



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Thursday, 30th April 2015

*All published Official Reports can be found on the
official States of Guernsey website www.gov.gg*

Volume 4, No. 13

ISSN 2049-8284

*Published by Her Majesty's Greffier, The Royal Court House,
St Peter Port, GY1 2PB. © States of Guernsey, 2015*

Present:

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

Law Officers

H. E. Roberts Esq., Q.C. (H.M. Procureur)

People's Deputies

St. Peter Port South

Deputies P. A. Harwood, J. Kuttelwascher, B. L. Brehaut,
R. Domaille, A. H. Langlois, R. A. Jones

St. Peter Port North

Deputies M. K. Le Clerc, 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 Castel

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

D. A. Knight, Esq. (H.M. Deputy Greffier)

Absent at the Evocation

Miss M. M. E. Pullum, Q.C. (H.M. Comptroller); Deputy M. J. Storey (*indisposé*)

Business transacted

Evocation	975
Billet d'État VII.....	975
VII. Guernsey and Alderney Tobacco Control Strategy – Debate commenced	975
<i>The Assembly adjourned at 12.37 p.m. and resumed its sitting at 2.37 p.m.</i>	<i>1014</i>
VII. Guernsey and Alderney Tobacco Control Strategy – Vote results – Propositions carried	1014
VIII. 115th Medical Officer of Health Annual Report – Proposition carried	1017
IX. Housing (Control of Occupation) (Guernsey) Law, 1994 – Variation to the Housing Register – Propositions carried	1029
<i>The Assembly adjourned at 3.35 p.m.</i>	<i>1030</i>

PAGE LEFT DELIBERATELY BLANK

States of Deliberation

The States met at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCATION

Billet d'État VII

HEALTH & SOCIAL SERVICES DEPARTMENT

VII. Guernsey and Alderney Tobacco Control Strategy – Debate commenced

Article VII.

The States are asked to decide:

Whether, after consideration of the Report dated 9th February, 2015, of the Health and Social Services Department, they are of the opinion:

- 1. To agree to work towards the vision of Guernsey and Alderney becoming jurisdictions where smoke-free lifestyles are the norm (prevalence of adult smoking 5% or less).*
- 2. To increase the rate of excise duty on cigarettes at a minimum of the Retail Price Index (X) plus 5% annually for the five years 2016 to 2020.*
- 3. To increase the rate of excise duty on other tobacco products at a minimum of Retail Price Index (X) plus 7.5% annually for the five years 2016 – 2020, subject to the rate of excise duty on each tobacco product not exceeding the rate of excise duty on cigarettes.*
- 4. To direct the preparation of such legislation as may be necessary to give effect to their above decisions in regard to propositions 2 and 3.*
- 5. To instruct the Health and Social Services Department to develop a work programme to move towards the regulation and control of electronic cigarettes.*
- 6. To instruct the Health and Social Services Department to develop a specific proposal to submit to the States to seek approval to prepare legislation to prevent smoking in vehicles carrying children, in consultation with relevant departments and agencies.*
- 7. To instruct the Health and Social Services Department to develop specific proposals to submit to the States to seek approval to prepare legislation to prevent smoking in children's playgrounds and designated outside eating areas, in consultation with relevant departments and agencies.*
- 8. To agree to work towards plain packaging of cigarettes; and if the Health and Social Services Department considers it appropriate, for the Health and Social Services Department to develop specific proposals to submit to the States to seek approval to prepare legislation to require plain packaging of cigarettes, in consultation with relevant departments and agencies.*

9. To agree to work towards smoke-free grounds in States properties; and if the Health and Social Services Department considers it appropriate, for the Health and Social Services Department to develop specific proposals to submit to the States to seek approval to prepare legislation to achieve this objective, in consultation with relevant departments and agencies.

10. To approve the Guernsey and Alderney Tobacco Control Strategy 2015-2020 and affirm the States' commitment to minimising the harm caused by tobacco to Guernsey and Alderney residents of all ages.

The Deputy Greffier: Sir, Reports of the States' Departments, Billet VII, Article VII, Health & Social Services Department – Guernsey and Alderney Tobacco Control Strategy.

5 **The Bailiff:** The Minister, Deputy Luxon, will open debate.

Deputy Luxon: Thank you, sir.

10 Mr Bailiff, this new Tobacco Control Strategy for 2015-2020 builds on and reinforces the work of the previous strategy, and I am pleased to lay it before the Assembly today and open the debate.

15 It aims to continue to reduce prevalence of smoking, which is a principal cause of premature death and preventable disease in the Bailiwick, and also exposure to second hand smoke. It has been developed through examination of evidence and the most effective measures to reduce smoking, and robust engagement with partners and the public, and has been guided in its proposals by the current and past Board Members.

20 Proposals under the new Strategy include, but are not limited to, making it more difficult for children and young people to get tobacco, and continuing to raise awareness of the dangers of smoking; legislation to prevent smoking in cars carrying children; in children's playgrounds and in designated outside eating areas; introducing mandatory plain packaging, subject to legal advice, and the UK adopting this measure first; targeting and tailoring help to quit campaigns and Quit Line support to Islanders where prevalence of smoking is highest; and year-on-year increases in duty on cigarettes of RPI plus 5% as a minimum, and on tobacco of RPI plus 7.5% as a minimum.

25 Sir, I should declare a conflict – not a conflict of interest in my role as a Deputy or HSSD Minister, but a conflict nonetheless. When I was 11 just before moving to the Grammar School for Boys, Andy Le Page and I did something bad – we shared a packet of cigarettes between us, bought from the deposit proceeds of returning six Corona lemonade bottles to l'Aumone corner shop. (*Laughter and interjections*) That shop was also owned by the Le Page's, but not the same Le Page who was my mate. There were a lot of Le Page's in l'Aumone at that time. I will leave you to imagine why that happened! (*Laughter*)

30 Sir, in a corrugated cow byre in a field just up the lane from Deputy Mark Dorey's house we smoked those cigarettes. We thought we were being brave and naughty and adult-like – well, so we thought – but in reality we were being plain stupid, as we walked away from that cow byre and I looked into Deputy Dorey's greenhouse to see all the Billets already stacked up there in preparation. (*Laughter*) If I had had any Swan Vesta matches left I would have probably tossed one in and burnt them all. I looked back to the corrugated cow byre, sir, where we had smoked our cigarettes and all I could see was a plume of tobacco smoke drifting up through the rickety roof gaps.

35 It was at that point that two things happened to me – God, I don't know where I am going with this! – (*Laughter*) first, I felt myself turning grey and sweaty, rather like Deputy Dave Jones looked yesterday, but I hope is feeling better now. Second, I felt myself turning nauseous, big time. Well, for 48 hours from then on I was sick, sick and sick again, and, of course, learnt one of the best lessons ever, to my mind, never to smoke ever again – and I have not. The only time I smoke now is when I am going really, really, really quick (*Laughter*) – sorry – on my States' business as HSSD Minister.

45 Sir, I thought that, we thought it was cool and clever to smoke but, of course, it was not, and is not. I can still remember the brand of cigarettes 44 years later, and the packaging design, and the colours of the box. That is why smoking is a powerful thing; why the branding and advertising is so powerful – too powerful. It is addictive.

50 Anyway, my conflict is two-fold sir. First the conflict of being poisoned by cigarette smoke as a child and my second conflict is that during my Channel Island career, running some large trading companies, unfortunately I have been responsible for retailing, wholesaling and acting as distributing agents for all of the major tobacco brands at one time or another. Slightly hypocritical and ironic, but there we go.

55 I did not like smoking, or its effects, but my company sold cigarettes or tobacco as part of its business activities and so I accepted that hypocrisy. Now I am HSSD Minister, bringing this Strategy before you. I hope you can see the irony in my situation to date. Child trying tobacco – adult disliking tobacco – career selling tobacco – and now politician responsibly for health and looking after people's wellbeing. You could not make it up if you tried. I mention all of this personal history just so as not to risk misleading any of you in terms of the views that I have and
60 the Department has.

Sir, back to being serious, I and my Board and HSSD are all fully supportive of this new Tobacco Control Strategy for 2015-20, which is an extension to the first Strategy adopted in 2008. We inherited this work stream from the previous Board, but acted quickly to review it from the bottom up and refine some of the Propositions, following detailed discussions with the team at
65 HSSD, and our Health Promotion Unit team.

Sir, I am looking forward to the debate ahead and receiving feedback or comments from Members during their speeches.

70 Before I close, can I emphasise one or two core points to contextualise our debate? Smoking is legal within Guernsey and Alderney. Tobacco is not an illegal substance. There is no doubt smoking harms the health of smokers. There can be no doubt society incurs very high medical and social care costs as a result of people smoking.

Governments generally, and the States of Guernsey particularly, receive over £7 million a year in duty. The health care costs linked directly to those people that suffer from smoking through their lives is over £14 million. Smoking is addictive. Governments should weigh the balance
75 between intervention and fairness.

Guernsey should be foresighted in this Strategy, but also should be minded of the consequences that impact on those on lower incomes, both for them in terms of their budget, but also for them in terms of their health through their lives.

80 Also, sir, we have to be conscious of the impact on tourism, if we do look at the duty-free area, and of course, if we do look at the packaging proposals we also have to be mindful of potential legal challenges.

Sir, finally, in response to a letter from the Channel Island Tobacco Importers & Manufacturers Association which was circulated to Deputies last week, can I just respond to a few of the points they made?

85 I would like to thank CITIMA for supporting this Strategy wholeheartedly apart from the two minor points that they have raised. I am not completely sure that that is what they intended to do with their letter, but I will assume that that is the case.

90 Sir, the point about looking at smoke-free zones in outside areas around hospitality locations... I emphasise with that point, because in my own personal submission to the consultation, before I was HSSD Minister, I made the very point, but I was reassured that the proposals, the intentions as the proposals are worked up is not to ban all smoking in all *al fresco* area but more to make sure there are some no-smoking areas within *al fresco* areas – so fairness to both smokers and non-smokers alike.

95 Second, the letter made plain that they thought that plain packaging would lead to increased levels of smuggling. I believe the Home Minister will make some comments on that, but all I would say is that the evidence that we have had from Australia, and the conversation with Jersey,

is that there is no absolute and unequivocal evidence that plain packaging absolutely will lead to increased smuggling. It may do, it may not. Guernsey is a very small place with very few points of entry and so the ability to control should be that much easier.

100 The third point they made was that moving to plain packaging or insisting on plain packaging is actually illegal. Frankly, that is tosh. They may have that view, there may be cases underway, but there is no absolute empirical evidence that a jurisdiction like Guernsey, to move towards plain packaging, would be illegal *per se*.

105 Of course, in our Report we do talk about the desire to move towards plain packaging, to encourage people not to be seduced by the branding, but we do talk about that needing to happen when the UK moves in that direction too, because we recognise that the manufacturing processes of different types of packaging for a small island like Guernsey simply would not be possible in isolation.

110 Sir, 75% of smokers clearly say that they would like to give up smoking. We should do all we can to help them with that wish.

Sir, this is a short 13-page policy letter with 77 additional pages of supporting documents, which I hope demonstrates the extensive fact finding and evidence base and consultation, genuine engagement that has formulated this Guernsey and Alderney Tobacco Control Strategy.

115 Since 1988 smoking stats have shown that smoking incidence has reduced from 30.4% to 12.7% in 2013. That is an incredible improvement – 30.4% to 12.7%. Let's give that trend a chance to continue, the aspiration is to try and move Guernsey down to an incidence of 5% prevalence smoking in the Island, a worthy initiative.

Thank you, sir.

120 **The Bailiff:** We have one amendment to be proposed by Deputy Bebb.
Deputy Bebb.

Amendment:

To insert a new Proposition between Proposition 11 as follows:

11. To instruct the Health and Social Services Department to develop a specific proposal to submit to the States to seek the approval to prepare legislation to prevent smoking tobacco within a certain curtilage of public buildings, in consultation with relevant departments and agencies.

Deputy Bebb: Thank you, Monsieur Le Bailli.

125 I would like to start by referring to the last point that Deputy Luxon made in his speech, and that is the first Proposition that Members will be asked to vote on, and that is:

To agree to work towards the vision of Guernsey and Alderney becoming jurisdictions where smoke-free lifestyles are the norm (prevalence of adult smoking 5% or less).

130 If we are to work towards such a vision of a norm of not smoking, then I have to ask the question as to what is currently happening, that makes smoking a norm of our society. The norm today is that if I want to go to a pub, or if I want to go to a restaurant, I work my way through a fog of smoke. That is because when we made enclosed spaces smoke-free back in the day, then of course the natural progression was for smokers to stand outside of those places which are smoke-free. We all know it; we all see it every day.

135 I smell it here on any States day which is vaguely warm, because we can smell the tobacco smoke in this corner from those people who smoke directly outside this building.

In the same way, I walk past the Town Church on a regular basis and I have to walk past what is, of course, in the Guinness Book of Records the closest pub to a church in the world, and on a regular basis I actually also experience the smoke from that area.

140 It makes it look as if it is normal. It makes it look as if it is acceptable. But it is public space. I know that some people actually have a question in relation to this, but I would say that public

spaces are subject to a democratic convention. We already decided that drinking in certain areas is not prohibited. We determine that certain other behaviour in public is not permitted and we legislate accordingly for it.

145 What I am asking today is whether we feel public spaces should be subject to some form of restriction when it comes to smoking. What I am also asking, because if we return to the actual wording of the amendment, is to investigate the matter and to report back – no more, no less.

I mean in the space of the five years of the Strategy may I suggest that this will become the norm in certain other jurisdictions. It is already the norm in certain parts of America and in certain
150 parts of Australia. I know, from having discussions with certain members of the Parliament in London, that Westminster are also considering extending their ban on smoking in public areas. They have already extended it to large open air areas such as sports stadiums, and that the next step will be to look at a curtilage from the doorway of public buildings.

Sir, for the purpose of this debate, I feel that Members should be entitled to have an idea of
155 how this works in certain other jurisdictions. The first one to implement it was New South Wales. New South Wales have a ban within four metres of the doorway of public buildings, which effectively creates a smoke-free area for any enclosed towns. It also means that people have an expectation that when they walk through town that they will walk through a smoke-free area.

Now, the St Peter Port Douzaine is not exactly known for being supportive of many things the
160 States... on a regular basis they want to complain bitterly. However, for the first time in my life when I was at the Douzaine meeting on Monday evening I was astonished – and I am not exaggerating when I say that I was astonished – that as I read out this amendment they broke out into instant applause. I was astonished.

Members of the Floral Committee said that they had seen how a smoke-free area of Bristol
165 had worked, and how effective it was. It did not require vast amounts of policing, it was self-policing. What they were also amazed at was the difference in attitude and in atmosphere, the lack of littering in general, not only of cigarette butts, but also of other litter, as people felt that there was pride in that area, far more so than in the other areas of town.

They said how they were tired whenever they entered the Britain in Bloom competitions that
170 they spent hours in advance picking up cigarette butts. Therefore, to say that they were supportive is an understatement. They were overjoyed at the possibility.

When we look at how this is... I recognise that some of the concerns that people have is how it would be policed, but can I make two observations?

175 First of all, in relation to our ban on smoking in enclosed public areas, it is pretty much self-policing. I understand from discussions with the Environmental Health Department that there has not been one case that they felt necessary to bring to court, because it is self-policing.

The other area that we have a smoke-free area in Guernsey is, of course, around the PEH, and
180 equally it is self-policing. Occurrence of people flouting that ban are minimal to zero, and having been pointed out they do not re-offend, I am advised from those people at HSSD that they do not see a problem with policing around the PEH.

We are generally a law abiding Island and I believe that the vast majority would be self-policing. However, it is fair to say that if we look at the proposals as they are in New South Wales – and I am not advocating that these are adopted wholesale, but simply that they would form a good basis for the beginning of such an investigation – then what they have are the ability to
185 place on the sport fines for people who are flouting the ban.

They also have in relation to landlords, the ability to desire that they extend their current smoke-free requirements to areas outside of their building and, of course, strangely for New South Wales, their position is that if you walk down the street you are entitled to smoke a cigarette for as long as you are not standing still. Something that I find a little strange, but I have
190 to say it is evidently how they have worked it over there. But one of the things that I would... Of course, I see that they would actually come up with certain problems, but that is exactly why we need to have an investigation as to how we feel, in Guernsey, that this could be best effected.

195 The other effect that such a smoking ban within a curtilage of – I would expect it to be
doorways... the effect that we would expect to have is that it has no effect whatsoever on
e-cigarettes. E-cigarettes are recognised as being far less harmful than tobacco, and there is
nothing within this amendment that would have any effect on e-cigarettes.

200 We do need to consider e-cigarettes, as the tobacco strategy says, because currently there is
no regulation of e-cigarettes, and I would imagine that everybody here present would like to see a
limitation, for instance, of those being consumed by only adults, whether that figure be 16 or 18 is
something that people can debate.

205 But when it comes to the smoking ban that is being proposed in public spaces, e-cigarettes are
not covered, and I would advocate that they not be covered by either the smoking ban proposed
in the Strategy on outdoor eating areas, and neither should they be covered by this ban. Because
to encourage smokers to move to e-cigarettes is exactly the type of behaviour that we should be
encouraging, and this type of amendment is exactly what would encourage that behaviour.

210 I have heard a number of people say that they feel that this is interfering in people's lives
(**Several Members:** Hear, hear.) and a nanny state – I know that that sentiment will come up. I
would say that we already make decisions on a democratic basis within this Assembly as to the
appropriate use of public spaces, and that is where my contention is.

When it comes to private spaces I strangely, as I am sure people will be surprised to hear, am
not particularly in favour of the ban on smoking in pubs. I feel that that should have been left to
the landlords to decide for themselves, but in relation to the public space then I think that it is
only right and fair for us to consider in a democratic manner the appropriate use of that.

Therefore, Members, I would hope that you would be able to support this amendment.

215 Thank you.

The Bailiff: Members, while Deputy Bebb was speaking it occurred to me that, of course, we
now have new Rules governing the way that we are to deal with amendments, and under Rule
13(3) I should have drawn attention to the fact that it now reads that:

220 'A Member who wishes to lay an amendment, sursis or motion to withdraw [forget that] 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.'

So I should have invited you, before speaking, to name the proposed seconder. Perhaps I
could ask you to do that now, Deputy Bebb.

225 **Deputy Bebb:** I am pleased that Deputy Rob Jones has agreed to second this amendment, I
feel that, having had the past few days, I would welcome actually the amendment being read by
the Greffier if that is possible.

230 **The Bailiff:** Thank you. Greffier if you could switch on your microphone and then read the
amendment.

The Deputy Greffier: Yes, sir. Health & Social Services Department – Guernsey & Alderney
Tobacco Control Strategy 2015-2020:

235 'To insert a new Proposition between Proposition 11 as follows:
To instruct the Health and Social Services Department to develop a specific proposal to submit to the States to seek
the approval to prepare legislation to prevent smoking tobacco within a certain curtilage of public buildings, in
consultation with relevant departments and agencies.'

The Bailiff: Thank you very much. Thank you.
Now, Deputy Robert Jones, do you formally second the amendment?

Deputy Robert Jones: I do sir.

240 **The Bailiff:** Thank you.

Well, now I need to draw attention to Rule 13(7) that says:

‘Where an amendment or sursis is debated the Minister or Chairman (or a representative instead) of the Department or Committee from which, or in the case of a requête a representative of those Members from whom, the matter originated shall have the right to speak on the amendment or sursis, 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.’

245 So, Deputy Luxon, you or a representative of your Department have the right to speak next if you wish to do so.

Deputy Luxon: I knew that, Mr Bailiff, because I have read the Rules (*Laughter*) and I was –

250 **The Bailiff:** I am glad somebody has!

Deputy Luxon: – I was ready, sir. Thank you for reminding us, and I should thank Deputy Fallaize for once again giving us some new Rules to learn and get used to.

255 I will speak very briefly, sir, and thank Deputy Bebb for laying his amendment. It is not a surprising amendment. It is one that both the Board and myself have empathy with, so we certainly understand the principle. Yes, the proposal is clear and already within the Strategy it talks about smoke-free zones around public buildings – the outside areas of public buildings. However, the Board believes that this proposal is just too early.

260 There are logistical problems. There would be control problems. Also the consultation around this particular issue did not include this proposal and the suggestion, so the idea of large areas of the High Street and St Peter Port being impacted, we feel it would be inappropriate to proceed with this amendment now, having not included that in the extensive engagement with partners.

265 The High Street is a wind tunnel. Personally, I have never experienced any issues of smoke of any degree and we know that the High Street can be quite a wind tunnel. The Medical Officer of Health and his team do see merit, and they would be supportive of this measure at some point but, as I say, the Board have not discussed it and I do not believe that we can support it.

