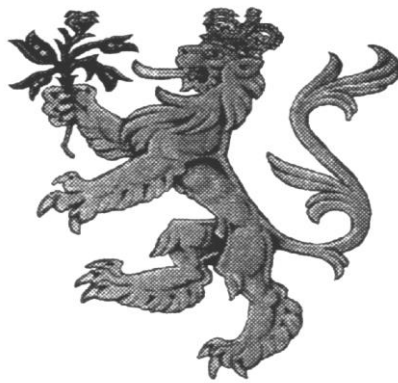


STATES OF ALDERNEY



BILLET D'ETAT

WEDNESDAY 13TH SEPTEMBER 2017

Price: £2.20

STATES OF ALDERNEY

BILLET D'ETAT

FOR WEDNESDAY 13TH SEPTEMBER 2017

Members of the States:

I have the honour to inform you that the Meeting of the States will be held at 5:30 pm on Wednesday 13th September 2017. This will be preceded by the People's Meeting, which will be held on Wednesday 6th September 2017 at 7:00 pm in the Island Hall.

W Stuart Trought
President

Item I **Chief Pleas**

Persons whose names are included on the Register of Voters and who have given due notice will address the States on matters of public interest.

Item II **The Speed Trials (Alderney) Ordinance, 2017**

The following letter was received from Mrs Paris, Chairman of the General Services Committee:-

"I am pleased to be able to report that the Guernsey Kart and Motor Club applied to the General Services Committee for permission to organise a three-day Sprint and Hill Climb event from the 14th to the 16th September this year. The Committee, having delegated permission to the Chief Executive's office, has noted the times and dates of the event and raised no objection. The necessary Ordinance has been prepared.

The Ordinance will allow competing vehicles to exceed the speed limit etc., and to permit the closure along the course (a) on the road extending from Whitegates (Hammond Memorial) to Route des Mielles (Corbletts Bay car park), (b) the road extending from Le Grand Val (Judges Pond) to Tourgis Hill and (c) Tourgis Hill along the extent of the Hill Climb course, from the road junction of the Petit Val with Route de Picaterre to the junction of Tourgis Hill Road with Le Grand Val.

As in past years, the Guernsey Kart and Motor Club have undertaken to put in place all necessary safety precautions and to liaise with the Police, Ambulance and Fire Service for these events.

I would be grateful if 'The Speed Trials (Alderney) Ordinance, 2017' could be placed before the States of Alderney at its next meeting together with an appropriate proposition.

Norma Paris, Chairman"

The States of Alderney is asked to approve “The Speed Trials (Alderney) Ordinance, 2017”

Item III **Beneficial Ownership Legislation**

The following letter was received from Mr Dent, Chairman of the Policy & Finance Committee:-

“The Beneficial Ownership of Legal Persons (Alderney) Law, 2017 (the Law), which was approved by the States of Alderney on 19th April 2017, has now been approved by the Privy Council.

Under the Law, regulations made by the Policy and Finance Committee are required to bring the Law into force and also to define the meaning of beneficial owner. Draft regulations to address both matters were prepared for the approval of the Committee.

The Beneficial Ownership of Legal Persons (Alderney) Law, 2017 (Commencement) Regulations, 2017 give a commencement date for the Law of 15th August 2017, to enable Alderney to meet the commitment made to the UK government to introduce the legislation in the summer of 2017. The Beneficial Ownership of Legal Persons (Alderney) Law, 2017 (Commencement) Regulations, 2017 were made by the Policy and Finance Committee on the 10th August 2017.

The Beneficial Ownership (Alderney) (Definition) Regulations, 2017, mirror those signed by the Policy & Resources Committee for Guernsey. The Regulations define the term “beneficial owner” for the purposes of the Beneficial Ownership of Legal Persons (Alderney) Law, 2017. In broad terms they impose a 25% ownership threshold before a person becomes a beneficial owner of a legal person for the purposes of the Law.

