



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 29th April 2015

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

Law Officers

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St. Peter Port South

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R. Domaille, A. H. Langlois, R. A. Jones

St. Peter Port North

Deputies J. A. B. Gollop, P. A. Sherbourne,
R. Conder, E. G. Bebb, L. C. Queripel

St. Sampson

Deputies G. A. St Pier, K. A. Stewart, P. L. Gillson,
P. R. Le Pelley, S. J. Ogier, L. S. Trott

The Vale

Deputies M. J. Fallaize, D. B. Jones, L. B. Queripel, M. M. Lowe,
A. R. Le Lièvre, A. Spruce, G. M. Collins

The Castiel

Deputies D. J. Duquemin, C. J. Green, M. H. Dorey,
B. J. E. Paint, J. P. Le Tocq, A. H. Adam

The West

Deputies R. A. Perrot, A. H. Brouard, A. M. Wilkie,
D. de G. De Lisle, Y. Burford, D. A. Inglis

The South-East

Deputies H. J. R. Soulsby, R. W. Sillars, P. A. Luxon,
M. G. O'Hara, F. W. Quin, M. P. J. Hadley

Representatives of the Island of Alderney

Alderney Representatives L. E. Jean and S. D. G. McKinley, O. B. E.

The Clerk to the States of Deliberation

A. J. Nicolle, Esq. (H.M. Deputy Greffier)

Absent at the Evocation

Miss M. M. E. Pullum, Q.C. (H.M. Comptroller)
Deputy M. K. Le Clerc, (*relevé à 9h 56*); Deputy M. J. Storey, (*indisposé*);
Deputy S. A. James, M. B. E., (*relevée à 10h 11*)

Business transacted

Evocation	867
Convocation	867
Statements	867
Lasting Powers of Attorney – Statement by the Chief Minister	867
Aurigny Aircraft Acquisitions – Statement by the Treasury & Resources Minister	869
Waste Strategy Implementation – Statement by the Public Services Minister	874
Questions for Oral Answer	878
Coastguard Service – Joint Emergency Services Control Room	878
Cruise Line Tenders – Safety of landing site	882
Cruise liner tender – Berthing point and Ports Master Plan	887
Billet d’État VII	890
I. The Pilotage (Amendment) Ordinance, 2015 – approved	890
II. The Machinery of Government (Transfer of Functions) (Guernsey) (Amendment) Ordinance, 2015 – approved	891
III. The Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 (Commencement) Ordinance, 2015 – approved	891
IV. The Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015 – approved	891
V. The Income Tax (Guernsey) (Approval of Agreement with the British Virgin Islands) Ordinance, 2015 – approved	892
The Yemen (Restrictive Measures) (Guernsey) Ordinance, 2014; The Crimea and Sevastopol (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2014; The Cremation (Longue Hougue Facility) Ordinance, 2015; The Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 (Commencement and Amendment) Ordinance, 2015; The Aviation Registry (Interests in Aircraft) (Guernsey) Ordinance, 2015; The Côte d’Ivoire (Restrictive Measures) (Guernsey) Ordinance, 2015; The Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015	893
The Fees, Charges and Penalties (Airport Fees) (Guernsey and Alderney) Regulations, 2015; The Harbour Dues and Facilities Charges (Guernsey) Regulations, 2014; The Mooring Charges (Guernsey) Regulations, 2014; The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) Regulations, 2015; The Land Planning and Development (Plans Inquiry) (Amendment) Regulations, 2014; The Public Highways (Al Fresco Licences) (Fees) Regulations, 2014; The Liquor Licensing (Fees) Regulations, 2015; The Boarding Permit Fees Order, 2015; The Health and Safety (Fees) Order, 2015; The Offences (Fixed Penalties) (Guernsey) Order, 2015	893

Billet d'État VIII	894
I. Education Department – Election of a new Member – Deputy Hadley elected	894
II. Environment Department – Election of a new Member – Deputy Bebb elected	894
Billet d'État VII	895
VI. Review of Public Sector Pension Schemes – Debate commenced	895
<i>The Assembly adjourned at 12.44 p.m and resumed at 2.30 p.m.</i>	922
Billet d'État VII	922
VI. Review of Public Sector Pension Schemes – Debate continued – Propositions carried as amended	922
Billet d'État VI	948
VII. Rules of Procedure of the States of Deliberation, The Rules relating to the constitution and operation of States' Departments and Committees and related matters – Propositions carried	948
<i>The Assembly adjourned at 5.45 p.m.</i>	970

States of Deliberation

*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*

[THE BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCATION

CONVOCAATION

The 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 April 2015 at 9.30 a.m. to consider the items contained in Billets d'État VII and VIII which have
5 been submitted for debate.

The Bailiff: Well, Members of the States, good morning to you all.

STATEMENTS

Lasting Powers of Attorney – Statement by the Chief Minister

The Bailiff: We start this meeting with a number of Statements, the first of which is not listed on the Agenda that was circulated yesterday. It is a Statement to be delivered by the Chief
10 Minister on lasting powers of attorney.
Chief Minister.

The Chief Minister: Thank you, Mr Bailiff.
Thank you for the opportunity to make a Statement updating the Assembly on the work that is
15 being undertaken on the Requête on lasting powers of attorney.
States' Members will recall that, after consideration in May 2014 of the Requête signed by
Deputies Perrot, Lowe, Brehaut, Trott, Sherbourne, Hadley and Brouard, the Policy Council was
directed to investigate the introduction into Guernsey of lasting powers of attorney and to report
back to the States by June 2015.

20 As part of the work that has gone on in the Disability and Inclusion Strategy that the States
agreed in November 2013, the Health & Social Services Department has been taking the lead on
the mental capacity work stream, of and under which the work on lasting powers of attorney
forms a core element.

25 It is intended, therefore, that the capacity legislation will cover areas such as: deciding whether
or not a person has capacity to take a decision; allowing a person to appoint another person to

act on their behalf to take decisions in their best interests, should they lose capacity – which is the provision for lasting powers of attorney; allowing a person to take legally binding decisions regarding their medical treatment, providing for advance decisions, including decisions to refuse treatment, should they lose capacity; what can be done when a person has lost capacity without
30 appointing another person to take decisions on their behalf or without making legally binding decisions regarding their medical treatment; what restrictions might be placed on people who lack capacity; and, finally, what safeguards need to be put in place to ensure that a person's best interests are being met when someone lacks capacity, which would include deprivation of liberty safeguarding, sometimes referred to as DOLS.

35 Lasting powers of attorney is, therefore, an integral and important part of the work on capacity legislation.

The legislation being developed will allow the best interests of the person concerned to be kept at the heart of all decision making; put in place better decision making support for people who would struggle to make decisions; and provide better protection that their wishes will be
40 respected should they lose capacity.

It will result in greater transparency and accountability for people making decisions on someone else's behalf, providing a system to ensure that the most appropriate person is making the best decisions, in the best interest of a person lacking capacity.

A consultative workshop in February this year, attended by over 50 people, has already
45 provided information and insight into the areas to be covered by the legislation and further discussions are planned regarding the administration of the legislation.

In June, some Members of this Assembly attended a presentation on the proposals for capacity legislation and had a chance to provide their initial views on the work being undertaken.

When the Disability and Inclusion Strategy was debated in November 2013, it had been
50 envisaged that, while some exploratory work would be undertaken in 2014 and 2015 on capacity legislation, it would be some considerable time after January 2016 before the States would be asked to consider any report on this matter.

I am pleased to say that the work on capacity legislation, led by the Health & Social Services Department, has progressed ahead of this time and a States' report is planned for consideration
55 by this Assembly on capacity legislation in its entirety in the last quarter of 2015.

With this timeframe in mind, to take forward proposals for lasting powers of attorney as a separate States' report, in isolation, would not be in the best interest of resources and would delay the overall consideration of capacity legislation.

However, at the same time when the legislation is brought to the Assembly, serious
60 consideration will be given as to whether certain areas could commence earlier than others, as it is likely that the provisions for lasting powers of attorney will be less complex than some other areas of the legislation, with little or no subordinate legislation and, consequentially, less education and training required. In these circumstances, the provisions for lasting powers of attorney might be commenced ahead of other areas of the legislation, should the States agree to such proposals.

65 To conclude, I believe that progressing capacity legislation in its entirety is the most positive way forward. This had not been envisaged as possible in the timeframes now proposed when the Requête was agreed in May 2014. I am, therefore, happy to provide this Statement, on behalf of the Policy Council, on the progress of the work on the capacity legislation including the provisions for lasting powers of attorney.

70 Thank you, sir.

The Bailiff: Members of the States, are there any questions arising from that Statement?
Deputy Gollop.

75 **Deputy Gollop:** The Chief Minister alludes to coming back to the States due to the good work that has been done. Will this report be focussed on both legislation relating to disabled people's rights and equality, and also perhaps the wider elements of a cohesive mental health strategy?

The Bailiff: Chief Minister.

80 **The Chief Minister:** My understanding is that it will include broader outlines, as I indicated there, and that is why in terms of legislation regarding lasting powers of attorney they best fit within the overall arguments and framework for that legislation.

The Bailiff: Deputy Bebb.

85 **Deputy Bebb:** Thank you, Monsieur le Bailli.

I welcome the news of the Chief Minister, as actually announced this morning, that proposals will be much sooner than first anticipated. However, much as the Assembly will welcome such a report, the truth is that until the legislation is passed, members of the public will still be in the position that they are in today of not being able to direct their future treatment.

90 Therefore, could I ask if the Chief Minister is able to indicate when legislation is likely to, at the earliest, be available to address any part of this matter; and if he is not able to say when the legislation is most likely to be available now, would he give an assurance that he would actually indicate that timescale at a later point in time in other communication?

95 **The Bailiff:** Chief Minister.

The Chief Minister: I thank Deputy Bebb for his question and of course it is quite relevant that the speed of our ability to pass legislation and then see it enacted is important in this instance.

100 As indicated in my Statement, it is certainly envisaged that regarding lasting powers of attorney that could be on our statute books quicker than other parts of the legislation. However, I cannot give dates specifically at this time, but I will report back.

Aurigny Aircraft Acquisitions – Statement by the Treasury & Resources Minister

The Bailiff: I see no-one else rising so we will move on to the second Statement, to be delivered by the Treasury & Resources Minister, concerning Aurigny Air Services and the subject of aircraft acquisitions.

105 Deputy St Pier.

Deputy St Pier:

Thank you, sir.

110 Mr Bailiff, at its meeting in May last year, the States will recall that it agreed to authorise my Department to make loan finance available to Aurigny to enable it to proceed with the acquisition of new and used Dornier aircraft.

This, of course, was to secure the ongoing operation of the airline's essential lifeline services to and from Alderney and I would like to briefly update the Assembly today on the current position with this project.

115 At the time of the debate, of course, the States were advised that Aurigny's plans to replace the Trislanders envisaged the following staged process.

The first stage involved the acquisition of three second-hand Dorniers as an interim arrangement. At that time, it was not anticipated that new aircraft would be available until the end of 2016.

120 In addition, the Department did not believe that Aurigny should be investing in new aircraft until such time as the States had made a decision about the possible extension of the runway in Alderney and the consequent possibilities this would offer for the introduction of larger aircraft.

125 But Members will, of course, recall that the States has subsequently decided last December
against such an extension for the time being.

At that time last year, Aurigny was forecasting that its Alderney services would lose in the region of £900,000 per annum. It anticipated that the introduction of the second-hand Dornier aircraft on the Alderney services would improve the financial performance of the routes by around £100,000 per annum.

130 In its 2015-16 budgets for the Alderney services it anticipates a further improvement in the performance of the routes, largely of course as a result of the fall in oil prices, with the overall loss on the routes currently anticipated to be around £700,000.

Moving on to the second stage, this envisaged the replacement of two of the three second-hand aircraft with new Dorniers at an estimated cost of £6 million per aircraft. The third second-hand aircraft would be retained primarily for back-up and peak period purposes. However, my Department did make it clear that any decision to purchase new aircraft would still, of course, be subject to its agreement based on a detailed business case from the airline.

135 It is fair to say that the acquisition of the second-hand Dorniers has been a frustratingly slow process for all interested parties, not least of course passengers seeking to travel to and from Alderney.

The availability of such aircraft of a suitable quality on the second-hand market has been much more limited than anticipated. However, at the current time, Aurigny has acquired one aircraft and is close to acquiring a second, with loan finance provided by my Department, and it is anticipated they will both be fully introduced into service during the second quarter of this year.

145 In anticipation of that, the airline has made excellent progress in training its crews and engineers. It has also of course been undertaking extensive work with the regulatory authorities to transfer these aircraft onto its own Air Operator's Certificate and anticipates being able to complete this process within the next three to four months.

However, unfortunately, despite an exhaustive search, a third used aircraft has not yet been identified as both being available and suitable for purchase.

150 But Aurigny has now been advised by the manufacturer of the Dorniers, RUAG, that a potential option has recently become available to accelerate the delivery of two new aircraft – one in the third quarter of this year and another in the second quarter of 2016 – following the possible deferral of an order by another operator.

155 Aurigny has, therefore, approached my Department with a proposal to acquire these new aircraft should they become available on this basis. In considering the matter, the Department has weighed up the following factors.

160 Firstly, there are of course absolutely no guarantees as to how long this option from RUAG will remain available and, should the option arise, a failure to exercise it in a timely manner could result in a lost opportunity.

Secondly, Aurigny requires a fleet of three Dorniers to enable it to retire its elderly Trislanders and to secure the future operation of its Alderney services. At present, it has only been able to acquire two.

165 Thirdly, as I have already noted, the States has now decided against an extension of the runway in Alderney, meaning that the Dornier is an appropriate aircraft for the facilities there for the foreseeable future.

170 Fourthly, whilst the operating and maintenance costs of the new aircraft will be lower than the second-hand ones, these benefits will be outweighed by the additional costs of ownership, particularly depreciation. So the net additional cost of operating each new aircraft in terms of interest and depreciation will be around £300,000 per annum.

Fifthly, the States agreed last December to direct the Commerce & Employment Department to investigate options for safeguarding the routes to and from Alderney. Whilst my Department strongly supports the need to undertake this work, it also recognises that some of the options under consideration could involve putting the services out to tender, with the risk that Aurigny loses the services to another operator and is left with surplus aircraft.

So, in the face of this mixed bag of considerations, my Department is clear that the overriding factor must be the needs of Alderney and the wider Bailiwick. We have talked extensively in this Assembly over the last year or so about the challenges of economic decline and depopulation which are being faced in Alderney.

180 In debating both the report on the Airport and Economic Development in Alderney last December and, more recently, the Personal Tax, Pensions and Benefits Review, we have acknowledged that Alderney's problem is Guernsey's problem and that intervention was needed to help stimulate and sustain its economy.

185 We all recognise the undeniable significance and importance of air links to Alderney's social and economic wellbeing. Without doubt, the important work being undertaken in Alderney on the development and implementation of its Economic Development Plan will be substantially prejudiced in the absence of secure and reliable air links. So my Department's view, which I think is reflected in the tenor of the debates which we have had in this place, is that these must be a priority.

190 Against the background of all of this, I would like to advise Members that my Department has agreed that Aurigny should enter into contract negotiations with the manufacturer, RUAG.

In accordance with the authority previously provided by this Assembly and subject to the outcome of these negotiations, my Department has also agreed to provide Aurigny with the necessary loan finance so that the airline can proceed with the acquisition of just a single new 195 Dornier aircraft that will then provide it with the fleet of three aircraft it requires to maintain its essential air links to Alderney and, yes, to retire the venerable Trislanders.

For reasons of commercial confidentiality, of course, I am unable to divulge the anticipated purchase price of the new aircraft, but I can confirm that it remains within the range of costs that was presented to the States in the Department's report last year.

200 The acquisition of this single new aircraft will increase forecast losses on the services to a total of around £1 million per annum, excluding any exceptionals.

I am aware, sir, that there may be concerns that the increased ownership costs that are associated with this new aircraft will be passed on to passengers through higher fares, in order to reduce the losses on the services. Clearly, this would be counterproductive to Alderney's economy. 205 So as an interim arrangement ahead of the completion of the work on options to safeguard its services, via the Commerce & Employment Department, my Department has committed to entering into a Memorandum of Understanding around Alderney service levels, which will include a mechanism to provide assurance that fares will not increase as a result of this acquisition.

210 Looking slightly further ahead, I can confirm that it is my Department's intention to report to the States in the third quarter of this year on the recapitalisation of the Aurigny Group in order to address its accumulated losses and future working capital requirements.

Members will be well aware that the airline industry is a dynamic and fast changing environment in which Aurigny operates. The States' report on recapitalisation will therefore enable my Department to update the States on the impact of the many changes which Aurigny has faced 215 over the last two years, including not only the retirement of the Trislanders and the introduction of the Dorniers, but also of course the introduction of the jet service to Gatwick and the launch of the City service and so on.

Thank you, sir.

220 **The Bailiff:** Alderney Representative Jean.

Alderney Representative Jean: Thank you, sir.

225 I am interested to see that the figure for the deficit has been brought down to 700,000. This was questioned at the scrutiny and review hearing by Charles Parkinson and it is not a quantifiable figure – or it has not been quantified without the publication of the accounts for Aurigny. Perhaps that is something that should be pursued as this is a public company.

230 I would also like to point out that when one addresses the shareholding – and this is something that I know Mark Darby is having a problem with... Mr Darby, sorry, that was impolite – but we are actually part of the shareholding as well, as the company itself was bought from the General Revenue pot.

I am pleased to hear that the Dorniers are on their way. The sooner they come the better, because I believe also that in amongst the £700,000, the figure left, which I will address in a minute... the fact that you say the cost of the operation of the Dornier – which obviously has two pilots, only one single Dornier – goes up to £1 million and I will address that now.

235 The point about –

The Bailiff: Is this a question, Alderney Representative Jean?

240 **Alderney Representative Jean:** No, what I am doing is I am replying. (*Interjections*)

The Bailiff: Well, no, it is not a question of replying. The Rules permit questions to be asked –

Alderney Representative Jean: Oh, I am sorry.

245 **The Bailiff:** – within the context of the Statement –

Alderney Representative Jean: I am so sorry.

The Bailiff: – but it is not a debate as such.

250 **Alderney Representative Jean:** Well, then I will make it a question, if I may! (*Laughter*)

The Bailiff: I am grateful.

255 **Alderney Representative Jean:** Okay.

The question I would ask is do you believe that Aurigny should publish their accounts, as it is a public company?

260 And the second question I would ask, considering the conjoined economies of the two Islands and the fact that, obviously, within the spirit of this Chamber we are beginning to recognise the fact that Alderney does have problems, is: do you believe that the published figures are correct as regards to the £1 million and should they be quantified as well?

Thank you, sir.

The Bailiff: Okay.

265 Those who wish may remove their jackets.

Deputy St Pier: Sir, with regard to the publication of the accounts, I think the previous position taken by previous Treasury & Resources Boards has been that because Aurigny has been operating in a competitive environment there is some commercial sensitivity around that.

270 I think, to some extent, the environment has changed with the withdrawal of Flybe on the main route into the Island. So I think it would be appropriate for us to perhaps consider whether that policy remains appropriate and I am happy to do that in the context of the States' report due to come to the Assembly later this year, which of course is...

275 The purpose of the recapitalisation of the airline and indeed putting in agreements around Alderney is all around ensuring greater transparency and so I think it would certainly be consistent with that. So I am happy to consider that.

With regard to the losses on the Alderney routes in particular, that is always going to be an issue about what costs are attributed, what overheads are attributed and in what way you do that,

because that is always going to be an area of some controversy – that happens in any business.
280 But certainly, based on the information that we have, we have no reason to believe that it is not a reasonable approximation of the costs of running that route.

The Bailiff: Deputy Trott and then Deputy Gollop.

285 **Deputy Trott:** Sir, the dearth of suitable Dornier aircraft and the subsequent additional costs of £300,000 per annum might – *might* – suggest a failure of due diligence by the Aurigny board at the time of the initial proposals. Is this the case, sir?

The Bailiff: Deputy St Pier.

290

Deputy St Pier: Sir, Deputy Trott's question is, I think, a reasonable and fair question. However, I think we do need to recognise that the operating environment for aircraft into Alderney does limit the options to a very few type of aircraft that are capable of flying in there, given crosswind limits and so on.

295 So I think it is fair to say that the Treasury & Resources Board were satisfied that the Aurigny board had fairly looked at all the options that were available to them, given the operating environment in which they have to operate in into Alderney.

The Bailiff: Deputy Gollop.

300

Deputy Gollop: Thank you, sir.

Public, commercial and political opinion in Alderney and representations heard at the scrutiny reviews do indicate that there have been concerns about the rescheduling and restructuring of timetables, especially in the summer, to and from Alderney – both to Guernsey and Southampton, and no longer to Jersey.

305

Does the Minister consider that the three-plane option, which effectively means two in the skies and one spare, is adequate to cope for the current and future economic and logistical needs of Alderney and other routes the planes may be used on, such as the French link?

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

Deputy St Pier: I am not sure that questions of operating timetables particularly arise out of the Statement, sir, (**A Member:** They do.) but what I will say is that Aurigny board's assessment is that, in essence, to provide the lifeline services for Alderney would, with sufficient backup, require, on their calculations, two and a half aircraft, which clearly is not physically possible; hence the requirement for three.

315

The Bailiff: Any further questions? No.

Just before we move on, Deputy Le Clerc, do you wish to be relevée?

320

Deputy Le Clerc: Please, sir.

The Bailiff: Thank you.

325 **Deputy Le Clerc:** Thank you.

**Waste Strategy Implementation –
Statement by the Public Services Minister**

The Bailiff: The next Statement is to be delivered by the Public Services Minister in relation to Waste Strategy implementation.

330 **Deputy Ogier:** Thank you, sir.

One of the key priorities for the Public Services Department during this current term has been implementing the Waste Strategy that was approved in 2012 and which this Assembly has given clear support to on a number of occasions.

335 It is a strategy that looks to encourage islanders and businesses to reduce waste, and provide opportunities and incentives to maximise reuse and recycling. By doing so, we aim to minimise the amount of waste we, as a community, produce and the fraction requiring costly treatment and disposal.

340 With the launch of kerbside collections last year, more islanders are now recycling than ever before and they are recycling more than ever before. The household recycling rate is above 49% for the first time and black bag waste from households has fallen more than 800 tonnes. We still have a long way to go, but we have begun making inroads towards our recycling targets of 60% by 2018 and 70% by 2025.

345 We have also progressed the legislation required to change the way households pay for their waste and recycling arrangements, for which we have been working closely with the parishes. That is so that in future the system rewards islanders who reduce waste and recycle more, and makes it easier for them to do so.

350 In addition, we have been working on procuring new facilities at Longue Hougue for sorting and processing waste, and preparing the residual element to be exported for energy recovery. Companies, last year, were invited to submit tenders to design, build and operate these facilities. We initially had five prospective bidders, but four withdrew at an early stage and that has left a single consortium that includes States' Works and Guernsey Recycling and local construction firm, Geomarine.

355 One of the priorities through the implementation of the Waste Strategy is to deliver best value for money and negotiations with the bidder group are continuing, although we have not yet reached the point of a formal bid being submitted.

However, from the initial capital estimates we do believe the inclusion of an in-vessel composting facility for processing food waste, at this stage does not represent best value for money.

360 As such, we will not be progressing a business case for this to put to Treasury & Resources, but will focus instead on delivering the other infrastructure elements within our allocated budget. That, we believe, is the most sensible and pragmatic decision.

365 Recycling and recovering as much of our waste as possible remains a key objective. We are, therefore, exploring potential options for exporting food waste for off-Island treatment, which could be another way to deliver the benefits we were aiming to achieve through an on-Island facility, but more cost-effectively. Initial indications are this may be feasible, but at this early stage we still have to identify whether it meets our value for money requirement.

370 That same measure also has to apply to the remaining infrastructure elements, and this will need to be demonstrated through full business cases. We have to manage the process properly, and that involves making timely decisions that take account of both the likely impact and expected benefits. The decision not to proceed with the on-Island in-vessel composting will, I am sure, assist in this process and we will continue to work with Treasury & Resources to ensure best value for money is achieved.

375 Export was expected to begin towards the end of 2016. Given where we are now in the procurement we expect that to be some time in 2017, or if we encounter any unforeseen circumstances, at the latest 2018. The project team are working hard to deliver the full strategy in

the shortest time possible without compromising value for money. In the meantime we will continue to landfill at Mont Cuet, where we still have capacity to continue until arrangements are in place to commence export of residual waste.

380 Definitive and final costings for all elements of the Waste Strategy will become available once negotiations with the bidder group reach a more advanced stage, and once we have completed the tender process to identify our chosen export destination, which is due to start very shortly.

385 In summary, we have made good progress, kerbside is working well, recycling is increasing and we are moving in the right direction. We have to continue efforts to drive down our waste by reducing more, re-using more and recycling more, and ensure whatever facilities we build on-Island have the flexibility to deal, both technically and cost-effectively, with falling waste tonnages being seen here and throughout Western Europe. Export remains our best option for that. No-one wants a delay, but it is important to fit within our budgetary envelope and the Public Services Department Board continues to be committed to delivering a best value for money solution.

390 The procurement is complex, as with any large infrastructure projects, but it is being managed effectively and this is reflected in the decision which has been made. We are engaging with Treasury & Resources through the normal project assurance and review processes, and we remain confident that the current negotiations will achieve a successful outcome. Any delay is regrettable, but it is imperative that we make the right choices.

395 The Board of Public Services, the Waste Strategy Programme Board, and the project team remain clear and committed to the objective that we have had from the outset, that is to deliver the service and facilities we need with the waste the Island produces in a way that is affordable, sustainable, and reflects the specific requirements, values and aspirations of this community.

400 **The Bailiff:** Are there any questions? Yes, Deputy Trott and then Deputy de Lisle.

Deputy Trott: Thank you, sir.

May I ask the Minister of the Public Services Department, based on the current filling rates, what is the current life expectancy of Mont Cuet as a landfill site?

405 **The Bailiff:** Deputy Ogier.

Deputy Ogier: It is 6.9 years.

410 **The Bailiff:** Deputy de Lisle.

Deputy de Lisle: Sir, with regard to the export of waste, we were told at some earlier time that there were 16 locations that were being looked at and that this had been narrowed down, I think, to five or six locations.

415 Can I ask the Minister, do we have anything further with respect to the preferred export destination?

Thank you, sir.

The Bailiff: Deputy Ogier.

420 **Deputy Ogier:** We are at the stage in the timeline of this project development where we are going out to seek formal tenders and submissions from the interested jurisdictions.

The Bailiff: Deputy Luxon, and then Deputy Spruce.

425 **Deputy Luxon:** Could I ask the Minister, bearing in mind the indicative estimates that came in through the PQQ phase last year, whether or not the PSD Board have considered going back out

to an open tender if, now that more detailed costings are coming through, the costs would seem to be much higher than those earlier indicative costs?

430 **The Bailiff:** Deputy Ogier.

Deputy Ogier: This has been discussed. We are not at the stage yet where the bidder group puts in a formal bid for all the infrastructure that is required. At that stage it may be something that we consider, although we believe that working with the bidder that we have currently
435 represents our best option for delivering the Waste Strategy.

The Bailiff: Deputy Spruce.

Deputy Spruce: Could the Minister please confirm that his Department will provide Members
440 of the Assembly and the general public with the detailed financial breakdown of how these changed food waste processing measures will impact on the public's waste bills?

Also, given that the Public Services Department has previously increased its declared capital funding requirement for the strategy from £5 million to £29 million, could the Minister please now finally confirm what his Department's total capital funding requirement will be for the
445 implementation of this strategy? This removal of the old system of in-vessel composting will obviously have a considerable impact.

Finally, could the Minister also confirm whether all the facilities originally planned for Longue Hougue will now be built within the original capital funding request?

450 **The Bailiff:** Deputy Ogier.

Deputy Ogier: Thank you.

We will not know the effect on the bills until the final costing with the bidder group comes in later this year and when the tenders have returned from the jurisdictions that we are seeking to
455 export from.

I can confirm that we are still aiming to be within the envelope that was brought before the States in December last year.

The Bailiff: Deputy Burford.

460 **Deputy Burford:** Thank you, sir.

Given that food waste, I think if I remember correctly, makes up one-third of waste that is currently going into Mont Cuét, what type of off-Island treatment would you possibly consider that you mentioned, if we do not go down the in-vessel composting route?

465 Also, have you reviewed the possibility of anaerobic digestion in place of in-vessel composting, given that there should be an income from energy produced by anaerobic digestion?

The Bailiff: Deputy Ogier.

470 **Deputy Ogier:** Well, of course the issue with anaerobic digestion is that the outputs are very difficult to handle on Guernsey, they are very nitrogen-rich and they are very liquid. The nitrogen leaks into the soil and there is only a certain amount of land that we have available to put that kind of digestate on, which is why we went for an in-vessel composter to start with.

475 We are looking at options for dealing with food waste in a different way, that may well result in an anaerobic digestion off-Island or in-vessel composter, or *other* off-Island, but at the moment we are still in the early stages of looking at how we can handle the food waste in a different way.

The Bailiff: Deputy Brehaut, then Deputy Gollop, then Deputy Soulsby.

Deputy Brehaut: Thank you, sir.

480 Could the Minister inform us whether it is possible to have, what I might call, a micro-incinerator to deal with food waste only?

Thank you.

The Bailiff: Deputy Ogier.

485

Deputy Ogier: Food waste is extremely damp and moist, it is not really designed... not that it is 'designed', (*Laughter*) but the best option for treating it is not to attempt to burn so much liquid off, it is a very high liquid content. The expert advisers that we have advising us have not suggested incineration as a route for food waste on-Island.

490

The Bailiff: Deputy Gollop.

Deputy Gollop: Thank you, sir.

495 Because of the material change to the waste strategy that the Minister has outlined, would he not consider re-opening to consultation and to tender the issue of biological waste, because there may well be commercial or environmental organisations out there who could provide a solution to the Public Services Department, which could then be debated in this Assembly regardless of the board's opinion as to its economic efficiency?

500 **The Bailiff:** Deputy Ogier.

Deputy Ogier: There has been no significant material diversion from the Waste Strategy. We are looking at one element which is food waste. We are no longer envisaging having on-Island processing for that; we are seeing what off-Island facilities exist for that. So there is no material diversion from the aims of the Waste Strategy, they remain as this Assembly has agreed.

505

The Bailiff: Deputy Soulsby.

Deputy Soulsby: Sir, yes.

510 I would like to ask the PSD Minister, in light of this disappointing news and given the high amount of food waste that comprises waste that is thrown out, what *extra* initiatives are his Department planning to undertake to reduce the amount of food waste in the first place?

The Bailiff: Deputy Ogier.

515

Deputy Ogier: We do have a 'Love Food, Hate Waste' campaign which is specifically designed to target food waste. That will be continuing. We will, as the process unfolds, look at other measures that we can to ensure the amount of food waste which arrives in our black bag is minimised as we do with other waste streams as well.

520

The Bailiff: Deputy Trott.

Deputy Trott: Thank you, sir.

525 With just a single interested group now involved, how certain are the PSD Board that value for money can be both achieved and indeed proved?

The Bailiff: Deputy Ogier.

530 **Deputy Ogier:** It is a difficult question to answer. The governance around having a single bidder that is not in a competitive situation is difficult to gauge. We are continuing to use our off-

Island expert advisers, we are aware of the costings for these sorts of plants as delivered in other areas, and we will ensure as best as we can that what we are offered here fits in with those meta-costings.

535 **The Bailiff:** Deputy Burford.

Deputy Burford: Sir, I just wanted to ask the Minister if he can clarify whether food waste will still be separated out and collected separately, even if we do not have an in-vessel composter.

Thank you.

540

The Bailiff: Deputy Ogier.

Deputy Ogier: We are currently exploring how we will handle food waste rather than have an on-Island facility. If it will be to have an off-Island facility I would imagine it would have to be separated.

545

The Bailiff: Any further questions? Deputy Spruce.

Deputy Spruce: Just one more.

550

Could the Minister please confirm whether his Department intends to proceed with food waste collections from the house, processing and now export this food waste to the UK at *any* cost irrespective of the benefit that is achieved?

Deputy Ogier: Well, we have certainly shown that we are not going to progress food waste processing at any cost, with the decision not to have an on-Island facility. The business cases for all aspects of the Waste Strategy will continue to be processed through the normal channels and will go through Treasury & Resources, and any food waste processing that we do recommend will have to represent best value for money and will go through Treasury & Resources.

555

The Bailiff: I see no-one else rising.

Just before we move on to Question Time, Deputy James, do you wish to be *relevée*?

560

Deputy James: Thank you, sir.

The Bailiff: That concludes the Statements for this morning.

565

Questions for Oral Answer

PUBLIC SERVICES DEPARTMENT

Coastguard Service – Joint Emergency Services Control Room

The Bailiff: The first Question is to be asked by Deputy Paint of the Minister for the Public Services Department.

Deputy Paint.

570

Deputy Paint: Thank you, sir.

575 Could the Minister explain to the Assembly why the move of the Coastguard to the Joint Control Centre is believed to be beneficial when it has not been pursued by France, Jersey, UK, where a recently completed, dedicated national Coastguard Service is operating on a stand-alone basis? This, despite the move by the present UK government to reduce costs by having the combined 'blue light services' county control rooms?

The Bailiff: Deputy Ogier.

580 **Deputy Ogier:** Thank you, Mr Bailiff.

The Coastguard is not moving to the Joint Emergency Services Control Centre. The Coastguard remains the responsibility of the Harbour Master, and the search and rescue co-ordination arrangements are unchanged. The only difference is that the initial call handling will be managed by the new centre in May.

585 Different models of emergency control centres operate in other jurisdictions and most have included various additional responsibilities to share skilled resources. The UK operates a national Coastguard centre but the UK has a significantly larger coastline to cover and a much greater volume of calls.

590 The typical number of emergency calls we receive here, around 100 last year, does not justify a separate Coastguard control room. The new control centre will provide a resilient service appropriate to Guernsey's size and geographical location. It has a dedicated Coastguard position with specialist new equipment whose prime focus will be monitoring and handling Coastguard calls and maintaining a constant listening watch to emergency frequencies.

595 The benefits of the shared location, new technology, better co-ordination and enhanced joint working will enable the highest quality response to calls delivered in the most co-ordinated, efficient and cost-effective manner. The call handlers have had relevant training for the role of the coast radio station, the same training provided to current handlers, both provided by a professional with more than 25 years of Coastguard experience.

The Bailiff: Thank you.