Two other brief points: Deputy Bebb mentioned about cigarette butt littering impacting for Floral Guernsey and the Constables. Again a ban in outside areas would not necessarily stop that littering.

270 Finally, I realise it is only a direction to go away and for the Department to do the investigatory work to actually bring back to the States but, as I said, HSSD, the Health Promotion Unit and the Tobacco Control Strategy Management Group already have an awful lot to do as it is, both generally and within these proposals.

275 For example, Quit Line user visits have dropped over the last three years from 800 to 500, so there is a drop in terms of the impact that we are achieving through Quit Line. I would suggest our resources and energies should be much better aimed at making sure that we develop new social media targeting messages towards people to get those Quit Line numbers back up.

Indeed, the incidence of GP referrals to Quit Line is virtually zero. So, again, spending our limited time and resources and actually working with GPs to actually get them to refer to Quit Line. Quit Line is effective, once people come to visit, to help people give up smoking.

280 We would suggest that that is the better place for us to use our energies. So we totally understand Deputy Bebb’s logic – I am sure it will come at some point – but we just think this is bringing it forward too far, too early, too quickly, and we would prefer Members not to support the amendment.

Thank you, sir.

285

The Bailiff: Members, can I suggest at this stage that we restrict debate to the amendment rather than to general matters?

Deputy Hadley and then Deputy Burford.

290 **Deputy Hadley:** Mr Bailiff, I just query one statement that Deputy Bebb made, and that is that it is a good thing to encourage the smoking of e-cigarettes. The thing about e-cigarettes is that they do contain nicotine and, although we know that the main problems with smoking are cancer because of the tar and all of the other things in cigarettes, it nevertheless is the case that nicotine is a drug, it is a vasoconstrictor, which means that it impairs the peripheral circulation of the body,
295 and does cause adverse effects in people who suffer from diabetes, heart condition, circulatory problems.

Now, I know recently the dangers of nicotine and cigarettes has been questioned, but nevertheless it remains the fact that it is a drug, and to encourage people to take a drug which has adverse effects on the body I do not think is a good thing.

300

The Bailiff: Deputy Burford.

Deputy Burford: Thank you, sir.

One of my favourite political theories is an idea known as the Overton Window. This theory
305 describes the continuum of possible views on a given subject, ranging from unthinkable, through radical to acceptable, sensible, popular and all the way back to unthinkable at the other end of the spectrum.

The 'window' in the title in question sits over the place where the general consensus of views tends to lie, and proposals outside of the window serve to shift that consensus and the window
310 moves in one direction or the other accordingly.

Now, a bit like Deputy Luxon, I would like to take you back to the 1960's, when I was at primary school, and tourism was in its heyday. My parents owned a small hotel in St Peter Port in Havilland Street. My sister and I would sit in the residents' bar and restaurant, the air thick with smoke and, of course, no-one thought anything of it. Back then a proposal to ban smoking in bars or
315 restaurants would have been unthinkable; today it is where policy sits. Similarly, even as late as the 1990's, it was thought perfectly normal to smoke on an aircraft, and today pretty much everyone accepts that ban.

This amendment seeks to pull the window further in the same direction of travel that it has taken over the last 40 years or more. But the proposal, in my mind, is definitely still outside that
320 window of general acceptability.

Whether under this analysis it is wise to send HSSD, who are under some strain, away to develop the idea, I am not sure, and the balance must be weighed from HSSD's view point, as to what the benefit there is likely to be to public health of working up this proposal.

I think it is really worthwhile to have a debate like that, but on balance I think this is a proposal
325 ahead of its time.

Thank you.

The Bailiff: Deputy Lester Queripel, Deputy Dave Jones, Deputy Gollop.

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

Sir, once again, like yesterday, I am in a dilemma. I am all in favour of measures to encourage people to stop smoking, but those measures have to be reasonable measures.

Whilst I applaud Deputy Bebb for laying what I am sure is a well-intended amendment, I do have a concern about the distance that a smoker will have to be from a public building before
335 they can smoke. I think it is perfectly reasonable for someone to be a metre away from a public building, because that obviously stops smokers congregating in doorways, and blocking the way for anyone to enter and exit. But any further than that I think is rather unreasonable, and not only

could be considered unreasonable, but could quite easily create more problems that it would solve.

340 I am not going to focus on all of those problems in this speech. I have got them lined up for when the proposal, if the amendment is successful, comes back to the Chamber. However, I do want to focus on two examples, the first of those examples focuses on an area, for example, like the Pollet in Town.

345 There are two public houses and several restaurants and cafés, and if the curtilage is a metre smokers will still be able to find areas where they can smoke not far from the place where they are eating or drinking, but if the curtilage is much more than a metre then there will be problems, because the smokers will not be able to stand in the road or the taxi rank. So they will either have to go to the little garden alongside the Information Office which has actually been created to not only make a very attractive area, but also to deter people congregating in that area, as was the case before, or they could go to the paved area in front of the Information Office itself, where the green goose necked tractor seats are, and sit on those and smoke.

350 Or the worst case scenario is that they will have to walk across the road and stand by the sea wall to smoke, if it is four metres. So we could end up with several hundred people continually having to cross the road to smoke on the seaward side of the Esplanades, and there is a possibility of course that some of them may not be quite as alert as they should be of the traffic in that area, so that could create a problem.

355 The second example – Deputy Bebb has already referred to this – is when smokers from this Assembly go outside to smoke, the smoke wafts back through this window directly behind me, which, to coin a phrase, sir, and pardon the pun, really gets up my nose and also up the nose of Deputy Bebb, and other colleagues, in this corner.

360 It does not get up the nose of Deputy Gollop because he is usually outside smoking, (*Laughter*) and, yes, sir, I do realise that we could close the window (*Laughter*) but it does get very stuffy in this Chamber and we need fresh air, which unfortunately is tainted with smoke from time to time.

365 But we put up with it, and the point I am really focussing on here is the curtilage, because smokers from this Assembly do not necessarily stand directly under the window, because I have spoken to them whilst they are smoking outside sometimes, and they lean against the balustrade which is approximately five, maybe six, metres away from the building, so I do not think that the four metres is going to do what Deputy Bebb thinks it is going to do.

370 The curtilage would need to be a lot further than that, and if it was further than that, that would mean that the smokers from this Assembly would have to walk across to the sunken gardens to smoke. (*Interjections*) So the curtilage itself is the issue here.

375 Yes, non-smokers have rights, but let's be fair, smokers have rights – and I am saying that as a non-smoker. I am trying my best to be reasonable and fair here. It could be said that I have just emphasised the need to increase the curtilage to such a distance that smokers are... for example, in Town there are very few areas you could smoke and, to cite another example, perhaps the Market Square area, where every smoker would have to congregate right in the middle of Market Square from the restaurants and public houses to smoke. Perhaps my logic is as skewed as Deputy Ogier once said in this Chamber, but I do not see it that way because I am trying to be reasonable and fair.

380 In conclusion, Deputy Bebb, in his speech, referred to the St Peter Port Douzaine Floral Committee, and I am a member of that Floral Committee, sir, and whilst I applaud the intention to make the Town and many areas of the Island cigarette end free and smoke-free there is already in place legislation whereby anyone caught disposing of a cigarette end by a police officer faces an on-the-spot fine. I believe I am right in saying that. I stand to be corrected.

385 So there is already legislation in place and it does not work, because Town is littered with cigarette ends. So I am wondering how this will be policed. Would it also result in perhaps confrontation, because perhaps a smoker might think, 'Well, there is no-one around. I am not going to go across the road, I am going to smoke here,' and then who, if there is no policeman

390 around actually addresses that? Who confronts that person? Is it a member of the public or is it the landlord or the proprietor of the restaurant or the café?

So I am in dilemma. I will listen to the rest of the debate and I will make up my mind by the time it comes to vote.

Thank you, sir.

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

Deputy David Jones: Thank you, Mr Bailiff, Members of the States.

Well, we could just give them a bell couldn't we, and let them ring it, smoker unclean, like the lepers did in days gone by! *(Laughter)*

400 I think this amendment is... Oh God, the PC lot are in again today; listen to them moaning! I am surprised at my good friend Deputy Rob Jones, who is usually known in this Chamber as the sensible Jones, because he has clearly lost some of that today *(Laughter)* by backing this barking amendment.

405 I have given up my fight with HSSD trying to rail against the measures that they bring in to prevent people from smoking, because I have emphysema suffering from many years of smoking, I damaged my own health, it is nobody's fault but my own; and I think people should be encouraged to give it up, and I recognise that it is Deputy Luxon's job, and the Board of Health, to do what they can to encourage people to desist from that. But I cannot put it as eloquently as Deputy Burford did. She just put a posh way of saying that this is going too far. *(Laughter)* I do not have her command of the English language but, *(Interjection)* yes, where are we going with all these health...?

410 I understand preventing people from smoking but what will be the next thing that Deputy Bebb will come back with? I know, let's stop obese people taking up two seats on a bus say. **(Several Members:** Hear, hear.) They can have a bell as well. The zealots – *(Laughter)* The zealots in politics are becoming more and more extreme. It just amazes me that we allow them to get away with it.

420 The civil liberties of people are still intact. You talk, Deputy Bebb, about a democracy. I see the civil liberties, the rights and liberties of people eroded more and more every time we sit in this Assembly by us, by politicians, who should respect them. We have got Liberation Day coming up on May 9th. Some people think the Germans never left *(Laughter)* so – sorry sir, you are frowning at me which means I have gone on for too long – so *(Interjection)* I hope that you heed the advice of the Health Minister and throw this silly amendment out.

425 People say that it would be self-policing. I do not want anybody spending any time trying to police this ridiculous amendment, people smoking outside round the curtilage of a public building, and taking it to the extremes that we are asked to do today.

Thank you.

The Bailiff: Deputy Gollop, then Deputy Robert Jones and Deputy Sillars.

430 **Deputy Gollop:** Thank you, sir.

Yes, I certainly would not make a joke that Deputy Bebb wants to ban tubby people going on to buses or anything like that – that is terribly unfair – but I have heard him say to me now and then, if I could be candid, that he does not agree with States' Members eating jelly babies in the Chamber, *(Laughter)* and he does not agree with people with diabetic tendencies having cola sugar drinks, so there is perhaps a wider care agenda here.

435 But, speaking specifically on the amendment, somebody said – Deputy Luxon, in fact – that St Peter Port is a bit of a wind tunnel. I was intrigued by Deputy Bebb's suggestion that in New South Wales in Sydney you could walk along smoking but not stand still, but of course if I walk along and smoke it makes me feel asthmatic so I prefer *(Laughter)* to stand still, especially going downhill.

440

But more seriously, I was psychically willing the Procureur to come back and maybe speak in the debate, because the issue here is that... I do sometimes use the iPad for political things and, despite what Deputy Brehaut said, (*Laughter*) I was looking up definitions of what a public building, as distinct from a public space, constitutes because although Deputy Bebb referred to public spaces extensively, the actually wording is 'public building', and a public building in certain American States is defined as one that is a factory or condominium with numerous tenancies.

That is not our definition. A 'public building' in English terms is perhaps one used for municipal purposes, such as a Town Hall. Now, I do not think we mean either of those categories. The implication behind Deputy Bebb's amendment is a public building might be a bank. I have certainly been given strange looks by people if I am caught near a bank by customers wanting to come in and out., (*Laughter*) It could be a retailer, it could be a...

Well, my point is I think we need to define what a public building is and what are public spaces. A little smokers' corner respite in St Peter Port currently is the area, which Deputy Harwood might remember, below Mourant Ozannes, that little area near the current Post Office. Not that I am implying Deputy Harwood ever smoked there, but some people do smoke there.

Now, is that close to a public building? It is certainly adjacent to a post office, but it is not exactly within the curtilage or boundaries of that post office. Before we start to get into complicated legislation, we need to be extremely clear on what the definitions are.

Deputy Bebb also referred to the Douzaine being extremely supportive, which is absolutely true, but of course that might have been because the Douzaine are not supportive of Deputies who hang around the Town smoking. Their attitude is very much, 'No butts, please'. They have even been giving out, free of charge, little tiny things to put cigarette butts in.

The Douzaine is extremely focused on its excellent work with Floral Guernsey and I think perhaps neglects the several thousand Town voters, who do not actually vote in Douzaine elections, who still smoke or are engaged in the selling of tobacco products. I think perhaps they have a slightly biased point of view because of the sterling work they do with Town cleanliness.

But it has to be said that at least one of the Constables indicated there could be policing matters with this and so, although there was general support, there were certain reservations about its immediate practicality.

So, for all of those reasons, I think, like Deputy Burford said, this is a bridge too far at this stage; although I am sure many other countries will adopt elements of this and Guernsey will be in a position to re-assess such legislation in five or 10 years' time.

The Bailiff: Deputy Robert Jones.

Deputy Robert Jones: Thank you, sir.

Where to start? I both agree and disagree with Deputy Lester Queripel. Firstly, I think we could do with a lot more fresh air and less hot air in the Assembly! (*Laughter*) What I do not agree with is taking – (*Interjection and laughter*) touché – the worst case scenario and multiplying it by 10, and using it as an argument against an amendment.

I can also reassure Deputy Dave Jones that I retain most of my sensibility, but the one thing, on a serious point with the points that were raised by Deputy Jones, is that this Strategy aims to create more smoke-free zones which will give people more incentive and encouragement to give up smoking; and I think when his time comes to depart this mortal coil, he may well have wished that there were more strategies in place that would have helped him and encouraged him to give up cigarettes so that he may well have enjoyed a longer and more fruitful life! (*Laughter*) I do jest there. We remain relatively friendly. (*Interjection*)

Getting back to the seriousness, consultation has shown that there is strong support for creating more smoke-free zones. Indeed, the HSSD are looking at children's playgrounds and other open-air meeting areas, but I do not think this is too far away from those particular areas. We are looking at the curtilage of public buildings.

I do take on board what HSSD have said about the additional work and I have also taken note of what Deputy Burford has said about this maybe being a step too far. What I think she was saying is that she really did wish we could deal with it at this stage, but I suspect she feels that the opposition amongst the pro-smoking Members here would... I would think that she has pre-empted the demise of this amendment.

I will give way.

Deputy Burford: I do not think that is quite the correct interpretation. I was not actually referring to any of the pro-smoking Members necessarily here. I just think it is a direction of travel but we are not quite at that point yet.

Deputy Robert Jones: Okay. Well, it is my view that maybe the amendment will be blocked by the pro-smoking Members here. But anyway I think it is a worthwhile investigation.

There is evidence that smoke drift does cause a problem and we have the unintended consequence of people smoking outside, immediately outside the smoke-free zones and I think that does; and there is evidence that leads us to believe that does impinge upon people's ability to enjoy the smoke-free zone which is a matter of feet away from where these people are smoking.

So I will probably support this amendment. *(Interjections and laughter)*

The Bailiff: Deputy Sillars.

Deputy Sillars: Probably support it!

Sir, Deputy Gollop said a lot of what I really wanted to say but, for me, I wonder in the amendment it should be saying 'public places' and not 'public buildings'. Is there a legal definition for 'public buildings'? You have a States' building then a private one, then a States' one. How can that be, then, legally enforced?

Agencies funded by the States and buildings not owned by the States. Does that come under that? It is very complicated, I think, and not enforceable as public buildings. I would support... I have sympathy with it, but I cannot support it at this stage because, as I say, 'public building' just stops it for me. If it had 'public spaces' in there I might take a different attitude.

Thank you.

The Bailiff: Deputy Green next, to be followed by Deputy Dorey and Deputy Soulsby.

Deputy Green: Sir, thank you very much.

I do have some sympathy with this amendment. I think there are problems with it, but I do intend on supporting it, I think.

The first point is, it is very obviously consistent with the first Proposition in the Report, which is to work towards the provision of greater smoke-free lifestyles in Guernsey and Alderney; and I think that does need to be said, and that can be said, for this amendment. It is consistent with that overall vision and we should not forget that.

I do not think it is necessarily a problem that it is seen by some as a bridge too far at this point. There are certainly some problems with this. If the central rationale for this amendment – and I look to Deputy Bebb to clarify when he sums up at the end... If the essential rationale for this amendment is to help protect some people, non-smokers, from the effects of second hand smoke, how exactly can he quantify what the benefit would be to public health?

I totally agree with what Deputy Gollop and Deputy Sillars said about the need to be extremely clear with definitions, and I think the problem with the wording of the amendment is that it is really quite vague, to talk of 'within a certain curtilage of public buildings'. Again, I look to Deputy Bebb to actually provide some greater clarity on that, because it is vague wording and that could be a problem.

545 He also referred to the New South Wales model of 'within four metres of public buildings', and I wondered whether he was aware of any science that particularly backs that up, as to why it was four metres? Because the trouble with these kinds of things is that you end up going for some kind of arbitrary measure for the sake of it almost. I just wonder whether that is actually based on any evidence or any science.

550 There are problems with this and again I think Deputy Bebb does need to deal, when he closes, with the point about the fact that this was not subject to specific consultation. I think that is a big point which he really ought to deal with, and the point about enforcement.

555 Having said all that, I still have some sympathy for this amendment. As I say, I think in principle it is right, because it is consistent with what this policy letter is trying to achieve. I listened to what Deputy Dave Jones said before about civil liberties of Islanders and, of course, he has made that point before, but I think when it comes to smoking, and what we know about the effects of smoking on... second hand smoke effects on people who do not even smoke, I think there is a case for the Government to intervene in those kind of cases.

560 I am reminded of... We have had Deputy Burford talking in the posh language before. If I can add in that kind of *oeuvre* (*Laughter*) the famous Harm Principle of John Stewart Mill in *On Liberty* in the 19th century when he said that:

'...the only purpose for which power can be rightfully exercised over any member of a civilised community against his will is to prevent harm to others'

And I think potentially this amendment is consistent with that philosophical principle, sir.

565 I do have questions about this and I hope Deputy Bebb can answer adequately, particularly the point about the lack of consultation, but I am minded to support this.

The Bailiff: Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

570 Guernsey was once very proud to lead on smoking legislation. We, I think, led on banning smoking in cinemas, buses, many years ago, I think under the late Sister Lincoln and we also banned smoking in prisons, I think, ahead of other territories. I think we have had a proud record of accepting the harmful effects of second hand smoking and the need to set an example. To me, this amendment is another opportunity to lead.

575 We know from Deputy Luxon that discouraging smoking is having problems, as he said, with people being referred to Quit Line down. We want to discourage smoking. We know that many people who smoke want to give up but they need help. Perhaps this is something – another way of helping them by restricting the areas where they can smoke.

580 One of these sections particularly focuses on the effect of second hand smoking. To me, the sight of having groups of people around the entrances of building – and you sometimes have to walk through a fog of smoke to get into that building – is not pleasant and it sends out the complete wrong message about our acceptance of smoking, because it gives the message that it is acceptable, I think; and I think we want to send a message out that it is unacceptable.

585 I was lucky enough to go to Toronto on holiday last year, and it was very pleasant to see the absence of smoking outside buildings. They have a law which particularly bans them within nine metres of the entrances to public building. It was noticeable. And also the absence of ash trays at their entrances.

590 People have said, 'Well, what is the definition of public buildings?' I just looked up their legislation. It is very simple it says, 'Public building – an enclosed building to which the public and employees generally have access, including places of employment, apartment buildings and other residential buildings that are generally accessible to the public.' Very simple words which will cover almost all buildings that we want to cover, which are accessible to the public.

So I would encourage the Members to vote for this amendment. I think we want to get back into the situation where we lead and we want to discourage smoking and we particularly are

595 aware of the effects of second hand smoking. This is an opportunity to send that very clear message so I encourage the Assembly to vote for this amendment.

Thank you.

The Bailiff: Deputy Soulsby, and then Deputy Le Tocq and Deputy Spruce.

600

Deputy Soulsby: Sir, I have to say when I first saw it I had some sympathy with this amendment, quite unlike Deputy Dave Jones clearly. I have to say I am pleased to see he has got his mojo back today.

605 Reducing the opportunity to be able to smoke helps those who are addicted to it and those who would otherwise suffer passive smoking. However, I do not think it has been properly thought through. Reference is made to public buildings and it is okay saying, well, how that is defined in other jurisdictions... but what is that going to mean here?

610 Buildings owned by the States or buildings to which the public has access. Does this mean that you will not be able to smoke outside Smith Street Post Office, but could in front of the *Press* shop next door? How far is the curtilage? We will not be able to smoke on the pavement on the High Street but could down the middle of the road.