The key features of the definition of beneficial ownership are as follows:

- 1. There is a three tiered approach to beneficial ownership which mirrors that in the standards of the Financial Action Task Force (the body which sets global anti-money laundering and combatting of terrorist financing standards). The same approach has been taken in Guernsey and in the other Crown Dependencies. The three tiers apply to natural persons who exercise control over a company through ownership (defined as holding more than 25% of the shares or rights in a company directly or indirectly), those who exercise control through other means and those who hold the position of senior managing official in the company. These are not alternatives but apply in a cascading way, so a company’s resident agent must start by looking at whether any natural person within the first tier exists or can be identified. The resident agent will only look at the second tier if nobody exists or can be identified within the first tier or there is doubt that an identified person is actually controlling the company, and only looks at the third tier if nobody within the first or second tier exists or can be identified.*
- 2. Legal persons may be treated as beneficial owners in three specified categories where no transparency issues arise. These are companies already subject to transparency requirements by virtue of being listed on a recognised stock exchange, trading companies owned by the States of Guernsey and companies whose beneficial ownership details are already on the Register of Beneficial Ownership.*

3. *Where there is a Trust within the ownership structure of a company, the trustee and the beneficiaries of fixed trusts are to be treated as the beneficial owners. In the case of corporate trustees, only the trustee and its directors need to be identified if the trustee is incorporated in Alderney, but otherwise the beneficial owners of the corporate trustee must be identified.*
4. *Where two or more persons hold a share or similar right jointly, both are treated as holding it and similarly, where shares are held by a number of associated persons, for example members of the same family or persons who have entered into an arrangement to exercise their rights jointly, each person is treated as holding the combined shares or rights of them all. These measures are aimed at preventing circumvention of the 25% threshold.*
5. *Shares a person holds on behalf of another person are to be treated as held by that other person.*

The Beneficial Ownership (Alderney) (Definition) Regulations, 2017 were made by the Policy and Finance Committee on 10th August 2017 and came into operation on the 15th August 2017.

An amendment to Alderney's Company legislation is also necessary to include a reference to beneficial ownership in the provisions governing annual returns. The amendments may be made by Ordinance and a draft Companies (Alderney) (Amendment) Ordinance, 2017 was therefore prepared for the Policy and Finance Committee to consider. It amends the Companies (Alderney) Law, 1994 to specify that the annual return made by a company under law must include a statement that company's record of beneficial ownership is current as at the date the annual return is filed. This echoes an identical change made for Guernsey and is part of the fabric for seeking to ensure that the beneficial ownership information maintained by the Alderney registrar continues to be correct. The Companies (Alderney) (Amendment) Ordinance, 2017 was considered at the Committee meeting held in July.

I would be grateful if you would place "The Beneficial Ownership of Legal Persons (Alderney) Law, 2017 (Commencement) Regulations, 2017", "The Beneficial Ownership (Alderney) (Definition) Regulations, 2017" and "The Companies (Alderney) (Amendment) Ordinance, 2017" before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman"

The States of Alderney is asked to resolve:-

1. Not to annul:

- (i) **"The Beneficial Ownership of Legal Persons (Alderney) Law, 2017 (Commencement) Regulations, 2017";**

and

- (ii) **"The Beneficial Ownership (Alderney) (Definition) Regulations, 2017"**

2. To approve "The Companies (Alderney) (Amendment) Ordinance, 2017".

Item IV The Companies (Alderney) Law (Auditors) (Amendment) Ordinance, 2017

The following letter was received from Mr Dent, Chairman of the Policy & Finance Committee:-

“Circumstances arose recently which required the Policy and Finance Committee to exercise its powers under section 78(1)(b) of the Alderney Companies Law 1994, with regard to persons authorised to conduct audits in Alderney.

This highlighted a situation not only in Alderney but also Guernsey where the current Companies legislation defines that auditors (which includes firms) must be

- (a) A member of –
- (i) *The Institute of Chartered Accountants in England and Wales, of Scotland or in Ireland,*
 - (ii) *The Chartered Association of Certified Accountants*

The company which brought this matter to the attention of the Committee had undergone corporate re-structuring which resulted in the company being controlled by its Belgian Limited Liability Partnership. All the accounting partners in the Belgian Limited Liability Partnership hold equivalent European accounting qualifications but because they are not listed in (a) (i) & (ii) above they cannot act as auditors without the authorisation of the Committee.

Recognising that with increasing globalisation there are likely to be an increase in such cases in the future, the Committee requested that the Law Officers review the Alderney Companies legislation and to prepare an Ordinance to amend Alderney's Law to make it clear that an auditor (which is a firm) of a Alderney company can be controlled by individuals and/or a body corporate so long as any controlling body corporate is itself controlled by qualified individuals. The Companies (Alderney) Law (Auditors) (Amendment) Ordinance 2017 has been drafted by Law Officers Chambers and was considered by the Policy and Finance Committee at its meeting in July.