600 Do you have any supplementary questions – *(Interjection)*
Sorry?

Deputy Paint: I have three supplementaries, sir.

605 **The Bailiff:** You are allowed two. *(Laughter and interjections)*

You are allowed two of those, so you will have to choose your best two. *(Laughter and interjections)*

610 **Deputy Paint:** Has the PSD Board considered the possible effect on relations with other jurisdictions in the cases of a marine emergency, when experienced regular operators holding GMDSS certificates are being replaced by inexperienced operators at the call centre?

The Bailiff: Deputy Ogier.

615 **Deputy Ogier:** Those responsible for handling the emergency response remain unchanged. It is the calls at the call centre which are being... the handling for those are being dealt with in a different way. But the call handlers themselves will be trained to the same degree and the same standards that the current call handlers are trained to.

620 **The Bailiff:** Your other supplementary question.

625 **Deputy Paint:** My supplementary question number 2: is the Minister aware that existing Coastguard radio operators deal with a large number of incidents of a minor nature without recourse to the search mission controller, as is the case in other jurisdictions? And that, with this in mind, the number of incidents logged in 2014 were 299, and that this figure is nearer the average than the 100 given in his reply to the initial Question?

The Bailiff: Deputy Ogier.

630 **Deputy Ogier:** I can only reiterate that the call handlers will be trained to the same standard as the current call handlers are trained to. In addition, there will be an experienced port officer present at the Joint Emergency Control Room during the start-up phase of this to ensure that there is no dip in experience when the calls are handled.

635 **The Bailiff:** Deputy Paint, the rules only allowed two supplementary questions per principal Question, so if you have another supplementary you may have to ask somebody else to ask it. *(Interjections)*

Deputy Perrot has a supplementary question.

640 **Deputy Perrot:** Actually, I did not, but now that you have mentioned it...

The Bailiff: Oh, I thought you did. Sorry.

645 **Deputy Perrot:** Maybe I will ask a question then. Thank you, sir. *(Laughter)*
Would the Minister confirm that I am grievously wrong in my understanding that in the case of a maritime emergency, under the new system a person calling into the call centre on channel 16 will be first asked a menu of questions by the radio operator before the emergency is passed on to the Coastguard personnel at the Coastguard.

650 **The Bailiff:** Deputy Ogier.

Deputy Ogier: I can neither confirm nor deny Deputy Perrot's understanding of that.

655 **Deputy Perrot:** Sorry, what was the first part? 'I can neither confirm nor deny...'

Deputy Ogier: I am struggling to remember your words – whether I can 'confirm' you are 'grievously wrong'? I can neither confirm nor deny that.

The operational delivery of the questions at the point at which the call is handled is something I am not familiar with.

660 **The Bailiff:** I think Deputy James has a supplementary question. *(Laughter)*

Deputy James: Thank you, sir.

665 Is the Minister further aware that the call handler sitting at the Coastguard desk will be in charge of any incident until the arrival of the Search Mission Controller which is dependent on the time of year and day, and could take up to 20 minutes?

Thank you. *(Interjections)*

The Bailiff: Deputy Ogier.

670 **Deputy Ogier:** Deputy James's insider knowledge of this matter *(Laughter)* does her credit, sir, in an area she is unfamiliar with.

675 The way that the calls are being handled is changing. The calls to the Coastguard Service are being handled within the Joint Emergency Centre Control Room. There will be other people there; it is not reliant on one or two people. There is redundancy within the numbers of people available and it is delivered in a more cost-effective way.

680 The calls will be handled in much the same way they are now, by trained people who have been trained to the same degree as the calls that are handled now. They are occurring in a different location of the Island but once the call has been received and passed on, the operation will continue as it does now.

The Bailiff: Deputy Perrot.

685 **Deputy Perrot:** *À propos* my earlier supplementary question, would the Minister please confirm that he will look into the issue of whether call handlers have got to ask a menu of questions before getting to the guts of the emergency, because if I am involved in an emergency at sea, I do not wish to be asked by an operator my name, address and when I last I saw my doctor. *(Laughter)*

690 **The Bailiff:** Deputy Ogier.

Deputy Ogier: I am able to confirm that this is a matter I will give my attention to. I will personally review the questions that are asked to ensure that it occurs in an efficient manner.

695 **The Bailiff:** Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

While people generally struggle with wind conditions and with sea conditions, they struggle even more with work conditions.

700 Can he give this Assembly an assurance that he will work closely with the employees of PSD involved in that area of the maritime element of that mandate, and that the PSD will work in close association with their employees to ensure that the minimum distress is caused to them in any future changes to their work practices?

Thank you.

705

The Bailiff: Deputy Ogier.

Deputy Ogier: As Deputy Brehaut will know, it is not the Board's role to run the harbour: it is the Board's role to ensure the harbour is properly run.

710 Operational issues of this nature are best dealt with through the human resources team and through the harbour management – they are engaging with the employees themselves and I will ensure that this process continues.

The Bailiff: Yes, Deputy Gillson.

715

Deputy Gillson: So would the Minister agree that an appropriate answer to Deputy Perrot would be along the lines that, 'People will be asked appropriate questions to be able to identify the appropriate assets to be deployed to help save them'?

720 **The Bailiff:** Deputy Ogier.

Deputy Ogier: I preferred my answer *(Laughter)* which is: I will review the questions to ensure that they are appropriate.

I take Deputy Gillson's point. I am sure they are appropriate – I will make *sure* that they are.

725 **The Bailiff:** Deputy Luxon.

Deputy Luxon: Sir, can I ask the PSD Minister if he is enjoying his term of office? (*Laughter and interjections*)

730 **Deputy Ogier:** That is not a question arising out of the Questions I am afraid.

The Procureur: I think the point is that the Minister does not have to answer if he thinks his answer may be inaccurate. (*Laughter*)

Cruise Line Tenders – Safety of landing site

735 **The Bailiff:** Right. If there are no more supplementary questions, Deputy Paint has another question.

Deputy Paint: Sir, on Friday 17th April there were three incidents, at least, involving cruise liner tenders which were directed to use the new landing area at the Albert Pier.

740 Can the Minister confirm that the Board had had a sight of the safety risk assessment required under the Port Marine Safety Code relating to changes of the landing site?

Can the Minister confirm that the events have been reported to the Chief Inspector of Marine Accidents and, if not, why not?

745 **The Bailiff:** Deputy Ogier.

Deputy Ogier: I can confirm that a full health and safety risk assessment has been completed and presented to the Public Services Department Board.

750 The assessment encompassed the changes to the cruise ship tendering location ensuring the appropriate safety measures are in place, and providing assurance that existing control measures are appropriate and practical.

755 However, one of the challenges of St Peter Port's harbour is that, despite up-to-date navigation information, operational procedures and designated fairways, unfamiliar users have from time to time run aground at low spring tides at various harbour locations. Harbour staff provide assistance and guidance 24 hours a day but ultimately the responsibility lies with the vessel.

760 Only one incident was reported by the visiting cruise vessels on Friday 17th of April. There is a requirement for the master of the vessel to report any accident under the Merchant Shipping (Accident Reporting and Investigation) (Bailiwick of Guernsey) Regulations 2009. The vessel in question reported the accident to the Chief Inspector of Marine Accidents using the appropriate form.

The Harbour Master is aware of the two other incidents and has made contact with their shipping agent as their captain failed to report any incident in accordance with the regulations.

I can confirm an 18-month programme of work has begun to establish an appropriate Port Marine Safety Code incorporating the implementation of a marine safety management system.

765 **The Bailiff:** Deputy Paint.

Deputy Paint: Yes, sir, I have two supplementary questions.

770 **The Bailiff:** Can you put your microphone on please?

Deputy Paint: Will the Minister explain to the Assembly how he can explain the risk assessment in the event of only one report of grounding at the inter-island quay, or near the inter-island quay, in more than 20 years, where there were three known to occur in less than one month in the new Albert Pier facility for embarkation or disembarkation of liner passengers?

775 What provision has been put in place to ensure this does not happen again?

The Bailiff: Deputy Ogier.

Deputy Ogier: Thank you.

780 I am informed by the Harbour Master that more than one incident has occurred in the area of inter-island quay over the years where vessels have touched the bottom on low spring tides. So it is not a situation that was unknown under the using of the inter-island quay, anyway.

The arrangements at the Albert Pier were temporary for the first few weeks of this season while a temporary pontoon was in place. Dredging has now been completed and there should be no further issues at low tide wherever the vessels choose to go.

785 The vessels themselves were told by harbour staff that they would bottom-out within a particular time frame. They chose to ignore that advice which is why they grounded. Vessels should continue to pay attention to the advice received by the harbour authorities, but in any case the dredging that has now been completed will mean that there should be no further incidents of grounding.

790

The Bailiff: Deputy Paint, do you have any more supplementaries – or one more?

Deputy Paint: Yes, I do, sir.

795 I actually asked what provision has been put in place to ensure this did not happen again and I do not feel the answer was satisfactory. But can I ask the Minister to explain whatever provision has been made, the cost that it will be to the port and the effect it will have for port staff in other duties?

800 **Deputy Ogier:** I think the area has been dredged and considerable tonnes of sand have been removed from the area. I do not feel I can go any further than that.

The area has been dredged. It is now clear. The port authorities will no longer need to warn vessels of any grounding danger as there will be no grounding danger, and the final pontoon which is a dogleg will extend further out into the channel which means there is nowhere for them to run aground.

805

The Bailiff: Deputy Queripel.

Deputy Laurie Queripel: Thank you, sir.

810 The Minister mentioned dredging in his answer. Is it true that dredging should not take place within 35 metres of the harbour walls for fear of undermining the integrity of those structures? Are these limits being adhered to in respect of the current dredging operation?

Thank you, sir.

815 **The Bailiff:** Deputy Ogier.

Deputy Ogier: The dredging operations went through the normal processes which the harbour is regulated by, including the Office of Environmental Health, and there were no problems that were showing up which were contra-indicated to the activities of the dredging in the harbour.

820

The Bailiff: Deputy Lowe, and then Deputy Adam.

Deputy Lowe: Thank you, sir.

825 Could the Minister give us assurances that, with the extended leg of the pontoon that is going to be put in place, the pontoons that will be unloading and loading passengers will not be subject to as much swell as what has previously been seen with the temporary pontoon in place, and which they did not have previously when they used to unload and load at the island... what do you call it? (*Interjection*) Inter island quay.

830 Thank you.

Deputy Ogier: The swell that is not currently experienced at the island 'whatchamacallit'... (*Laughter*) The swell issues will be much reduced once the final pontoon goes in place and is bedded to the seabed.

835 **The Bailiff:** Deputy Adam.

Deputy Adam: Thank you, sir.

840 Will the Minister explain to the Assembly how the harbour authorities propose to deal with the potential of 6,000 cruise liner passengers scheduled to arrive on the same day from two separate liners, all expected to disembark and queue for re-embarkation later on the same day from the Albert Pier? And, to a lesser degree, when *Britannia* arrives with over 4,300 passengers, and the *Allure of the Seas* arrives with over 4,900 passengers?

845 It may have been feasible if the inter-island quay was to be used, but it is deemed unsuitable due to a risk assessment issue at the present situation.

Thank you, sir.

The Bailiff: Deputy Ogier.

850 **Deputy Ogier:** That is not really a question arising out of the initial Questions that have been asked, but the busiest days have been subject to passenger movement analysis and we believe, and have seen, that there is capacity to deal with those increased numbers of passengers that we will be seeing. It is a great success story that we are so busy. (**Two Members:** Hear, hear.)

855 Additional staff resource may need to be made available on those days in order to ensure that the passengers landing are directed in a proper manner, but our modelling shows that we have capacity to deal with the increased numbers of passengers. And, of course as we get busier... because numbers have doubled over the past two or three years, and there is nothing to say that they will not continue to grow in the future – we will get busier and capacity issues are something that we will have to look at when we are taking bookings for 2016, 2017 and beyond.

860 **The Bailiff:** Deputy Trott.

Deputy Trott: Thank you, sir.

865 Would the Minister agree with me that the incident resulting in the grounding of the cruise liner tenders would have been avoided if expert advice from experienced mariners had been heeded?

And further, sir – and this is the thrust of my question – does this reflect a certain culture within the current harbour authority's attitudes?

The Bailiff: Deputy Ogier.

870

Deputy Ogier: This incident would have been avoided if experienced mariners had been heeded, but unfortunately the operators of the vessels did not heed the warnings which were given by the harbour staff, and did not move their vessels in time to avoid grounding. It is a failure

875 of the master of the ship who failed to adhere to the advice being given by the harbour authorities....

The Bailiff: Deputy Ogier.

880 **Deputy Ogier:** This incident would have been avoided if experienced mariners had been heeded, but unfortunately the operators of the vessels did not heed the warnings that were given by the harbour staff and did not move their vessels in time to avoid grounding.

885 It is a failure of the master of the ship, who failed to adhere to the advice being given by the harbour authorities and in that way, yes, it is a failure to heed maritime experience. But, in any case, due to the extended pontoon that is going in and the dredging that has occurred, there will be no risk of grounding in the future.

Deputy Trott: And the second part of the question, sir, regarding the culture?

890 **Deputy Ogier:** From my scrutiny of the harbour operations, I believe that due diligence has been given to the issues and the risks in that area and they have been mitigated. The temporary risk of grounding before the dredging had occurred was being mitigated by having trained and experienced mariners on hand to advise the masters of the vessel when there was a potential for grounding.

895 The grounding issue remains the responsibility of the master and his failure to heed the warnings of the harbour staff. I do not believe there is an underlying culture here; to me it looks like these issues have been mitigated well.

Deputy Trott: Sir, may I ask a supplementary as well?

900 **The Bailiff:** Well, you can only ask supplementaries that arise from the original –

Deputy Trott: Well, let me ask you another related question and it is this –

905 **The Bailiff:** Are you on to a third supplementary question? You have already had two supplementary questions.

Deputy Trott: Have I, sir?

910 **The Bailiff:** Yes. *(Laughter)*
Deputy Lowe wishes to ask one.

Deputy Trott: I am impressed with your maths this morning. *(Laughter)*

915 **Deputy Lowe:** You can ask another in a minute.
Could the Minister of PSD inform us if the Public Services Department have considered either paying or employing staff to help passengers at the island quay, rather than currently you are employing staff to assist passengers or pedestrians actually coming down the Albert Pier? So in other words, the staff that are actually employed to help people across the road, did you ever consider for the island quay to assist with a simple stop/go board, for it appears that we have
920 people who cannot look after themselves in case a forklift comes along?

The Bailiff: Deputy Ogier.

925 **Deputy Ogier:** We considered a whole raft of measures to continue landing passengers at the White Rock, due to a number of considerations. Even the input of additional staff resources at that

site would *not* have brought us to a favourable conclusion at having to be able to continue landing at that point. Landing at the White Rock was not a problem you could beat to death with a bag of money.

930 **The Bailiff:** Deputy Dave Jones.

Deputy David Jones: I have two questions, sir.

First of all, following on from Deputy Lowe's question, would the Minister not agree with me that the problems with passengers disembarking at the White Rock has been caused by freight operations moving down into that area on to the top half of the North Beach car park?

935 A second question would be going back to the depth of water in the harbour and confidence of skippers. Would the Minister not agree that local boats carrying fee-paying passengers have to be skippered by people holding competent requisite tickets to do so? Can he confirm that is not always the case with the tender – the people who operate the tenders from cruise liners? If that is
940 the case, then why is that being ignored?

The Bailiff: Deputy Ogier.

Deputy Ogier: I would not want to give a question to the Assembly that may prove to be
945 incorrect, so I am unable to answer that technical question in any detail. But I think we are in danger of going down the rabbit hole, because we are now receiving questions that are not concerned with the original Question, which were three incidents involving cruise line tenders, which I am happy to take – (*Interjection*) That does not include the changes allowed to the harbour, sir... is my point. But I am unable, also, to answer that question.

950 **The Bailiff:** Deputy Perrot, you have a supplementary question.

Deputy Perrot: I have a supplementary, sir. (*Interjection and laughter*)

Is it not... is not the... oh, right. (**A Member:** I understand.) Sorry? (*Interjection*) What? I will pass
955 it to you in a moment (*Laughter*) for a tiebreaker.

Is not the harbour master responsible for the environs of the harbour? And, therefore, should he have forbidden access to the facility due to its temporary unsuitability?

Deputy Ogier: The area is not unsuitable. There was a risk of grounding, which has been
960 mitigated by trained and experienced harbour staff on hand to advise the masters of the vessel. The masters of the vessel are responsible for their vessel and they should heed the advice given to them by the experienced harbour staff.

Deputy Perrot: And my second supplementary –

965 **The Bailiff:** Deputy Perrot.

Deputy Perrot: – Sir, am I again wrong in my understanding that the dredge material is being
970 dumped at the mouth of the harbour and therefore is likely to come back in again to catch the sediment in the discharging area at the Albert Pier?

The Bailiff: Deputy Ogier.

Deputy Ogier: The dredged material is being deposited in other areas of the harbour. It is not
975 our understanding that it will come back to the area from which it has already been removed. But, of course, in a harbour there is natural swell and there are deposits which occur from time to time,

but the area has not been dredged in a long time and it is not a significant amount of dredging which has to take place.

980 What I will do is take Deputy Perrot's question away – which is: will the dredging materials being put in the harbour eventually come back to that area? – and I will give him a more formal answer.

The Bailiff: I see no-one else.
Ah, Deputy Quin.

985

Deputy Quin: Would the Minister agree with me that this increasing in numbers is a good news story, (**A Member:** Hear, hear.) something which you would applaud; not this pathetic attempt to deride everything that has been done?

990 **Several Members:** Hear, hear. (*Applause*)

The Bailiff: Deputy Ogier.

995 **Deputy Ogier:** It is an extremely good news story and it is absolutely wonderful to be in the position of having to struggle to deal with vast numbers of people coming to our Island in an industry that is extremely welcome here. It is great to be struggling with the problems of success, I entirely agree.

Several Members: Hear, hear.

1000

The Bailiff: I see no one rising.
We can move on – (*Laughter and interjections*) Oh, Deputy Langlois has risen! (*Laughter*)

Deputy Langlois: I am standing up, sir! (*Laughter*)

1005

In the interests of proportionality, would the Minister agree that the number of soft groundings experienced by cruise ship tenders is significantly fewer than the number of inadvertent groundings experienced by certain Members of this Assembly (*Laughter*) when out on a day cruise? (*Laughter*)

1010 **The Bailiff:** Deputy Ogier.

Deputy Ogier: I am happy to make those figures public, sir. (*Laughter*)

Cruise liner tender – Berthing point and Ports Master Plan

The Bailiff: Right. We will move on to Deputy Lester Queripel's questions to the Minister of the Public Services Department.

1015

Deputy Queripel.

Deputy Lester Queripel: Thank you, sir.

1020

Can the Minister please tell me the total cost of moving the cruise liner tender berthing point from the White Rock to the Albert Pier, including the cost of dredging, the cost of the pontoons, the signs, the barriers, the planters, the maintaining of the planters and everything associated with the move? And will these costs be met from the current PSD budget or will the Department be looking at ways in which to raise extra revenue to cover those costs?

The Bailiff: Deputy Ogier.

1025 **Deputy Ogier:** The costs of relocation, including an estimate of planned costs, are
approximately £355,000, which covers everything from the new pontoon arrangement being
installed to all the pedestrian improvements around the Albert Pier. The majority of these costs,
around £248,000, are the capital construction costs, including the pontoon, which will be spread
out over the life of the asset for up to 25 years. On this basis the capital costs would be less than
1030 £10,000 per year.

These works will accommodate growth over many years, maximising the number of potential
customers to our shores. These customers already represent an estimated £6 million of direct
annual spend in Guernsey, which is new money coming to the Island. The return on the harbour's
investment in relocation will be met principally through cruise ship anchorage fees, currently at
1035 approximately £88,000 a year. There is no requirement to generate additional income from other
harbour revenue streams to fund these changes.

This relocation was needed for a number of reasons, but mainly that the White Rock inter-
island quay no longer provided sufficient capacity for the number of cruise liner passengers
visiting Guernsey, given the extensive growth in numbers. The considerations also included the
1040 safety of all boats in the White Rock and inter-island quay area. This year Guernsey hopes to
welcome up to 130,000 cruise passengers – double the number that came ashore three short
years ago.

A Member: Hear, hear.

1045

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

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

I thank the Minister for that informative response. I would like to ask a supplementary that
1050 focuses on the actual *estimated* planned costs of £355,000 that he referred to, because bearing in
mind that the harbour master said in the media recently that the works should be finished by the
first week of May, is the Minister able to tell me if everything has gone to plan operationally and
financially, seeing as we are so close to the completion date?

1055 **The Bailiff:** Deputy Ogier.

Deputy Ogier: The harbour is on schedule to meet its budget for the works that have been
allocated in that area.

1060 **The Bailiff:** Deputy Luxon.

Deputy Luxon: Sir, would the PSD Minister agree with me that the relatively minor cost of
£300,000, or a bit more, is cheap when compared to the potential £150 million of a new cruise
liner deep-water berth or indeed the risk of continuing to see the increasing number of cruise
1065 liner tenders arriving at White Rock with all of the problems that go with it?

The Bailiff: Deputy Ogier.

Deputy Ogier: Yes, absolutely. It is not necessarily my job to tell people and to tell Members
1070 how to think, but I think I have explained that a £355,000 investment for one year to ensure and
safeguard £6 million average spend over many years to come is an extremely good return on the
investment, which will be paid back over and over again.

The Bailiff: Deputy Gollop.

1075 **Deputy Gollop:** Sir, some of us are informed that there could be additional marginal costs that could arise – for example, by the need of PSD or harbour staff to, at short notice perhaps, act as marshals for unexpectedly large numbers of disembarking passengers and/or coach movements. Has that been factored in to the figures the Minister has explained or will that be an additional cost that we will have to accept? And I do accept that more visitors should be a good news story.

1080 **The Bailiff:** Deputy Ogier.

1085 **Deputy Ogier:** I am envisaging that any assistance that harbour staff will give to cruise liner passengers on busy days will occur from within the existing resources of the harbour. I understand that *VisitGuernsey* may be putting in some additional resources, but that would be a matter for them.

1090 **The Bailiff:** If no one else is rising... Deputy Queripel with his second question.
Deputy Lester Queripel.

1095 **Deputy Lester Queripel:** Thank you, sir.

Bearing in mind that the Ports Master Plan was only noted by this Assembly in May 2013 and not actually approved, and also that enhancing facilities for cruise liner passengers arriving by tender was part of that plan, is the Minister able to advise whether PSD are intending to introduce further measures that form part of that plan; and, if so, will the Department be seeking the approval of the Assembly first, bearing in mind the considerable expense involved and the revenue raising implications?

1100 **The Bailiff:** Deputy Ogier.

1105 **Deputy Ogier:** When the Ports Master Plan was set before the Assembly in May 2013 it identified four urgent priorities, which included enhancing facilities for cruise liner passengers arriving by tender. Enhancing the gateway to Guernsey was originally to maintain passenger numbers at 2012 levels; whereas visitor numbers, fortunately, have doubled since then.

In the longer term, the Ports Master Plan identified the potential to develop a dedicated terminal offering all-tide and all-weather mooring for the largest classes of cruise liner, rather than the current tendering operations. It acknowledged that this could cost millions of pounds, for which a sound business case would be hard to make; therefore the cruise berth extending into the Little Roussel is not currently being pursued. We had to take action to make changes to existing operational arrangements at the harbour so that we have the capacity for the visitor numbers we expect this year and the potential to accommodate further growth.

1110 The Public Services Board have reviewed the need for change, the economic case for doing so and a number of options for relocation. Following detailed assessment, the Albert Pier was the only realistic option.

1115 Projects identified within the Ports Master Plan, as discussed and debated by this Assembly, will be subject to the usual governance, scrutiny requirements and financial procedures. Those with significant capital expenditure will be brought to this Assembly as part of a capital expenditure approvals process.

1120 **The Bailiff:** Do you have a supplementary?

Deputy Lester Queripel: No, sir. Thank you.

1125 **The Bailiff:** No.
Any other...? Yes, Deputy Perrot.

1130 **Deputy Perrot:** Would the Minister please confirm that any proposals to increase mooring fees as part of the Master Plan of the harbour, which go beyond an inflationary increase year-on-year, will be brought before the States for debate, as I believe is required under a pre-existing resolution of the States?

The Bailiff: Deputy Ogier.

1135 **Deputy Ogier:** I am happy to confirm that, sir.

The Bailiff: Deputy Dave Jones.

1140 **Deputy David Jones:** Could the Minister also explain why destruction of part of the old harbour wall at the top end of the North Beach car park has taken place? What permissions were sought for that and who has funded that? Where is the funding coming from to pay for all these additional works that are going on and have not been agreed by the States?

1145 **The Bailiff:** I am not sure that arises from the answer already given, but do you wish to answer it, Deputy Ogier?

Deputy Ogier: I am happy to take that question away, sir, and provide a formal answer to Deputy Jones.

1150 **The Bailiff:** Any further questions? No. Well, that concludes Question Time and we move onto legislation. *(Laughter)*

Billet d'État VII

ORDINANCES

I. The Pilotage (Amendment) Ordinance, 2015 – approved

Article I:

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled 'The Pilotage (Amendment) Ordinance, 2015', and to direct that the same shall have effect as an Ordinance of the States.

The Deputy Greffier: Billet d'État VII, Article I, The Pilotage (Amendment) Ordinance, 2015.

The Bailiff: Is there any request for debate or clarification? No. We go straight to the vote then. Those in favour; those against.

Members voted Pour.

1155 **The Bailiff:** I declare it carried.

**II. The Machinery of Government (Transfer of Functions)
(Guernsey) (Amendment) Ordinance, 2015 – approved**

Article II:

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled 'The Machinery of Government (Transfer of Functions) (Guernsey) (Amendment) Ordinance, 2015', and to direct that the same shall have effect as an Ordinance of the States.

The Deputy Greffier: Article II, The Machinery of Government (Transfer of Functions) (Guernsey) (Amendment) Ordinance, 2015.

1160 **The Bailiff:** Again, any requests for debate or clarification? No. We go to the vote. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

III. The Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 (Commencement) Ordinance, 2015 – approved

Article III:

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled 'The Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 (Commencement) Ordinance, 2015', and to direct that the same shall have effect as an Ordinance of the States.

The Deputy Greffier: Article III, The Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 (Commencement) Ordinance, 2015.

1165

The Bailiff: Again, any requests for clarification or any debate? No. We go to the vote. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

**IV. The Guernsey Financial Services Commission (Transfer of Functions)
(Fees) (Bailiwick of Guernsey) Ordinance, 2015 – approved**

Article IV:

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled 'The Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015', and to direct that the same shall have effect as an Ordinance of the States.

1170 **The Deputy Greffier:** Article IV, The Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015.

The Bailiff: Any requests for clarification or debate? No. We vote. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

V. The Income Tax (Guernsey) (Approval of Agreement with the British Virgin Islands) Ordinance, 2015 – approved

Article V:

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled 'The Income Tax (Guernsey) (Approval of Agreement with the British Virgin Islands) Ordinance, 2015', and to direct that the same shall have effect as an Ordinance of the States.

1175 **The Deputy Greffier:** Article V, The Income Tax (Guernsey) (Approval of Agreement with the British Virgin Islands) Ordinance, 2015.

The Bailiff: Any further clarification or debate sought? No. We vote. Those in favour; those against.

Members voted Pour.

1180 **The Bailiff:** I declare it carried.

ORDINANCES LAID BEFORE THE STATES

The Yemen (Restrictive Measures) (Guernsey) Ordinance, 2014;
The Crimea and Sevastopol (Restrictive Measures) (Guernsey)
(Amendment) Ordinance, 2014;
The Cremation (Longue Hogue Facility) Ordinance, 2015;
The Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 (Commencement and
Amendment) Ordinance, 2015;
The Aviation Registry (Interests in Aircraft) (Guernsey) Ordinance, 2015;
The Côte d'Ivoire (Restrictive Measures) (Guernsey) Ordinance, 2015;
The Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer
of Functions) (Guernsey) Ordinance, 2015

1185 **The Deputy Greffier:** Ordinances laid before the States: The Yemen (Restrictive Measures) (Guernsey) Ordinance, 2014; The Crimea and Sevastopol (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2014; The Cremation (Longue Hogue Facility) Ordinance, 2015; The Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 (Commencement and Amendment) Ordinance, 2015; The Aviation Registry (Interests in Aircraft) (Guernsey) Ordinance, 2015; The Côte d'Ivoire (Restrictive Measures) (Guernsey) Ordinance, 2015; The Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015.

1190

The Bailiff: I have not been given notice of any motion to annul those.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The Fees, Charges and Penalties (Airport Fees) (Guernsey and Alderney) Regulations, 2015;
The Harbour Dues and Facilities Charges (Guernsey) Regulations, 2014;
The Mooring Charges (Guernsey) Regulations, 2014;
The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment)
Regulations, 2015;
The Land Planning and Development (Plans Inquiry) (Amendment) Regulations, 2014;
The Public Highways (Al Fresco Licences) (Fees) Regulations, 2014;
The Liquor Licensing (Fees) Regulations, 2015;
The Boarding Permit Fees Order, 2015;
The Health and Safety (Fees) Order, 2015;
The Offences (Fixed Penalties) (Guernsey) Order, 2015

1195 **The Deputy Greffier:** Statutory Instruments laid before the States: The Fees, Charges and Penalties (Airport Fees) (Guernsey and Alderney) Regulations, 2015; The Harbour Dues and Facilities Charges (Guernsey) Regulations, 2014; The Mooring Charges (Guernsey) Regulations, 2014; The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) Regulations, 2015; The Land Planning and Development (Plans Inquiry) (Amendment) Regulations, 2014; The Public Highways (Al Fresco Licences) (Fees) Regulations, 2014; The Liquor Licensing (Fees) Regulations, 2015; The Boarding Permit Fees Order, 2015; The Health and Safety (Fees) Order, 2015; The Offences (Fixed Penalties) (Guernsey) Order, 2015.

1200

The Bailiff: I have not had notice of any motion to annul any of those Statutory Instruments.

Billet d'État VIII

ELECTIONS

I. Education Department – Election of a new Member – Deputy Hadley elected

The Bailiff: We can move on to Elections.

1205 **The Deputy Greffier:** Billet d'État VIII, Article I, Education Department, Election of a new Member.

The Bailiff: The Minister, Deputy Sillars, do you wish to propose someone?

1210 **Deputy Sillars:** Yes, please, sir.
I would like to propose Deputy Mike Hadley.

The Bailiff: Deputy Mike Hadley.
Do we have a seconder for Deputy Hadley?

1215 **Deputy Le Lièvre:** Yes, sir.

The Bailiff: Deputy Le Lièvre, thank you.
Do we have any other nominations? No. We go straight to the vote then on the proposition to
1220 elect Deputy Hadley as a Member of the Education Department, proposed by Deputy Sillars and
seconded by Deputy Le Lièvre. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare Deputy Hadley elected to the Education Department.

II. Environment Department – Election of a new Member – Deputy Bebb elected

The Deputy Greffier: Article II, Environment Department, Election of a new Member.

1225 **The Bailiff:** The Minister, Deputy Burford, do you wish to propose someone?

Deputy Burford: Yes, please, sir. I would like to propose Deputy Elis Bebb.

The Bailiff: Deputy Bebb. Do we have a seconder for Deputy Bebb?

1230 **Deputy Brehaut:** Yes, sir.

The Bailiff: Yes, Deputy Brehaut.

1235 Any other nominations? No. We go to the vote then on the proposal to elect Deputy Bebb as a Member of the Environment Department, as proposed by Deputy Burford and seconded by Deputy Brehaut. Those in favour, those against.

Members voted Pour.

The Bailiff: I declare Deputy Bebb elected to the Environment Department.

Billet d'État VII

POLICY COUNCIL

VI. Review of Public Sector Pension Schemes – Debate commenced

Article VI:

The States are asked to decide:

Whether, after consideration of the Report dated 2nd March, 2015, of the Policy Council, they are of the opinion:

1. To endorse the proposed new pension arrangements detailed in Appendix 5 of that Report and, as explained in that Report, in so far as they apply to members joining from 1st May 2015.

2. To agree that an application be made to the Royal Court of Guernsey for a declaration to determine the following issues:

(a) whether the States of Guernsey, as employer (or former employer) of members of the public sector pension schemes has the implied right to vary the terms of the schemes in a manner which adversely affects members' rights without the members' consent; and

(b) if the Court declares such a right to exist, what (if any) constraints apply to the exercise of that right.

3. To endorse, subject to the terms of any declaration made by the Court in respect of the issues set out at proposition 2 above, the application of the proposed new pension arrangements detailed in Appendix 5 of that Report and, as explained in that Report, in respect of current members within six months of such declaration being received.

4. To direct the preparation of revised Rules for approval by the States to give effect to propositions 1 and 3 above.

5. To direct that the necessary work be undertaken to implement the revised arrangements for new members with effect from 1st May 2015.

6. To note that the Treasury and Resources Department will, following consideration of a suitably detailed business case, approve a capital vote to extend the pension administration system, to be charged to the Superannuation Fund.

7. To note that the Superannuation Fund Administration Budget, which is submitted for approval as part of the annual Budget Report, will, if required, include provision for increasing the pensions administration team by one person.

8. To authorise the Treasury and Resources Department to make transfer(s) from the Budget Reserve or General Revenue Account Reserve to the revenue expenditure budget of the Policy Council to fund the States costs and the reasonable costs of other parties in respect of the application to the Royal Court detailed at proposition 2 above and currently estimated at £500,000.

1240 **The Bailiff:** We now come to the business of the meeting and under the Rules of Procedure we would normally deal with any unfinished business held over from the last meeting, which would be the Report of the States' Assembly and Constitution Committee.

However, I understand the Chief Minister wishes to propose a procedural motion that we take the Review of the Public Sector Pension Schemes first.

Is that correct, Chief Minister?

1245 **The Chief Minister:** That is correct, sir. Thank you.

The Bailiff: Do we have a seconder for that procedural motion? Deputy Langlois.

1250 So we go to the vote then and no debate. The proposition is to debate next – to debate immediately, in other words – the Policy Council's policy letter on the Review of Public Sector Pension Schemes. Those in favour; those against.

Members voted Pour.

The Bailiff: We come to that debate and I should declare that I am a member of the Public Sector Pension Scheme but I propose to preside over the debate for reasons that I fully explained in an e-mail to States' Members.

1255 I call on the Deputy Chief Minister who is going to open the debate. Deputy Langlois.

Deputy Langlois: Thank you very much, sir.

