exceptions are the Social Security and Health and Social Services Departments. The spend on Supplementary Benefit in the first three months of the year is some £350,000 more than the budgeted position. The Social Security Department is forecasting that the full-year impact will be some £750,000. However, this is partially offset by lower than budgeted social and health insurance grants. Overall, the Department currently expects to exceed estimates for expenditure by some £500,000.

770 With regard to the Health and Social Services Department, and as outlined in responses to Rule 6 questions posed by Deputy Fallaize, the Department is overspent in the first quarter by £935,000. The Department said – and I am quoting here from the response:

775 'If no further action was taken, and the underlying transactions in SAP do prove to be complete and accurate, this would project a forecast overspend of £3.7 million for 2013. However, since 31 March, some, some £400,000 of FTP savings have been banked and more are currently being worked on, including a share of the savings attributable to the SAP implementation. This could reduce the projected overspend position to nearer £2.5m. Again, this will depend on other demands for HSSD services and the ability of the Department to contain the costs of such demands within allocated budgets.'

780 Needless to say, sir, my Department is working closely with the Health and Social Services Department in an attempt to support the delivery of the FTP targets, manage any demand-driven expenditure and work together to deliver within authorised budgets in 2013.

785 Members of the States, as Treasury and Resources Minister, I do not want to see us fail to deliver on the target we set ourselves over the FTP period. May I remind Members that the target is less than 9% of our current overall net expenditure and we have allowed ourselves five years to deliver on it. This is a key element of the States' three-pronged strategy for eliminating the deficit of increases in indirect taxes, economic growth and expenditure restraint.

790 Further, it is vital that we stay within the budget that we have set ourselves for 2013 and limit the drawdown on the contingency reserve to the £17 million agreed as part of the 2013 Budget. As I have previously said, the FTP forecast has, for the time being, dropped below £30 million. Within that portfolio, I believe that there are risks to the delivery of some of our interdepartmental or cross-cutting projects due to the timeframes now remaining and the difficulties the States has

faced in trying to deliver single-organisation projects which involve significant change, as evidenced recently with the SAP STSC project, as I outlined earlier.

795 Further, as was noted last week in the answers to Deputy Fallaize's Rule 6 questions, there remain significant departmental risks. For example, the Health and Social Services Department has banked savings in the year to date of just over £400,000 against their target for the year of just under £3.3 million. That leaves some £2.9 million to deliver in just six months. We must all recognise that is now a very challenging ambition. I am now meeting with the Minister of HSSD and his team monthly and I understand from our meeting last week that his Department remain committed to delivering the FTP targets for both this year and next, albeit that they recognise the risks around deliverability. The FTP team is working closely with the Department to ensure they have all the support they seek in order to deliver the required changes.

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805 Sir, Members will have heard me say before that there is no plan B. That was indeed the case, but it is for the reasons that I have outlined that I believe it is now time to develop our plan B. By this, I mean a plan which ensures that we hit our budget targets, regardless of whether the FTP targets are met.

810 Members of the States, it is vital that we never lose sight of the fact that we are operating a deficit budget and that we have committed to achieve financial balance. The people of the Islands expect it. If this is not or cannot be delivered through the FTP, then other options must be examined, none of which will be any more palatable.

815 The Treasury team are therefore now exploring all options, including the removal of persistent underspends from budgets. In addition, the team are exploring options for incentivisation for the identification of further opportunities. These will be discussed by the Treasury and Resources Department and the Policy Council during June. If we are to deliver on the Budget which was agreed in the Assembly in December, any actions requiring implementation that then need to be taken will need to be taken swiftly. However, I should just emphasise that delivery of the FTP remains our plan A, something we must do and something that we have promised to do.

820 Sir, before closing – on this statement, at least – I must just say a word or two about the fraud. The matter remains subject to police investigation and has, of course, been subject to the first phase of the Public Accounts Committee review. My Department have no further information to impart to the Assembly. We will await further developments by either the Public Accounts Committee or the law enforcement agencies and are unlikely to have any further comment until then.

825 Sir, and Members of the Assembly, I thank you for your patience this morning during what has been, as I promised, a somewhat lengthy update. However, these clearly are crucial matters of great importance to us all, which my board, the Policy Council, my colleagues on the Policy Council and I, take very seriously. Delivery against our FTP targets is vital, not only in delivering a balanced budget but also delivering on the organisational development and change that makes the States fit for the challenges ahead.

830 I plan to update the States again in September ahead of the Budget debate in October.
Thank you, sir.

835 **The Bailiff:** Are there any questions on that Report? Deputy Lowe, then Deputy Le Clerc and Deputy Laurie Queripel.

Deputy Lowe: I just wanted your advice, sir, really.

840 Following the Statement from the Minister, which was very helpful but took over half an hour and covered several sections – whether it be FTP, SAP and many other things – how are you going to handle that at Question Time, because we can only usually ask one question, and there is lots to ask following that Statement?

845 **The Bailiff:** Yes, I did have a discussion with the Minister as to whether this was just one Statement he was delivering or a composite, several... Well, I think that is over three in there. He did persuade me that they were all interrelated.

850 We will proceed with one question per Member and then we will see how we are going after 15 minutes. We will start off with one question per Member, but if there are no more people wanting to ask one question, then there will be people permitted to ask a second question. We will see how it goes.

Deputy Laurie Queripel, and then Deputy Le Clerc.

Deputy Laurie Queripel: Thank you, sir.

855 The Minister alluded to the problems being encountered with SAP. I would ask the Minister, due to its inability to pay its bills in a timely fashion, have the States been cut off or blacklisted by any major suppliers; and if so, what are and what have been the cost, risk and reputational implications of this for the States?

Thank you, sir.

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

865 **Deputy St Pier:** I am not aware that we have been cut off or blacklisted by any suppliers. Any issues which are brought to the attention of the accounts payable team at the Hub are dealt with as swiftly as possible, and I think the last figures I saw were that we have made over £60 million-worth of payments through the Hub, which is as expected by this period in the year.

The Bailiff: Deputy Le Clerc, then Deputy Trott.

870 **Deputy Le Clerc:** I was pleased to hear the Minister had plan B. It is a well-known fact that a major cost of any business is its staff costs. Can the Minister advise if there are any plans to provide a tool in the box for all Departments for a voluntary redundancy package or an early retirement package to assist Departments in meeting their FTP targets?

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

Deputy St Pier: Sir, I am not in a position to confirm that, but I am in a position to agree with Deputy Le Clerc that, clearly, staff costs are perhaps our most significant expense as an organisation and therefore it would have to be something that is looked at as part of plan B.

880 **The Bailiff:** Deputy Trott, and then Deputy Luxon.

885 **Deputy Trott:** Sir, I commend the Treasury Minister on an extensive Statement. As Deputy Lowe and others have mentioned, there was much in there to comment on, but can I focus in on ETI? The Minister advised us that ETI was down 4% year on year. That is clearly a concern, and my question is this: is he aware of what sector of our economic activity in particular can be attributed to that decline; and if it is, as I predict, financial services, is he of the same view as I that we are doing nowhere near enough to promote our financial services industry at this time?

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

Deputy St Pier: Sir, it is with regret I cannot confirm. I think it is Deputy Trott's assumption that that is the case – may well prove to be the case – and I will obviously seek confirmation of that.

895 With regard to whether we are investing enough in supporting the financial services industry, that clearly is a key element of Commerce and Employment's Economic Development and Financial Services Strategy, which I am expecting the Commerce and Employment Department to bring forward shortly.

900 **The Bailiff:** Deputy Luxon, and then Deputy Le Lièvre.

905 **Deputy Luxon:** Thank you, sir. Deputy Fallaize has been concerned that the senior members of the Policy Council may, at the year end, throw their hands up in disbelief at the performance of FTP for this year. Would the T&R Minister agree with me that the Policy Council and T&R Board have been closely monitoring the FTP progress from January to May this year, but that, unfortunately, it is now that we need to be throwing our hands up in disbelief at the lack of progress within the HSSD Department, with whom I clearly have an awful lot of sympathy for the challenges being faced, but that that Department *must* give focus, momentum and traction to achieving *its* FTP target for this year?

910 Thank you, sir.

The Bailiff: Deputy St Pier.

915 **Deputy St Pier:** Sir, it may be useful for me to give reassurance to all Members that FTP remains very high on Policy Council's agenda; it is a topic of every agenda now.

I do not agree with Deputy Luxon that one should throw one's hands up in despair. I do not despair. I do agree that we should be doing everything we possibly can to help support HSSD in the challenges which they face, and as I mentioned, there is a high degree of dialogue and open communication between the two Departments, and obviously involving Policy Council in that dialogue as well; and that, I think, is the best chance we have of helping to deliver plan A.

The Bailiff: Deputy Le Lièvre, and then Deputy Gollop.

925 **Deputy Le Lièvre:** Thank you, sir.

Is it possible, could the Minister shed some light on how Social Security are going to cut £1.2 million or so out of their formula-led budget, which is in relation to need-based statutory benefits, without actually coming to this Assembly?

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

Deputy St Pier: Sir, I am not in a position to do that, certainly this morning. Clearly, that is a question which the Social Security Minister would be in a better position to respond to, but clearly I would be happy to deal with that perhaps as a Written Question, or to deal directly with the Social Security Minister.

935 **The Bailiff:** Deputy Gollop.

Deputy Gollop: Sir, it has been said that some of the problems with the SAP system have been linked to inadequate training, and in some cases personnel having to leave their day jobs to focus on the interim introduction.

How far has that position affected the work, for example, of the Health and Social Services Department, who may have overspent partially for that reason and, moreover, who cannot necessarily give you final accounts precisely because, as Deputy Queripel has intimated, there is a lack of clarity as to what is owed and what it owes?

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

Deputy St Pier: I am not sure, was there a question in there, sir, or was it more of a statement?

950 **Deputy Gollop:** The question is, is it fair to blame Departments for overspends if the accounting systems have not been, so far, entirely fit for purpose?

The Bailiff: Deputy St Pier.

955 **Deputy St Pier:** I was not seeking to blame Departments for overspends as a result of any additional work that may have been required. Clearly, part of the response which I referred to is providing additional resources to ensure that the problems are addressed.

960 **The Bailiff:** Deputy Bebb.

Deputy Bebb: Thank you, sir.

Could I ask the Minister whether the Internal Audit report that relates to the SAP implementation will be made public?

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

Deputy St Pier: I am not in a position to confirm that. My instinctive reaction, without going back to it and reviewing it again, is that any Internal Audit reports that deal with internal controls, we should clearly be very cautious about putting those into the public domain to the extent that it deals with our financial controls.

970 I am not in a position to give an affirmation here, but it is certainly something that will be looked at.

975 **The Bailiff:** Yes, Deputy Duquemin, and then Deputy Soulsby.

Deputy Duquemin: Thank you, sir.

I welcome the Minister's Statement this morning on FTP, but unless I missed it, I am somewhat perplexed that, whilst Google Chrome and others got a name check in the half-an-hour Statement, our main partners in FTP – Capita, previously Tribal – were not mentioned at all.

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Can the Minister reassure us that they are still active participants in the process and they are assisting us in delivering the £30 million of savings that is the target?

Thank you.

The Bailiff: Deputy St Pier.

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Deputy St Pier: Yes, sir, I can confirm that, as referred to in the Statement, the relationship with Capita remains very good and that, in terms of their assisting the delivery of the... This is an important project and they understand the issues. There is plenty of evidence that they have pulled out the stops to address and help address some of the technical issues and some of the other challenges.

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Sir, whilst responding to this question, I have perhaps realised that I did not address Deputy Bebb's question. I think I was referring to the Internal Audit report that dealt with the review of the controls last August. In my head, that was what I thought he was asking. I suspect he was asking about the Internal Audit report which we have now asked for – is that correct?

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Deputy Bebb: Sorry, the question was in relation to the SAP implementation. I believe that the Minister made reference to Internal Audit, that had actually conducted a report on the implementation of SAP, and that was my understanding. Evidently, it might be better if I was to discuss this with him afterwards.

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Deputy St Pier: I think it would, sir.

The Bailiff: Deputy Soulsby.

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Deputy Soulsby: Sir, how confident is the Minister that only two Departments have overspends, or that those overspends are not worse than currently indicated, given the backlog of processing of payments and bank reconciliation problems?

The Bailiff: Deputy St Pier.

1010

Deputy St Pier: 'Reasonably confident' is the response, because it is clearly not just based on... It is based on working with those Departments to understand their spend as well, so it has not simply been... There has been a high level of dialogue between the Departments in reaching the conclusions.

1015

The Bailiff: Yes, Deputy Quin.

Deputy Quin: Thank you, sir.

1020

Would the Minister consider some form of compensation for the businesses and people who have been affected by the non-payment? A number of small businesses that I have spoken to have been. In fact, we had a slight problem at Beau Séjour with getting some supplies at one time.

The Bailiff: Deputy St Pier.

1025

Deputy St Pier: It is not something which has been considered, and certainly if there are individual suppliers that have suffered particularly, then I would suggest that they make contact with Hub and present their case.

The Bailiff: Deputy Lowe.

1030

Deputy Lowe: Just on a supplementary to that, because if... That is the trouble when it is going all over the place – you do not have time for supplementaries.

But on a supplementary to that one –

1035

The Bailiff: But there is no provision for supplementaries in relation to this, but go on.

Deputy Lowe: Alright then, a question then, sir. (*Laughter*). Can I ask a question, please, sir, on SAP?

1040 **The Bailiff:** Yes.

Deputy Lowe: As of Saturday, a few days ago, at the Vale Deputies' surgery, there were still people sitting there who were complaining that they have been owed money now for five month, and although you are saying that and acknowledge that there are problems there, how much longer do these individuals and businesses have to continue?

There is no doubt that a lot of these businesses are very anxious and apprehensive about saying things publicly, that they will have a backlash from the States of not being used in the future.

There are many people now suffering, so when are we going to accept that there *are* problems there, and how much longer are these people going to have to wait before they are paid?

1050 **A Member:** Hear, hear.

The Bailiff: Deputy St Pier.

1055 **Deputy St Pier:** Sir, I think there are, of course, many anecdotes and I think many of us will have heard those and experienced those for ourselves. I do not deny the existence of those problems and I have not done so in my Statement.

I would encourage Deputy Lowe and others in their interaction with those who present these issues to them to engage directly with the Hub. As I say, there is ample experience of issues being dealt with as quickly as possible once the problem has been identified.

Certainly in relation to individual suppliers being penalised as a result of complaining, I have heard and seen nothing that would suggest that and I clearly would be very surprised and disappointed if any States Department took that view in relation to interaction with their suppliers if it is as a result of the States having problems in its payment processes.

1065 **The Bailiff:** Deputy Fallaize, do you have a question?

Deputy Fallaize: Thank you, sir.

1070 Although at the time of the Budget there is a distinction made between the Departments' general budgets and their FTP targets, it is a rather arbitrary distinction and the reality is that they all amount to the same thing because we are trying to return the States to a balanced budget.

That being so, is the Minister, through his Department, prepared to encourage other States Departments, who are at risk either of over spending their basic budget or of missing their FTP target, to return to the States as soon as possible in order to provide the States with options that could be taken in order not to overshoot those budgets or miss the FTP targets, partly in order to avoid the kind of chaos which ensued at the end of last year? Because there are ways that Departments, supported by the States, could make savings, even if they are cuts, to stay within their budgets and their FTP targets, and does he not think that it would be appropriate for the States to make those decisions, given the quantum of some of the budget variances that we are discussing here?

1080 **The Bailiff:** Deputy St Pier.

1085 **Deputy St Pier:** Sir, I am as anxious as Deputy Fallaize and, I am sure, every other Member in this Assembly, to ensure that we do not experience the same challenges that we experienced at the end of last year, and we are doing everything we can to ensure that that situation does not arise.

I certainly agree that, as part of plan B, it may very well be appropriate to take the course of action which Deputy Fallaize has referred to.

1090 **The Bailiff:** Well, Members, we have now exhausted the 15 minutes that are permitted under the Rules for questions.

Can I just have an indication, are there any other people who wish to raise questions? I see Deputy Gillson. Is it, then, the wish of the States that he be permitted to do so?

1095 *Members voted Pour.*

The Bailiff: And Deputy Sherbourne, as well.

1100 **Deputy Gillson:** Thank you, sir – a question close to my heart, as an ex-States employee.
So, as part of the setting up of the Hub, finance staff were told last year – I think on 9th July – that their jobs were at risk and they had to apply for jobs in the Hub. Could the Minister explain why, in less than a year, a review is being undertaken, part of which involves the same staff to suffer the distress of being told their jobs are again at risk while the review is being undertaken?

1105 **The Bailiff:** Deputy St Pier.

Deputy St Pier: Sir, I think I am going to have to seek clarification from Deputy Gillson as to the review to which he is referring.

1110 **Deputy Gillson:** I was told by a member of the finance department in one of the Departments that a general review was being undertaken of finance, similar to last year, and he had been told his job was at risk.

1115 **The Bailiff:** Deputy St Pier, are you able to answer?

Deputy St Pier: Yes, sir. I do not think that that is a question that arises from this Statement and I think it would probably be something that I would be better to deal with directly with Deputy Gillson on.

1120 **The Bailiff:** Certainly you may decline to answer any question if, in your opinion, any answer given by you might be inaccurate or misleading; so, if you are not prepared to answer it, or not able to answer it, then you are entitled not to do so.
Deputy Sherbourne.

1125 **Deputy Sherbourne:** Thank you, sir.

Will the Minister provide assurances to this Assembly that the current issues related to the speedy recruitment of teaching staff will be addressed? Education has found, at a time where they are trying to speed up that process, resulting from recommendations from the Mulkerrin Report, that in fact rather than speeding up, the process has slowed, and that it is now taking an extra two or three weeks to appoint teachers because of problems with the Hub.

The Bailiff: Deputy St Pier.

1135 **Deputy St Pier:** Yes, sir.

I am not sure that that is directly the result of problems with the Hub. I think initially the problems have arisen out of the failure of the e-recruitment module of the SAP project to work as originally specified, and that was in turn linked to the failure to interact with some of the internet browsers that are referred to and not being supported by SAP.

1140 Those issues are being addressed. The project team are very conscious of the problems which Education in particular have identified, and again I thank the Education Department for elevating those quickly and in the right way. We are seeking to do everything we can. We do recognise the challenge which it poses, particularly for Education at this time of year.

1145

Internet security

Statement by the Minister for the Treasury and Resources Department

1150 **The Bailiff:** I see no-one else rising, so we will move on then to the third and final Statement to be delivered by the Minister for the Treasury and Resources Department, which relates, I believe, to internet security.

Deputy St Pier: The third and final Statement, sir – I am sure is a relief to us all.

1155 Sir, given the importance of the IT infrastructure, I would just like to take this opportunity to address concerns that were raised by Deputy Bebb about the security of the States IT systems during the debate in the March States meeting on the Rolling Electronic Census Project.

Hansard records that Deputy Bebb stated that he had a number of colleagues in the IT industry who had purportedly hacked into the States of Guernsey website and had gained Income Tax

1160 information in that way. Of course, the Department immediately initiated an investigation of these claims and contacted Deputy Bebb to request further information.

At this point, it is worth my reminding Members that the States website was the subject of a security breach that was well documented and investigated in 2008 and which, whilst was clearly regrettable, did result in significant revisions and improvements being made to our security arrangements.

1165 In investigating the current matter with Deputy Bebb, the only substantive information that he was able to provide the Department with was that the alleged incident relating to the breach of Income Tax systems predates the aforementioned 2008 incident. And so, given the substantial changes that were made to our security arrangements after this date, and in the absence of any other information from Deputy Bebb, we can only conclude that these claims are no longer
1170 material or valid.

Deputy Bebb has also advised the Department that other information pertinent to the States was accessed after 2008, but this was not of an Income Tax nature. However, thus far, he has been unable to provide any specific details of what this information was or how it was accessed, so the Department has been unable to investigate the matter further, and importantly, to determine
1175 whether any security breaches have, in fact, taken place.

Sir, I just want to reassure Members, and indeed the public, that the Department takes such claims very seriously and will take every practical measure it can to ensure that they are fully investigated so that weaknesses are identified and can be rectified.

1180 Our primary aim is, of course, to safeguard the public interest by taking all steps that we can to ensure that personal and other data held by the States is not compromised. Within this context, I believe that the public interest, which as Deputies we, of course, have a responsibility to uphold, is best served by bringing any such incidents to the immediate attention of the Department so that we can act swiftly. As such, it is a matter of regret that, on this occasion, the matter was only brought to our attention by Deputy Bebb during the course of the States debate some significant time after
1185 the alleged event.

I do want to reassure the House that the Department takes its responsibilities for IT very seriously. Clearly, it would not be appropriate for me to discuss our security arrangements in detail, but by way of example I can confirm that all of the States websites are subject to periodic penetration testing to identify any potential weaknesses.

1190 Thank you, sir.

The Bailiff: Just before we embark on the questions, it is getting quite warm in here. I will give permission for jackets to be removed, and I just wondered whether it is possible to open a few windows to get some air in.

1195 Are there any questions arising from that Statement? No, I see no-one rising.

Bus services

Statement by the Minister for the Environment Department

1200 **The Bailiff:** In which case, we move on to the next Statement. The Minister for the Environment Department has requested and I have granted permission for him to make a Statement – and then we will come to Deputy Soulsby's Statement – on the bus services.

1205 **Deputy Domaille:** Thank you, sir.

I am very grateful for the opportunity to comment on the current situation concerning bus services in Guernsey.

1210 Members will be aware of and share my concern over the operation of the current bus service. Prior to the new timetables coming in, we were aware that the company seemed to be struggling to run the services on time, resulting in late and sometimes cancelled bus services. The new timetables were intended, in part, to address this problem and to alleviate any difficulties with the bus scheduling. There were also intended other benefits but I will not digress into those other issues.

1215 Since the new timetables have been introduced, there have still been reports of buses being delayed and services being cancelled. CT Plus appears to be under resourced and unable to deal with all the enquiries and complaints it is receiving. There have been reports of numerous dropped services and an inability to deal with the level of enquiries and complaints. This generates a

1220 vicious circle of increased annoyance, despair from the users, more complaints, increased pressure on staff and a seemingly worsening service.

In view of the fact that the company appear to be struggling with the delivery of the bus service, I spoke yesterday to the Chief Executive Officer of HCT – that is the parent company of CT Plus – and relayed my concerns about the service currently being provided. I have asked for and received the Chief Executive’s assurances that the company is 100% committed to providing a proper service to Guernsey and that representatives of the company will arrive on Island in a few days in order to start to put in place a recovery package to deal with the current difficulties – I will just deviate a little bit from my prepared Statement – in fact, I understand the Chief Executive Officer of HCT will be arriving in Guernsey today, in which case I expect to be meeting him later today or early tomorrow morning.

1230 This commitment from HCT is of course welcomed, and for our part the Environment Department will do all it can to assist the company to turn this situation around so that the people of Guernsey get the bus service they deserve.

We are taking advice as to any contractual remedies that may be appropriate, including the application of service credits, given the difficulties reported in operating a new bus service.

1235 I must stress that our primary objective is to deliver an effective bus service to Guernsey. We have informed CT Plus that we will *not* accept poor service delivery and they *must* deliver an improved service. I have had the assurance of the chief executive officer that that is what they want to do, and the sincere wish of my board and I is that they can achieve that.

1240 Thank you, sir.

The Bailiff: Any questions?

Deputy Gollop, and then Deputy Perrot.

1245 **Deputy Gollop:** Sir, how far though are the company’s perceived difficulties in managing the transition and service a political responsibility brought on by aspects, perhaps, of the Financial Transformation Programme?

The Bailiff: Deputy Domaille.

1250 **Deputy Domaille:** Thank you, sir.

It is true that the existing contract is some £300,000 less than the previous contract, which was a saving acquired by FTP. That said, CT Plus put forward their proposals on that basis and it is *their* responsibility to run the bus service.

1255 **The Bailiff:** Deputy Perrot, then Deputy Conder.

1260 **Deputy Perrot:** Sir, would the Minister share my view that, if he is going to be dealing in fairly tough terms with the bus company, now is the time, so far as the west is concerned, to ensure that the bus company deals with the considerable difficulty which pupils experience in getting to and from the Perelle area and St Peter Port? That is one problem.

Would he also confirm that it is appropriate for him to be talking to the bus company about the relative isolation of a number of hospitality businesses in the western part of the Island?

1265 Would he also confirm that it really is time that somebody told the bus company to get real and bring to order the *appalling* lack of punctuality (**A Member:** Yes.) of the present service, (**Several Members:** Hear, hear.) particularly in the west? (*Laughter*).

The Bailiff: Deputy Domaille.

1270 **Deputy Domaille:** Thank you, sir.

Right, reverse order: there is nothing more... Well, actually, there is one thing more annoying than a bus not turning up – that is you not being able to communicate with the bus company or the bus company communicate with you, and there is a definite strand on the complaints that I have received that reflects those two issues, and they are issues that we have raised with CT Plus. It is an issue that we are looking at the contract too, and I take that very seriously.

1275 I think, with regard to the existing services, I will be talking to the chief executive officer as to whether there are any possibilities of making immediate improvements. I think that is unlikely in terms of the timings; however, in about two weeks’ time we will be sitting down and talking about the winter timetables. What we have in place is all of the comments that we are receiving we are recording, and we are going to take all of those comments into account, and when we look at any

1280 revisions to the timetables and the services provided, we will, as I say, look at those and act accordingly.

I have to say that this Department still has to work within the resources we have allocated and it simply will not be possible to accommodate everybody's requirements throughout the year.

1285 **The Bailiff:** Deputy Conder.

Deputy Perrot: Sorry, have I missed the –

1290 **The Bailiff:** Did he miss one of your questions? I think there were some composite questions in it. Did he miss any, Deputy Perrot?

Deputy Perrot: No, I was humbly going to ask if I could ask a supplementary.

1295 **The Bailiff:** I will come back to you when other people have had the opportunity to ask one question.

Deputy Conder.

Deputy Conder: Thank you, sir.

1300 The previous provider of the Island's bus service, Island Coachways, were on three consecutive occasions runners-up in the Institute of Directors GTA Excellence in Training award. In his meetings with the chief executive, could the Minister establish just what commitment and what investment the company is making in training, particularly in customer services?

1305 **The Bailiff:** Deputy Domaille.

Deputy Domaille: Yes, sir, in short, I will do that.

The Bailiff: Deputy Duquemin.

1310 **Deputy Duquemin:** Thank you, sir.

During Deputy St Pier's Statement, he was very honest in saying, 'Would we do things differently? Yes, we would. If we had our chance to do it again, would we have learned lessons? Yes, we would.'

1315 Could I ask the Minister for Environment, particularly with relevance to, or reference to the dual pricing of both locals buying a bus fare and visitors buying a bus fare, where they are essentially – well, they are – paying two different prices for the same journey –

The Bailiff: Does this arise from the Statement, Deputy Duquemin?

1320 **Deputy Duquemin:** I think it does, because it is the bedding-in of the service.