How will it be enforced? Are we to have policemen walking up and down the Pollett? How do we deal with tourists, yachtsmen and cruise line passengers walking up and down the High Street?

615 I would like to see Guernsey being smoke-free – that is what GASP was working towards – but we need to take a considered and evidence-based approach. This amendment does not just say investigate, it says develop a specific proposal seeking legislation. If it had just been to investigate I may have considered supporting it, but this says, whatever the evidence, legislate for it.

As I say, we need to take a considered and evidence-based approach. I believe this amendment is neither.

620

The Bailiff: Deputy Le Tocq.

The Chief Minister (Deputy Le Tocq): Sir, we have been on a journey for quite some time as a community, and what a journey that has been.

625 I remember being in this Assembly a number of years ago, and others will remember, when proposals were first brought in for having smoke-free restaurants and places to eat. I remember Deputy Mary Lowe, who is not in the Assembly at the moment, had brought forward an amendment in order for there to be signs put up in the restaurants, but eventually it ended up with restaurants being similar to perhaps swimming pools, having signs saying 'this section is not chlorinated'; it clearly did not work, but there are certain steps that you need to make at a certain speed.

630 Every journey has a speed. I am very sympathetic to the direction of this amendment, but I do wonder whether, at this moment, for a number of reasons, it is something that should be recognised – we are not ready for at this moment.

635 Particularly because I think the Health & Social Services Department... Whilst I recognise the amendment is only asking them to develop proposals, it is being fairly specific about what those proposals are and I think the Health & Social Services Department have, at this moment, more important things to put their limited resources towards. Secondly, I do believe that the comments that have been made with regard to consultation and particularly definition on some of the wording in here –

640

Deputy Bebb: Point of correction.

The Bailiff: Deputy Bebb.

645

Deputy Bebb: The amendment actually would not be worked on by HSSD. The amendment, in relation to all of it, would be worked on by Environmental Health. The Environmental Health Department are very supportive and believe that this amendment would not be particularly outside the scope of what they are already doing.

650 I am sorry, but a number of people have made the reference. I have been advised by –

Deputy Luxon: Point of correction, sir.

The Bailiff: Point of correction.

655

Deputy Bebb: Could I finish? I have been advised by the Director of the Environmental Health Department that it would be worked up by them and it would be them that would be working on it and that they welcome this amendment.

660 **The Bailiff:** I think Deputy Luxon wants to correct the point of correction.

Deputy Luxon: That is not correct. The Tobacco Control Management Strategy Group would actually be working this up, in conjunction with Environmental Health, in conjunction with others. Deputy Bebb is not correct in what he says.

665

The Bailiff: Deputy Le Tocq, please continue.

The Chief Minister: I will I think, and we ought to – this Assembly – simply go by the words that I have heard from the Minister, because that is more appropriate and I think he is more in touch with what he can do. Also this Assembly has decided that the Minister and the Board should direct their resources in an appropriate way.

670

Having said that, I heard from the Minister that the Board are sympathetic. I do think it is about speed and timing. So I think if it is clear from this Assembly whilst I am not going to vote for it and I would encourage others not to support it... but to recognise that the time is fast coming where these sorts of proposals would be appropriate.

675

Thank you, sir.

The Bailiff: Deputy Spruce.

Deputy Spruce: Thank you, sir. I will keep this brief.

680

Yesterday Deputy Bebb said that on reflection he thought secret ballots were a mistake. Well, I am afraid, Deputy Bebb, I think this amendment would be yet another mistake.

In fact, I support smoke-free buildings but genuinely believe freedom to do what you want in the open air is of paramount importance to the general public of this Island. If this Assembly supports this amendment I am sure the general public will think we have gone power mad.

685

Deputy Robert Jones implied that not supporting this amendment made you pro-smoking, but I have never smoked. I dislike smoking in public spaces, but I am not pro-smoking. I do, however, believe that we should moderate the amount of influence imposed on people's lives. (**Several Members:** Hear, hear.)

690

I would therefore ask you to reject this amendment. It really is a step too far.

A Member: Hear, hear.

Then Bailiff: Deputy Brehaut. Deputy Robert Jones, you have already spoken.

695

Deputy Robert Jones: I just want to correct what Deputy Spruce said.

The Bailiff: Point of correction.

700 **Deputy Robert Jones:** I did not say that voting against this amendment would necessarily mean you were pro-smoking. What I did say is the amendment could be defeated by those that are pro-smoking.

The Bailiff: Deputy Brehaut.

705

Deputy Brehaut: Thank you.

From memory I think there is something called Goodwin's Law which is when people are having a disagreement. I think it is something like 8 or 10 exchanges before somebody starts saying, 'But that is where the Germans started' or 'You are becoming a Nazi'. I think it is a direct reference to Adolf Hitler, but it is two people with opposing views usually in the exchange. It does not take very long before that one or the other gets to that position.

710

I am disappointed to hear Guernsey has the equivalent of the Liberation Law and the moment people discuss civil liberties people are saying it is not so long since the Germans left, which is... no, it is rather unfortunate that people do that, because it is usually completely disproportionate, especially when we are so close to the celebration itself.

715

I just wanted to thank Deputy Paul Luxon for his speech. I thought it was great. I quite enjoyed the galvanised byre, the rickety roof and the greenhouse reference. I thought it was a very good speech, if he does not mind me saying so.

Where I then disagree with him is the idea that this proposal is – and Deputy Burford implied also – that this is ahead of its time. I do not think she said 'unthinkable'. That was the reference to the scope within the Overton Window, but the idea that this is so far ahead of its time.

720

I do not think it is. If the last... or it is difficult to say the last Board with HSSD because it depends which month you are in! (*Laughter*) But if we go back to the Board that I first joined, then it was unthinkable that restaurants would be smoke-free. It was dangerous. You would become unelectable. If you went out there and told people they could not have a cigarette in a restaurant then you were doomed.

725

Deputy Burford also recalled the 1960's when her parents had the hotel. I can remember being at a fundraising event for the tsunami, which is not so long ago, in a Fermain Tavern that was absolutely full of smoke.

730

It is unimaginable that that could happen now. I also remember going to the old *BBC Studios* where pretty much every journalist had a cigarette while they were at their desk. It is unimaginable that could happen now.

Now the only time I come into contact with smoke is when, probably, I am walking around St Peter Port or near a bank, or going into some building – and this building included – where people sort of do not leave the building. We note as well, because you often find people half in a building, half out, having a cigarette. It might be raining or some other consideration, but people do not necessarily leave a building in the real sense to smoke. They get in as close proximity as they possibly can to smoke cigarettes, and we see it here.

735

I do not think it is particularly nice that when you walk into a building such as this, the first thing you see, other than a couple of – I am going to say, planters, so prepare yourselves – a couple of planters with pansies in, that adjacent to that you have an ashtray. I think it looks absolutely dreadful to have an ashtray on the steps of this Court building, and coming into this building sometimes I do not enjoy or do not think I should have to endure colleagues having a cigarette on the steps of the Court.

740

Now what inconvenience would it be for them simply to move modestly away from the doorway of the building to some agreed curtilage? I do not see that as a gross infringement on the rights of an individual. I just do not see it in those terms.

745

I do not want this to be misinterpreted because the risk is you sound patronising, but I have a lot of sympathy for the older smoker who is addicted to... although they may say to themselves, 'I

750 am just going out for a cigarette because I feel like I just might have a cigarette,' they need to
 have a cigarette because smoking is incredibly addictive, and if people could take one product
 that stopped them smoking forever they would probably take that product. But smoking is
 incredibly addictive and I have sympathy for people and I do feel sorry for them if they feel that
 755 they are getting got at, but they must bear in mind, I believe, that whilst they are doing something
 they clearly enjoy, albeit an addiction, it does infringe on the liberties of others.

I will be supporting the amendment. I would just advise you to read Proposition 7 and just
 imagine how this amendment could be incorporated into Proposition 7 and it would not be too
 difficult.

760 Just with regard to Deputy Heidi Soulsby's speech, it is a sort of technique or a formula people
 use when they want to dismiss an amendment; they talk about the complexities and how it... you
 could do it with a voting process, couldn't you. You could say, 'Isn't it so difficult to vote for a
 Member of this Assembly? You have to leave your house. You have to go to a Polling Booth. You
 have to fill out a slip.' There are times when we simply create problems and put obstacles in
 people's path that simply should not be there.

765 This is, in essence, a very simple extension to Proposition 7. I do not believe it is too difficult to
 achieve. If we are talking about how do you police this, then that is a bigger conversation. I would
 like to see pavement surfing, which is endemic on Guernsey... I do not see that policed by anyone.
 I know our Active Travel Unit at Environment are trying to do something about that, but generally,
 with legislation passed, we know that the resource to police and to oversee the issues such as
 770 this... we know that the resource is limited, but society is moving on.

Society is changing, smoking is harmful to health, we have a duty of care to the community,
 and we should support this amendment, albeit acknowledging that it will not be exactly simple in
 achieving it, but it is something we should aspire to do, and I believe it is do-able.

Thank you.

775

The Bailiff: Deputy Stewart.

Deputy Stewart: Yes, sir, I will be very brief.

780 I am a smoker but I am not pro-smoking. Not in any way am I pro-smoking as a smoker. For
 once, sir, I could not be in more agreement with my colleague Deputy Burford. (*Laughter and
 interjections*)

785 **Deputy Burford:** Are you going to give way? (**Deputy Stewart:** Yes.) I was just thinking that
 after Deputy Jones' speech and Deputy Spruce's – he is not in the Assembly at the moment – that
 I might be considering changing my vote actually. (*Interjections*)

Deputy Stewart: Well, that's spoilt that then! (*Laughter*) I cannot support the amendment
 because I did agree with Deputy Burford's speech, and I do have to listen to what the HSSD Board
 are saying at the moment with the workload that they have.

790 There was something extremely interesting though that Deputy Bebb did say in his speech,
 when he said that he felt that some pubs should have been allowed to have allowed smoking. I do
 think and I do have to say I agree with some of the things that Deputy Bebb has said. It does look
 untidy, these people standing out in the street, and I think we have missed a trick when we
 brought in legislation that other jurisdictions did not, which was to allow buildings to have a
 795 smoking room in them, because it does not look good when you walk past and see people
 standing out in the street. It is not a lot of fun as a smoker, and some of us are addicted.

800 I am trying to give up again so I have got patches and I am smoking, which is giving me a hell
 of a buzz, but I think we missed a trick there... that I think there would be a lot more support for
 measures like this if buildings such as airports and offices were allowed to have a room under the
 legislation where their smokers could go and that could be managed.

I do think Deputy Bebb has brought this in the right spirit, but I do agree I think it is a little bit too early and, for that reason, I will not be supporting it, sir.

The Bailiff: Deputy Sherbourne, then Deputy Le Clerc.

805

Deputy Sherbourne: Thank you, sir.

Members, I should declare that I warmed to Deputy Dorey's appeal to us about the lead that Guernsey has taken with regard to discouraging smoking. They say there is none like the converted: well, standing in front of you is someone who was converted some years ago – someone who smoked from the age of about 12 or 13 until I was 37.

810

I played in several Siam Cups and the first thing that the rugby teams did was to have a cigarette after the match, as well as a pint or two. Now, you do not see that these days. We have moved on. We are far more sensible today, aren't we? But are we?

The reason I gave up at the age of 37 – and sadly that was a long time ago – was that education in those days was moving in terms of personal social education in our schools to involve the sort of evidence about smoking, which was not really available to me as a young man.

815

I had two young sons at the time that were being encouraged to encourage their parents to give up smoking and they were successful, because I had these two young lads: 'Dad, Dad, please, give up smoking. We don't want you to die now'.

820

Okay there must have been some sort of fearful presentation at school at the time that they had seen, but it really did impact on me at the time and I gave up. I tried before, but they gave me the purpose, the real reason, to give up smoking.

Sadly, 20-odd years later both those sons are prone to smoking. My youngest son has been experimenting with the odd puff or two as a 20-year-old, and I actually despair a little bit. I do not feel bad about having given up smoking – that was good – but I do feel bad about successive generations actually continuing with that habit.

825

The evidence we have, and all the research with our local children, is that there is a tendency for youngsters of 13, 14, 15 still to smoke, and to smoke quite heavily – especially girls. So my feeling, as a converted non-smoker, would be to do whatever we can to discourage future generations from smoking and if it means advanced proposals that do threaten society just a little bit, that challenge maybe the freedoms we have been used to but are there for the right purpose – and for heaven's sake there is enough evidence to support this move – then I will support that. I will do anything in this Assembly to support those that want to move us on to a smoke-free community.

830

835

So thank you, Deputy Bebb, for bringing this forward. I shall be very happy to support you.

The Bailiff: Deputy Le Clerc and then Deputy Perrot.

Deputy le Clerc: Thank you, sir.

840

I just did not feel when I saw this amendment – it was brought to the Board... I just did not feel that this was necessary, because I actually felt, on Proposition 1, that this is incorporated really in Proposition 1, because that is the agreement, to work towards the vision, and this will be incorporated in that vision. Many of the arguments that have been put forward will be part of that work, so I felt it was unnecessary to support this specific amendment.

845

I mean, for me, one of the most offensive things I find is actually sitting on the beach in the summer and you have got someone smoking next to you when you have got young people. So I hope, as part of our vision, that we will incorporate looking at issues like that, but I just feel that this amendment is not necessary because we have got Proposition 1 and that will be incorporated as part of that work.

850

Thank you.

The Bailiff: Deputy Perrot and Deputy St Pier.

Deputy Perrot: Thank you, sir.

855 If this amendment is not passed today, its intention, I am quite sure, will form part of our law at some time. I am not going to be supporting it because I think it is unnecessary interference with people's rights, but I am quite sure that it will come in.

860 I speak as a non-smoker. I was a very heavy smoker, but looking back to 1st January 1977, a very convivial day began in your very Chambers, sir – that New Year's Day and so it went on. And on January 2nd 1977 I woke up feeling less than my usual sunny self. I realised that something had to give and what gave then was smoking.

865 I have not smoked anything since then, although perhaps I do take a pinch of snuff, you know, mainly after a convivial Christmas lunch, perhaps drinking a glass of chambré Château Margaux, (*Laughter*) but I do speak as a converted non-smoker. I think that the smell of smoking is disgusting. People who smoke and who are near me smell like old doormats. I do not like the fact that people when they are smoking near me infect my clothes and my hair with their smells. But I still think they have got the right to smoke.

870 I suppose what this debate boils down to is a balance. There are some of us that think that the nanny state goes far too far – and I am one of those. Equally, of course, I perfectly understand that there are some, like Deputy Bebb, who adopt the obsessive nanny state and wish it to go much further.

875 I perfectly understand that. I think both points of view are legitimate but, as far as I am concerned, I am just fed up with Government interfering in every aspect of our lives. I think that there are times when it should back off. We ought to be responsible, each of us, for our own way to perdition. If I wish to smoke or if I wish to drink, it is up to me to control my life and it is not up to someone else to do it for me. It is not up to somebody else to impose conditions on me.

I well understand that the States might wish to benefit from it, if I am smoking or if I am drinking, by imposing tax. That has been an accepted practice for many years and I regard that as entirely legitimate.

880 On the specific difficulties which Deputy Bebb has seen with smoking, I think that he has used exaggerated language about what happens when you go to a restaurant or you are dining in a hotel. I do not have to fight my way much as I find the smell of smoking repugnant. I cannot remember having to fight my way through repugnant smells in order to get into a bar and then into a dining room or the restaurant or hotel. So I think that that part of it is exaggerated.

885 The trouble is, if we adopt this, what is going to be next? As sure as eggs are eggs, we will be trying to limit, by law, what people drink and how much they can drink, so the liquor trade will be next.

890 I do think that there are specific definition problems in relation to public buildings, so I share the misgivings of others. I seem to remember, going back in the mists of time, when I was in private practice, that I do remember that a public building could include a public structure, so that if there is a proscription on smoking near a public building, it could include, unless the Law Officers make sure that the definition does not include that, smoking near a public structure.

895 So if you thought that you were okay hanging over the sea wall and having a fag, I am not sure that you necessarily would be okay. It could be, therefore, that the sunken garden is actually a public building, in the sense that it is a public structure. So I think there are definition problems with all of this.

As I say, I respect the fact that Deputy Bebb has put this amendment. I know that a large number of people will agree with it and it could well be that the amendment will be passed, but I just think it is an interference too far.

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

Deputy St Pier: Sir, I agree with Deputy Burford. (*Interjection and laughter*)

The Bailiff: No-one else... (*Interjection*) Sorry, Alderney Representative Jean.

905 **Alderney Representative Jean:** I would like to declare my interest. I am one of the poor and weary smokers.

I want to say now that we have to travel far to have our smoke, we really do. I mean I trudge down... I am quite willing and quite happy to trudge down three floors and outside the hotel to have my fix, so to speak. Now we go out in all weathers. (*Laughter*) We have a difficult time, the smokers, the ones of us that are left. I mean it is shocking.

910 And I have been a reformed smoker. I have tried to stop. I have taken Nicorette patches, I have chewed the gum – 4mg, the strongest gum I can get! – (*Laughter*) and I have even managed to stop for a year, which was wonderful and then another year, and then I have gone back.

915 Why did I go back on it this time? Well, no, it was not through being with you, and it (*Laughter*) was not through being on the Alderney States either, but obviously the strain got a bit much and I started again.

Now what I want to say about it is us smokers, we are getting fitter, we are walking miles! (*Laughter*) We are walking miles. We are definitely consuming less, I can tell you that. I have never ever smoked in the bedrooms or the upper floor of my house – I do not believe in it.

920 I remember when the debate took place in Alderney over the smoking there, and stopping it in the public houses and the restaurants, and I managed, with my views, to cause the States to tie in Alderney. They actually tied completely.

This States' Member came to me for advice because he did not smoke, and I said to him, 'Well, look there is a survey in the *Alderney Journal* which shows you that the job has been done on Alderney.' I said, 'You have got about 50% of your establishments here non-smoking and 50% or less than 50% that will allow smoking.' 'So' I said, 'the job has been done here.'

930 Then there was the rallying cry in the States of Alderney that Alderney would become the one Channel Island that would actually be the ashtray of the Channel Islands. (*Laughter*) The vote tied and the President then, Sir Norman Browse, decided that he would go the medical way and actually voted against the *status quo*... which he was supposed to go with the *status quo*, but never mind; one could truly see his reasons for it.

It meant from then on, for the remainder of us smokers – and I am looking for a bit of sympathy here – (*Laughter*) we had to start walking, getting fitter, less cigarettes. You are doing well, keep it at that. I reckon enough is enough for now. We are willing to go out in the rain and cold. If we get pneumonia you will treat us for that! (*Laughter*) There we are.

935 Thank you. (*Applause*)

The Bailiff: Well, Deputy Bebb, do you wish to reply to the debate?

940 **Deputy Bebb:** Thank you, Monsieur Le Bailli.

Can I thank everybody who has participated in what has actually been a very interesting debate, I think? It shows that actually this is not so far outside of the norms of what we expect today. It is something that I think generally we all recognise is on its way. But I would like to respond to some of the matters that have been raised.

945 Deputy Luxon stated that it was too early, and he was not alone in stating that it was too early. Members, this is a five-year strategy. This goes from 2015 through to 2020. Let's be realistic – the last strategy was a five-year strategy starting in 2008. It was not finished until now. So let's be honest, we are looking at seven years hence.

950 I have to ask you in 2020, having had the excellent record that Guernsey has had, as Deputy Dorey pointed out in his speech and as the Strategy itself has as the starting point, that we have been at the forefront of dealing with smoking cessation, do we now want to lag behind?

I have to ask, for some, they will say 'yes', but for others, I ask you do we want to, in 2020 be stating, 'Well, the rest of the UK, the rest of the Crown Dependencies, most of Europe, now have this smoking ban in place. Maybe it is time we started looking into it?'

955 What I am saying is that by 2022 it may be something that we would want to be in line with the rest of, what will be perceived as, generally acknowledged wisdom, very much as Deputy

Burford pointed out in her speech – that window will have moved. It is a question of whether we want to move with it, or do we want to lag behind?

960 The other point that Deputy Luxon made was the wind tunnel effect of the High Street, but actually the opposite is frequently true. As Deputy Luxon probably knows, the rate of pollutants in Fountain Street is fairly phenomenal and is much higher than is expected, and the reason for that is because the cavernous nature of the High Street traps smoke. That is also believed to be true of the High Street but is less of an issue, for obvious reasons, that we do not have the traffic there, but we will have cigarette smoke lingering in that area.