1260 As Members of the Assembly, we are well used to performing a delicate balancing act when political arguments clearly have two opposing points of view. But, sir, today we are potentially walking a high wire strung between two very tall buildings. The depth of the chasm is caused by extremely strong feelings on both sides and potentially one part of our community set against another. Not only that, we have to act both as an employer and as a Government.

So we have a very heavy responsibility today because the States, as an employer and as a Government, is seeking to make decisions which affect all taxpayers. Let's examine those two sometimes conflicting roles, as employer and Government. First of all, where we are employers.

1265 Sir, an employer has a duty of care to employees and, in that regard, the States of Guernsey have, I believe, a very good record. All employers are competitors in labour markets and as such must ensure that the offer they make ensures strong recruitment and retention prospects. Part of the package that attracts and retains staff is the offer of a pension.

1270 Although the word 'pension' raises many emotions, pension provision is nothing more or less than a deferral of earnings and a form of savings to ensure a comfortable period of life after work stops.

There is significant evidence that in Guernsey in the private sector far too few make this provision and, therefore, more people than necessary fall back on support from the States in retirement.

1275 We do not want to add to that number by making inadequate provision for those who are employees of the States. So as an employer it is right and proper to provide a pension scheme which meets these needs and, sir, this is why States' proposals in this Report will create a pension scheme that is still one of the best, if not *the* best, available to employees in Guernsey.

1280 We have to act as a Government, and as a Government we have duty of care to all taxpayers. Combine those two duties of care and we must put together a pension scheme that is sustainable, affordable and part of a sufficiently attractive package to compete in our labour markets.

All pension schemes carry elements of risks. In many private sector pension schemes the whole risk is borne by the member, by the employee. In the present public servants' pension scheme all risk is borne by the employer and, hence, ultimately the taxpayer.

1285 What we need now is a scheme where there is a fair and equitable balance of risk between the taxpayer and the employee, who must accept some personal responsibility for their plans for the future. As I started, sir – a delicate balancing act.

So this is the background against which a revised pension scheme has been negotiated. Add to this the toxic complexity that makes up any pension scheme, combined with some understandably
1290 intense emotions, and it is not a simple task.

So what is a pension? Well, essentially, it is a reliable income in old age, financed by savings made throughout a working life. Many people are obliged to make their own pension provision, but employers also contribute to that in the form of deferred payments through their contributions.

1295 So having a reliable income from this source necessarily carries risk. Risk 1, we do not know how long we are going to live; risk 2, we do not know what returns can be earned on the savings in the long term; risk 3, we do not know what levels of inflation will occur; and, risk 4, is that we do not know how rapidly salaries will rise.

So who should carry each of these risks? Our community recognises a duty of care to those
1300 who commit their working life to the public service; but, sir, people who work in the private sector equally make an immense contribution to the community and to the economy. In addition, people make spending and saving choices and take personal responsibility through their earning life. Remember that in the current States' scheme all risk is borne by the employer and that means the taxpayer too. I repeat, that means the taxpayer too!

1305 So, sir, these proposals are all about a transfer of some risk to each individual employee and away from taxpayers. It is absolutely right and proper for the States as an employer to provide a competitive occupational pension scheme, but any scheme carries the risks that I have already named – longevity risk, investment risk, inflation risk and salary risk. Let's take a look at those in some more detail.

1310 As I have said, all the risks inherent in the current final salary arrangement are borne by the States, and hence the taxpayer, with no real limit to our exposure. That is wrong. The Policy Council could, of course, now be making proposals that transferred all the risks to States' employees. The introduction of a defined contribution scheme so favoured by the public sector would have done just that. Sir, I can assure you many people in the business sector and some in
1315 this Assembly still believe that is what we should be proposing.

Instead, we support maintaining an arrangement under which benefits, as opposed to contributions, are defined. This is exactly the model, exactly the path that is followed by the UK public sector schemes that have emerged out of recent changes.

1320 However, rather than continuing with the final salary arrangement, where a proportion of somebody's final salary is calculated in order to provide their pension value, rather than continue with the final salary arrangement in the UK, the schemes have moved towards a career average pattern, and we wish to do the same.

1325 This move immediately addresses the salary risk because it means that pensions will be based on earnings over the course of a career rather than just on one or the last couple of years of service. It also has little or no real impact on our lowest paid employees; in fact, in the grand scheme of things it is to their advantage when compared to the higher paid.

1330 One more change will contribute to the increased fairness between higher paid and lower paid employees. This is a cap on pensionable pay under the DB, the Defined Benefit Scheme, at around £85,000 in 2015 terms. I say 'around' because it will be linked to a specific Civil Service grading. A full pension at this level would produce an income of approximately 1.5 times Island median income and we believe that that would be a comfortable position in retirement. But earnings above £85,000 will still be pensionable, but that will be under a defined contribution scheme within which the risk to that portion of their savings is born by the employee. In other words, our top earners, while sustained up to a comfortable level, will take their own responsibility for the
1335 upper layers of their pension earnings.

1340 To safeguard the States against the inflation risk, the proposals involve a cap on the indexation of benefits. Where inflation levels are running at 6% or less, uplifts in line with inflation will continue to be automatic. However, if inflation rose to above 6% a decision would need to be taken over whether indexation at a higher level continues to be affordable. Clear criteria for this decision will be established, and employees will, of course, have the right to challenge that decision if they feel it is appropriate.

1345 What all this means is that the inflation risk will not be shared between the States and its employees, an important feature of the proposed scheme. In my view, sir, it is simply not acceptable in this day and age that, should we be faced with another period of high inflation, a small sector of our population should be totally insulated from that paid by the taxpayer.

1350 The Policy Council also proposes a link between the pension age in the scheme and the state pension age. This helps to address the longevity risk. Currently, the scheme has six pension ages. Not only will a link with state pension age help to reduce the risk to pension costs associated with people living longer, it also brings consistency to the States' position, recently decided, as both an employee of over 5,000 people and the provider of welfare benefits to the Island as a whole.

Could it really be right, on the one hand, to say to the Island as a whole that over the next 35 years pension age is going to continue to rise until it reaches 70 but, on the other hand, keep our own employees on something lower than that?

1355 Furthermore, our lowest paid employees – it is undoubtedly true that they cannot afford to retire until the time when they can access their pension. If our scheme were to keep a lower pension age then only the higher paid would really get a benefit from that by having more options about when to retire. Our lower paid would, in many cases of necessity, have to work on in the same role.

1360 To address the investment risk, the Policy Council proposes the adoption of a slightly more prudent presumption for investment returns. Although the States will still continue to bear all of the investment risk, this new assumption allows that that risk be reduced and more easily managed. Whilst short-term investment performance may be excellent, there can be no absolute guarantees in the long run.

1365 Finally, and importantly, the Policy Council's proposals also include a mechanism to ensure that public sector pensions remain affordable to the taxpayer. That mechanism is a fixed cost ceiling, which is an upper limit on the employers' contribution of 14%. If that limit were ever exceeded, other than as a result of investment returns, scheme benefits and/or employee contribution rates would be adjusted to bring cost back within that ceiling. I know of few other employers who are prepared to pay as much as 14% into a pension scheme for their employees.

1370 Under the current pension scheme all of the risks are borne by the employer and hence the taxpayer. I say again, that is wrong – things must change.

So, sir, after three and a half years of intense negotiations, the Policy Council believes that there is now no alternative but to introduce change, if necessary, without the agreement of some scheme members.

1375 This is what we are proposing: the immediate introduction of new arrangements for all new employees, and an approach to the court for a judgment over whether or not we as employer have an implied right to introduce reasonable changes for future service of existing staff.

1380 Now, note in particular the words 'future service'. This is not, as it has been betrayed by some, a court action against our staff. It is a specific legal technicality to confirm that the way our contract of employment is set up we have an implied right to make changes as an employer.

In proposing these changes nobody is suggesting that rights and benefits already earned through accrual for past work should be changed. Neither should the way they are inflated through to pension age, nor should the way that portion of earned pension is inflated after retirement.

1385 We are talking here only about benefits to be earned from future service. All past service entitlements will be honoured, unlike what has happened in the UK, where changes have been

made retrospectively and I know that will be confirmed by certain Members of this Assembly who have experienced it.

1390 New employees joining the States from 1st May will be enrolled into the new scheme, and the whole of their career with the States will earn a pension under that scheme. Subject to legal ruling, future service of existing Members will be under those rules.

1395 Sir, I apologise at this stage for the length of this address. This is the first time the matter has come before the States and therefore it is very important we know how we got here. So how did we reach this point? Make no mistake, we as employers have always wanted to reach an agreed solution. For a number of reasons, that has not proved possible.

1400 This is what has happened: I have been involved throughout the period, firstly as Chair of the Public Sector Remuneration Committee, PSRC, who used to be responsible for pension matters until 2012, but since then as the Policy Council's lead member on all pay and pension matters. In 2010 the PSRC decided that further review of the pension scheme was necessary. Despite reforms which were decided in 2006 and implemented in 2008, it was becoming abundantly clear that the scheme would not be sustainable in the long run.

1405 During the whole period since then, although there were some periods when significant progress appeared to have been made, there were others where exactly the opposite was the truth. The Committee, which I chaired and which included two current Members of the Policy Council, followed due process by bringing the proposal for a review to the Pensions Consultative Committee.

1410 The PCC is a formally constituted Committee, including Members of the Policy Council and employee representatives appointed through ASEO, the Association of States Employee Organisations. The PCC unanimously recommended the formation of a joint working group to be chaired by an independent person. Employer and employee representatives jointly held interviews for that role and Mr Rodney Benjamin, a highly experienced actuary with previous involvement in the form of pension schemes inside and outside the Island, was appointed. The employer view was represented by me, the Civil Service pensions technical expert, and a representative of our actuaries. The employee representatives consisted of the Chairman of ASEO, the then Chairman of ASEO, the Vice-Chairman of ASEO and the National Pensions Officer for the union Prospect.

1420 The joint working group started meeting early in 2012 and reached a handshake agreement in December 2012, having met on 11 separate occasions, formally, and that spanned over 30 hours. At that point, the independent Chairman made a public announcement that an agreement had been reached. It should be noted that having tabled initial proposals, we as an employer made many concessions from our initial position during the negotiation process, seeking to reach an agreed position.

1425 Early in 2013 ASEO reviewed its position regarding that agreement and began to question the authority of the joint working group, despite the association's part in setting up and participating in the group through the PCC. In fact, at that time representatives of the ASEO executive began to deny that the negotiations had any legitimacy. This assertion was made during a PCC meeting that included a briefing from the independent Chairman of the joint working group. It led to the employer requesting an opportunity to consider the new ASEO position and subsequently offering to reopen negotiations, this time involving the ASEO executive more directly.

1430 I emphasise, sir, it was us as employer who took that initiative to negotiate further. Those negotiations involved us in making further concessions up to a point at which the proposals contained in the States' Report now were reached. Once again, at this point the appointed negotiators for the employees undertook to recommend their proposals to ASEO.

1435 This was followed by a period during which employee representatives sought much clarification of details, naturally, and a series of meetings made limited progress. By this time, we as employer representatives had the impression that a co-ordinated programme of prevarication was being acted out by the employee associations. Unfortunately, the feeling was that delay was the name of the game, and has continued to be so right up to statements made recently.

1440 Sir, early in 2014, and some two years after the start of the JWG negotiations, we suggested that it may be possible to seek arbitration on the issues that still remained in dispute. At that time a confidential briefing of States' Members was attended by about two-thirds of the Assembly and Members generally expressed their support for the actions being taken. Arbitration would, of course, have resulted in a binding agreement and the employee representatives felt that an arrangement of mediation would be more appropriate. We as employer joined with them to select an experienced mediator with world-class credentials. The employer side also agreed to meet the costs of mediation. Once again, this was in the spirit of being seen to follow due process throughout and to make every possible effort to reach a settlement.

1450 Following agreement on the name of the mediator, two sessions of mediation, involving considerable preparation by every party and spread over two months, took place in the summer of 2014. The two mediation teams consisted of the employer's joint working group team on one side and on this occasion three national union representatives appointed by ASEO to undertake the task.

1455 As employer, we agreed to take part in mediation and make additional concessions. The mediator set the condition that any resulting agreement would be recommended by everybody involved in the mediation or else that a negative result would be declared and the matter referred to the States. Mediated terms were agreed and an agreement signed by all concerned. Those negotiated terms left no space or headroom for the employer and also increased the risk to members that their contribution rates could rise or benefits decrease quite soon after the scheme was implemented.

1460 So, sir, on two separate occasions – once at the end of 2012 and again in the summer of last year, we shook hands with union negotiators on the details of reforms that they were prepared to support. On both occasions those handshakes were observed by independent third parties and on the second the proposals became part of a written memorandum of understanding signed by the national officers from Unite, Prospect and the largest teaching union, the NASUWT. It is, of course, extremely regrettable that on both occasions the proposals agreed with the negotiators, acting on behalf of the public sector employees, failed to become final and binding agreements with scheme members.

1465 When the employee mediation team returned to ASEO, the ASEO executive did not make a recommendation to its members and proceeded to separate ballots by each union run under their own arrangements and in different forms.

1470 It was evident to us as employer that members had been provided with very different levels of information and recommendation, despite the consistent message sent to all scheme members by the employer. It was also clear that variations in balloting procedures were significant. Unlike the UK, Guernsey has no legal requirements in the way in which union ballots are conducted.

1475 Once the ballots had taken place a variety of results were declared. Sir, it is important to understand broadly the statistics of these results can only be estimated in general terms by laws as employer. Union membership across all States' employees is in the region of 50% to 60% and overall turnout of about 70% of union members was claimed by the unions. On average, across the unions, in the region of 70% of those who voted rejected the deal. The turnout was very variable between unions and it is important to note that one union, the Royal College of Nursing, albeit with a low turnout, were happy to accept the deal; for these figures meant that at that time approximately 30% of States' employees, overall, rejected the mediated settlement in ballots. What a saga, sir! And still we have accusations that the States as employer have not been prepared to negotiate.

1485 Reforms to the pension arrangements for public sector workers are essential because, quite simply, the existing ones are unsustainable and unaffordable for Guernsey and its taxpayers. The Policy Council understands this; that union leaders understand this; but the 1,000 or so scheme members who voted against the proposals appear not to. Quite frankly, after three and a half years of talks all aspects of this matter really have been discussed in full. The Policy Council is

1490 simply not prepared to have a cost ceiling above 14% in terms of employer contributions, or to take any greater risk.

The result leaves us, as employer, with two options. Firstly, in either case the scheme must now be closed to new members and a new scheme put in place for anybody starting work in the near future. With regard to existing members, we could leave them in the current scheme with a potential of a long-term tail of up to 45 years before the scheme is totally closed. Or we can seek the legal authority which is confirmation of an implied right to authorise the change for future service only of existing members. Remember again, we are not proposing changes to the nature or level of pension credits earned to date. It is important to note that the new terms and conditions applicable to joiners will include the right to make variations to contract after due process of consultation has been followed.

1500 The approximate difference in cost between the two options is in the region of £70 million. The position of existing staff does, however, require a little more comment. Sir, I repeat the most important point to make is that the Policy Council has given firm assurance to all existing scheme members that all service currently accrued in the final salary scheme is fully protected. In other words, it is future service only that will attract a different arrangement. The Policy Council has also given further assurances on the protection for those scheme members nearing retirement and for those already retired. So the real issue relates only to those 10 years or more away from retirement.

In UK public sector schemes it has been decided that all employees should move to the same arrangements as the new appointments in respect of their future service. That move was consistent with the view taken by the independent commission in its advice to the UK Government. However, many members of UK public sector schemes have suffered reductions in their past earned benefits as a result of indexation changes. If future service of existing employees is still credited under the old scheme significant short and long-term issues arise. In Guernsey it would mean not only some £70 million added to the cost of proposals, but also significant and potentially damaging employee inequalities. People doing exactly the same job will qualify for different pension benefits in respect of exactly the same period of service. They would also pay different levels of contributions to the scheme, with those paying the least getting the better benefits – a real inequity to manage in the work place.

1510 Now, sir, this is the point at which political judgement must enter in. Given that those costs would need to be met by the taxpayer it is surely right for us, as employer, to be able to make a small change to terms and conditions in order to assure affordability and sustainability of our pension scheme.

You will have read in the Report that our report seeks an allocation of up to £500,000 to cover the cost of getting a legal judgment in the employer's rights in this matter. This figure has been described by some as a huge amount, and by others as no more than a stake in a legal gamble by the States.

1525 Clearly, half a million pounds is a significant sum, but let's get that amount in perspective. If half a million pounds is big then what of the extra £70 million at stake if we allow those under 50 to have all of their future service protected under the present arrangement? And how does half a million pounds look against the current deficit figures associated with the schemes?

1530 These figures, or different versions of them – because accountants calculate things in different ways – these figures, over £80 million in the recent actuarial review, some £500 million under a set of calculations and rules called FRS 17 and well over £1 billion if you use the solvency position calculation.

1535 I am not suggesting that you should choose any one of those, I am simply stating the facts about if those calculations are made that is the number that comes out of the other end. There is simply no getting away from the fact that nearly all the important financials associated with our pension scheme involve very big numbers and against these half a million pounds is a relatively small one.

1540 Unless the issue of existing scheme members is addressed now, the deficit figures are likely to increase further. They will take us further away from our underlying principles of having a good pension scheme for States' employees that is sustainable and affordable to taxpayers.

1545 Sir, I must also comment on the recent flurry of communications, mainly via email, that all Members of the Assembly will have received over the last two weeks. I have seen most of them. Many are from teachers, some from members of the uniform groups and a few from other employees, but there have been hardly any from the three biggest groups of employees – the civil servants, the nurses or the members of Unite, PSEs ... [*Mobile telephone rang*] (*Laughter and interjections*) Thank you for your support, sir.

1550 Of course, it would be quite wrong for me to single out the specific emails from any or make any special mention, and thankfully I do not have to. There are just a few general points to be made that apply to them all. As the Policy Council's Report makes clear, there are some 5,000 or so active members of our scheme, some of the major public sector unions wrote to all of their members asking them to lobby Members of this Assembly in advance of the debate. The union provided sample paragraphs to be included in those lobbying communications and a standard letter to cut and paste and send. That is why you as Members will have seen similarities between many of these communications.

1555 And the result of this... in the region of 50 representations. In other words, the general sound of disinterest has vastly overwhelmed the protests. Furthermore, of those who have written, almost all include some misrepresentation of the events, the States' proposal or the impact of it. In some cases they have made comparisons that are simply flawed and inaccurate.

1560 Unfortunately, many have taken what their union has said at face value, but they have been misled and unfortunately that has designed to create unrest and delay. In other words, the real casualty in the recent past has been the truth. And how much real disquiet did this create? Well, representations from about 1% of scheme members and a demonstration that probably involved no more than one in 12 of our employees.

1565 Now, I do, *of course*, acknowledge that many States' employees are unhappy about the proposals before us today. They would prefer to stay with the present arrangements. They are unhappy because, like many employees throughout the developed world, they are facing up to the fact that final salary pension arrangements are no longer affordable or sustainable.

1570 That in turn has meant that the slightly generous arrangements will need to be introduced. Millions of workers across the UK, including all the public sector, have faced this reality. Most private sector pension scheme members are very familiar with it. In Jersey, too, the same is happening.

1575 In our own Island private sector, final salary schemes are for the most part a distant memory. It is now the turn of our employees to face the reality and, although some do not like this, most fully accept that change is both necessary and inevitable.

1580 However, sir, despite the absolute imperative of this change for the Island, we as employer have always said that we would prefer an agreed solution and our actions have proved this throughout.

1585 Consequently, I will shortly be laying an amendment to the original Report that further reinforces this wish and responds to employee requests for further talks to reach that point. In my opinion, sir, we simply cannot continue a situation where a minority of our population are immune to the financial risks faced by all other taxpayers when providing for their pensions and that this immunity is funded by taxpayers in general.

1590 I repeat that this scheme will still be one of the most generous pension schemes in Guernsey. Many have... and continue to tell me that it is indeed too generous, but it does increase overall fairness, it is affordable and it is sustainable.

The States will continue to be able to compete in its essential labour markets, whilst ensuring that the pension risks are shared more equitably between Members and taxpayers. Above all, this proposed scheme is sustainable and flexible enough to deal with future unknowns.

So, sir, States' Members today are being asked to make very difficult decisions in an unfamiliar and technical area. It is essential that we do the right thing for the Island and its taxpayers, while continuing to fulfil our duties as an employer. *(Applause)*

1595 **The Bailiff:** Well, Members of the States, an amendment has been circulated. It is headed 'draft' but I understand that is its final form even though it is headed 'draft'. Before it can be laid, a motion under section 7.1 of the Reform (Guernsey) Law 1948 would have to be approved to suspend Rule 15(2) and any other provisions of the Rules of Procedure to the extent necessary to permit the amendment set out below to be debated and take effect.

1600 Deputy Langlois, do you wish to move such a motion?

Deputy Langlois: Yes, I do, sir.

The Bailiff: Deputy Soulsby, you second it?

1605

Deputy Soulsby: Yes, sir, I do.

The Bailiff: We go straight to the vote. Those in favour; those against.

Members voted Pour.

1610

The Bailiff: Having suspended the Rules, the amendment can be laid. Deputy Langlois will propose the amendment.

Amendment:

1. To delete Proposition 2 and substitute it with the following:

'To instruct the Policy Council to offer mediation with the Association of States Employees' Organisations to seek agreement approved by scheme members whom they represent over the pension arrangements for current members; but to agree that if no such agreement can be reached on or before the 31st July 2015 then an application be made to the Royal Court of Guernsey for a declaration to determine the following issues:

(a) whether the States of Guernsey as employer (or former employer) of members of the public sector pension schemes has the implied right to vary the terms of the schemes in a manner which adversely affects members' rights without the members' consent;

(b) if the Court declares such a right to exist, what (if any) constraints apply to the exercise of that right.'

2. In Proposition 3, to delete 'subject to the terms of any declaration' and substitute 'subject to proposition 2 and the terms of any declaration'.

3. In Proposition 8, to delete 'to authorise' and substitute 'subject to proposition 2, to authorise'.

Deputy Trott: Sir, before Deputy Langlois speaks to the amendment, can I seek clarification on something he said in his opening remarks?

1615

The Bailiff: No, I think we are now into the amendment, Deputy Trott.

Deputy Trott: Okay. He was misleading the Assembly, sir, but if you are happy to continue then so am I.

1620

The Bailiff: Well, I think we are now into the amendment so – **(Deputy Trott: Okay.)** Deputy Langlois.

Deputy Langlois: Thank you, sir.

1625 You will be relieved to know this is a significantly shorter address.

In laying this amendment before the Assembly, the Policy Council is aware of two strongly competing views. Firstly, the need to bring this long-running issue to an end and, secondly, the overriding preference of everyone to reach a solution acceptable to both parties.

1630 I want to thank Deputy Soulsby for seconding this amendment and, in doing so, the Policy Council wants to acknowledge her creative contribution to discussions in formulating and developing the amendment (**A Member:** Hear, hear.) into a thoroughly practical Proposition.

I have lost count of the number of people who said to me, 'Why didn't you get this sorted out years ago?' Indeed, sir, I have also lost count of the number of times that that sort of comment has gone through my own head.

1635 I have heard many say that an agreement must be better than seeking to impose change, especially involving legal action. The Policy Council's preference has always been for an agreement, but in three and a half years of effort that has not proved possible. Why not? Well, it has not been through lack of trying.

1640 However, for any negotiation to be successful, the right mix of factors needs to be in play. In this case they were not. Throughout past discussions, negotiations and the mediation process, one key ingredient has been missing – a real incentive for our employees to accept change.

1645 Many of our employees take a very simple view. That view, which is logical, is that whilst they remain unchanged they continue to build up service under the current final salary arrangements. In other words, for three and a half years we have been asking our employees to vote for something which is not in their interest.

You, like me, will have heard loud and clear the message now coming from national union officials, local staff representatives and many rank-and-file employees – and I use the term rank-and-file in relation to their union membership.

1650 That message has been that they want to return to the negotiation table one more time. Up to now, the Policy Council has resisted this request because, without a change to the environment in which any further negotiations took place, the result would almost certainly be the same. In fact, all that would be achieved by agreeing to that request would be further delay.

1655 However, it has now been suggested that if the States were minded to support the proposals contained in this Report on the basis that implementation of one part of it was delayed for a short period, then that could significantly change the dynamic under which the further talks took place.

Accordingly, what this amendment seeks to do is to give both sides one final chance to resolve this matter through the mediation route that was so nearly successful last time. If you support this amendment and the mediation is successful, the Policy Council would then work to create the new pension rules necessary to give effect to the agreement.

1660 If it is not successful then, from 1st August, the arrangements detailed in the States' Report today will be implemented for all existing members and an application made to the Royal Court for the declaration needed in respect of those existing members.

If Members believe there should be one final attempt to agree a solution to this longstanding issue, I would urge them to support this amendment.

1665 In giving it your support, I would also ask that Members take care over what is said in debate today, (**A Member:** Hear, hear.) because any detailed discussion of the negotiating position would prejudice the chance of successful completion and potentially prejudice other matters in relation to the legal possibility.

1670 If further talks are held, the process will not be helped if comments prejudicial to either the States as the employer or to the employees are made in public today. As a previous national union official once observed, industrial relations are best done by consenting adults in private.

The Policy Council does not want your support 'very much'; it 'absolutely recommends it!' It totally recommends it! We have discussed this in the Policy Council at length and it is the right way forward because it is the right compromise at this stage.

1675 Ideally, as little debate on the specific bargaining points as possible, but that is not to suppress the debate. Please support this amendment.

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

Deputy Soulsby: Sir, yes, I do.

1680

The Bailiff: Deputy Domaille, I understand you wish to seek clarification of some wording of the amendment.

Deputy Domaille: Yes, thank you, sir. I will try to be very brief.

1685

The Bailiff: But just before you do, can I just remind Members that under Rule 12(8):

'A Member who either has a direct or special interest in the subject matter of a Proposition... or who is aware that his spouse, co-habiting partner, infant child, or any company...'

– well, that will not apply, but –

1690

'... any company in which he has a controlling interest on his or their behalf has such an interest, shall... (a) before he speaks on the Proposition; or (b) if he does not speak before a vote is taken on the Proposition, declare the said interest by disclosing it to the meeting.

But under Rule 12(10), 'A Member shall not, by reason only of declaring an interest... be precluded from voting...' I just point out that there are a number of people in the Assembly who do have a direct or special interest, or who have a spouse or co-habiting partner – perhaps not infant child, but maybe infant child – with an interest, they must declare it before they speak or, if they do not speak, before they vote.

1695

Deputy Domaille.

Deputy Domaille: Thank you, sir, and actually, in that light, I most definitely do have an interest. I am in receipt of a pension at the moment from the scheme. My wife, who was a former member of the scheme, will be receiving a deferred pension. A number of my relatives actually work for the States in various capacities and will all be affected by whatever is agreed today. So I make that clear.

1700

My question actually is... I totally accept Deputy Langlois'... and he has given us assurance a number of times that, in terms of people who are already retired or in terms of people who have accrued benefits to date, they are not part of this discussion and I totally accept that assurance, so please do not think my question is doubting that assurance in any shape or form.

1705

My problem is, as I read the wording of the amendment – and this is where I am seeking clarification from Her Majesty's Procureur – it talks about, 'to seek agreement approved by scheme members whom they represent over the pension arrangements for current members,' and my question is what is meant by 'members'?

1710

Are members people who are actually currently working for the States or are they people who have worked for the States, or are they people who are drawing benefits – such as myself so I would, again, repeat that interest?

1715

Then, moving on from that, if you move down to paragraph 1(a), it specifically refers to 'the States of Guernsey as employer (or former employer)'. That, obviously, is raising in my mind the fact that, whilst I fully accept the intentions, the wording of this amendment does not follow that intention.

Then when it starts talking about, 'implied right to vary the terms of the schemes in a manner which may adversely affect members' rights', does that mean people who are already drawing benefits, people who have already accrued; that this affirming by the Court is going to be so wide-ranging as to, actually, it does not fall far short of being able to declare war on China?

1720

Thank you, sir.

The Bailiff: I think, Mr Procureur, you are being asked for that clarification.

1725

The Procureur: Well, those are two questions: one question on the meaning of the amendment; the second question on the meaning of the Proposition which will be the same whether it is amended or not.

1730

That is the Policy Council's amendment, it is the Policy Council's Proposition and I am not going to answer.

The Bailiff: Thank you.

Deputy Trott: Sir, may I seek clarification on some wording as well?

1735

The Bailiff: Deputy Trott.

Deputy Trott: Thank you.

1740

In 1(a), sir, the wording is, '(a) whether the States of Guernsey as employer...' Now, that wording 'as employer' is important because my point of correction earlier, which I was not able to place, was that throughout Deputy Langlois' speech he insinuated that all scheme members were, in fact, caught by this.

1745

Now, sir, this is a delicate matter but in the interests of openness and transparency it must be asked. The States is not employer of the Crown Officers; the Crown Officers are, in fact, members of the scheme. Am I right in assuming that the wording would ensure that the Law Officers of the Crown were not caught by any court decision that may follow? (*Interjections*)

1750

I am not sure whether I need to declare an interest, in the sense that no member of my family is in receipt, or has ever been a member, of the Public Sector Scheme; but as all Members who were members of the States' Members' Scheme, I will be caught under that, but that is of course now closed.

The Bailiff: I do not know whether Members are really looking for clarification on those issues before we go into debate. Normally, any questions would be asked at the conclusion of debate.

1755

Deputy Trott: You allowed another Member to ask a point of clarification, sir.

The Bailiff: He was asking Her Majesty's Procureur. You are asking the...

Deputy Trott: I am also asking Her Majesty's Procureur whether I am right in my assertion.

1760

The Procureur: Her Majesty's Procureur is not going to answer that question. It is a matter for the Minister to answer.

1765

I think what you want to do now, sir, is to determine whether debate on the amendment should be taken separately (**The Bailiff:** Yes.) or together with the principal debate.

The Bailiff: Yes. I am also wondering whether it is going to be helpful, in fact, in shortening the debate, if some answers are given in order to clarify the amendment. I mean these are some specific questions.

1770

They could have been perhaps clarified in the Explanatory Memorandum. They have not been so, rather unusually. I wonder whether it might be helpful if either Deputy Langlois or the Chief Minister clarify at this point the answers to these questions that have been asked, (*Interjections*) because that may then influence the debate that then follows.

The Chief Minister is happy to provide the answers.

1775 **The Chief Minister:** The question with regard to Crown Officers as members of the scheme – there is a paragraph in the Report – (*Interjection*) Thank you, I knew Deputy Trott would have the answer to the question before I started - but the paragraph refers to Crown Officers and Judges in paragraph 64 and makes it clear that whilst, in terms of the scheme, they are members of the scheme, they are not States' employees and therefore they are not affected by the Propositions
1780 that are put before us today.

So I hope that clarifies the situation. Either way, those particular individuals, whilst members of the Scheme, are a discrete group and they are not affected by the decisions that we make in this Assembly today.

1785 **The Bailiff:** Deputy Trott.

Deputy Trott: Sir, now I will raise my point of correction.

Throughout Deputy Langlois' opening remarks he referred to all scheme members. Not all scheme members will be caught and I thank the Chief Minister for that clarification.

1790

The Bailiff: Thank you.

Are you able to – either the Chief Minister or the Deputy Chief Minister – clarify the issues that Deputy Domaille raised?

1795 **The Chief Minister:** Well, my understanding is – and I think it is probably better, as our Officers over there and I saw them speaking to the Deputy Chief Minister at the time... but my understanding is that they will not be caught up by that; but there might be some specific issues there that I am not aware of. So perhaps the Deputy Chief Minister could confirm that?

1800 **The Bailiff:** Deputy Langlois.

Deputy Langlois: That is equally my understanding. I think the distinction that Deputy Domaille was – and he can confirm this or not – making was that we have throughout said that pensioners... Let's try to translate some of this into the more common parlance, that States' pensioners will not be affected by these proposals. (*Interjection by Deputy Sherbourne*)

1805

The Bailiff: Deputy Sherbourne.

Deputy Sherbourne: Thank you.

Two points actually. First of all, the – (*Interjection*)

1810

A Member: [*Inaudible*]... declare your interest.

Deputy Sherbourne: Sorry, sir. Do I need to declare at this stage or leave it for the main debate? (*Interjections*)

1815

The Bailiff: Yes, before you speak. Yes, if you have an interest. That is why I read out Rule 12(8).

1820 **Deputy Sherbourne:** Well, in that case, I do declare an interest with regard to the pension that I am currently receiving and the one that my wife is paying into at the moment. I would actually expand on that because I have many years' involvement in past processes of negotiation in the Island, as a member of nearly 50 years of the NASUWT so I do state that now.

1825 The two points of clarification – first of all, it is just that I want a clear understanding of this actual amendment, because it seems to me, although it obviously is very attractive to someone who has publicly stated that we want a longer period, that there is a condition slipped in there

which does worry me. It actually misses out a process for this Assembly to debate the matter of the clarification from Law on the right of our negotiating body –

1830 **The Bailiff:** Are you coming on to... It sounds like a speech rather than a point of clarification.

Deputy Sherbourne: Sorry. I am trying to make it clear that I am unsure whether there is a process that is going to be missed out through this amendment, and that is that the outcome of the mediation, if extended, will come back to us for clarification. (*Interjections*)

1835 **Deputy Langlois:** Sir, can I suggest that, with respect, the purpose of having a debate on the amendment is for everybody to clarify the position that is being suggested –

The Bailiff: I think we need to –

1840 **Deputy Langlois:** – and to go into a sort of –

The Bailiff: Half-hearted. I agree, Deputy Langlois.

1845 **Deputy Langlois:** – half and half... direct questions of this sort does not actually meet the requirements of the debate?

Deputy Sherbourne: In that case, sir, I do apologise but I would like to ask the second point which is this reference to the proposals not affecting past members of the scheme. That actually is not strictly true. In my understanding –

1850 **The Bailiff:** Again, this sounds a bit like a speech. (**A Member:** It is true.) I think we need to observe the normal Rules, so if you wouldn't mind sitting for a moment and then what we need to determine, as the Procureur was saying a moment ago, is whether we debate the amendment separately or whether we take the debate on the amendment together with general debate.