I would be grateful if you would place “The Companies (Alderney) Law (Auditors) (Amendment) Ordinance, 2017” before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman”

The States of Alderney is asked to approve “The Companies (Alderney) Law (Auditors) (Amendment) Ordinance 2017”

Item V Amendment to Occupiers' Rates

The following letter was received from Mr Dent, Chairman of the Policy & Finance Committee:-

“At its meeting on 4 April 2017, the Policy and Finance Committee considered a report on the Property Tax which had been referred from the Finance Committee. The resolutions were that the Committee:

- i) Agrees that the incidence of a future property tax should focus on the owner rather than occupier; and*
- ii) Instructs the States Treasurer and Strategic Financial Adviser to prepare a project plan including consultation, and also agree a timetable with the States of Guernsey for legislative amendments.*

As part of the project to review the financial relationship with the States of Guernsey, the aspiration is that there will be a single property tax levied by the States of Alderney in future. This will effectively combine the proceeds received from Taxation on Real

Property (TRP) currently paid to the States of Guernsey by including this in the Occupier's Rate which is levied by the States of Alderney.

As well as providing alignment to facilitate a single property tax in future, the rationale for focusing the incidence on the owner rather than occupier include simplicity, transparency, reduced billing volumes and fewer changes. It will also allow consistency of billing between occupied and unoccupied properties.

The timing of the proposed change remains under consideration but in order to align systems in preparation for the change, it is proposed that the billing incidence of the Alderney Occupier's Rate be amended to focus on the owner with effect from 2019.

To instruct the Law Officers to prepare the necessary legislation to effect this change, a resolution is required from the States of Alderney.

I would be grateful if you would place this matter before the States of Alderney with the propositions below.

James Dent, Chairman"

The States of Alderney is asked to approve that:

- a) The Occupiers' Rates will be due from the property owner rather than occupier from 2019;**
- b) The Law Officers be instructed to prepare the necessary legislation.**

Item VI Rules of Procedure: Amendment to Rule 19

The following letter was received from Mr Dent, Chairman of the Policy & Finance Committee:-

"Rules of Procedure States of Alderney: Amendment to Rule 19

Reports under Rule 19 to the States of Alderney

The Policy and Finance Committee recently discussed whether an amendment to the rules of procedure for the States of Alderney could improve the opportunity for greater engagement and dialogue in relation to reports on projects presented under Rule 19.

While fully recognising the importance of factual and structured reports to be laid before the States under Rule 19, the Committee is of the view that some minor changes to the existing Rules would enable the latest information to be drawn out and where appropriate for Members to be able to share their own opinions on a report which has been submitted, even though it is not available for general debate.

Therefore, at its meeting on 18th July, 2017, Policy and Finance Committee resolved to recommend to the States that Rule 19 be amended accordingly. [There have been some minor non-substantive amendments mainly to the numbering, formatting and re-ordering of the Rule from the wording approved at the 18th July meeting to ensure the rule reads clearly and consistently with formatting and numbering in other rules.]

Set out below is the current wording and the proposed wording of Rule 19 of the Rules of Procedure

Current wording

19. A report may be presented to the States by a Committee Chairman, Vice-Chairman or a Member with a designated area of responsibility, for the purpose of informing the States of the progress of a project or as an introduction to a project which may require future consideration. Reports must be:

- (a) Factual, not contentious or express political opinions*
- (b) Succinct and to the point*
- (c) As reports are statements not proposals they may not be debated*
- (d) After a report, any member may ask a question relating to the content of that report*
- (e) Whenever possible, reports should be submitted in writing to the President and the Greffier 4 days before the States meeting.*
- (f) Reports may be published in Deliberations*

Proposed wording

19. (1) A report may be presented to the States by a Committee Chairman, Vice-Chairman or a Member with a designated area of responsibility, for the purpose of informing the States of the progress of a project or as an introduction to a project which may require future consideration and such reports must be:-

- (a) informative and based on facts but may express the opinions of a Committee, the Chairman of a Committee or others, including consultants, providing opinions are clearly delineated from facts, and the persons expressing them are clearly identified;*
 - (b) succinct and to the point;*
 - (c) whenever possible, submitted in writing to the President and the Greffier not less than 4 clear days before the States meeting.*
- (2) Reports under paragraph (1) are statements and not proposals so may not be debated.*
- (3) After a report under paragraph (1) is presented, any member may offer a personal opinion on the report and may ask a question relating to the content of that report.*
- (4) If there are developments after the submission of a report in writing to the Greffier and President in accordance with paragraph (1(c)) that are material to that report, the Member who submitted the report may seek leave of the President to add supplementary material into the report.*
- (5) Reports presented under paragraph (1) may be published in Deliberations.*

Recommendation

The States of Alderney is recommended to resolve that Rule 19 of the States of Alderney Rules of Procedure 2010 (last amended September 2013) is amended as above.