Would the Minister agree with me that, with the benefit of hindsight, introducing the dual pricing was a mistake and is something that could be remedied as soon as possible to prove that... to borrow a phrase from Deputy Luxon, to reveal that Guernsey is open for business and would like to welcome visitors, rather than penalise them for coming here?

1325 Thank you, sir.

The Bailiff: Deputy Domaille.

1330 **Deputy Domaille:** I am not really sure that arises from the Statement, but I am quite pleased to address it.

I think that the pricing mechanisms have been misunderstood. To a degree, I have to say that CT Plus is partly to blame for that because I do not think their communication is very good.

1335 I think it is right and proper that a bus service such as Guernsey's has concessionary fares for various groups of people. I think, for instance, we have concessionary fares for school children, who travel free, we have concessionary fares for old age pensioners, and I think elsewhere in the world – and I have quoted examples previously, such as the Isle of Man and certainly Italy – it is true to say that visitors, or non-locals, pay a different fare to the locals.

1340 I think that it is right and proper that, if you are a resident in Guernsey and you are paying your taxes and you are subsidising the bus service pretty much to the tune of £1.50 each time someone gets on the bus, that contribution is recognised and you actually get a concessionary fare.

That said, everything is up for review, and when we sit down and we go through all of the proposals and propositions of course we will be looking at the fare structure.

1345 **The Bailiff:** Deputy Fallaize, and then Deputy Lowe, if you have questions within the context of the Statement.

Deputy Fallaize: Thank you, sir.

1350 First of all, can I commend the Minister not only for his Statement but for the very open way in which he has communicated with States Members and publicly (**Several Members:** Hear, hear.) over obvious shortcomings with the bus service. I entirely endorse the very assertive and bullish Statement that he has made this morning and I hope he carries that through into his conversations with CT Plus.

1355 Is the Minister able to advise the States when is the first point in this contract with CT Plus when the States could withdraw without having to pay any penalty?

The Bailiff: Deputy Domaille.

Deputy Domaille: Thank you, sir. Thank you, Deputy Fallaize – I will try to.

1360 There is a provision in the contract which means that – and I think it is from April next year – if the States wish to renew the contract, then it is the States’ option from April whether or not it chooses to renew that. There then is a further two years after that when both CT Plus and the States have to agree to extend. It is not quite as simple as that, in that if we are going to *not* renew the contract with CT Plus, then we have to *not* notify them of our intention, and I think that is in December.

1365 There are other provisions within the contract and I will have to take legal advice, but my understanding is that – well, it is a fact – within the contract there are various service standards set. There are service credits – penalties, if you wish – for failure to meet those particular service standards. Those have to be investigated and looked at. I have to take legal advice on that.

1370 In the event of persistent failures, there are benchmarks in the contract, and if there is a persistent failure we issue a remediation notice. If that remediation notice is not acted on, then we can initiate, given all honest circumstances, a breach of contract, which in effect means the contract is terminated.

That is a very simple view and I would have to take legal advice on it.

1375 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Thank you, sir, and I too thank the Minister, who has been very helpful over the last couple of weeks, fielding the calls and the e-mails and tweets that have been sent to him.

1380 A concern that I have – and I appreciate he is going to meet the gentleman who has come over today, or lady, or both – is that you are reviewing the service for the winter. My concern is for the damage that this is doing if we have got to wait for the winter for this dire service to continue, because the tourists are already suffering. Even up to yesterday, the simple sign at the Airport still says a 7 and a 7A, and that has not been operation either. The most basic things of management have not actually taken place.

1385 So can he give me assurances that the message will be sent to them that this service has to improve before the winter, and indeed I would suggest probably in the next week; otherwise, we are just driving more and more people into their cars.

1390 If he can answer that, but I would just like to add as well... and I know it probably goes just slightly beyond, but following on from Deputy Duquemin, where you have the two prices of £1 for locals and £2 for visitors, how CT Plus are allowed to charge £4.50 for the coastal route, when the States... [*Inaudible*]

The Bailiff: This goes beyond the Statement.

1395 Deputy Domaille.

Deputy Domaille: Yes, sir, I will try to deal with all of that.

1400 First of all, yes, the current failings are unacceptable. You have mentioned signage: you are absolutely correct and, in fact, at one stage I have had my staff going out to try and correct signs. That is unacceptable and I look for a very immediate settlement on that. But we have looked into it. I will be honest and say that, actually, part of the reason is a lost order, believe it or not, but it is still unacceptable.

1405 The overriding concern of the board is to get our contractor to perform according to the contract and provide this service, and frankly, until that performance is sufficient, it is very difficult to judge the adequacy or otherwise of the summer timetable, and that makes it even more pressing to get the changes in place. That is something we will be pressing for.

Have I missed... I think you mentioned the visitors' fares.

1410 **The Bailiff:** But I am saying that goes beyond the Statement.
Deputy Stewart, did you have a question? Deputy Stewart.

Deputy Stewart: Would the Minister, in his meetings with the chief executive of HTC... The first point I wanted to make was to reiterate what Deputy Lowe said, that a lot of the stops are out of date and this is causing a lot of confusion with the tourists.

1415 Also, in terms of timetables, I noticed on the east coast, actually, an enterprising person has put up their posters for some concert, or something. Could we have timetables in all the bus shelters; and even if it is a post, even a laminated timetable?

1420 There is a huge amount of confusion. We have had a lot of feedback from hotels, particularly in the west, who have said that their tourists are not able to understand when the buses are running, and that has caused a fair amount of confusion.

The other thing is if there are going to be further changes, could my Department be brought into that loop? We do have the unfortunate position where we actually managed, just in time, to stop several print runs of tourist brochures going out with the old timetables, and this will help us make sure that we are giving the tourists the right information.

1425 **The Bailiff:** Deputy Domaille.

Deputy Domaille: Yes, and yes.

1430 The display of timetables is something we are looking at as I speak; but yes, I will certainly raise that with them, and certainly in terms of consulting with Commerce and Employment.

Full public consultation – yes, we will make sure that is done in good time.

The Bailiff: Deputy Bebb.

1435 **Deputy Bebb:** Thank you.

I do feel slightly at variance, and therefore could I ask the Minister that, given that the only contact that I have had is from users of the evening buses... and could I also ask that he portray that I have heard nothing but positive news in that respect as to an introduction of a long-needed system. But at the same time, having only received positive information in relation to that, could the Minister confirm that we will not continue to *condone* failure and that the Department will not shy away from the ultimate measures available to them?

The Bailiff: Deputy Domaille.

1445 **Deputy Domaille:** Yes, and yes again.

Yes, I too have received some glowing reports, not only of the evening services but also the times of the new services. So, whilst I have received more complaints than... more brickbats than bouquets, it is not all a one-way street, and that is right. Nevertheless, *any* failing we will not condone and we fully intend to press for the most positive and urgent action that we can.

1450 **The Bailiff:** Deputy Sherbourne.

Deputy Sherbourne: Thank you, sir.

I just hesitated there because I wanted to make a statement rather than a question.

1455 **The Bailiff:** Well, do not then.

Deputy Sherbourne: I will try and form a –

1460 **The Bailiff:** I will call the next speaker!

Deputy Sherbourne: Yes, at a time when we all wish to see a successful bus service and encourage more and more people to use it, we have a situation where the young people of the

1465 Island, who do use the service quite a bit, have got to carry identity with them to prove that they are local. I know of many who have actually been charged full rate on the bus, visitor rate, because they did not have that identity, and I would ask you to convey that back to CT Plus to see whether in fact either we do away with this dual pricing or we find a way that encourages people rather than discourages them from using the service.

1470 **The Bailiff:** Deputy Domaille.

Deputy Domaille: Yes, again I certainly will do so. I can say that actually I was made aware of a particular problem with – I will not say which school, it would not be fair – where clearly it was ridiculous that the pupil was charged at all for going on the bus.

1475 So yes, we have already taken that up and I will take it up again, sir.

The Bailiff: Members, the 15 minutes permitted under the Rules have now elapsed. I know there are several people who still wish to ask a first question and several people who wish to ask a second question. This should not turn into debate about the buses, but I will put it to you that we extend question time. Those in favour; those against.

1480

Members voted Pour.

The Bailiff: We are not going to go to a recorded voted. I think the *Pours* just about had it. So we will go to Deputy De Lisle.

1485

Deputy De Lisle: Thank you, sir.

Many of the problems and the confusion were issues raised actually in the oral and written consultation period. The Department is a partner in this area and why did the Department fail to act on the issues raised at that time?

1490

The Bailiff: Deputy Domaille.

Deputy Domaille: The answer is simple, sir: we did not. I do not have the information with me. I think we had about 150 comments through. We went through each of those comments and most of them that we could bring in, encompass in the system, we did. There were some that we could not.

1495

The route 77A was a particular area of concern. I have to be honest and say in one particular case, whilst we accommodated some of the services for the colleges, the situation with the Grammar School, that was a definite oversight, and for that CT Plus should have got it right and we did not spot it. But overall we took all the comments into account and none were ignored.

1500

I have to emphasise we have to work within the resources we have and, within that, we do what we can, and we cannot satisfy everybody.

The Bailiff: Deputy Brouard.

1505

Deputy Brouard: Thank you, sir.

Would the Minister and his team at Environment perhaps consider a phone number that could actually be answered for CT Plus? Because I have a number of people who have phoned, I am still waiting now nearly a week for a reply, and if you are at a bus stop for that length of time, it is clearly unacceptable. *(Laughter)*

1510

So possibly even if the staff themselves at Environment could have a number that... and also if we are putting out the new timetables, have a number that people can ring to check if the bus is actually coming.

1515

Thank you, sir.

The Bailiff: Deputy Domaille:

Deputy Domaille: I have to echo that, sir. I am still waiting for a response from CT Plus, I rang them. *(Laughter)*

1520

The Bailiff: Does anybody else wish to ask a first question?
Deputy Lester Queripel.

1525 **Deputy Lester Queripel:** Thank you, sir.
I have been told by several pensioners that their journeys are never recorded when they travel on the bus. Could the Minister tell me if that is actually the case? And if it is the case, how are the company and the Department expected to compile the true figures of the people who travel on the bus?

1530 Thank you, sir.

The Bailiff: Deputy Domaille.

1535 **Deputy Domaille:** I am not aware of that, sir. All I can say there is I will look into it, I will take it back and I will respond accordingly to you outside of the meeting.

The Bailiff: Anyone else with a first question?

Then in that case, Deputy Perrot had a second question, then Deputy Fallaize, then Deputy Gollop. Then I think we will draw this to a close.

1540 Deputy Perrot.

Deputy Perrot: I am obliged, sir.

1545 Whilst I am sure that no Member would disagree with the Minister's statement to the effect that bus routes cannot be perfect for everybody and one has to be reasonable about that, would he accept that it really is outrageous for school children in the Perelle area to be told that, if they wish to have transport to schools in St Peter Port, they have to walk either to l'Erée or to the northern end of Vazon, at Crabby Jacks, however palatable that area may be? (*Laughter*) That is one point.

1550 And would he not also agree that it is... although he says that the timetables will be reviewed for the winter service, but at the moment people who are tourists in this Island are kept waiting for ages for buses, which are either very late or which do not turn up at all. And I am not quite sure how to frame this into a question, but I have it that... I know anecdotally that four Germans were kept waiting for an hour, a couple of days ago, and had actually to be picked up by a local to take them to the other end of the Island.

1555 **The Bailiff:** That is very generous of you! (*Laughter*).

Deputy Perrot: I'm much obliged.

The Bailiff: Deputy Domaille.

1560 **Deputy Domaille:** Thank you, sir.

1565 There are two very valid points in there. If I take the last point first, there is no doubt that the dropped services have caused significant irritation, to put it politely, with the travelling public and that is something that is unacceptable and it is part of the problem I tried to allude to earlier, which is that we really do have to get the bus service running to the times that are published, in order that we can make a reasonable assessment of the adequacy or otherwise of the timetable. The separate issue... and that is something I want to press on.

1570 The separate issue of whether the coverage under the existing route layout and timetables – because actually the route layouts are not significantly different to the previous routes – the devil in the detail, and it is a very important detail, is in the timings, and so that is something that we will be looking at in this review.

1575 But I am not going to mislead people. It is not possible to meet the requirements of everybody. We will do our best, and the Perelle school children, I have received the e-mails and of course that goes into the equation. We have had some... I am looking at Deputy Fallaize, and some of his constituents have had a similar problem in the north of the Island. So yes, of course we take them all seriously.

We will do what we can, but I am not going to promise that I am going to be able to provide a service to everybody at a time that is convenient to them.

1580 **The Bailiff:** Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

The Minister is being expertly cautious, but I am not going to be (*Laughter*) and the reality is that the bus service that is run by CT Plus is a complete shambles and has been since the day they arrived. (**A Member:** Hear, hear.) This is a bus service that the public of this Island has spent

1585 more than £25 million pumping into, in order to rescue it from the position it was in in around 2000, and CT Plus is taking us back to that point.

Now, given that is the case, and given what the Minister said in answer to my first question, can I ask him how many remediation notices has the Department issued to date? Is it going to issue a remediation notice when this chap from HCT arrives in the Island to meet with Deputy Domaille later today?

1590 And secondly, given what I think should be the inevitable outcome of ending our relationship with CT Plus as expeditiously as possible, is the Minister able to confirm the Department is at least making contingency plans now for what might happen to the bus service in the event that that relationship with CT Plus does have to be terminated in the early part of next year; and can the Minister confirm that the Department's planning will enable it to continue to find some way of continuing to run a bus service, if that decision has to be taken early next year?

The Bailiff: Deputy Domaille.

1600 **Deputy Domaille:** Yes, sir.

I think the first question was: have we issued any remediation notices? The answer to that is no, we have not.

The second question, I think, was: will we? Providing my advisers tell me I can, yes we will, and we will do so proactively and judiciously, as they say.

1605 The third point, I think, was really around a plan B, yes? Our overriding concern is to make sure that the Island has a bus service – and the key word there is 'service'. That is absolutely important. If it transpires that the current contractor cannot provide that service, then clearly we have to look at an option. I am not, in this Chamber, going to spell out too much more than that, other than to say that we are alive to the fact that it would be prudent to have an option, at least, that is doable.

1610

The Bailiff: Deputy Gollop, and this will be the last question.

1615 **Deputy Gollop:** Sir, given the fact that for many years, Island Coachways and indeed last year CT Plus operated a generally successful summer and winter service of routes with consistent demand, within a margin, why does the Department not consider, as an interim move, reintroducing last year's summer timetable for the remainder of this summer, and also consider whether they are politically correct in following CT Plus's advice as to the wisdom of the new network and timings?

1620

Deputy Domaille: Two points there, I think, sir.

I am not a bus operator, and I have to rely on people who are skilled in this area to advise me. That said, I am a Guernseyman and I do not necessarily take advice, (*Laughter*) apart of course from my wife, but that is another matter. So, no, I think we are right to rely on an organisation such as CT Plus to advise us, but of course we took their proposals and we did change them, and we did so for good reason and I do not regret that at all.

1625

With regard to continuing with the previous timetable, it was an option we considered briefly, but to be honest with you, it was also dismissed quite quickly. Quite simply put, we were faced with falling passenger numbers, we were faced with a service, for whatever reason, that was not running as smoothly or as professionally or as well as we want it to. And so I think it is right to put these changes in.

1630

In putting these changes in, I have to say that I recognised the risk that was involved. I did not fully understand or expect some of the resource problems that CT Plus have had. They are down about 14 or 15 drivers, which we are in contact with them about, for various reasons. And so I appreciate they have some difficulties but that does not get away from the fact they have contracted with us to run a bus service. It is for them to sort out their problems and for us to have the bus service we require.

1635

A Member: Hear, hear.

1640

The Bailiff: Deputy Lowe, I did not realise you had a supplementary.

Deputy Lowe: Thank you, sir.

1645

The Bailiff: This will be the very final one.

1650 **Deputy Lowe:** It was to ask the Minister if, when he meets with CT Plus later, would he agree that it would be prudent to ensure that CT Plus are made aware that their drivers are still going down the wrong routes, even this weekend, and that they need to train their drivers to make sure they are covering the routes that are actually printed in the timetable? Could he give me assurances that that will also be covered when he meets with them later on today?

1655 **Deputy Domaille:** Yes, sir. In fact, I think the point about training has been made, but I take that point on board and will do so.

1660 **States Financial Controls: Phase 1 of PAC Fraud Review**
Statement by the Chairman of the Public Accounts Committee

The Bailiff: We move on now to the Statement from the Chair of the Public Accounts Committee, Deputy Soulsby.

1665 **Deputy Soulsby:** Sir, when it was announced in July 2012 that the States of Guernsey had been defrauded of £2.6 million of taxpayers' money, there was understandable shock and anger throughout the community. That such a fraud did occur only highlights the fact that we must have the necessary frameworks in place to defend against this type of threat.

1670 Whilst the public clearly have an interest in the details of the specific incident of fraud, which is currently the subject of a Police investigation, it was as important to find out whether there was an underlying problem that led to the States of Guernsey being exposed to this unacceptable risk of fraudulent activity.

1675 Ernst & Young were commissioned by the Public Accounts Committee to undertake that piece of work. The Ernst & Young review covers the following areas: the appropriateness of the anti-fraud governance framework for May 2012; the reasonableness of internal audit reports, which were issued in May 2012 before the frauds took place, and August 2012 after the incident; the appropriateness of the anti-fraud governance framework subsequent to those recommendations and actions; and then their own recommendations.

The key findings of their report are:

1680 First, that, prior to May 2012, the States' anti-fraud governance framework was inappropriate. As Ernst & Young state, while there were elements of an anti-fraud governance framework, they were uncoordinated, inconsistent and not embedded culturally.

Second, that the internal audit reports issued in May and August 2012 were not unreasonable.

1685 Third, that at 17th December 2012, the date they completed their fieldwork, the anti-fraud governance framework remained inappropriate. This was due to a number of factors including: some planned actions were dependent on the identification of a corporate fraud lead – indeed, a permanent corporate fraud lead is still to be appointed; some planned actions were dependent on the new SAP system going live on 1st January 2013; and other competing priorities, such as the Financial Transformation Programme.

1690 Fourth, that the work then in progress should improve the anti-fraud governance framework.

And, finally, additional actions were required to meet their base-line expectations.

1695 A number of reports spanning more than a decade into the States' financial controls and risk management regime, of which an effective anti-fraud governance framework is a vital part, have highlighted numerous inadequacies. This is despite the fact that Guernsey has one of the most regulated and highly-respected financial services industries in the world.

One of those reports was published by the previous Public Accounts Committee in May 2012, just before the specific incident took place, and the findings of the Committee's report were confirmed by the States Internal Audit Unit report the same month, which stated, and I quote:

1700 'the States of Guernsey is in the bottom 5% to 10% of UK organisations, in terms of counter-fraud maturity'.

There has been a persistent failure to develop a States-wide approach to risk and this has not been appropriately prioritised.

1705 However, the incident of fraud in July 2012 has been a catalyst for change and it should be acknowledged that a significant amount of work has been undertaken in the months following the incident, and credit should be given to the States' Head of Assurance who is leading the implementation of the improvements.

1710 Political ownership has also been evidenced in the creation of the temporary Risk Steering Group, comprising the Chief Minister and Ministers of Treasury and Resources and Public Services. There are also significant work streams in progress, including; the appointment of a supplier to develop and implement a risk management framework and policy; the drafting of a corporate risk register by the Head of Assurance, in conjunction with the Executive Leadership Team; the drafting of a fraud rule directive and response plan, which has been circulated for consultation; and the development of a comprehensive authorisation policy, which is currently being reviewed for feasibility and appropriateness.

1715 However, a permanent corporate fraud lead – a key recommendation of both Ernst & Young and the Internal Audit Unit – has yet to be appointed and, whilst a lot of positive moves have been made, they do not fulfil all the recommendations in the Ernst & Young report.

1720 The Public Accounts Committee fully concurs with the conclusion of Ernst & Young that the climate is right to ensure that there is a robust and fully embedded anti-fraud governance framework across the States. Anti-fraud must be owned by staff at all levels, but the change must be driven by the right tone from the top.

1725 Throughout this review, it has become evident to the Committee that the ownership and accountability of risk management within the States of Guernsey is not entirely transparent. In future, there needs to be clarity of where responsibility and accountability rest for successfully implementing both the States' fraud risk management improvement plan and the recommendations made by Ernst & Young, at both a political and operational level.

1730 Political ownership has been evidenced in the creation of the temporary Risk Steering Group, but this momentum needs to continue. The Treasury and Resources Department, working via the Executive Leadership Team, and the Policy Council, through the Risk Steering Group, must ensure that future planned actions are completed in a timely manner, and that those charged with taking forward the work streams have the necessary authority, resources, and support to do so.

1735 Currently, the responsibility lies with the Treasury and Resources Department, and the Committee would like to be satisfied that this is the logical place for risk management to sit, or whether it should become the responsibility of the Policy Council.

1740 The Head of Assurance has taken the lead in managing the corporate risk management improvement activity, including acting as a temporary corporate fraud lead, whilst also in the role as Head of Internal Audit, responsible for reviewing the adequacy of the risk management regime. The Committee needs to be assured that any potential conflicts between the roles of Head of Internal Audit and Head of Assurance are managed appropriately.

1745 In conclusion, the report from Ernst & Young confirms that, prior to May 2012, the States of Guernsey had an inadequate risk management framework in place. However, improvements have been made and progress is ongoing, but it is clear that, at this time, further work is required. The Committee believes the States of Guernsey has taken some important steps in improving the States' anti-fraud governance framework. But it is crucial that the States does not falter, as it has done historically, and delivers a consistent, formal, comprehensive and truly corporate approach to risk management. There is a vital role for the Committee to play in monitoring the progress being made in the development of an appropriate risk management framework.

1750 In addition, it is well aware that the recent implementation of SAP and the Shared Transaction Service Centre has had a major effect on the financial control environment within the States of Guernsey. The Committee is concerned that such a significant change has occurred prior to the development of an appropriate risk management framework and, accordingly, it has approved the commencement of stage 2 of its review of financial controls, focussing on those controls now in place.

1755 Finally, as Members will be aware, the Committee has previously been advised that it would be inappropriate to undertake a review of the specific incident of fraud, due to concerns that this might compromise the ongoing criminal investigation. I wish to advise Members that discussions are currently in place with the law officers and police authorities involved within the investigation, with a view to commencing stage 3 of its review into the specific incident of fraud, as soon as possible.

1760

The Bailiff: Thank you.
Deputy St Pier.

1765 **Deputy St Pier:** Sir, I would just like to ask, is Deputy Soulsby aware that, in August last year, Treasury and Resources did recommend and agree with Policy Council, that Policy Council should take responsibility for the risk mandate, pending a formal transfer of that within mandate subject,

of course, to the approval of this Assembly, and that it is proposed to bring that proposal to this Assembly fairly shortly?

1770 **The Bailiff:** Deputy Soulsby.

Deputy Soulsby: We were not aware until very recently, but we do welcome those moves.

1775 **The Bailiff:** Deputy Brehaut and Deputy Gollop.

Deputy Brehaut: Thank you, sir.

1780 There is clearly life before the £2.6 million fraud, and life after that, but historically a number of reports have been written on the theme of fraud. Although senior members of staff and the Chief Executive have those reports, were those reports shared with people who had the political responsibility and accountability in that area?

The Bailiff: Deputy Soulsby. Are you able to answer the question?

1785 **Deputy Soulsby:** I cannot answer it in terms of every single political Member in the previous States. No, I cannot.

I mean I hope that that would have been the case. But some of the reports, it has to be said, a lot of those reports were in the public domain and several of them were debated within this Assembly in the past.

1790 **The Bailiff:** Deputy Gollop.

1795 **Deputy Gollop:** Given that you and your Committee acknowledge that not all of the recommendations have been carried forward yet, because of resource shortages, how can you, as a Committee of Scrutiny, hold accountable the more executive parts of the State in ensuring that the best possible, for our size, risk management scenario is put in place as soon as possible?

The Bailiff: Deputy Soulsby.

1800 **Deputy Soulsby:** Clearly, as I said in my Statement, the Committee has got a vital part to play in actively monitoring progress, and I have say that it is the one thing this Committee really understands – that it is very important that we continue following up reports like this, and if we are not happy with progress we will come back to this Assembly with updates and reports for this Assembly to consider.

1805 **The Bailiff:** Deputy Trott.

1810 **Deputy Trott:** Sir, the report is not critical of the former Chief Officer of the Treasury and Resources Department, who I shall not name, for obvious reasons. I am wondering, under the circumstances, whether the Chairman of the Public Accounts Committee would share the view of myself, and many others in this Assembly, that it might be appropriate to re-employ the former Chief Officer of the Treasury and Resources Department, particularly bearing in mind the significant under resources that the Minister of the Treasury and Resources Department referred to this morning?

1815 **The Bailiff:** Are you able to answer that Deputy Soulsby?

Deputy Soulsby: I thank Deputy Trott for his question, but the question of employment within the States of Guernsey does not rest with the Committee, and I think that is for others to consider.

1820 **The Bailiff:** Deputy Harwood.

Deputy Harwood: Sir, on behalf of Policy Council, may I first of all acknowledge the importance of the Ernst & Young report, and assure the States that this matter is being given due attention.

1825 Deputy Soulsby has already referred to the creation of a Risk Steering Group within Policy Council to take forward issues to risk and fraud within the organisation. But could I ask Deputy

Soulsby, does the report not highlight the cultural difficulty that exists within the organisation of the States in delivering a corporate approach to fraud and risk?

1830 **The Bailiff:** Deputy Soulsby.

Deputy Soulsby: I think, clearly a theme that comes out of the report is the need for cultural change, and that, as we say, it needs the correct tone from the top, and culture can change through training, throughout the States, but also leadership needs to show that that is what it wants, and if
1835 they work with staff to give that new culture, that allow it to bed in.

The Bailiff: Any further questions? Yes, Deputy Storey.

Deputy Storey: Sir, I would just like to ask Deputy Soulsby, in the light of the fact that the
1840 report on risk management which she referred to, which was published by the previous PAC in 2008, was the third... sorry 2012, was the third such report of that nature to be issued in that respect since 2000, when very little had been done to address the situation, going forward, it seems to me most important that the progress is monitored on a fairly robust way, and I just wonder
1845 whether she could explain to us now what proposals she has for monitoring the implementation of the proposals that have been put forward, so that Members and the public can be assured that an appropriate risk management structure is in place?

The Bailiff: Deputy Soulsby.

1850 **Deputy Soulsby:** Thank you, Deputy Storey, for that question.

I can confirm that both our Committee takes this very seriously, and it will be a standing item on our agenda, but also we have – and I think what has been a good thing that has come out of this review – developed a good working relationship with the Internal Audit Department.

1855 As you know, the Head of Internal Audit has taken a lead in the improvements and, as I said in my report, a lot of credit has got to be given to him for the position that we are in at the moment, and I think through that, it is actively monitoring, it is not just leaving it for a few months, it needs to be a standing item on our agenda, and if we are not happy we will return to the States.