1855 I know there has been some consideration of this and I have had a note from the Deputy Chief Minister saying that he is... I think he is really ambivalent on it but... The Chief Minister is asking if we take the two –

1860 **The Chief Minister:** I think it might be better if we take them separately, sir. (**Several Members:** Hear, hear.) (**The Bailiff:** Take them separately.) Yes, because one will affect the other. If the amendment is carried I think it will then inevitably limit debate, and it should do so because we are asking for another period of mediation. Therefore, as a result of that I think it would be better to have two separate debates.

1865 **The Bailiff:** Fine. In that case, what we will have now is a debate on the amendment. The effect of which, as I understand, is to defer for three months any further action to enable mediation to take place. (**The Procureur:** Yes.)
Procureur.

1870 **The Procureur:** So could I remind – I am not in the habit of repeating your rulings in different words, but in view of the number of interjections which have already taken place – the point of the amendment is precisely what you have said and it would not be helpful to that amendment to start talking about the terms of the reference to the Court which may or may not happen. I just say that from a procedural point of view.

1875 **The Bailiff:** Yes. So what we are debating now – those who wish to debate it – is the amendment that has been laid before you.

Deputy Bebb.

1880 **Deputy Bebb:** Thank you, Monsieur le Bailli.

I have to say that when I first saw the amendment I was sceptical because, as Deputy Langlois placed in his original opening speech for this debate, this has been a very long and drawn out process. But I would say that if Deputy Langlois, having been central to the negotiations, is of the mind that here is value – and evidently he does feel that there is value – in further negotiations, then I believe that it is only right and proper for us to give him and the unions that time.

1885 I am sceptical but I think that this amendment provides us with another approach and I feel that, given that it is the person who has been central to the negotiations who is asking for this extended time, then it is only appropriate that we do so.

1890 With regard to anything else, I think that it would also provide an opportunity for any Members who feel that there are certain changes that they feel would be appropriate, to make private representations of what they would feel comfortable with; and that, therefore, gives us the time to do so and not be debating it here on the floor.

Thank you.

1895 **The Bailiff:** Deputy Sillars and then Deputy Luxon.

Deputy Sillars: Thank you, sir.

I shall be speaking on the amendment and on general debate, please.

1900 **The Bailiff:** Do you have an interest to declare?

Deputy Sillars: I am going to, yes.

1905 Before I continue my speech, I have to declare an interest and that is the matter of my wife who works for the Education Service and will no doubt be impacted in some small way or another. Due to the conflict, I have been excluded from all Policy Council discussions and decisions. However, as Minister of Education Department, it is also incumbent upon me to advise this Assembly of any implications for my Department.

1910 A wise person once said... interesting things about statistics. We all know the familiar quote and the difficulty of establishing real facts when matters are complicated by so many variables. Who are we to believe? All sides seem to have a particular view and pretty divergent views in terms of efficacy of the changes. That is sometimes the problem with numbers: if you try hard enough you can come up with the answers you want.

1915 For these reasons, I want to avoid figures where I can. I do, however, want to concentrate on what matters most to me as Education Minister. My main concern about these changes will be their possible impact on the ongoing recruitment of good quality teachers, in particular those teachers who come here on a five- to seven-year licence and largely support our secondary sector.

1920 In the last three to four years, we have gone from the lowest exam results to the highest ever. We must continue these improvements and they are particularly down to good teaching and leadership.

My main concern is not that the system might be marginally better or worse than the UK, but the fact that it is difficult to demonstrate exactly what those implications are with so many variables.

1925 How many of these teachers will simply look at the key headings and not the underlining data? I feel there is a significant risk that many teachers will not look beyond the headlines and those headlines loom last.

At first glance, the Guernsey scheme appears to be out of kilter with its UK counterpart. Let me say that I am not doubting Deputy Langlois' assertion that the value of benefits accrued in the Guernsey scheme is expectably higher than the accrued rate in the UK teachers' scheme.

1930 What I do feel, however, is that it is largely human nature to want the bird in the hand rather than those two in the bush; and if that analogy is not clear enough, I simply mean that there is a risk, in my opinion, that UK teachers will simply look at the disparity between accrued rates of 1/57th in the UK and 1/80th here in Guernsey.

1935 I know there are other arguments about lump sums etc and equivalent rates, but these are relegated to the detail. I feel strongly that it is a blunder to revert to the September 2013 arrangements and lose the 1/60th accrued rate. That, at least, would have made our job in persuading teachers to come here a little easier.

1940 So, in summary of this point, the devil might be in the detail but the headlines always set the tone and really what we in Education, and possibly other Departments too, will be left is worth trying to persuade teachers that our scheme is better overall, if only they would look at the many other variables. This is not a favourable start to recruitment.

1945 Members of the Assembly will have received, as I have, petitions from various interested parties, notable teachers, teachers' associations. These further emphasise my concerns. Without question, they feel the proposals will have a negative effect on the recruitment of new teachers and the retention and wellbeing of existing staff, and many point out that these proposals will not affect them *per se*, but still felt compelled to right given their concerns for education on the Island.

1950 They point out that the better accrual rate of 1/57 in the UK is partly to compensate for the reduced pension produced by a career average scheme. Why, they point out, would anyone consider moving to Guernsey if your future pension entitlements are affected by such uncertainty? Uncertainty over index linking and the prospect that the cap of 6% in Guernsey introduces a significant risk that prospective teachers are, in their view, unlikely to take. Why would they take such a risk? It was not so long ago that inflation was running at around 15% or more. Uncertainty about the CPI plus an additional 1.6%, as in the UK, or Guernsey RPIX will in the long run be better or worse.

1955 They also take issue with Policy Council's claim that Guernsey employees' contribution rate is more attractive, pointing out that the UK has a sliding scale and that, if anything, Guernsey might just about be more favourable but hardly something which compensates for the headline 'Accrual rate disparity'.

1960 In short, why would prospective teachers play Russian roulette with their pension? Given the high cost of living in Guernsey, difficulties in finding affordable, good quality accommodation and short licences, these changes represent another hurdle and barrier to recruitment. We must not jeopardise educational outcomes and the improvements we have already recently seen.

1965 The last matter I want to raise is concerned with the potential for legal dispute, but more particularly, even higher legal costs if we end up in the courts. I am aware that significant pension changes were made in 2008 and that there were some made a few years before that. How many times then is it permissible to change the scheme? This was a matter I decided to do some research on.

1970 As you all know, I am not a lawyer and therefore what I now add to the debate must be considered on that basis. However, a quick trawl of the internet brought up what appears to be at first sight a very apposite recent court case hearing in England which, to my mind, has many parallels with our situation. This is the case of *IBM UK Holdings Ltd v Dalgleish*.

In *IBM UK Holdings Ltd v Dalgleish*, IBM proposed to make changes to its defined benefit pension scheme, including closing the scheme to future accruals of defined benefits.

1975 This was the third significant restructuring of its pension scheme since 2004. As recent as 2014, the English High Court had to consider whether the current proposals breached the employer's implied duty of good faith. It found that communications from IBM in relation to the previous restructuring exercises indicated that there would be no further changes to the defined benefit scheme over a long-term horizon, and that, in the light of those communications, pension scheme members had a reasonable expectation that benefit accrual would continue. Put simply, the High Court of England found against IBM, the employer.

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I would hope to have assurances from Deputy Langlois that he is aware of these recent rulings, and that given the high cost of legal actions, risks and benefits have been carefully considered before the States potentially embarks on what could be an expensive undertaking for both the employer and the employee side.

1985 I would also like to ask Deputy Langlois to assure us, in the light of the case just referred to, that he is firmly of the view that the employee side can have no legitimate expectation arising from the 2008 changes, and that no further significant changes would be forthcoming as is now the case. My personal belief is that each employee entered into a contract with the employer in good faith. This is about trust. Trust from the employee that the employer will keep his side or her

1990 side of the contract and not unilaterally change it.

It must be agreed by both parties. New employees must have confidence that what they sign up to will be what they receive. I am aware that judgments turn on specifics of a case but I think I would like to take some comfort from knowing that Deputy Langlois is aware of the case and remains comfortable with the positions that he has set out on behalf of the Policy Council.

1995 Thank you.

The Bailiff: I take that as a speech in general debate.

Deputy Sillars: It was, sir.

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The Bailiff: Can I ask other Members to try to restrict their speeches to speaking on the amendment? I was going to call Deputy Luxon next, and then I would call Deputy Fallaize. *(Interjection)*

He had stood earlier.

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Deputy Luxon: Yes I had, Deputy Fallaize. *(Laughter)* Sorry, I do not remember reading that in the SACC rules. Sorry sir. *(Interjections)*

In terms of conflict, I do not have any, but having only been married for 11 years to my wife I am still finding things out about her and she did once work for the States of Guernsey, so I will assume that she may or may not have an interest. *(Laughter and interjections)* I will certainly have some trouble about that later on today!

2010

Sir, first, may I, under our duty of care responsibilities as the employer, ask that we consider carefully the language we use during this debate. **(A Member:** Hear, hear.) Language like 'slipping things in' – that I have heard so far – is not helpful to this debate. I think we should be really careful; this is an unfortunate public debate about industrial relations between an employer and employees.

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Secondly, thanks to Deputy Soulsby for crafting the bones of this amendment and to other Members who were contemplating similar amendments. I think it has been very helpful that it has been laid.

2020

Sir, the Policy Council and States of Guernsey should and have listened to the voice of those public sector workers – the 34%, or 1,730 of them, who voted and rejected the 2014 proposals – and who have spoken in recent weeks and last Saturday. We have listened to them and this amendment, I think, demonstrates that.

Some union leaders said that they needed just one more week to be able to find a conclusion to the very small differences that agree. Well, I hope that Members support this amendment and do not just give one week, but give three months in which to be able to prove that that small gap can be bridged. Albeit that I am happy and comfortable that we leave in the amendment that if an agreement is not reached by 31st July then on 1st August we do revert to the proposals within this policy letter. We simply cannot defer and delay any more just because of impasse and deadlock.

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My call to ASEO and to our own negotiating team, to Deputy Langlois and the officers, is please forget about the last three years of the journey that we have been on, put that to one side and use the three months to find a solution so that we can get back to business as usual.

2035 Sir, I fully support this amendment and I hope other Members will do to.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

2040 I just want to make a quick point about the amendment. I know we are debating it separately from general debate, but there is nothing in this amendment which concerns the details of any existing or proposed pension scheme. The only impact of the amendment is to defer by three months the application for declaratory relief, to allow for a further period of mediation. That is the only way in which the amendment changes the original Propositions.

2045 Whether we ought to apply for declaratory relief and whether we ought to introduce a new scheme for new members, and whether the negotiators are the right people, or whether the new scheme proposed in Proposition 3 is right, wrong or indifferent, is not dealt with by this amendment.

2050 I do think that there is a danger – particularly given the sensitivity that now attaches to the subject of industrial relations – that we are going to have the same debate twice. We will try and debate the existing scheme and the proposed new scheme in this amendment and then we will go through it all again when we have general debate.

2055 So this is just really a plea. It is inconceivable to me that this amendment is not going to go through. Of any part of the States, the Policy Council would have been the Committee least likely to support this sort of amendment because they were putting forward the original Propositions. Given that the amendment is coming from a member of the Policy Council and has the support of the Policy Council, it is fairly obvious that the amendment is going to get through.

2060 My plea is just that we deal with this amendment very quickly, replace the original Propositions with the Propositions as set out in the amendment, and then we can get on with debating the existing scheme and the proposed changes.

Thank you, sir.

The Bailiff: Deputy Conder, Deputy Dorey, Deputy Gollop.

2065 **Deputy Conder:** Thank you, sir.

I will be very brief and my sentiments are very much those echoed by Deputy Fallaize just now.

Sir, like many colleagues, before speaking I must declare an interest in that my wife is in receipt of an occupational pension from the States of Guernsey. I, however, am not – a matter to which I will refer later in the speech on the main debate.

2070 Sir, like I suspect many colleagues, I applaud the Deputy Chief Minister for laying this amendment. In my opinion it reflects his and the Policy Council's desire to achieve a negotiated settlement which must be the preferred outcome, and one which at this eleventh hour we must allow Deputy Langlois and his team the opportunity to explore. The efforts expended over the past three and a half years by all concerned, particularly Deputy Langlois and his advisers, have been Herculean and we should applaud and acknowledge those efforts. (**A Member:** Hear, hear.)

2075 I dare to suggest that few of us would have wanted to take on the task and the role he has fulfilled over these long months of discussion and negotiation. This matter must be resolved in our term of office. It would be unconscionable and, in my opinion, a dereliction of our duty to leave this matter for a future Government to resolve. This amendment allows us one final opportunity to achieve a mediated settlement with our colleagues – this community's public servants, upon whom we all depend and whose work we all acknowledge to be the core underpinning of a civilised and supportive society which collectively looks after so many of the needs of this Island.

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2085 In approving this amendment, we acknowledge the respect we have for the work of our Public Service and the desire of this Government to secure a mutually agreed and equitable solution to an issue which must be resolved in the interests of this generation of taxpayers and all of those who come hereafter.

2090 I urge States' Members to support this amendment and I hope it will be a unanimous vote or by a very substantial majority thus signalling to our colleagues, our employers, that we recognise their special contribution to society and we are prepared to go the extra mile to find a mutually agreed solution with them.

Please support this amendment and in so doing give negotiation one final chance.

2095 **The Bailiff:** Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

I will support this amendment and I echo the words of Deputy Conder in relation to the work that Deputy Langlois has done.

2100 I have a couple of points. The first is about the time period of three months. In the Billet it does not give the exact time period but it explains to us about the mediation process that was previously done – there was a selection of the mediator, there was the mediator. I think Deputy Langlois said in his own speech it was spread over two months, for the meetings, and there was a ballot at the end. And I would just add in that our industrial relations laws need to be updated so that we cover proper ballots. (**A Member:** Hear, hear.)

2105 My concern is that that process, for the mediations to happen... took, I believe, a lot longer than three months. So what I would like him to explain is from the original Policy Council decision of mediation to the ballot, how long was that period for the current mediation? And can it be done within a three-month period? I do not believe that we should be going to court to conclude on disputes, I think we want good industrial relations and I think we should do it round the negotiation table. (**A Member:** Hear, hear.)

2110 My other concern is that, having been through mediation and both parties obviously reaching agreement which then was not acceptable to the employees, there has got to be ability to compromise and negotiate. In paragraph 57 in the Billet it tells us about the current mediation process. It says:

'Further, each side was required to advise the mediator in confidence of the absolute maximum to which it could move i.e. for the employer the most it could offer whilst achieving its core objectives...'

2115 I noted in his speech, Deputy Langlois spoke about the cost ceiling of 14% which I think is referred to in the Billet and to take no more risk. My concern is if this process is going to result in a negotiated settlement then there has to be compromise, and can he give us some assurance that they are going to go to the mediation process with a different position to what they had before, because if we had a mediation and we had not reached a negotiated settlement there has to be movement. And I was concerned about him drawing those lines again in his speech and unless they are willing to move we will be in court – and I do not want us to go in court.

2120 So I ask if he could answer those two questions.

Thank you.

2125 **The Bailiff:** Deputy Gollop and then Deputy Hadley, and Deputy Green. (*Interjection*)

Deputy Gollop: I think I have very similar concerns to Deputy Dorey. And in relation to what Deputy Fallaize said, I will support this amendment because I think the message of the march... and the message of today is we should try to seek rational and fair agreement.

2130 But supporting this amendment should not be seen as necessarily supporting the entire package of Propositions. (*Interjections*) That will come at a later point. (*Laughter*) The downside of us voting for the amendment is that it could be seen that we are assuming that agreement will

2135 happen – and I do not think we can make that assumption. We can *hope* that it will but perhaps some of these messages which have gone out today would suggest that negotiation might be hard, without perhaps an additional facilitator of some kind coming into the process – and three months in politics is not a long time.

The Bailiff: Deputy Hadley.

2140 **Deputy Hadley:** Mr Bailiff, in fact I take a different view to Deputy Gollop. I do not think we *will* succeed. My assumption would be that everything the Deputy Minister has said in the past is that they have done all the negotiation they can, would lead me to think this is a pointless exercise.

2145 But what is more worrying about this is that I will vote against any move to spend half a million pounds worth of taxpayers' money to go to court when we might lose. And, in any case, I think the whole prospect of going to court against our employees is wrong. Therefore, if I and other Members vote against going to court to get that sort of relief then the negotiations will be very much more difficult for the States because we have taken from them the most powerful weapon that they have, because we will have removed their opportunity to go to court.

2150 So I would ask the Assembly to reject this amendment.

The Bailiff: Deputy Green, then Deputy Lowe.

2155 **Deputy Green:** Sir, first of all, I declare an interest in that my co-habiting partner is a States of Guernsey employee who works for the schools music service as a teacher and is ergo a beneficiary under the public sector pension scheme.

2160 Undoubtedly, this amendment is an improvement on the original Propositions. I echo much of what my Castel colleague, Deputy Dorey, said a moment ago. I do have concerns about the three-month period and again I would echo the questions that Deputy Dorey asked in that regard. Is three months really sufficient? Is it a figure that has just been plucked out of the air? Is it really realistic? Are we actually setting ourselves up to fall? I look forward to the Deputy Chief Minister's responses in that regard.

2165 Clearly a further process of mediation is to be welcomed, and clearly a negotiated settlement is the ideal solution that we should all be trying to aim for. That is the best option.

I am not going to say anything at this stage in relation to the proposed legal application to the Royal Court. I will save that for general debate. But I am minded to support this amendment at this stage.

The Bailiff: Deputy Lowe.

2170 **Deputy Lowe:** Thank you, sir. I will be brief.

2175 I welcome any amendment that actually will get everybody back around the table. However, I cannot support this amendment because it has got the Royal Court in it and there are so many Members that have actually said they are concerned about how this would end up in the Royal Court, but that is still in this amendment.

So if it was actually going back to the table to try and get some mediation together, that is great, but as it has got the Royal Court in here, I cannot support this amendment because I do not wish it to be ending up being resolved in the Royal Court.

2180 **The Bailiff:** Deputy Brehaut, then Deputy Kuttelwascher.

Deputy Brehaut: Thank you very much, sir.

I know that we do not want to rake over the coals of the past, but just a very quick speech and quick observations. When I joined the PSRC bright-eyed and bushy-tailed, looking forward to

2185 meeting with our respective employees and negotiating with them, I found of course within the first couple of months and certainly by the end of the term we were intransigent, we were useless, we could not reach agreements, we went in with closed minds, that we were not capable of negotiating; but we did reach an agreement with the majority of members.

I have a note saying 'conflict', written by Deputy Domaille. I have no conflict of interest to declare, sir, absolutely none whatsoever.

2190 So by the end of the first term... In fact, during negotiations the PSRC were having, certain pay groups said that because they were so close to an election they would not meet with the PSRC, they wanted new Members elected, because perhaps new political Members would give them the agreement they were looking for. But of course that did not happen and there were calls, as we all know, for independent pay review bodies – although I have to say unions generally... In fact, when they were asked, they said they would rather meet with the person who had their hands on the purse strings, as they put it. They would rather meet with the people who are making the decisions than have some independent pay review body.

2200 So, in short, Deputy Le Tocq – who is on PSRC, an affable politician, somebody interested in people, somebody with a job within the community somewhere else, who enjoys meeting with people, who enjoys the company of people, who wants to assist people – had a role as Chair for the PSRC.

2205 We have then Deputy Al Brouard as Chair of the PSRC, again with a genuine interest in the community, a mediator seeking agreement. But again Deputy Brouard, along with Deputy Le Tocq, it was alleged... it was said it was alleged, 'We are incapable of coming to an agreement with the public sector employees – the States were intransigent, they just did not want to reach an agreement.' We now have Deputy Allister Langlois in the Chair who – surprise, surprise – cannot come to an agreement with the public sector employees.

2210 Now, what is there in this amendment? What does it give you? Because it says... we are almost there, we just cannot... just give us a little bit of a shove, and that has got such an appeal to it. But actually what you might be doing inadvertently is actually conceding something if you are not too careful. You would believe you are signing up to the idea that there is such a short gap between these two parties that three months will absolutely secure it.

2215 And do you really believe that? Because if I was in a negotiating position what I would want this Assembly to do is to concede that there is a stumbling block. To concede that there is an impasse, because there always is with the States of Deliberation, there always is with their negotiators. They can *never* agree.

2220 So let's go back around the block for another three months and come back to the table. And what do we do then, if the employee group says, for example, 'We approached mediation with an open mind. Sadly, I am afraid to say, the employers side did not'? And it is unfortunate that we find ourselves going for this ruling with regard to court action.

2225 So I am uneasy with this amendment because I am not too sure that it gives the way forward the clarity that people expect it does. It is open-handed, it shows perhaps an open mind, it shows an intent. But three and a half years of negotiations... and we have to believe that we were just really a millimetre away from seizing the deal. I am not convinced of that at this stage, sir.

The Bailiff: Deputy Kuttelwascher and then Deputy Le Tocq.

2230 **Deputy Kuttelwascher:** Thank you, sir.
I support this amendment.
Thank you, sir. (*Interjections*)

The Bailiff: The Chief Minister, Deputy Le Tocq.

2235 **The Chief Minister:** Sir, I will be brief and if this amendment passes, which I hope it does, I will take a huge chunk out of my prepared speech for the main debate.

2240 Sir, I am not overly optimistic. I share, I suppose, the cynicism of years, similarly to Deputy Brehaut, of being involved in PSRC. I am about as optimistic to getting it to come to a good conclusion as I am that the *Guernsey Press* will change its editorial policy only to publish happy news stories! (*Laughter*)

But, having said that, I think it is worthwhile because I know a lot of people that I expect have also lobbied and knocked on the doors of other colleagues here over recent weeks. A lot of scheme members and employees who do believe and are optimistic that it will only take a short time, that we were very, very close.

2245 In fact, I think as a result of that it is worthwhile supporting this last breath attempt. But if we do not have a backstop, if we do not have a reason to focus the attention of all parties, then it is going to be very difficult to see any optimism at all achieved, because in a sense there is an ultimate backstop. There are a few on the employees' side. One is an election next year and Deputy Brehaut already alluded to that particular one. We will wait for a different group and see if we can get a different opinion.

2250 Secondly, of course, there is the opportunity for individual employees to take their employer to industrial tribunal and to the court if necessary as well. And so I think it is only right that we should have a backstop and that is why I am supportive of this amendment, but it needs to be on the basis that there is a recognition that there are, I think, quite a large number of employees out there who would vote for a mediated proposal on the basis that that was attempted last year and unfortunately I think the unions could not deliver on that recommendation that they agreed to, but want to give them another chance to do so. And I am doing so on the basis that many have contacted me and they agree and believe that this is the opportunity – the last opportunity – to do so.

2260 Thank you, sir.

The Bailiff: Deputy Rob Jones.

2265 **Deputy Rob Jones:** I rise only because I was quoted in the *Press* saying that I was not keen on litigation and this going to the Royal Court, and I rise mainly because Deputy Lowe did bring up the point that we should not support it if we are not keen on that.

What I am also not keen on, and that was not quoted in the *Press*, is the possibility that we have open-ended negotiations. I feel that there is a need for some sort of backstop and that has been covered by other Members of the Assembly today.

2270 So I will be supporting this amendment.

The Bailiff: Yes, Deputy Le Clerc and Deputy de Lisle.

Deputy Le Clerc: Sir, I will be brief. I will support this amendment.

2275 Deputy Soulsby approached me initially to second the amendment and I was pleased to do that at that time. I have received many e-mails from various union members and States' employees and I think that we do need to have a time limit on these negotiations, and I hope it will focus the mind of everybody.

2280 My only concern is that again it will be done in confidence behind the scenes, and I hear what Deputy Langlois said earlier, but that is the one thing that I have found very difficult, is understanding exactly where the gaps were; and, again, if this is all done in confidence behind the scenes, I am concerned that we will find ourselves in exactly the same position. However, I will support the amendment.

2285 **The Bailiff:** Deputy de Lisle, then Deputy Collins.

Deputy de Lisle: Sir, I must reveal my interest as a recipient of a Guernsey pension through service in education.

2290 I would prefer that both sides reach a negotiated agreement on public sector pensions. At this juncture it seemed hasty for the Policy Council to ask the States to agree to an application to the Royal Court for a declaration, and I worry that change would be made to the public sector pension schemes which may adversely affect members' rights without the consent of members. It worries me also that expenditure in respect to an application to the Royal Court is estimated at half a million pounds and may amount to more in the end.

2295 I personally do not want to see the time already spent in negotiations going to waste, and reiterate my support for further talks as opposed to risky and costly legal action and the damage that would bring to industrial relations. So while being of the opinion that changes to the pension scheme are necessary, however these changes should be made through negotiation and it is not the behaviour of a fair and just employer to force these changes.

2300 So, while I fully support the will of Policy Council to continue negotiation, I have concerns with respect to still threatening the application to the Royal Court.

Thank you, sir.

The Bailiff: Deputy Collins.

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Deputy Collins: Thank you, sir. I shall be brief.

Firstly, I would like to declare my position. I was a civil servant between 2000 and 2007 but on leaving the service I withdrew all my entitlement so I have no current or future benefits.

2310 I shall be supporting this amendment as it gives that final chance. I attended both the presentations of the Union and the Policy Council and I have to say, sir, I was very disappointed with the Union's. Let's hope this time they will not sit on the fence and recommend to their members any agreed offer between them and the Policy Council. I do not want to force changes but here we are.

Thank you.

2315

The Bailiff: Does anyone else wish to speak? Deputy Harwood and then Deputy Brouard.

Deputy Harwood: Thank you, sir.

2320 I would urge all Members to support this amendment, as others have already said. Deputy Langlois who has had the heavy burden of having to conduct these negotiations, if he is keen and willing to allow another three months to defer for further mediated negotiation to happen, why should we deny him that?

2325 Sir, one or two Members have questioned... and who have concerns about the amendment and the reference to the Royal Court application. Sir, I think there is a lot of misunderstanding and misapprehension as to the nature of the application that will be made to the Royal Court. It is to get a Declaratory Order as to the exact status of the pension schemes. There have been various descriptions going back to 2006 describing any changes to the scheme as a legal minefield without agreement. So we need to know once and for all exactly the status of the scheme.

2330 To those Members of this Assembly who regularly remind us that the States, by Resolution, can change things, I point out the scheme, I believe, is created by a States' Resolution. We need to identify whether or not the States therefore can, by Resolution, amend the scheme. (**A Member:** Hear, hear.)

2335 Interestingly enough, I think every year the States are asked by Resolution to approve the inflationary index that applies to the scheme, so there is a very genuine reason and it is not pitching us against employees. All we are asking for is declared declarations as to the status and the nature of the scheme. If any Members of this Assembly wish to reserve their position so that even after the declaration there is not anything forced on the employees, then they can perhaps address that through considering Proposition 3 of the proposals which would then reserve your position.

2340 But I would urge Members to support this amendment. Do not get fazed by the fact that it does include a reference to a declaratory judgment because that is not necessarily going to pitch employer against employee.

Thank you, sir.

2345 **The Bailiff:** Deputy Brouard.

Deputy Brouard: Thank you, sir.

I understand in order to vote we need to declare an interest. I have a deferred States' Member's pension which is a scheme which has been closed, and my wife is employed by HSSD.

2350 Thank you, sir.

The Bailiff: Does anyone else wish to speak? Yes, it looks like two more speeches and I am minded to see if we could conclude this before lunch.

Deputy Le Lièvre.

2355

Deputy Le Lièvre: It is just to declare an interest in that I am in receipt of a Civil Service pension, sir.

The Bailiff: And Deputy Soulsby?

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Deputy Soulsby: Just a final speech. It is not too long.

Sir, it is a sad reflection of what has happened over the last three years that we are having this debate today. At some point an independent review must be undertaken into why it has been impossible to come to a resolution in over three years. Lessons need to be learned and we need to consider how such negotiations are conducted in the future. This whole sorry saga makes no-one look good. However, today, through this amendment, it will be possible to finally bring things to an end and at the same time give hope that this can be done through mutual agreement.

2365

I spent quite a bit of my professional life setting up and administering pension trusts and acting as a pension trustee, and therefore I have a good understanding of the different type of schemes, their advantages and disadvantages to the employer and the employee.

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I have therefore looked at the proposals put forward in some detail with that experience and considered them in terms of sustainability as well as in terms of whether it would affect our ability to recruit key workers. Logically, rationally, these proposals make sense. For new employees they make sense. Were we setting up a pension scheme from scratch they would probably make sense, at least more sense than the final salary scheme – and I will say more on that front in general debate. However – and this is a 'however' in bold, capitals and underlined – it is not as simple as that. By making a decision today without this amendment, we would be setting a precedent by forcing terms on our employees.

2375

We have been told that there have been changes made to the pension scheme over the years, but these have always been by agreement. That difference makes me uncomfortable. Not only that, and whether or not the proposals are right, what does bother me is the effect that will have on morale, which in some parts of the organisation is already low. The HSSD Board held a meet and greet session open to all staff last Friday. It was an open session where people can tell it how it is. And they did. I would like to take the opportunity here to thank all those who turned up and gave us their honest thoughts.

2380

Certainly, the impression given was that in parts of the organisation there were morale issues. Whilst that is likely to be for a number of reasons and not just to do with the changes in the pension scheme being made the way that they were, but it was specifically mentioned as an error of real concern. And that concerns me.

2385

That is why I believe we must give a final chance once and for all to reach a mediated agreement. At the same time, I do not believe we should allow mediation to continue indefinitely.

2390

2395 This has gone on long enough and the longer it goes on, it costs the States of Guernsey and the taxpayer a lot of money. That is why mediation must be time limited. We hear the employees' side wants it. I want it. I am pretty sure most, if not all, of us in this Assembly want that. This amendment provides that opportunity and I urge Members to support this amendment.

The Bailiff: Deputy Lester Queripel.

2400 **Deputy Lester Queripel:** Sir, I have got a dilemma. (*Interjection*) I was intending to speak in support of the amendment but I am rather concerned about ... Several speakers have mentioned the time frame, three months. Perhaps it should be extended to six months?

I rise to ask for an adjournment, sir, to give time to compile an amendment to extend it from three months to six months.

2405 **The Bailiff:** I will put it to Members.
Request for an adjournment. Those in favour; those against.

Members voted Contre.

The Bailiff: We will not adjourn then.
Does anyone else wish to speak on the amendment?
Deputy Lester Queripel.

2410 **Deputy Lester Queripel:** Sir, life as a Deputy can be stressful at times, especially when we have to deal with issues like this where passions and emotions run high. And there is an old saying, 'if you can't stand the heat then get out of the kitchen.' I have no intention of getting out of the kitchen, sir, but I did breathe a huge sigh of relief when I accessed my e-mails late last night to
2415 find this amendment, because it offers the unions another opportunity to sit down and negotiate, which is exactly what they have been asking for these past few extremely traumatic weeks.

Sir, Deputy Langlois and I do not always see eye to eye but I want to give him credit, and Deputy Soulsby, for laying this amendment because he has been the Policy Council representative on this issue and he has led the line, often in the face of adversity, saying that after three and a half years of negotiation the time for negotiation has run out – and here he is laying an
2420 amendment which offers the opportunity for further negotiation to take place. I want to give him credit for adopting such a pragmatic and such a sensible and logical approach.

Sir, I have been wrestling with this issue for several weeks now and I know many of my colleagues have been doing the same. I have been to the presentations, I have heard the
2425 questions, I have heard the answers, I have read the streams of e-mails, I have had one-to-one meetings with various people, I have spoken with people on both sides, I have read all the reports etc and the message that kept coming through to me loud and clear was that further negotiations really do need to take place.

So I am going to support this amendment, sir, because it makes perfect sense and of course
2430 there has to be a time limit on this as we do not want negotiations to run on for another three and half years. I am sure that none of us want to see fellow Islanders demoralised, and we understand there needs to be a compromise. One side gives a little, another side gives a little bit, until an agreement is reached.

So, sir, in conclusion, I believe that there is every chance an agreement will be reached and I
2435 urge my colleagues to support what I see as a logical, sensible and pragmatic proposal.

Thank you, sir.

The Bailiff: If no-one else wishes to speak I will invite Deputy Langlois to reply to the debate.
Deputy Langlois.

2440

Deputy Langlois: Thank you, sir, and I will be as brief as I possibly can. I will leave out all the references to all the offers of support, thank you very much for seeing the sense of this. A number of you have said that as the centre of your speeches.

2445 A few assurances. Go into this with an open-minded approach to mediation – yes, absolutely. I would not go near it if that was not the case. If any of my comments in the main speech have been misinterpreted in relation to going in saying, ‘Yes, but we will not go there and we will not go there,’ then that is not the spirit of mediation.

Please do not repeat the debate – I would agree with Deputy Fallaize.

I thank Deputy Conder for his kind comments.

2450 An important couple of points from Deputy Dorey – sorry, I think I have answered one already in terms of the thing being in confidence and not having any red lines. The issue was then echoed by Deputy Le Clerc, and this sort of negotiation can only take place in an atmosphere and a set of conditions where you can exchange things in confidence. If this just goes on and on as a sort of general media debate, that is the point where you will never get anywhere or you will never
2455 change anything – and I want support from this Assembly today to make a change, because we have *got* to make a change.

The three months – a very valid question. We kicked this around yesterday and the day before when this was all being considered. The three months is there for a purpose and that is that the unions themselves... I have had conversations with union leaders saying we will only make
2460 progress in this if we have a set time period and we have factored into that both the setting-up of the meeting, the preparation for the meeting, the short meetings and also time for union ballots which has also got to fit in there. We did start with a shorter time period, but I am confident the three months gives everyone the right chance.

2465 Can we avoid language which is appropriate for the main debate? I heard talks of the only ‘weapon’ we have got. We are not dealing with weapons, we are seeking a mediated agreement.

And, sorry, one final point I do want to make absolutely is... well, it is the first time in all of this time that I have been accused of being hasty. That was a first, Deputy De Lisle. Hasty does not really fit with the timescale that I have experienced. But I thank... and I recommend some repetition in the main debate.

2470 I thank Deputy Harwood absolutely for his clear explanation of what that legal action might involve. Of course it is a clear explanation because that is his job, but a really excellent bottom line explanation of what that legal action would be involved – and a denial of the fact that it is an action against a whole set of employees.

Can we please all support this amendment?

2475

The Bailiff: Before we go to the vote does anyone else need to declare an interest, who has not already done so?

Deputy Jones?

2480 **Deputy David Jones:** Yes, my wife is employed... *[Inaudible]*

The Bailiff: Your microphone was not on. Deputy Jones has declared that his wife...

Deputy Le Pelley.