965 The point made by Deputy Hadley... I thank Deputy Hadley. Of course these cigarettes are not safe. That was not my intention. What I meant to say is that they are preferable and considered safer than smoking tobacco, and therefore this would be an encouragement for people who currently smoke tobacco to move towards e-cigarettes, which is preferable to tobacco. I would not advocate that anybody takes up the practice of smoking e-cigarettes because they thought
970 that it was safe. It is a drug and as with any drug that we consume then that comes with risks.

Deputy Burford made reference to the HSSD workload. As I said in my intervention to Deputy Le Tocq, this is something that I have discussed at length with the Environmental Health Department. They are very keen to take this up. They do not believe that this amendment would add any great burden, given the investigations that they will already have to undertake as per
975 Proposition 7.

Now, if Members intend to vote against Proposition 7, I can understand why you would actually want to vote against this amendment, but if you are voting *for* Proposition 7, you are not asking a great deal of additional work. Proposition 7, for clarity, is:

'To instruct the Health and Social Services Department to develop specific proposals to submit to the States to seek approval to prepare legislation...'

980

Note the similar wording.

'...to prevent smoking in children's playgrounds and designated outside eating areas, in consultation with relevant departments and agencies.'

985 That is exactly what is being asked for there. I am simply adding to that Proposition 7 one further minor area, and it is not the word 'minor' that was a word that was used by the Director of Environmental Health. This is not seen as a major difference in the work that will have to be done already.

Deputy Burford also said that this was possibly ahead of its time. I think that I have addressed that in saying that it is not, because it is already in place, as was pointed out by me, in New South
990 Wales. Deputy Dorey made reference to Toronto. I would also point out that this is already in place in New York City and it is already the generally acknowledged direction for a number of areas.

Deputy Lester Queripel asked for clarity in relation to the distance from public buildings. Well – and this ties into what some people have said as to vagueness... but it needs to be vague because
995 it needs to allow those people who will be looking at the amendment to give due consideration.

Deputy Green asked us for clarity as to why New South Wales went for four metres. I can state that it is because they felt that four metres produced the largest amount of smoke-free areas in their towns. New York City went for 100 feet from the doorway of all public buildings, and that was in order to create a completely smoke-free area as far as was possible. Their intention and
1000 their hope was to create large smoke-free areas in their towns.

Obviously, we would need to actually have consideration as to whether or not we would want to extend the curtilage, for instance, outside the Royal Court, that you would have to go to the sunken garden or whether we would be more willing to have people smoking, but further away from the building. That is part of what would need to be worked on in the proposals and it would

1005 need to go for consultation, as do other elements of this Strategy. Let's not imagine that this will just simply happen.

Deputy Dave Jones has asked with relation to the rights of people... and, of course, the flip side is equally true. I see that in California, for instance, the legislation banning smoking in enclosed areas was done as a result of the right of people to clean air. Therefore, I have to state that, 1010 equally, if people have the right to smoke, people have the right to clean air and, in equal measures, where does that hit? That is the balance that is simply the question before us today. Deputy Dave Jones will obviously be one side of that balance; I am on the other side of that balance.

Deputy Gollop and a number of people asked as to what is a 'public building'. A public 1015 building is defined in other places, and equally, it is something that would need to be worked up in the process, because – please note, because I am sure that a number of people have not read the amendment – it is to develop a specific proposal to submit to the States. It is to develop it. So it does actually require some consultation, some thinking and some working on it.

1020 What is a public building? I would say that a public building is a building where the public have a reasonable expectation of access. That is how it is defined in other areas. That is what I would expect from the proposals that would be worked up. Obviously, that would be a matter that we bring before the States when the proposals return.

We are not today asking exactly what things are. If I was to be too prescriptive, then of course the accusation is: how will this work? The truth is that there needs to be that balance of 1025 considering what is appropriate and how it will work. That is exactly what the amendment asks.

Deputy Sillars made the same point, and for Deputy Sillars I would say that I would obviously expect public buildings such as schools to be included, and I would expect the States' public buildings to be all public buildings, because most of them are places where there is a reasonable expectation for the public to gain access.

1030 Deputy Green asked in relation to how do we quantify the benefit for public health. I think that that answer is made by Deputy Luxon in his opening speech, as to the current difference between the amount of revenue we raise, by tobacco duty, against the amount of money we spend on treating tobacco-related illnesses.

We spend what is estimated to be... I hear from Deputy Luxon that is now up to £14 million. 1035 Two years ago when I asked, I was advised that it was in the region of £12 million. This number is not going down. We are currently subsidising smokers. Whether they have given up or not, we are subsidising them financially.

I have said that it was to the tune of £4 million but it could be as much as to the tune of £7 million per annum. Now, just imagine what that would do in relation to the States' finances. If 1040 we are serious about public health, we do not need to actually think about the public health soft benefits, we can look for the benefits in hard cash.

Deputy Green also asked in relation to enforcement and the vagueness of the curtilage distance, and I think that I have addressed that. It is something that would need to be worked up in the proposals, because we need to look at exactly what the distance is that we would expect in 1045 the curtilage. Do we have that distance from a doorway to a public building? In which case, we may consider that, for instance, the High Street – what is the largest difference between one doorway and another in the High Street?

These are things that are not considered to be particularly difficult to work out, and they are simple things that would need to be considered in that consultation process. As for enforcement, 1050 as I said, there is an expectation. There is, in Guernsey, a general practice that things do not need to be enforced by a heavy handed police action. We do... and we always have been, law abiding.

The PEH has a smoking ban all the way around it and that is largely self-regulating. Therefore, once again, in the proposals, when being worked out, there would need to be considered as to how it would be banned. I have had certain people suggesting that they would be certainly 1055 draconian measures.

Once again, I refer to New South Wales where an AUS\$300 on-the-spot fine is imposed. That is equivalent to about £150 fine. That may be something that would be considered. It is something that the Environmental Health Department, working on these proposals, would need to consider in working up.

1060 As for the lack of consultation, there will need to be a consultation as a result of this amendment. That is a forgone conclusion. Any suggestion that this would happen without consultation is folly; in the same way as other Propositions which are already included in the Strategy. Proposition 7 will need further consultation on it before it is worked upon. This will go hand in hand with work done on Proposition 7.

1065 Deputy Dorey made reference – and I think it is worth repeating – as to the great record that Guernsey has had – it has been at the forefront – and whether we want to continue being at the forefront, or whether we want to lag behind. This is an opportunity for us to decide on that.

Deputy Soulsby made reference to the fact that it is 'legislate regardless', but I would refer Deputy Soulsby to read the amendment because it says, again I repeat:

1070

'...to develop a specific proposal to submit to the States to seek the approval to prepare legislation

Not to legislate. But in the same way as all the other Propositions that are actually in the Tobacco Strategy, it is exactly the same wording. It does not mean that we would legislate regardless. It absolutely does not. Indeed, the opportunity as to whether we would invest time in legislating will be the decision when the proposals, which will probably come back, individually come back to this Assembly.

1075

Deputy Spruce makes reference to the fact that it is public spaces. Well, as I said, we already have a ban on drinking alcohol in public spaces we have banned other behaviour from public spaces. We do not allow people to go naked down the street, for instance. There are a number of things that we curtail. There are a number of things that we have decided, by democratic process, that public spaces are restricted in their use. I would say that if we want to realise Proposition 1 we need to think of how do we give effect to that?

1080

Now, Deputy Le Clerc said that this was already being included in Proposition 1. I do not think that it is. Because Proposition 1 simply says that we will work towards a smoke-free environment – a smoke-free Island. If that is the intention what is the objection to this amendment? I have to ask, if we want Proposition 1, why are we objecting to considering a ban on smoking in outdoor areas?

1085

Deputy Stewart, I recognise that we are on different sides of the argument on this one, but I fully agree with what Deputy Stewart said... is that part of the error in introducing the smoking ban in enclosed areas was not permitting smoking rooms.

I, when I smoked – and I used to be an 80-a-day man – (*Interjections*) sometimes I used to attend... especially when I worked in Zurich, and in other cities, there used to be smoking rooms and it was almost better to go into those smoking rooms due to the efficacy of the air conditioning in those rooms. They were actually pleasant.

1090

I would say that they were so pleasant that non-smokers could have quite happily spent time in them, but that is not actually before us today; but I think that Deputy Stewart is correct, in that, maybe it is something that the Department would like to give consideration if we are to tackle, what Deputy Stewart agrees upon, is the fairly unsightly fact of the number of people congregating outside public buildings.

1095

Deputy Perrot is quite right in saying that the Law will come in, it is a matter of time, and I think that that is key here. Are we at the forefront, or are we behind? But I am pleased to tell him that, should he ever decide to take up snuff again, obviously this amendment does not affect that matter!

1100

He also stated that he cannot remember having to go through smoke in order to get to a pub. I have to say that he must therefore frequent different places of drinking. I have to say that it is fairly common in a number of the pubs that I attended to have to go through a curtain of smoke as I believe one person described it.

1105

1110 Finally, Alderney Representative Jean made a very interesting point. He stated that, as a result of the current ban in public enclosed spaces, he consumes an awful lot less tobacco. Well, how much less tobacco will be consumed if we also make it a requirement to walk further away from the building, and how much healthier will Alderney Representative Jean feel by having to take those extra few steps?

He also makes an interesting point that, of course, the Tobacco Strategy, as is noted at the beginning of the Report, is a developed matter for the States of Alderney. I hope that the States of Alderney will also feel as emboldened as I feel in taking such measures.

1115 Members, this is a five-year strategy, but let's not imagine it will be over in five years. We are already two years late in implementing the existing Strategy, and there are parts of the 2008 Strategy that have not been put in place; they are still slightly outstanding.

1120 I am stating clearly that in the coming seven, maybe eight, years do we want to tackle cigarette smoke? Do we want to work and be serious about Proposition 1? Do we honestly feel that Guernsey is now at the point that we have done the work, let's sit back and relax? Or do we feel that there is more work to be done?

Members I urge you to support the amendment.

Thank you.

1125 **The Bailiff:** We vote then on the amendment proposed by Deputy Bebb, seconded by Deputy Rob Jones. (*Interjection*) There is a request for a recorded vote.
Greffier.

There was a recorded vote.

1130 **The Bailiff:** Well, Members, whilst those votes are counted can I suggest that we continue with general debate.?

Who wishes to speak in general debate? I will just wait while one or two Members leave the Chamber.

Deputy Gollop.

1135 **Deputy Gollop:** Looks like many other Members are going for a smoking break. Actually I am rather pleased that the last amendment was fairly heavily defeated, because I think it was impractical and, more than that, it would have had a difficult effect on the economy.

1140 Indeed, I think far too much of the current ideas contained in the next development of the Strategy go too far and I will not be able to vote for many of the Propositions.

Funnily enough, I do understand the reasons why we should seek approval to prepare legislation to prevent smoking in vehicles carrying children, and also prevent smoking in children's playgrounds. I think they are logical and do go in the right direction, because if you are balancing the freedom of the individual versus the rights of the individual, of other people, in the community then I think those two Propositions, although heavy handed in terms of legislation, are acceptable.

1145 But, as for the rest of them, I am surprised. The first is Proposition 2, to increase the rate of excise duty on cigarettes at a minimum of the Retail Price Index plus 5% annually for the five years, and the third Proposition 7.5% for other forms of tobacco.

1150 Let's think about this. We have heard a lot of Members over the last few months or years and lobbyists too, very perturbed whenever the States tries to use taxation or charges as a form of social engineering as a philosophy, but those people do not always support consistency when it comes to the tobacco issue.

1155 Deputy Luxon, quite rightly, said that HSSD realise they have a responsibility to the whole community, including the lower paid or indeed in some instances those people who are retired or perhaps on welfare; and just think about, for a minute, an increase in the rate of excise duty on cigarettes over the next five years at 5% plus RPI – that will be a compound rate of about 50%. So

we will start to see a £9 cigarette packet maybe, or a £10 cigarette packet. Is that really fair to OAP's, to people on welfare, to people with lesser incomes?

1160 If people are suggesting the price will act as a disincentive then that begs other questions because, of course, that is regressive in the extreme, because it is less of a disincentive for people of significant financial means and, of course, we are still slightly... and yet we do not even actually lock ourselves through other nations. Jersey is now higher than us. Other countries in Europe would be significantly low. There does not seem to be a rationale for the price that we set on excise duty.

1165 I do not see a Proposition here, unless I have misread it, to question the duty-free industry, but I know there have been suggestions about Guernsey/Jersey ferries and planes not being able to sell duty-free anymore, but clearly the higher we raise excise duty the more advantageous it becomes to be quite efficient as a duty-free traveller; and of course the States benefits from the duty-free sector, both in terms of the airline it owns and the premises that it franchises out at the Airport. So I think we have got some curious double standards here. I do think the cost increase is unacceptable, both socially and commercially.

1170 Electronic cigarettes – I appreciate Deputy Hadley's view. We are still rather unknowing about the regulation in relation to that.

1175 Packaging of cigarettes, I think, is a philosophy that will come when the United Kingdom is ready for it.

1180 Another area where I do question the merits of the case is in trying to control smoking in designated outside eating areas. There are issues here. In the United Kingdom that has still yet to become the case, and indeed I would suggest that in Guernsey, with a very small square footage for many cafés and pubs, there would be difficulties in separating smoking areas from non-smoking areas, because many cafés, pubs, bistros and restaurants, in reality, in Guernsey serve food at certain times of the day, or all day, and also coffees, drinks and general refreshment.

1185 I mean, we can all think of cafés close to the bus station area, in other parts of Town, in the markets and elsewhere, whereby a strict ban on smoking in designated eating areas would force the proprietor to decide whether he was able to serve food at all, and of course we would have to define whether food included peanuts or crisps and all that kind of thing.

1190 We would effectively see the end of the smokers' pavement café. I know one or two proprietors have already made that move, but they have done it as a matter of free choice and their own commercial assessment. As Mr Louis Jean said earlier, in Alderney, as in places elsewhere, there has been a tendency, before the heavy handed legislation comes in, for proprietors to make a choice according to the markets they serve, and the customers that they attract.

1195 So I do think some of these proposals go too far. I am also concerned about the general ban on smoking in States' buildings. I mean we know smoking is threatened on the HSSD campus but it has to be pointed out.

I point this out too to Deputy Bebb, that there are significant numbers of people who suffer from stress, and addiction, and many of them are perhaps mental health sufferers, and they do find solace, rightly or wrongly, in smoking. Therefore restriction on their activities is difficult for them, at least in the short term, and arguably very unfair.

1200 I would also stress that if we are talking States' buildings, does that include private buildings such as States' houses – homes where people live and feel that they can smoke within or maybe within the gardens. I think we need to be very clear what a States' building is and how far that policy encompasses.

1205 I can understand it perhaps becoming the norm in schools, or at least during school hours, and in certain other kinds of buildings, and perhaps the time has come for Sir Charles Frossard House to have a designated external smoking area, and the same for the Royal Court, rather than just a general free-for-all. I think that is an evolution of the Strategy.

I am not at all keen at the prescriptive nature of much of this work, even though it is well intentioned and designed to prevent long-term health costs.

1210 **The Bailiff:** Deputy Bebb.

Deputy Bebb: Thank you, Monsieur Le Bailli.

1215 Right, having been apparently in one direction with regard to my former speech in the amendment, now I am going to be completely in the other direction and urge Members to reject certain parts of this Tobacco Strategy.

First of all, I am very disappointed to see that the increase in duty that is in Proposition 3 is so little. If we are to take what Deputy Luxon said, at the beginning of his speech, that we currently receive around £7 million in terms of revenue from tobacco duty and we spend £14 million, why are we so timid in our taxation?

1220 If we want to try and recoup an appropriate amount of money in order to deal with the smoking problem why are we not more bold in the way that we would raise duty? We currently subsidise tobacco, as Deputy Luxon said in his opening speech, to the tune of £7 million per annum. That is £7 million that we should be looking at trying to recoup in terms of our duty. I am unsure why the Department was so timid in its taxation revenue increases.

1225 The other area that I am fundamentally opposed to is Proposition 6, and that is to prepare legislation for smoking in vehicles carrying children. I believe that vehicles are people's private property, and this is where I would agree with Deputy Dave Jones. That is not the place for the State to be trying to legislate for private areas.

1230 The idea that we suddenly can ban in cars is foolish, because realistically the vast majority of time that children spend is in the home, and why do we think that smoking in the home is acceptable but that in the car is something that we would like to spend time, effort and a far more difficult means of policing than anything I suggested?

1235 May I suggest that it is a route to folly? It is nice words, but will not be effective in being implemented because the opportunity in order to flout that and the reasoning behind it is flawed. Why do we think that in cars it is not acceptable but it is fine in houses? What is the real public health benefit there? There is none. It is one of those things which is superficially attractive but realistically foolish. It will be useless legislation and I would believe that our draftsmen have better things to do than spend their time pursuing such measures.

1240 Finally, and the one that I really want to urge Members desperately to reject, is the proposals on plain packaging. Number 8 asks for us to look at plain packaging. Now, first of all, to make plain packaging a viable option, it would have to be in conjunction with Jersey. The cost of producing the Channel Islands' specific health warnings on cigarettes is such that if we were to be different to Jersey it would be nigh on impossible for us to actually have a viable market for tobacco and that, in turn, would lead to an ever increasing amount of people who would turn to the internet in order to buy it.

1245 A problem that is already in existence though – the number of people who purchase duty-free tobacco and then sell it on the internet in Guernsey – is an ever increasing problem. Having spoken to the Environmental Health Department, they are finding it so difficult to police that they have almost given up. These are people who are selling tobacco and therefore are avoiding the legislation that we have which requires a licensing in order to sell tobacco. They are avoiding any form of duty payment, and then what do we do? Nothing, because we are struggling. If we pursue plain packaging we will exacerbate the problem beyond measure.

1255 In the UK they have a very, very serious problem with illegal tobacco and that is tobacco that is created in factory shops – underground factory shops. It is not produced by the tobacco producers. It is frequently described that at the end of the day in these workshops the floor is swept and whatever is picked up is back in machines and put back into the cigarettes. As a result, the type of quality that you see is evidently so poor that it is common to have rat droppings, rat poison, insects, heavy metals and other materials which are wholly inappropriate for human consumption included in those cigarettes.

1260 In the UK the most popular brand of cigarettes today is not even available in the shop. It is actually an eastern European brand. The occurrence of illegal tobacco is desperately on the rise,

with little that can be done. For the lay person purchasing tobacco, few things indicate that it has been done by illegal means as opposed to valued, proper tobacco produced by the tobacco manufacturers.

1265 As a result, plain packaging would exacerbate this problem. These people are already exceptionally talented at having counterfeit tobacco packets. There are few, but there are, evident signs that it is not produced by the actual tobacco manufacturers. If we remove these distinguishing features of the brand of a cigarette, and if those of you who have smoked, such as I... if we think of, for instance, on the packet of Camel cigarettes it is fairly intricate design. It is
1270 difficult to reproduce, and as a result it is very obvious if you pick up a counterfeit tobacco.

Equally, when I was looking at Marlboro packets that have been counterfeited, they have distinguishing features that are missing from the counterfeit products. These are the tell-tale signs which are essential for tobacco consumers in the UK to now spot in order to ensure that they purchase proper tobacco.

1275 Much as we do not think that tobacco is good, it is infinitely preferable to the counterfeit products that are now prevalent in the UK. It is believed that one of the reasons why counterfeit tobacco is not such a big problem in Guernsey is because of our duty-free arrangements. Why on earth would you bring over cheap counterfeit tobacco when you can buy cheap duty-free tobacco and still sell it at a considerable mark-up?

1280 That duty-free barrier actually protects us in some respects, but if we move toward plain packaging and the UK moves towards plain packaging, as they may well do, then we will be in the position of having counterfeit products easily brought over here. We already know that people purchase a large number of duty-free products and they also buy tobacco in other countries when they go on holiday to other destinations that do not tax in the way that Europe tax – and I am
1285 thinking here of a number of Asian countries which are becoming popular destinations. They frequently bring back a large amount of tobacco – much more than their personal duty-free allowance allows. If people are tempted in that respect, how much more tempting is it to simply pop over to the UK and pick up cheap products and sell it here, with no distinguishing features to advise people of the dangers of what would be contained in those packets?

1290 Counterfeit tobacco is not a crime, a victimless crime? The disease and the problems caused by counterfeit tobacco are extraordinary. They go far beyond the measures that we currently count for tobacco. Embarking upon plain packaging, when only one jurisdiction has adopted it, and the measures available to show whether it has been effective are so, so few, it is difficult.

There is nothing that I see from Australia, which has adopted it – I am not aware of any other
1295 area – to say that the rate of reduction in smoking has anything to do with the introduction. But I would counter by saying that this is currently too soon a time to be absolutely positive of that. But at the risk of increasing counterfeit tobacco and introducing counterfeit tobacco which is currently absent in Guernsey, to risk having that here, on the basis of evidence which is not available, is a risk that I would state goes far too far.