1860 **The Bailiff:** Thank you. Anyone else?
Yes, Deputy De Lisle.

Deputy De Lisle: It may be a question through Deputy Soulsby to the Minister of Treasury.

1865 **The Bailiff:** Well, either it is one she can answer or it is not one she can answer.

Deputy De Lisle: Thank you.

The taxpayers are concerned, sir, that they will have to underwrite the loss of £2.6 million through additional taxation to make it up. Is that the case? Are we to be...?

1870 **The Bailiff:** Are you able to answer that Deputy Soulsby? No, I do not think Deputy Soulsby can answer that question, Deputy De Lisle. Does anyone else have a first question?
Deputy Trott has a second question.

1875 **Deputy Trott:** Thank you, sir.

It is to do with the IAU's May 2000 report, which concluded that we are advised by the Public Accounts Committee that the States of Guernsey is in the bottom 5% to 10% of organisations across the UK in terms of its counter-fraud maturity. If this is the case, sir, and this is not a recent aberration... and I wondered whether the Chairman of the Public Accounts Committee agreed with me that it is surprising, at best, that two sets of external auditors had failed to raise extensive
1880 concerns about the risk profile of our establishment at any time over the last 10 years?

The Bailiff: Deputy Soulsby.

1885 **Deputy Soulsby:** As I have said to Deputy Trott before, the principle... It is for management, who are primarily responsible for prevention, detection of fraud within the States of Guernsey.

The external auditor's job is to give an opinion on whether the accounts give a true and fair view. It is not for them to determine whether the fraud situation within the States... but having said

1890 that, the auditors have undertaken tests and there have been matters that they have raised with management during the course of their previous audits.

The Bailiff: I see no one else rising.
That, then, concludes the time for Statements.

1895

Questions for Oral Answer

1900

HEALTH AND SOCIAL SERVICES DEPARTMENT

PFOS contamination of soil and water at Airport Compensation claim; cost of removal; storage of contaminated soil; St Saviour's Reservoir

1905 **The Bailiff:** We move on to Question Time.
Deputy De Lisle has a Question for the Minister of the Health and Social Services Department.
Deputy De Lisle.

1910 **Deputy De Lisle:** Thank you, sir.
Fire-fighting chemicals, known as PFOS, have entered the Island's water system and contaminated soil at the Airport. Jersey received £2.5 million in compensation for damage from PFOS. What compensation claim has Guernsey made for damage from PFOS contamination, and what is the current state of the claim?

1915 **The Bailiff:** Deputy Dorey, the Minister, will reply.

Deputy Dorey: Thank you, sir.
A compensation claim has been made against the manufacturer of the fire-fighting foam that contains PFOS. No formal proceedings have been issued.

1920 **Deputy De Lisle:** Can I ask a supplementary on that, sir?

The Bailiff: Yes.

1925 **Deputy De Lisle:** Can the Minister say when was the compensation claim made, and how much was claimed?

The Bailiff: Deputy Dorey.

1930 **Deputy Dorey:** I am not able to give any further information.

The Bailiff: Deputy De Lisle, your next question.

1935 **Deputy De Lisle:** Sir, I have asked this question before and I just wonder whether, in fact, the Procureur might provide any information on the status of the claim?

The Procureur: That would not be appropriate, sir, at this stage.

1940 **The Bailiff:** Thank you.
Deputy De Lisle.

Deputy De Lisle: Sir, battling on, *(Laughter)* if I can ask my second question.

The Bailiff: Please do.

1945 **Deputy De Lisle:** The plan, as I understand it, is to remove the soil from the main areas of contamination on the Airport and then treat the surface water on site.

What has been the cost of removing PFOS from the main areas of contamination on the Airport grounds?

1950 **The Bailiff:** Deputy Dorey, as I understand it, you are not able to answer this question, but the Minister for Public Services Department is willing to do so – is that correct?

Deputy Dorey: That is correct, sir.

1955 **The Bailiff:** Deputy Luxon.

Deputy Luxon: Thank you for that hospital pass! (*Laughter*)

1960 Sir, although the Questions were directed to the Health and Social Services Minister, HSSD did advise Public Services of Deputy De Lisle's Questions and I am happy to provide the information he has requested.

1965 The operation to remove contaminated ground from around the airfield and transfer it to the newly created containment cell within the raised grass area alongside the Airport entrance cost £227,468. That includes the excavation of the ground, any temporary works required to achieve this, the removal of the material from the grass bund area, the creation of the containment cell and the infill of the areas where ground had been removed.

Although he has not specifically asked for it, Deputy De Lisle referred to the treatment of water on site, which is correct. The construction cost of the ground water treatment plant was £2.14 million, which is now fully commissioned and working.

1970 The cost of drainage installed at the sites where contaminated ground was removed, to intercept ground water and divert this to the treatment plant, was £2,788,934.

Finally, sir, I can confirm that all of these costs were included in the original budget for the works.

1975 **The Bailiff:** Deputy De Lisle, do you have a supplement question?

Deputy De Lisle: Can I ask a supplementary on that?

The Bailiff: Go ahead.

1980 **Deputy De Lisle:** Yes, sir. Do I understand correctly that the total costs of clean-up of PFOS on the Airport was £5.15 million – the three costs given added together?

The Bailiff: Deputy Luxon.

1985 **Deputy Luxon:** Those three costs added together do amount to the amount that Deputy De Lisle has just mentioned there.

1990 In fact, the total cost of dealing with PFOS is more than that. There are other works involved, and of course those are all part of the claim, which the Minister for HSSD and the Procureur referred to a few minutes ago, which is currently under way.

Deputy De Lisle: If I can ask a further supplementary on that, sir?

The Bailiff: Yes.

1995 **Deputy De Lisle:** Will the costs of the work carried out to remove the PFOS contamination of the soils on the Airport be covered by the compensation claim from the PFOS manufacturer?

The Bailiff: Deputy Luxon.

2000 **Deputy Luxon:** I am not able to answer that, sir. It is a case that is under way. I am just not able to clarify further.

The Bailiff: Thank you.

2005 Do you have another supplementary, because Deputy Quin has a supplementary question.
Deputy Quin.

Deputy Quin: Thank you, sir.

2010 Could one of the Ministers tell me whether the crash of the aircraft on the Forest Road, which has got PFOS as well, is being covered by the same claim, or a separate claim?

The Bailiff: Are either of you able to answer that?

2015 **Deputy Luxon:** The intention is that all of the items that relate to PFOS will be part of the claim and discussions that are under way.

The Bailiff: Deputy De Lisle, then, your next question.

2020 **Deputy De Lisle:** The contaminated soil is being held under temporary storage in a bund alongside Le Bourg Road. What is the longer-term plan for the disposal of the contaminated soil held in that bund?

The Bailiff: Deputy Dorey.

2025 **Deputy Dorey:** Thank you, sir.
I have been advised by the Director of Environmental Health and Pollution Regulation that the remediation works at the Airport are subject to licencing under the Environmental Pollution (Guernsey) Law 2004.

2030 The licence for the bund was issued for a period of five years. This timeframe allowed for excavation work to take place as part of the Airport development and for a disposal plan to be agreed.

I can confirm that the Director of Environmental Health and Pollution Regulation has been very active in overseeing the remediation measures undertaken and ensuring that they comply fully with the requirements under the law.

2035 **The Bailiff:** Deputy De Lisle, do you have a supplementary?

Deputy De Lisle: A supplementary, sir. Can I ask for an answer to my question? What is the longer-term plan for the disposal of the contaminated soil beyond the five-year licence?

2040 **The Bailiff:** I think the Minister answered that.

Deputy Dorey: The only information I can give is that the licence was issued on 13th March 2012 and lasts for five years.

2045 The licence is now subject to variation to allow the Forest Road soil to be added as another cell at the same time, at the same site. The licence includes the engineering bund and a leachate sampling programme to ensure there is no contamination of the surrounding area while the soil is being stored there.

2050 Within the five-year period, PSD has to come up with a plan for the final disposal of the soil. At this stage, the Director of Environmental Pollution has not been given any details of their intentions.

Deputy De Lisle: Sir, as a supplementary, is there a risk to the population living close by, in residences close by to the bund site, which is very close to a number of houses?

2055 **The Bailiff:** I am not sure whether that is a supplementary arising from the answer, but are you able to answer it, Deputy Dorey?

2060 **Deputy Dorey:** I can only repeat what I said in relation to his last supplementary question: that there is a leachate sampling programme to ensure there is no contamination of the surrounding area while the soil is being stored there.

The Bailiff: Deputy Gollop, do you have a supplementary question?

2065 **Deputy Gollop:** I am not sure it is a supplementary.

The Bailiff: Well, don't ask it then. *(Laughter)*

2070 **Deputy Gollop:** Having listened to the questions and the Procureur's cautious advice, is it not worthwhile considering the possibility of the Environmental Health Office opening, when the time is right, a public inquiry into the history of this so that we can learn lessons for the future?

The Bailiff: Mr Procureur, do you...

The Procureur: I am sorry, but that clearly is not a supplementary –

2075 **The Bailiff:** That really is not a supplementary, sir, no.

The Procureur: – by any stretch of the imagination.

2080 **The Bailiff:** No. Can we move on to the next question...
Sorry, Deputy Luxon, do you...?

Deputy De Lisle: Thank you, sir.

2085 **Deputy Luxon:** A supplementary question.

The Bailiff: Deputy Luxon has a supplementary question.

2090 **Deputy Luxon:** Could I just ask the HSSD Minister if he takes comfort that the PSD Minister is comfortable that the bund has been constructed and is being controlled to very high industry standards, and indeed that PSD do realise that they need to find a resolution within the five-year period and it is in PSD's work stream to do just that?

The Bailiff: Are you able to comment on PSD Department's work streams? *(Laughter)*

2095 **Deputy Dorey:** I am pleased to hear that. *(Laughter)*

The Bailiff: Deputy De Lisle, your next question.

2100 **Deputy De Lisle:** Can I ask, sir, whether that means that the material in the bund is to be exported as a final option?

The Bailiff: I think Deputy Dorey has already said that there is no long-term plan beyond the five-year licence; they are waiting for discussions.

2105 **Deputy Dorey:** I think there are a number of solutions, and no doubt that is one of the possible solutions, but that will have to be decided at a later date by PSD.

The Bailiff: Deputy De Lisle, I think, your next question.

2110 **Deputy De Lisle:** Thank you, sir.
What have been the maximum and mean levels of PFOS in St Saviour's Reservoir in the last couple of years?

2115 **The Bailiff:** Deputy Dorey.

Deputy Dorey: Figures for the maximum and minimum concentration of PFOS detected in St Saviour's Reservoir for the past two years are publicly available on the Guernsey Water website.

2120 In 2011, the maximum concentration was 0.97 micrograms per litre, which was observed on 9th December; and the mean for that year was 0.61 micrograms per litre.

In 2012, the maximum was 0.75 micrograms per litre, which was observed on 27th January of that year; with the mean being 0.31 micrograms per litre.

All these levels ensure that the public water supply meets the standards set by the UK's Drinking Water Inspectorate as a measure of wholesomeness.

2125 It should be noted that, since 10th August 2012, no PFOS has been detected in St Saviour's Reservoir due to the measures put in place at the Airport and the careful management of the Island's water resources by Guernsey Water.

2130 **The Bailiff:** Deputy De Lisle.

Deputy De Lisle: Sir, I am sure many will be pleased to hear that last statement, because the numbers that were given in micrograms per litre for 2011 and 2012 way exceeded the US EPA levels permitted.

2135 **The Bailiff:** Is this a statement, or a question?

Deputy De Lisle: The question is, sir, can I ask the Minister, so there is no misunderstanding here, what is the current PFOS level in the *drinking* water?

2140 **The Bailiff:** Deputy Dorey, are you able to answer that?

2145 **Deputy Dorey:** No, I do not have that information – the question was about St Saviour’s Reservoir – but I believe, as I have said, there is information which is publicly available on the Guernsey Water website and I would encourage the Deputy to use that, rather than using Question Time.

Deputy De Lisle: I would encourage the Deputy to answer questions, sir, that are asked of him. (*Laughter*)

2150 **The Bailiff:** No, Deputy De Lisle, that is unfair. He is entitled to a... You are entitled to ask supplementaries that arise from the answer that is given. Your question was about St Saviour’s Reservoir. Your question did not mention drinking water. That was a completely separate question, not a supplementary question, so I invite you to withdraw the remark.

2155 **Deputy De Lisle:** I will seek the information from the Minister in a Rule 6 Question, sir. Thank you.

2160 **The Bailiff:** Are you still maintaining that he has not answered the questions that you asked? (*Interjections*)

Deputy De Lisle: I am sorry, I did not get an answer to my first question, and I do not think I got an answer to the third question either.

2165 **The Bailiff:** Well, the first question – it was the Procureur who advised that the question could not be answered, and the third question... What you just said was that you thought you had not had an answer to the supplementary question, which I was saying was not a proper supplementary question, but we will move on.
Deputy Dorey.

2170 **Deputy Dorey:** On the third question, I do think his remark is unfair because the responsibility for the long-term plan is not within HSSD and I think the Deputy needs to consider who he asks the Questions to before he puts the Questions in.

2175 **The Bailiff:** Let us move on.

**College of Emergency Medicine Report
Correspondence sent to Data Protection Commissioner**

2180 **The Bailiff:** The next Question is from Deputy Hadley to the Minister for the Health and Social Services Department. Deputy Hadley.

2185 **Deputy Hadley:** Would the Minister please supply a copy of any correspondence sent to the Data Commissioner with regard to my distribution to States Members of the Report of the College of Emergency Medicine and a copy of her reply?

The Bailiff: Deputy Dorey.

2190 **Deputy Dorey:** Deputy Hadley has received a copy of the letter from HSSD to the Data Protection Commissioner. HSSD is not entitled to release correspondence sent by any other party or organisation that includes correspondence from the Data Protection Commissioner.

2195 **Deputy Hadley:** A supplementary, sir, if I may.

The Bailiff: Deputy Hadley.

2200 **Deputy Hadley:** Could the Minister tell me whether he has actually asked the Data Commissioner if she would allow the release of the answer?

The Bailiff: Deputy Dorey.

2205 **Deputy Dorey:** Yes, we did ask the Data Protection Commissioner and we also took legal advice.

The Bailiff: Deputy Hadley.

2210 **Deputy Hadley:** Is the Minister saying that she denied you the right to release the correspondence?

The Bailiff: Deputy Dorey.

2215 **Deputy Dorey:** I have answered the Question when I said we are not entitled to release correspondence and we have spoken to the Data Protection Commissioner and taken legal advice.

Irish Nursing Board Update

2220

The Bailiff: The next Question, then, is to be asked by Deputy Lester Queripel of the Minister for the Health and Social Services Department. Deputy Lester Queripel.

2225 **Deputy Lester Queripel:** Thank you, sir.

During Question Time at the January States Debate this year, the Health Minister informed me that he would contact the Irish Nursing Board to request that the Board contact HSSD directly whenever a member of the medical profession is either suspended or under investigation in their country. During the March States debate, the Minister gave me an assurance that HSSD would pursue the matter if a response was not forthcoming by the end of April.

2230 Bearing in mind that we are now at the end of May, four months since I asked the original Question, is the Minister able to give me an update on the developments in this matter, please?

The Bailiff: Deputy Dorey.

2235 **Deputy Dorey:** Thank you, sir.

Following the Question from Deputy Queripel in the January States, the HSSD has written to both the Nursing and Midwifery Council (NMC) and the Irish Nursing Board.

I am pleased to report the following response from the NMC:

2240 ‘As you may be aware, the NMC has recently conducted a complete review of its overseas nursing application processes.

2245 This has resulted in changes in order to strengthen the overall process, which now requires all applicants to provide details of their registration status in all territories in which they have worked since their initial registration. In addition, a declaration of good character is required, which includes both criminal record history as well as any fitness to practise or disciplinary issues. As such, any nurse who is suspended in another territory has an explicit duty to disclose this on applying for registration.

2250 Communication and relationships with other regulators are obviously of major importance to us, as the nursing and midwifery regulator in the UK, and this is especially true for applications from other countries. We currently have a strong working relationship with the Irish Nursing Board and would welcome opportunities to strengthen this.

Under our revised overseas policy, we now check, as a matter of course, with other registered bodies that are referenced by an applicant.’

That is the end of the quote.

2255 The Health and Social Services Department will continue to work with all professional regulators to ensure the safety and quality of the Health and Social Care workforce.

The Bailiff: Deputy Queripel, do you have a supplementary question?

Deputy Lester Queripel: Please, sir.

2260 I have a real concern that this still is not addressing the problem, and I am hoping the Minister can allay my concern.

2265 The Nursing and Midwifery Council may have indeed conducted a complete review of its overseas nursing application process, which may sound robust and efficient, but the onus appears to still be on the applicant providing all of the relevant information when they are applying for a job, and that was the problem when HSSD employed a nurse at the hospital, for two and a quarter years, who had not told them she was actually suspended from the profession for misconduct.

2270 So my question to the Minister, sir, is what new procedures are now in place for the Nursing and Midwifery Council and the Irish Nursing Board to contact HSSD directly when any member of the medical profession is either suspended or under investigation, because there are no new procedures of that nature included in the answer he has just given me, as far as I am aware, sir.

The Bailiff: Deputy Dorey.

Deputy Dorey: Sir, I do not –

2275

The Bailiff: Can you put your microphone on?

Deputy Dorey: Thank you.

2280 I do not have the information to answer that question. As I said, we have written, and I have given you the reply from the Nursing and Midwifery Council. This is a further question which goes beyond the original Question, and if he wants to e-mail me, I can answer that question.

The Bailiff: Deputy Queripel.

2285

Deputy Lester Queripel: Thank you, sir.

The Bailiff: This is your next question now.

Deputy Lester Queripel: It is my supplementary to that, if I may, sir.

2290

The Bailiff: Oh, you still have a supplementary?

Deputy Lester Queripel: Yes, sir. (**The Bailiff:** Right.) It is a two-part supplementary question, sir.

2295

How will we know if someone applying for a post in Guernsey is actually suspended from the profession, if they decide not to tell us during the interview process, as was the case with the nurse working at the hospital for two and quarter years?

2300

Also, upon receiving applications, will HSSD now have to contact the Nursing and Midwifery Council, the Irish Nursing Board – or any other medical board, for that matter, anywhere else in the world – to establish whether or not an applicant is suspended?

The Bailiff: I am not sure whether that arises from the answer.

2305 **Deputy Dorey:** I cannot give him the procedures which are followed by the Department in terms of employing nurses.

He did not ask, in the Question, for those procedures. If he wants to know those procedures, he should have asked for them. I do not have that detail as a Minister for a Department.

The Bailiff: Do you want to move on to your next Question, Deputy Queripel?

2310

Deputy Fallaize: Sir, can I ask a supplementary, please?

The Bailiff: Yes, Deputy Fallaize.

2315 **Deputy Fallaize:** I am a little concerned that anybody listening may reach the conclusion that there is something particularly risky about Irish nurses.

Is the Minister able to confirm that, as far as he is aware, the procedures which the Department adopts in respect of hiring Irish nurses are equally as robust – or equally lax, as the case may be – as the procedures are in the hiring of nurses from any other country?

2320 **The Bailiff:** Deputy Dorey.

2325 **Deputy Dorey:** I can give assurance that I believe they are equally as robust, and I think the important thing is, as a result of the communication, they have been improved, and that is the important situation.

Obviously, if somebody sets out to defraud you, you can put in a lot of procedures, but there is always a situation where perhaps somebody is successful in defrauding, and the person this original Question is concerned with did give the Department inaccurate information.

2330 **The Bailiff:** Deputy Queripel, your next Question.

Deputy Lester Queripel: Sir, I did have a supplementary. Am I allowed to ask the supplementary?

2335 **The Bailiff:** You have already had, effectively, three supplementaries. Is this a proper supplementary? *(Laughter)*

Deputy Lester Queripel: In my view, sir, they are all proper supplementaries.

2340 **The Bailiff:** It has to be one that arises from the answer that has been given. Your previous one did not arise from the answer that had been given.

2345 **Deputy Lester Queripel:** I appreciate that, sir. I think this does relate. Shall I just ask it anyway, sir, and you will rule? *(Laughter)*

The Bailiff: Yes, and then I will decide whether it does or not.

Deputy Lester Queripel: Thank you, sir.

2350 Did the Minister actually request the Irish Nursing Board contact HSSD directly, as he assured me he would do?

Deputy Dorey: I have answered the Question, and by having received communication back, we have written to them.

2355

**UK care homes and hospitals
Review of checking procedures**

2360 **The Bailiff:** Deputy Queripel, your next Question.

Deputy Lester Queripel: Thank you, sir.

2365 During Question Time in the April States debate this year, the Health Minister assured me he would ask his board whether or not they thought the current HSSD procedures for carrying out checks on care homes and hospitals in the UK, where our vulnerable islanders are placed, needed reviewing. Is the Minister now able to relay to me the decision made by his board in relation to this?

2370 **The Bailiff:** Deputy Dorey.

Deputy Dorey: The Health and Social Services Department have procedures in place for carrying out checks on care homes and hospitals in the UK, which are considered by the management of HSSD to be comprehensive.

2375 A paper has not yet been written for the HSSD board to consider whether these procedures require reviewing. It will have to be considered in relation to the Department's other priorities in its work plan.

The Bailiff: Deputy Queripel, is this a supplementary?

2380 **Deputy Lester Queripel:** I have several actually, sir.

The Bailiff: Do they arise from the reply?

2385 **Deputy Lester Queripel:** Yes, sir.

The Bailiff: Right.

2390 **Deputy Lester Queripel:** Sir, I have got a lot of respect for Deputy Dorey and I appreciate he has a difficult job, but I am shocked and appalled at the lack of urgency displayed by HSSD in this matter.

The Bailiff: So far, it is not a question.

2395 **Deputy Lester Queripel:** Is the Minister saying that it is because a paper has not been written that the board have not even discussed the issue?

The Bailiff: Deputy Dorey.

2400 **Deputy Dorey:** As I have said, the management and staff of HSSD consider that the current procedures are comprehensive. In a Department of the size of HSSD, which is extremely busy, we have to prioritise our work. Deputy Hadley asked me a Question in the April States meeting – and our staff are extremely busy – and I said to him that we will look at whether the procedures need reviewing. But we cannot just suddenly change our work plan because of one States Member's Question when we do not perceive, or the staff do not perceive, there is a current problem.

2405 **The Bailiff:** Deputy Queripel.

Deputy Lester Queripel: Thank you, sir.

2410 Reports are rife of sexual, physical and mental abuse in care homes and hospitals in the UK, (**A Member:** No.) but is the Minister saying that his board will not even discuss the issue until a paper has been produced? Aren't they at all concerned, sir?

2415 **Deputy Brehaut:** Sir, I object to the framing of that question. (**Several Members:** Hear, hear.) I think there is something implicit in the question which offends me, sir.

The Bailiff: Do you wish to rephrase the question, Deputy Queripel?

2420 **Deputy Bebb:** I am sorry, I have to say that the suggestion of 'rife'... I would ask that the Deputy considers how he would quantify it and whether he has any evidence for that?

Two Members: Hear, hear.

The Bailiff: Do you wish to rephrase the question, Deputy Queripel?

2425 **Deputy Lester Queripel:** Sir, maybe I had better withdraw it, (**A Member:** Yes.) because there are several reports recently in the media, particularly the care home in Oxford, where young girls were taken –

2430 **Deputy Luxon:** Sir, has Deputy Queripel said he will withdraw the question? We do not need to hear what it is about, if he is withdrawing the question.

Deputy Lester Queripel: I will withdraw that question, sir.

2435 **The Bailiff:** You will withdraw the question, thank you.

Deputy Lester Queripel: Might I move on to another supplementary?

The Bailiff: If it is a supplementary arising from the answer that was given.

2440

Deputy Lester Queripel: Yes, sir.

The Minister mentioned priorities. Could he please tell me where this sits in the list of HSSD priorities? Is it number 1, number 5, number 10? Where does it actually sit in that list of priorities?

2445

The Bailiff: Deputy Dorey.

Deputy Dorey: I will only repeat the wording I said in the first place: this will have to be considered in relation to the Department's other priorities in its work plan.

2450

Deputy Lester Queripel: Sir, I am not sure if I should withdraw the rest of the supplementaries. (*Interjections*) I am not satisfied with the answers. Obviously, I will have to pursue another approach, so I will consider Rule 6 Questions, sir.

Thank you.

2455

The Bailiff: Thank you, Deputy Queripel.

That then concludes Question Time.

We move on to legislation, Greffier.

2460

Billet d'État VIII

2465

**The Income Tax (Guernsey)
(Approval of Agreements with Brazil, Isle of Man, Jersey, Mauritius and Singapore)
Ordinance, 2013, approved**

Article I.

The States are asked to decide:

2470

Whether they are of the opinion to approve the draft Ordinance entitled 'The Income Tax (Guernsey) (Approval of Agreements with Brazil, Isle of Man, Jersey, Mauritius and Singapore) Ordinance, 2013', and to direct that the same shall have effect as an Ordinance of the States.

2475

The Deputy Greffier: Billet d'État No. VIII, Article I. The Income Tax (Guernsey) (Approval of Agreements with Brazil, Isle of Man, Jersey, Mauritius and Singapore) Ordinance, 2013.

The Bailiff: The Minister is not in the Chamber at the moment. (**A Member:** He is). He is now, yes.

2480

We have moved on to Treasury and Resources Department, Double Taxation Agreement with the... Sorry, I have lost my place. The Approval of Agreements with Brazil, Isle of Man, Jersey, Mauritius and Singapore Ordinance. It is at page 1 of the brochure.

Are there any requests for debate, or any clarification?

No? We move to the vote, then.

2485

Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

2490

Ordinance and Statutory Instruments laid before the States

2495

The Deputy Greffier: Ordinance laid before the States in Billet d'État No. VIII: The Mental Health (Miscellaneous Provisions) (Guernsey and Alderney) Ordinance, 2013.

The Bailiff: There has been no request for any debate.

2500 **The Deputy Greffier:** Statutory Instruments laid before the States in Billet d'État No. VIII: The Foundations (Guernsey) Law, 2012 (Commencement) Regulations, 2013; The Foundations (Guernsey) Fees Regulations, 2013; The Liquor Licence (Fees) Regulations, 2013; The Motor Vehicles, Licensing, Traffic and Public Transport (Fees) (Guernsey) Regulations, 2013; and The Civil Contingencies (Contingencies and Planning) (Bailiwick of Guernsey) Regulations, 2013.

2505 **The Bailiff:** Again, there has been no request for any debate on any of those.

Billet d'État XIII

2510

TREASURY AND RESOURCES DEPARTMENT

2515 **Election of a Member**
Deputy H Adam elected

Article I.

The States are asked:

2520 *To elect a sitting Member of the States as a member of the Treasury and Resources Department to complete the unexpired portion of the term of office of Deputy G. M. Collins, who has resigned as a member of that Department, namely to serve until May 2016, in accordance with Rule 7 of the Rules relating to the Constitution and Operation of States Departments and Committees.*

2525 **The Deputy Greffier:** Billet d'État No. XIII, Article I, Treasury and Resources Department, election of a Member.