2485 **Deputy David Jones:** Sorry, my wife is employed as... *[Inaudible]*

Deputy Le Pelley: Sir, I am in receipt of a States’ pension.

The Bailiff: Thank you.

2490 Deputy Burford.

Deputy Burford: Sir, my husband will be entitled to a States’ pension.

Deputy Spruce: My wife and daughter...

2495 **The Bailiff:** That is Deputy Spruce.

Deputy Adam: I have paid into the Deputies' scheme.

2500 **The Bailiff:** Thank you, Deputy Adam.
Deputy James?

Deputy James: Yes, both my spouse and I are in receipt of occupational pensions from the States.

2505 **The Bailiff:** Deputy Paint.

Deputy Paint: I am in receipt of a pension.

The Bailiff: Deputy O'Hara.

2510 **Deputy O'Hara:** ... *[Inaudible]*

The Bailiff: Deputy Hadley.

2515 **Deputy Hadley:** I did pay into the States' pension scheme in the last session of Parliament, but I thought that did not count, sorry.

The Bailiff: Deputy Quin – *(Interjections and laughter)*

2520 **Deputy Quin:** It's the war wound, sir, it's the war wound!
I paid into the States' pension as well, previously.

The Bailiff: Okay.
Deputy Lowe.

2525 **Deputy Lowe:** I paid into the States' pension scheme as well, sir, that no longer exists.

The Bailiff: Deputy Perrot...

2530 I think the answer is that those who paid into the States' pension scheme as Members of this Assembly do not need to declare that interest – that is what I am being told by Deputy Langlois. *(Interjection)* That is what Deputy Langlois is advising, that those who paid into the States Members' pension scheme do not need to declare an interest.

2535 **Deputy Perrot:** Right, well I do not know if any of it... I go back a long way before that. I do not know whether I need to declare an interest, but I get a pension out of the old States' pension scheme. It is such a modest stipend that I do not think anybody need... *(Laughter)*

The Bailiff: Anyway we vote then, on the amendment –

2540 **A Member:** Can we have a recorded vote, sir?

The Bailiff: A recorded vote on the amendment proposed by Deputy Langlois, seconded by Deputy Soulsby.

There was a recorded vote.

2545 **The Bailiff:** Well, Members, that has clearly been carried. We will get the formal declaration of the result when we resume at 2.30 p.m.

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

Billet d'État VII

POLICY COUNCIL

VI. Review of Public Sector Pension Schemes – Debate continued – Propositions carried as amended

Carried – Pour 40, Contre 3, Ne vote pas 1, Absent 3

POUR

Deputy Fallaize
Deputy David Jones
Deputy Laurie Queripel
Deputy Spruce
Deputy Collins
Deputy Duquemin
Deputy Green
Deputy Dorey
Deputy Paint
Deputy Le Tocq
Deputy James
Deputy Adam
Deputy Perrot
Deputy Brouard
Deputy Wilkie
Deputy De Lisle
Deputy Inglis
Deputy Soulsby
Deputy Sillars
Deputy Luxon
Deputy O'Hara
Deputy Quin
Alderney Rep. Jean
Alderney Rep. McKinley
Deputy Harwood
Deputy Kuttelwascher
Deputy Brehaut
Deputy Domaille
Deputy Langlois
Deputy Robert Jones
Deputy Le Clerc
Deputy Gollop
Deputy Sherbourne
Deputy Conder
Deputy Bebb
Deputy Lester Queripel

CONTRE

Deputy Lowe
Deputy Le Lièvre
Deputy Hadley

NE VOTE PAS

Deputy Burford

ABSENT

Deputy Storey
Deputy St Pier
Deputy Trott

Deputy Stewart
Deputy Gillson
Deputy Le Pelley
Deputy Ogier

2550 **The Bailiff:** Well, Members, before debate gets under way, I can announce the result of the vote that was taken just before lunch on the amendment proposed by Deputy Langlois, seconded by Deputy Soulsby. There were 40 – four zero – votes in favour, with 3 against, and one abstention, so I declare the amendment carried.

2555 We now move into general debate. Who wishes to speak in general debate? No-one does. We can go straight to the vote on the amended Propositions. No? No-one is rising. Nobody. Ah, Deputy Hadley. (*Interjections*)

2560 **Deputy Hadley:** It is interesting listening to all the many points that the Deputy Chief Minister made on this issue. He has made the point that the Fund is not sustainable and yet, as some of the employees have pointed out, the States declined to make their full contribution some years back. He has told us that it is only going to make a small difference to our employees. Well, if it is a small difference, I would just ask why we are going to all this trouble.

2565 What worries me about this, essentially, is that to my mind whatever the courts rule there is a contractual obligation, as I see it, to the employees to pay them a certain pension provision. I think when people look at the job of working for the States they are thinking not just of the salary, but also of the other benefits that go with the job, and the pension has got to be an important part of this. So, in effect, by making existing employees take a new contract which saves the States money, somewhere in that they must be taking a salary cut. It is no different to saying to them we expect you to accept a 1% or 2% salary reduction.

2570 When you look at the list of people working for the States in the front of the Report, you will see that the vast majority of these people are not very highly paid people. We are talking about nurses and teachers and, having now spent some time on the Education Board, (*Laughter*) I would very much like to endorse what the Minister of Education has said as regards to teachers.

2575 Indeed, when we had a meet and greet, as my colleague Deputy Soulsby said earlier on this morning, it was interesting that a number of nurses were concerned about the provision of pension, and that to their mind it is less advantageous to the situation in the United Kingdom. It is not a question of whether or not in real terms it is a lot worse; I think this is a package that will be seen as a lot worse. So it will harm the recruitment of nurses, it will harm the recruitment of teachers, for very little gain.

2580 I have no objection to us moving to a career average scheme, and I think that is right and I think we should implement that from 1st May. I think we are on much stickier ground if we try and change the provision for existing employees. To go to court to spend half a million pounds of this Island's money in what could well be a protracted legal battle, with no certainty of the outcome, I think would be a very big mistake. So I do urge Members of the Assembly to reject the idea of going to court, forcing a change in provision for existing members of the scheme.

2585 I also think that, to go to further, negotiation is certainly, as far as I am concerned, a little purposeless because you will not get everybody that is in the pension scheme to agree. You might get a majority to agree, but the same argument to my mind still applies – that you will be enforcing a set of rules on people that have not agreed to it. You will have broken the contract for those people.

2590 So, whatever the outcome of any negotiations, I would still not be voting for a change in the pension provisions for existing employees.

I urge Members to reject the Deputy Chief Minister's proposals.

The Bailiff: Deputy Sherbourne.

2595 **Deputy Sherbourne:** Sorry, everyone, I am very conscious that I made a bit of a mess of this morning's questions, so this gives me an opportunity now to identify one or two issues that I do have.

I have got a prepared speech, which I do not think is appropriate now, but what I would like to do is to actually run through the Propositions that we are about to vote on, because there are all sorts of anomalies now built in, because of that decision this morning. Not least number 1, because number 1, which actually closes the current scheme to new members from 1st May, states that the new pension arrangements detailed in appendix 5 of the Report... they will be changed possibly after another three months' negotiation. So in a way we cannot vote on number 1. If that negotiation is to go ahead that could well change – appendix 5 could be totally irrelevant, so I do not see that.

2600
2605 In principle, I am not against the idea of getting a declaration on the position... clarification. I take Deputy Harwood's explanation on that. I must admit when I first read it, my prepared speech would have actually been against that because I saw it as a threat, but in fact the threat comes from Proposition 3, and so they are both tied up, as is 5:

2610 'To direct the necessary work be undertaken to implement the revised arrangements for new members with effect from 1st May.'

I cannot really see how we can do that so, as I go through these, I find reasons why I could vote against every single Resolution there. In fact, it makes much more sense for us to throw the whole thing out at the moment and say, 'Come back with the revised proposals in the' – I suppose it would be the – 'June Billet, and let's vote on it then'.

2615 As I say, I would be quite happy now to go along with the concept of getting a declaration for clarification only, but I still see that the associations could see that as a threat, and I do not know that that would be a good thing to do at a time of going into those negotiations.

2620 Now, those are my first thoughts. I know that there is this issue of linking Resolution 2 with 8 – the war chest, as I heard it described – the funds required to get that Court Declaration, so they are linked.

2625 So at the moment, unless anyone can convince me otherwise, I think I am likely to vote against everything other than maybe 3, and then that will be pointless because I would not vote for the money to do it, so it is a real dilemma for me, and you are smiling or nodding away, Deputy Perrot, maybe –

Deputy Perrot: I am entirely innocent, sir! I just happened to move my head from the north. *(Laughter)* Nothing ought to be inferred from that.

2630 **Deputy Sherbourne:** Right, well, thank you for the explanation.
Thank you, sir.

The Bailiff: Does anyone else wish to speak in general debate? No.
Deputy Green.

2635 **Deputy Green:** Very briefly, sir.

I echo the points that – just for the record, sir, obviously I declared an interest this morning, I do not need to do it again – Deputy Hadley made just a moment ago.

2640 I listened very carefully to Deputy Langlois this morning and I pretty much agreed with everything he said. There was only one aspect that I take a pause for thought on and that is the idea of applying for the Declaration in the event that the mediation talks are unsuccessful. I want a negotiated settlement to be reached. I am hopeful that it will be.

2645 That is the ideal way to get change as regards existing members of the scheme, but I am not happy with the proposed legal action at this stage. I do think you can question whether an employer can ever unilaterally vary an employee's contract to their detriment, in the absence of

consent or in the absence of a general clause permitting that. I think it is not a settled issue of law; I therefore balk at the idea of spending the money which is in Proposition 8 on such an action.

As I say, I agree pretty much with everything Deputy Langlois says. The only area where I pause for thought, and ask Members to do likewise, is on the issue of the Declaration. I hope and I pray that the negotiations will be successful, but in the event that they are not, then I really do not think it is the right thing to be running the risk of spending that amount of money on a Declaration.

Ultimately, it is really the issue of how any constraints could apply in those circumstances. I fundamentally think that changes in this area have to be done by consent or they have to be done in another way. I am not going to go into what other ways would be appropriate, but I do not think an application for a declaration is the right way forward.

The Bailiff: Deputy Gollop.

Deputy Gollop: Yes, I agree with a lot of what Deputy Sherbourne has said actually, but I would point out that the application for declaratory relief might have the adverse side effect of, to a degree – I have got to be careful what I say – politicising the court, because really you have two principals at potential loggerheads with each other.

One is the Sovereignty of the States in being able to – according to political circumstances and economic circumstances – amend previous policies. The other is the fundamental contractual right of any employee to have a contract of employment with the terms that were offered at the time that they took the job, and indeed performed the service, the public service, and the service of employment.

Therefore we are delegating this to another body, rather than work out a solution, and in reality the declaration... if it was decided that, yes, the States could amend contracts of employment, subject perhaps to a constraint that we do not identify at this point. Therefore, it would appear to me to be no possibility of litigation from the public sector at that point, the public sector employees.

Also of course, it would mean if we pass these Resolutions today, that there would be no possibility of any change, because we would effectively be putting into effect at that point, once the judgment was known, what was decided to do. Effectively, we would be giving a *carte blanche* to the States to alter the terms and conditions. So they are points that concern me.

What also concerns me is when I look across the water to the United Kingdom. In 2005, believe it or not, the then Blair government began a process of looking at changing the pension structure there, and now, eight or nine or even 10 years later, changes are being effected by what amounts to the outgoing coalition Government.

Now, that has been a hard fought battle. It refers specifically to the Civil Service rather than perhaps as we do, because we include within it people who would be considered local government officers, police, nurses and other people that come under different systems. But the government, to their credit, in the UK got a four-fifths buy in. They did get approval from members by roughly four-to-one to support the proposals.

We clearly have not done that. We know that is not the case and so we are embarking on a voyage whereby there is already substantial and very visible opposition. We witnessed last week, perhaps a 1,000, maybe more, people with serious concerns, and I think it ill fits us to try to impose a solution on the public sector without that level of consent. I really do think that we have to be very cautious.

The easiest one of these proposals to support is, of course, to amend terms and conditions for the new entrants from 1st May. That day is only just around the corner and we have not taken into account the consequences that might have on morale within the public sector on recruitment and retention, and our ability to compete to get the best possible future employees, both from within the Island or without.

So, for all of those reasons, I would prefer to have a completely new look at the whole range of issues, and I am unlikely to support many of these Propositions.

2700 **The Bailiff:** Deputy Domaille.

Deputy Domaille: Thank you, sir.

Like Deputy Sherbourne, I had actually prepared a speech but events have moved on, so there we go.

2705 What I would say is that I am conscious, first of all, with regard to declaratory relief... I see the sense in it. I see the sense in doing that. I am comforted by the assurance we had this morning that, if you like, benefits have already been accrued, whether they are for people who are being paid a pension now, or, as it were, are not part of this thing. So, to me, it seems eminently sensible for both sides to have an understanding as to what the real contractual position is. So I think that
2710 is a sensible thing to do.

I have also actually, prior to today, sent to Deputy Langlois some of the comments I have, which I am not going to make here. I have also sent those comments out to some staff representatives – and I am not seeking to prejudice any of the negotiations, so if I said anything in this speech that might require an answer that is going to prejudice the position, I would
2715 respectfully ask do not answer it, please. So just to keep it in perspective.

However – there is always a ‘however’ – there are some things that do not seem to be in this Report that concern me; just supporting analysis, various things, that I would have expected perhaps. Maybe it has been done but outside of the Report; things like, well actually, if we only gave the scheme to new entrants, what are the effects of that, what is the effect on recruitment and retention? Would we have to pay increased wages to compensate for not such a generous
2720 pension, and this sort of thing? I am not going to go too far into that. As I say, events have moved on, but I do think, generally speaking, there could have been some more analysis in the Report.

I think that one of the options that might have been worth looking at – might still be worth looking at – is offering the staff the option to actually opt out, to actually say to them, ‘You do not
2725 have to be in this scheme. Here is the money we would have paid in on your behalf, as long as you go to an approved pension scheme on your own head be it,’ and actually, to a degree, that gives them a degree of flexibility in that.

The other thing I think would have been useful in this would be for, possibly, staff being offered the option to actually increase their contribution. So a concern is the pension age – not
2730 retirement age, the pension age. It seems to be sensible that we could offer the opportunity to staff to put more in so they can actually save for their own future. That is actually being offered to the senior staff – the ones over £85,000. I have got that wrong but, never mind, there we go. But I still think that is something that could be done.

My biggest concern, I think, is this inflation cap. I am sorry, I do not understand the logic
2735 behind it. If people are paying in to this scheme and there is high inflation – I well remember inflation, I think, of 18% – if people are paying into this scheme their wages go up so their contributions go up. From the employers’ perspective, yes, in pounds and pence, they pay more, but because they have this cap of 14% with the inflation the pounds and pence go up but if your benefits are not going up in pace with inflation then your fund is getting bigger, and the
2740 employer does not have to put so much in. Now, to me, that is an area that should be explored.

Some of the details... Paragraph 121 refers to the forum to facilitate longer working. Yes, that sounds good, but I would appreciate some indication of the sort of arrangements the Policy Council have in mind, to enable people to be able to work longer. I mean, in many cases, employees will be moving to a lower paid job, which will bring down their career average pension,
2745 so I think there is some option for some scope in there.

One thing I would like confirmation on is that in the past – and reference has been made, I think, to a pension holiday by numerous people, and I think that it would be useful to have a confirmation from Policy Council that the fund will remain fully funded at all times as we move

forward... Confirmation, I think, please, just to help people who perhaps have not understood this – and I may be one of them.

2750

Throughout the document it refers to a pension age of 67. That is because the document was written before the rise in the pension age to 70, so I merely seek confirmation that the 70 rule has superseded that.

2755

A starting date for the 10-year protection provisions... I think I understand the starting date as being 1st May 2015, but given events are moving on in negotiation, I would like some confirmation as to when that date will actually be.

2760

Two observations, I would just like to sort of finish with actually. The Report states the private sector's employer's contributions to pension schemes equate to around 10% of pay costs annually, while the States contribute 14%. Private sector 10%, States 14%. The Report also states that in 2013 the total States' contributions were £27 million, with members' total contributions of £13 million. To put the employer's contribution into context, this broadly equated to the 2013 net revenue expenditure of the Public Services Department, the Housing Department, the Environment Department, the Culture & Leisure Department, and the Commerce & Employment Department. This is a significant sum for the taxpayer to be funding.

2765

However, on the other side of the coin, for many years employees have been told that while their remuneration was not in line with some packages elsewhere, they could rest assured because their pension scheme would be protected and guaranteed by the States through good and bad times. These proposals run counter to those assurances and should not be undertaken lightly.

Thank you, sir.

2770

The Bailiff: Does anyone else wish to speak?

Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

2775

I support Proposition 1, and I do not really understand, if it was considered that the Scheme was unsustainable, why wasn't it closed to the new members at the beginning of this process? I think the importance of closing it then is highlighted by the question that Deputy Fallaize asked under Rule 5 in February where, and I will read from the answer:

'There are just over 5,000 pension scheme members at the current time at the end of February, and 24.6% were recruited between 1st May 2008 and 30th April 2012 and another 25% were recruited between 1st May 2012 and the present day'

2780

So if you go back seven years, just under 50% were recruited in that period. So I think that highlights the potential dramatic effect of closing it to new members. If history repeated itself, in seven years' time we would have 50% of the members under the new scheme. That is the point which concerns me, because I think good industrial relations are very important. The good will of employees, who have dedicated their careers to public service, is also very important.

2785

I am extremely concerned about going to court and the effect that will have on morale and industrial relations, when potentially, by just closing the scheme and letting that run, we can have such an effect on the scheme. I would much prefer that as the right way forward.

2790

I am particularly concerned as well about 1(b) – and Deputy Harwood spoke about going to court this morning, but – where it says:

'... if the Court declares such a right to exist, what (if any) constraints apply to the exercise of that right.'

2795

Well, my concern is, effectively, we would have arguments in court which is potentially negotiations, because the arguments over those constraints would be key to the court ruling, if it does go to the Royal Court. I just think that is totally inappropriate. As part of the employer, I just do not want to see that. I do not think that is right. I do not think that is good for industrial relations.

I will vote for Proposition 1, but I cannot vote for Proposition 2 and also Proposition 3. I will support the rest of the Propositions. I know Proposition 4 refers to 3, but if 3 is lost then I assume part of it will not apply.

2800

The prime reason is because of the significant change over in staff, and I think that is a far better way to make the scheme sustainable – just by closing it to new members. Yes, I look forward to the mediation and I want them to reach an agreement. I think they can reach an agreement. Everything I have heard from the presentation I went to, from the unions and from everybody, is that they want agreement, but I really think it is wrong to not reach agreement and go to court.

2805

Thank you.

The Bailiff: I see no-one –
Deputy Conder.

2810

Deputy Conder: Sir, before I commence my speech, could you give me some guidance please in terms of just what it is we should be debating?

I know the Chief Minister said he was going to take a large part of his speech out and a number of colleagues have said they have abandoned their set speech. I do not want to stray into territory that could jeopardise the mediation, but I am not really quite sure what it is we should be excluding.

2815

The Bailiff: I am not sure that is a matter for me to give guidance on. (**Deputy Conder:** Sorry, sir.) As far as I am concerned the debate can be on anything that is relevant to the Propositions that are before the Assembly.

2820

Deputy Conder: Okay, thank you, sir. Perhaps a colleague –

The Bailiff: I think the urging from the Chief Minister and Deputy Chief Minister was not to say anything that might prejudice the mediation with the States' employees, by indicating that the States have adopted an intransigent position, or done anything that might prejudice those negotiations. That is the point that they were making. I do not think it is a point for me as Presiding Officer particularly to make.

2825

2830

Deputy Conder: My apologies. Perhaps if I do go into territory that is inappropriate a colleague will stand up and –

The Bailiff: I do not know if the Procureur wishes to add anything to that...? No.

2835

Deputy Conder: Thank you. Sorry, sir, to bother you with that.

Sir, fellow States' Members, I think, like many colleagues, I was very pleased that the amendment laid by the Deputy Chief Minister was successful this morning. He and his advisors and the staff representatives, who have worked so hard on all of our behalf, deserve another opportunity to reach a mediated agreement. Perhaps the discussions in advance of this debate, in the media and elsewhere, will have helped to concentrate minds towards a successful outcome which is obviously in everyone's interests.

2840

Sir, notwithstanding that we look for and seek such a successful outcome, that prospect cannot and should not deflect us from addressing the core issues which remain as substantive Propositions in this States' Report – namely, of course, reform of the existing States' pension provision for existing and future employees.

2845

It can be in no-one's interest to once again leave this matter unresolved, to be a source of public debate, speculation and criticism, with the potential to place an unsustainable burden upon

2850 a declining number of taxpayers who cannot, and will not, be able to access themselves such generous pension provision.

If such a situation is prolonged there remains the potential for deep resentment to build up, fanned, of course, by story-hungry media, between those who are paying for such benefits and those who receive them.

2855 In some ways, this debate is the mirror image of the debate we had last month, in respect of changes to Guernsey's tax and benefits structure. For those of us who argue that Guernsey should not seek to expand its range of taxes – and perhaps won some of those arguments – we equally have to recognise that in a time of an ageing demographic, in which pension costs are just part of the way the taxpayer supports a particular section of society, it is not reasonable to ask the taxpayer to carry an increasing burden for the benefit of one particular section of the society.
2860 Those of us who were against imposing a regressive and potentially growing tax burden cannot have our cake and eat it.

Sir, there are many complex parts of this debate, and no one speech can or should attempt to address all of those elements. To some extent that is why we have appointed skilled and knowledgeable negotiators.

2865 I will, if I may, just focus on a few with particular reference to the Propositions. Firstly, can I deal with Proposition 5, which states that is to undertake the necessary work:

'...to implement the revised arrangement for new members with effect from 1st May 2015.'

2870 I would suggest that both in terms of affordability, public expectation, and sustainability, this is something which must be done as a matter of some urgency. Few, if any, modern democracies are now continuing to offer States' employees, on entry, at say the age of 18, a guarantee of a final salary pension to be fully inflation-proofed until death in perhaps 60 or 70 years' time. All to be based upon a final salary at retirement age of between 60 and 65.

2875 That is actuarial nonsense, which is founded in a past when perhaps a public sector employee might expect a retirement of perhaps 10 years, if he or she was lucky, and the employer a liability of the same length. These schemes were not built to fund a retirement expectation of perhaps a quarter of a century to be funded by the taxpayer.

2880 Yes, of course, funded in conjunction with the employee, but only during their working life and at a rate lower than the employer – and we must never forget the employer is the taxpayer. The world changes, economic conditions change, life expectations change. Contracts with one sector of our community cannot remain the only immutable fixed part, never capable of amendment, in a firmament in which all the other social and economic conditions have changed.

2885 I believe that many of our employees recognise that fact, and seek only a fair and equitable solution which reflects the world that we live in. The first thing we must do is to stop recruiting staff and offering terms and conditions which are unsustainable. That is unfair to all parties, and not least the new recruit, who is essentially being sold a false promise. We must bring in these arrangements for new staff immediately. We have delayed too long.

2890 For those who claim that amending the pension scheme would damage recruitment to the Public Service, I would just give a small and perhaps not truly reflective example, which perhaps illustrates what some colleagues who were beneficiaries of public sector pensions in the past have already experienced.

2895 Some Members of the States might know I came to this Island in early 2002 to become the first Chief Executive of the Guernsey Training Agency – an organisation that was operated on broadly commercial lines, but whose employees enjoyed membership of the States of Guernsey Pension Scheme.

However, even before my employment, the Trustees of that company, recognising as they did the risks that pension liabilities represented to the company as a going concern, offered me a contract with no pension rights at all – not a career average pension, not a defined contribution

scheme, no pension whatsoever – and it became the clear policy of that organisation, from a given date to introduce staff contracts for new appointment that had no pension provision.

2900

Staff were paid a salary which was deemed to be sufficient for the employee to fund their own pension provision in whatsoever way they deemed fit. In due course that policy was adopted for all new staff appointments, such that as of today, as Deputy Dorey has said, as a consequence of staff turnover, the GTA will have very little ongoing pension liability, and its financial viability is not jeopardised by such liabilities. That is what a small publicly-funded organisation has had to do, and I have to say on no occasion when advertising for new staff did I have problems in recruiting.

2905

Colleagues will probably know that where the GTA led, the Guernsey Financial Services Commission followed, and it has itself in recent years made dramatic changes to its own pension scheme, having previously been part of the States' Employee Pension Scheme.

2910

Even as amended, the proposals for a new pension scheme for new recruits, as detailed in this policy letter, are good. Indeed, they are as good, if not better, than any available in the private sector or probably similar jurisdictions. In my opinion, and in my experience, provided the terms, conditions and benefits are properly explained they will not impact upon new recruitment. I strongly recommend the adoption of Proposition 5.

2915

Sir, I now turn to the issues in terms of benefits that existing employees might expect, and the impact that these proposals will have upon them. None of us can take pleasure in amending benefits that our staff might have expected to enjoy. But, in my opinion, it is wrong to make the assertion that contracts cannot be changed by an employer. I am no employment lawyer, but I know that throughout my career, my contract and terms of employment have been changed by my employer, usually after negotiation, but always in the context of changing employment, economic or social conditions.

2920

When I was first employed in higher education, lecturers had what was called tenure, which meant they could not be sacked, a protection which was designed to allow them freedom to express view that might be unacceptable to the university authorities or to Government. The only reason a university lecturer could be dismissed was for and I quote 'gross moral turpitude'.

2925

I am pleased to say I managed to avoid that fate – got out just in time! Lecturers were also entitled to 12 weeks holiday a year and a year's sabbatical for every 10 years employed. Happy Days! But clearly and rightly untenable in an era of mass higher education.

Universities had to accept a huge increase in student numbers with limited increases in raw resources, had to be more business-like and they had to change the terms and conditions of their staff. Similar changes will have happened in other parts of the public service; they are an inevitable consequence of changes in society and economies. None of us can expect, or demand that the conditions we signed up for at, say, the age of 18 will be preserved as if in aspic until we are 65.

2930

Sir, I now turn to what I believe is one very valuable part of the new offer, which I believe has been largely overlooked by both sides of the negotiation and does, I think, provide a very valuable and perhaps compelling benefit to our States' employees within the new scheme; and that is the proposal to retain RPI as the measure for annual uprating of pensions, and does not propose moving to the UK's consumer price index.

2935

I believe that this offers a fundamental advantage to Guernsey States' employees, when compared with similar UK-based schemes, which neither side has fully emphasised, and the benefits of which have failed to be properly recognised.

2940

Sir, the details of these annual upratings were in paragraphs 111 and 112 on page 648 and also in paragraph (d) of appendix 1 on page 661 and 662. Sir, I think it was in 2010 or 2011 the UK government unilaterally – *unilaterally* – changed the annual uprating for UK public pensioners, those who were already retired and those who would in future retire, from the Retail Price Index to the less generous Consumer Price Index.

2945

I should declare I am a victim of that. Although this was challenged, through judicial review, that challenge failed. There was no negotiation. The consequences of that is that on average UK public sector pensions will rise by between 1.3% and 1.5% less per annum than hithertofore.

2950

The compounding effect of losing say 1.4% of a pension uprating, over a pensionable life of say 20 years is very, very significant. Indeed, over a pensionable life of say 20 to 25 years that could see, at the end of pension life, a shortfall or reduction of 40% against what might have been expected if the pension had been uprated by RPI.

2955 In some ways, I am surprised but very pleased that our employers – that we – did not attempt to find a CPI index that they could use, but they have not and that will, in my opinion, provide a very positive discriminator in terms of ultimate pension receipts for a retired Guernsey public sector pensioner when compared with his or her equivalent in the UK.

2960 On the basis of my calculations, on that one factor alone, if I had my teacher pension contributions in a revised Guernsey scheme and had the opportunity to leave them here, even if I was transferring back to the UK, I would leave those accrued contributions in a revised Guernsey scheme and draw them on retirement, safeguarded by the Guernsey RPI uplifts.

2965 I am aware, of course, that there are limitations stated within the Report, in terms of the inflation risks and the inflation uprating, but in my opinion, they are indeed quite benign, and they are referred to on page 642, because whilst they are said to be limited to the inflation rate of 6% there are all sorts of caveats there which allow the Policy Council to consider and I quote:

'...whether an increase above 6% could apply in any year in the event of RPIX exceeding 7.5%.'

2970 So whilst that is clearly a limitation, the fact that we will continue to increase under the new scheme by RPI, I think, is an extraordinary benefit to the Guernsey pensioner, which should not be overlooked, and which is certainly no longer available to any public pension receiver in the UK.

2975 Sir, there are many other parts of these proposals which I, or others, could highlight or might wish to examine further: a 10-year protection for existing staff but with a fixed rather than incremental cut-off date; the contribution rates; the accrual rates; the viability of all staff regardless of the nature of their employment retiring at the States' pension age. But in all cases there are ameliorations already included in the package, which were after all recommended – *recommended* – to their members by the staff side negotiators.

2980 Through our approval of the amendment, proposed by the Deputy Chief Minister, we have the opportunity for one final attempt, both to seek mediation with our colleagues, who are our employees, and one final opportunity to explain the intentions and protections which are offered in this package.

2985 Not one of us takes pleasure in changing employment conditions to the detriment of the beneficiaries, but society cannot stand still. This Government cannot commit its successors or, more significantly, future taxpayers to a model which no longer reflects future demographics, work patterns, long-term investment returns or equity between members of society.

2990 As employers we must be fair to our employees. Equally, and perhaps more importantly, we must respect and recognise and publicly express our appreciation and support for the critical service they provide to all members of this community. We should not tolerate, and never participate, in the unfounded gratuitous and ill-informed criticism of our superb Public Service. Whilst we seek to agree a fair and sustainable pension regime for our Public Service, we must at the same time demonstrate our unqualified support for the role they play in public life, and ensure that there are career opportunities and working conditions that reflect their high professionalism and our recognition.

2995 Sir, I earnestly hope that the window of opportunity that these amended Propositions provide will be seized by both sides, and an equitable mediated resolution can be found.

I urge all States' Members to vote for all of these Resolutions as amended.

Thank you, sir.

The Bailiff: Deputy Fallaize.

3000

Deputy Fallaize: Thank you, sir.

I disagree with the employee associations which have argued that the case has not been made for change. I think the case for change is very clear. I do not think that we can maintain a final salary scheme. I do not think that we can maintain pension age provisions which we have in place at the moment in some sectors. That is a consequence of demographics. It is also a consequence of the burden that we are prepared to bear on the taxpayer's behalf.

I think there has to be some limitation placed upon that and, therefore, there does have to be change in the scheme. I suppose that, like most other people, my strong preference is to do it by negotiation, partly because of the importance of trust.

A contract should be a contract and we are going to, if Proposition 1 is approved, put new employees on a new contract. We could do with them at least having some faith and trust in the organisation, in their employer, that those arrangements are not going to be changed at the drop of a hat. So I have a problem with changing arrangements in the absence of a negotiated settlement for that reason, and also for the broader reason of industrial relations.

I do think that the last several weeks have been disastrous – putting it too strongly – but a very, very unfortunate experience in terms of our industrial relations.

Often in this debate those who are most strongly in favour of change and would go further than the Policy Council's proposals go if they thought they could get away with it, argue, use public opinion and the interests of taxpayers as part of their argument.

It certainly is true to say that there are grave doubts amongst a lot of people who are not in the public sector about the final salary scheme as it is applied to, for example, senior civil servants, but I think what has changed the dynamics of this debate and has changed public opinion, was the march, because what happened on the march was that the perception of the recipient of the so-called gold-plated pension being the civil servant sat in an office earning £70,000, £80,000, £90,000 a year was replaced by the firefighter, the police officer, the nurse, the teacher, etc.

When you look at the breakdown, the profile of the public sector, the sorts of people who cop- it in respect of public opinion against the pension scheme actually form a relatively small proportion of the total size of the public sector. I really do think that protecting industrial relations is so important, that change in the absence of negotiation is a very, very brave and potentially unwise step.

I also want to make the point that I think Deputy Langlois has been left in an impossible position, not just now or in recent weeks, but really from the moment that the negotiations in this term started.

If we, all of us 47 Members, were asked what sort of pension scheme we might come up with, how we might approach the negotiations, we would all provide different answers. You could have 47 different approaches and 47 different schemes. I will defend Deputy Langlois' approach in this, because he clearly has been patient, he has been committed and actually he has reached agreement on quite a wide number of issues with employee associations.

The reason I say I think he has been in an impossible task is because to give this responsibility politically to one person seems to me to have been bonkers. Now, this was an inevitable outcome. Once the responsibility for this was transferred to the Policy Council it was almost inevitable that it would end up with one person leading the negotiations.

The Members of the Policy Council are so understandably pre-occupied leading their Departments that very few of them are going to have time to give over a period of years to something as complicated and as intense as Deputy Langlois has been involved in. I just do not believe that the experiment of having one politician, and one politician only, involved in employee employer negotiations at this level has worked.

I will give way to Deputy Luxon.

The Bailiff: Deputy Luxon.

Deputy Luxon: Thank you, sir.

3055 I would just ask Deputy Fallaize, as an example, the Policy Council Population Steering Group is made up of three Ministers from the Policy Council which has been working very hard to deliver to the States various reports, so there are three Members. So it can work within the Policy Council framework if that is shared.

Deputy Fallaize: Yes, that might be the exception that proves the rule, but in any event I draw a distinction between policy making and negotiating with employee associations.
3060 I will give way to Deputy Lowe.

The Bailiff: Deputy Lowe.

Deputy Lowe: Thank you, Deputy Fallaize.
3065 I may be able to help you as well because previously, from 2004 to 2008, Policy Council did have a sub-group of four who took over as such from the Civil Service Board, so that... It was asked for by staff. The senior staff at Policy Council said we have nobody that actually we can relay things to of staffing issues, so a sub-group was formed in 2004-2008 and then it was stopped for reasons unknown to me.

Deputy Fallaize: I am not criticising the individual Members of the Policy Council remotely. I am saying I just think that the approach of having one politician, not just leading negotiations, but essentially only one politician involved in negotiations...
3070 I will happily give way once more.

The Bailiff: Chief Minister.
3075

The Chief Minister (Deputy Le Tocq): I think Deputy Fallaize is getting the wrong end of the stick.
3080 Whilst he said earlier on to have one politician leading, which is absolutely what has happened, Deputy Langlois has not been by himself. There is a Pensions Consultative Committee, for example, which involves a number of us, and for certainly the first couple of years where I was Deputy Chief Minister, the previous Chief Minister as well and others were involved in that, and we are still Members of the Pensions Consultative Committee; and I think that the practice that
3085 Deputy Langlois has undertaken in terms of some of the more discreet negotiations, and certainly during mediation, would be no different than that which took place under PSRC in the past.