1300 It is a balance and, at this point in time, I feel that we do not have the balance in relation to plain packaging. We do not know whether it is effective, but we do know that it is effective in increasing the ability of counterfeiters to provide counterfeit tobacco. We do not have this problem here at the moment; let's make sure that we do not have it in future.

Please, would you vote against any form of plain packaging until, at the very least, we have far
1305 better evidence to support it.

Beyond that, I am supportive of the general aims of the Tobacco Strategy in trying to reduce smoking, but it is exactly what I said before – a balance – and I feel that at this point in time we are wrong to embark upon plain packaging and I would urge Members to reject that Proposition.

Thank you.

1310

Carried – Pour 12, Contre 34, Ne vote pas 0, Absent 1

POUR

Deputy Duquemin
Deputy Green
Deputy Dorey
Deputy Burford
Deputy Hadley
Deputy Harwood
Deputy Brehaut
Deputy Robert Jones
Deputy Sherbourne
Deputy Conder
Deputy Bebb
Deputy Gillson

CONTRE

Deputy Fallaize
Deputy David Jones
Deputy Lowe
Deputy Laurie Queripel
Deputy Le Lièvre
Deputy Spruce
Deputy Collins
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 Kuttelwascher
Deputy Domaille
Deputy Langlois
Deputy Le Clerc
Deputy Gollop
Deputy Lester Queripel
Deputy St Pier
Deputy Stewart
Deputy Le Pelley
Deputy Ogier
Deputy Trott

NE VOTE PAS

ABSENT

Deputy Storey

The Bailiff: Before I call Dr Adam, I can announce the result of the vote on the Deputy Bebb/Deputy Robert Jones amendment: 12 votes in favour, 34 against. I declare the amendment lost.

1315 Deputy Adam.

Deputy Adam: Thank you, sir.

1320 Before I start in commiserating with Deputy Luxon and his problems in relation to trying smoking at a young age and having that wonderful side-effect of vomiting and dizziness, and then being involved in a business that actually sold cigarettes (*Laughter and interjection*) in the trade, I would like to ask him actually if his firm also brought in pipe tobacco? Because that is almost impossible to get in Guernsey now, because, it is quite simple, there is not enough profit in it for tobacco companies. Like plain cigarette packets, there would not be enough profit for tobacco companies. That is why it is difficult, if not impossible, to get pipe tobacco in Guernsey, and one has to buy it duty-free.

1325 However, sir, what I want to look at is actually this Strategy and its aims. First of all, that is on page 783:

'A reduction in preventable mortality from cancer, cardiovascular disease and respiratory disease.'

1330 Now, my problem is that this Strategy, or ones very similar to it, has been in force for at least 12 to 14 years. I was on the HSSD Board for about 9 to 10 years and certainly we were bringing forward very similar strategies. I would like to ask the Minister how much evidence there is in relation to the KPIs that are on page 853, that reducing... the very successful reduction from obviously about 30% down to 15% in tobacco consumption in Guernsey has improved these KPIs over previous years.

1335

I do not know if he will be able to give a specific answer, for the simple reason tobacco is only one of the things that have contributed to these diseases. Mainly lung cancer is tobacco, and what is contained in tobacco, but cardiovascular disease and other diseases are interrelated. Therefore it is very difficult to actually prove definitively, apart from lung cancer that is caused by tobacco.

1340 The next aim is a reduction in numbers of adults and children who smoke. My own view is any measure, whatsoever, that stops people from starting to smoke and that can in any way harm children from either passive smoking or – Deputy Bebb said, ‘What is the point of stopping smoking in cars... and children?’ I think that is beneficial. I think we should target a lot of effort, as is done at the present time, to continue doing that because if you stop people from starting there are certainly benefits – obvious benefits to their overall general health.

1345 As far as smoking in cars, Deputy Bebb, if you have ever tried smoking a cigarette in a car you might actually drop ash and stuff on your trousers and it takes away your attention from smoking. If you smoke a pipe the ash is contained in the pipe, (*Laughter*) so in actual fact you do not have that problem, but it is more difficult to light a pipe when you are driving, that is the only thing. I suggest you do it beforehand.

1350 So, as I say, aspects in relation to children’s playgrounds – why not? Very sensible. Play areas – that means Saumarez Park, the children’s area there – there is no smoking inside it. Okay, there might be some round about it, but there is no smoking. Very sensible. These are measures which are obvious and should be maintained and improved.

1355 A reduction in readily available cheap cigarettes and tobacco – as I have said already, tobacco, pipe tobacco, it has reduced... there is only one place somewhere down near Admiral Park where you can get it, otherwise it does not come in.

The other place obviously is the duty-free and Deputy Bebb has highlighted how people bring in excess amounts of duty-free. I went over on the Clipper at the beginning of April and it is interesting because the person taking your money actually informed you if you were over the limit in the amount of tobacco or alcohol you are buying.

1360 But, coming back on the Liberation, there was no mention of that whatsoever, and in neither forms of transport did they tick off the back of your card, your tickets that you are meant to... that tells you your duty-free allowance. I feel that should be actually enforced.

1365 Likewise – and this is a Home Department situation; I have suggested it before now – I also feel that there should be a fixed price penalty, so if you are stopped with excess... at the moment you give them the excess, and/or pay for the duty on that, but there should be a penalty of £150. Why not? We all know what the limit is, and we should try and stick to it.

1370 However, and Deputy Gollop actually mentioned this, we have to look at the people who do not travel, the people who actually are the ones who tend not to give up smoking, and this is highlighted both in this Report, and in the MOH Report that is coming later. It is the less well-off households, it is the older smokers. These are the people who cannot afford to spend on tobacco.

1375 Now, Deputy Bebb said the amount of increase is insufficient, yet Deputy Gollop was pointing out it will soon be £10 for a packet of tobacco. Now, if you are over 64-65 are you going to bother stopping smoking? You have done it all your life, you have not had any side effects from it, and yet you are the people who might not be able to smoke it.

1380 This is social engineering, as Deputy Gollop says, yet when we talk about social engineering as far as diesel engines, cars, polluting the atmosphere and wanting to have a CO² emissions tax on it, ‘Oh, that is not allowed because that is social engineering, that is trying to change people’s behaviour by making it more expensive to do it.’

1385 So what are we doing with smoking? We are changing people’s behaviour. We seem to throw out the Traffic Strategy, quite successfully, because there was social engineering, yet we grab hold and accept the fact we can do it for smoking. Smoking increases at this level, I think, are a bit over the top, especially because it affects the vulnerable groups in our society, who are not going to give up, no matter what you do, and we have to accept that is a fact of life.

We can give them nicotine, Nicorettes etc. I tried them once and they just make me feel sick, so I went back to smoking a pipe. It is much safer, (*Laughter*) but that is pipes, because in actual

1390 fact the tobacco used for a pipe is different from tobacco used for a cigarette, because Deputy Luxon showed what the effect of cigarette tobacco, if you smoke too much of it... but if you do not smoke too much it has actually something in to stop you coughing, because if you inhale smoke, what do you do? You cough, don't you? Therefore they have something to stop you coughing and that is why you can inhale, because pipe smokers often do not even inhale.

1395 So one has to be careful about how much and I think this time, by going up 5% and 7.5% for the next five years, is going to price out the market for these people or these people will simply buy their cigarettes and not spend it on other things which would be better for them, like heating etc.

1400 Increasing smoke-free environment, I think Deputy... sorry Alderney Representative Louis Jean has explained that very nicely – the distance you walk but at the same time, again as a pipe smoker, I was never able to smoke in the plane; they do not like pipes. You could not smoke in restaurants, and this was for years and I am not just talking about since the Law came in. This is before that and restaurants, pubs... I fully accept that, how much more do you wish to extend it?

1405 I know the Hospital is talking about the whole Hospital area, from the entrance to the exit at the other side. I would like to ask the people employed in nursing etc who have not smoked, and other staff who have not smoked, do the tea breaks get longer because they are going to have to walk further off the premises for their tea breaks so they can have a cigarette and walk back again? These are problems if you extend it too far.

1410 But overall, as usual, because of my – shall we say – medical inclination, that is very firmly based inside me and always will be, that this is a reasonable Report. I personally think the Department looking after this health promotion have done a superb job over the years, and have made huge steps forward in relation to the habits that people have; and I think that reducing smoking does help health and is a good habit. Therefore, I commend you to support the majority of these Propositions that are here.

Thank you, sir.

1415 **The Bailiff:** Deputy Green and Deputy Le Clerc.

Deputy Green: Thank you, sir.

I too think it is a very good policy letter. I, generally speaking, will be supportive of most of the Propositions, if not all of them.

1420 Deputy Luxon made the point in his opening address about one of the statistics in here at paragraph 4.16 which is the number of current smokers responding to the Guernsey and Alderney Healthy Lifestyle Survey, in terms of whether they would like to give up smoking, either soon or in the future. 75.3% of all current smokers would like to give up, either soon or in the future. I think that is a remarkable statistic. Quite who the 0.3 are, I do not know, but that is quite a significant statistic.

1425 I fully support Propositions 2 and 3, on the steep increases in the cost of tobacco and cigarettes. That is not going to be popular with smokers, clearly, but that is why Quit Line and the enhancement of Quit Line is so key, because it should not be about dictating to people in terms of how they live, it should be about empowering people to make the right choices, to make the healthy choices, which are in their best interests and also the taxpayers', at the end of the day.

1430 Where I raise some concerns, however, and I look forward to Deputy Luxon responding perhaps to some of these points in a moment, like Deputy Bebb, I have some concerns about Proposition 6, in terms of the Proposition on legislating to ban people from smoking in cars carrying children, because I think legislation in that area should only be a last resort and I would have thought education should be the first port of call.

1435 Ultimately, I would not be against such potential legislation, but I think before legislation is considered, you have to make sure that there is a real evidence-based problem there... wide scale problem in the Island which justifies legislation.

1440 I do not think you can just reach for the legislation because it sounds like the right thing to do, because it sounds... I think it probably is justified, but I think we have to make sure that we do have that evidence base in front of us.

1445 It is certainly philosophically justified, as I said before, in terms of the Harm Principle, but I think we must make sure that we do not legislate simply because it sound like the right thing to do, almost as a token gesture. I think we need to have a very solid basis for that, in this Island, in terms of whether that is a problem. Start with the education process, start by trying to make sure that people, parents and others make the right decisions in terms of not smoking in cars with children.

1450 I have read somewhere, I cannot possibly remember where I have read this, but I did read somewhere when this was first in the media, I did read somewhere that there is some evidence to suggest that the simple act of opening a window whilst you are in a car and smoking does actually have a remarkably big impact on the adverse effect of second hand smoke inhalation. I am sure that will be the kind of research that will be the basis for this.

1455 So all I am saying on that is let's not just assume that legislation is the only answer, let's consider whether actually the objectives of that can actually be achieved in a better way, short of legislation.

I do wonder about the practicality of enforcement of Proposition 6 and banning smoking in vehicles with children but, as I say, I am not against that in principle, but obviously the practicalities of that have to be looked at very carefully.

1460 The second thing where I raise some concerns is in relation to the plain packaging issue. Again, I was mindful of what Deputy Bebb said before. I think he made some valid points. I look in the Billet on page 801 and the reference there to the experience of Australia, and clearly the direction of travel around the world seems to be going in this direction.

'Australia in 2012, New Zealand and France are pledged to follow suit it says while Ireland has recently introduced primary legislation to do the same. Other countries examining the option of introducing standardised packaging include Canada, Finland and Turkey. The UK has carried out consultation and the public support this initiative. However, the UK government have decided to wait for more evidence from Australia before progressing this initiative.'

1465 I think that is probably the right balance actually. I am generally not convinced that it would make that much of a difference actually, so I question that. I think in terms of our policy we do have to be mindful of what the UK does, and clearly if the UK does look to, in essence, follow what the research from Australia says then I think that should be our position as well. So I am slightly cautious about that but, obviously, we should be led by the evidence and we should be primarily led by the experience of Australia in that regard.

1470 Deputy Luxon said in his opening speech about the lawfulness of plain packaging, and I think we all received the e-mail from the gentleman who made some strong suggestions that plain packaging would be illegal, but I do not think that is right actually.

1475 I think if it was brought in in the UK, if it was brought in in Guernsey, you would almost certainly have some legal challenges to it, but that is not necessarily the same thing. So I do not think we should be afraid on that basis. I do think there are some healthy questions to be raised about this, but generally we should be led by the UK and by Australia on that.

1480 Generally, I do support this and I think there are two things which I think deserve to be emphasised again. It is the fact that something like 12% of the population now smoke, and I think it is absolutely right that we try to get that down as far as we can.

The other point which is actually raised in the Medical Officer of Health's Report is that 17% of deaths in the Island are attributable to tobacco smoking and, if anything, hopefully this Strategy will start to eat into that figure.

1485 **The Bailiff:** Deputy Le Clerc.

Deputy Le Clerc: Thank you, sir.

1490 Just take off my scarf so I can concentrate. Just a couple of things, with regard to the excise
duty, actually this Report was worked up by the previous Board and they were submitting... the
proposal was to submit much higher excise duty, so actually we have sort of tempered the
proposal down to something which we thought was perhaps a little bit more acceptable.

1495 Smoking in cars is interesting. I received an email from a constituent that actually asked that
we push this a little bit further and actually include animals in smoking in cars and actually –
(*Interjections*) No, prevent... banning, but having... if you have got an animal in the car you are
banned from smoking, and I actually consulted with the States' vet, Mr Chamberlain, on that and
he feels that is the right way that we should be going, because a lot of damage is actually done to
animals when they are in a car where the owner has been smoking. And he gave some evidence
of the damage that is done to animals, so I cannot imagine what damage is done to children.

1500 Unfortunately, you can say to people – and I am sure parents know that they should not be
smoking in cars when they have got their children, but they do... It is like people who use their
mobile phones when they know that they should not be doing that, but they do. So I think, for
me, the legislation route is the way to go.

1505 I really stood to talk about the plain packaging, and I think Deputy Luxon already said this has
to be linked to the UK, because we would have no way of packaging up the amount of cigarettes
that are imported into the Island ourselves into plain packaging.

1510 Actually the UK Parliament voted 367 votes in favour to 113 against, in favour of plain
packaging, and that was subject to a House of Lords decision that was due around about this
time. I have tried to look up on the iPad to see whether it has gone through the House of Lords,
and I cannot find that but it is imminent and if that is approved through the House of Lords, from
May 2016 plain packaging will be enforced, not in the UK, but will be enforced in England.

1515 So I feel that once that is in force in England it will enable us to have this in Guernsey, because
we will be able to obtain the cigarettes in plain packaging. I do not see that we could introduce
that beforehand. So it was just to say to Deputy Green that it is well down the route now in the UK
and in England.

1515 Thank you, sir.

The Bailiff: Deputy Dorey, then Deputy Gillson.

Deputy Dorey: Thank you, sir.

1520 I welcome the proposals, but I would have liked them to have gone further in the specific area
of price increases, tax increases. On page 828 in the data section, which is appendix 3, there is a
graph which shows the smoking by gender and age, and it clearly shows that there are more
smokers in the 18-24 group than any other age group, and we know how addictive smoking is
and therefore how important it is to deter young people from starting to smoke.

1525 In paragraph 4.9 it says and I quote from it:

'Increasing cost deters young people from starting to smoke, or moving from experimentation to regular smoking.
Increases in taxes on and prices of tobacco products are by far the best buys in tobacco control.'

1530 So Deputy Luxon specifically referred to the staff problems in trying to deter smoking, and in
Quit Line, and here we have an opportunity which is to increase prices, which has been
researched, and that research was done by... is in the IARC handbook for cancer prevention. So
research has been done, very significantly, and has come to that conclusion.

1535 So I do not quite understand why they have gone for the smaller increase of just 5%. In the
consultation, which is referred to in page 816, the consultation was done by increasing duty by
RPI plus 10%; and 67% of people who took part in consultation supported that, so the
consultation has been done, it has been supported.

So I completely agree with Deputy Bebb that the increases should have been more than the
5%, and I would ask Deputy Luxon to explain why they have not gone for the greater increase of

10% above RPI, when it is known to have such a positive effect on reducing smoking in the younger age group.

1540 I support their work stream referred to in paragraph 4.11 in relation to reduction in duty-free allowances. I think with the number of people who travel within our community, and it is well known that there are people who might not smoke... will bring back cigarettes for family and friends. I think anything we can do to deter the amount of duty-free tobacco coming into the Island, which I think has an effect on any policy of increasing duty, will be greatly appreciated, and
1545 I think I would encourage them to give that a priority in their programme.

I welcome Proposition 7 about stopping smoking in outdoor areas. I think from a tourist point of view, and from a local point of view, I avoid going in too often in *al fresco* areas because of the predominance of smokers in those areas and the unpleasantness of having – which I think Deputy Perrot referred to... where you get smoke on your clothes, on your hair, because of people
1550 smoking So many smokers in those *al fresco* areas. It is not pleasant and therefore I welcome any proposals to have the *al fresco* eating areas smoke-free.

I fully support plain packaging. I think anything we can do to try and reduce the impact of the cigarette companies will be greatly appreciated. I think, as I understand, plain packaging does not mean plain packaging, it means prominent photographs of the effects of tobacco and health messages, and within this packaging you can have marks which are very difficult to copy.
1555

So it is quite possible, I think, to have plain packaging and make it difficult to copy, but as is technology today, there is always going to be counterfeit, and some people are very clever at counterfeiting any marks that are put on to any product.

So I specifically would like an answer to my question, Deputy Luxon, about why they have not gone for RPI plus 10%.
1560

Thank you.

The Bailiff: Deputy Gillson, then Deputy Soulsby.

1565 **Deputy Gillson:** Sir, I welcome this Report and I think I will support all of the Propositions. Reference has been made specifically to plain packaging and the possible consequences, especially in regard to increasing smuggling.

To my knowledge, Jersey and the GBA believe that plain packaging of tobacco goods would not be a significant factor in changing smuggling risk. The GBA and Jersey Customs would say
1570 that the risk of smuggling increases commensurate with the increase in excise rates and, secondly, with increased access to special pricing deals for duty-free, and not the way tobacco is packaged. The majority of smuggling appears to be opportunistic from people attempting to exceed their duty-free allowance. As I say, often because of special deals which are available.

That is why, personally – and this is a personal thought – I think there is a contradiction in
1575 States' policy in having duty-free at all, and a policy of increasing duty to dissuade purchase of cigarettes. Personally, I would like to see duty-free allowance inter-Island cut to zero.

Sir, as I said, I will support all the proposals. I do not see any reason to not support them, especially since proposals 6 to 9 are to develop proposals and after consultation return to the States.

1580 I will mention specifically comments on Proposition 6, and I state that from a Home Department perspective the police are operation independent so I cannot say what they would do, but I would assume that, given the priority is to deploy assets where the greatest risk to the public... I do not think pollicising would be a major priority for the police. But, having said that, Proposition 6 is to develop proposals, after consultation; so we will, as a Department, feed into the
1585 consultation process on that. So I see no reason at all not to support Proposition 6 and, indeed, all of the Propositions.

Thank you.

The Bailiff: Deputy Soulsby.

1590 **Deputy Soulsby:** I believe the Strategy speaks for itself and is fully aligned to the 2020 Vision of promoting, improving and protecting the health and social wellbeing of all.

1595 While some may have concerns regarding smoking in cars with children present, and plain packaging, these are hardly new ideas. We are really just playing catch-up. In terms of banning smoking in cars with children, legislation is to be introduced in England and Wales; Scotland is looking to do the same thing. Similar restrictions exist in many other countries such as Australia, Canada, Cyprus, South Africa and several US States. Now, of course, we must continue to focus attention on preventing children from taking up smoking. Those who start under 18 are the ones that find it hardest to give up, and succumb to the worst illnesses, but that is not enough. Children are far more sensitive to tobacco smoke because their lungs and bodily defence mechanisms are still developing, because they inhale far more pollutant per pound of body weight than adults and because they are more likely to have allergies or other conditions which make them more sensitive to airborne pollutants. We protect adults from smoking in pubs, but not those who have no choice but to get into a vehicle full of pollutants. We wear car seat belts in cars, we require children to be strapped into appropriate car seats for their age, but we do not try to protect them from what they breathe in.

1600 I note what Deputy Green said earlier and I think it has certain merit as part of the consultation looking at it rather than automatically banning smoking in cars, to look at possible enabling legislation which would give HSSD the power to introduce it should the education not seem to be working, and I think that is certainly something we should be considering.