The Bailiff: Deputy St Pier, do you wish to propose a candidate?

2530 **Deputy St Pier:** Sir, I wish to nominate Deputy Hunter Adam.

The Bailiff: Deputy Hunter Adam.
Is there a seconder? Deputy Kuttelwascher.

2535 **Deputy Kuttelwascher:** Yes, sir.

The Bailiff: Are there any other candidates to be proposed?

2540 No? I see no-one rising. Then we go straight to the vote on the election of Deputy Adam as a Member of the Treasury and Resources Department – proposed by Deputy St Pier, seconded by Deputy Kuttelwascher.

Those in favour; those against.

Members voted Pour.

2545 **The Bailiff:** I declare him elected.

Billet d'État X

2550

SCRUTINY COMMITTEE

2555

Election of a Member Deputy B Paint elected

Article I.

The States are asked:

2560

To elect a sitting Member of the States as a member of the Scrutiny Committee to complete the unexpired portion of the term of office of Deputy A. R. Le Lièvre, who has resigned as a member of that Committee, namely to serve until May 2016, in accordance with Rule 7 of the Rules relating to the Constitution and Operation of States Departments and Committees.

2565

The Deputy Greffier: Billet d'État No. X, Article 1, Scrutiny Committee, election of a Member.

The Bailiff: Alderney Representative Arditti, do you wish to propose a candidate?

2570

Alderney Representative Arditti: Sir, I would like to nominate, if I may, Deputy Barry Paint.

The Bailiff: Deputy Barry Paint.
Is there a seconder?

2575

Deputy Robert Jones: Yes.

The Bailiff: Deputy Rob Jones.
Any other candidates?

2580

No? In that case, we vote on the proposal to elect Deputy Barry Paint as a Member of the Scrutiny Committee, proposed by Alderney Representative Arditti, seconded by Deputy Rob Jones.

Those in favour; those against.

Members voted Pour.

2585

The Bailiff: I declare him elected.

Billet d'État VIII

2590

ADMINISTRATIVE DECISIONS (REVIEW) (GUERNSEY) LAW, 1986

2595

Election of Chairman Deputy R Perrot elected

Election of Deputy Chairman Douzenier R Heaume MBE elected

2600

Article II.

The States are asked:

2605

To elect, in accordance with the provisions of section 4 (2) of the Administrative Decisions (Review) (Guernsey) Law, 1986:

1. a Chairman of the Panel of Members, who shall be a sitting member of the States of Deliberation and who has held a seat in the States for a period of three years or more, to fill the vacancy which will arise on 1st June, 2013, by reason of the expiry of the term of office of Deputy R A Perrot, who is eligible for re-election.

2610 2. a Deputy Chairman of that Panel, who shall be one of the Deans of the Douzaines but who shall not have a seat in the States, to fill the vacancy which will arise on 1st June, 2013, by reason of the expiry of the term of office of Douzenier R L Heaume, M.B.E, who is eligible for re-election.

(NB The Deans of the Douzaines are Douzeniers R L Heaume, MBE, J E Foster, M A Ozanne, B J Hervé, N N Duquemin, P I Le Tocq, N M Dorey, G C Le Mesurier, F J Roper and J V Brache)

2615 **The Deputy Greffier:** Billet d'État No. VIII, Article II, the Administrative Decisions (Review) (Guernsey) Law, 1986, election of a Chairman and a Deputy Chairman.

2620 **The Bailiff:** Chief Minister, do you wish to propose a candidate for Chairman?

The Chief Minister (Deputy Harwood): Yes, sir, I have great pleasure in proposing Deputy Roger Perrot for re-election as Chair of the Administrative Decisions (Review) Panel.

2625 **The Bailiff:** Do we have a seconder?

Deputy O'Hara: Sir, I second that.

The Bailiff: Deputy O'Hara.
Any other candidates to be proposed?

2630 No, then we vote on the proposal to re-elect Deputy Perrot as Chairman of the Administrative Decisions Panel – proposed by Deputy Harwood, seconded by Deputy O'Hara.
Those in favour; those against.

2635 *Members voted Pour.*

The Bailiff: I declare Deputy Perrot elected.

The Deputy Greffier: Election of a Vice-Chairman.

2640 **The Bailiff:** A Vice-Chairman, yes. Sorry, I thought you were going to...
We then need to elect a Vice Chairman.
Chief Minister, or Deputy Perrot, do you wish to –

2645 **Deputy Perrot:** Sir, could I propose the Dean of the Forest Douzaine, Mr Richard Heaume –

The Bailiff: Mr Richard Heaume.

Deputy Perrot: – who has been approached and who is willing to stand.

2650 **The Bailiff:** Thank you very much. Proposed by Deputy Perrot.
Is there a seconder?

Deputy Le Pelley: I formally second, sir.

2655 **The Bailiff:** Thank you very much, Deputy Le Pelley.
Are there any other candidates?

No? Well, then, we vote on the election of Douzenier Richard Heaume MBE to be Vice-Chairman of the Panel – proposed by Deputy Perrot, seconded by Deputy Le Pelley.
Those in favour; those against.

2660 *Members voted Pour.*

The Bailiff: I declare him elected.

2665

LADIES' COLLEGE BOARD OF GOVERNORS

2670

**Election of Chairman and Members
Item deferred until afternoon**

Article III.

The States are asked:

2675

To elect

1. a sitting member of the States as Chairman of the Ladies' College Board of Governors to fill the vacancy which will arise on 1st June, 2013, by reason of the expiration of the term of office of Deputy P L Gillson, who is eligible for re-election.

2680

2. a member of that Board of Governors to fill the vacancy which will arise on 1st June, 2013, by reason of the expiration of the term of office of Dame Mary L Perkins, who is eligible for re-election.

2685

3. as a member of that Board of Governors to fill the vacancy which will arise on 1st June, 2013, by reason of the expiration of the term of office of Mr Jack Honeybill, who is eligible for re-election, and who has been nominated in that behalf by the Education Department for re-election by the States. 2013, by reason of the expiration of the term of office of Mr Jack Honeybill, who is eligible for re-election, and who has been nominated in that behalf by the Education Department for re-election by the States.

2690

The Deputy Greffier: Billet d'État No. VIII, Article III, Ladies' College Board of Governors, election of a Chairman and Members.

The Bailiff: Can we have any nominations for –

2695

Deputy Fallaize: We know what is going to happen and we are going to run past 12.30. Can I suggest that we take the other elections first, please?

The Bailiff: Is there definitely going to be a contested election? (**Deputy Fallaize:** Oh, yes.) Shall we just establish that? (*Laughter*)

2700

Deputy Fallaize: I am having to jump to my feet prematurely. If there is not, I will make it one! (*Laughter*)

2705

The Bailiff: Do we have *any* nominations to be Chairman of the Ladies' College Board of Governors?
Deputy Sillars.

Deputy Sillars: It is not me, sir; I am proposing Deputy Peter Gillson, sir. (*Laughter*)

2710

The Bailiff: Right, we have Deputy Gillson proposed by Deputy Sillars and seconded by...

Deputy Trott: Seconded by me, sir.

2715

The Bailiff: By Deputy Trott.
Yes, Deputy Luxon.

Deputy Luxon: May I propose Deputy St Pier, please, sir?

2720

The Bailiff: You are proposing Deputy St Pier.
Do we have a seconder?
Yes, Deputy Sherbourne. Thank you.
Do we have any other nominations?

No? In that case, we have two candidates. The Rules permit two five-minute speeches. It is 12.21. I think we could do that before lunchtime. We would not get the results of the...

2725

Deputy Fallaize: No, don't the Rules permit proposers and candidates to speak for five minutes each?

The Bailiff: [*Inaudible*]

- 2730 **Deputy Fallaize:** Well, no, they do not *have* to. (*Laughter*)
- The Bailiff:** Well it is Rule 20(7):
- ‘On a proposition to elect...’
- 2735 No, sorry, that is a Member.
- Deputy Fallaize:** It is (5), sir.
- 2740 **The Bailiff:** Rule 20(5), the proposer and the candidate. Sorry, you are right, yes. I am wrong on that, so I stand corrected. (*Laughter*)
- Deputy Fallaize:** Perhaps we should have just gone to lunch, sir! (*Laughter*)
- 2745 **The Bailiff:** I stand corrected, so we will come back to that after lunch; in which case, I suggest election of any Members for that Board should also wait until after lunch.
- Deputy Lowe:** And also, sir, it might be appropriate... and I am not sure whether we would ask for the Rules to be suspended or if an amendment will be needed, but the successful amendment that was placed last year, where we had open voting for Department Members and for Ministers, did not actually include non-governmental bodies; so, would I need to do an amendment, or can we take it, in the spirit of the amendment last year, that it would be open voting, in which case I would need an amendment, if not.
- 2750
- 2755 **Deputy Fallaize:** Sir, before we do, can I just ask for clarification about whether it did not extend, because the Rule 12(5) covers the chairmen of committees and non-governmental bodies. The votes in elections for chairmen of committees were published, so if the rule change covered everything else that is covered by Rule (5), then we do not need to suspend the Rules because it has already been changed.
- 2760
- The Bailiff:** Mr Procureur.
- The Procureur:** It is no good suspending the Rules –
- 2765 **The Bailiff:** No, that does not help.
- The Procureur:** – because what you have got is a Rule that says that election should be by secret ballots *except*... and what there is in the Rule about the election of chairmen is not so much open voting, as Deputy Lowe knows in the sense of the *appel nominal* – it is not that – but it is just that it requires the Greffier to publish the votes. So you have to record the votes on a ballot slip and then they get published after the meeting, and as Deputy Lowe quite rightly says, that requirement to publish applies to chairmen of committees but not of non-governmental bodies.
- 2770 So yes, we would have to change the Rule. Last time we did it, we did it by a quick amendment which Deputy Lowe moved. We could move an... We could ask... I could, I suppose, draft an amendment and we could get that moved.
- 2775
- The Bailiff:** During your lunch.
- The Procureur:** We ought to do it properly.
- 2780
- The Bailiff:** Yes.
- Deputy Lowe:** I would appreciate that.
- 2785 **The Bailiff:** In that case, maybe you could liaise with Her Majesty’s Procureur over the lunchtime adjournment and then we will deal with that after lunch as well.
- Deputy Lowe:** Thank you very much, sir.

2790

POLICY COUNCIL

**Guernsey Financial Services Commission
Appointment of an ordinary member
Advocate S Howitt elected**

2795

Article IV.

The States are asked to decide:

2800

Whether, after consideration of the Report dated 11th March 2013, of the Policy Council, they are of the opinion to elect Advocate Simon William Francis Howitt as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 3rd June 2013.

The Bailiff: I suggest we move on, then, to the election of an ordinary member of the Guernsey Financial Services Commission, which is the...

2805

The Deputy Greffier: Billet d'État No. VIII, Article IV, Policy Council, Appointment of an Ordinary Member of the Guernsey Commercial Services Commission.

The Bailiff: Chief Minister.

2810

The Chief Minister (Deputy Harwood): Sir, can I also note there is an amendment to the proposal:

To delete 'for three years with effect from 3rd June 2013' and substitute 'for the period from 3rd June 2013 until 1st February 2015'.

2815

The term for this appointment will be for the unexpired period of the term of the previous commissioner, Mr Paul Meader, and not for a period of three years. In fact, it will be for the period from 3rd June 2013 until 1st February 2015, the unexpired term.

2820

The Bailiff: So we need to deal with that amendment first.

Deputy Stewart, are you seconding it?

Is there any request for any debate on the amendment, which has been circulated in an explanatory note? No? Nobody wishes to debate it, so we will go straight to the vote.

Those in favour; those against.

2825

Members voted Pour.

The Bailiff: I declare the amendment carried.

So, Chief Minister, we will now come to your nomination.

2830

The Chief Minister: Sir, the proposal is to nominate Advocate Simon Howitt as an ordinary member of the Guernsey Financial Services Commission. The Billet actually does contain a brief résumé of his career.

2835

On this occasion, the Chairman of the Financial Services Commission specifically asked Policy Council to consider nominating a lawyer for the post – for his own reasons; I could not possibly comment on the advisability or otherwise of lawyers being in charge of anything. *(Laughter)*

2840

Advocate Howitt will be well known as a long-standing member of the Guernsey Bar, educated in Guernsey, attended the Inns of Court School of Law and also University of Caen. He is a partner of a local law firm and has been for a number of years.

He has also a record of public service. He has served as a member of the States committees, including as a non-States member of the Legislation Select Committee, and has also worked on the Share Transfer Duty Working Party and the Inheritance Law Review Committee.

2845

Sir, I would recommend that we agree to the appointment of Advocate Howitt as an ordinary commissioner of the Guernsey Financial Services Commission.

The Bailiff: We have a seconder, Deputy Stewart?

2850

Deputy Stewart: Yes.

The Bailiff: Thank you very much.

No other nominations are permitted, so we go straight to the vote on the election of Advocate Howitt, proposed by the Chief Minister and seconded by Deputy Stewart, as an ordinary member of the Guernsey Financial Services Commission.

2855 Those in favour; those against.

Members voted Pour.

The Bailiff: Advocate Howitt elected.

2860 It is now 12.27. I believe we have concluded the election business, apart from the matter that we adjourned until after lunch. I suggest –

The Deputy Greffier: There is one further election.

2865 **The Bailiff:** One further election, sorry? Oh yes, I should be following my script, sorry. (Laughter)

The Treasury and Resources Department.

2870

TREASURY AND RESOURCES DEPARTMENT

Guernsey Electricity Limited

Appointment of Non-Executive Directors

2875 **Mr R J Dutnall and Mrs C M Holmes appointed**

Article V.

The States are asked to decide:

2880 *Whether, after consideration of the Report dated 19th March, 2013, of the Treasury Department, they are of the opinion:*

1. To appoint Mr Robert James Dutnall as a non-executive director of Guernsey Electricity Ltd with effect from 6th August, 2013.

2885 *2. To appoint Mrs Christine Marie Holmes as non-executive director of Guernsey Electricity Ltd with effect from 6th August, 2013.*

The Deputy Greffier: Billet d'État No. VIII, Article V, Treasury and Resources Department, Appointment of Non-Executive Directors of Guernsey Electricity Limited.

2890 **The Bailiff:** Deputy St Pier.

Deputy St Pier: Sir, the Treasury and Resources board are nominating Mr Robert James Dutnall and Mrs Christine Marie Holmes, details of which appear at page 455 of the Billet. I was not proposing to go through in detail; the details are there.

2895 The Guernsey Electricity Limited board went through a process of selection, advertising and long lists, short lists, sought to match the skill gap which they felt they had on their board, and they have come forward with these recommendations, which the Treasury and Resources board is pleased to support, sir.

The Bailiff: Thank you very much.

2900 Do we have a seconder? Deputy Kuttelwascher.

We will take them separately. We will vote on them separately. No other nominations are permitted.

The first proposition is to appoint Mr Robert James Dutnall as a Non-Executive Director of Guernsey Electricity Limited.

2905 Those in favour; those against.

Members voted Pour.

The Bailiff: I declare him elected.

2910 And the second, to appoint Mrs Christine Marie Holmes as a Non-Executive Director of Guernsey Electricity Limited.

Those in favour; those against.

2915 *Members voted Pour.*

The Bailiff: I declare her elected.

2920 **Welcome to students
from University of Utah**

2925 **The Bailiff:** Now, just before we rise for lunch, I would like to welcome three students who are sitting in the Public Gallery, who I know many of you have already met. They are from Utah University. They and two colleagues are doing a thesis on Guernsey and its community and they are here for three months.

I hope you are enjoying your stay in the Island and you have found this morning to be interesting. A very warm welcome to you to Guernsey. Thank you very much. (*Applause*).

2930 We will resume at 2.30 p.m.

*The Assembly adjourned at 12.30 p.m.
and resumed its sitting at 2.30 p.m.*

2935 **Billet d'État VIII**

2940 **LADIES' COLLEGE BOARD OF GOVERNORS**

**New Chairman and members
Dame Mary L Perkins and Mr Jack Honeybill elected as members**

2945 *Article III.
The States are asked:
To elect*

2950 *1. a sitting member of the States as Chairman of the Ladies' College Board of Governors to fill the vacancy which will arise on 1st June, 2013, by reason of the expiration of the term of office of Deputy P L Gillson, who is eligible for reelection.*

2. a member of that Board of Governors to fill the vacancy which will arise on 1st June, 2013, by reason of the expiration of the term of office of Dame Mary L Perkins, who is eligible for re-election.

2955 *3. as a member of that Board of Governors to fill the vacancy which will arise on 1st June, 2013, by reason of the expiration of the term of office of Mr Jack Honeybill, who is eligible for re-election, and who has been nominated in that behalf by the Education Department for re-election by the States. 2013, by reason of the expiration of the term of office of Mr Jack Honeybill, who is eligible for re-election, and who has been nominated in that behalf by the Education Department for re-election by the States.*

2960 **The Deputy Greffier:** Billet d'État No. VIII, Article III. Ladies' College Board of Governors, Election of a Chairman and Members.

2965 **The Bailiff:** Members of the States, you should have before you an amendment proposed by Deputy Lowe and seconded by Deputy Le Lièvre, amending Rule 20(2)(a)(ii), to insert the words '(including the Chairman of the Ladies' College Board of Governors)'. This would be, as the explanatory note says, so that the votes for the Chairman of the Ladies' College Board of Governors will be made public after the meeting at which the States have elected him or her.

So Deputy Lowe.

Deputy Lowe: Thank you sir.

2970 As I explained before lunch, really, sir, this is just a tidying-up process amendment to the successful amendment that was placed last year, when Members decided to go down this route, but unfortunately I did not include at the time when I prepared the amendment to cover the Ladies' College Board of Directors.

2975 So I ask Members to please support this amendment and we can move on then and have the recorded vote.

Thank you.

The Amendment:

2980 *To insert between "To" and "elect":*

"amend, with immediate and general effect, Rule 20(2)(a)(ii) of the Rules of Procedure of the States of Deliberation by inserting immediately after "Chairman" "(including the Chairman of the Ladies College Board of Governors)"; and thereafter to".

2985 **The Bailiff:** Deputy Le Lièvre, do you formally second? (**Deputy Le Lièvre:** Yes.)

Does anybody wish to debate the amendment? Deputy Fallaize.

2990 **Deputy Fallaize:** Sir, just one thing: I just want to say that SACC is coming to the States with a report in July, with a whole range of proposed reforms to Rules and among them is a proposal to extend to all elections provision for ballots which are cast to be published in those elections for the Chief Minister, Minister, Members, Chairmen, etc of Departments and Committees. So this amendment would be fully in line with what the Committee is going to propose in any event, in July.

2995 **The Bailiff:** Thank you.

Any further debate? No. Deputy Lowe do you want to reply to what Deputy Fallaize just said? (*Laughter*) No.

We will move on swiftly then, and you requested a recorded vote. Is that right, Deputy Lowe, did you say? Did I hear you say 'recorded vote' or just go to the vote' did you say? (*Inaudible*) Just go to the vote.

3000 Fine, it is a vote on the amendment proposed by Deputy Lowe, seconded by Deputy Le Lièvre. Those in favour; those against.

Members voted Pour.

3005 **The Bailiff:** I declare it carried.

That brings us then to the election for the Chairman of the Ladies' College Board of Governors, for which there are two candidates: Deputy Gillson proposed by Deputy Sillars, seconded by Deputy Trott; and Deputy St Pier proposed by Deputy Luxon, seconded by Deputy Sherbourne. It will be for Deputy Sillars to speak first in favour of Deputy Gillson. You have five minutes in which to speak.

3015 **Deputy Sillars:** Thank you, sir.

It gives me great pleasure to nominate Deputy Peter Gillson for re-election to the position of Chairman of the Board of Governors of Ladies' College, a position he has held for the past three years.

I have known Peter Gillson for nearly 20 years, as well as having served with him for three years on the Board of Commerce and Employment, before he moved on to HSSD where he was Deputy Minister.

3020 Deputy Gillson has proven over the last three years that he has the ideal skill set for Ladies' College at this stage of its history, having had career experience in both the public and private sectors in Guernsey.

3025 Prior to his election in 2008, Deputy Gillson spent 10 years co-founding and building up a company specialising in the administration of private equity funds. This area of the finance industry involved organising and managing a large team of professionals and support staff in a fiercely competitive environment. Sir, I have it on good authority from both former colleagues that the honesty and integrity that we have come to recognise as Deputy Gillson's hallmark made a major contribution to the business success and the way in which his team could trust him totally through difficult decisions.

3030 Deputy Gillson is married, with two children, one of whom was a pupil at Melrose, the College's junior school and is now a pupil at Ladies' College. Being a parent means he is well placed to understand the current challenges faced by the school.

Sir, I have spoken to the majority of Members of the Board of Governors and they fully support Deputy Gillson. They have confirmed the good positive working relationship that they have and in particular, I note, is the relationship of trust and mutual respect that he has with the principal of the College. He is well known, liked and trusted by the staff of the College.

3035 He has a strong desire to continue the challenge of chairing the Ladies' College Board at this important time in its history. Given the importance of the role, Deputy Trott and I should not have been surprised by the level of commitment and amount of time that Deputy Gillson has and will continue to commit to Ladies' College. On average, it is about one day a week.

3040 His trademark is to quietly get on with the job to the best of his ability. Indeed, it was he who led to the drafting of the College's 24-page business plan which Governors have signed up to and are now taking forward.

Recognising his commitment to the College was one of the factors which made Deputy Gillson limit his other States duties and not seek a position on Policy Council. Deputy Trott knows only too well the demands and conflicts resulting from holding high office within the States and he is supportive of Deputy Gillson's decision. Deputy Gillson knows how to deal with conflicts of interest believing they can be manageable, but also believing they weaken a person's ability to do a job and are best avoided where they can be avoided. Deputy Gillson believes it is far better to do a few things well than try and do many maybe not so well. He has led Ladies' College very well for the past three years. All of the Governors I have spoken to and the principal agree that he has.

3050 Sir, Ladies' College is in the middle of a very important period of transition and continuity of leadership is essential at this time. He is delivering his and the Board's shared vision of their future. Upon my Board's investigation into local management of schools, which is really what Ladies College effectively have, I realised that the role of Chairman is absolutely essential in order to have an effective Board and becomes the head teacher's critical friend. This takes time and commitment.

The College needs to continue to have a strong and positive relationship with the States and, under Deputy Gillson's leadership, they will have that. Over the past three years, Deputy Gillson has proven that. He has the experience, he has the skills and he has the time to commit to continue leading Ladies' College.

3055 Sir, I urge Members to support Deputy Gillson in this election, to continue as a proven, steady, enthusiastic Chairman of Ladies' College.

Thank you.

3065 **The Bailiff:** Deputy Gillson.

Deputy Gillson: Sir, I thank Deputy Sillars for nominating me and also thank Deputy Trott for seconding me.

3070 I think myself very fortunate: I think I have one of the best jobs in the States, Chairman of Ladies College, and I will ask Members to support my nomination to continue for a further three years.

3075 Over the past three years, while I have been leading the College, we have completed two phases of a three-phase plan to upgrade facilities. Stage 1 was the new Sixth Form centre; phase 2 was the art block and drama block alongside Melrose; phase 3 will be the refurbishment of the main building, starting this summer, and then the build of a new music centre, classrooms and canteen – an exciting and challenging time which will benefit from continuity. Although heavily involved in these developments, the Chairman is just one member of the Board of Governors and we are fortunate to have a very supportive Board of Governors.

3080 I bring to the Governors a proven background, including areas of business finance and business governance. My skills, my experience are proven to complement the other Governors.

Probably, the most important working relationship is with the principal. He and I have an excellent working relationship. We meet at least weekly, my being a critical friend and the support a principal needs.

3085 We are not only developing facilities, but also I am leading negotiations with T&R regarding acquiring security of tenure of the premises. This is important and I have approached T&R with different options, including a twin track approach of initially a lease to enable phase 3 to progress, while continuing the lengthier negotiations of a possible transfer of freehold. We are virtually there with the lease.

3090 I am in negotiations with the Education Department regarding updating our constitution. Any change in the constitution will need a change in the law. It will need to come to this Assembly and knowing how busy Education Department staff are, I have written a first draft of what would be the States Report on this subject.

3095 We are also in the middle of a transition regarding funding. The current funding was negotiated between Tribal – now Capita – and the three colleges and the Policy Council. I was instrumental in the three colleges working together and achieving agreement on the proposals.

3100 The current funding ends in 2018 and at the College we are already considering the effects of many different funding models. I do not know what the funding model will be, post-2018, but I do know that everything is ruled in and nothing is ruled out. The funding model should be the same for all three colleges, which is where my proven experience with setting up the three college group will continue to be of great benefit. The funding model must be one which meets the needs of the College and the States, so that the College can continue to be an integral and cost-effective part of the Island's education system. That is why I take a pragmatic view. I am open to all possibilities, nothing is ruled out.

3105 Sir, the role of Chairman is not a passive non-executive role; it is a role which requires a big commitment. Under my chairmanship, we have achieved a lot in the past few years and will achieve a lot more over the next few years, but it will be hard work.

3110 Hopefully, Members will have read the short document I circulated about my role in the College and the vision for the College. It is not just my vision; it is a shared vision. Yes, as a Board we have differences occasionally, but we also have a shared vision of the future of the College – a vision we believe in and a vision we want to take forwards.

3115 At this stage in the College's history, it is vital that the Chairman has the time to dedicate – I have that time; the enthusiasm – I have that enthusiasm; the commitment – I have the commitment; and the skills, not only to complement the rest of the Board, which I believe my skills do, but also they are the skills the College needs in the Chairman at this time.

We the College are at a critical time and we need continuity of leadership. My re-election will bring that to the Governors, it will bring that to the College. I ask Members to please support my nomination, so I can continue to support the development of the College at this exciting time.

Thank you.

3120 **The Bailiff:** Next, Deputy Luxon will speak in favour of Deputy St Pier's nomination.

Deputy Luxon: Mr Bailiff, we have two very good candidates to choose from today for this role, and I am more than happy to propose Deputy Gavin St Pier as Chairman of the Ladies' College Board of Governors, and would commend his selection by the Assembly.

3125 A more able – and squeaky! (*Laughter*) – qualified and relevant candidature you could not wish to find. I have no issues whatsoever at all with Deputy Gillson's tenure as Chairman of the last three years, but I do believe that Deputy St Pier's vision for this school is so compelling that it is an opportunity simply too good to miss – and miss it we should not, in my view.

3130 It is fair to say that we have had many conversations as fathers with girls at Melrose and/or Ladies' College both while dropping off and picking up the girls and more seriously when discussing the future opportunities for the school. When Deputy St Pier told me he had given standing much thought and he was keen to offer himself for election, he asked if I would be prepared to propose him. My answer was, 'First, tell me why you want to do this job; why you are the right person for the job; what would you try and achieve; how would you go about it; what are the key issues and challenges; and what plans do you have to achieve those goals; and finally, how can you convince me that any conflicts both with your time and your T&R role would be resolved?'