Deputy Fallaize: Okay, it has all worked terribly well. I withdraw all of that! (*Laughter*) We must continue to pursue industrial relations in the way we have over the last couple of years –
3090 absolutely.

Moving on, now Proposition 3 interests me. I am going to ask the Procureur for some clarification on this, because Proposition 3 is worded in such a way that it suggests that in the event that it is approved, if mediation does not produce an agreement and, subject to the application to the Royal Court, that if Proposition 3 is approved, that is the scheme that will be
3095 introduced. That is, it does not need to come back to the States.

Now, my understanding is that the Rules of the pension scheme are in place by States' Resolution and can be varied only by States' Resolution. Now, my question to the Procureur is this: is appendix 5... does that allow us... if the States vote for a Proposition which endorses appendix 5 does that qualify as the necessary amendments to the Rules of the scheme by States' Resolution, which means that the scheme can change, and is changed, without the need for a
3100 further Resolution?

The Bailiff: Mr Procureur.

3105 **The Procureur:** Two points, one of which I think Deputy Fallaize does appreciate and understand, is the amendment incorporates the words 'subject to Proposition 2 and the terms of any declaration'. Therefore, that catches the situation where a settlement is reached.

The second and more substantive point was to ask whether, subject to that, and any pronouncement of the court:

3110 '...the application of the proposed new pension arrangements detailed in appendix 5 ... in respect of current members within six months of such declaration...'

– to endorse the application of those? I think it probably does.

3115 If the terms of the court's Declaration were to be to the effect that those precise changes could lawfully be made, or were such that it was adjudged that they could within the terms of the court Declaration, I think the States would then have approved that.

3120 But, of course, the rider is that it is only a Resolution of the States that can actually alter the scheme. So I would have thought – and this must be subject... this is a rather technical matter, it must be subject to any contrary advice that the experts give to the Committee, but my immediate thought was that it may well be necessary to come back to lay before the States, anyway, the instruments which would amend the terms of the –

The Bailiff: Mr Procureur, I think that is what Proposition 4 addresses, if you look at Proposition 4.

3125 **The Procureur:** Yes.

The Bailiff: Is that not envisaging that it will come back before the States for approval if the detailed Rules –?

3130 **The Procureur:** Well, that is right. I think Deputy Fallaize should have asked you in the first place because that is a much easier answer! (*Laughter*)

The Bailiff: But you gave such a clear answer, Mr Procureur.

3135 **The Procureur:** So it would be necessary to come back to the States with the revised Rules for the States' endorsement. Yes.

The Bailiff: Deputy Langlois.

3140 **Deputy Langlois:** I think it would be easier to just deal with this one now rather than in the summing up. It has always been the intention and the understanding of the Policy Council that the Rules, the detailed Rules, of the new pension scheme will come back for a new Resolution within the States, and that is so any shadowy corners that are being perceived in the Propositions as they are written should not be concerning at the moment... the Rules have always been put in place by a Resolution of the States and, as far as I know, the Policy Council are right behind that on this occasion as well.

The Bailiff: Deputy Fallaize.

3150 **Deputy Fallaize:** Thank you.

No, I am not suggesting anything shadowy, but what I am saying is that there are very many States' Members who did not realise that was the case, and the context of this debate has been, that if Propositions 1, 2 and 3 are approved and mediation does not succeed in reaching a settlement, then the States have just decided to, subject to the court, change the scheme and there will not need to be any subsequent States' Resolution.

The point I am trying to make is that in the event that mediation fails, there will have to be further States' Resolutions before existing employees can be moved on to a different scheme. Potentially, there can be another States' debate, there can be amendments laid etc., so I do not think that this should be presented as the end of the game as far as the involvement of the States is concerned.

3160

The other thought that I am left with as a consequence of this legal advice is, in entering into mediation, do we need two nuclear options already established by States' Resolution? Do we need to have already agreed that, in the event of mediation failing, an application will be made to the Royal Court, and do we also need to know in advance of entering mediation what the exact details of the new scheme will be, as set out in Proposition 3?

3165

I am not convinced that we need both of those tools when we enter into mediation. If the employee associations know that the States have already voted to seek application to the Royal Court, that is likely to concentrate minds in any mediation or negotiation, without us saying, and by the way if the court rules that we can change contracts without your consent this is the exact scheme that we intend to impose.

3170

Or, to look at it the other way round, we could vote for Proposition 3 so that the employees' associations know full well that there is a States' Resolution endorsing the details of a new scheme, but not vote for Proposition 2 which binds the States, or the Policy Council on behalf of the States, to seek the application to the Royal Court.

3175

I am just not sure and I would like Deputy Langlois to address this when he replies. I am not sure, if we are going to enter into mediation in good faith, that we need Propositions 2 and 3 to be approved, given the successful amendment that was approved this morning.

My concern about approving both of Propositions 2 and 3 is that it does rather look as if we are going into mediation with a gun held to the head of the other party. (*Interjection*) I am in favour of providing our... I do not suppose they are called negotiators if it is mediation, but the people who are representing the States – I am in favour of giving them some more certainty and more ammunition, if you like, than they have had up to this point, but that could be achieved by Proposition 2 or 3, it does not necessarily have to be achieved by us voting for Proposition 2 and 3.

3180

I do not fully understand, I have to say – and I discussed this with Deputy Langlois on Monday... I do not fully understand – and I use that word advisedly, I am sure it is that I do not understand, rather than that Deputy Langlois is incorrect in any way, but I do not understand – why it has to be a period of mediation, just because we have already had a period of mediation.

3185

I am not clear in my mind why we cannot enter a period of negotiation. It may not be a terribly conventional thing to do – once you have entered mediation, then to re-enter negotiation – but I have not yet been persuaded that it is totally inconceivable or impossible to go back into negotiation simply because we have been through a phase of mediation.

3190

If it is going to work, if it is going to stand any chance of working both parties have to believe that the other party may be prepared to move. Otherwise it is a completely cosmetic exercise and I do not believe that we have voted for Deputy Langlois' amendment this morning simply to create the appearance of giving the employee associations more time.

3195

I think there is a genuine wish to reach a settlement by agreement, but we cannot do that if both parties go into the next stage, get back around the table, and have suggested that they are not prepared to concede an inch, either on the 2013 offer, which is effectively before the States today, or the 2014 mediated settlement.

3200

So, of course, I do not expect Deputy Langlois to tell us what he would be prepared to change in entering mediation, but I am concerned that if we approve Propositions 2 and 3 we will be re-entering mediation with the other party believing that it is all completely a cosmetic exercise and the States have already passed Resolutions which determine the outcome in any event.

3205

Finally, sir, just returning to the point I was trying to make before I was told that I was completely wrong by Deputy Luxon and the Chief Minister, whatever has happened up to this point, I think that we should have more than one political representative in subsequent mediation.

I do not say that in any way to criticise Deputy Langlois. I am not saying that we should change our negotiators; I am saying that I think that Deputy Langlois needs to be supported by other political Members. I do not think that simply having one political Member is adequate.

3210

I will give way to Deputy Langlois.

Deputy Langlois: I think, once again, sir, to clear that up right now at this particular point would be useful, rather than it getting lost in a mass of summing up. That suggestion was already minuted in Monday afternoon's Policy Council meeting. I made the point that I would be unprepared to go to work on that mediation alone and without another Policy Council Member with me.

3215

Deputy Fallaize: Okay, I think that is a very positive step, so I just would like Deputy Langlois when he sums up to address this point about Proposition 2 and Proposition 3. Is he concerned that, by approving both of those Propositions, we are going to re-enter mediation perhaps not looking quite as flexible as we might usefully look if we are serious about reaching an accommodation with the employee associations?

3220

Thank you, sir.

3225

The Bailiff: Deputy Harwood.

Deputy Harwood: Thank you, sir.

If I may just take up Deputy Fallaize's last point, and with due respect to the Deputy Chief Minister who has his own views on the subject, I would argue that if you are looking at which of the two alternatives of 2 and 3 may be set aside, I would argue actually that I think it will help the mediation if we actually did not support Proposition 3; because Proposition 3 is the ultimate default and, as I said in my speech on the amendment, I think Proposition 2 is absolutely right, I think it is important we do get this Declaration.

3230

I appreciate some people are loathe to go to court anyway, but it is for a Declaration, it is to understand the actual legal status of this scheme and the scheme rules, and to what extent any changes can be made without the agreement of all parties.

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Of course, if it is with the agreement of all parties, then the question arises, well, how does that place the union, because there are a lot of members of the scheme that actually are not represented by the unions, so therefore how do you tackle that?

3240

So there are a number of issues which I think are absolutely *au point* that this Assembly needs to understand. We need to have a Declaration from the court because, with all due respect, the Crown Officers, I think, probably will feel they may be conflicted out of this. We can go to three or four very expensive law firms to try and get opinions, but you will not have a definitive opinion. It is only the court that can give that definitive declaration.

3245

I accept that, yes, the Royal Court will give a Declaration that may be subject to appeal, a Court of Appeal, then it could go up beyond that, but at least it is the court that makes that final Declaration.

With due respect again to Deputy Dorey, it is not politicising the court. All you are asking is the court to define as a matter of law – it is a matter of law – the status of the scheme. So I would urge States' Members, if they have concerns that we are tying the hands for the mediators, to consider possibly rejecting Proposition 3 but supporting Proposition 2.

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But, sir, I also would be grateful, I think, for Deputy Langlois, the Deputy Chief Minister, because I do share Deputy Sherbourne's concerns, are we saying that if we support Proposition 1 that the terms that will apply to new members are those as set out in appendix 5, irrespective of what may be the outcome of the mediation process?

3255

I would hope that his answer would be that, no, the terms of appendix 5, as far as they relate to new members, would be amended to reflect whatever is the negotiated, mediated outcome of the next three months.

3260 Now, we are going to be in a very strange situation, new members on one set of terms, a
mediated set of terms which will apply also hopefully... I think the unions, as I understand it, now
accept that there will be a care system. You will then have two different care systems, which I think
3265 would be undesirable, so I would hope that the answer to Deputy Sherbourne's concern, and my
concern, is that any amendments or any revisions that are agreed and negotiated with the unions
and employee representatives, which will apply to existing members – that those same terms may
also be considered to be applied to new members. In other words, we will have a slight, with due
expression, a slight 'bugger's muddle'.

But, sir, I would therefore suggest to Deputy Fallaize and others that perhaps consider
rejecting Proposition 3. We need Proposition 2 because otherwise we are in a situation where we
3270 will come back to this Assembly, yes, if we endorse Proposition 3 terms will be enshrined in stone.
We will not know and if we do not proceed with Proposition 2 we will not know what legal pitfalls,
minefields and goodness knows what else we will be creating if we then endorse and approve
rules which have not been agreed. We need to know to what extent this Assembly can actually go
down that route.

3275 So I would urge States' Members to support the Proposition, with the possible exception of
Proposition 3, but I would like assurances from the Deputy Chief Minister in relation to
Proposition 1, which also then, I think, ties in with Proposition 4.

Thank you, sir.

3280 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Sir, could I, through you, ask the Policy Council if they would give consideration
to perhaps adjourning for a short period of time to sort out amendments for the consequential
knock-on effect for the amendment that was actually successful this morning and, indeed, if we
3285 are talking here about the new scheme for 1st May, and that has been raised previously Deputy
Harwood, Deputy Sherbourne.

I mean, why May? Now we have sort of gone down the route of your three months, why hasn't
Policy Council produced an amendment to maybe say 1st September, to allow for the three
month process to go in place?

3290 I mean it seems now it is sort of almost a bit like dominos really and it needs a break so we
look at it and see if amendments need to be done, because we do not want to get ourselves in a
bigger pickle than what we are now, because at the moment it just seems a bit of a mess.

The Bailiff: Chief Minister.

3295 **The Chief Minister:** Sir, I can respond to that, and I may speak as well, sir?

I think the reason that both the Propositions as amended stand there is – and this is where it is
difficult – because we are not in a position to negotiate as an Assembly here, but for many – and
certainly for many within this Assembly as well as outside – the closure of the current scheme to
3300 new members has been something that has been felt very strongly about for a long period of
time, hence that Proposition being in there, and we are giving clarity about what the type of
scheme, the rules of that scheme would be for new members.

With regard for existing members, obviously, as I meant this morning, there is an opportunity
for a time of further mediation and negotiation in that context. But, sir, I would like to make very
3305 clear to people in our community that I think all those who undertake public service in our Island,
in whatever form and however remunerated, deserve our respect and thanks, (**Several Members:**
Hear, hear.) especially as, living in such a small community, a high degree of visibility is inevitable,
and along with that all the criticism and misunderstanding often inflamed by overzealous media.

3310 So I empathise and understand the frustration that many ordinary scheme members feel with
the position in which we find ourselves today, and obviously Members of this Assembly.

3315 Perhaps the perception of how events have transpired over the last few years, because I share that frustration too... The current position is clearly not one where most of us would wish to be in after over three years of negotiation and that is, for me, a very key issue here – how long we can continue to muddle along and not amend a scheme which has passed its sell by date and therefore we need to change?

3320 There is a degree of acceptance of change and I think the fact, to touch upon issues that Deputy Fallaize and others have mentioned, that we entered mediation last year in itself shows that we were quite close; and the fact that there was a position reached which was then put by union representatives agree to put to their membership, shows that there is optimism and expectation that an agreement could be reached; and, whilst I might not be as optimistic as that, I think we need to honour those that have that sense of optimism to see whether that should take place.

3325 Sir, however, this is, as Deputy Langlois started off this morning, all about risk as well and the appropriate sharing of risk in an environment that has changed rapidly since schemes such as this first emerged post war.

I think all would agree – in fact, the majority of scheme members that have spoken to me have agreed – that the risk can no longer be all upon the taxpayer. The employer is the States of Guernsey and therefore the taxpayer, and therefore that has to change.

3330 So, sir, I think it is very important now that we as an Assembly vote for these Propositions, allow the new scheme to come into place, allow those involved in negotiations – Deputy Langlois and who else will support him in that – through the mediator, to do what is appropriate and to use all their means and do their utmost to endeavour to find a place where both sides can agree; and, as a result of that, we can have the best possible options – and there are options available – so that an agreed settlement, through both sides coming together with the assistance of a mediator, can be achieved. I believe that is where we have reached.

We must now, I think, close the debate and allow that to take place.

Thank you, sir.

The Bailiff: I see no-one else rising, apart from Deputy Trott.

3340 **Deputy Trott:** Sir, the desire for mediation by us, the employer, is currently the substantive Proposition. Now, sir, mediation is not a simple issue. One problem is that such a process is not binding and, in fact, has not even been agreed by both parties.

3345 To my knowledge, we have not asked the ASEO if they wish for this process to be deployed once again. I would imagine that they would, sir, consider that to be desirable over immediate court action, but it would be interesting to ask my very good friend, the Deputy Chief Minister, if anyone has considered whether it was appropriate to ask them if they favoured such an approach?

3350 Now, sir, a number of sensible Members have expressed their desire to see a negotiated settlement. I repeat the word 'negotiated', because my question is this: does the mediation process allow for a negotiated settlement?

3355 Let me expand on precisely what I mean by that. Will the employer be negotiating? In other words, will the employer be prepared to move, if needed? Because if the answer to that question is not an unequivocal yes, then the mediation process seems doomed to failure unless it is the other side and the other side alone that decides to move.

So I do not know whether the Deputy Chief Minister would like to answer that question now for clarity, sir, or whether he would prefer to consider that and answer at length. *(Interjection)* Good, good.

3360 Now, sir, the reality of the situation we are in at the moment is that it is unlikely that the States will debate this issue to its conclusion until at least October, because if it does have to return to the States – and we will not know the outcome of mediation, potentially, until the end of July, with

the August break and various deadlines and natural justices and all the other things that are necessary – it will be the fall, it will be October, before this matter is concluded.

3365 I would like to end, sir, by giving a hypothetical example of why some in this Assembly have found some of the negotiated conclusions thus far difficult to understand, and the hypothetical example is this. Let's take two police officers who joined the force simultaneously; one joins at the age of 18 and the other joins at the age of 21.

3370 Now, 25 years later, sir, they both have – my maths can be as good as yours on occasions – 25 years' service. One of them is 46 and the other is 43. Now, the 46-year-old member in this hypothetical situation would be within five years of retirement and would be able to retire with all his or her benefits intact.

3375 However, in this hypothetical example, sir, the member who was 43 would not be within five years of retirement and therefore would not be able to retire with all of their benefits intact. It is that sort of difficult-to-understand logic that has caused some Members in this Assembly some difficulty.

Now, it is a hypothetical example, sir. I do not necessarily expect the Deputy Chief Minister to reply because I would not wish to compromise the mediation process in any way, but let's just say that if that hypothetical example was a reality then no reasonable person could be expected to support it.

3380 Thank you, sir.

The Bailiff: No-one else is rising. Deputy Langlois will reply to the debate.

Deputy Langlois: Thank you, sir.

3385 I will try to do this in as organised a way as possible, but as soon as I get to Deputy Domaille's questions we will be juggling with difficulty.

3390 Yes, Deputy Hadley and one or two other speakers made brief reference, and I am glad it has not become a major part of the discussion, to quite a historical event – I said 'historical' rather than 'historic' – where a particular Committee, probably called Advisory & Finance, made decisions in the early 1990's regarding what is commonly known in the pension business as a 'contribution holiday'.

3395 None of this has been hidden; it is in the Report. The graph is easy to read, even for somebody with limited graph-reading capacity, who often says 'I do not like reading graphs', but the hole is there. You can actually shade it in. You can do a little colouring job on it!

3400 There was a withdrawal of the employer's support for it. The reason for that was that that period of time was such a period of boom, in investment terms, that the employer did it because they could. Was it good Government? Probably not. Was it good financial management? Probably not in the long term, and so on. But they did it because they could.

Of course, there is that danger that in future they could do it again. I think that economic thinking, financial thinking, has moved on considerably and the whole point about this reform is to deal with future demographics, and I suspect that the caution around this would be greater now. That is the greatest assurance that can be given regarding this particular contribution holiday.

3405 We have heard slightly exaggerated language to do with protracted legal battles. We have had independent advice, both from our independent advisors – and, thank you again, Deputy Harwood, today from you – to the effect that this is a clarification of one specific term, in one specific document, in order to say are we able to do this. Certainly, what I am being told by legal advisors is that that should not be a long protracted legal action.

3410 **Deputy Hadley:** Can I ask for a point of clarification, sir?

The Bailiff: Deputy Hadley.

3415 **Deputy Hadley:** If it is such a simple non-protracted issue, how come it is going to cost half a million pounds? (*Interjection*)

The Bailiff: Deputy Langlois.

3420 **Deputy Langlois:** Sir, I think if people read the wording of the Report carefully, what is being done with the half million pounds is that it is a budget allocation that, should it run to a longer event, a more complicated event, the money will be there without coming back to the States at that time in order to see it through. That is it. This is not a prediction. We have not already got a quote to say that is how much we will charge you for this action. We have got to make an allocation in order to get on with it.

3425 Now, Deputy Green took me back to when he was on my Board he agreed with virtually everything I said. (*Laughter*) Good for old times' sake! Well, I do not quite remember it that way Deputy Green.

3430 No, I thank you for saying this is, by and large, the right sort of approach and so on. I think – and this goes straight to the heart of this declaratory action and stuff – the point about it is that if you accept that changes must be made – and I sense in this Assembly today a huge acceptance of that, there are very few people saying we do not have to make any changes... If you accept that it is best to do it by agreement, right, then you have got to have a plan B for what happens if agreement is not reached.

3435 I thank again Deputy Harwood for emphasising that the right way to go is to give the authority for the declaratory action, because without that – well, I will return to the other point about the position it puts the mediator in and the employee during mediation, I will return to that particular negotiating point, but without that – then you are working in a vacuum and any idea that you have got to complete this in a timescale and so on will disappear. The States will have to approve the scheme rules, as we said before.

3440 Deputy Sillars made a considerable number of points about people being out of kilter with the UK. It is an interesting choice of phrase, because in terms of being 'out of kilter', that to me is a neutral phrase. It is different and it has been different for some time, and I am interested particularly in the education field that when the previous scheme, the existing scheme was negotiated back in 2006, prior to being implemented later... essentially, there was a very strong feeling from the union that this should be as near as possible to the UK scheme.

3445 Now, the UK scheme was dramatically changed a short while ago. It was changed to do with the CPI. It was changed to do with the terms and so on. Funnily enough, I have not heard the same clamour from the unions to say, 'Can we go along the way the UK is going?' since the UK have reduced some of their conditions and so on. I think that the main point here is that the whole aspect of how we attract people to Guernsey is already complex, and we must be in a position where we do a proper sales pitch.

3455 Now, for example, in terms of average contributions, a teacher, if we go for the terms and conditions as outlined in the Proposition which – I know other events might overtake that now but if we go for those terms and conditions – you would be saying as a recruiter, 'Oh and, by the way, if you are an average teacher in terms of age and so on and you come to Guernsey, you will have an immediate 2.1% reduction in your contributions to pension for roughly the same benefits.'

3460 Now, surely our recruiting people are selling that, and selling it properly, rather than saying, 'Oh and, by the way, you really should look carefully at what you are being offered because the accrual rate is different. It is a *quid pro quo* amongst a whole range of variables, but we have got to sell it properly.

Again, I still get surprised – I shouldn't after this number of years in the Assembly, but I still get surprised – by some of the language. 'Russian roulette with their pensions.' No you are not playing Russian roulette. In the private sector, or if you are self-employed, you go and you take independent advice about a pension scheme. That is what you do. It is your pension scheme; it is not somebody else's. You take personal responsibility.

3470 So nobody is playing Russian roulette. You actually find out what the facts are and then you make the judgement. The same is true of making the judgement about whether, if you are here on a short-term contract, you actually transfer your fund from the UK into Guernsey and then transfer it back again. Transfers usually involve cost – that is not a generalisation, they tend to involve cost. Or whether you leave it where it is and you end up drawing several different pensions, which many people do. So the differences, I think, should not be over exaggerated.

No, I am not familiar with the IBM case that Deputy Sillars found on the internet. I do not dabble in legal matters in that way. I have been given independent advice about the action we are taking, not about some case involving IBM in the UK.

3475 Deputy Gollop – when you sit in a Board meeting with Deputy Gollop every two weeks, little surprises you about the direction which certain comments take, and the link with what was previously being discussed. That is why he is so good on the Board because he draws us up sharp about certain things.

3480 But I think Deputy Gollop today... I think the move from what we are proposing to creating a constitutional crisis out of a molehill, in case the judiciary are compromised by this terrible request we might make to them and it could be politicised and so on... then I think that is a little bit over the top.

3485 He used the term this would give us a '*carte blanche*' to alter terms and conditions. It echoes another phrase that has been used in the propaganda campaign that has been waged against these proposals of 'tearing up contracts' and so on. This is not tearing up contracts. We leave tearing up of bigger documents to other people. (*Laughter*) So, Deputy Gollop, I think that is a little bit of an exaggeration.

3490 He and another speaker mentioned concern about morale. Yes, I agree, I agree totally. I think this is why we have come with a set of proposals that are time bound, that are directional, that say where we would go if certain things happened and leave no doubt about it. I think that is why it is very important that this is set within that context, because otherwise the allegedly low morale of the whole of the workforce, as expressed by some people, can be made more of.

Deputy Domaille – can I come back to that? I am still worried about juggling that one.

3495 Random order here. Deputy Trott – have we asked anybody about mediation? Well, yes, we have been in constant contact with the unions. I have said that many times and so on; and in an off-the-record conversation – and therefore I should not be saying about it now and I am not going to say who it was with, but it was with an important union representative – they are very pleased that this is a route that has been taken.

3500 Will the employer be prepared to make a move? Genuinely, sir, I do not understand the question. What on earth would we be doing, what would I be doing, after all this time, going back to spend another three months talking pointlessly, simply planning to say no to anything? Please give me credit for more than that.

3505 We will be negotiating. I said it this morning. The subtlety of the – I do not know where he got the October from – October date versus the length of time that we have chosen, I have explained this morning. There is a real subtlety which is a problem and that is the difference between negotiation and mediation.

3510 The principle difference is that mediation involves an independent third party to get their mind around where the gaps lie and how they might be closed. Our belief is that mediation, for that reason, is exactly the way to go because there would be a danger, if we simply went back and started negotiation with two parties in the room, you would end up within a very short time saying, 'I think we need a third party involved here'.

I honestly believe that the reason we moved last year in 2014 from somewhere quite wide apart to somewhere quite close together was because of the excellent work undertaken by the media – the mediator rather. (*Laughter*) Sorry, I said the mediator not the media, sir! (*Interjection*)

3515 I take Deputy Trott's point entirely about the hypothetical example. Any changes – and this has been freely expressed all the way through – will produce some anomalies. The reality of the anomalies are often then translated into the employer forcing people to work longer against their

will to do this, to do that and the other, rather than actually laying out that in one particular person's case somebody incredibly young – possibly even as young as Deputy Fallaize... they are
3520 looking ahead and thinking of all the possibilities for the day they retire. In one case, and with just a few days' difference of a birthday, the situation will be different in terms of the options they have.

This is what – and I think that people very, very similar to the hypothetical example – people, who have been named by – sorry not named – who have been referred to by Deputy Trott have
3525 been in touch with our pensions people. I hope they have been in touch with independent pension advisors and they should by now have a full range of options to consider for how they plan the future, and they will be different.

Deputy Dorey – he got very, very close to the wonders of 20-20 hindsight. Yes, we would be a lot better off if we changed it seven years ago. Yes, I will go with that, but we did not and this is
3530 where we are. You could have done that.

My understanding of the constraints that might be placed by a legal judgment on declaratory relief would be very much constraints around the process of making the change. I stand to be corrected on this, possibly by Deputy Harwood again, but this is not an anarchic comment by the way. I stand to be corrected on this particular one.

I think that the constraints they place on would be very much related to the way in which you implemented things, not some sort of arbitration process of saying, 'Well, you can do that but you cannot set the contribution rate at that level for those people or whatever. That would not be the business of the court.

I thank Deputy Conder for his sound logic and firm views on change. He is quite right to have named the GTA and GFSC as organisations that have been put in a position by the change of their status, into a position of having to change this, or else appearing to be, frankly, insolvent, because of the rules they have to apply in their reporting. Very good examples of necessary change.

I thank him for recognising the adherence to a RPI measure rather than a CPI measure. Guernsey does not have a CPI measure. We saw no reason in requesting the construction of one, and we feel that the RPI measure is far more defensible, because with an RPI measure that is RPI or RPIX, right, those two converge in the long run, RPIX sort of bumps along rather more smoothly than RPI, and that is why it says RPIX through here. With a measure of that sort, you are honestly giving people the opportunity to maintain their standard of living, the real value of their income and that is why we have chosen to stick with that.

Deputy Fallaize pointed out, with a good throw away phrase, we do not want to see a situation where change can be made at the drop of a hat. Absolutely right!

It has been an unfortunate experience, he said, for industrial relations. Well, I agree, but please can we not beat ourselves up in this Assembly too, too much, because it takes two to tango and stances that have been taken, I would acknowledge on both sides have been taken for negotiating reasons, for reasons of needing to move forward and needing to get movement from the other side, as they call it, then that is bound to happen in this situation and you see it all over the place.

Yes, one thing rather bothered me because I wondered whether – I know it is not long until the election but I wondered whether – Deputy Fallaize was advocating the recreation of PSLC ahead of the States' Review Committee Report. Please, please, no, no.

I think the answers have been given now by the Chief Minister, and an undertaking from me, that whilst I have taken the public face of this, there have been five Ministers involved on a relatively consistent basis throughout the process, and the PCC link with the employee negotiators has been there. But I take your point that there is significant risk in a single point of contact.

I cannot go along with him on the idea that we do not need two nuclear options, or that having them will damage the opening part. The opening part of the mediation will undoubtedly depend on the ability of the two parties to honestly put the past behind them; on the part of the employer to honestly be convinced that delay is no longer the game; and on the part of ASEO to honestly be convinced that there is movement that can be achieved to everybody's benefit. If we

3570 do not go in in that spirit – and that is the other reason why I want a third party there, because that person can encourage that – then it will be a lot more difficult.

If any of you are still minded, as Deputy Harwood pointed out, to have doubts about Propositions 2 or 3, then thank you, Deputy Harwood, for your advice. Can you restrict your dismissal of those to one of them? I think that Deputy Harwood is absolutely right, you vote for 2
3575 and you turn number 3 down. I hope you do not. I think they should both be there, but you certainly do not turn both of them down.

The alleged anomaly regarding 1st May, as opposed to another date – again, I think we cleared up the date business quite quickly. But the alleged anomaly about that, of course, once we actually say the rules of the proposed scheme will come back to this Assembly, then that anomaly
3580 is going to be there anyway. Unless you say, ‘Oh, well, we will not change it for anybody until this Assembly has passed it again,’ and then we go on and on and we are back in the same circle.

So those I think are the – Oh dear, I have found Deputy Domaille’s stuff again. Right, he is in favour of declaratory relief. He thinks there could have been more analysis on the effects of closure. Fair-do’s! I think it is a pretty comprehensive Report, personally. It certainly covers...
3585 Without going into a complete review of the whole HR function and recruitment and all that, that really is quite difficult to get an objective analysis and all that.

He thinks there should be an option to opt out. If I was interested in that one, simply because very early and I would be hard pressed to put... I think it was in the joint working group that the option to opt out was actually proposed by us, as employers, for part-timers and the union said,
3590 ‘No, no, no, this must be compulsory for everybody’.

So it is an interesting one where you get all sorts of views from all sorts of different directions. I, personally, maybe because I wear another hat sitting in this seat here, do not want to see any options to opt out, because every penny that goes into a personal pension fund is a penny saved way down the line for Social Security, particularly for certain people.

He also talked about, and it is connected with the previous one, the option to increase contributions. If you look very carefully – and you will have to look so carefully that it is not on a page that I can find at the moment, but it is there, trust me – the innovation of having a defined contribution scheme, particularly for the top earners, where we take off the top end of their savings and let them take the risk on that, the innovation on that gives us – this is the great news
3600 – it gives us the opportunity to let people buy into that, right, and our own employees will have the privilege of buying into a very solid pension scheme, which is run by the States for States’ employees, and they will be able to opt into that, subject, of course – and I no doubt would be reminded otherwise by the Treasury Minister – to the limits of their tax relief ability to contribute to a pension scheme. So the option is there to buy into it further.

I have got paragraph 121 – hang on a second please; ah yes – the forum to facilitate longer working. Well, sir, I beg your indulgence on this one; there is an act of faith in this one. We are talking about the period between now, early 2015, and late in 2049. We are talking about that far away.

I think I made a little bit of an impassioned speech at the end of the PTR today, talking about how quickly things change in life. I can only say that if you compare, shall we say, my career to my grandfather’s, or my career to my father’s, the assumptions made about what you do, how long you do it for, what it means in terms of pay and reward and so on, are massively different. I am just saying that in 35 years’ time I am sure those things will change. If you look at paragraph 121 there is a little bit more flesh on that bone about that.

3615 You are quite right, Deputy Domaille, in that there are references, residual references, to 67. Elsewhere it refers to State pension age and I think I covered that earlier.

You wanted a starting date for protection – bear with me a minute, I will get back to you on that particular one, and that is genuinely not trying to side-step. The precise nature of your question eluded me and therefore the answers I have got do not particularly match up. Can I
3620 come back to you on that one?

So, in summary, sir, I think this is a particularly important set of decisions we make today. I am delighted that the amendment has been passed, because I think I talked about a major decision with a massive risk to it this morning. I think that was removed just before lunch, when we approved the amendment, and I would ask Members to vote for all Propositions.

3625

The Bailiff: Deputy Sherbourne.

Deputy Sherbourne: Sir, may I ask Deputy Langlois if he would reply to my query regarding Resolution 1, which was referred to again by Deputy Harwood later, and to which he did not reply.

3630

Deputy Langlois: Sir, only if Deputy Sherbourne reminds me of what the query was, rather than...

3635

Deputy Sherbourne: It was the impact of, or the reference to appendix 5 – us making a decision to that particular date but referring to the proposals in appendix 5, whether they would actually be modified as a result of the forthcoming mediation?

3640

Deputy Langlois: Sir, to my mind that comes into exactly the sort of territory that I was talking about earlier of saying that if we start down that path we are actually anticipating the mediation conversations. Therefore I have said – I have said publicly, I have said it on record all the time – we are going into mediation with our eyes open, and I hope the union representatives are doing the same, and therefore, that is where I stand.

3645

Deputy Fallaize: Minister, may I ask a question in relation –

The Bailiff: Deputy Fallaize.

3650

Deputy Fallaize: – to that before we vote, because I want to vote in favour of most, if not all, of these Propositions, but Proposition 1 does ask the States to endorse that the proposed new pension arrangements for new members would apply for those joining from 1st May 2015 and it is as detailed in appendix 5. (*Interjection*)

3655

Now, if the arrangements in appendix 5 are not applied, because of a successful mediation process, will they be applied in advance of the outcome of that mediation process to new employees? Because we could then have people on two separate care schemes could we not? Perhaps I have misinterpreted it, but that is how it seems to read. Proposition 1 juxtaposed with Proposition 2 as amended.

The Bailiff: Deputy Langlois.

3660

Deputy Langlois: Yes, sir. What you are voting on is the Proposition as it is stated. What we have also said is that we will be coming back with the scheme rules. Now, if those scheme rules have slightly different positions for people who joined at different times then so be it. If they do not then they do not. But we are simply saying that in terms of the new scheme and an old scheme, we have got to close this for new members now.

3665

The Bailiff: Members, we vote then on the Propositions which are to be found on page 777.

3670

I think we need to take Proposition 1 separately and take that first, as it is number 1. So Proposition 1 is to endorse the proposed new pension arrangements detailed in appendix 5 of that Report and as explained in that Report in so far as they apply to members joining from 1st May 2015.

We have a request for a recorded vote. If anybody requires any further explanation of that Proposition I will give it, but I think it is self-explanatory. A recorded vote please on Proposition 1.

There was a recorded vote.