1610 Now in terms of e-cigarettes, they sound like the perfect solution – guilt-free smoking – but e-cigarettes may be smoke free and tobacco free but, as Deputy Hadley said earlier, they are not nicotine free. The liquid in these cigarettes is typically a combination of nicotine, flavourings, propylene, glycol and other additives. The amount of nicotine depends on the mixture of the particular liquid nicotine cartridge installed in the device. Some products contain nicotine amounts comparable to regular tobacco cigarettes, while others contain levels closer to that of a light or ultra-light cigarette. The problem is the liquid nicotine. According to the American Centre for Disease Control and Prevention, the number of calls to Poison Control Centres regarding e-cigarette nicotine-infused liquids rose sharply every month between September 2010 and February 2014, from just one call per month to as many as 215. As many as 51.1% of those calls involved accidental poisoning of children under the age of five. Research has also shown certain e-cigarette devices may also release metals during use, including tin in some cases, as well as other impurities known to be toxic and/or carcinogenic. Concerns in the US led to the Family Smoking Prevention Tobacco Control Act last year that requires manufacturers to disclose all the ingredients in their products and have FDA approval before marketing them. Additionally, e-cigarettes cannot be sold to children and all labelling must include health warnings. Free samples and vending machine sales are also prohibited. E-cigarettes are also banned in public venues in Australia, Canada and several US states. Now, despite the marketing claims that these cigarettes are safer than smoking tobacco, researchers are finding e-cigarette users experience diminished lung function, airway resistance and cellular changes, regardless of whether or not they currently or ever smoked cigarettes, and research has shown cells exposed to e-cigarette vapour show unhealthy changes similar to cells exposed to tobacco smoke. So e-cigarettes may be the perfect solution, but not for those using them. It is no surprise that the major tobacco companies who face falling customers of traditional cigarettes in the west are piling into this market, marketing them as safe alternatives and getting them placed next to the sweet counters in shops. It is for all these reasons that the Strategy seeks to investigate regulation and control of e-cigarettes.

1635 Now, I would just like to comment on points made by Deputies Bebb and Gollop regarding excise duty. Deputy Gollop says different jurisdictions have different excise duty rates. Yes, well, they also have different alcohol duty rates, petrol duty rates, income tax rates, social security contribution rates. No, it is not an exact science, and I think that proves it. Now Deputy Bebb says he believes the rates are too low. Well, I would reiterate what the Minister said earlier: the current Board wished to take a balanced approach when it started to review the Strategy, having regard

to the effectiveness of the increases in duty against the impact on those likely to be hardest hit, who from the latest household expenditure survey are shown to be those poorest members of our society, and we considered the factors the Home Minister just mentioned.

1645 Finally, I would like to thank Deputy Adam for mentioning the fact the Saumarez Park playground is smoke free. I can say that, as a director of that charity, it did not take us much time to come to that decision.

1650 So the States of Guernsey Tobacco Strategy has been a great success over the years. I urge Members to support this, the latest phase in that Strategy, to enable the good work to be continued.

The Bailiff: Deputy Hadley.

1655 **Deputy Hadley:** Mr Bailiff, when considering some of the statistics in the report, certainly as regards deaths, I think we must bear in mind that this is probably a considerable underestimate of the number of deaths that are caused by smoking, because smoking increases the incidence of many cancers and, for example, heart conditions. Heart disease is going to be exacerbated by cancer, so if somebody dies of a heart attack you are not going to say that is a smoking-related death. If somebody dies of asbestosis you are not going to say that is a smoking-related death,
1660 but smoking increases the carcinogen effect of asbestosis. Again, in a similar way, many people are admitted to hospital with conditions which will not be directly attributed to smoking but may not have occurred if the person had not been a smoker.

1665 It does worry me that when we increase the rates of duty on tobacco products it does affect poorer people to a greater extent than more affluent people however right it is that we are actually doing this, and I do think that it is time that we legislated to reduce the duty-free allowance on tobacco and indeed ordered the Home Department to properly police tobacco smuggling. I give way to Deputy Bebb.

The Bailiff: Deputy Bebb.

1670

Deputy Bebb: I thank Deputy Hadley for giving way.

1675 As on page 782, I think it is evident that those in the lower income brackets are more likely to smoke, and therefore does he not agree that, as per the Strategy, the most effective means of reducing tobacco smoking has been by the increasing duty – that an increase in duty is exactly the right measure, as is evidenced by the very Strategy in trying to reduce smoking in the highest smoking percentile in their own Strategy?

1680 **Deputy Hadley:** Well, yes, Mr Bailiff, of course I agree with Deputy Bebb. It is the right Strategy. I am saying though that I know Deputy David Jones worries that when we increase the level of duty we do disproportionately hurt people on lower incomes. So it is one of the points to bear in mind.

1685 Again, in stopping smoking I do say that I would like to see a Requête brought to this Assembly to ban completely... stop any tax-free allowance of tobacco products brought into this Island, and also to instruct the Home Department to adequately police the law as it applies to the importation of tobacco products.

Thank you, Mr Bailiff.

The Bailiff: No-one else?

Deputy Luxon do you wish to reply to the debate?

1690

Deputy Luxon: Yes, sir, happily, thank you.

Deputy Gollop will not support many Propositions but did not really clarify why, I did not think. Using taxes and charges to effect change is not good. It is probably not good, but when actually

1695 what you are trying to change is not good for the people that are doing it, then maybe it is good.
 Sir, he talked about RPI increases – it is not RPI; it is RPIX plus the 5% and 7½% – and yes, higher
 recommended retail prices will help and it is fair. The point of £7 million duty being taken by the
 Island for the sale of products but £14.25 million cost, and escalating, to deal with the problems...
 but the most significant thing, sir, is 87 premature deaths per year, each year, every year, because
 of people smoking. Deputy Gollop should not need any other evidence or fact than that to want
 1700 to change his mind, which I know he is going to and support all of the Propositions.

Sir, plain packaging will come. It will come to the UK first. When it comes to the UK, Guernsey
 will have to follow. The reason is that the manufacturers simply would not be prepared to
 manufacture separate production runs just for the tiny, tiny volumes here in Guernsey, and, as I
 will mention later, Deputy Le Clerc mentioned that it has already been confirmed that the UK
 1705 government is committed to introducing plain packaging in May of next year.

Deputy Gollop also mentioned about the confusion around States' buildings and States'
 homes. Well States' housing would not naturally be included in the words within the Propositions
 of the report, because it actually talks about the grounds of States' buildings, so clearly States'
 housing would not have grounds, but I take the point and we will take that away.

1710 Deputy Bebb said he cannot support them all – Proposition 2 and 3, duty is too low, timid,
 why? In answer, to Deputy Dorey as well, the Board looked at the data, consultation, and we
 totally accept that the consultation led towards higher increases than those we have proposed,
 but again, as Deputy Soulsby just mentioned, we looked at the balance between those pensioners
 or older people and indeed people on lower income, who we know are a high proportion of those
 1715 smokers in our Island, and we tried to take a balance between the affordability.

Unlike Deputy Bebb's decision not to give way to me earlier, sir, I am going to give way to
 Deputy Bebb.

The Bailiff: Deputy Bebb.

1720 **Deputy Bebb:** I thank Deputy Luxon for his graceful behaviour. *(Laughter)*

Could I ask whether Deputy Luxon, rather than looking at the percentage point, given that a
 packet of cigarettes, being £4.12 today, in five years' time, with a 5% increase, is only going to be
 £5.23, therefore with RPIX it is likely to be merely £7, feels that that is really so punitive on those
 1725 who actually consume?

Deputy Luxon: Yes, I do, and we do, but I will come back to that later.

So, sir, the issue that Deputy Dorey I think made in a very calm and collected way was why did
 we not, if we want to support the Strategy and the principle behind the Strategy, want to use price
 1730 at a higher rate. It was because of that fine balance between impacting on pensioners on fixed
 incomes and lower paid, who as a proportion of our Island's community are the largest
 percentage of smokers, and that balance between their health and the health of others. It is a
 balance. We also looked at comparatives of duty and the recommended retail price in Jersey and
 the UK, and the Board had several looks at this, and we asked staff to go away... we tested
 1735 ourselves, and we do believe, in answer to Deputy Bebb's recent point, that this is a fair, balanced,
 reasonable approach that does not undermine the principle that we are all agreeing to but at the
 same time is fair to our community, especially when we have heard from the community that they
 felt taxes and charges are increasing across the *piste*.

I thought it was quite perverse the point that Deputy Bebb made about plain packaging, and
 of course Deputy Bebb's points were all opinions rather than factually based. There was no
 evidence or fact around his view about plain packaging. Again I will repeat my point, that if the UK
 introduces plain packaging Guernsey will have no choice, and England is going to introduce it.

Deputy Bebb also said in his amendment speech and comments that Guernsey should not be
 frightened to be at the forefront – and we have been at the forefront. We should be proud of that,
 1745 we should continue with that and we should not look back in seven years' time and say, 'Why are

we no longer at the forefront?’ Yet then he said, about plain packaging, we actually should not go anywhere near that at the forefront because that is dangerous and risky. I thought that was quite ironic. I have a feeling this is going to be a point of correction.

1750 **The Bailiff:** Deputy Bebb.

Deputy Bebb: No, could the Minister –

Deputy Luxon: Well, in that case I will not give way –

1755

Deputy Bebb: No, it is a point of correction. (*Laughter and interjection*) No, it is a point of correction that we are actually asking to be on the forefront, but of course we are not asking to be at the forefront of counterfeit tobacco.

1760 **Deputy Luxon:** That was an interesting point.

Deputy Adam made the point about pipe smoke. Well, in actual fact my company used to make it and there was plenty of profit in it, Deputy Adam, but unfortunately just not enough buyers. You did not actually use it enough, I am afraid.

1765 Again, I would just point out the 87 premature deaths which we absolutely emphasise in the report. That is where we really need to apply our thinking. I do accept his point that not all premature deaths linked perhaps directly to tobacco cancer necessarily are driven entirely by tobacco smoking. It is a complex area and I bow to his superior wisdom in that sense.

1770 He supported the targeting of children and of course I absolutely agree. 67% of 8-to-10-year-olds said that they would want to give up smoking, they had already tried it, and it has been good to see that the incidence of smoking in that age has dropped from 33% to about 23% over the three-year period to 2013.

1775 Deputy Green was very supportive, so I thank him for that. Completely and utterly disagree with his comments about Proposition 6 and children in cars. I remember just after I had my incident up near Deputy Dorey’s field when I was 11, I actually made a decision not to have a lift up the road to the Grammar School in my parents’ car with my brother and sister because my parents smoked and I really, really felt uncomfortable. It made me feel ill – not quite as grey and nauseous as the cow byre; nevertheless it was still pretty unpleasant. However, my sister and brother had already started smoking at that point, so they were in the back seat sniffing in the smoke happily and I was on the bus trying to get to school because I did not want to suffer from the problem. So I think children in cars with parents now are being impacted. I do not think that there is no evidence of that. I do think the problem is more significant than Deputy Green thought and I think we should be doing all we can to absolutely target children and protect children, so for that reason I disagree.

1785 I think the point that Deputy Green very helpfully said that we could always wind the window down – well, I would be worried that the children would get as wet as Alderney Representative Jean gets when he goes outside to smoke, inadvertently, so I do not think that is a good idea.

Deputy Le Clerc made the point about plain packaging in England – she is absolutely right.

Deputy Dorey, I hope I have answered your point sufficiently about why we chose the duty increase rates that we have.

1790 In terms of *al fresco*, I absolutely agree with you – we should be fair and reasonable, we should allow *al fresco* dining for both smokers and non-smokers, but the important bit is to get a very balanced set of ordinances to make sure that hospitality operators can find a way to allow both sets of requirements.

1795 His point about plain packaging not being plain packaging but perhaps being the large horrible photos of what smoking can do to your internal organs: in our work we will obviously decide, based on preference, in terms of whether plain packaging or those photos, but it will be driven more largely by what the UK does. Again, I make the point that Guernsey’s tobacco

volumes are tiny – I think half a day's production in some of the big manufacturing units in the UK. So we will engage both with tobacco firms and other agencies, but I do not think we can necessarily dictate exactly what will happen.

1800

I would like to thank Deputy Gillson for the clarity about his own Guernsey Border Agency and Jersey. Certainly the information I have got, and my Board has had, is that there is no belief that there would be an increase in smuggling because of the introduction of plain packaging necessarily and that there is no evidence that that has happened elsewhere.

1805

His point about removing the allowance for the duty-free allowance inter-Island I think makes good sense. Again, we do not want to damage tourism but, at the same time, if we can do something to impact positively on tobacco issues for our Guernsey residents and Jersey it makes sense. One cautionary point would be that Condor and indeed Blue Island, Aurigny's business models, no doubt predicated to some degree on revenue and income from this area. So we should just be careful of unintended consequences if we do go that route.

1810

I thought Deputy Soulsby made an excellent speech and she got everything right, but of course the Board always agrees with each other, so she would, wouldn't she.

Deputy Hadley worried me a little bit when he mentioned 'Requête' in his speech. I thought, 'My God, where is he going with this?' but I actually agree with what he said. I almost went grey and nauseous again.

1815

So, sir, the Tobacco Strategy has worked. The 2008 Strategy has had a positive impact. It has reduced smoking levels down to the 12.7% and the aspiration to 5% is worthy. Whether it is possible to achieve or not I do not know. I do not think Deputy Bebb's concerns that this new Strategy will be a seven, eight-year role... With discipline this HSSD Board will make sure that we do bring back the next strategy within the time frame of this term of this Strategy itself.

1820

I would ask Members to support the Strategy wholeheartedly.
Thank you, sir.

The Bailiff: Well, Members, can I draw your attention to the Propositions on pages 866 and 867? I would ask that you have your Billets open in front of you.

1825

There have been a number of requests for separate votes, and I think the best way is just to take each of the 10 Propositions separately. So I put to you first Proposition 1. Those in favour; those against.

1830

Members voted Pour..

The Bailiff: I declare it carried.
Proposition 2:

'To increase the rate of excise duty on cigarettes at a minimum of the Retail Price Index (X) plus 5% annually for the five years 2016 to 2020.'

1835

Those in favour; those against.

Members voted Pour..

The Bailiff: I declare that carried.

Proposition 3, which relates to other tobacco products, and a rate of excise duty increase of 7½% annually plus RPIX for the five-year period. Those in favour; those against.

1840

Members voted Pour..

The Bailiff: I declare that carried.
Proposition 4. Those in favour; those against.

1845 *Members voted Pour..*

The Bailiff: I declare it carried.
Proposition 5. Those in favour; those against.

1850 *Members voted Pour..*

The Bailiff: I declare Proposition 5 carried.
Then I have had a request for a recorded vote on each of Propositions 6, 7, 8 and 9, so we need to take those separately and with a recorded vote on each.

1855 For the benefit of anyone listening, Proposition 6 is:

'To instruct the Health and Social Services Department to develop a specific proposal to submit to the States to seek approval to prepare legislation to prevent smoking in vehicles carrying children, in consultation with relevant departments and agencies.'

Greffier.

1860 *There was a recorded vote.*

The Bailiff: Members, given that it is very close to lunch time and we have four separate recorded votes, does anybody wish to know the actual record of votes cast on that, or can we count those over the lunch hour and move on with the next vote? (**Several Members:** Pour) We will move on. Can we have a recorded vote on that? (*Laughter*)

1865 Proposition 7 then that you vote on next:

'To instruct the Health and Social Services Department to develop specific proposals...'

(*A mobile phone rang and there were interjections and laughter.*)

1870 – money for my fund –

'...develop specific proposals to submit to the States to seek approval to prepare legislation to prevent smoking in children's playgrounds and designated outside eating areas, in consultation with relevant departments and agencies.'

Greffier.

The Deputy Greffier: Thank you, sir.

1875 *There was a recorded vote.*

The Bailiff: We will move on to Proposition 8, which is concerned with the plain packaging of cigarettes. When you are ready, Greffier.

1880 **The Deputy Bailiff:** Yes, sir.

There was a recorded vote.

1885 **The Bailiff:** The last recorded vote will be on Proposition 9, which begins:

'To agree to work towards smoke-free grounds in States properties...'

I will not read the whole Proposition.

Greffier, when you are ready, this is a vote on Proposition 9.

There was a recorded vote.

1890 **The Bailiff:** Members, the final Proposition is Proposition 10, which we can vote on *aux voix*. Those in favour; those against.

Members voted Pour..

1895 **The Bailiff:** I declare it carried.
We will resume at 2.30, when we will have the declaration of the various votes.

*The Assembly adjourned at 12.37 p.m.
and resumed its sitting at 2.37 p.m.*

HEALTH & SOCIAL SERVICES DEPARTMENT

VII. Guernsey and Alderney Tobacco Control Strategy – Vote results – Propositions carried

Proposition 6

Carried – Pour 39, Contre 5, Ne vote pas 0, Absent 2

POUR

Deputy Laurie Queripel
Deputy Lowe
Deputy Collins
Deputy Duquemin
Deputy Green
Deputy Dorey
Deputy Le Tocq
Deputy James
Deputy Adam
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 Gollop
Deputy Sherbourne
Deputy Conder
Deputy Lester Queripel
Deputy St Pier
Deputy Stewart
Deputy Gillson
Deputy Le Pelley
Deputy Ogier
Deputy Trott

CONTRE

Deputy David Jones
Deputy Spruce
Deputy Paint
Deputy Perrot
Deputy Bebb

NE VOTE PAS

None

ABSENT

Deputy Fallaize
Deputy Le Lièvre
Deputy Storey

Proposition 7

Carried – Pour 42, Contre 2, Ne vote pas 0, Absent 3

POUR

Deputy David Jones
Deputy Laurie Queripel
Deputy Lowe
Deputy Spruce
Deputy Collins
Deputy Duquemin
Deputy Green
Deputy Dorey
Deputy Paint
Deputy Le Tocq
Deputy James
Deputy Adam
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 Sherbourne
Deputy Conder
Deputy Bebb
Deputy Lester Queripel
Deputy St Pier
Deputy Stewart
Deputy Gillson
Deputy Le Pelley
Deputy Ogier
Deputy Trott

CONTRE

Deputy Perrot
Deputy Gollop

NE VOTE PAS

None

ABSENT

Deputy Fallaize
Deputy Le Lièvre
Deputy Storey

Proposition 8

Carried – Pour 34, Contre 10, Ne vote pas 0, Absent 3

POUR

Deputy Laurie Queripel
Deputy Lowe
Deputy Spruce
Deputy Collins
Deputy Duquemin
Deputy Green
Deputy Dorey
Deputy Le Tocq
Deputy James
Deputy Brouard
Deputy Wilkie
Deputy Burford
Deputy Inglis
Deputy Soulsby
Deputy Sillars
Deputy Luxon
Deputy O'Hara
Deputy Quin
Deputy Hadley
Deputy Harwood
Deputy Kuttelwascher

CONTRE

Deputy David Jones
Deputy Paint
Deputy Adam
Deputy Perrot
Deputy De Lisle
Alderney Rep. Jean
Alderney Rep. McKinley
Deputy Bebb
Deputy Lester Queripel
Deputy Trott

NE VOTE PAS

None

ABSENT

Deputy Fallaize
Deputy Le Lièvre
Deputy Storey

Deputy Brehaut
Deputy Domaille
Deputy Langlois
Deputy Robert Jones
Deputy Le Clerc
Deputy Gollop
Deputy Sherbourne
Deputy Conder
Deputy St Pier
Deputy Stewart
Deputy Gillson
Deputy Le Pelley
Deputy Ogier

Proposition 9

Carried – Pour 28, Contre 16, Ne vote pas 0, Absent 3

POUR

Deputy Lowe
Deputy Collins
Deputy Duquemin
Deputy Green
Deputy Dorey
Deputy Le Tocq
Deputy James
Deputy Adam
Deputy De Lisle
Deputy Burford
Deputy Inglis
Deputy Soulsby
Deputy Sillars
Deputy Luxon
Deputy O'Hara
Deputy Quin
Deputy Hadley
Deputy Kuttelwascher
Deputy Brehaut
Deputy Robert Jones
Deputy Le Clerc
Deputy Sherbourne
Deputy Conder
Deputy Bebb
Deputy St Pier
Deputy Stewart
Deputy Gillson
Deputy Le Pelley

CONTRE

Deputy David Jones
Deputy Laurie Queripel
Deputy Spruce
Deputy Paint
Deputy Perrot
Deputy Brouard
Deputy Wilkie
Alderney Rep. Jean
Alderney Rep. McKinley
Deputy Harwood
Deputy Domaille
Deputy Langlois
Deputy Gollop
Deputy Lester Queripel
Deputy Ogier
Deputy Trott

NE VOTE PAS

None

ABSENT

Deputy Fallaize
Deputy Le Lièvre
Deputy Storey

1900 **The Bailiff:** Members, before we start the next Article, I can announce the result of the votes on the four propositions on which we had a recorded vote on the last Article, which was Health and Social Services Department's policy letter on Guernsey and Alderney Tobacco Control Strategy 2015-20.