James Dent, Chairman”

The States of Alderney is asked to approve that Rule 19 of the States of Alderney Rules of Procedure 2010 (last amended September 2013) is amended to read:-

19. (1) A report may be presented to the States by a Committee Chairman, Vice-Chairman or a Member with a designated area of responsibility, for the purpose of informing the States of the progress of a project or as an introduction to a project which may require future consideration and such reports must be:-
- (a) informative and based on facts but may express the opinions of a Committee, the Chairman of a Committee or others, including consultants, providing opinions are clearly delineated from facts, and the persons expressing them are clearly identified;
 - (b) succinct and to the point
 - (c) whenever possible, submitted in writing to the President and the Greffier not less than 4 clear days before the States meeting.
- (2) Reports under paragraph (1) are statements and not proposals so may not be debated.
- (3) After a report under paragraph (1) is presented, any member may offer a personal opinion on the report and may ask a question relating to the content of that report.
- (4) If there are developments after the submission of a report in writing to the Greffier and President in accordance with paragraph (1(c)) that are material to that report, the Member who submitted the report may seek leave of the President to add supplementary material into the report.
- (5) Reports presented under paragraph (1) may be published in Deliberations.

Item VII **Longer Working Lives and Equality and Discrimination - Policy Proposals Consultation**

The following report was received from Mr Dent, Chairman of the Policy & Finance Committee for debate without resolution:-

“The Policy and Finance Committee (the Committee) has been pleased to receive the attached documentation from the Committee for Employment and Social Security (ESS) seeking the States of Alderney’s views on a number of policy developments which are, or have been, progressing in Guernsey.

The purpose of this States report is to allow debate on the various matters and ascertain whether a consensus can be reached. In this way the general views of the States of Alderney can be relayed to ESS after further consideration by the Policy & Finance Committee.

The Committee recognises that there are merits in the proposals but also practical constraints which need to be recognised given Alderney’s size.

When initially presented with these proposals at its July meeting, the Committee agreed there would be considerable benefit in them being subject to an open discussion and debate within the full States.

The proposals are wide-ranging, and for ease of debate, these have been split into two separate reports laid before the States. The first, which is this one, considers the issues relating to longer working lives and equality and discrimination. The second report considers employment related matters and specifically basic employment rights and the option to introduce a minimum wage.

What follows reflects the discussion points which were laid before the Committee as a prompt for debate:

1. Longer Working Lives – Draft Proposals

In broad terms this is about reducing the barriers to people working into the later years of life. Although many of the proposals set out are Guernsey focussed, most appear to be eminently sensible and it would seem appropriate for the Policy and Finance Committee to advise ESS accordingly. A proportion of this work will, in any event, need to be led by Guernsey as it relates to the transferred services such as Social Security and Health.

As part of the debate the opportunity exists for Members, after having considered the Longer Working Lives Draft Proposals, to express their views on whether they believe the issues associated with longer working are similar in Alderney and whether the proposals under consideration would also be relevant and appropriate in this Island.

As mentioned earlier the consultation document also considers employment legislation and the minimum wage, which matters will be laid before the States for discussion under a separate report.

2. Equality and rights programme – Disability & Inclusion Strategy and Disability Discrimination Legislation

In broad terms this is about seeking to remove internal barriers within society where individuals are treated differently, and potentially less favourably, for any number of reasons.

This report provides the opportunity for Members to debate and express their views on whether they believe the case being made for a Disability & Inclusion Strategy and Disability Discrimination Legislation are as equally relevant in Alderney as in Guernsey.

2.1 Developing a Disability Strategy for Alderney

In 2013 the Policy and Finance Committee expressed the view that it did not consider it appropriate for the Disability and Inclusion Strategy to be extended to Alderney. This was not in any way to suggest that the States of Alderney had any opposition to the principles of disability and inclusion within society. On the contrary it supports inclusion in all walks of life but it was a practical response given the size of the Alderney community and its government, where strategies and associated legislation needs to be proportionate.

The general indication is that little has changed since 2013 and therefore unless the States Members guide otherwise, the Committee's view is likely to remain the same.

There is of course no good reason why Alderney should not develop its own Disability and inclusion strategy, however the creation of a strategy requires staff and Committee time input. It will therefore be a matter of deciding the relative priority of this among all the other various strategies

which Alderney could usefully develop, and contribute to, such as transport strategy, energy policy/strategy, supported living and ageing well strategy (SLAWS), to name but a few.