Carried – Pour 44, Contre 2, Ne vote pas 0, Absent 1

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Fallaize	Deputy Gollop	None	Deputy Storey
Deputy David Jones	Deputy Sherbourne		
Deputy Laurie Queripel			
Deputy Lowe			
Deputy Le Lièvre			
Deputy Spruce			
Deputy Collins			
Deputy Duquemin			
Deputy Green			
Deputy Dorey			
Deputy Paint			
Deputy Le Tocq			
Deputy James			
Deputy Adam			
Deputy Perrot			
Deputy Brouard			
Deputy Wilkie			
Deputy De Lisle			
Deputy Burford			
Deputy Inglis			
Deputy Soulsby			
Deputy Sillars			
Deputy Luxon			
Deputy O'Hara			
Deputy Quin			
Deputy Hadley			
Alderney Rep. Jean			
Alderney Rep. McKinley			
Deputy Harwood			
Deputy Kuttelwascher			
Deputy Brehaut			
Deputy Domaille			
Deputy Langlois			
Deputy Robert Jones			
Deputy Le Clerc			
Deputy Conder			
Deputy Bebb			
Deputy Lester Queripel			
Deputy St Pier			
Deputy Stewart			
Deputy Gillson			
Deputy Le Pelley			
Deputy Ogier			
Deputy Trott			

The Bailiff: Members of the States, the result of the vote on Proposition 1 was 44 in favour and 2 against. I declare it carried.

3675 Next we vote on Proposition 2, which I remind you is amended Proposition 2, substituted by the successful amendment this morning: the one that instructs the Policy Council to offer mediation, but if no agreement can be reached on or before 31st July 2015 then to make an application to the Royal Court.

3680 Again, we have a request for a recorded vote, on the amended Proposition 2 – details of which are to be found in the amendment.

There was a recorded vote.

Carried – Pour 33, Contre 11, Ne vote pas 2, Absent 1

POUR

Deputy Fallaize
Deputy David Jones
Deputy Spruce
Deputy Collins
Deputy Duquemin
Deputy Paint
Deputy Le Tocq
Deputy James
Deputy Adam
Deputy Perrot
Deputy Brouard
Deputy Wilkie
Deputy De Lisle
Deputy Inglis
Deputy Soulsby
Deputy Luxon
Deputy O'Hara
Deputy Quin
Alderney Rep. Jean
Alderney Rep. McKinley
Deputy Harwood
Deputy Kuttelwascher
Deputy Brehaut
Deputy Domaille
Deputy Langlois
Deputy Robert Jones
Deputy Le Clerc
Deputy Conder
Deputy Bebb
Deputy St Pier
Deputy Stewart
Deputy Le Pelley
Deputy Ogier

CONTRE

Deputy Laurie Queripel
Deputy Lowe
Deputy Le Lièvre
Deputy Dorey
Deputy Sillars
Deputy Hadley
Deputy Gollop
Deputy Sherbourne
Deputy Lester Queripel
Deputy Gillson
Deputy Trott

NE VOTE PAS

Deputy Green
Deputy Burford

ABSENT

Deputy Storey

3685 **The Bailiff:** Members, the result of the vote on the amended Proposition 2 was 33 in favour, with 11 against and 2 abstentions. I declare Proposition 2 carried as amended.

Next Proposition 3, to endorse, subject to Proposition 2 and the terms of any Declaration, the application to propose new pension arrangements detailed in appendix 5 within six months of any Declaration being received.

3690

Deputy Laurie Queripel: Recorded vote please, sir.

The Bailiff: Recorded vote on Proposition 3.

3695

A Member: As amended:

The Bailiff: As amended, yes.

There was a recorded vote.

3700

Carried – Pour 27, Contre 16, Ne vote pas 3, Absent 1

POUR

Deputy Spruce
Deputy Collins
Deputy Duquemin
Deputy Paint
Deputy Le Tocq

CONTRE

Deputy Fallaize
Deputy Laurie Queripel
Deputy Lowe
Deputy Le Lièvre
Deputy Dorey

NE VOTE PAS

Deputy David Jones
Deputy Green
Deputy Burford

ABSENT

Deputy Storey

Deputy James	Deputy Sillars
Deputy Adam	Deputy Hadley
Deputy Perrot	Deputy Harwood
Deputy Brouard	Deputy Brehaut
Deputy Wilkie	Deputy Robert Jones
Deputy De Lisle	Deputy Gollop
Deputy Inglis	Deputy Sherbourne
Deputy Soulsby	Deputy Lester Queripel
Deputy Luxon	Deputy Gillson
Deputy O'Hara	Deputy Le Pelley
Deputy Quin	Deputy Trott
Alderney Rep. Jean	
Alderney Rep. McKinley	
Deputy Kuttelwascher	
Deputy Domaille	
Deputy Langlois	
Deputy Le Clerc	
Deputy Conder	
Deputy Bebb	
Deputy St Pier	
Deputy Stewart	
Deputy Ogier	

The Bailiff: Members, the result of the vote on Proposition 3, as amended, was 27 in favour, 16 against with 3 abstentions. I declare Proposition 3 carried as amended.

3705 Now we have Propositions 4, 5, 6, 7 and 8; 8 as amended by the amendment. Does anyone require a separate vote on any of those or can we take them all together?

Deputy Queripel.

Deputy Lester Queripel: Separate vote on 8 please, sir.

3710 **The Bailiff:** Separate vote on 8. We will take 4, 5 6 and 7 then. Propositions 4, 5, 6 and 7. Those in favour; those against.

Members voted Pour.

3715 **The Bailiff:** I declare them carried.
Proposition 8, those in favour; those against.

Members voted Pour.

3720 **The Bailiff:** I declare 8 carried.
So all Propositions are carried as amended.

Billet d'État VI

STATES ASSEMBLY & CONSTITUTION COMMITTEE

VII. Rules of Procedure of the States of Deliberation – The Rules relating to the constitution and operation of States' Departments and Committees and related matters – Propositions carried

Article VII

The States are asked to decide:

Whether, after consideration of the Report dated 27th January, 2015, of the States Assembly and Constitution Committee, they are of the opinion:

1. That the Rules of Procedure of the States of Deliberation be amended with immediate effect as follows:

(a) After Rule 1 insert a new Rule 1A in the following terms:

'Communications

1A

While the States are in session Members shall not have any communication with a person in the public gallery.;

(b) In Rule 2(1) delete the words 'of any 7 or more States Members addressed' and replace with 'of any seven Members (but not more than seven) addressed';

(c) In Rule 3(1) delete the words 'for special reason' and insert 'ordinarily' before 'commence';

(d) In Rule 3(2) insert the word 'ordinarily' after 'concluded';

(e) Replace the proviso to Rule 3(2) with 'PROVIDED THAT the Presiding Officer may propose at any time that the Meeting continues outside those times or is adjourned to another day.;

(f) In Rule 5(1) insert at the end: 'provided that they do not seek information which is readily accessible in the public domain.;

(g) In Rule 5(2) delete paragraph (b); rename (c) and (d) as (b) and (c) respectively; insert after the ";" at the end of each of (a) and (b) the word "and"; and replace the ";" at the end with " .;

(h) In Rule 5(5), immediately before the full stop insert: ', provided that any Member who asks a question which is on the same topic as one asked by a Member earlier in the order shall immediately follow the earlier Member. It shall be for the Presiding Officer to determine whether the questions are on the same topic.;

(i) In Rule 5A(1) insert at the end: 'provided that it does not seek information which is readily accessible in the public domain.;

(j) In Rule 5A(2)(a), replace the existing text with: 'shall relate to a matter of public importance and shall be of an urgent character or relate to a matter which has only become known or been announced in the preceding seven days; and';

(k) In Rule 5A(2) delete paragraph (c); rename (d) and (e) as (c) and (d) respectively; and insert after the ";" at the end of each of (b) and (c) the word "and";

(l) In Rule 5B(1) replace 'Rule 5(2)(b) or Rule 5A(2)(c)' with 'Rule 5(1) or Rule 5A(1)';

(m) At the end of Rule 6(1) add the following sentence: 'The recipient of the question shall acknowledge receipt in writing to the questioner by letter or e mail within three clear days (excluding Saturdays, Sundays and public holidays) of receipt';

(n) In Rule 6(2) delete the words 'in electronic format' and all the words after 'and the Greffier,' in the first paragraph and the words 'either in writing or electronic format' in the first proviso;

(o) In Rule 6(2) rename the first '(b)' in the second proviso as '(a)' and replace the words 'in the interests of good government so directs' in it with 'determines that it would be unreasonable to expect the question to be answered within 15 clear days';

(p) At the end of Rule 8 add the following words: 'Each individual question shall not exceed one minute in duration and the answer thereto shall not exceed one and a half minutes in duration.';

(q) Immediately after Rule 11(1) insert a new Rule 11(1A) in the following terms: 'The Presiding Officer may issue directives relating to the presentation and conduct of Members during meetings.';

(r) Replace Rule 13(1) with the following: 'Any Member who intends to lay before the States an amendment, sursis or motion to withdraw shall cause it to be delivered to the Greffier who shall circulate it to all Members. If the amendment, sursis or motion to withdraw was delivered to the Greffier by 15.00 on the day preceding the seventh clear day before the meeting excluding Saturdays, Sundays and Public Holidays, the Greffier shall circulate it in the way the Member has requested as soon as practicable. Between that time and the day of the meeting the Greffier shall circulate by electronic means any amendment, sursis or motion to withdraw which has been delivered to him. The Greffier shall provide a paper copy of each amendment, sursis and motion to withdraw, whenever it may have been delivered to him, at the start of each Meeting, or as soon as practicable if he receives it during the Meeting.';

(s) In Rule 13(2) insert the following immediately after 'original proposal': 'or one proposed by a lead requérant (or a representative from among the requérants) in respect of the requête of which he or she is a signatory';

(t) Reinstate a paragraph numbered 13(3) in the following terms: 'A Member who wishes to lay an amendment, sursis or motion to withdraw shall state the name of the proposed seconder and the Proposition to which it relates. The Member may then read out the text of the amendment, sursis or motion to withdraw; or that Member or any other Member may ask that the text be read out by the Greffier. After it has been read out, if that right has been exercised, the proposer will formally propose it and make any speech supporting it.';

(u) In Rule 13(7) insert after 'Chairman' the words: '(or a representative instead)' and delete the words after 'right to speak on the amendment or sursis' and replace them with the following: 'immediately after its proposer has proposed the amendment or sursis or immediately before its proposer replies to the debate under Rule 12(1) or at any other time during the debate.'

EITHER

(v) Delete the text of Rule 15(2) in its entirety.

OR

(w) If Recommendation 1(v) is not approved, delete the text of Rule 15(2)(a) and replace it with the following:

'Every Policy Letter, Requête, amendment or sursis laid before the States shall include or have appended to it an estimate of the financial implications to the States of carrying the proposals into effect.' and delete the words 'sub-paragraphs (i), (ii) and (iii) of' in Rule 15(2)(b).;

(x) Amend Rule 1(3)(a) to read: 'not less than 4 weeks in the case of a Billet d'État in which the only business is the Annual Budget of the States and not less than 3 weeks in the case of a Billet d'État in which the only business is the Annual Accounts of the States.';

(y) After Rule 3, insert a new Rule 3A in the following terms:

'Annual Budget Meeting

3A The meeting held to consider the Annual Budget of the States shall be held on the second Wednesday in November.';

(z) After the proviso to Rule 2(1)(a) insert an additional proviso in the following terms: 'PROVIDED FURTHER THAT the Policy Council shall, on the application of the Treasury & Resources Department, defer the inclusion of a policy letter or requête in a Billet d'État until the next meeting of the States when, in the opinion of the Department, the proposals have financial implications which have not been addressed in the policy letter or requête as the case may be.';

(aa) In Rule 13(2) insert at the end after the word "Holidays" the following: "or, in respect of an amendment to propositions which have financial implications and which is proposed to be moved by the Minister or another representative of the Treasury & Resources Department, not

later than 15.00 on the day preceding the second clear day before the meeting excluding Saturdays, Sundays and Public Holidays.’;

(bb) In Rule 15(1) delete the words ‘the Minister of’;

(cc) in Rule 14(1) delete the words ‘two-thirds or more’ and replace them with ‘the majority’;

(dd) Immediately after Rule 18(2) insert a new Rule 18(2A) in the following terms: ‘Before submitting the request to the Policy Council the seven Members shall invite in writing all the Members of the Department or Committee, including the Minister or Chairman thereof, to tender their resignations of such membership, which invitation shall have attached to it the full text of the proposed request.’;

(ee) Immediately after Rule 19(2) insert a new Rule 19(2A) in the following terms: ‘Before submitting the request to the Presiding Officer the seven Members shall invite in writing the Chief Minister or Deputy Chief Minister, as the case may be, to tender his resignation of such office, which invitation shall have attached to it the full text of the proposed request.’

EITHER

(ff) In Rule 20(2)(a) delete all the words after ‘secret ballot’ and replace the comma with a full stop;

OR

(gg) If Recommendation (ff) is not approved, in Rule 20(2)(a)(ii) insert the following text after ‘held,’: ‘unless the particular Department or Committee still has a vacancy’;

(hh) In each of Rules 20(3)(d)(i) and 20(4)(a)(ii) and 20(5)(a)(ii) delete ‘each candidate (or the candidate if there is only one) to speak for not more than 5 minutes’ and substitute ‘, in respect of each candidate in turn (or the candidate if there is only one), first the proposer to speak for not more than 5 minutes and then the candidate to speak for not more than 10 minutes; ; and in each of Rules 20(3)(d)(ii)(6) and 20(4)(b)(6) and 20(5)(b)(6)

(ii) In Rule 24(1) in the definition of ‘requête’ delete the words ‘any 7 or more Members’ and replace with ‘any seven Members (but not more than seven)’;

(jj) On page 1 of Schedule 1 to the Rules of Procedure of the States of Deliberation insert after the words ‘States of Deliberation’ where first appearing the following: ‘or Rule 12 of The Rules concerning The Constitution and Operation of States’ Departments and Committees’ and at the end of the first paragraph insert the words ‘or as a person who is a non-States member of a States’ Department or Committee pursuant to Rule 12 of The Rules concerning The Constitution and Operation of States’ Departments and Committees’;

(kk) In Schedule 1 to the Rules of Procedure of the States of Deliberation insert a Part 12 in the following terms:

‘Part 12

Employment by the States of close Family Members

Declare here the name, familial relationship, job title and usual place of work of any of the following who is an employee of the States, that is to say parent, spouse, cohabiting partner, child, grandchild or sibling.’;

(ll) In any place in the Rules of Procedure where there is a reference to a ‘report’ or ‘reports’ and it means a document or documents which will be considered by the States in a meeting (but not a document which is contained in the appendix to a Billet d’État or which is a report pursuant to paragraphs 33 and 34 of the Code of Conduct for Members of the States of Deliberation or a report appended by the Policy Council to a requête) replace that word “report” or “reports” with ‘policy letter’ or ‘policy letters’ as the case may be.

2. That the Rules relating to the Constitution and Operation of States’ Departments and Committees be amended with immediate effect as follows:

(a) Delete the text of Rule 3(2) and replace it with the following: ‘The Chief Minister shall not sit on any States’ Department or States’ Committee other than in any position held ex officio.’;

(b) Delete the text of Rule 4(2) and replace it with the following:

4(2) ‘Any Department may elect up to two non-voting members, who shall not be sitting Members of the States, and whose appointments, subject to the provisions below, shall expire at

the same time as the terms of office of the four sitting Members of the States. Such Members shall have the same rights and duties as ordinary Members (other than the right to vote).

4(2A) Before electing any such non-voting members the Department concerned shall be provided by each candidate with a completed Declaration of Interest as set out in Schedule 1 to the Rules of Procedure of the States of Deliberation.

4(2B) Any such non-voting member may resign from the office at a date earlier than that on which it would otherwise terminate, by a letter addressed to the Minister, and notwithstanding Rule 7(3) such resignation will take effect immediately. Notwithstanding Rule 7(2), a replacement need not be elected.

4(2C) By decision of the voting members the term of office of any such non-voting member may be terminated with immediate effect. A replacement need not be elected.

4(2D) Immediately after the election the Department shall submit a letter to the Presiding Officer for publication as an appendix to a Billet d'État setting out the full name of the person or persons so elected, the date of the election and a statement that the Department had seen a completed Declaration of Interest in respect of that person before the election and was satisfied that the appointment of the person would not lead to a conflict of interest, or if there was potentially one it could be managed. The Declaration in respect of the person appointed shall be lodged with the Greffier and published by him as if the person concerned was subject to the provisions of Rule 23 of the Rules of Procedure of the States of Deliberation.

4(2E) Immediately after a resignation or any termination of office the Department shall submit a letter to the Presiding Officer for publication as an appendix to a Billet d'État stating the name of the person who has ceased to be a non-voting member of the Department;

(c) At the end of the existing Rule 4(3), add the following immediately before the full stop: ', and accordingly when a person is elected Minister of a Department that person ceases to be the Minister of any other Department, Chairman or an ordinary Member of those Committees and an ordinary Member of more than one other Department (at that person's option) with immediate effect';

(d) In the third bullet point at Rule 5(1)(c) replace 'nominate' with 'appoint', delete the second sentence, and add an additional sentence in the following terms "The provisions governing these appointments are as set out in Rules 4(2) to 4(2E) inclusive as if, for these purposes only, the Committee is a Department.';

(e) Amend Rule 7(8) to read: 'If a majority of the voting members of a Department or Committee believe that the continued membership of that Department or Committee by one member is hindering the ability of the Department or Committee to fulfil its mandate then the majority may bring a recommendation to the States that the period of office of the said one member should be terminated with immediate effect, and the States may, notwithstanding the other provisions of this rule, by resolution so terminate that period of office.';

(f) In Rule 12 insert after 'candidate' the following words: 'including a statement that the proposer had seen a Declaration of Interest from the candidate and was satisfied that there would be no conflict of interest if the candidate were appointed, or if there was potentially one it could be managed,' and add a new sentence at the end in the following terms: 'The Declaration in respect of the successful candidate shall be lodged with the Greffier and published by him as if the person concerned was subject to the provisions of Rule 23 of the Rules of Procedure of the States of Deliberation.';

(g) Immediately after Rule 14A insert a new Rule 14B in the following terms:

'Department and Committee correspondence

14B (1) For the avoidance of doubt, all correspondence, howsoever received, between a Department or Committee and a Member of the States shall be treated as confidential under the Code of Practice for Access to Public Information unless expressed otherwise and shall not be disclosed to any third party, whether within the States or outside, in whole or in part, by any means, without the express consent of the author of that correspondence.

14B (2) Any Member of the States while he or she continues to be a Member of the States may request from a Department or Committee of which the said Member was formerly a member a copy of any document which he or she was given when a member of that Department or Committee, except any material which he or she was allowed to see but not retain.;

(h) Immediately after Rule 16A insert a new Rule 16B 'Register of Appointments Any Department or Committee of the States which appoints one of its members to a position on the board of an extra-governmental body which is not a States' committee, or which has a member who has been appointed to such a position by the board of an extra-governmental body which is not a States' committee, shall notify H.M. Greffier of that appointment. The cessation of any such appointment shall also be notified to H.M. Greffier. H.M. Greffier shall keep a record of that appointment in a document known as the 'Register of Appointments' and shall cause that document to be posted on the appropriate part of the States' website.;

(i) In the third bullet point of Rule 18(3) replace 'nominate' with 'appoint', delete the second sentence, and add an additional sentence in the following terms 'The provisions governing these appointments are as set out in Rules 4(2) to 4(2E) inclusive as if, for these purposes only, the Committee is a Department.'

3. That the Code of Conduct for Members of the States of Deliberation be amended with immediate effect as follows:

(a) Immediately after section 19, insert a new section 19A in the following terms: 'For the avoidance of doubt, all correspondence, howsoever received, between a Department or Committee and a Member of the States shall be treated as confidential under the Code of Practice for Access to Public Information unless expressed otherwise and shall not be disclosed to any third party, whether within the States or outside, in whole or in part, by any means, without the express consent of the author of that correspondence.;

(b) Immediately after section 27, insert a new section 27A in the following terms: 'Immediately upon receipt of a complaint the secretary to the Panel shall notify the Member concerned that a complaint has been made.;

(c) In Section 33 delete all the words in the first sentence after 'Committee' and replace them with 'which, in turn, shall submit that report to the Presiding Officer for inclusion in a Billet d'État with the recommendations of the Panel'.

4. That the following Resolutions of the States be rescinded with immediate effect:

(a) Resolution 1(u) of Article 16 of Billet d'État V of 2012 of 8th March 2012;

(b) Resolution 1(b) of Article 16 of Billet d'État V of 2012 of 8th March 2012;

(c) Resolution 1(aa) of Article 16 of Billet d'État V of 2012 of 8th March 2012.

5. That the Policy Council and /or the Treasury & Resources Department, as appropriate, shall append to a policy letter or requête a statement to the effect that the proposals in it do not comply with the principles of good governance, if in their opinion that be the case, and such statements shall not be included in the body of the policy letter or requête.

The Bailiff: Next we revert to the business left over from the March meeting.

3725

The Deputy Greffier: Billet VI, Article VII, States Assembly & Constitution Committee – Rules of Procedure of the States of Deliberation, the Rules relating to the Constitution and Operation of States' Departments and Committees and related matters.

3730

The Bailiff: The Chair of that Committee, Deputy Fallaize, will open debate.
Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

3735

I trust that the arguments in favour of the Committee's proposals are set out persuasively and extensively in the policy letter and, although I obviously will be happy to answer any questions at the end of the debate, I do not have anything to add at this stage, other than to say that the three

amendments which are laid... one of them is in my name, but in respect of the other two there are no objections on behalf of the Committee.

3740 I do not know if that helps the proposers of the amendments, and the States when considering them, but the Committee does not intend to object to them. Other than that, sir, I ask Members to support the Propositions.

Thank you, sir.

3745 **The Bailiff:** Right. We have three amendments, the first proposed by Deputy Langlois seconded by Deputy St Pier; the second proposed by Deputy Gillson seconded by Deputy Le Clerc; and the third proposed by Deputy Fallaize seconded by Deputy Conder.

3750 I was going to take them in that order, but perhaps – Ah, here is Deputy Langlois, so what we will be taking next is the amendment to be proposed by Deputy Langlois and seconded by Deputy St Pier, which is in Proposition 1(y), to delete ‘second Wednesday in November’ and substitute ‘Tuesday immediately preceding the last Wednesday in October’.

Deputy Langlois.

Amendment:

In proposition 1(y) delete ‘second Wednesday in November’ and substitute ‘Tuesday immediately preceding the last Wednesday in October’.

Deputy Langlois: Well, thank you, sir.

3755 It is a pleasure to have a few words to say today (*Laughter*) so I am familiar!

This is purely a technical amendment and I will own up, not personally but in team terms between myself and the Treasury team.

3760 The draft of this went through in its previous form, through an administrative sort of oversight, and the reason for this is, those of you longer serving will recall that there is always an oddity, an anomaly (a) if the Budget appears in a different month from the uprating report, from the Social Security Uprating Report, because you are not looking at things as a whole and (b) if the effect of that is that one appears to pre-empt the other.

3765 So the intention has been – and we achieved it last year I think for the first time – to have them in the same month. The effect of this amendment is very simply to ensure that happens again rather than what ended up in the original report, and I apologise to the Assembly for having to make the amendment.

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

3770 **Deputy St Pier:** I do and will speak very briefly, sir, just to add and to emphasise that the effect of the amendment would be to bring the Budget debate forward by one day to Tuesday at the end of October, so Members will need to take account of that in their planning for the rest of this year.

3775 Also to note that the notice period for the Budget report will be published four weeks rather than three weeks before the debate, in order to give more time for scrutiny by Members before the debate itself. But really to emphasise that the last point which is made in the explanatory note, is that adhering to that timetable is going to require significant co-operation from all other Departments and Committees, sir.

3780 **The Bailiff:** Is there any debate?

Yes, Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

3785 I disagree with this amendment. I think the proposal which was that the Budget debate is in mid-November was a very sensible proposal. Knowing that there is now, as again, a very sensible

four-week lead in to the Budget, I think it gives Departments longer to prepare for the Budget, which I think is good. I also think that the... I have always believed that the SSD uprating report should precede the Budget not come after the Budget.

3790 The main reasons are that if the SSD debate comes immediately after the Budget, there is a chance that the SSD report will not be finished in the October debate. If we look back at the Budget debate last year it took two and a half days, and in 2013 the uprating report took two and a half days as well.

3795 Of course, we have to have legislation, questions, statements, elections, resignation speeches, and even a jurist election could possibly delay. So even if we started the Budget debate on the Tuesday in October there is no certainty that you would get through both the Budget and the SSD report in that October sitting and, as the explanation note explains, there is a problem if the SSD debate is delayed to mid-November as there is insufficient time to get the proposals in for January 1st.

3800 I also believe that we should only start on a Tuesday in exceptional situations. I think it is very sensible having the Wednesday, Thursday and Friday. Over the years, my observation is that often the quality of debate on the last day is affected when we go for four days, and I think it is better to stick to the three days for a States' sitting.

3805 I also believe that it is right that the States decides on the benefit levels first and then the Budget should allocate enough money to finance them – not *vice versa*, when you have decided on the money for the benefit levels, and effectively the States has then got no space for movement on the benefit levels if it wants to, because the money has already been allocated in the Budget.

3810 By keeping the Budget – if you reject this amendment you keep the Budget in mid-November – if we debated the uprating report in October we would know what the Budget proposals were, because they would be published four weeks before, so they would be published, effectively, two weeks before the October sitting, so Members would have that knowledge; but if they wanted to change the benefits they could do that and that would be reflected in the Budget.

So I ask Members to reject this amendment.

Thank you.

3815

The Bailiff: I see no-one else rising to debate.
Deputy Fallaize, do you wish to speak?

3820 **Deputy Fallaize:** Well, only to say, sir, that the Committee does not really intend to enter into the long running dispute about the timing of the Social Security Uprating Report in relation to the timing of the Budget debate.

3825 The Committee's sole intention in putting its original proposal was to have a stand-alone States' meeting day for consideration of the annual Budget. The amendment does not do anything to undermine that proposal and that is the reason the Committee does not object to the amendment.

Thank you, sir.

The Bailiff: Deputy Langlois to reply.

3830 **Deputy Langlois:** Thank you, sir.

I realise in my brief introduction that I did not mention the legislation reason why getting the decisions in place in October are important, simply because we have got to... there is work to be done in the Department which has got to then inform people, unfortunately using a fairly labour intensive system, about their contributions for the new year, and so on.

3835 I have cleared this; I have talked to the staff at some length about this, and it certainly is do-able in terms of the juxtaposition of the Budget and the uprating report. I am sorry to say that I

and my Board, I think, actually take the opposite view from Deputy Dorey and we are very happy to follow the Budget debate.

So I would ask you to support the amendment.

3840

The Bailiff: We vote then on the amendment proposed by Deputy Langlois, seconded by Deputy St Pier. Those in favour; those against.

Members voted Pour.

3845

The Bailiff: I declare it carried.

Next we have an amendment proposed by Deputy Gillson.

Deputy Gillson.

Amendment:

To insert as a new Proposition 1(mm) the following: '1(mm) Immediately after Rule 14(3) insert a new Rule 14(4) in the following terms: "Where a Proposition is rejected which had proposed that a particular action not be taken, such rejection is not a positive instruction for the action to be undertaken."'

3850

Deputy Gillson: Sir, I would just ask Members to cast their minds back to – I think – February when we had the T&R proposal relating to benefit in kind and the Assembly rejected what was a negative Proposition. There followed after that vote a slight, unseemly in a way, discussion as to what the actual rejection meant, and all this does is clarify that if the Department places a negative Proposition and it is rejected that is not in itself a positive instruction.

3855

Thank you.

The Bailiff: Deputy Le Clerc, do you formally second?

3860

Deputy Le Clerc: Yes, I do, sir.

The Bailiff: Does anyone wish to speak? Deputy Bebb.

Deputy Bebb: Whereas Deputy Fallaize stated that the Committee was not objecting to this amendment, he omitted to say that was by majority. I am afraid that I do object to this amendment.

3865

I generally find that in the States we like to suspend the Rules, but I am afraid that it is not really within our ability to suspend the rules of the English language, and when I had to learn this language I was generally told that two negatives make a positive. Therefore when someone puts forward a Proposition not to do something, and the States vote not to not to do something that surely is a double negative, which is a positive.

3870

I, therefore, would ask the Assembly to please maintain the standards of the English language and to reject this amendment.

Thank you.

3875

The Bailiff: Deputy Le Tocq.

The Chief Minister: Yes, I was not going to speak, but a double negative, (*Laughter*) speaking as a linguist, is not in the English language. This is quite unique. I admit that other languages do not have it, but is not necessarily a positive. So if I am not forgetful that does not mean that I am forgetful and all that sort of... anyway.

3880

A Member: Enough said.

A Member: Enough is Enough.

3885

The Bailiff: Does anyone wish to add to this debate? No.
Deputy Fallaize.

Deputy Fallaize: No, I think the view the Committee takes is that the amendment is relatively benign. *(Laughter)* On that basis I think we will sort of save our gunpowder for another day.

3890

The Bailiff: We vote then on the amendment – sorry, Deputy Gillson to reply. Sorry.

Deputy Gillson: I think I will just reply to Deputy Bebb saying that double negatives are a real no, no! *(Laughter)*

3895

The Bailiff: We vote then on the amendment proposed by Deputy Gillson, seconded by Deputy Le Clerc. Those in favour; those against.

3900

Members voted Pour.

The Bailiff: I declare it carried.
The third amendment is proposed by Deputy Fallaize.

Amendment

To insert as a new Proposition 1(nn) the following: '1(nn) In Rule 13(2)(e) delete paragraph (ii) and renumber paragraphs (iii) and (iv) as (ii) and (iii) respectively.'

Deputy Fallaize: Yes, thank you, sir.

3905

I apologise, this one has been circulated rather late, but the existing Rule 13(2) requires all amendments which are engaged by Rule 15(2) to be circulated not less than seven days before a States' meeting; but because of the changes which the Committee is proposing to Rule 15(2), which incidentally is supported by Treasury & Resources Department, the effect, if this wording were to remain in 13(2), would mean that every amendment – literally *every amendment* – would be captured, and therefore every amendment would always have to be circulated seven days before a States' meeting.

3910

Now, clearly, that is not sensible, that goes way beyond where the Rules are at the present time. Therefore, the Committee asks the States to approve this amendment, which I would argue just tidies up this Rule and ensures that it has the effect that it is meant to have, rather than capturing every single amendment.

3915

Thank you, sir.

The Bailiff: Deputy Conder, you formally second the amendment?

3920

Deputy Conder: I do, sir.

The Bailiff: Anyone wish to speak? No.

We go straight to the vote then. This is the amendment proposed by Deputy Fallaize, seconded by Deputy Conder. Those in favour; those against.

3925

Members voted Pour.

The Bailiff: I declare it carried, so we come to general debate.

3930 Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

In the Report it mentions the use of electronic devices and palm held devices, as we used to call them, and I have to say I have mine with me here today and I have used them, but I think we
3935 need to get to a point where we do not use them, or we use them considerably less.

I do not know at what stage in the future – whether live streaming means images of the States going out to the public... does it mean that? (**A Member:** Yes.) Does it mean that the States – ? Well, I think I have watched the London Assembly several times on television and when the – yes, sorry, yes, no, I have fairly broad taste. I watch the *Channel 4 News* as well! (*Laughter*)

3940 So when you watch those Assemblies you will note that people are looking down at their Blackberries, looking down at their iPhones, looking down at their iPads during an Assembly session, and it looks absolutely wretched. People who have an interest in that Assembly, and a vote may be taking place that has a material effect – when they see that so many people are not engaged in debate. Deputy Fallaize has raised this before. It does give the wrong impression.

3945 Now, if we go back to the analogue method, or paper as it is referred to, when people historically in the past were giving speeches other people may have been writing their own speech, but listening, and some of you may have even been drafting an amendment or scribbling a note to be passed around. But that was still parliamentary business.

3950 But I think we have to be honest and we have to be true to ourselves and say a lot of things that we view on our devices you could not say are 100%, 1,000% focused on the business of this Assembly. I am sorry – Deputy Bebb is flinching at 1,000%. I withdraw it. Strike it from the record! Strike it from the record!

3955 But I think there is a tipping point, and I would also go as far to say that in meetings now... I remember my attendance at the first meeting I ever attended – I am talking about a Committee meeting – people were told to turn their mobile phones off or leave them outside. Now it is not uncommon for people to have their devices in front of them and to be dealing with matters that may not be an agenda'd item, if I can put it that way, and I think we need to just look at that.

3960 If we have got our Board papers on them and we are using it for that then maybe that is okay, but I would like at some point the SACC to come back perhaps with exemptions, for example, if a Minister is presenting an item and they need their notes, and they say their notes are on their iPad, all well and good. If other Members want to check up what is for sale on Amazon or see how their stocks are doing, or whether it is going to rain on the walk home, perhaps just walk into the Members' Room and do that because I think the proliferation of the use of electronic devices is having an impact now.

3965 I do not want to overstate it, but I think it is just encroaching in a manner that we did not quite foresee and I will hold my hand up to say that at times that part of that encroachment has been down to me as well.

3970 Just on days we overrun – and this is a suggestion I would make to SACC – whether we consider that this Assembly is broadcast until the agenda's items are finished, so when the Billet is finished and that is the business of the States its done.

3975 When we have these 10- or 15-minute discussions as to when we can come back, who will be able to make it, who cannot, I do not think that necessarily needs to be broadcast. Because what we have had – and I have to say I was very disappointed the last time – is we had Members leaping to their feet saying Members were well aware of the dates in their diary if they choose to go off on holiday and cannot make it back well shame on them. I thought that was a little bit too opportunist, and it does not need to happen.

3980 So I think that the agenda'd items in the Billet when parliamentary business is wound up ends the broadcast and then if we need 10 or 15 or 20 minutes to decide when we can get back when it is convenient for everyone, then I do not think that necessarily needs that. In the past I think it is probably 20 minutes of discussion to arrive at a date. I do not think that puts us in a particularly good light, and I think actually it may also prevent people in saying things and in raising issues.

3985 I would also like to just say something on the Code of Conduct. It is not so long ago that Members of this Assembly were talking about – I will not mention them by name but they did organise a rally... I am sure they deemed it a success, but they also had a campaign that meant that I was reported to the Code of Conduct, to Mr Chris Day, on a number of occasions, which I have to say it was extremely unpleasant and stressful.

3990 I had referrals made to the Code of Conduct alleging that I was racist, that I had offended people who were obese or overweight. Now, Mr Day dismissed them out of hand, but nevertheless I had to endure that stress of people actively campaigning and, in my view, misusing the Code of Conduct.