On Proposition 6 there were 39 in favour and 5 against. I declare it carried.

Proposition 7: 42 in favour with 2 against. That was carried.

Proposition 8: 34 in favour with 10 against. That was carried.

1905 And finally, Proposition 9 was also carried with 28 in favour and 16 against. So all the Propositions on that Report were carried.

Greffier.

HEALTH AND SOCIAL SERVICES DEPARTMENT

**VIII. 115th Medical Officer of Health Annual Report –
Proposition carried**

Article VIII.

The States are asked to decide:

Whether, after consideration of the Report dated 9th February, 2015, of the Health and Social Services Department, they are of the opinion to note the report.

1910 **The Greffier:** Billet d'État VII, sir. Article VIII, Health and Social Services Department – 115th Medical Officer of Health Annual Report.

The Bailiff: The Minister, Deputy Luxon, will open the debate.

Deputy Luxon: Thank you, Mr Bailiff.

1915 Very brief opening remarks. Historically, the MOH Report was included in an appendix to a Billet d'État, but since 2013 it has been admitted for debate by HSSD with a Proposition that it be noted. This is the Medical Officer of Health Report which HSSD and other Departments will be informed by as they undertake their work regarding public health in our Island.

1920 In respect of the current Report, it concentrates principally on matters of fact and focuses on issues where there are existing strategies in place; for example, the Drug and Alcoholic – (*Laughter*) Drug and Alcohol Strategy, or where strategies need to be refreshed, such as the Tobacco Control Strategy or Obesity Strategy, or indeed where new strategies are being developed, such as the Sexual Health Strategy. Indeed, unlike some previous MOH reports, it is, in my view, politically non-controversial. As the comment in the States' Report says, to note the
1925 Report constitutes a neutral act which is factually true.

However, in my view, a report of this sort should be so much more than neutral. It should pioneer, inform and shape the core areas of health and social care strategy within our Bailiwick, especially bearing in mind the mounting pressures our Island faces in terms of emerging healthcare needs, plus the ageing demographic, where we want people to age well in our Island.

1930 Bearing in mind the outstanding Deputy St Pier amendment for HSSD to review the role of the MOH – which I explained in February was delayed due to resource availability in the Department – it is perhaps time to progress with this work critically and urgently, benchmarking against other jurisdictions to ensure Guernsey's approach to public health is robust and relevant for all age groups from birth to childhood to adulthood and to older age.

1935 Certainly missing from this Report, in my view, and something which is long overdue is a joint strategic needs analysis to underpin all of our public health and wellbeing strategies. Equally, my Board was surprised that in this Report there was no review of the SUI from January 2014 and the subsequent Nursery and Midwifery Council Extraordinary Review published in October 2014. So many areas for improvement were highlighted that the HSSD Board had expected a full analysis set out in the MOH Annual Report.
1940

Sir, also missing, in my view, are issues to do with the need to determine priorities – for instance, the health priorities are not informed by key acute episodes, such as projected numbers of strokes, cancers etc, and there needs to be more on the prevention of osteoporosis and fractured necks or femur. Also, there is nothing about inequalities in health – the difference in
1945 mortality between the highest and lowest socio-economic groups. This is such a basic concept in public health thinking.

Finally, the Report does not have anything to say about dementia in our ageing population – a significantly increasing dynamic for Guernsey to face. (**A Member:** Hear, hear.)

1950 Anyway, before we move to debate, sir, let me highlight the 12 recommendations that the 115th MOH Report makes. They are, briefly, as follows: to develop cardiovascular and cancer

1955 clinical strategies; to agree and implement a sexual health strategy, which includes evidence-based measures to reduce teenage pregnancy rates; to produce a Guernsey and Alderney health profile every three years as part of the local public health surveillance programme; for the States to agree and implement a proposed tobacco control strategy based on best evidence of effectiveness – and that is being developed with partners in the public, which we approved this morning; for the States to continue their ongoing support for the development and implementation of the Drugs and Alcohol Strategy over the next five years, which is based on evidence of effectiveness; to review the obesity strategy and develop a new weight management strategy involving partners and the public, based on best evidence of effectiveness and it uses data from the health profile and a healthy lifestyle survey to measure progress; across Government a public mental health and wellbeing subgroup to be set up to develop and implement an action plan to improve public mental health – a repeat population survey of public mental health and wellbeing is carried out to monitor progress; to produce a local health lifestyle survey every five years as part of our local public health surveillance programme; to continue the Public Health Strategy review and development programme, guided by the principal issues identified in the health profiles and healthy lifestyle surveys; to review the priority-setting processes for health and social care, building on the good work to date and to formalise them into an overarching priority-setting policy; and finally, sir, to continue to develop the long-term process of professional, patient and public engagement on priority setting.

1970 Sir, I look forward to Members' comments from individuals' and any relevant Departments' perspectives.

Thank you.

The Bailiff: Deputy De Lisle and then Deputies Collins and Adams.

1975 **Deputy De Lisle:** Sir, I am encouraged by the fact that in Guernsey and Alderney the life expectancy increased 4.5% over the last 20 years and is now one of the highest in the world. However, in the summary it leads us on to the point – and a very significant one, I think – that in a third of Islanders' deaths the underlying cause was cancer and another third was circulatory disease, which is heart and stroke disease, and in a tenth, respiratory disease. We are told further on that, in fact, many of these non-communicable diseases are potentially avoidable. Now, that is extremely significant and I think if we consider the health profile... because a lot that is in here really reflects material in the health profile for Guernsey and Alderney 2010-12, and table 18 is particularly useful because it deals with preventable deaths.

1985 It tells us that it could have been possible to prevent 59% of cancer deaths, 62% of cardiovascular disease deaths, 63% of respiratory disease deaths and 95% of liver disease deaths. Now, that is quite shocking perhaps to many people, I would think – the fact that we can respond so well if we take due consideration to avoid some of these communicable diseases in Guernsey and Alderney.

1990 Leading on from there, sir, my information is that resources in the area of cardiology, for example, are fairly thin on the ground and, being an Island outside the main medical centres in Europe, it brings up the real issues in being able to act quickly in emergency situations. I think this is another area, particularly in cardiology, that we have to be looking at in some detail. But with respect to cancer there are times with respect to the type of treatment that is quite debatable currently and arguments are current with respect to new treatments of the disease that are being introduced. Respiratory disease is another which, when I look at it and look at comparable figures, I find that ours seem to be quite high in comparison with other areas. The point that I am making is that these areas need to be prioritised and tackled urgently and with immediacy. What we are being told here in terms of the first recommendation, if I can find it, is to:

2000 'Develop cardiovascular and cancer clinical strategies.'

It is one thing to have strategies in place; I think it is another thing to get on with the job and to prioritise and tackle and do that urgently and immediately.

2005 So it seems to me that it is one thing to have a strategy – and many people would say, ‘Well, you have got to have an overall strategy before you start really dealing in detail with the problem’ – but the point is, I think, that we need to be progressing forward immediately and with some urgency in these areas because obviously there is much that can be done to prevent cancer, cardiovascular and respiratory deaths.

2010 So I commend particularly the health profile of Guernsey and Alderney 2010-12 for bringing this to the attention generally of the public that so much is preventable. I know you might say the debate earlier was dealing with smoking and the effect that that has on early deaths, but that is 16%, which is in the document, and that leaves a lot of other areas that can be tackled in order to prevent early deaths in this Island.

2015 I have one further point that I would like to bring up and that is with regard to the Report being included in the Billet now, which it has been for the last couple of years, I think. I really commend that and that we have the chance to debate that and that the States note the Report. But I would like to make the point that comments are to be found with regard to the Report from T&R and the Policy Council, but in reality a very brief comment is provided by the HSSD Department but it does not really tell us that much in terms of the direction with which... and the response to some of these recommendations that are provided. For example, the Board of HSSD is ‘considering the recommendations’, but it would be very useful to know how the Department reacts. I mean if we can get T&R’s comment then surely we should be able to get a fuller comment in the future from the Department with regard to this independent assessment from the MOH. So I would ask that perhaps that is considered in the future, because it seems to me that while an independent view is provided it needs really some assessment from the Department – not later on, but it would be useful for Members to have that provided to them at this time so that we can react perhaps more fully to some of these recommendations that are provided in the Report.

2025 I will support all the recommendations and I am very thankful to have the substantive content that can be debated here in the States.

2030 Thank you, sir.

The Bailiff: Deputy Collins and then Deputy Adam.

2035 **Deputy Collins:** Thank you very much, sir.

There are three parts of this Report I would like to read. Page 32:

‘This allowed recruitment of a Specialist School Nurse for Weight Management to lead family-based programmes for obese children, a Community Dietitian to provide services for obese clients and design weight management pathways from Primary Care into specialist services, and the Sports Commission to provide additional physical education in schools.’

Also page 6:

2040

‘Secondly, to increase physical activity to the recommended levels of at least 30minutes of moderate physical activity on most days.’

And page 39, where it says two simple words: ‘be active.’

2045 So why have I just read these words aloud? Well, sir, I truly believe with the review of Government that sport will be better served under Education than Culture and Leisure, and if the review committee does not recommend it, I shall place an amendment to suggest that to Members. Children’s involvement in sport in their early youth will lead them to live better, healthier lifestyles.

2050 Secondly, I shall be seeking to increase funding at Budget time to the Sports Commission to help these aims set out in this Report. I would like to read an extract from an e-mail from the Commission:

'Culture and Leisure, it is easy – it hasn't changed since 2003. Sports Development Fund £65,000 and it has been that since 2001 and as you know we administrate this fund on behalf of Culture and Leisure.'

2055 There you go, no increase in, what, 12 years! The Sports Commission does a great job and I do not want to reinvent the wheel, but move them under Education to work closer together and link up all those sporting and school facilities across the Island.

Guernsey has and is just returning to a balanced Budget and now is the time to invest in the future. Now is the time to show our children we care about their health. I think it is through sport that we will achieve some of that and I will ask Members to support these aims in the July and October debates.

2060 Thank you very much, sir.

The Bailiff: Deputy Adam.

Deputy Adam: Thank you, sir. *[Inaudible] (Laughter)*

2065 First of all, I would like to thank the Minister of HSSD for his speech because it was his opinion. If you actually look at the executive summary, which basically is just an introduction rather than a summary of the Report, it emphasises that this is an independent Report and that, as Deputy De Lisle said, it is 'considering', full stop, the recommendations and:

'...will decide whether to incorporate any that support the delivery of HSSD's portfolio of work to improve the health of the population.'

2070 The Medical Officer of Health's Report is to ensure that the health of the public is maintained or improved. It is actually quite interesting; it could not have taken HSSD very long to think up this summary. Actually it is exactly the same wording as last year's! *(Laughter)* It will be interesting to note which of the 45 recommendations in the 2014 report have been acted on. It would be nice to know some follow-up from last year's in the summary. But, no, this summary is word-for-word, apart from the fact – two aspects I missed out – (1) the Medical Officer of Health, all his titles were on it and (2) there were 45 recommendations in that one and there are only 12 recommendations in this one. And I thought, 'Is that all the interest HSSD has taken in this?'

2080 So, in fact, I think it is a rather negative response to a report with two special themes only. One, priority setting, which is very important. It is specific advice on the processes by which decisions are made about the choice and the use of the States' resources to meet the health and welfare needs of the population – the process by which priorities are made.

Now, you could say it is the Health & Social Services Department, but that could apply to any of the Departments of the 10 Ministers sitting up here at the top table.

2085 T&R has commented on the Report and commended the principles of priority-setting to the executive summary, which is just an introduction, but never mind, it has commended them essentially as a means to achieve value for money delivery against strategic objectives at all levels. That is not just for HSSD; again, I say it should apply to *all* Departments.

2090 In this Report, if you care to look between pages 913 and 920 where priority setting processes are described and discussed, I think it would be valuable for all Members of the Assembly to actually read these pages and take on board what is said there, because it *does* apply not just to the Ministers but to the Departments and all Members – and to the civil servants as well, of course.

Point 4 on page 913, headed 'Contracting', contains an important caveat:

2095

'The process of standard setting also requires priority setting as many of the service standards which have been developed by professional, regulatory and patient bodies cannot be fully afforded.'

2100 Let me repeat that: 'many of the service standards which have been developed by professional, regulatory and patient bodies cannot be fully afforded.' Now, this does apply to Guernsey because, as you have all heard of NICE guidelines, NICE guidelines authorise drugs to be used in certain cases and conditions and we know that not always does Guernsey follow the NICE guidelines, especially in relation to some very expensive cancer therapy. Why not? Because we cannot afford to have everything. The organisation paying for the service has to determine what is essential, what aspects of quality improvement will be delivered over the coming one to three years and what will await future development. And, as I state, that applies to most Departments.

2105 In these pages, if you care to read them, discussion is provided in relation to firstly developing priority setting at a strategic level and the need for wide professional and public and patient engagement in the process. Such 'meaningful engagement' requires some 'basic obstacles... to be overcome.' Every decision is a choice – a tension between best for the population and best for the individual. How many times do we get a specific case highlighted in the *Press*, highlighted in the media – one case? And yet we do not take heed, Deputy Luxon and Deputy Trott, of the situation of the general population.

2110 It is difficult to engage the public in such debate about choices because there is a resistance to the idea that priority setting in health treatment is unavoidable. Arguments that rationing can be avoided or can avoid... that is, if you want not to have rationing, you want to avoid it, all you need to do is provide more adequate funding.

2115 It is simple: increase taxes, give less to other services – whatever you like. But the problem is with health, and I have said this often in this Assembly before, no healthcare system, regardless of how healthcare is paid for, is able to meet *all* demands. One has to learn to accept that – that is a fact of life – but it is very difficult for the public to take that on board and for *us* to take it on board because something may affect us personally, and of course we want that treatment and management.

Inefficiencies are tackled, but even if you tackle all the inefficiencies... yes, it is necessary but it still will not be enough to meet the demand unless you prioritise.

2120 Ineffective practices stopped: again, necessary, but not enough to meet demand. Now, what does one mean by ineffective practices? The one you may have heard of is reduction of use of antibiotics. Antibiotics are superb against bacteria, but they are a waste of time, more or less, against viruses and therefore the aim in the last 10 years has been to try and reduce the prescriptions of antibiotics because then it reduces the risk of what is called MRSA, which is a bacteria that is resistant to antibiotics.

2130 Thus, despite the planned introduction – and it is just a simple consideration of – I urge that HSSD give priority to recommendations 11 and 12 in this Report. And I suggest HSSD should pass this section on to other Departments so they might look and see how to prioritise and assess things – because money, believe it or not, does not grow on trees.

2135 The second theme of the MOH Annual Report is 'Public Health Surveillance'. That means the systematic collection, analysis and interpretation of health-related data. It is important for planning, it is important for implementation and it is important for evaluation. Lastly, it is also important for assessing what has gone on in the past to tell you what you are doing right or wrong in the past, and move forward.

2140 You have got the health profile, assessment of life expectancy, as Deputy De Lisle has already mentioned. Assessment of deaths – numbers and causes – and Deputy De Lisle mentioned about cancer, 30%. Well, unfortunately, because the population is getting older then cancer is going to get more common, because normally it is a condition related to age as much as anything else. Because the population is getting older, circulatory conditions are more common. It is very seldom that you see somebody, unless there is a history of it, dying at the age of 45 or 50 of a heart attack. It is more common in the older age group because, believe it or not, our bodies were basically only designed to work for so long; like your cars are designed to work for so long and

2145

then they start falling apart and needing replacements. And lung diseases were discussed long enough this morning.

2150 'Assess stillbirth and infant deaths', which of course is a field that I had interest in. Stillbirths actually have gradually reduced over several decades, and in the 12 years to 2012 there is, on average, one infant death each year. Obviously, from my perspective and probably your perspective, one infant death is too many but unfortunately stillbirths and infant deaths do happen. And if you work in obstetrics you have to learn, unfortunately, to accept that fact – not to like it; you have to learn to cope with it and get on and make sure it does not happen to that same patient again.

2155 Table 1 on page 883 shows the figures in comparison with the other jurisdictions, and what is quite interesting is Guernsey is quite reasonable. The rate of perinatal deaths over the three-year period has fluctuated around that of England. Why I say three-year period is, with such a small number of deliveries in Guernsey you cannot compare year, year and year, you have to average out – in fact, I would have said over five years and do a rolling sum and figures from that.

2160 In this Report it has actually got 12 years to 2012. I actually tried to get the figures from 2001 up to 2014, to find out for myself if there had been any change in the standards in obstetric care in Guernsey. Unfortunately, I could only get the last five years because I was told there is a new computer system and they are not too sure how to shift the old information on to the new one, which is rather unfortunate from the point of view of a medical legal aspect. In obstetrics you have to keep your records for 21 years minimum.

2165 There has been a series of external reports concluding Island services were 'acceptably safe' and HSSD received external accreditation for its health services – that happened over the last couple of years. However – and this is in the Report – there have been recent public concerns highlighted and involving interventions from the UK professional regulators.

2170 The Report notes an action plan has been developed to address the issues raised, and that Guernsey participates in the RCOG programme 'Each Baby Counts' and the 'Mothers and Babies Reducing Risk through Audit and Confidential Enquiries.' This is what Deputy Luxon was mentioning when he was saying about the SUI and the NMC review which took place in 2014. That is why I thought all the figures concerning the clinical aspects would have been available.

2175 I draw you to the final paragraph of this section:

'All health services carry risk of untoward outcomes, and it is important that Guernsey takes a methodical risk-based approach to service change to ensure its services are acceptably safe for the public and affordable.'

2180 The problem with that last part obviously is that we are dealing with a population of probably about 63,000 to 64,000 people, and we are providing services that would be suitable for probably 250,000 to 500,000 people. As you can see, there is obviously a slight difference in scale, and therefore no matter what we do we are going to be relatively expensive – and that makes it more important to prioritise.

2185 Other topics in this section are: skin cancer and advice concerning it; teenage pregnancies – more than twice Jersey; a section on implementing a new sexual health strategy; obesity – already mentioned by Deputy De Lisle; alcohol problems – and from obesity and alcohol problems you get liver disease which, as Deputy De Lisle said, is preventable in 95% of cases. It is only preventable if people are willing to take their own action concerning this – in other words, it is due to alcohol, it is due to obesity. There is no point saying it is preventable; what you have to do is tell the people it is preventable and get them to follow guidelines as laid down in what is in place for obesity strategy.

2190 Considerable statistical information to inform the Health Board with background data is in this Report, yet they say they will only consider its relevance if it fits with their portfolio of work. Their portfolio of work should include the public health issues of the people of Guernsey.

2195 Obviously a report like this is only a snapshot of the figures and of the situation. Is prevention better than reactive management? That takes us back to difficulty in prioritisation. There was a report done by I think it was the King's Fund on prevention in the medical circles in about the

beginning of 2012 – a very interesting report that says that prevention is only one aspect of the overall healthcare. It is one part. It is not the bold solution of everything – it is only one part.

2200 So prioritisation and the necessity for defined processes for priority-setting and budget-setting. Sir, I personally – because I suppose this is a more clinical and factual report, as Deputy Luxon has already said – found it very interesting because it has a lot of information if you are willing to read it, especially about prioritisation because that is applicable across the board and not just for HSSD.

Thank you, sir.

2205 **The Bailiff:** Deputy Hadley.

2210 **Deputy Hadley:** Mr Bailiff, I think I am getting a reputation for having fairly short speeches. However, this is a subject on which I could speak for the next couple of hours because it is my favourite subject. And, in fact, I have asked a number of Rule 5 questions and there is a view that the only reason I got onto the HSSD Board is because it would shut me up. However, at yesterday's HSSD Board meeting the Minister maintained that I spend 40% of the time on the Board..

2215 **Deputy Luxon:** Sir, point of correction, Deputy Hadley has not shut up for the last five months. This is not true! (*Laughter*)

Deputy Hadley: And at today's Board meeting he reckoned I spent 45% of the Board's time, so in fact I am getting worse rather than better.