3140 Well, sir, within 15 minutes my inbox pinged and, sure enough, there was a draft proposal covering Deputy St Pier's rationale and logic for how he saw a bright new future for the Ladies' College. I think he may already have written it in advance, but this is evidence of a decisive, thoughtful and fast action individual.

3145 I opened the document read it carefully, and found myself nodding like a contented dog, as I saw all of my answers being answered fully within his vision document. He asked me for honest feedback, which I gave, and that, as a parent and taxpayer and as a fan of the Education Department's vision, recently published, I would be proud to propose him for the Chairman role, that I was so convinced of the merits of his far-reaching strategic review and approach for the future of this excellent school.

Sir, Deputy St Pier sets out what he would try and deliver with the Board of Governors over the next three years. His outline plan deals with: value for money, both for the taxpayer and

3150 parents; fairness and equitability for the pupils; possible future selection system changes; transition arrangements; improving the facilities that the girls have available to them; funding arrangements, now and into the future; and resolving anomalies that currently are unfair; and so much more. He is a leader, he is informed and passionate about this school and its future.

3155 As a parent with a daughter at Melrose, I must say I have not been personally aware of any future plan or emerging strategy being developed, which is why I have great confidence in asking Deputy St Pier's vision to be supported, as he has so ably articulated it through his document.

3160 Sir, Deputy St Pier is a busy man, and you know what they say: if you want a job doing, ask a busy man to do it. But of course busy people have to work clever, with a good team, with a good plan, with a delegating style and it is this that he can bring to this role: a vision, a determination, and delivery of objectives. Probably, more than all, he can lead an initiative to draw meaningful support and new funding from the very able parental group, who are a relatively untapped resource to date – partnership in its truest sense.

I commend Deputy St Pier's candidature and ask that you support his nomination as I do and Deputy Sherbourne does, as his seconder.

3165 Thank you, sir.

The Bailiff: Deputy St Pier.

3170 **Deputy St Pier:** Despite what you may have heard on the radio yesterday, you should be under no illusions: you face a real choice today. There are real differences of substance between Deputy Gillson and me.

Deputy Gillson said yesterday that he was at the launch pad. It has taken three years to get here, but are we clear where we are launching to?

3175 My vision is for the Ladies' College to provide access for all girls with ability, irrespective of background or means. The primary objective of public funding should, in my view, be to increase accessibility and social mobility and yet we have evolved a system, which Deputy Gillson defends, which incentivises parents with means to keep their children out of the private primary system, to then tutor them in Year 6, and then financially rewards them, not only with full fees to the College but also with accompanying bus passes and uniform allowances. That cannot be right.

3180 Have we forgotten that the original purpose of scholarships was to provide access to those children who otherwise could not afford the fees? The present system is indefensible. To try to do so, when services are being cut elsewhere in education, simply risks losing public support for the College.

3185 To build long term sustainable community support means that public funds must be used to increase access and social mobility. So for new entrants, scholarships should be made conditional not only on ability but on financial need. We must return scholarships to their original purpose. The entry criteria could also be extended beyond just the academic. We should be looking to retain other talent on-Island, be that art, music or sport.

3190 How, in these straitened times, can we possibly defend the general grant system which subsidises every fee-paying child to the tune of £2,000 a year, irrespective of need? Many, if not most parents will be completely unaware that their girls' education is being subsidised by this amount. Can someone please explain to me how spraying this amount of cash around is a wise use of resources.

3195 Yet, as the general grant reduces under FTP up to 2018, those least able to afford it will be those most impacted by the resultant increase in fees, keeping those children in the state system at States expense. To increase social mobility and access, the general grant should instead be made conditional on being used by the College for bursaries at, say, 25%, 50% and 75% of core fees, based on ability to pay. This should be administered by the school not the States. This is *not* about the 11-plus. The College should be capable of taking its place in whatever system exists.

3200 How can the T&R Minister possibly have time to take on another role? Well, I found time to produce the document which you have seen. If I did not have the passion, the capability and the capacity to properly discharge this role, I would not have put myself forward.

3205 I will discharge the role differently. The role is not that of an executive director, requiring a day a week. It should be more like that of a conductor of an orchestra, drawing in and drawing out the talents of all those around him – in this case, not only from the members of the Board of Governors, but also importantly the parents. The College is blessed by a wealth of experience and talent among girls' parents, which for too long has been a largely untapped and ignored resource.

Conflicts of interest on T&R can be managed in the normal way by recusal. When Deputy Gillson expressed an interest in T&R, he did not identify any unmanageable conflicts.

3210 The capital infrastructure of the school is way below that which we now regard as acceptable. The reality is that the States are never going to fund the school's redevelopment. Private capital has to be found to do this, but it is going to be nigh on impossible at the level needed, when the College is owned by the States. Assets built with private money will revert to the States and the long-term liabilities of maintaining the school will remain with the States: lose, lose.

3215 The 21-year lease, as Deputy Gillson proposes, simply kicks the can down the road. The College should be looking to buy the freehold and I simply do not understand why Deputy Gillson has not actively pursued this, in the years since T&R invited him to consider it. The value would reflect the assets recently built by private funding and the present liability to rebuild much of the estate. The sale should include a commitment to spend an agreed sum in an agreed time frame.

3220 The College must have more control of its own resources, if it is to avoid becoming a liability on the States.

The Ladies' College is phenomenally successful, not just academically, but in other fields too, not because of but in spite of its resources. The Chair should be shouting about this success, and yet the College has no public profile of substance.

3225 Before voting, please consider the issues. The differences between the candidates are more than substance and style: they are real. We are incredibly fortunate that the Ladies' College is not separate from, but a key part of our Island's educational infrastructure. But if we do not make the right choices, we risk witnessing the gradual ossification and decline of a vital Island institution.

Thank you, sir.

3230

The Bailiff: Members, it is now for you to vote. As you have heard there are two candidates: Deputy Gillson proposed by Deputy Sillars, seconded by Deputy Trott; and Deputy St Pier proposed by Deputy Luxon, seconded by Deputy Sherbourne and you should use the pieces of paper of this colour.

3235 Make sure it is your name that is on it and not somebody else's name, and record your vote.

There was a recorded vote.

The Bailiff: Well, Members, while the votes are counted, we will move on with the next item. Oh sorry, yes, we have got the other elections to the Ladies' College, alright.

3240 So the next one is to elect a member of the Board of Governors to fill the vacancy which will arise on 1st June by reason of the expiration of the term of office of Dame Mary Perkins, who is eligible for re-election.

3245 Do Members wish to take this or do you wish to wait until we know who the Chairman is, so that the Chairman can nominate whoever?

Deputy St Pier, do you wish to wait until we...? (*Interjection*) Deputy Gillson, are you happy to take it now?

3250 **Deputy Gillson:** I say that Dame Mary Perkins is willing to stand for another three-year period.

The Bailiff: So that is proposed by Deputy Gillson; seconded by? Deputy Langlois.

3255 Are there any other candidates to be proposed? No, well, we go straight to the vote then. Those in favour of electing Dame Mary Perkins; those against.

Members voted Pour.

The Bailiff: I declare Dame Mary Perkins elected.

3260 And the next item is to elect a Member to fill the vacancy which will arise by reason of the expiration of term of office of Mr Jack Honeybill, who is eligible for re-election and has been nominated in that behalf by the Education Department for re-election.

Deputy Sillars.

3265 **Deputy Sillars:** Yes, I would like to propose Mr Jack Honeybill.

The Bailiff: Jack Honeybill, and no-one else can elect, but do we have a seconder? Yes, Deputy Conder, thank you.

So we go to the vote on the – (*Laughter*) Well, Deputy Le Lièvre, Deputy Conder got in quicker.

3270 So we go to the vote on the election of Mr Jack Honeybill. Those in favour; those against.

Members voted Pour.

3275 **The Bailiff:** I declare him elected.

Billet d'État XIII

3280

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

3285 **States Members' Conduct Panel:
Findings of the investigation panel into complaints against
Deputy Michael Peter James Hadley
Debate commenced**

Article II.

3290 *The States are asked to decide:
After consideration of the Report dated 15th May, 2013, of the States Assembly and
Constitution Committee, that Deputy M P J Hadley be and hereby is formally reprimanded
pursuant to the Code of Conduct for Members of the States of Deliberation.*

3295 **The Deputy Greffier:** Billet d'État XIII, Article II. States Assembly and Constitution
Committee, States Members' Conduct Panel: findings of the investigation panel into complaints
against Deputy Michael Peter James Hadley.

The Bailiff: Mr Procureur?

3300 **The Procureur:** Sorry, I might have been asleep before lunch, but did we do all the elections
in the other Billets?

The Bailiff: Yes, we did the other elections, yes.

3305 **The Procureur:** We did? Sorry.

The Bailiff: Members of States before we start this debate, can I just bring two matters to your
attention.

3310 I previously advised you by e-mail that I had been approached to give a ruling as to the proper
scope of this debate and I will now quote from the e-mail that was sent to you last Friday.

I consider that it would be helpful to remind Members that Rule 12(2) of the Rules of
Procedure states that, and I quote:

3315 'Debate must be relevant to the matter before a Meeting.'

– end of quote from the Rules.

The proposition before the States is, and I quote from the Billet:

3320 'The States are asked to decide:-
[...] that Deputy M P J Hadley be and hereby is formally reprimanded pursuant to the Code of Conduct for Members
of the States of Deliberation.'

– end of quote from the Billet.

3325 Members will clearly be able to develop arguments which relate to that proposition. The debate
will be about whether there should be a penalty and, if so, what penalty should be imposed.
Nothing else is relevant. The debate is not about whether Deputy Hadley breached the Code of
Conduct. That issue has been decided by the Code of Conduct Panel and it is not open to Members
to question or review that decision.

3330 Further, this is not a debate about the operation of the Accident & Emergency Department or
about the contractive arrangements between the States and the doctors or any other issue. I ask that
Members bear these points in mind when speaking today.

3335 The second matter I just wish to mention is that in accordance with past practice in similar debates, I consider it appropriate and fair that Deputy Hadley should be given an opportunity to speak twice in the debate. Under Rule 12(3), I can give leave for a Member to speak more than once on a proposition and I intend to invite Deputy Hadley to speak immediately after Deputy Fallaize has opened the debate and to give him the opportunity to speak again, immediately before Deputy Fallaize closes the debate or replies to the debate.

Deputy Fallaize.

3340 **Deputy Fallaize:** Thank you, sir.

I just wonder – this might be at times a slightly heated debate – are the candidates of the previous election and Deputy Hadley happy that we proceed now or would they prefer that we waited for the outcome of the election?

3345 **The Bailiff:** I do not know how long your speech is going to be Deputy Fallaize? (**Deputy Fallaize:** Not very.) Not very long. (**Deputy Fallaize:** No.) Well, shall we get your speech –

Deputy Fallaize: Get mine out of the way, yes! (*Laughter*)

3350 **The Bailiff:** I do not know how heated you are going to be.
Deputy Trott?

Deputy Trott: May I just ask you a point of procedure – something that I require clarity on.

3355 In both your e-mail that was circulated and indeed again a short time ago, sir, you said this debate is on what penalty should be imposed. I would just like clarity on that. Surely this debate is about *if* a penalty should be imposed, because the proposition allows us no alternative but to vote for or against. It is not a case of someone moving an amendment to say, ‘Let’s fine the Member a month’s salary’, for instance. ‘Let’s hit him where it hurts in the pocket’, rather than simply by giving what would be perceived by many outside this Assembly as a meaningless reprimand.

3360 So your guidance on that, sir, would be most welcome.

The Bailiff: Well, you are right, thank you Deputy Trott. I think you are right: the proposition is to impose a reprimand. That is not to say that there could not be an amendment, if somebody wished to propose an amendment that might propose something else; but as things stand the proposition is that Deputy Hadley be reprimanded.

3365 So, if that is the proposition at the end of the debate, it is either to vote in favour or not in favour of that proposition. That is my understanding. Mr Procureur, do you wish to elaborate on that? No. Thank you.

3370 Deputy Hadley, do you wish for any clarification?

Deputy Hadley: Well, rather worryingly, the Deputy sitting next to me has drawn a plan of the prison, sir. I do not know whether he – (*Laughter and interjections*)

3375 **The Bailiff:** Deputy Fallaize, do you wish to open the debate?

Deputy Fallaize: Thank you sir.

I will not speak for very long. I just have two points to add to what is set out in the Committee’s Report, pages 974 to 976.

3380 The first point concerns the role of the Committee in bringing this matter to the States. Obviously, an Investigation Panel convened to inquire into an allegation of a breach of the Code of Conduct cannot report to the States itself and therefore, under the Rules, it falls to the States Assembly and Constitution Committee to play that role.

3385 Now, under our system of government, we know that no Department or Committee is bound by collective responsibility in anything, but even if one holds a general presumption in favour of collective responsibility, I feel very strongly that my colleagues on the Committee should not feel obliged to vote for a proposition which arises out of a recommendation put by the Code of Conduct Investigation Panel.

3390 The Committee is adopting, as I think the Committee is meant to adopt, the role of a vehicle for putting this matter to the States and expecting members of SACC to take ownership of this recommendation, in the same way that one might expect a Department or a Committee in the circumstances of laying policy to take ownership of it, would be quite absurd.

Indeed, the Committee is considering proposing a change to the Rules regarding the Code of Conduct, to remove any remaining flexibility it has to vary a Panel's recommendation and simply to require the Committee to lay the Panel's recommendation before the States.

3395 The second thing I want to do is, if you like, get the Committee's retaliation in first, in respect of appendix 3 to this Report. Appendix 3 is the letter which Deputy Hadley wrote to the Code of Conduct Investigation Panel.

3400 The Committee acceded to Deputy Hadley's request to have that letter appended to its States Report and I know that the decision of the Committee has not exactly earned it universal approbation. The words at appendix 3 obviously are Deputy Hadley's and the Committee cannot take any responsibility for those words. But the Committee was mindful that the outcome of this debate would be in the hands of the States and the exchange involving Deputy Trott earlier has rather underlined that, and that inevitably, Members are having to make a decision here and they will want to weigh up arguments on both sides, before reaching that decision.

3405 Now, had the Committee refused Deputy Hadley's request, it was quite obvious to us that Deputy Hadley would have circulated his letter anyway; but in the opinion of the Committee attaching it to the States Report was the least worst option since it was likely to allow the States to make a more informed judgement of the matter before them, especially since the complainants – the Policy Council Members – were happy to have their submission to the Panel also appended to the Report.

3410 It was the Committee's hope – perhaps in vain, we shall see – that appending Deputy Hadley's letter to the Report might foreshorten debate, because Members will be able to see some of the arguments or have read some of the arguments set out in the Billet, without approaching them for the first time in debate today. Of course, anything said in the course of this debate, for or against the recommendation, will appear in *Hansard* and be a matter of public record.

3415 Sir, I have said all of that now, because I doubt very much that there would be any useful purpose in me saying much in reply to this debate. The recommendation is what it is: it is the recommendation of the Investigation Panel and therefore I lay it before the States. Obviously, if Members have any questions of the Committee, then I will be happy to reply at the end of the debate, but other than that, I do not intend to say anything further, sir.

3420 Thank you.

3425

Billet d'État VIII

LADIES' COLLEGE BOARD OF GOVERNORS

3430

Result of vote announced Deputy Gillson elected as Chairman

3435 **The Bailiff:** Before I call Deputy Hadley, I can announce the result of the vote for the election of the Chairman of the Ladies' College Board of Governors, and it is as follows: Gillson, Peter 29 votes; St Pier, Gavin 18 votes; there were no blank papers and no spoilt papers. I declare Deputy Gillson elected. (*Applause*)

3440

Billet d'État XIII

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

3445

States Members' Conduct Panel: Findings of the investigation panel into complaints against Deputy Michael Peter James Hadley Debate continued and adjourned

3450

The Bailiff: Deputy Hadley.

Deputy Hadley: Mr Bailiff, before starting my speech, I would just like to say that I am well aware that the Accident and Emergency department is staffed by excellent nurses and doctors and that most of the time an excellent service is provided.

3455 My concern has only been to bring to the attention of this Assembly and the people of Guernsey that a Report raised serious issues of patient safety and has not been acted upon.

This was especially worrying as the Report was produced by two of the most eminent experts in the field of accident and emergency medicine: the President and Registrar of the College of Emergency Medicine.

3460 In doing this the Code of Conduct Panel has decided that I have breached the Code of Conduct for States Deputies and Members of this Assembly, including myself of course, are not allowed to question this decision.

However, Members do have to decide whether I should be reprimanded for this breach and I would like to make a case for the reprimand to be rejected.

3465 The Code of Conduct Panel have found me guilty of releasing confidential information and I dispute that this is confidential for the following reasons.

3470 Firstly, in my submission to the Panel, I argued, as you will have seen in the Billet, that the document was not marked confidential and had been widely distributed. In fact, the e-mail version of the document that Members of this Assembly received was not one provided to me as a member of the Board. Members of the Board were only given hard copies and Members can easily see for themselves that the e-mailed copy that they received was not marked confidential and further, more copies were left around the Princess Elizabeth Hospital.

3475 Secondly, the leading English case on confidentiality is the judgment by Lord Goff in *The Attorney General v The Observer Limited 1990*, which is better known as the Spycatcher Case. Lord Goff said that once information is in the public domain, the duty of confidentiality falls away. He defined 'public domain' as being when the information is generally accessible. I have already argued that the information was generally accessible.

More importantly, he said that the most important principle limiting confidentiality was the public interest which can favour disclosure. He said:

3480 'The third limiting principle is of far greater importance. It is that, although the basis of the law's protection of confidence is that there is a public interest that confidences should be preserved and protected by the law, nevertheless that public interest may be outweighed by some other countervailing public interest which favours disclosure. This limitation may apply ... to all types of confidential information. It is this limiting principle which may require a court to carry out a balancing operation, weighing the public interest in maintaining confidence against a countervailing public interest favouring disclosure.'

3490 Thirdly, the Panel mentioned a previous referral to them. This concerned an e-mail which I sent to fellow Members of the Assembly by using the 'Reply All' option in the computer. I claim this is a private e-mail sent in confidence. A Member of the Panel said, 'Deputy Hadley, if you sent an email to 47 Members of the Assembly that cannot be considered confidential.' In their judgement, they now say that the Report of the College of Emergency Medicine was a confidential document, despite the fact that it was sent to potentially several hundred people.

3495 Fourthly, in dismissing the complaint on the issue of data protection, the Commission has said that people mentioned in the Report were acting in an professional capacity and there could have been no expectation of confidentiality.

Finally, and perhaps strangely, the Panel say that they have sympathy with my view that HSSD did not have a high regard for the confidentiality of the Report. This is strange, because in this context, sympathy – and I looked it up in the dictionary – means support or approval.

3500 So, Mr Bailiff, I would hope that these reasons would have persuaded you, as a learned Judge, that the Report should not be considered confidential. However, the Code of Conduct Panel felt that it had to base its decision, not on the law but on the strict interpretation of Rule 18A which provides, as it says in the Billet, that confidential information is anything circulated to Members of a Board. Because our Code of Conduct has a stricter interpretation of confidentiality than the law, then I think it is not unreasonable for me to ask the Assembly to not formally reprimand me.

3505 Now, the Code of Conduct Panel accepted that in rare cases, there may well be a higher duty than that imposed by Rule 18A, but only after all other reasonable and realistic avenues of redress have been explored first. I submit, again, that I did take all reasonable and realistic avenues; that perhaps the only avenue that I could have explored further would be to ask even more formal questions of the Minister, and events have shown that this has not been an effective way of getting
3510 at the truth.

For example, when the Minister was questioned about the Accident and Emergency department, he said that he had no concerns about safety. This is despite the Report making it very

3515 clear that there are safety issues. So had I asked the question, the Report would not have come to light. Indeed, the *Hansard* Report shows exactly what the Minister said to the Assembly. I agree that some people might be concerned. All the professional statutory officers have given me their reassurances that the service is safe. So we would have found out the professional statutory officers' view, but not what the Report would have said. While this was therefore factually correct, it would have been misleading the Assembly – *was* misleading the Assembly.

3520 I am interested in who the statutory officers are and whether he can assure the Assembly that this was the opinion of *all* staff he had spoken to. In any case, one has to look at the Report in its entirety.

3525 Again, without publication of the Report, the other route, such as a Requête, would not have gained any support at all. Indeed, before I circulated the Report, I asked that question and invited Members to meet me to discuss the issues of the A&E department and only one Member of the Assembly took up the offer.

3530 The Panel refers to my allegation that lives are at risk and at unnecessary costs incurred by the taxpayer. They say they have not the expertise, powers, or mandate to explore these issues. Again, if they cannot explore these issues, but accept that there might be a higher duty than that imposed by Rule 18A, then I think this Assembly should consider the issue, and if persuaded that the Report of the College does raise serious concerns and that there is a possible serious waste of public money, then reject a formal reprimand.

3535 And in my submission to the Panel, I calculated the PCCL is making a profit of around £2.3 million. PCCL dispute this. However, Members may not be aware that, in the last 12 months, they have increased their charges for seeing a doctor in A&E during the daytime, from £52.35 to £64 – an increase of 23% – and with an increase of that magnitude, it may well be that the profit could be nearer £3 million.

Now, let us be clear, this is considerable guesswork about these figures, because some of the charges are made by the surgery with which the patient is registered.

3540 **The Bailiff:** Deputy Dorey?

Deputy Dorey: Sir, I thought you gave a ruling at the beginning. I think that he is straying way off your ruling from the beginning of this debate.

3545 **The Bailiff:** Deputy Hadley, I was prepared to give you some latitude, but I think you have strayed.

3550 **Deputy Hadley:** Well, I think I have to demonstrate, Mr Bailiff, with respect, that there were important issues which should have been brought into the public domain.

The first of these was the fact that the Report did not come into the public domain; but the other issue is the large sum of money.

However, I will accept your Ruling, of course, sir.

3555 I will then go on to mentioning whistle-blowing, which I mentioned in my submission to the Code of Conduct Panel. I mentioned the inquiry into the Mid-Staffordshire Hospital, and that said organisations should take steps to ensure that they are open, accountable and supportive of whistle-blowers, rather than supportive of a culture of silence. The starting point must be a clear commitment, organisational leadership that the reporting of bad practice is taken seriously, with reassurance that any reprisal against the person raising the concern will not be tolerated.

3560 One of the staff at the PEH made it clear to me that their view was that if you were going down the route of whistle-blowing, you had better have your advocate ready and again, as I said in the submission to the Code of Conduct Panel, staff have been reprimanded by PCCL for putting clinical incident reports in.

3565 So, Mr Bailiff, many Members of this Assembly have stated that they are in favour of open Government and more transparency in decision-making. Indeed, proposals that are expected to be brought before this Assembly in July, deal with issues like this Report and start from a standpoint that there should be a presumption of disclosure, except in certain circumstances.

3570 So if Members of this Assembly vote for a formal reprimand, they are voting to say that it is never acceptable to distribute a document or information from it, once it was presented to a Board meeting. They are saying that even if lives are at risk, it is still unacceptable to distribute information. They are saying that even if there is a waste of millions of pounds of public money, it should be kept quiet. They are saying that secrecy and confidentiality are paramount. They are signalling to the hospital staff on this Island that whistle-blowing is not a safe option. Finally, they will seriously inhibit present and future Members of this Assembly from carrying out their duties.

3575 I therefore Mr Bailiff, ask Members to vote against the motion.

The Bailiff: Next, I will call Deputy Lester Queripel, who caught my eye first, and I think Deputy Bebb is itching to stand? (**Deputy Bebb:** No, no.) No? Deputy Storey will be after him.
Deputy Lester Queripel.

3580 **Deputy Lester Queripel:** Thank you, sir.

Sir, I acknowledge the decision made by the Panel. Yes, Deputy Hadley did breach the Code of Conduct, Rule 18A. I accept that; but I am not going to vote in favour of him being reprimanded, because he did not release information for his own personal gain. He did it, because he felt the public had every right to know and I applaud what he did.

3585 I think he should be praised for what he did and not reprimanded. I resonate completely with his intention to obtain honesty and transparency. It could be argued that he acted irresponsibly and that he could have adopted another approach. In fact, the Panel themselves suggest in paragraph 20 on page 980 that Deputy Hadley could have mounted a campaign of questioning directed at HSSD.

3590 I suggest the Panel themselves try mounting a campaign of questioning against HSSD.

There is no-one in this Assembly who has asked as many questions as I have in the past year, sir, except perhaps for my brother, Deputy Laurie Queripel, and I very rarely get comprehensive or convincing answers to my questions.

3595 So my next move then is to set up meetings; but you could be waiting six or seven weeks for a meeting. I want to emphasise, sir, that I am not blaming Deputy Dorey or his Board for that, but the system of Government is painfully slow.

As regards the Code of Conduct, I think that needs to be reviewed.

3600 So what did Deputy Hadley do, instead of taking the painfully slow, pull-your-hair-out route of mounting a campaign of questions against HSSD? He took the direct route – and as I have already said, I think he should be praised for what he did and not reprimanded.

Here we are today being asked to decide whether or not we shoot the Good Samaritan. (*Laughter*) Well, sir, I have never been in favour of shooting a Good Samaritan; I never *will* be in favour –

3605 **A Member:** Not even in the foot!

Deputy Lester Queripel: – of shooting a Good Samaritan; and in a quest to obtain honesty and transparency on behalf of the people of Guernsey, I will be voting against the recommendation that Deputy Hadley be reprimanded and I suggest my fellow Members do the same.

3610 Thank you, sir.

The Bailiff: Deputy Storey.

3615 **Deputy Storey:** Thank you, sir.

Well, I could not disagree more with the previous speaker.

Sir, when I first read the Report of the Independent Committee, I could not really understand why the censure recommended was so lenient. I have to say that I seriously considered whether I should table an amendment.

3620 On reflection, I feel that the recommendation is from an independent body, so I feel it inappropriate to place an amendment. They are independent and they are independent for a good reason; but I still feel that the conclusion they have come to and the censure that they are recommending is inadequate and I would like to set out, if I may, my reasons for feeling that way.

3625 First of all, sir, we have a situation where Deputy Hadley has effectively committed serial offences against the Code of Conduct – possibly even three times in the past five years – and he even feels as though this is something to be commended.

If I may read from his Election Manifesto at the last election, he says:

3630 ‘I have been critical of civil servants in the Health and Social Services Department and the Housing Department, which has resulted in my being taken before the Code of Conduct panel on two occasions but I stand by my actions...’

There does not seem to be much remorse of the fact that he had been referred to the Independent Panel on those occasions. It is obvious that he has no respect for the Code and for what, in my opinion, is good behaviour.

3635 His case for mitigation is based on, first of all, acting as a whistle-blower; secondly for acting to ensure openness and transparency. Perhaps we could look at those two points.

First, as a whistle-blower: in my mind sir, a whistle-blower is a brave person who puts their own job at risk to draw attention to a risky situation or a situation which needs attention. In my opinion, Deputy Hadley has at no time put his employment at risk. He has, however, put other people's jobs at risk and that is why I cannot see Deputy Hadley as a whistle-blower.