It is suggested that developing a Disability and Inclusion strategy remains something for consideration at a future date.

2.2 Introducing Disability Discrimination legislation

The introduction of any legislation should be to address a problem or to implement government policy.

Within Alderney there is a general sense that the local community makes little or no distinction between people regardless of their physical or mental condition, disability or ability. If this is a fair assessment it could be that while the States should actively discourage all forms of discrimination, the need for specific legislation in this area is arguably unnecessary, at this time.

In this context it may be considered that the introduction of legislation specifically covering disability discrimination would be difficult for Alderney to administer.

In other jurisdictions disability discrimination legislation is also the mechanism whereby owners of commercial property can be required to modify buildings, entrances, etc. to make them more disability friendly. This is likely to be challenging to enforce in Alderney and ensure it is affordable for property owners. It may be that through progressive development of the building control legislation greater encouragement can be given to ensuring new builds are better suited to those with disabilities. In this respect it is important to note that, even though not a legal requirement, the Alderney Housing Association already takes into consideration such factors when building new properties.

This position should not detract from the need for the States to encourage all involved in the community to support, and make life easier for, those with disabilities, and to explore whether greater encouragement could be given through the requirements of the building regulations, without necessarily requiring the full measure of Disability Discrimination Legislation.

Conclusion

The States has therefore before it various policy considerations which have emerged from developments taking place in Guernsey, under the watch of the Committee for Employment and Social Security (ESS).

Aspects which are considered to be key decision points have been summarised and included in this report as a basis for debate.

The recommendations below have been drafted such that if States Members only want to have a general debate without taking any position on the specific issues, they can, after having considered this report choose not to vote on the propositions. If, however, Members are comfortable to adopt clearer positions on the specific issues they can approve amend or reject the individual resolutions 1 – 4 and this will enable the Policy & Finance Committee to reflect on the views expressed within the States and provide the requested feedback to the Guernsey Committee for Employment and Social Security.

The States of Alderney are therefore asked to discuss the proposals as set out and to note this report with a view to considering whether:

- 1. To broadly welcome Guernsey's policy proposals to encourage Longer Working Lives;*
- 2. To agree to consider the option of developing a Disability Strategy for Alderney, but acknowledge that this will not be a priority;*
- 3. Not to support the introduction of Disability Discrimination Legislation at this time.*

And to ask the Policy and Finance Committee to reflect on the States debate and to provide appropriate feedback to the Guernsey Committee for Employment and Social Security."

Item VIII Employment Related Matters – Policy Proposals Consultations

The following report was received from Mr Dent, Chairman of the Policy & Finance Committee for debate without resolution:-

The Policy and Finance Committee (the Committee) has been pleased to receive the attached documentation from the Committee for Employment and Social Security (ESS) seeking the States of Alderney's views on a number of policy developments which are, or have been, progressing in Guernsey.

The purpose of this States report is to allow debate on the various matters and ascertain whether a consensus can be reached. In this way the general views of the States of Alderney can be relayed to ESS, or progressed locally, after further consideration by the Policy & Finance Committee.

The Committee recognises that there are merits in the proposals but also practical constraints which need to be recognised given Alderney's size.

When initially presented with these proposals at its July meeting, the Committee agreed there would be considerable benefit in them being subject to an open discussion and debate within the full States.

The proposals are wide-ranging, and for ease of debate, these have been split into two separate reports to be laid before the States. The first, which has been submitted relates to longer working lives and equality and discrimination. The second, which is this one, considers employment related matters and specifically basic employment rights and the option to introduce a minimum wage.

What follows reflects the discussion points which were laid before the Committee as a prompt for debate:

1. Basic Employment Legislation

Employment legislation comes in many guises, and almost every country in the developed world has some form of employee protection. In many jurisdictions this is extensive, and complex, dealing with everything from maximum working hours, parental leave, redundancy, rights to union representation and so on.

It is questionable whether it would be practical or desirable for Alderney to have anywhere near this level of employment legislation. Previous discussions with local employer representatives have indicated a concern that such legislation could be burdensome and adversely impact the viability of some businesses.

However of equal importance are the concerns of employees who may find themselves vulnerable if an employer does not act fairly and reasonably.

An added factor is that the absence of such legislation can affect ESS's ability to determine whether an Alderney resident is entitled to unemployment benefit or other financial support in the form of Supplementary Benefit.