2220 It was interesting because, listening to some of the points Deputy De Lisle made, I really do have to agree with him. We are very rich in strategies and very short in action sometimes, and in fact I have said for years that one of the problems with the Health & Social Services Department is that many reports are produced and almost all of them are not acted upon. And indeed you, sir, severely reprimanded me for releasing a report on the Accident and Emergency Department – and I am still trying to recover. (*Laughter*)

2225 To give you an example, Deputy De Lisle brought up the subject of cardiology, and in 2010 it was recommended there should be a second cardiologist, and it was only this year that post was approved – and it is proving very difficult to recruit somebody to that post, for a number of reasons.

2230 It was recommended that there should be another consultant in gastroenterology a couple of years ago and that still has not happened, and that is one of the reasons that we do not do as much screening for bowel cancer as we should. The bowel cancer screening that we have done so far, according to the professionals that are doing the work, not me, probably saves a life a month. And probably so far the screening that we have done will save the States of Guernsey £2 million over the next 8, 9, 10 years. It is a long payback, but if you stop somebody developing bowel cancer you are stopping somebody having £50,000-worth of treatment as well as potentially saving their life.

2240 One of the subjects that have been hinted at by the speakers is that there is a limitless amount of money that we can spend on health – and to a degree that is true – but one of the perceptions on this Island is that we spend too much on health and we have seen people at the North Beach saying 'enough is enough'.

2245 The reality is that actually in the Princess Elizabeth Hospital there are 54 doctors – that is right across the range, psychiatrists, radiologists, and MSG consultants. If we have the same number of doctors in ratio to our population as the United Kingdom, we would expect there to be 84 doctors. If you look at the number of nurses we have in the Hospital there are around about 800. If we had the number of nurses in the Hospital that we *should* have, according to the safe levels determined by the NHS after the problems in Mid-Staffs, then we should have 100 more nurses – we should have 900. So we actually run a very mean service. And what is more extraordinary is

2250 that on an Island like ours you would expect it to be much more costly because we have not got the economies of scale. We have got a Hospital for 64,000 people. The United Kingdom would build a Hospital for 750,000 people, so it should be much more costly for us to have a service here. And if you say, 'Well, of course we do not do everything on Island; we send quite a lot of it to the United Kingdom,' it is actually a very small percentage – it is less than 10%. If we did everything here on Island we would only increase the amount of work we do on Island by about 10%. So the figures I have given you... and saying we run a mean service is relevant.

2255 The new Chief Officer is very keen on care in the community. She said you cannot have a good acute service unless you have good care in the community. We have massively underinvested in the community. Yes, we should be spending much more money on prevention, as I think Deputy De Lisle said and as I have said, with bowel cancer screening. There is a huge payback in some areas – not all areas, but bowel cancer is a particularly good area to take. I think it was Deputy Adam who mentioned cancer, and of course one of the problems we have got in health in general in the United Kingdom is that less is spent on drugs for bowel cancer than is the norm for Europe. We spend less than the United Kingdom does on drugs for cancer so it does mean from time to time that people from Guernsey occupy a bed in Southampton and a patient in the next bed has got exactly the same condition being treated by an approved drug and our patient from Guernsey is not being treated with the same drug because we will not pay for it.

2260 It really is a question of going out to the population to say, as this Report is saying, 'We cannot afford everything, but there are a lot of things that we *should* be affording.' Some of the time... I think Deputy Perrot once said to me, 'Well if we sent you a budget –' (**Deputy Perrot:** Perrot.) Perrot, sorry. (*Laughter and interjection*) I said that to see if he was awake! (*Laughter and interjections*) I am surprised you haven't walked out! The gentleman lying in the corner there (*Laughter*) said to me at one point, 'If we set you a budget you have to stick to that budget.' Well, the problem is of course we do not, because what actually happens is that if you do not provide us with enough money to employ the nurses we need, beds will be closed. If the beds are closed then there will come a point, if it is prolonged enough, where the Hospital gets busy and people in this Assembly will not accept that their dearly beloved is not treated, so they are flown off Island. So actually, by trying to save money in our Health Service it could cost you an awful lot more.

2275 One of the things that costs us money but can save us money is new technology and it was interesting to hear Deputy Adam talking about MRSA, because one of the things that Deputy Luxon and I were quite excited about – at least I was; I think Deputy Luxon was – when we went to our hepatology department the day before yesterday was that you can have a new piece of kit now... In the past, the way you find out if a disease can be treated with an antibiotic is you take a swab of the organism, you put it on a plate and you see if you can grow the organism and then you see what antibiotics work against it. Now there is equipment so that you can get a sample of the bacteria, sequence the DNA within about an hour or two and then you know exactly what organism you have got and how you can treat it. But where this could save us a lot of money is that because MRSA is such a serious infection – and Deputy James is nodding her head in agreement – in the Hospital, if you do not know whether the patient has got MRSA you have got to... what is it called... barrier nursing, I believe, Deputy James, so that you have to be very careful and isolate the patient until you have established that the patient has not got that. That type of nursing can be extremely expensive. And of course if we have this new whizzy-whizzy equipment, within an hour we can say, 'Well, no, this patient has not got MRSA – you can throw them into the general ward.' (*Laughter*) So this sort of equipment is invaluable. But what I am coming back to is this Report – and I was not off the subject, sir – is highlighting many initiatives that we should be taking.

2295 Can I just flip back to the obesity strategy? This is language that, as Deputy Adam and I know only too well, for some seven or eight years... and treating obesity does not sound a very sexy sort of subject. We would much rather do something else with the money within the Health Service, but actually if you cut down the rates of obesity you cut down the rates of diabetes and you

2300 probably cut down the rates of Alzheimer's. The treatment of people with Alzheimer's can run at £90,000 a year. So, again, if we were serious about an obesity strategy we could be saving huge sums of money.

So I do urge Members... And, again, I was not intending to speak today, at all. *(Laughter)* In fact, I think I promised Deputy Luxon I would not speak – and he knows I normally keep my promises – but I was just prompted by one or two of the comments that were made.

2305 I hope that our Department will come to the Assembly at a future date to give you some idea... because we are doing the benchmarking of the work we do in the Department against other jurisdictions and against the UK, and when we have got the results of this benchmarking and we can say these are the sort of services we should be delivering on-Island, and these are the sort of people and the sort of costs compared with other people, then this Assembly can make that decision: do you want to treat people for these conditions; do you want to treat people for cancer as well as they do in Europe, I would hope, rather than the UK? And it is your choice, but if you are going to do it, you have got to spend the money.

2315 **The Bailiff:** Deputy Adam.

Deputy Adam: Sir, could I make one or two corrections to what Deputy Hadley... I did not want to interrupt him during the thing. He mentioned some things which I am sure were a slip of the tongue.

2320 He talked about cardiology. The MSG had employed a locum cardiologist for about a year beforehand in the Department. He talked about bowel cancer, and the original bowel cancer screening service was meant to have been turned by extended scope of practitioner and this was never progressed. And he talked about... Well, at least it was progressed at the time when I was there, but then it was not progressed and things went, as Deputy Hadley knows, not satisfactory.

2325 And he talked about 84 doctors in Guernsey. The trouble is it is very difficult to compare Guernsey with either Jersey, the Isle of Man, the Isle of Wight or England because they have all got junior staff and we have none.

Thank you, sir.

2330 **Deputy Hadley:** Sorry, sir, could I just, on a point of correction... *(Interjections)* It was 84 doctors in the Hospital; I was not counting GPs outside the Hospital.

Deputy Adam: I said junior staff, not...

2335 **Deputy Hadley:** Yes, I know, but the figure of whether there should be 84 doctors... We were talking about Princess Elizabeth Hospital. *(Interjection)*

The Bailiff: Deputy Gollop.

2340 **Deputy Gollop:** Sir, there are many issues in this Report.

The first point I would like to make is that I am as passionate a supporter of getting to grips with the obesity strategy as I am of persuading people not to smoke. *(Interjection)* Well, you know we do not always practise what we preach – that is the point I am making.

2345 Actually, though the obesity strategy is highlighted as a particular concern in this Report and it is one in which maybe in Guernsey we have not perhaps been as conscious of as we could have been, and that includes even branded food shops on the Island that always put the sweets and chocolates just by the tills, and that kind of thing... I think we do need a retail food strategy and we also need a food in schools strategy. Historically, Guernsey has not perhaps provided school meals in the way it is done in many other places, but working habits and patterns of life have changed and I think that is an issue to be aware of.

2350

2355 I think we should take the Report for what it is. It is an opinionated Report of a respected professional in a statutory position. It is an anomaly, and I remember last year did we not pass an amendment that Deputy St Pier brought, which was to review the position of the Medical Officer of Health in the context of corporate organisations, because this is a paradoxical role because historically the person would have been seen as the setter of policy for medical public health on the Island. And we have effectively passed on that role to the States as a corporate body, and in particular the Health & Social Services Minister and his Board. So we have almost got two policy-making centres here and that is awkward, I would say.

2360 There is an argument too that this Report should come from the Policy Council rather than HSSD because, as Deputy Collins, I think, reminded us, this is a corporate strategy. I do remember that certainly when I was on Culture & Leisure we got a lecture from the then Chief Officer of HSSD which was very much along the lines that we should see Health as a holistic whole that went far beyond HSSD, that also included Culture & Leisure, Environment, Education and so on. Some of this Report certainly drifts down those kinds of areas.

2365 What I think we should take from the Report is not, as Deputy Luxon would like to see, a prioritisation with perhaps a costing for health services, or even a review of complicated and highly specialist areas like midwifery, because, with respect, those areas are areas for the Board as a whole to deliver as part of their political strategy, and this should not be seen as an alternative method of setting health policy. What it is and what it aspires to be – and I think most of the time it delivers – is some personal views from a professional man on what he sees as the challenges.

2370 As Deputy De Lisle and others have reminded us, it is bizarre that Guernsey, which in a way is a very caring and conservative society, should have a rate of teenage pregnancies significantly higher than Jersey or indeed certain other much larger European countries. Now, that must be happening for a reason and we need to know the sociological analysis behind that reason and act upon it. Clearly the way to do that is to benchmark what other places do and then put the resources into that.

2380 What concerns me is you have Treasury & Resources, in a rather negative kind of way, putting a few lines down at the back of the Report, saying that some of the material in this Report may have resource implications but there is no guarantee those resources will be made available. Now, that is not corporate policy; that is a little bit of a cop-out and, as Deputy Hadley says, we do need to look – and Deputy Adam too... we have to have a debate about resources and prioritisation in these fields.

2385 And Deputy Hadley – I would actually like to listen to him for hours, really, in a measured way, (*Laughter and interjections*) because Deputy Hadley has certainly a very informed and opinionated view on the health services. I think I would broadly agree with him when he says that actually we are, in some ways, under-resourced and that we get by with fewer professionals and fewer resources than our numbers would merit or deserve.

2390 I think it is interesting on a broader level that despite the political football that is the National Health Service in the United Kingdom, it may have many problems but it does actually take in a much smaller slice of GDP than alternative systems in, say, France or the United States of America. So at one level the NHS is very efficient because it delivers a service that most people accept most of the time for a relatively small slice of GDP. I seem to recall that we were told a few years ago, when reports were done on this subject, that Guernsey is actually using a larger slice of its gross national product in health overall but smaller than other places. And it is exactly that level of analysis that we need in order to set the budget, because, as Deputy Trott said many years ago, how much should we be spending on HSSD? Is it £70 million, £80 million, £90 million, £100 million, £130 million, £140 million? (**A Member:** Higher!) Higher? Maybe higher. What is the level that we should be setting it at, and can we justify setting healthcare levels at a lower level than our competitive jurisdictions; and if so, why?

2400 So there is a lot of thinking to do around this subject and I would also point out on page 907 – or 39 if you take the small report pagination – Dr Bridgman talks about ‘Five Ways to Wellbeing’. They are quite simple, but again we should not forget the importance of cognitive development

and positive thinking in reducing recidivism and unemployment. These homilies are: Connect – with the people around you; Keep Learning – try something new; Be active – go for a walk or run; 2405 Take Notice; and Give – by doing something nice for a friend or stranger. Well, I could perhaps do something nice by sitting down in just a minute. (**Several Members:** Hear, hear.)

I would finish my speech with a plea to Deputy Luxon, who has a very successful, I think, first six months in position with his team. (*Interjection*) Well, I would say that... I would, though, like to say that one area that we need to hear more on is his exact plans for delivering the mental health 2410 strategy and taking that forward, because it was a project at the time when Deputy Bebb was on the Board and during Deputy Adam and Deputy Dorey's era, and perhaps there has been a sense that not much has been happening since the change in the early autumn.

The Bailiff: Deputy Soulsby.

2415 **Deputy Soulsby:** Sir, I would just make a few comments. Oh, he has gone walking out the door. Oh, dear! It was all about what Deputy Adam was just talking about. I do not know if I might as well just sit down now! (**Several Members:** Pour!) It is very short, honestly.

I was very surprised by Deputy Adam's comments about priority setting. As a Member of the Treasury & Resources Board he should be well aware of the benchmarking process currently 2420 being undertaken jointly by HSSD and T&R, and a major aspect of this is a prioritisation exercise, a process which has already begun and in which, by the way, the Medical Officer of Health has been involved.

Deputy Adam is correct that prevention is only one of the criteria that need to be used to be able to prioritise effectively. It also includes safeguarding, urgent and crisis response, early 2425 intervention – to name just three others. That process has begun, as I say, and we are considering various criteria and how to prioritise.

I query Deputy Adam's comments that we cannot compare with other islands. Well, we should. The point is to compare our own costs to similar jurisdictions, whatever their delivery structure is. 2430 How else can we determine whether we are delivering services in the most effective way unless we do?

And finally, the Medical Officer of Health mentions the importance of public engagement. Well, Members may recall that in the Personal Tax and Benefits Review I mentioned the HSSD Board's desire to do just that later this year.

2435 Finally, I need to respond to Deputy Adam's comment that he would have expected a fuller response from the Board in the covering Report, and I would just like to say that we were given only a few days in which to read it and comment; so that might explain the brevity, but it does not mean that we have not taken it seriously.

2440 **The Bailiff:** Deputy Luxon, do you wish to reply to the debate?

Deputy Luxon: Thank you, sir, I will try and be brief.

Deputy De Lisle, concentrating on avoidable major causes of death, premature death and illnesses, especially co-morbidity, of course absolutely makes sense and I think is at the heart of 2445 what a public health strategy should be.

The point about there are lots of strategies but let's get on with it, I think is absolutely right. But what I would say is that I think some of the strategies I referred to in the opening in terms of tobacco, alcohol, drug abuse and obesity actually are now underway and are actually making a difference. So I think his call for us to get on with it even more so, which should increase the 2450 momentum, is valid but I do not think it is just being 'talked about'.

Deputy De Lisle also said there is no real HSSD response or comment around the Report. And, as Deputy Soulsby has just said, yes, we were slightly disappointed in January, when we asked where the first draft of this Report was, to find out that a decision had been made that there would not be a Report this year, so we corrected that thinking and a Report has been produced.

2455 So, it was very late and it was very rushed and we had very little time. But I do agree, in future it
would be appropriate that there should be a fuller comment, although I do accept the point – I
think it was Deputy Gollop who made the point – that probably the Policy Council is the body that
should bring this independent Report to the States; although, knowing the Chief Minister as I do,
2460 he will probably delegate the opening and closing to me anyway, so it probably would not make
much difference.

Deputy Collins talked about the Guernsey Sports Commission. Just to declare a conflict of
interest, I am a Guernsey Sports commissioner and have been for a few years, so I absolutely
applaud and support his views on the importance of Sport and Active for children linked to
Education. And the Sports Commission do have meaningful dialogue underway with Education
2465 and have done for some time, but equally so, the Sports Commission is and does work very
closely with Culture & Leisure who are our parent-intro into the States of Guernsey.

With regard to the States' Review Committee, in terms of supporting fully their proposals, I
think we will probably wait to see what they are before we actually agree to support everything in
July and October.

2470 Deputy – ex-Doctor – Adam made some very interesting points; many of them I did not
understand because he is a clinician and I am not. His point about the exec summary and the
recommendations either being the same as or very similar... I am afraid there probably is a bit of
repetition. That was probably because the author had decided not to produce a report this year.

He makes many other points. Public health and wellbeing is an absolute essential focus not
2475 just for HSSD but for all Government Departments and Government in the community, and if we
are going to make a real difference in this Island for the health of our community we need to
engage with the people as well. This summer HSSD will be going out to interact with the
community with some drop-ins where we will be asking members of the public to tell us what
they think about their health and social care system in Guernsey currently, what they would like to
2480 see, where they would like to see it go, and we will also be sharing with them some of the
dilemmas of the options and choices. And I totally agree with Deputy Adam about the issues of
prioritisation and transformation, and Deputy Soulsby talked to that and I agree with her
comments.

Deputy Hadley said he could talk for hours. He only had one bit of A4 with about 12 words on
2485 it but he did very well. I have to compliment him, and the rest of the Board feel the same. As a
pharmacist and with a background and interest in medical issues, he is knowledgeable and
informed and he does contribute well and adds to our discussions.

Resources are a big issue and again the BBDO benchmarking exercise is underway for us to
establish the baseline budget relevant for Guernsey for Health & Social Care. We are comparing
2490 with Jersey and the Isle of Man and it is fair to say we have to look not just at establishing what
the correct budget is, but we have to transform, we have to look for efficiencies, we have to go
through prioritisation to reallocate, and of course this States will decide whether or not the
budget needs to be higher, lower or more of the same.

Staffing has shocked all of the Board and even now we see situations on some of the wards
2495 where the staffing levels are such that not all beds can be used all the time. Indeed, only yesterday
the Board looked at a paper where we may be looking at trying to apply some clever
management of how we use beds between the wards, which we will be talking about next week,
where we have got to make that difficult balance between making sure nursing staff on the wards
are not being worked to a degree where perhaps they become unsafe because of tiredness. So we
2500 do have some real dilemmas.

What I would suggest to Deputy Gollop... I thank him for his comments. He talked about
smoking, obesity and drinking. What I would like to know from him is what we could all do to
actually help him improve that position for his own lifestyle and health, because if we can actually
help him improve maybe we will actually have a good public health outlook on the Island.

2505 So I ask Members to support the Report. It is to note it. It is a neutral act. Thank you.

The Bailiff: It is a single Proposition. It is on page 934 and, as the Minister has just said, it is to note the Report. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

HOUSING DEPARTMENT

IX. Housing (Control of Occupation) (Guernsey) Law, 1994 – Variation to the Housing Register – Propositions carried

Article IX

The States are asked to decide:

Whether, after consideration of the Report dated 27th January, 2015, of the Housing Department, they are of the opinion:

1. To agree that the Forest Park Hotel, Forest Road, St. Martin, should be inscribed in Part B of the Housing Register.

2. To agree that an Ordinance be prepared, in accordance with section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, to permit the Department to inscribe the Forest Park Hotel, Forest Road, St. Martin, in Part B of the Housing Register subject to application being made by the owners within 6 months from the commencement date of the Ordinance.

2510

The Greffier: Billet VII, sir. Article IX, Housing Department – Housing (Control of Occupation) (Guernsey) Law, 1994. Variation to the Housing Register.

A Member: Pour!

2515

The Bailiff: Deputy David Jones.

Deputy D Jones: Thank you, sir, this should not take very long.

2520 This Report is very straightforward. Indeed, I would go as far as to say that it is little more than legal housekeeping.

Sir, if I was to give a history lesson in respect of this particular hotel, I would be telling the Assembly that this property was operating as a hotel when I was still in my pram in the late 1940's and it has been operating as a hotel ever since.

2525 In May 1970 St Margaret's Lodge Hotel, as it was known for many years, was first inscribed on the Open Market Housing Register and, save for a brief spell spanning 1982 and 1983, this hotel has remained inscribed on the Housing Register up until recently. But to be inscribed in part B of the Housing Register the hotel in question must have in place a boarding permit. So when, during 2013, this hotel's boarding permit was not renewed, Housing had no option but to delete the hotel from the Housing Register because this is what the Housing Control Law says must happen.

2530 More recently the hotel has once again been awarded a boarding permit as accommodating tourists and, as a result of this, it once again meets the criteria for inscription on Part B of the Housing Register. There will be no loss for the Island's Local Market housing stock in agreeing that this property can be reinscribed, because it has already been operating as a hotel for over half a century.

2535 The Housing Control Law makes it clear that hotels can be inscribed in part B of the register if they meet the eligibility criteria, and the New Forest Park Hotel, as it is now known, is once again

successfully operating in accordance with its boarding permit. So I ask the Assembly to so inscribe.

2540 **The Bailiff:** Is there any debate?

We vote on the two Propositions on page 938. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.

And that, Members of the States, concludes the business for this meeting.

Thank you very much.

2545

The Assembly adjourned at 3.35 p.m.