3995 Now, there is one further example where a member of the public called the radio station to say that I had been referred to the Code of Conduct Panel – a referral had been made. I was at my daughter's school driving home and the *BBC* had announced that I was facing a Code of Conduct. I was not. I was not facing a Code of Conduct. One e-mail exchanged with the person that alleged that soon clarified the issue. But I would suggest – and I know this is more an issue perhaps for the Panel itself, but I think I need to raise this – the Bailiff's Office should not release the name of any individual unless an actual referral has been made.

4000 In other words, if somebody thinks I am a twit and they want – (*Laughter*) Deputy Harwood wants us to go to a recorded vote on that! – (*Laughter*) that is the cut and thrust and we can live with it. But when people seek to misuse or to... bearing in mind I came in here on the morning of a significant debate for the Environment Department, and those who were opposed, out there, to the paper that we were about to consider, had alleged I was facing a Code of Conduct which I was not.

4005 I do not think the Bailiff's Office should have released my name and I do not think they should release anybody's name unless there has been an actual referral, because otherwise the misuse there for the Code of Conduct is anyone can allege that a politician's behaviour has been on the margins when that was never the case.

4010 Also something I would finally like to raise is the give way Rule, because I wrote to SACC, and the reason I asked that they looked at the give way Rule was because what was happening in this Assembly is that speeches... people were standing and raising points of order but the person who was delivering the speech could return to the person who had interjected and, if you like, there was no resolution, there was no conclusion. It became something of a spat and if the person stood up for the third point of order then the Bailiff just possibly may not allow it.

4015 So the way I envisage the give way Rule working was somebody stood up and the person speaking would give way and the matter would be resolved. What I have noticed happens now, and this is just as a rule of thumb, Deputy Luxon generally gives way to me, Deputy Stewart tends not to give way to me.

4020 Now what is happening is, rather than people embracing the spirit, (*Laughter*) it is almost being used as a put down which is having the opposite effect. Now, there was a very good use of a give way not... I think it was Deputy Allister Langlois who began to build on a very, very long speech on the Social Security, the Joint Board's proposals, and he said to people, 'No, this is a long speech I will be on my feet for some time. I will not give way just at the moment,' and actually people let him conclude his speech.

4025 But the give way now – I think if Members could with the Guernsey perhaps filter in turn mechanism that we are all familiar with, I think give way to... the give way Rule is there for a very good reason. I think it takes the sort of static charge out of the political air, rather than saying, 'No, I am not giving way and I refuse to give way to you,' because all it means actually is somebody jumps to their feet and says, 'Okay then, point of order, point of correction, they are misleading the States.'

4030 So I have made a number of observations, and noted I have not placed an amendment, but I would like those Members of SACC to take those considerations on board.

Thank you.

The Bailiff: Deputy Ogier.

4035

Deputy Ogier: Thank you, sir.

It is just one small point really on the recommendation Rule 1(a) to re-insert that while States are in session Members should not have any communication with a person in the Public Gallery.

4040

Now, one of the benefits of these electronic communicators is that you can communicate with staff during a debate. Particularly, a question can be asked and you might not have the answer. You may refer it to someone in an office at the Harbour or at the Airport or at Sir Charles Frossard House, elsewhere. You may pose them directly a question that has been asked and you get a reply back which you are able to give during debate, which helps in debate, and helps the understanding and adds information to ensure that we can give evidence-based decisions.

4045

Now, we here could have an advisor sitting next to us, or we could have an advisor in the office listening on the radio, or we could have an advisor sitting in the Public Gallery. My question is this: if I can have an advisor here by me or in the office that I can communicate with, why can I not continue to communicate with that person in the Public Gallery? Will that then prevent advisors to debate sitting in the Public Gallery with whom I will be unable to communicate? I think that is possibly an unnecessary restriction.

4050

The Bailiff: Deputy Dorey, then Deputy Gollop.

Deputy Dorey: Thank you, Mr Bailiff.

4055

I was surprised that the Chairman did not do an introduction speech, because I note there are a number of alternative Propositions, and I think they need to be referred to and I notice the Chairman does not support one of the Propositions from his Department as well in the text.

4060

Firstly, I would like to say about holidays. I do think that we had a situation with the meeting in April when there was a number of Members away, and I do think as a parliament we should be more family friendly, and when setting the dates we should be aware of school holidays and particularly half terms; and it seems that the October meetings used to always clash with half term, which has meant that there have been people away at various times. I just think it is unnecessary. We could schedule that meeting not to clash with half term.

4065

For myself and my children, only one of them is at school and she is in the last year at school so I will not affect me. I did try in the past to get it changed and it did change for one year then went back again. So I will urge the Committee to work with the Policy Council to look at making our dates more family friendly.

4070

I will pick up a number of other proposals. Rule 15(2) – I notice that there is either (v) or (w). One is to delete 15(2) completely or (w) is to replace it with an alternative to 15(2). I personally will vote to delete 15(2). I think if somebody is bringing a Proposition to the Assembly which involves expenditure if they do not declare that expenditure I think the States will make a judgement on it based on that. I think it is unnecessary constraint, and I think it will be a weakness of any amendment which does not include the financial costs, and I do not think it is necessary to have 15(2).

4075

(cc), which is the one that the Chairman does not support, which is to do with guillotine – currently there has to be two-thirds a majority for Rule 14, for the guillotine to operate. I think we should be using the guillotine very infrequently and I think the fact that there is a two-thirds majority required does not make it be proposed very often, and I think that is right.

4080

It would be very wrong if a majority could just simply stop debate because they do not want to hear the views of the minority. We are a parliament of independents there are many views and different points and I think those Members should be allowed to put those points, but I do accept the Rule with a two-thirds majority, but I think it would be wrong to have a simple majority to guillotine a debate.

4085

(ff), which is about... or (gg), which is about secret ballots – I think we made a mistake when the Rules were changed that removed secret ballots for elections of Members to Departments or

positions. I think the basis of all good voting systems is secrecy, and I think that should be brought back in and therefore I would vote in favour of (ff).

4090 Members should be able to vote for who they believe is the best person without concern of someone upsetting a colleague or friend, and I think having it published will have influence on sometimes how Members have voted in an election. Therefore I urge you to go back to the system that we had prior to 2012 of secret ballots. (**Several Members:** Hear, hear.)

4095 The other one is in (hh). This is to do with the procedure for the election of Ministers, Chief Minister and Deputy Chief Minister. I think the current proposal, where the candidate speaks for five minutes and there are questions of 30 minutes times the number of candidates, is a good system and I think it was an improvement on the past.

I do not want to go back to the system where we have a proposer speaking about a person as opposed to the candidate can speak for 10 minutes and then Question Time is restricted to 15 minutes per number of candidates in the election.

4100 I think it was very interesting to hear in the recent elections, where I know a number of Members said they changed their vote towards the end of the Question Time, because I think the Question Time really enables us to find out the policies of the person, rather than a pre-prepared speech.

4105 I think it was an eye-opener for some of us during the Question Time and the fact that a recent vote which was very close for a particular position that people said they changed their vote towards the end of that Question Time proves the value of it. Therefore I would rather have the Question Time than hear a proposer and hear the candidate go on for twice the amount of time as we have had in the current Rules.

So I would urge Members to vote against (hh), vote for (ff) and vote against (cc) and vote for (v).

4110 Thank you.

The Bailiff: Deputy Gollop.

4115 **Deputy Gollop:** Well, SACC is certainly a hard working Committee, but sometimes they give me the impression of focussing more on the micro-management of the States than the bigger picture, such as how we sit, where we sit, what our roles are, and indeed when we should meet.

4120 I think the question of this very awkward situation of meeting, for example, during school holidays needs to be addressed, and the reality is for some time now we have been looking at fortnightly regular meetings that should have been imposed, and instead we are faced with this very curious mixture of highs and lows.

4125 I would also point out that there are quite a number of rather unusual Propositions here. For example, Rule 5 – a proposed change would give more flexibility in deciding the hours when the States sit and so on. But I think in reality we do get tired if we are put in a position of having to stay until 7 or 8 o'clock. Moreover, many people have made commitments to other States' events, either after a sitting or during it, so I think that we have to be cautious in effectively filibustering the debates to mid-evening.

I think some of it is quite sensible, like grouping Questions on the same broad topic, and I welcome the urgent question innovation and the response to the questioner, because I have sometimes been in the position of not knowing whether a Question would be asked or not.

4130 I remember on one occasion the Minister did not know he was going to be asked the Question but he still gave me an Answer, but that was in the old days. (*Laughter*) It was quite funny actually, yes.

4135 I do not understand why we are tinkering yet again with a maximum time for Questions and Answers. That is rather unnecessary and I do agree that going to a bare majority will increase divisiveness in the Chamber when it comes to containing or guillotining a debate, because it makes it more pointed that there might be a narrow majority against continuing with that topic, but it would not help harmony at all.

4140 Other items are broadly okay, but I do think, too, that we are in danger of being too prescriptive, generally, with the electronic devices. It is hard to go back to the old days because we are, after all... we have been issued with iPads. There has been this commitment by the Greffe, amongst others, to restrict the flow of paper and focus more on electronic communication, and in that sense they have, perhaps regrettably, become part of our daily life, and certainly I think the question is a broad one that we have not worked through. Some other Assembly's one could go to would actually have space for these electronic devices but we do not.

4145 I am perhaps uncertain as to why SACC have brought back, at this stage, the proposal to perhaps reintroduce so-called secret voting, because I would have thought it would have lasted a term before we decided whether that was the way forward or not.

The Bailiff: Deputy Bebb.

4150

Deputy Bebb: Thank you, Monsieur Le Bailli.

I think I will deal with this school holiday issue because it is beginning to actually run its course in this debate. SACC have looked at school holidays. They did not feel that it was appropriate to amend States' meetings days during this term, but we did look as to whether any of the roll over days would fall on a school holiday, and indeed there are none.

4155 For the remainder of this term there are no roll-over dates that fall on a school holiday. Therefore, it was felt appropriate to leave the system as it currently is for this term, but that in the next policy letter we will seek to address the question of the States' meeting during school holidays, because it is felt that it is appropriate for this Assembly to look at that question, but that it really should be looked at in the context of the next term and the next Assembly.

4160 With regard to a few other points that have been raised in debate, as Members will know, this paper actually seeks to bring back secret ballots and Members will probably remember that I was the one who proposed having open ballots for Ministers, and I am willing to stand here and say that I think I made a mistake, and therefore I would urge Members to revert to the fact of not having fear nor favour.

4165 I would sincerely have hoped that things were different but I think that the realistic and pragmatic experience of this term has shown that my aspirations were not met – I think is the best way that I can put it – and therefore I feel that the best way of serving the Assembly is to revert to a secret ballot.

4170 I see Deputy Lowe shaking her head, and that is absolutely fine. I recognise that Deputy Lowe was the one who placed the amendment in relation to open ballots for Members of Committees, but as the one who proposed for Ministers, I would personally say that I feel that I have made a mistake, and I remember Deputy Quin at the time telling me that I should have a little more experience. I am pleased to say to Deputy Quin that he was quite correct. Having had more experience, I can only apologise and I hope that this will give the opportunity for this Assembly to revert to that system of a secret ballot.

4175 I do not agree with the representations that have been made in relation to electronic devices, but there is nothing really to be voted on in that matter; but I am sure that SACC as a Committee are happy to actually receive everybody's representations should they actually look at that again.

4180 The truth is that there are some issues in this policy letter that are met and are arrived at by Committee, and that does not mean that we would agree on everything. I think that Deputy Ogier made reference to communications with members in the Gallery and so forth. I would agree with Deputy Ogier on that matter, but it is by majority that this paper was actually brought together.

4185 I think that the truth is, that having debated it extensively, the vast majority of the contents are robustly dealt with in debate within that Committee system. I would commend most of the Propositions to the Assembly, but I thought that it was best for me to lay out quite clearly my position in relation to the secret ballot.

Thank you.

4190 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Thank you, sir.

There are just a couple of points that I would like to raise. I will follow on actually from Deputy Bebb with the secret ballot.

4195 I think it is actually great to have the open vote now that Members can actually see who voted for what. Now, if any Member has a problem with that, well, it is disappointing because Members must be honest with one another. You can find that Members get a little bit too friendly, and do not want to upset Joe Public – not Joe Public, Joe Smith – sitting alongside you or opposite you, because you did not vote for them.

4200 It does not mean to say that you will fall out with somebody. You have to explain that, actually, you are a great person, you are a great mate, but you are not the right person for the job on this occasion, because I favour somebody else. They should be able to accept that and it should not really be a problem.

4205 So I hope that we will carry on down that route because we are accountable. We are accountable for who we put in those positions. So therefore if we vote for a particular person and we feel that that Deputy did not actually carry out the role as you would hope, at least you can actually see who voted for that particular person. You also hold that person to account because you voted for them, and they stood up because they have got their proposing speech and they say, 'Well, I support this, I support that and I support the other,' and those that vote for them think, 'Yes, that was really good. We will do that.' But if they do not, those are the ones responsible that can actually take it up with that candidate because they did not go down the route that you felt in good faith that you supported them for.

4210 I really hope that we will stay with that, that we will show the public we are prepared to be open. We signed a ticket of being open and transparent, and if it is uncomfortable for some Members, well, hopefully they will get over it, because that is a good system that we have got in place now. So that is on that one.

4215 The electronic devices – I think it is great to have rules, but rules have to be achievable, they have to be meaningful and they have to be that they can be monitored and policed properly. This is one that there is no way that you can actually monitor and police that, because it only mentions the Public Gallery. So I can make communications with a member of the public who stands outside the Public Gallery on my iPad if I so choose in Smith Street or in their home but it is only the Public Gallery where they cannot actually send me an e-mail or send me a message. That is just silly, that is just silly!

4220 We have been encouraged by the States to use our iPads and to try not to send notes around the Assembly to save our hard working ushers, who do an excellent job for us, but that is what we have got them for. We are here to be trying to make things more simplistic, more easy, and therefore electronic devices. If you wish to communicate with somebody in the Public Gallery through your electronic device so be it.

4225 Are we going to tell the members of the public then that come in that they cannot send any e-mails or texts to anybody in this Assembly? What restrictions would be on them? We can only have it one way and not the other way. We cannot have it the other way round really. So I think common sense will have to prevail on that one, sir. No, we will leave that one, I hope, and not actually support that one.

4230 Candidates – I have always sort of hoped we would go down the route of when a candidate stands for a position it is only that candidate that actually makes a speech. We have got proposers and seconders and the candidate, and we still go down the route. It is better than it was years ago, it was pretty dire but at least it is better now. The candidate does actually speak but we still have their proposer.

4235 I would have the 10 minutes for the Minister... Well, it is longer than that but only the Minister would actually speak as to why they want the position, what they have got to offer, what they would like to achieve; and I would like to see the same replicated for anybody that is standing on

a Department. Let that person stand up and say why they want to do that, rather than somebody putting perhaps a bit of a spin on it.

4245 It is harder to say yourself and then it is more meaningful again if you have to say it, and it is more from the heart of why you would really like to be on that Department or Committee, what you have got to offer and what you would like to achieve. It is coming then direct from you. So I would actually scrap the proposers' speeches and put it all on the candidate, whatever position they are going for – that they are the ones that make the speeches.

4250 The other one that I would like SACC – it is not in here but I would like SACC – to consider in a bit more detail, is that we have formal breaks. I know we have discussed this previously and even more so now.

4255 I mean you are told you have to walk around because it is bad for you sitting still for so long. These seats are pretty uncomfortable, to say the least really. It is very difficult. It is fine if you are on the top bench, you have got individual seats. It was fine when we operated next door while this court was being refurbished. I have never known so many happy Members who were operating next door at the time, because you did not have to pester anybody to get out. You had your own chairs; you had plenty of space in front of you. It was a perfect set up for the Assembly. *(Interjection)* This is not here. I would go back there tomorrow if we could, but the rest of the States would have to come as well. I could not go on my own.

4260 I would like to see that perhaps if we are going to stay in here that we do have formal breaks. I mean the Bailiff has to sit still for a considerable length of time, as do most Members who are in and out of the Assembly. So if we started earlier at 9.00 o'clock or even 8.00 o'clock I would be happy with myself.

4265 But if we said nine o'clock and we had a 10.30 a.m. break everybody would go out for coffee. We would not be in a situation where we were last month, where we were not even quorate. That is not good for those listening either. People want to go out for water or get drinks or whatever, so I would hope that we could perhaps go down that route of starting at 9.00 a.m. break at 10.30 a.m. – quarter of an hour break – and we carry on until one o'clock. Shorten the lunch hour. And we do the same in the afternoon, with an official break. That will, I believe, make a better
4270 Assembly where we can make sure that people are in here and can listen to speeches but would have a formal break as near to 10.30 a.m. as possible.

The final one that I have got – and it follows on from Deputy Gollop and it happens most times with a SACC report – people will stand up and criticise SACC and say, 'Here we go again. We are looking at ourselves, we are looking at rules, we are looking at that.' That is their mandate.

4275 You approved SACC Committee to do that, and I just find it a bit disappointing when Members will criticise that the very Department or Committee that we asked to go around and look at the Rules and revise the Rules, that as soon as they come back with a report, it is, 'We are looking at ourselves'. If we do not want a SACC Committee, perhaps when the Review Committee comes back you can perhaps get rid of it if you do not like it.

4280 Thank you.

The Bailiff: Deputy Soulsby.

Deputy Soulsby: Sir, yes, I will be brief.

4285 I just thought I would stand for comment for the current Public Accounts Committee because the views of the previous Committee are set out in paragraph 32 in relation to their desire for White and Green Papers, and that says Proposition 4 is to rescind that recommendation.

4290 The current Committee have discussed this. They have no concerns about that Proposition and, personally, although I can see some positives from that, I actually think it is better than the current system where there can be discretion in the way, such as last month Modules 3 being withdrawn and treated as a Green Paper. So I think better using Committees and Boards' discretion whether they use a Green Paper or not, rather than making it a formal requirement.

The Bailiff: No-one else is rising.

4295 Deputy Fallaize, do you wish to reply?

Deputy Fallaize: I can finish, sir, before the next event starts at 5.30 p.m. if you want me to, sir.

The Bailiff: Yes.

4300

Deputy Fallaize: Right.

Deputy Brehaut made a point about electronic devices. Well, I have not got one of these wretched things and my view is perfectly well known. The Committee's view is very well known. It is just our political judgment that we would not get a Proposition through the States to put any sort of qualification, let alone a ban on them.

4305

I mean, a ban would be going too far, I think, because there are Members who read speeches from devices or are looking up old Billets during debates, and all of that is no different to using paper.

Yes, the Committee would like to be able to satisfy the public that there are not Members during debate watching the golf, shopping on Amazon or doing whatever it is they are doing. But, as Deputy Lowe said, it is incredibly difficult to police these things, and we do not believe that we would get a Proposition through the States. I think it was lost originally by one vote because the Committee did try to impose restrictions, but it was lost and we have not brought it back because we just simply do not believe that we could get it through the States.

4310

I am not sure about turning off the broadcast, when the States move on to certain types of business, such as setting their future agenda, purely because of the problem of perception. I think that the idea that the States are broadcast and the States are still meeting but all of a sudden the broadcast lines have been cut by the States, I think, probably would not be in the interests of the States in terms of perception. I think the more important point to make is that probably what happened at the end of the last States' meeting was unnecessary. We do not normally have that, and perhaps it did reflect very well on the States.

4315

He makes a good point about the Code of Conduct, and the importance of Members of the States being advised of any complaints in advance of the media. There was one occasion when that happened, the secretary to the Panel who has nothing to do with the Committee, did advise the media in advance of advising Deputy Brehaut. The procedures that the secretary to the Panel uses have now been changed, and that will not happen again, but in any event Proposition 3(b)... Deputy Brehaut will appreciate that the Committee is trying to put that beyond doubt and set out slightly clearer procedures.

4320

Now, he wants the Committee to go further and to propose that the Member against whom the complaint has been lodged would be effectively the only person who would know, unless the Chairman of the Panel decided that the case should be reviewed for a full hearing. The Committee has not considered that up to this point, but I am happy to take it back to the Committee.

4330

Deputy Ogier said why should he not be able to have communication with any advisor who is sat in the Public Gallery? It is a fair point, but the proposal the Committee is putting, the origin of it is physical communication – and it is very, very hard to construct a proposal which would preclude physical communication, verbal communication, and not preclude electronic communication.

4335

So, I think we have to do one or the other. If we maintain the present arrangement it could sometimes be difficult for the Presiding Officer. We could have people maintaining conversations with members of the public and that is not terribly parliamentary. I do not think one would find that in any other parliament, and so that is the reason that we have put that proposal.

4340

I would say also to Deputy Ogier, he understands that it is impossible to police electronic communication, so I would not have any concerns about Proposition 1(a) imposing more restrictions than he would be comfortable with, because we have to be realistic and understand what it is possible to police and not to police.

4345

But there is, of course, provision for advisors and members of staff to be sat behind Ministers when they are presenting proposals to the States, in any event. But I would ask the States to vote for that Proposition, so that we assist the Presiding Officer in ensuring there is decorum in the States, and that we do not have Members maintaining conversations across the Public Gallery.

4350 I will give way to Deputy Ogier.

Deputy Ogier: Thank you.

It is just a question really to ask how many times the Presiding Officer has in the last 10 years had to stop anyone communicating with anyone in the Public Gallery. To my recollection it is zero.

4355

Deputy Fallaize: No, but for most of that time there has been a Rule which has prevented communication, but what happened when – I cannot remember the exact context, but the States inadvertently, when one Rule was deleted and not replaced with another proposed Rule, inadvertently in that mix the Rule about not communicating with people in the Public Gallery was lost, and since then there have been occasions where that has happened and the Committee has had correspondence with, not just the present Presiding Officer, but his predecessor, and I think the general view of the Committee is that it would be helpful if we had a Rule which made it clear that communication with the Public Gallery or someone in the public Gallery was not permitted.

4360

Deputy Dorey made a point about the timing of States' meetings *vis a vis* school holidays. I think Deputy Bebb has covered that. The Committee intends to bring a report later this year to deal with the convening of States' meetings, the way the States discharge their business etc. and we will have in that, proposals with regard to the dates of States' meetings, but the instinct of the Committee is indeed to propose that States' meetings should not clash with school holidays.

4365

He also wants to delete Rule 15(2) entirely. My own view is I would simplify our Rules considerably if I was left to my own devices. I think the States are bound too much by the Rules of Procedure (**Several Members:** Hear, hear.) and I think that we should greatly simplify the Rules and we should accept – (*Interjections*) No, this is my view; it always has been! (*Laughter*) This has always been my view that we should have a Rule Book which is thinner than it is at the moment and that the States... What has happened over the years is that (*Interjection and laughter*) Ministers have tried to tie the hands of the States with things like Propositions that have financial consequences, and how much notice period is given for amendments, and most of these additional Rules, which now bind the States, and Rules which have to be suspended from time to time, as they had to be earlier today, have been inserted because of powerful arguments made by Ministers that try to tie the hands of the States. That is what has happened.

4370

Now, I personally would try to roll a lot of that back. If that is the will of the States then when the re-writing of the Rules is done later this year to coincide with the Machinery of Government changes, the Committee will take that on board and I am quite sure the Committee will happily roll back some of these Rules, and I will stay true to my word and support all of that.

4380

Deputy Dorey implied that the Committee was proposing removing the Question and Answer session for candidates for ministerial posts or chairman posts. That is not what the Committee is proposing at all. It is quite clear at Proposition (hh) what is proposed.

4385

This is in response to what the Committee has been told by several Members who have stood for election to these posts. They felt that it would have been helpful if they had had slightly more time to set out their case as to why they are standing for that position. That is the reason the Committee is proposing the Rule change at (hh) and I hope Members will support that.

4390

Deputy Gollop said that the Committee is always looking at issues relating to the Rules of Procedure rather than more important issues. I mean, I am happy to invite the Committee to write a strategic economic policy, or whatever it is that he wants us to do; but, as Deputy Lowe said, the Committee has a mandate, it is operating within its mandate, and it does annually review the Rules of Procedure.

4395

He said that we were in danger of being too prescriptive and then argued against more flexibility in States' sitting hours.

4400 The reason that we have brought a Proposition to the States on secret ballots is not because the Committee recommends change, because the Committee does not and that is made very clear in the policy letter. It is because we have received correspondence and had conversations with several Members who wished to see that provision re-inserted, and therefore we felt that it was appropriate in this type of annual review to provide the States the opportunity to re-insert secret ballots if they wanted to. The advice of the Committee is that we should not do that, although I respect that Deputy Bebb dissents on that point.

4405 The final point was made by Deputy Soulsby. I thank her for indicating that the Public Accounts Committee does not oppose Proposition 4.

4410 So I do not think that there were any other questions raised in debate, or points that I need to respond to, and I ask Members to vote in favour of these Propositions, and I very much look forward to laying before the States later in the year the significant thinning out of the Rules, the untying of the States' hands and the unqualified support of States' Members in doing so.

Thank you, sir.

4415 **The Bailiff:** Well, Members, there are many Propositions. (*Laughter*) They start on page 597. I think we can probably take 1(a) through to 1(u) all together as a block, unless anybody wants to vote separately on any of those.

Deputy Ogier.

Deputy Ogier: I would like to take 1(a) separately, sir.

4420 **The Bailiff:** You would like 1(a) separately. Fine. In that case, we will vote on 1(a). Those in favour of 1(a) – just in case people have not got to page 597 yet, 1(a) is to insert a new Rule 1A (*Laughter*):

'Communications – while the States are in session Members shall not have any communication with a person in the Public Gallery.'

4425 I put to you Proposition 1(a). Those in favour; those against.

Members voted Pour.

4430 **The Bailiff:** I declare 1(a) carried.

We will take then 1(b) through to 1(u) together. Those in favour; those against.

Members voted Pour.

4435 **The Bailiff:** I declare them all carried.

Now we come to two alternatives (v) or (w). (v) is to delete the text of Rule 15(2) in its entirety, or (w) is to adopt an amended Rule 15(2).

We will vote first on (v), that is deleting the text of Rule 15(2). In case anyone wishes to be reminded of what Rule 15(2) currently says... Well, I am not going to read it all, but it is a decision to:

4440 '... approve a Proposition which may have the effect of increasing revenue expenditure and does not incorporate an estimate of that increase or an indication of it or an explanation of the effect on the State's fiscal and economic policy shall take effect only when certain other steps have been complied with.'

I think you are all familiar enough with Rule 15(2).

Proposition 1(v), those in favour; those against.

4445 *Some Members voted Pour, others voted Contre.*

The Bailiff: That is close. I think if I am going to declare it. I will declare it as lost. Does anybody wish to have a recorded vote in order –?

A Member: Could I have a recorded vote?

4450

The Bailiff: Yes, we will have a recorded vote.
So on the Proposition to delete the text of Rule 15(2) in its entirety.

There was a recorded vote.

4455

Not carried – Pour 17, Contre 27, Ne vote pas 1, Absent 2

POUR

Deputy Laurie Queripel
Deputy Lowe
Deputy Le Lièvre
Deputy Collins
Deputy Green
Deputy Dorey
Deputy Brouard
Deputy Wilkie
Deputy De Lisle
Deputy Burford
Deputy Hadley
Deputy Brehaut
Deputy Gollop
Deputy Sherbourne
Deputy Conder
Deputy Bebb
Deputy Lester Queripel

CONTRE

Deputy St Pier
Deputy Stewart
Deputy Gillson
Deputy Le Pelley
Deputy Ogier
Deputy Trott
Deputy David Jones
Deputy Spruce
Deputy Duquemin
Deputy Paint
Deputy Le Tocq
Deputy James
Deputy Adam
Deputy Perrot
Deputy Inglis
Deputy Soulsby
Deputy Sillars
Deputy O'Hara
Deputy Quin
Alderney Rep. Jean
Alderney Rep. McKinley
Deputy Harwood
Deputy Kuttelwascher
Deputy Domaille
Deputy Langlois
Deputy Robert Jones
Deputy Le Clerc

NE VOTE PAS

Deputy Fallaize

ABSENT

Deputy Luxon
Deputy Storey

The Bailiff: Members, the result of the voting on Proposition 1(v) was 17 in favour, 27 against, with one abstention. I declare 1(v) lost, which brings us to 1(w) which proposes an amended Rule 15(2) that:

4460

'Every Policy Letter, Requête, amendment or sursis laid before the States shall include or have appended to it an estimate of the financial implications to the States of carrying the proposals into effect.'

We vote on Proposition 1(w). Those in favour; those against.

Members voted Pour.

4465

The Bailiff: 1(w) is carried.

I think we can then take 1(x), 1(y), that has been amended by the Deputy Langlois/Deputy St Pier amendment, 1(z) 1(aa) and 1(bb) together, but we need a separate vote on (cc). So we will take (x) through to (bb) together. Those in favour; those against.

4470

Members voted Pour.

The Bailiff: I declare them carried.
We need a separate vote on 1(cc) to –

4475

Deputy Dorey: Can I have a recorded vote on (cc)?

The Bailiff: Have a recorded vote, which is to delete the words 'two-thirds or more' in Rule 14(1) and replace them with 'the majority'.

4480

There was a recorded voted.

Carried – Pour 24, Contre 21, Ne vote pas 0, Absent 2

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy St Pier	Deputy Gillson		Deputy Luxon
Deputy Stewart	Deputy Le Pelley		Deputy Storey
Deputy Trott	Deputy Ogier		
Deputy Spruce	Deputy Fallaize		
Deputy Collins	Deputy David Jones		
Deputy Green	Deputy Laurie Queripel		
Deputy Paint	Deputy Lowe		
Deputy Le Tocq	Deputy Le Lièvre		
Deputy Adam	Deputy Duquemin		
Deputy Perrot	Deputy Dorey		
Deputy Wilkie	Deputy James		
Deputy Inglis	Deputy Brouard		
Deputy Soulsby	Deputy De Lisle		
Deputy Quin	Deputy Burford		
Deputy Hadley	Deputy Sillars		
Alderney Rep. Jean	Deputy O'Hara		
Alderney Rep. McKinley	Deputy Brehaut		
Deputy Harwood	Deputy Domaille		
Deputy Kuttelwascher	Deputy Gollop		
Deputy Langlois	Deputy Sherbourne		
Deputy Robert Jones	Deputy Lester Queripel		
Deputy Le Clerc			
Deputy Conder			
Deputy Bebb			

The Bailiff: Members, the result of the vote on Proposition 1(cc) was 24 in favour, 21 against. I declare it carried.

4485

Next we will take (dd) and (ee) together. Those in favour, those against.

Members voted Pour.

The Bailiff: I declare them carried.

4490

We now come to two alternative Propositions. We will vote first on 1(ff) which is in Rule 20(2)(a), to delete all the words after 'secret ballot' and replace the comma with a full stop.

I will have a recorded vote please on Proposition 1(ff).

The Bailiff: Deputy Dorey.

4495

Deputy Dorey: Would it be worth explaining, because I think some Members are struggling to understand?

The Bailiff: Right. Well, Rule 20 is concerned with elections and Rule 20(2) says:

4500

'Where, in any election by the States, the number of candidates exceeds the number of vacancies.'

At the moment it goes on to say:

'Voting shall be carried out by secret ballot except that as soon as possible etc etc. the Greffier shall publish a list detailing the vote case by each Member,'

4505 – and so on. And the Proposal is in (ff) to delete all that and simply to say:

'voting shall be carried out by secret ballot.'

Is that clear? Does anybody want that further clarified? (*Interjection*) Sorry. It reintroduces a secret ballot for voting on elections; and a recorded vote please, Deputy Greffier.

4510

There was a recorded voted.

Carried – Pour 27, Contre 18, Ne vote pas 0, Absent 2

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Gillson	Deputy St Pier		Deputy Luxon
Deputy Le Pelley	Deputy Stewart		Deputy Storey
Deputy Ogier	Deputy Fallaize		
Deputy Trott	Deputy Laurie Queripel		
Deputy David Jones	Deputy Lowe		
Deputy Le Lièvre	Deputy Spruce		
Deputy Duquemin	Deputy Collins		
Deputy Green	Deputy Paint		
Deputy Dorey	Deputy Le Tocq		
Deputy James	Deputy Adam		
Deputy Perrot	Deputy Brouard		
Deputy Wilkie	Deputy Inglis		
Deputy De Lisle	Deputy Sillars		
Deputy Burford	Deputy Hadley		
Deputy Soulsby	Alderney Rep. Jean		
Deputy O'Hara	Alderney Rep. McKinley		
Deputy Quin	Deputy Harwood		
Deputy Kuttelwascher	Deputy Langlois		
Deputy Brehaut			
Deputy Domaille			
Deputy Robert Jones			
Deputy Le Clerc			
Deputy Gollop			
Deputy Sherbourne			
Deputy Conder			
Deputy Bebb			
Deputy Lester Queripel			

4515 **The Bailiff:** Members, the result of the voting on Proposition 1(ff) was 27 votes in favour, 18 against, I declare 1(ff) carried. We therefore do not need to vote on Proposition 1(gg).

Does anyone require a separate vote on 1(hh)?

Deputy Dorey: I would like a separate vote.

4520 **The Bailiff:** Deputy Dorey. Right, 1(hh) deals with the timings in respect of Questions to be held when elections are taking place. It enables, instead of just the proposer speaking for five minutes, the proposer to speak for not more than five minutes then the candidates to speak for not more than 10 minutes and it also reduces the overall length of time for Questions from 30 minutes times the number of candidates, to 15 minutes times the number of candidates.

4525 I think that is a fair summary. Is that right Deputy Fallaize?

So a vote on 1(hh). Anyone requiring a recorded vote? No. 1(hh), those in favour; those against.

Members voted Pour.

4530 **The Bailiff:** I declare it carried.

I think we can probably vote on all the other Propositions together. I do not think anybody has requested any separate votes, have they? I remind you that there is an additional Proposition 1(mm) added by the Deputy Gillson/Deputy Le Clerc amendment and a new 1(nn) added by the Deputy Fallaize/Deputy Conder amendment. Unless anyone requests otherwise, we will vote on all the remaining Propositions. Those in favour; those against.

4535

Members voted Pour.

The Bailiff: I declare them carried.

4540 That concludes the business for today. We will resume tomorrow at 9.30 a.m. but can I remind Members that there will be the AGM of the Guernsey Branch of the Commonwealth Parliamentary Association to take place in this Chamber in about 10 minutes' time – 5 or 10 minutes' time?

The Assembly adjourned at 5.45 p.m.