3640 If he felt a situation with A&E was causing undue risk to patients, why did he not raise these concerns at the time?

Sir, the A&E Report was discussed by HSSD Boards on 4th October 2011 and again on 5th April 2012. Deputy Hadley was present at both meetings. I could find no record in the minutes of him expressing concerns at either meeting.

3645 In his election address in 2012, he makes no mention of A&E, but does make mention of maternity services. Again, if I may, I will quote from his election address:

3650 'My criticism of safety issues in the hospital resulted in an investigation into the maternity services. The Royal College of Midwives found that our service was much better than provided in the UK. However a number of potential risks were identified and dealing with these has improved safety.'

No mention whatsoever of his concerns with regard to the report on A&E.

So it seems to me, why wait until he is no longer a member of the HSSD Board before discovering that he had concerns?

3655 One of the other mitigating factors that Deputy Hadley brings to bear is defence of openness and transparency. Again, I find no evidence from Board minutes that Deputy Hadley proposed publishing reports which were, of course, confidential. Being no longer a Board member of HSSD, it suddenly became important to distribute the reports. It seems his idea of openness and transparency changes with the circumstances in which he finds himself.

3660 This unfortunately seems to be the case with Deputy Hadley's main supporter, the *Guernsey Press*, who claim to champion openness and transparency. This obviously applies to everybody except themselves. We have all seen it: HSSD have been bombarded with demands for answers to questions raised by Deputy Hadley over the last few months and at the bottom of each e-mail demanding answers, it says:

3665 'The information contained in the e-mail and any attachments to it are for the exclusive use of the intended recipients. It may be confidential and contain privileged information and will be protected by copyright. If you are not the intended recipient you must not review, copy, distribute or any other way, use or rely on the information contained in the message.'

3670

(*Laughter*) Openness is obviously... the view of that changes with where you stand and I think that applies equally to Deputy Hadley. It is a classic case of 'do what I say, not what I do'.

3675 The third leg of Deputy Hadley's mitigation plea is that he was trying to be helpful and act in the public interest. He has told me personally he was only trying to be helpful but, as a result of his concerted public campaign against HSSD, I have to say that middle and senior management are spending precious time preparing answers to questions, instead of getting on with their job. We have lost senior managers, morale in most Departments has fallen disastrously. This to me is the most important.

3680 Going off trashing hard-working staff and to expect 110% from them or to get them to embrace change is *extremely* difficult. Attacking their professionalism does not help either. HSSD is currently seriously short of staff in certain areas. Question: how do we recruit in a situation where a Department is continually under public criticism and morale is extremely low? Answer: with great difficulty. All this is not helpful and, I contend, is *not* in the public interest.

3685 Finally, sir, I would like, if I may, to come to the matter of trust. Trust is exceedingly important to us in managing Government affairs. As Members of this Assembly and Members of Departments, we receive and see a great deal of confidential information, which is both of a personal nature and is also of a commercially sensitive nature. It is important that this Assembly, this Government retains the trust of these people to enable us to ensure that we get the right information, it is used in the right way, to formulate policies to help promote this Island's economy; and we will not do that if there is a fear that confidential information of that sort is likely to be made public.

3695 Our form of government, sir, of which I am so proud, requires us to work together as Members of Departmental Boards. To make this possible, we all need to have trust in our colleagues. More importantly the public and private business needs to be able to trust us, as well. We may not agree politically, one to one, but that does not stop us trusting each other and reaching an agreed joint

position, if we have that trust. Without trust, our form of government cannot function. Trust, I would submit, is an integral part of good governance.

3700 Deputy Hadley, in my opinion, has betrayed that trust. That is why I feel that the recommended sanction is too lenient. It will not deter further breaches of the Code by him in the future, as he has shown by his actions following previous references to the Code of Conduct Panel. Sir, if we know the sanction for breaching the Code of Conduct is likely to be just a reprimand, or a slap on the wrist, why should we not all breach the Code, as and when we feel like it? In fact, sir, it is in here but why bother having a Code of Conduct at all, if it can be breached without the punishment meeting the crime?

3705 Well, sir, we do need the Code of Conduct; we need it to ensure we conduct our affairs in a civilised, professional, ethical and ordered manner, to ensure good governance and effective government.

Sir, I will reluctantly support the Independent Panel's Recommendation to reprimand Deputy Hadley, even though I do believe that it is too lenient.

3710 Thank you.

The Bailiff: Deputy Kuttelwascher, and then Deputy Brehaut – then Deputy Perrot.

3715 **Deputy Kuttelwascher:** Thank you, sir.

Sir, over the last couple of weeks, I have become increasingly uncomfortable with the proposition before us for a number of reasons.

3720 If one carefully studies the adjudication of the Code of Conduct Panel, I think one can come to the conclusion that the recommendation has come with a caveat or a qualification, and I would like to refer to that. If Members would like to turn to page 980 and paragraph 19, it does say:

‘That is not to say that we think there can be no circumstances where a member of a Department may have a higher duty than that imposed by Rule 18A. In rare circumstances there might well be.’

3725 For me, the question for us was: was this breach in this case justifiable or was there a higher duty? That is why it has come back to us.

If one goes down to paragraph 21, there is more information on this. It says:

3730 ‘We conclude, on examination, that Deputy Hadley's justification for his release of the CEM report neither persuades us that a breach of the code (18A) has not been committed...’

Well, to me that is kind of obvious. It was declared confidential, he breached the confidentiality. Technically, he breached the Code of Conduct. There is not much you can say about that.

3735 However, it does say then:

‘... nor does it provide much by way of mitigation.’

But only a few lines further down it says:

3740 ‘... we cannot and do not make any comment on the validity or otherwise of Deputy Hadley's arguments...’

Now, that to me is a bit of a contradiction, but that is by the way, I think.

3745 So what has happened since the outcome of the Code of Conduct Panel has become known? Several things and I want to refer back to last month's Question Time, when Deputy Trott asked twice of the Minister of HSSD whether or not the PCCL – the Primary Care Company Ltd – were fulfilling their contract, and that could not be confirmed. He asked the question again, in a different format, and it has still not been confirmed. So I do not know at this time whether or not the PCCL are operating under the terms of their contract.

3750 We then had the issue of the Data Protection, if you like, result of an enquiry made of them to see if Data Protection had been breached. My understanding of the adjudication of the Data Protection Commission was that there were no Data Protection issues in the report, which begs the question: why was it confidential in the first place? That is the question I would like answered, because it is significant, because confidentiality should only be imposed when it is absolutely necessary.

3755 I want to refer to a report which is yet to appear and it is the Access to Public Information which is being put together by the Policy Council. It is no secret, I think, because many Members have seen this, the prime concern is that the disclosure should be the primary purpose of anything.

3760 There is also an issue about whether or not, once a report has been declared confidential, whether at some future date, it could be actually rescinded – that because of a change in circumstances, that report is no longer confidential.

3765 The other issue, besides what Deputy Hadley has said about the level of confidentiality of the original Report, because of its rather wide circulation and availability, apparently, for anybody to pick it up at the hospital, is that it was only disseminated to the Members of this Government – you and me. Now, judging by what is in this Report and that definitely the public interest that arises from it, why on earth was the Government of this Island not informed about this particular issue?

3770 For me to change my mind and to vote in favour of this, I would need a very good reason as to why this particular Report was confidential in the first place. To cap it all, Deputy Hadley has actually achieved a result – a positive result. The PCCL have agreed to return some of their fee to HSSD to help fund, as I understand it – and it was reported as such – an emergency services or a qualified doctor – an additional pair of hands if you like in the Emergency Department, which has yet to be approved.

3775 **The Bailiff:** Deputy Dorey.

Deputy Dorey: Sir, he has gone way off the subject but if he has, what the HSSD staff has achieved is through negotiation and that negotiation happened before this Report was published.

3780 **The Bailiff:** Deputy Kuttelwascher.

3785 **Deputy Kuttelwascher:** Interesting that for the past two years, Deputy Hadley has been banging on about this particular issue and one wonders if anything would ever happened at all if he had not continued to do so, and in fact his persistent questioning has been described as a *vendetta* – which is also unfortunate because it was recommended that he should have asked more questions by the Code of Conduct Panel!

That by the way; at the present time, with the information available to me, I cannot support this recommendation and I will be voting against the reprimand.

Thank you, sir.

3790 **The Bailiff:** Deputy Brehaut.

Deputy Brehaut: Thank you, Mr Bailiff. I just wanted to make a couple of observations.

3795 Deputy Hadley said that the Report was generally accessible to possibly hundreds of people; we do not know that. We do not know that. It was written in a style with a certain type of reader in mind and the circulation, I would suggest, would have been more limited, rather than the general assertion that hundreds of people, hundreds of organisations would have had this Report.

3800 To answer Deputy Kuttelwascher's question: within Public Health, there is always a balance to be found with... You can tell the community something that alarms them, that creates anxiety: that is not good for public health. So if elected representatives are put in place to make that judgement, whether you let the community know and manage it competently – you and your staff manage it competently – we are elected in these roles to do that. That, I believe, was what the HSSD intended to do.

3805 What I find particularly difficult is the, whether by design or otherwise, Deputy Hadley has found a niche. Clearly, if you read the paper, he is a victim. He is the victim of an organisation that has been unkind to Deputy Hadley. There is a sympathy out there in the community for this 'whistleblower' who is *raging* against the machine, raging against this beast that is HSSD – when actually, Deputy Hadley is not a whistleblower.

3810 If I am a healthcare assistant in A&E and I saw a practice I did not like and I went to the sister, the charge nurse and they said, 'Well, that's above your pay grade, nothing to do with you'; I went to the Manager of A&E and said, 'Look, I've seen a practice I don't like, and they say, 'Well, you know, you have not seen it'... If somebody tries to conceal something and the whistleblower breaks through that glass ceiling, or whatever it is, and eventually gets that message across, then good on them.

3815 Deputy Hadley is in an extremely privileged position. He is an elected representative of his community. Doors open for Deputy Hadley! If he wants to see anyone from the Primary Care Trust he can; if he wants a meeting with the Minister of Health or... he can see *anyone*. Doors open for him. He is an *extremely privileged position*.

3820 In such a privileged position, he saw a report clearly marked, ‘Confidential’ and the risk is –
and this is a real risk – if you say, if there is an assumption that a report is written for a given
audience, a given group of people, and it is written in a frank, candid way, it has to be written in a
frank, candid way, because you want to know what the risk is. If that author has come from off-
Island and they have to be cautioned to say, ‘Look, you had better run ‘draft’, ‘confidential’
through this, otherwise it will find its way into the media’, you then up the risk because they will
3825 not be candid. The reports would be caveated in such a way that they would be meaningless. They
will not be explicit about risk, because risk is for elected representatives to manage, rather than the
Editor of the *Guernsey Press*. That is the other risk associated with blandly forwarding reports on
to the media.

I have to say that this: I voted for Deputy Hadley. He is in my electoral district. I have worked
with Deputy Hadley. The reason I voted for Deputy Hadley is because of his tenacity. He quotes
3830 me in his Manifesto: I said of Deputy Hadley: ‘the difference between him and a Rottweiler is a
Rottweiler eventually lets go!’ (*Laughter*) I was going to say a Catholic mother, but it did not
seem that funny at the time. (*Laughter*)

But what I did not say, of course, in both circumstances, somebody ultimately runs the risk of
getting harmed.

3835 I would rather move to a position with Deputy Hadley, I hope, where he can approach all of us
as elected representatives and the staff at HSSD and confidently know that we will make those
enquiries for him and we will deliver.

And I say, what would we be delivering on? We would be delivering on a report commissioned
by Deputy Hadley. Deputy Hadley and a full HSSD Board commissioned a report into A&E. The
3840 report from recollection gave recommendations to be enacted, I think, by 2016. *Hansard* reports
that Deputy Hadley asked questions of the Minister of HSSD, who said, ‘Yes, we will release the
Report, but we just need to clarify what aspects, if any, are confidential.’ So the report was on its
way out – but too late. Too late: it was released to the press.

3845 Language is important on occasions like this. When I spoke last in the States, when I sat down
Deputy Hadley got to his feet and said, ‘Sir, the Deputy is not telling the truth’. I raised that with
the Bailiff and then forgot about it. What was implicit was that I was lying.

Deputy Hadley said in a very casual use of language to States Members, ‘Deputy Dorey *urged*
the Policy Council, *urged* the Policy Council to pursue this!’ No, he did not! Again, a careless use
of language.

3850 And the one that I found very difficult, the e-mail I found difficult, was the quote from
Edmund Burke, forwarded to us all, that ‘evil prevails when good men choose to do nothing’. So
that is clear: HSSD is evil; Deputy Hadley is the good man, and that is the narrative. How evil am
I? Last month, I was walking into the States – (*Laughter*) Okay, on a scale of 1 to 10! (*Laughter*)
3855 Last month, I was walking into the States and I realised I had not left a radio on for the cat, so I
went back home. That is how evil I am. (*Laughter*) Sorry, yes, it was not a commercial station, so
we are very fond of our cat!

So, sir, if we have... I represent an organisation – not an organisation; a Department. HSSD, I
am a Member of, that is besieged monthly, weekly, daily by Rule 5 and Rule 6 questions. Let us
look what has happened over recent months and weeks.

3860 Deputy Hadley and others wanted the Members of the Health Department gone. They are gone.
That Board went and Deputy Hunter Adam lost his position as Minister, because that demand was
made by Deputy Hadley and others.

Deputy Hadley remains critical of the staff and management of HSSD. There is no
management left at HSSD that Deputy Hadley would recognise! The Finance Officer has left. The
3865 HR appointee has gone – in fact, two of them have gone. Last night, I made a note that 12 senior
managers that were there when I joined have gone, so I am not clear at times what organisation,
what people Deputy Hadley is attacking or at times being derogatory to, because things have
changed so rapidly. It is a new Board, it is new staff – new staff under great and immense
pressure.

3870 All that said, sir, and in closing, I am uncomfortable reprimanding someone who is in this
Assembly by virtue of the same process as myself, that we are elected representatives of the
community, they know your form and they elect you. But I think on balance, I will favour the
reprimand, because the Department of Health and Social Services is *damaged*. It is a damaged
3875 organisation because of constant external pressure that prevents us delivering the care that the
community needs. Sooner or later this immense external pressure – this badgering, this hectoring,
the perpetual Rule 5 and Rule 6 questions that consume staff time and make it impossible to act –
is not healthy for an organisation of over 2,000 people.

3880 So on balance, sir, today, I will acknowledge and somewhat heavy heartedly support the reprimand, in the hope that it will be interpreted in such a manner that we can draw a line under things.

Thank you.

3885 **The Bailiff:** Next I will call Deputy Perrot and he will be followed by Deputy Conder, Deputy Harwood and Deputy Luxon.
Deputy Perrot.

Deputy Perrot: Sir, I agree with Deputy Brehaut that language is important; but then he goes and likens Mr Hadley to a Rottweiler. That is shocking! A hyperactive Jack Russell, maybe. (Laughter)

3890 I am not going to vote for this. I do not think that Mr Hadley is a victim, as someone has intimidated, but I do think that the whole of this is excessive. To me, it is wrong.

3895 One of the problems is that we use the word 'confidential' in the States about absolutely everything. Even the most trivial document is marked confidential. In the middle of this sort of way in which we conduct ourselves ordinarily, Mr Hadley went about his business – I have to admit in a slightly odd way – but I think that some people are confusing what he says about the HSSD with the means which he adopted.

3900 But so far as a breach of confidentiality is concerned, we play fast and loose with it. Quite often, it is observed in its breach; you quite often see people from different Departments talking about things which have gone on in their respect Departments, in complete breach of confidentiality. Well, if there is one rule for all of us, there has got to be one rule, surely, for all of us, and the Policy Council is no different.

3905 You sometimes meet up with someone from the Policy Council and it is rather like being with one of the old regulars on meat draw night down at the Dog and Duck. (Laughter) All sorts of things will come out which are *supposed* to be confidential, but people actually use common sense about whether that is passed on and generally when there is a token breach of confidence, it is because the person who is receiving it had reason to receive that.

But I did find it odd that all Members of the Policy Council acted like proposition maiden aunts about this and put in a complaint about Mr Hadley. I really do think that is wildly excessive.

3910 This Report – I do not know because I am not a Member of HSSD, but my understanding is that it may not have not have been read by Uncle Tom Cobley and all, but it certainly got as far as Uncle Tom Cobley. A number of people had read this Report. It was not just restricted to a very few people.

3915 I think that if there has been a breach of confidence – and I suppose there has been, technically – on the part of Deputy Hadley, it has been a trivial one and if there is a balance to be tipped, it ought to be tipped on the side of dissemination of information.

3920 As I say, I think it is because of what Deputy Hadley was saying that has got him so deeply into trouble. He may be easily perceived by some as being an obsessive or as an irritant who does not listen to reason. Certainly, in my view, he may be at times ridiculously alarmist; but politically, I think his heart is very much in the right place. I do not think he should be praised about what he has done because there were other methods of doing it, but I certainly do not think he ought to be reprimanded.

As to data protection, I think that the whole idea of there being some sort of breach of the data protection law was just ridiculous, because there was no processing of data whatsoever involved.

3925 So as far as I am concerned, Deputy Hadley metaphorically has my vote this afternoon.

The Bailiff: Deputy Conder.

3930 **Deputy Conder:** Mr Bailiff, fellow States Members, I rise to speak against the States Assembly and Constitution Committee's recommendation that Deputy M P J Hadley be formally reprimanded pursuant to the Code of Conduct for Members of the States of Deliberation.

Fellow States Members are, of course, aware that I am a Member of the States Assembly and Constitution Committee and as such I am a signatory to the recommendation.

3935 Sir, in speaking against the Committee's recommendation, I am mindful of your guidance that the debate will be about whether there should be a penalty and, if so, what penalty should be imposed. You have made it clear that there is not an issue as to whether Deputy Hadley has breached the Code of Conduct. That issue has been decided by the Code of Conduct Panel and we must honour that judgement. It is not open for this Assembly to question or seek to review that decision.

3940 Sir, I am grateful for your guidance and wish to respect the position of the Code of Conduct Panel and honour their decision. I will endeavour to do so.

Sir, this is another sad day for this Assembly in which we once again turn in upon ourselves and consider our own behaviours, our performance and conduct, rather than confronting the overwhelming issues that face our Island, which our fellow citizens rightly expect us to address (Two Members: Hear, hear.)

3945 Sir, our ability to indulge in repeated bouts of self-inhalation is extraordinary and is I think, damaging to democratic government and the conduct of public affairs. Nonetheless, be that as it may, we have to deal with this matter. I fervently wish that the Policy Council had stayed its hand and found another way to address its frustrations with Deputy Hadley; but they are all honourable men and no doubt they felt they had little choice in this matter.

3950 However in truth sir, in matters of managing behaviour there are always choices and methods of conciliation are always available. Pressing the nuclear button is rarely the best option.

3955 Sir, my opposition of this recommendation to reprimand Deputy Hadley is one of proportionality and the potential impact that the implementation of such a recommendation may have on the future conduct of Government. I can, sir, imagine many scenarios in which a breach of our Code of Conduct *would* merit a reprimand or a more serious penalty. For example, behaviour such as abuse of power, financial irregularity, threatening or abusive behaviour, sexist or misogynistic language could all lead to sanctions by this Assembly; but it is my opinion, sir, that Deputy Hadley's conduct does not merit the reprimand recommended in the proposition, and to endorse it would create dangerous precedence for the future.

3960 Sir, it is my belief that the potential consequences of imposing the recommended penalty in this case are so severe that the Assembly should exceptionally reject the recommendation of the States Assembly and Constitution Committee.

3965 The case has been made elsewhere that there are inherent dangers in the sort of disclosure and the methods of disclosure adopted by Deputy Hadley and that such disclosures might inhibit participation by public servants and others in future public inquiries. But, fellow States Members, think for a moment what the consequences might be of reprimanding a colleague, elected by the people of Guernsey, who, however misguided in his methods, chooses, at some risk to himself, to bring to the attention of other Members of the Government his knowledge and concerns in respect of matters of direct relevance to this Government.

3970 Sir, what happens next time, say, a junior, recently elected and perhaps ambitious Member of this Assembly becomes aware, by whatever method, of special knowledge about which she or he believes other Members of this Government should be aware? Will they be looking over their shoulder remembering what happened to Deputy Hadley when he unwisely spoke out?

3975 Indeed, what happens to Deputy Hadley's freedom of action in the future, if this reprimand is imposed? Perhaps the very next time he ferrets out uncomfortable information or he uncovers something that is potentially embarrassing for us, the Government, he will be so nervous of the next steps of the disciplinary process – i.e. suspension or expulsion (*Laughter*) – that he decides this time he will not ruffle any feathers. (*Laughter*) So if either of those scenarios came about, what does that say for the future of our Government and what does that say for our actions this day?

3980 Sir, governments and executives have traditionally had difficulty with individuals who feel that they have to bring matters into the public domain in unconventional ways. Mrs Thatcher had her difficulties with Clive Ponting; President Nixon with Daniel Ellsberg; there are countless similar examples. In both cases, they tried to crush the dissident and in neither case did it work – it never does.

3985 Sir, in conclusion, I would just like to apologise to my colleagues on the States of Assembly Constitution Committee, who have shown me nothing but courtesy and consideration in the dilemma I have faced, up to and during the course of this debate. I feel mortified that I should have let them down in not being able to support the recommendation of our Committee.

3990 It does, sir, seem perverse that the Code of Conduct Panel recommendation should be channelled through one of the Assembly's Committees, which itself appears to be required to act as a conduit between the Panel and the Assembly, making a recommendation without apparently owning the judgement. There appears to be no provision for what would happen if the Committee unanimously, or by majority, chose not to recommend an opinion of the Code of Conduct Panel. Presumably, they would have to resign *en masse* and a new Committee would have to be established that would presumably recommend the Code of Conduct Panel opinions to the Assembly.

3995 Sir, as my colleagues know, I strongly believe that we give this Island good Government only when Committees and Boards stand together in developing and promoting policy and making

4000 recommendations. It is therefore for me to resolve my dilemma in respect of my inability to support the recommendation of the Committee.

Sir, every parliamentary institution should include and be able to live with Members who challenge it in unconventional ways. The gadfly, the troublesome Member, the irritant, have often done more to safeguard democracy than prime ministers, cabinets or parliamentary
4005 commissioners.

More than 50 years ago, a very famous editor of *The Times*, Mr William Rees-Mogg, wrote a powerful leading article, the headline of which read: 'You don't break a butterfly on the wheel.' He wrote it in very different circumstances to those we face today, but essentially he was responding to a situation in which the establishment reacted to the unconventional and challenging behaviours of a small group – a group that was old enough, as old as me, would remember what I mean by 'group' being the operative word. That group dared to challenge conventional behaviour or utilise normal channels.

This Assembly does *not* need to break Deputy Hadley on the wheel of a reprimand today.

Sir, I do not condone Deputy Hadley's behaviour in this or sometimes other matters. I do not
4015 challenge the findings of the Code of Conduct Panel; but on this occasion, I believe that the recommendation of the States Assembly and Constitution Committee is too draconian and sends out very damaging and potentially dangerous message, firstly to the Island as a whole, but secondly, and perhaps much more importantly on this occasion, to elected Members of this and future Assemblies, who are ultimately the guardians of open Government and transparency.

Sir, there are and will be times when it is appropriate to reprimand a fellow Member of this
4020 Assembly. However, this is not one of them and I urge this Assembly to reject the recommendation of the States Assembly and Constitution Committee.

Thank you.

4025 **The Bailiff:** Deputy Harwood.

The Chief Minister (Deputy Harwood): Mr Bailiff, fellow Members, first of all, Deputy Perrot challenged the Policy Council for actually referring this complaint in the first place. I would say to Deputy Perrot that all we were doing was recognising that a principle was involved, if we were to allow one member of a Board to unilaterally just determine that he could disclose information which was subject to a Code of Conduct Rule which actually identifies confidentiality, then the process of Government would become increasingly difficult. I believe, therefore, that it was entirely appropriate for Policy Council on this occasion to refer the matter to the Independent Panel.

Sir, the issue has become very emotive and I can understand in the circumstances. I do not wish to demonise an individual, but there is a clear and objective rule which this Assembly, or certainly the States Assembly, determined to impose in the Code of Conduct.

That Rule says:

4040 'The content of such minutes and other papers is not to be disclosed to any third party other than by resolution of the Department or Committee concerned.'

The presumption of confidentiality is written into that Rule. It is not a matter for any one individual to determine whether or not a document that he or she receives as a member of a Board is or is not to be treated as confidential. The confidentiality is presumed by virtue of that Rule.

Sir, the Panel Report is quite clear and unequivocal and I do not think even that Deputy Hadley challenges the finding that there was a breach of that Rule.

Confidentiality in this context is a matter for the Board of a Department, not for an individual Member. The Board of a Department can, if it chooses, elect that a particular paper before it or a particular report can be freed of the test of confidentiality. It is a matter for the Board, not any one individual member of that Board. That again, sir, I believe is an important principle.

In this context, I would refer the Assembly to paragraph 18 of the Report of the Independent Panel which says:

4055 'Essentially, it seems to us, it is not a matter of control but one of trust. It is vital that those who repose confidence or confidences in others, particularly those holding positions of responsibility, can expect their trust to be respected. We believe that if the States consider, as they do by virtue of Rule 18A, that members of Departments must respect the confidential nature of papers which they receive in that capacity then that trust must be rigorously respected. If a Member does not wish to be bound by such restriction, he or she should not join a Department. This Panel would repeat and emphasise what was said by its predecessor when dealing with the earlier complaint against Deputy Hadley – "Membership of a Department must require some disciplined responsibility."'

4065 Sir, Deputy Hadley, in his opening speech, referred to a test of confidentiality and he referred to a decision of Lord Goff. With due respect to Deputy Hadley, it is the States itself that has determined, in this context, the test of confidentiality. I refer back to Rule 18A, which says:

‘The content of such minutes and other papers is not to be disclosed to any third party other than by resolution of the Department or Committee concerned.’

4070 It is not a question of referring back to other tests of confidentiality, whether it by Lord Goff or other learned Law Lords. It is a matter that the States has determined. It has set the test of confidentiality.

4075 Sir, a number of Deputies have referred to the apparent inconsistency between Rule 18A and the presumption of disclosure, and reference has been made to a code which hopefully the Policy Council will bring back to the States in July or shortly thereafter. Sir, in my submission, there is no conflict between the presumption of disclosure, which is already identified by the States and Rule 18A. It is a matter for the individual Board to determine and to justify why a report or a paper should not be disclosed, and if presumption of confidentiality is capable of being set aside, it would be the responsibility for the Department or the Committee concerned to set that aside.

4080 Sir, reference has been made to the sanctions: I would not comment on the sanctions, but merely comment that a Rule without a sanction renders adherence to the Rule largely meaningless. In the circumstances, I would submit that we have no alternative but to accept the Report of the Independent Panel and to consider the sanction that has been recommended by the States Assembly and Constitution Committee.

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The Bailiff: Next, I call Deputy Luxon to be followed by Deputy David Jones, then Deputy Lowe and Deputy Gollop.

4090 **Deputy Luxon:** Mr Bailiff, can I just, in answer to Deputy Perrot’s accusation that the Policy Council have been sort of leaking stuff, I only buy my meat draw tickets from the Collinette Hotel, sir, and not the Dog and Duck, so it definitely was not me.

4095 Sir, one cannot be a bit principled or a bit pregnant or a bit confidential. One either is or is not, and Deputy Hadley clearly was not confidential, or at least did not maintain confidentiality in this matter. You cannot fault his dogged approach – or can we? It can go too far, sometimes, and it can have unintended consequences. Members of HSSD Board have made comments about the time that is consumed in dealing with some of the methods of how Deputy Hadley goes about his business sometimes.

4100 Sir, I believe the Code of Conduct referral was the correct decision and I think their decision was correct. We should endorse the Panel’s recommendation here today; frankly, we have no choice, as the Report was clearly confidential to the HSSD Board Members and, of course, Deputy Hadley was a Member of that Board. Therefore, to publish it in the e-mail circular was inappropriate and wrong. Hence my belief that the Code of Conduct reprimand recommendation was and is warranted.

4105 However, in spite of being very clear Deputy Hadley breached the Code of Conduct, I believe that there is *some* substance behind *some* of his focus areas in this regard, that have real merit. He is keen or determined to see the CEM 2011 recommendations implemented and the perceived over-costly expenditure for this service to be renegotiated and for the recommendations to be implemented. In these two specific areas, I find myself supporting his thinking.

4110 The Minister of HSSD has personally assured me that he, his Board and his Department staff have matters in hand, for which I thank him. Why could Deputy Hadley not entrust the Minister too and allow HSSD to get on with the concerns that he has had?

4115 I have personally spoken to some senior members of the A&E Service and at this point, I would like to thank the A&E team for the fantastic service we all receive when in need of urgent medical help. We are lucky to have such a good service on a small 26-square-mile, 63,000-population lump of granite, nearer France than the UK. When I spoke to those staff members, they were very clear that *some* of Deputy Hadley’s assertions are correct, valid and do need to be resolved as soon as possible.

4120 Sir, I have no direct knowledge of the contract HSSD have with PCCL for A&E services and indeed, I do not know the GPs involved myself; but what I do know is that the people of Guernsey *should* be able to expect GP professionals working here in Guernsey to not enjoy excessive profits – if they are – on the back of the people they serve, regardless of whether a contract exists, or not, regardless of whether a poor negotiation took place when the contract was negotiated, or not.

4125 **The Bailiff:** You are straying, Deputy Luxon, from the –

Deputy Luxon: I may well be, sir, but I will try not to any more.

The Bailiff: Thank you.

4130 **Deputy Luxon:** This is why I find myself agreeing with some of the substance of Deputy Hadley's points, but clearly not his methods. His methods were wrong. His instincts are often right, but it is how he goes about them. That is why I support the recommendation of the reprimand.

4135 Thank you, sir.

The Bailiff: Deputy David Jones.

Deputy David Jones: Thank you, Mr Bailiff, Members of the States.

4140 Deputy Hadley, what can I say about Deputy Hadley? Deputy Hadley, as you know, is the Deputy Minister of Housing and he is an excellent Deputy Minister of Housing. We have some very lively debates on all kinds of topics, health sometimes being one of them. But let us look at why we are here; let us look at how this Billet that has been constructed has ended up before this Assembly.

4145 This is about Rules. This is about the Rules that govern all of us. The Code of Conduct is there for a very good reason. It measures our behaviour as elected States Members and every single one of us as Ministers – and I have to add, the Ministers did discuss other options, other than this, but it turned out all of them were illegal, (*Laughter*) so we moved on – but it is about, as Ministers, we are responsible for our Departments and all the confidential information that goes through those Departments. When you have got one Member who decides that he does not want to observe the Code or the findings of the Board – in this case, the Board at that point decided not to release this document at that time – then you have conflict.

4150 I agree with the Code findings on this and Deputy Hadley and I have had a very frank discussion about it; but the simple reason is, where does it stop? What about the confidential information then of licence applicants? Is that free to be shared with all and sundry? If Deputy Hadley was on the Home Department, what about the operational matters of our Police Force in dealing with some tricky situations and intelligence that protects us all from things like that which happened in London the other day? What about those? Are they... because I do not agree with what you are doing, I feel free in the right to release that information to all and sundry?

4160 It was not just the fact that this Report was e-mailed to all States Members, because there is an argument there, I suppose, 'are we third party?' That is a debate I suppose that SACC is yet to let us have, but it eventually ended up, of course, on the desk of Mr Digard, the Editor of the *Press*.

4165 Now, the other point I make on this is that, whatever we think about the right of Deputies to release information that they believe is in the public interest, they are, as Deputy Brehaut has said this morning, often in possession of that information simply because they are Deputies. The trust the public put in us is to respect the Rules of this Assembly and the Rules by which we were elected under.

4170 The other point I would like to make is that we do commission reports: as Ministers and Boards, we commission reports on all kinds of things, and we ask the authors of those reports, when they are carrying out research and shining torches into the dark, dingy areas of our Departments, to be as honest and frank as they might be. But the authors of those reports do not always necessarily want that frankness and that candid way of writing to be shared with all and sundry. It is for, very often, an intended audience and that audience is usually for the people who commissioned it.

4175 If the Board then, who commissioned it at public expense, decide that the information is so important that the public should be made aware of it, then that is a decision of the Board. But what we cannot have, Members, is we simply cannot have maverick Members of the States, however colourful they may be, deciding, when it comes to confidential reports, what will remain confidential and what will not. That has to be a matter of Code and the Code of Conduct. It is not for us to argue whether an eminent Deputy, ex-Deputy Bailiff and Judge and the rest of the Panel have found in this case that Deputy Hadley did break the Code – and I do not think that is an argument; it is also the severity of the actions after that, by bringing it to this Assembly.

4180 Now, Deputy Perrot and others have said that they think that possibly everybody has gone a bit too far; but you have to remember, when saying that, that this is the second time Deputy Hadley has been before the Code of Conduct Panel. The first time Deputy Hadley received a caution,

4185 which was a very measured response, and on this occasion the Code of Conduct Panel has decided that they want to go to the next stage, which is a formal reprimand by the Bailiff of this Assembly, presumably, if we get that far.

But I do understand Deputy Hadley completely. He is a man of real passion, let me tell you, when it comes to health issues: he is a bit like an excited Jack Russell and he has a lot of personal knowledge about medical matters. He was, in his previous life, a pharmacist, chemist, a scientist...? I have no idea, (*Laughter*) but one of those three, and he does feel passionately about some of the shortcomings of our health service. But that passion *in no way* negates the fact that he is a Member of an elected Assembly that has Rules and we have to live by those Rules. If we do not want to live by those Rules, well go back to being a chemist or go and do something else.

4195 But we are a parliament. We respect the rule of law and the Rules of the way this parliament should be governed and the confidentiality of our departmental work and the documents that come through that Department. If you do not like it, then go and do something else.

I do not believe the Code has got this wrong. As I say, I have a great deal of respect for Deputy Hadley and he is an excellent Deputy Housing Minister; but he has to understand that his enthusiasm sometimes for getting things into the public domain has to go through the proper channels and be done in the proper manner. It is not a case of whistle-blowing. If you take a report that was handed to you in confidence and just release the contents to the media, that is not whistle-blowing; that is taking a confidential report and just deciding that the rules do not apply to you and get it into the public domain – and we simply cannot have that.

4205 So, reluctant as I am, against my Deputy Minister, I say bend over, trousers down, (*Laughter*) take it like a man and we can all move on.

Thank you.

4210 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Thank you, sir.

I sort of liked Deputy Jones' joke, but actually this is not a joking matter; this is actually a serious complaint coming against a Member of the States, (**A Member:** Yes.) and if you think it is a joke, you should not actually be supporting it. So, this is sending out a message – (*Interjection*) No, I am sorry, it is sending out the wrong message, in my opinion, because I actually think it is a joke it is here. I think exactly the same as Deputy Perrot and the excellent speech by Deputy Conder.

4220 This is *so* over the top – totally over the top. I do not know why Policy Council brought it. It is not their... Why did they do it? It was HSSD that had the problem!

So you all get together and support one another. HSSD should have had the bottle to bring it themselves to the Code of Conduct, and not the Policy Council.

4225 Deputy Storey said, why did Deputy Hadley wait until he had left HSSD before he did anything about this? I was on the Board with Deputy Hadley. Deputy Hadley raised it many times at the Board meetings, and here is another example where maybe there should be *Hansard* at Board meetings, because it was raised during other matters that were being discussed at the time. When it was actually raised under another matter that was being discussed, he would say, 'Oh, while we're here, can I have an update on what is happening?' – 'We're dealing with it.' Then a couple of weeks later, he would raise it again or a month later, and Deputy Adam was Minister, he would know that: it was raised at Board meetings under other things, when he was there.

4230 So it was not a case of that he just sat there and did not do anything about it; he *did*. He was fobbed off. Simple as that: he was fobbed off. He was told it was being dealt with, when clearly it was not.

I understand what you are saying there, regarding you receive an e-mail, you print it off and it says, 'This is private and confidential. If it is not yours, delete it.' I was horrified when I saw that. 4235 It is actually in the system of the iPads, because I do not sign up to that! But it is in the system. So it is not his fault or any of our faults why it is there. It is thanks to the States for supplying the system of the iPads, it is actually ingrained in there, otherwise I do not know how it got on mine, because I would never have put that on there.

4240 The Chief Minister also read out about the Code of Conduct, but I prefer the one where we took an oath. It was right at the very beginning. If you go to your public duty ...

Deputy Storey: Sir, could I just comment on that remark sir?

4245 **The Bailiff:** Deputy Storey.

4250 **Deputy Storey:** The section I read out in relation to confidentiality at the bottom of the e-mail was appended by the *Guernsey Press*, not by Departments of the States. (**Deputy Lowe:** Okay.) So I think the point I was making was the fact that the champion of openness was in fact circulating e-mails where they were demanding confidentiality in relation to what they were saying.

The Bailiff: Deputy Lowe.

4255 **Deputy Lowe:** Okay. If we go back to the day when you were all sworn in here on 1st May or thereafter – I think 1st May clashed on a Sunday, or something like that – but anyway when we were in here and we took the oath for public duty, Members before entering office, took an oath. On that oath, they promised that ‘well and faithfully’ they would perform the duties attaching to membership of the States of Deliberation.

4260 ‘The primary duty of Members is to act in the public interest. In so doing Members have a duty on *all* occasions to act in accordance with their oaths, and in accordance with the public trust placed in them.’

4265 So if Deputy Hadley felt that was appropriate, why not? I do not think there was anything there. I understand why they are saying, ‘Well, you shouldn’t have circulated something’ – maybe; but it certainly does not warrant this completely over-the-top Report we have got here today, wasting the States time, as well, going through it all – and I contribute to that by standing up and speaking as well! I will sit down.

4270 But I just say no, I am sorry, I have concerns at times where I have been at meetings where things have not been challenged. I have sat back and waited to see if things are going to be challenged and they have not been challenged. It is almost taken as accepted what is in front of you and that is not right. That is not our job; our job is actually to ask the questions, no matter how awkward it might be, how uncomfortable it might be for those sitting round the table. That is our job to do that and, on this occasion, Deputy Hadley *did* follow it all, he *did* ask when he was in Department Meetings for it, he *did not* get the answers that... well, the answers that we would
4275 *hope* would have been ‘Yes, we are acting upon it’, when in actual fact that was not taking place.

So I will be rejecting this today.

The Bailiff: Deputy Gollop, then Deputy Trott.

4280 **Deputy Gollop:** [*Inaudible*]

The Bailiff: Can you put your microphone on.

4285 **Deputy Gollop:** ... by being passionately wanting to sit on the fence on this issue – (*Laughter*) No, because I can actually support, really, virtually everything Deputy Hadley has said and also what the Chief Minister, Deputy Harwood has said. Because Deputy Harwood is quite correct.

To repeat, Rule 18 of the Code of Conduct provides *inter alia* Members must bear in mind that confidential information which they receive in the course of their duties may only be used in connection with those duties.

4290 Now, that could mean anything: you could argue Twitter is a duty; FaceBook is a duty; talking to the media is a duty, communicating in your surgery is a duty – not very good. But it is much clearer of course when you read Rule 18A, which we voted for. When I say ‘we’, the States Assembly in a former life did:

4295 ‘for the avoidance of doubt, the “confidential information” referred to in the previous paragraph includes, but is not limited to, Department and Committee minutes and other papers circulated to Members thereof. The content of such minutes and other papers is not to be disclosed to any third party other than by resolution of the Department or Committee.’

4300 Now, actually, we know of instances where that was breached, even by Ministers, even by officers –

4305 Deputy Perrot has identified already some of those breaches – because the strict process as laid down makes it clear, everything is confidential that you get, although we know from experience that the Chief Officer or Minister will tell you something is strictly confidential and you know to be very cautious, and other things perhaps less so.

Anything and everything can be deemed confidential in that context and not to be shared with anyone. That includes political colleagues, spouses, media people, interested parties, stakeholders,

4310 non-States Members on Boards, on other Boards, all kinds of people. It is a very draconian rule and I have never been an unqualified acceptor of the Code of Conduct in its phraseology – which is why I will vote for, in a sense, Deputy Hadley and against the rulings of the Panel.

Because the Rules are not... The first Rule is vague, the second Rule is not particularly vague but it clearly cuts a huge hole in everything and anything all the candidates of the last election said about openness, honesty and transparency.

4315 We had a neat argument from the Chief Minister, which I partially accept, that there is obviously a seismic difference between an individual Member making a decision and a Board making a decision to be transparent in a structured freedom of information context. But if you accept that argument – and it is one we need to develop more – it rules out a lot of what the so-called backbenchers do or might do, especially those who have not signed up to Departments or Committees. Where do you go with presentations and so on?

4320 So I am uncomfortable with that and for me the moral of this debate is not to pat Deputy Hadley on the back, because some of what has transpired perhaps has not been comfortable and has not helped the public interest or reassured the public in any way, but to realise that we need to look again – the States Assembly and Constitution Committee – at these Rules and what they mean in practice and how they can be made to work, because the current situation and the way in which we sent off an excellent Panel, consisting of three people who gave many, many years' service to both law and politics, if you look at the trio, they came back with a measured report – not as severe as Deputy Storey would like, more severe than others would like – but they did not wish to go into the hypothetical scenarios of what circumstances would mitigate a breach of the strict duty.

4330 Clearly, the way in which we have set up the Rules has an intrinsic contradiction between our oaths to represent the people of our district, as Deputy Lowe identified, and our Oath of Office to abide by the Code of Conduct as a prerequisite of being a Member of this Assembly.

In one respect Deputy Hadley has done us a favour, because he has raised this matter.

4335 I would call the context in which Rule 18A came into being was actually post the Public Accounts Corporate Governance Review of the so-called Fallagate affair. There, it was believed that a Member of the States had leaked minutes of a Policy Council Meeting to an organ of the media, and for a while, my name was in the frame because they thought I had left it on the bus, (*Laughter*) but it was not me because I never sat on the Policy Council, even as a surrogate Member. It was done by somebody and the matter should probably be best left to lie.

4340 But out of that debacle, which in a way the media won the day on, in one sense, came a harder line from the States regarding the Rules of being a Member, because it had not been codified in quite that way before.

4345 And we know too, some of us who sat on Departments like Housing or maybe Home, that there is a theoretical difference between personal cases involving an individual – Mr X or Ms Y – and policy issues. But this Rule lumps everything together and I think we need to request the States Assembly and Constitution Committee to reconsider the policies in relation to freedom of information.

4350 **The Bailiff:** Deputy Trott and then Deputy Adam.

4355 **Deputy Trott:** Sir, that comment about the Policy Council minutes is particularly well timed, because I wanted to make some points about people who live in glass houses and they are often given advice that they should not throw stones. I remember vividly, sir, the numerous occasions when I was Chairman of the Policy Council that, within minutes of the Policy council meeting finishing, a member of the media would be on the phone to me, asking me for some clarification on matters that had been discussed around the Policy Council table that afternoon – often very confidential matters. The difference then to the issue that we are dealing with today is that the Members who leaked that information to the media did it anonymously, or at least they did not put their name to it. Deputy Hadley's sin is that he was very happy to be associated with this leak and, in doing so, he broke our Rules.

4360 But trust me, Members of this Assembly, there can be hardly anyone who has served in this Assembly for a reasonable period of time who has not committed a crime similar to that of Deputy Hadley – *other than* those who sit on the Treasury and Resources Department, and why do I mention that worthwhile Department? It is because, sir, there are different levels of confidentiality in the way in which we conduct our business. Members of the Treasury and Resources Department take a lifetime oath of secrecy, and indeed, anyone who comes into contact with sensitive data to do with people's taxation affairs, in particular, has to swear that they will never reveal that information to another. So there we, if you like, have the premier league of confidentiality.

4370 I thought Deputy Storey's comments were particularly relevant, because I would like to give you an analogy. Deputy Storey referred to the *Guernsey Press* making the point that if you receive this information in error, if you should not have got it, it is confidential, you should send it back and not distribute it more widely. To do anything other than that would be wrong.

4375 Well let us just imagine sir that some of us are sitting around the board table of the *Guernsey Press* and we leak some of the information that is contained within our confidential Board pack to another aspect of the media, let us say to Channel Television. I would expect, sir, under the good corporate governance for that individual to be summarily sacked by the Board for infringing what would be considered in that environment to be basic governance processes.

4380 Now, the problem we have today is this – and I pose a general question, first of all – and that is: can you, can we trust Deputy Hadley to behave in a more anonymous manner in the future? (*Laughter*) I think, sir, we can. I think we can be fairly certain of that. I do not think that he will stop doing what he believes is right, but I suspect he will be more guarded.

4385 So I leave that question hanging, but I then pose another. If we do not accept the recommendation today – which, let us face it, is not, with the greatest of respect to you, Mr Presiding Officer, not worth the paper it is written on – and that is a formal reprimand... A colleague of mine said earlier on that these sorts of things probably guarantee Deputy Hadley a poll-topping position, should he stand next time. So let us not think this is going to damage his political career in way, shape or form. If anything, it will enhance it, such is the anachronisms of our system of government.

4390 But that is our issue today. If we do reject the recommendation and we do set a precedent, do I think we will open the floodgates? No. Do I think there will be more leaks of this type or more releasing of this information in the future? Yes. I think modern media techniques make it even easier to do so. But do I think that Members will be much more guarded in the future? Well, sir, of that, I am almost certain.

4395 **The Bailiff:** Deputy Adam.

Deputy Adam: Thank you, sir.

4400 First, I suppose I should state that some people may think I have got an interest, since I worked in medicine and practiced medicine for probably 30 years; but I have been retired for over 10 years, as well.

My whole concern about this, sir, is the way it was done, and how it may have affected individuals that Deputy Hadley may not want to have affected.

4405 So let us start at the beginning. This Report was commissioned as a routine report. This was not a special report to show how bad or good A&E was. It was commissioned because, routinely, services provided for HSSD are assessed on a five-year basis, whether it is anaesthetics, obstetrics and gynaecology, surgery, medicine, chemotherapy, etc. So that was why this Report was done – done free of charge and, actually it was not five years; it was six years.

4410 The other thing about this Report, and Deputy Kuttelwascher asked, why was it confidential? Well, because it is a *medical* report, that should be read by people who have *some* understanding of how medical terminology and communication is carried out. The problem is people who do not have medical training or some sort may interpret it differently from those who do have medical training.

The next point to remember, it says:

4415 ‘As with all service reviews by the Royal Colleges, these recommendations are gold standard of best practice in the UK. It is not always possible or appropriate to meet the full expectations of the Royal Colleges within a small Island context.’

4420 That is what I am trying to say. This is a medical Report that has to be proportionate to our Island situation. I have lived with this since 1984. Our problem is we only have, now, about 63,000 people. You cannot expect the same level of consultant hanging about as if you were serving a community of 300,000. That is factually correct.

4425 So Deputy Hadley took this Report and highlighted one important thing: the safety. Sir, I would like to suggest that Accident and Emergency department is an area of high risk. That is why it is called Accident and Emergency. You are at risk, because you have ended up in a situation where life may be at risk, because you have had an accident. But lots of people go up to A&E with minor problems – like if you have got earache –

4430 **The Bailiff:** Deputy Adam, I am trying to rein in some other people who are straying from the subject. I know you are speaking very passionately in favour of A&E, but you are also in danger of straying from the proposition that is before us in this.

4435 **Deputy Adam:** Sir, I am trying to explain why it is one has to be wary and why this might have been considered confidential by some and not by others, and therefore because it is a medical report as opposed to a general report.

My point of view, sir, is simply that if someone writes this report, as they have done, they are fully aware that there is quite a big risk of it being leaked to the media, and therefore their way of writing a report would be in such a manner that they accept that that happens on many occasions.

4440 **The Bailiff:** I understand.

4445 **Deputy Adam:** That aspect, sir, is one of the main issues that Deputy Hadley brought up was a safety factor. If you read the summary of this Report, it certainly suggests one area it might be beneficial to have a separate emergency medical practitioner, because of the problems of making sure there are sufficient during the night-time. My problem is that if you have too many consultants, you do not have sufficient cases for them to maintain their expertise. Therefore, the system that is in place in Guernsey is very apt for the Guernsey situation.

4450 **The Bailiff:** Deputy Conder.

Deputy Conder: Sir, with the utmost respect to Deputy Adam, he has strayed into an area –

4455 **The Bailiff:** I think he is now straying. Commenting on how many specialists we need in the A&E department, I think it is definitely straying into matters of the operation of that Department, which I have not allowed other people to go into, so –

4460 **Deputy Adam:** Yes sir, as you say, it may be straying into it, but again, this aspect of the standard doctors, which I am really concerned about being mentioned, they have quite a lot of extra training to serve in that department, so I just want the public to fully realise that it *is* a safe place to go, they get a good standard of treatment in that department.

The Bailiff: Well, you have made that point, Deputy Adam.

4465 **Deputy Adam:** Deputy Storey mentioned whistle-blower policy. A whistle-blower policy does not mean to say someone is putting their own job at risk. It is actually to prevent them putting their own job at risk, but it is not able to put something into the public domain.

I agree with Deputy Perrot, for once, (*Laughter*) in that the whole thing is slightly excessive and extreme.

4470 Deputy Lowe mentioned that Deputy Hadley had mentioned this at various meetings and work was done behind, because the initial Report came to the Board, then it was given to Capita to look at various options that might provide forms of provisional services and financing these services, and then it was sent to PCCL to discuss Capita's options etc, and then, some time I think in October, it came back with PCCL's comments.

4475 I agree that progress may not have been satisfactory. It is interesting that people say some things are more confidential than others. Yes, I accept that completely.

4480 I do not fully agree with the Report of the Special Commission on this document, as Deputy Hadley stated. The Report itself has no 'confidential' written on it. Yet, at the same time, my concern is what the outcome has been. Morale in A&E department has gone down because of it. The PCCL has had to come forward and make a case about their standards, which I have no problems with, but at the end of day, I will be actually staying sitting on the fence. I notice Deputy Gollop was going to sit on the fence, but then said he was going to vote for Deputy Hadley. I think we have to have respect for the Code of Conduct Panel, but at the same time, I feel it is not strong enough to warrant their end result, and thus I will be voting *je ne vote pas*, sir.

4485 **The Bailiff:** Alderney Representative Jean, then Deputy Ogier.

Alderney Representative Jean: Thank you, sir.

I am interested in this debate and I ask if you would just indulge me for a moment, although I am not going to actually vote on the debate.

4490 What I am interested in is the fact that you are using your Code of Conduct. I think that is really admirable, and I give great credit to this House for using the Code of Conduct. In Alderney, we have the Code of Conduct: we were given it in January. We were denied – two of us wished to use it in Alderney and we could not. I am told it is attached to your Review Law 1948 and that is how you use it. In Alderney, apparently we do not.. I am told the Review Law 1948 was never
4495 extended to Alderney, and this might be why we cannot use our Code of Conduct.

In due course, sir, I would like to come to you for an answer to those questions, but not at the moment. But I would like to say, I think it is a credit to this House that you are using your Code of Conduct, and I admire it enormously.

4500 Thank you, sir.

The Bailiff: Deputy Ogier.

Deputy Ogier: Thank you, sir.

4505 I am aware of what an uncomfortable procedure this must be, in particular for Deputy Hadley, so I will keep this brief.

I am comforted that we have Members of the Government who chase down issues with the passion Deputy Hadley does. We are a team and a strong team has a wide skill base, which means there is likely to be less risk of group think, more likelihood of all facets of an argument being considered and in short, it takes all sorts, and I am glad Deputy Hadley is one of this mixed bag of
4510 all sorts. I like knowing he is beavering away somewhere on something, with the desire to make things better, and there is room in our team of 47 representatives for such Members.

In order for our system to build trust between Members, and between Members and the public, we, and those who came before us, have laid down sets of behaviour, rules and procedures.

4515 Now, I am not saying we should all, without exception, follow the Rules blindly in every instance. We should not blindly follow them in all cases no matter what the circumstances. There is room for mitigation for example, and the Report explores that in paragraph 20, but concludes:

4520 ‘What Deputy Hadley singularly failed to do was to make any or any effective use of the parliamentary tools readily available to him...’

and goes on:

4525 ‘This lack of reflection on Deputy Hadley’s part meant that the ends he sought, whatever their merits, did not justify the means employed.’

(**A Member:** Hear, hear.) The Review Panel conducted their review, they gauged the mitigating factors and they made their recommendation accordingly. Having this considered view put before us, I cannot find a strong enough reason not to issue the reprimand.

4530 Deputy Conder bemoans the situation this Assembly once again finds itself in, having to turn its gaze inward, and he suggests we concentrate on being busy with the more important matters. But this is housekeeping. It needs to be done. To fail to deal with these kind of issues as they occur is to fail to keep the system we use in tip-top shape. It is like using a car to drive in and only drive in and always drive in, without doing any maintenance.

4535 As for breaking Deputy Hadley on the wheel, a reprimand – breaking? *Really?* Hardly! How strong does Deputy Conder believe a reprimand is? All this Assembly is doing is vocalising its desires that Members stick to the Rules, unless there are sufficient grounds to put them to one side momentarily, due to the seriousness of the issue at hand – something this Panel in this instance ascertained was not the case.

4540 I will vote to censure Deputy Hadley, not because of the reasons Deputy Hadley lists in his closing arguments, which are the only reasons anyone may seek to reprimand him. I vote to reprimand him not because I am secretive, not because I wish to waste money, not because I want to put lives at risk or any of the other items on the list Deputy Hadley suggested, rather manipulatively, were the motives behind anyone wishing to reprimand him – which itself tells me there is a failure to understand what is happening here. Those are not the reasons.

4545 The reasons are that: he broke confidentiality; there was not an overwhelming reason to do so in this instance – something the Conduct Panel were quite clear on; and there were still other methods to utilise.

4550 Whether this procedure is overkill: maybe; it has been described as a sledge hammer to crack a nut. Nevertheless, it is here before us and we cannot now shy away from answering the essential question asked of us, because we do not like the way we have been asked. I have been asked by

this Report, do I think Deputy Hadley should be told he is in breach of the Code of Conduct, and should he be admonished?

4555 I want to say, good work, Deputy Hadley, carry on digging, I am rooting for you, I applaud your work; but please stick to the procedures, unless there is an overwhelming reason not to do so. Thank you.

The Bailiff: Deputy Sherbourne.

4560 **Deputy Sherbourne:** Thank you, sir.

I think this is good housekeeping. I think that is exactly what we are doing. We are airing our own thoughts about a sentence; the trial is finished.

The Review Board made the decision and I am sure that, as one, we accept that decision.

4565 But like all sentencing processes, there is a time for mitigation, and I believe that the very extensive speech given by Deputy Conder, for me, was a very good analysis of the situation. That is also supported by Deputy Perrot's comments.

4570 Mitigation for me is crucial. I feel that, as a new Member of the States, one of the most difficult things to handle is the frustration of not really being able to have an impact; of not really being able to move things along at a reasonable pace. (**A Member:** Hear, hear.) So I identify totally with the frustration felt by my colleague Deputy Hadley.

We are not talking about a Report that was produced two or three months ago and published or distributed to a small number of people; we are talking about a Report that was distributed to a fairly large number of people, a good percentage of this Assembly, about 18 months ago. That in itself, in my mind, is a reason for mitigating the sentence.

4575 I think this has been good housekeeping, but it is also been unseemly, in that, once again, we tear ourselves apart over issues really that we should not be doing. In my mind, these issues should be handled maybe by the Chief Minister under a different circumstance – privately, not publicly. But, once again, the housekeeping has been worthwhile.

4580 Deputy Hadley has been subjected to, I do not know, an hour and a half of people either supporting or condemning him. I think enough is enough, and I think it is time for us to show that we understand that, on occasions, there is need for mitigation and certainly I, for one, will vote against the proposition.

The Bailiff: Deputy Green.

4585 **Deputy Green:** Sir, Members of the Assembly, I will keep this very brief as well.

4590 The essential question for me is how can a clear and perhaps technical breach of Rule 18A be reconciled with Rule 3 that Deputy Lowe referred to, which reminds us that the primary duty of Deputies is to act in the public interest? There is no definition of what to act in the public interest really means, in respect of our Code of Conduct, or specifically in respect of Rule 3. Following from that, there is no objective standard of the public interest, or rather how we judge what is acting in the public interest.

So when it comes to looking objectively at what Deputy Hadley did, it is difficult without that kind of set in stone objective test.

4595 Now, for me, I think what Deputy Hadley did in releasing that Report was for genuine reasons, I think it was for the very best of reasons. I think he certainly thought subjectively that what he was doing was in the public interest, and in the absence of a clear definition, in terms of whether the public interest or to act in the public interest is objective or subjective or anything in between, one has to give the benefit of the doubt to somebody in Deputy Hadley's position.

4600 That is not to condone the circulation of that Report. It was obviously a breach, that is accepted, but as Deputy Sherbourne has just emphasised, it is about the mitigation involved, and my view is that without condoning what Deputy Hadley did, clearly there is substantial mitigation that he can rely on, because he genuinely thought he was acting in the public interest.

I will be voting not to formally reprimand him on this occasion.

4605 **The Bailiff:** Deputy Bebb, then Deputy Le Tocq.

Deputy Bebb: I am little surprised at some of the comments actually said here today. I am the more surprised at the fact that I find myself siding wholly with Policy Council, which, as you know, is quite a strange position.

4610 Deputy Perrot – and then other Deputies have made reference to it – referred to this as being excessive, and questions have been asked in relation to the circulation of this Report. Well, the

Report was circulated by HSSD. The Report is owned by HSSD and the choice as to whom it should be circulated by should be the Department's and not individual Members'.

4615 People who contributed to that Report... and its finding were very important and it is essential that we keep that kind of openness and that kind of knowledge within our reporting. But the people who contributed to the Report contributed to the Report on the understanding that it would be kept confidential, that it would not be widely distributed into the public arena.

4620 I stood in the election on the whole premise of wanting a more open form of government. Of course, I then hit that very really tension, and it is a tension that we all face on a regular basis. I have requested of HSSD that any future reports that it commissions are written in such a manner that they *can* be publicly distributed, and when they are publicly distributed, they are written in a slightly different manner. The names of those people who contribute to the reports are held in a side letter; they are not put into the public arena. But we have to accept that by making reports public, we do run the very real risk that certain issues certain people do not feel comfortable with may not come to light. Therefore, we always face that tension between the need to be publicly open and the need to know exactly what is happening within the services that we commission.

4625 On this occasion, this Report contained the names of all of those people who contributed. Deputy Hadley had scant care for those people. He circulated the Report to all Members and then further, without consideration of the impact that that could have.

4630 I would therefore ask every single Member here – of which, I have made a calculation, I am happy to be corrected, but only seven Members at this point in time are not members of Departments and of those seven, a large number have been in the past a member of Departments – how many times have you come across a report within your own Department that has been confidential? Do you think that all of that information should be readily thrown into the public arena?

4635 I have a housing licence application and I thank Deputy Jones for not circulating my housing application. I have in the past been unemployed and I thank Deputy Langlois for ensuring that the details of those people who are unemployed are not put into the public arena.

4640 Each and every Department has very sensitive information, whether that be commercial or personal, and the leaking of information with scant regard to the effects surely is cause for censure. When we consider censure, I would ask you that what you are saying is that the actions are not in alignment with our form of Government, and as *Monsieur le Bailli* has actually said very clearly, that question is now not for us, because it has been settled.

4645 Deputy Ogier made very clear in his speech, and I commend him for it, and he made reference – various people have made reference – to paragraph 20 of the Report. Paragraph 20 of the Report states clearly that Deputy Hadley had a number of tools at his disposal that he chose not to utilise. That not utilising is a further sign, in my mind, of his disregard for due process.

4650 I fear that we are straying into the position where those people within the Health Service are now feeling that they might not have the confidence in order to bring things forward. I hear that Deputy Hadley in his opening address made reference to whistle-blowers, and I think that he even made reference to Mid Staffs. Mid Staffs was *horrific*: 1,200 people died because of failings within that system. Guernsey is in no way near that. It is so far removed. The services that are provided within the hospital, PEH are safe and comparisons with that type of situation simply move us into a situation that the public start to lose confidence in the health care service that is being delivered. I ask you to give due consideration to the people in Mid Staffs who were real whistle-blowers, who faced, regularly, situations of *horrendous* abuse of people.

4655 This process by Deputy Hadley undermines the ability of people to be open. Therefore, I ask you all very seriously to consider that this is a motion to censure someone for actions which were *not* in the public interest, and I would counter that they most definitely were not.

4660

The Bailiff: Deputy Le Tocq, then Deputy Dorey and Deputy Gillson.

4665 **Deputy Le Tocq:** Mr Bailiff, the last four speakers, Deputies Ogier, Sherbourne, Green and Bebb, have said a number of eloquent and very cogent comments that I particularly would agree with, even though, understandably, they are unlikely to vote in the same direction as one another.

But sir, Deputy Sherbourne particularly, I think, hit the nail on the head when he talked about frustration being at the root of this issue, because in my mind, the question regarding whether this Assembly should reprimand Deputy Hadley or not is already answered, that we should do that, and I do not see a reprimand as the big issue that some see it there.

4670 But to look at why that should happen, in my mind, and the reasons for Deputy Hadley doing what he did and why he is worthy of being reprimanded for it, it is not a question of whys and wherefores and whethers; it is a question of how. How he went about seeking to do what he

4675 wanted to do, in my mind was not appropriate and he did that, I believe, reading his report and, in fact, even listening to him on this issue, because he was frustrated and it is a frustration that I believe many of this Assembly can share.

It is a frustration because we see so many situations where we would like things to be speeded up. We would like answers more quickly to situations. We would like explanations to issues to be dealt with and the public feel that too. We are frustrated about that.

4680 Information, sir, is power. That can be from benign to potent power, but certain information, in the hands of people who do not have that context, do not understand the context of where that information sits, can therefore be dangerous and open to misinterpretation. Therefore we need to be careful when we perhaps understand certain things and have an interest in and a particular urgency about certain things, it may not be seen in the same way by other people and they cannot see it in the same context.

4685 Therefore, the way in which we handle that information is very, very important. That is why I believe, sir, we have a Code of Conduct and why it has been amended and changed, as it has and continues to do so, I hope, in the future – even perhaps as a result of this debate today.

4690 But certainly, Deputy Hadley was frustrated and yet, I have heard from Members of the Health and Social Services Department and its Minister himself, that he was equally frustrated, they were frustrated in certain aspects, and they were trying to come to terms with how they might produce information in a way in which it could be handled appropriately; but Deputy Hadley chose, if you like, to burst the dam on his frustration and to publish and be damned, in that way. That is probably because he could not wait any longer. He felt enough time had been given and others have alluded to that, particularly Deputy Sherbourne.

4695 But, sir, there is good reason, in a sense, that we want speedy answers to questions, but there are two things at least which mitigate against this in the current situation we find ourselves. Well, first is our current system of government: we want speedy answers and speedy decisions, but we have a committee system of government, which means that if we want to find out how we should respond to something, we have to get everybody together, we have to have reports and things, everybody needs to discuss it, and that will take time, inevitably. It cannot happen as quickly as one Member may want it to happen.

4700 The second is we are a small jurisdiction and we do have limited resources and limited staffing. I remember, sir, one of my first experiences, I think, was on Education Council, where we met with members of a UK county council responsible for education. We had a number of issues to deal with and during the time, the few hours we were together, various different people came into the room, for their side to deal with different items of the agenda, but we stayed the same. We were the same people dealing with multiple different parts of the agenda. That is because we are a small jurisdiction and we have to, therefore, realise that that will mean things will take longer to work and our frustrations therefore need to be channelled in an appropriate way.

4710 It seems to me, sir, that Deputy Hadley was not willing to do those, to exercise that sort of judgement and discipline, and to work in that way, which would mean that he perhaps would have undertaken a campaign of further questioning or put a Requête together; but it seems to me that would have been a far more appropriate way than the way he chose to go about it, and we cannot, if we are going to have discipline, let that be a pattern that is reproduced for everyone to do that, unless we want to see major changes to the way in which this Government runs, and maybe we do, but that is for another day.

4715 So, sir, I am just saying that I would underline the fact that I will support the proposition before us a recommendation that Deputy Hadley is reprimanded, on the understanding that that is an appropriate response to the action that is taken, and it has been already decided by the Panel.

4720

The Bailiff: Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

4725 I would first like to comment on the SACC Report, and I would like to comment on paragraph 7 of that Report, where it states that:

‘...normally submissions made to an Investigation Panel are not published in the Billet d’État containing the Panel’s findings.’

4730

I think that submissions should not be published and it was a poor decision to publish that letter from Deputy Hadley in the Billet. The Billet is an official Government document and it should not contain the significant inaccuracies, misrepresentations and criticism of staff such as

Deputy Hadley's letter, without an opportunity given to the accused to dispute and correct those wild allegations in the same Billet.

4735 If you had a Requête, you would automatically have a Department's opportunity to put in their letter of comment. That did not exist and I do not think, from a point of fairness, that that was right.

4740 Many people have mentioned staff, but I have spoken to the staff and some of them are really demotivated by these comments that have been made, which are wholly inaccurate, and I think it is unacceptable. I really ask SACC to very seriously consider – because I notice they say in the Report they are considering changing the Rule – that if they are going to do that, they are going to have to allow the people who are criticised in letters to have opportunity of reply within that document of the Billet.

4745 I am also concerned about the process followed by the States Code of Conduct Panel. They received the written submission from Deputy Hadley, which is included in the Billet and I have just referred to, and it says 'and further oral submissions'. It seems that they have not had any information to correct the gross inaccuracies in Deputy Hadley's letter, and again from a point of fairness, I do not think they should reach conclusions, just hearing those accusations, without having the opportunity for them to be corrected.

4750 I will now try and pick up some of the comments made in the debate, and there is one comment which has been mentioned several times, which is about the distribution of the Report. I think Deputy Perrot said it was not Uncle Tom Cobley and all, but just Uncle Tom Cobley.

4755 I have the e-mail which was sent on 6th September 2011. It was sent to 15 people: 12 of them were the participants who were interviewed for that Report, so you would naturally expect them to be given a copy of the Report. Many of them are the heads of the sections that were interviewed and, as you have all got copies of the Report, you will see that often there are several names on one line. What has tended to happen is that one person on each line has been given the Report, not consistently all the way through, but that is mostly how those names are there.

4760 There are three other names who are not listed on that list of participants. Two of them were in very senior positions at HSSD and obviously, you would expect them to have that Report, and one of them was the Chief Executive of the MSG and, obviously, a number of the MSG consultants were interviewed. I presume it was on the basis that he would then distribute it to those consultants.

4765 So I hope that has clarified that it was not, as people said, widely distributed; it was distributed to the people who had participated plus very senior managers.

Deputy Hadley has mentioned and he has supposedly quoted comments I have made about safety. Every comment he seems to quote from me seems to be slightly different, which is not accurate.

4770 Safety – and I know I will try not to go into A&E, but I think Deputy Hunter Adam spoke about safety – what I have said in the past and the advice that I have been given, the service is safe. But safe is relative: you can always be safer and we could be safer; we could have more consultants, but as Deputy Adam said then they would have very little work to do. It is a balance, isn't it? It is a balance between making sure you have the service, you have those people who can come in, when there is the need to, and how much it costs. We cannot put all our resources into one part of the service; we have to have a balance across the Department.

4775 Lives at risk were mentioned: well, I am just amazed that the comment can be made and that has been one of the reasons why this has been distributed. This Report was produced 17 months before it was distributed by Deputy Hadley. If there was really concern with lives at risk, if that was his real concern, why did it take him 17 months before he distributed it?

4780 The Report tells us it was done on the spur of the moment. I think it was a lack of patience – but I will come back to that later.

4785 The Data Protection Officer has been mentioned. Let us make it clear that we as a Department were given legal advice that it is our responsibility as the owners of that Report to notify the Data Protection Officer, so we fulfilled the legal advice that we were given as a Board and it was not, as some people have said, to make a complaint; it was to notify that, potentially, there was personal data had been distributed. That was the legal advice, we were told we should do that and we did. I cannot tell you what the reply is from the Data Protection Officer, because she has not given us permission.

4790 Mention has been made of staff time. One of the results of this Report coming out and the questions that HSSD has received by Rule 5 and Rule 6, and the very significant media attention has been put to it, is that instead of progressing the service, we have basically stopped because our staff has to do many other jobs in a day, and A&E is one of them that the senior management staff,

and their allocation for that has been used up concerning the media enquiries and Rule 5 and Rule 6 questions. So it has affected our progress on trying to develop the service.

4795 Perhaps Deputy Fallaize will reply, but Deputy Conder said, what happens if SACC do not agree with the outcome of the Report? Well, quite simply, they could present the Report but any two members could try and amend the proposal.

4800 Deputy Gollop, if you do not like the Rule proposed, you should change it. It is simple that if you do not agree with a Rule, change it. But we have a Rule, it is quite clear, it has been clarified and I think he spoke about that it came out of the publication by a member of the Policy Council, I think in 2007, of what is called the Fallagate minutes. I do not think that is correct. I think this Rule was introduced because of actions by Deputy Hadley, where he distributed, I believe, a report about the wheelchair service and it was necessary to clarify the Rule. Now, the House – and I will come back to it – voted on that to clarify the Rule.

4805 Deputy Trott said that he would not do it in future. I am not convinced by that, because I think Deputy Hadley has spoken in the media and I have heard that interview run more than once, saying he would do it again.

4810 I will come back to my speech. I have heard the word ‘whistle-blower’ used frequently leading up to this debate, in this debate and in the Report. I do not think I have ever heard of a whistle-blower who had a copy of a report for seven months and could have, as a Board member, at any time in that period, proposed to make it a non-confidential report, to be made public, but did not. Not to mention the further 10 months since then, where Deputy Hadley could have used, as Deputy Ogier has spoken and as mentioned in the Code of Conduct Report, the various parliamentary tools to make it happen; but he did not.

4815 Just going back over some the key events, in September 2009 during a debate on the SACC proposed change to the Code of Conduct Procedures, to add Rule 18A, in order to clarify the definition of confidential information, Deputy Hadley did not speak, except to propose a guillotine motion which was unsuccessful. The vote was a called vote and, from listening to a recording, it was almost unanimous. Perhaps there was one or two voices voted against it.

4820 So the States, the previous Assembly, very clearly voted that they thought this Rule needed to be clarified, as Rule 18A has done.

4825 As I said on 4th October 2011, the HSSD Board, including Deputy Hadley who was present, considered this College of Emergency Medicine Report on A & E. The paper which was presented to the Board was marked ‘confidential’, which had the Report attached to it. According to the minutes, there was no proposal resolution to make that Report non-confidential.

I asked the staff to look back through the minutes, to see if there were any other references to the Report: they only came up with two, but I accept what Deputy Lowe has said.

4830 On 5th April 2012, the HSSD Board, again including Deputy Hadley who was present, again considered A&E. The paper presented to the Board on that subject was again marked ‘confidential’, so it was absolutely clear to Board members that this was confidential and if they wanted to break that confidentiality, all they had to do was propose a resolution, make a proposal to the Board. According to the minutes, there was no proposal or resolution to make that Report non-confidential.

4835 So effectively, at those two meetings, Deputy Hadley and the other four Members of that Board agreed it was confidential.

4840 Deputy Kuttelwascher asked why the Report was confidential. It was that Board which decided, which included Deputy Hadley. Deputy Kuttelwascher also said that Deputy Hadley had been banging on about it being published. Well, he decided that it was not going to be published; he decided it was confidential at that time, when he was a Board member.

I contrast that to you what the new HSSD Board has done. Deputy Hadley asked me to publish it during the 2020 debate in January. I said – and I have paraphrased what I said, and you can go to *Hansard* to get the exact words – I had not read it, but I would read it and we would release it when we could; but it would be a shortened version, as I understood it contained confidential information.

4845 So, somewhat ironically, I am now in the position, defending the decision made by a previous Board, which included Deputy Hadley, to treat the Report as confidential, although I fully agree with the previous Board, as the College of Emergency Medicine Report was meant to be confidential and it was not to be generally published. If it is to be published, a proper process must be followed that respects the confidentiality of the contributors.

4850 So in fact HSSD had already decided on 20th February of this year, to release the Report or parts of it, provided that PCCL – Primary Care Company Limited – the College of Emergency Medicine and the contributors gave permission. We were in the process of contacting them in

order to obtain that permission, when Deputy Hadley impetuously, in my view, made the Report public.

4855 HSSD was following the correct process to publish a report that was never originally intended to be published.

I say to Deputy Conder, there is a proper process to make things public; we were going to follow that process. I do not believe that we as an Assembly can just have people who – and I use the word, ‘impetuously’, and in the Code of Conduct Report, it says ‘on the spur of the moment’ – can just throw those Rules aside and publish it, without any respect for the people who have written that report and contributed to it.

4860 I contrast that with another report which HSSD has commissioned, and HSSD and T&R are due to have a presentation on it tomorrow, after the States meeting, and which we intend to publish because we have decided before the report was commissioned, and the authors and contributors know, it will be published. So we started off on the point that it will be published.

4865 Now, because it is going to be published, staff have spent an awful lot of time making sure the language is right. This was not done on the College of Emergency Medicine Report, because we did not expect it to be publicly published. If we had done that, the staff have informed me they would have spent a lot more time with the College making sure the language was right and fit for public publishing.

4870 Government, like any organisation, has to be able to have confidential reports and in certain situations, contributors to any report have to have confidence in the confidentiality of the report to be able to provide the frank and candid input that is so important. It is interesting that the Private Care Company Limited were assured that the Report would be confidential, when they gave their remarks to that report.

4875 Such confidentiality means that politicians can make decisions on reports that do contain all the necessary and vital important information. The public and the media at times have to have confidence that their elected representatives will be able to make better decisions for the good of this Island, with the information contained in a confidential report, instead of having a toned down report suitable for media publication.

4880 If Deputy Hadley does not agree with the Rules, he should try and change the Rules. I have said that he did not challenge them when they were introduced. He cannot, in my view, on the spur of the moment decide to just set them aside, showing no patience when the new Board were committed to publishing that Report.

4885 As we are told in the Report, he cannot decide that the Rules do not apply to him. Sorry, that is the Report from the Code of Conduct. He just cannot make that decision. If he suddenly does not support the proposition, then he is effectively saying that it is okay for an individual Deputy to decide at any point in time if a report is confidential or not confidential. If that is so, we must change the Rules, so that civil servants and politicians know there is no such thing as a confidential report, and I think Government will be severely affected by that.

4890 I conclude by asking Members to support the proposition.

The Bailiff: Deputy Lowe.

4895 **Deputy Lowe:** Sir, just in the interest of clarity really, because it was very much about confidentiality of a report that went to HSSD. I think it is fair to say that every piece of paper that went to HSSD was marked confidential. It did not matter whether it was a piece of new art work or anything, and I raised it several times, could they just actually stamp things that were confidential, because the electronic version was not.

4900 **The Bailiff:** I am not sure that was... do you wish to respond to that?

Deputy Dorey: I have said it very clearly, I have seen the Report that went to the Board when it was considered the College of Emergency Medicine Report. It had ‘confidential’ on the front of it and the Report was attached to it.

4905 **Deputy Hadley:** With respect, sir, on a point of clarification, I think the point Deputy Lowe is trying to make is that we did not resolve that this Report was confidential; it was just routine that everything was confidential.

4910 **The Bailiff:** You can make that point in your reply, Deputy Hadley.
Deputy Gillson.

4915 **Deputy Gillson:** Sir, firstly, it is interesting that Deputy Dorey has criticised SACC for appending the letter because it is the view of one man and if it were a Requête, I think he said it would need seven signatures.

By way of comparison, it is interesting how Deputy Dorey is happy to submit to this meeting the MOH Report, which is the view of one man, a Report that HSSD will not and should not have any influence in. The principle should be the same for all documents.

4920 I am the Vice-Chairman of SACC and I would like to state very strongly that I believe that, in making his speech, Deputy Conder has not compromised SACC in any way. He has an absolute right to say what he said and to vote how he wants to vote and I fully support that right, and absolutely no apology is needed from him for doing so. (**Several Members:** Hear, hear.)

4925 I will now criticise Policy Council, (*Laughter and interjections*) and more specifically part of their letter of complaint, and in particular paragraph 2 of section 5, in which they refer to the Data Protection Act and say 'which is *potentially* a breach of the Data Protection Law'.

A Code of Conduct complaint is a very serious issue. Anyone making such a complaint must take the act of making that complaint very seriously and ensure that anything within the complaint is true and accurate.

4930 That is why I criticise the Policy Council for including an argument of a *potential* breach, which, at the time of their letter, was not proven and has subsequently been found to not be a breach. That section of the complaint, I think, is very unworthy of the Policy Council.

4935 Sir, this is very short. I came here with the intention of not supporting the proposition, but having heard some of the speeches, especially Deputy Ellis Bebb's and Deputy Dorey's – most of Deputy Dorey's – I will now support the proposition.

Thank you.

The Bailiff: Thank you. Deputy Langlois.

4940 **Deputy Langlois:** Thank you, sir.

Here we go again. I think this afternoon we have confused process and the rather simple and straightforward matter in hand. I have got sympathy with comments made by Deputy Conder about the image this gives the outside world: we have often got to live with that, unfortunately, but it is a problem. I have got sympathy then with Deputy Sherbourne, who said, 'Well, surely we have got the... we know where we should be going with this now, it is fairly straightforward, can we get on with it?', and I know I am adding to it by a brief intervention now.

4945 But, sir, we do have Rules and systems. There is a set of Rules and systems that runs this place and they are designed to make this place work. Then along comes a case, and regardless of the rights and wrongs of it and the value of it and so on, we suddenly decide to spend quite a long time questioning the system and questioning the decision.

4950 I am very used to decisions having been questioned, because I used to have an occupation which involved yellow cards and red cards, and a number of people in this place actually will remember that, both – (*Interjection and laughter*) Well, there you are, you see, sometimes people protest because their memories are poor – (*Laughter*)

4955 **A Member:** Are we in extra time, sir?

4960 **Deputy Langlois:** Sir, I am not making light of this, and before anybody else accuses me of making light of this, there are considerable parallels here, because refereeing is all about a set of rules as a method of trying to control behaviour in a fairly involved and passionate situation. A referee can have a word with somebody, issue a caution, they can issue a yellow card or they can issue a red card, as we know, and some in here will remember those processes with me involved and, in fact, sadly with them involved.

4965 A referee does not... there are two things they do not do. They do not write the rules. They do not write the rules of the game. Those are written for them, the laws, and they do not write the rules, any more than our Independent Conduct Panel wrote the Rules. We asked these people to do a job, we gave them the Rules and they did the job.

4970 In addition and subject to considerable back chat in the red and yellow card situation, I have never seen a situation in a game where either a decision was questioned or an event happened where everybody said, 'Well hang on, let us take time out and let us change the rules and play the rest of the game under different rules.' It is not the way it works.

So enough of that fairly light-hearted parallel. Let us look at the facts that we have got here.

On page 981, we have got a carefully balanced and highly regarded Independent Panel who have produced a Report with the knowledge of the Rules and with valuable knowledge and

4975 experience of both law and Government. That is a group of people who were selected to do that job and they have done that job honestly, and they have made a very clear recommendation, an absolutely clear recommendation.

On page 974, we have got a report from one of our own Committees who appear to support the panel unanimously, although there are some comments gone round this afternoon that shed some doubt on that, but nevertheless, they are still supporting that recommendation, even if it is by a majority.

4985 Now, sir, my concern about the way this debate has gone is that it may leave a level of uncertainty that will place that type of panel and that type of process at risk in future, unless we change the Rules. Surely the Panel, the Committee, and any of their successors will question their whole purpose and the purpose of their activity, if we reject their recommendation this afternoon on what has been said. We must give a clear signal to all Members. This is not... As it happens, it is aimed at a single Member here, because that is the way it works within the Rules; but surely, every time that somebody waves a yellow card, it is a clear signal to all players that, if they do not abide by the Rules, various things happen.

4990 I ask for that reason that, unless we intend, via a Requête or a submission to SACC or some other mechanism which is available to us, to come back and say 'the Rules are wrong, let us change them', can we see this one off and ask Members to support the recommendation as written.

4995 **The Bailiff:** It has now just gone 5.30. Can I just have an indication, does anyone else wish to speak? Yes, well, there are several speeches, then Deputy Fallaize has to reply and before that Deputy Hadley will have another right to speak.

I suggest we rise now and resume at 9.30 tomorrow morning.

The Assembly adjourned at 5.34 p.m.