The most straightforward way to address this would be to introduce the most basic form of employment legislation which would be to require there to be a written contract between an employer and an employee. This would set out a range of simple terms such as how much the person will be paid and when (e.g. weekly or monthly), what hours they are expected to work, whether they have leave entitlement, and what period of notice has to be given. In most cases this could be no more than a single side of paper.

The lack of many employees, usually the lowest paid, having any employment contract is an issue faced by the States General Office on a fairly regular basis. It is suggested therefore this is a matter which needs to be tackled, in a proportionate way which is not burdensome but will provide important clarity for both the employee and the employer.

2. Minimum wage

Many jurisdictions set a minimum wage, which is defined as the lowest remuneration that employers can legally pay their workers. Its level varies between countries and so for example the minimum wages in Guernsey, Jersey and the UK are all different.

The aspiration is that by setting a minimum can help relieve poverty and reduce the potential for exploitation of workers. This is not however universally accepted and others argue that it hinders the free market.

Hitherto the States of Alderney has not had any representations about the lack of any minimum wage in Alderney. It has however been highlighted recently that it creates a complication for ESS in the fulfilment of its role under the Transferred Services which of necessity have to be consistent across both Alderney and Guernsey.

A simple illustration is that a person with a large family, high rental costs, medical expenses but on a relatively low income, can seek financial support through Supplementary Benefit (SPB). However, when assessing whether that person is entitled to SPB, Social Security's criteria means that they provide a top-up on the existing earnings with the basis that these will be at least the Guernsey minimum wage (£7.20ph for adults and £6.50 for 16 & 17 yr olds).

The lack of a minimum wage in Alderney means the formula which ESS apply has the potential to leave Alderney claimants worse off.

The number of such claimants affected by this arrangement is understood to be relatively small. In this context it may be argued that the complications and additional burden upon both the States of Alderney and local employers, to have minimum wage legislation would be disproportionate to the size of the problem.

It is nonetheless suggested this is matter which should be kept under review and it would be useful for States Members to consider and discuss, in order that the Policy and Finance Committee can understand the various views.

Conclusion

The States has therefore before it policy considerations in respect of basic employment legislation and the minimum wage which have emerged from developments taking place in Guernsey, under the watch of the Committee for Employment and Social Security (ESS).

Aspects which are considered to be key decision points have been summarised and included in this report as a basis for debate.

The recommendations below have been drafted such that if States Members are comfortable to adopt clearer positions on the specific issues they can states their views on 1 and 2 below and this will enable the Policy & Finance Committee to reflect on the views expressed and provide the requested feedback to the Guernsey Committee for Employment and Social Security.

The States of Alderney are therefore asked to discuss the proposals as set out and to note this report with a view to considering whether:

1. To support in principle the introduction of basic employment legislation in the form of entitlement to a contract of employment; and
2. Not to support the introduction of a minimum wage for Alderney, at this time.

And to direct the Policy and Finance Committee to reflect on the States debate and to provide appropriate feedback to the Guernsey Committee for Employment and Social Security”

Item IX Plebiscite – France-Alderney-Britain (FAB) cable

The following report was received from Mr Dent, Chairman of the Policy & Finance Committee:-

“The Strategic Plan report laid before the States in 2014 (but not formally approved) referred to the need to develop an Energy Plan within which one of the objectives was declared as “Support the FAB cable link”.

Since that date the Policy and Finance Committee has remained of the view that major infrastructure investment has the potential to be of considerable value to the Island in both the short and long term.

In 2015 an in-principle wayleave agreement was signed between the States and FabLink Ltd which made provision for the payment of £70,000 per annum for 50 years. The above sum was arrived at after having obtained external professional advice. It was subsequently considered by the Committee that this was not an acceptable sum. The Committee is aware of concerns expressed by some islanders who consider that a convertor station could have major negative impacts on the island’s environment. The SoA subsequently reopened negotiations with FabLink Ltd. Those negotiations have progressed satisfactorily and as a result the Committee is in the latter stages of formulating revised Heads of Terms which would supersede the in-principle wayleave agreement.

The Committee acknowledges that its responsibilities relate only to the contractual negotiations. Whatever agreement may be reached on the commercial terms it will still be necessary for Fablink Ltd to obtain the necessary approvals under the Building and Development Control Law, as well as any other consents required under other applicable legislation.

The Committee has also become acutely aware that there is some strong opposition to the underground cable passing through Longis Common. This concern is combined with other concerns over the future potential construction of a converter station should this be necessary in order to feed renewable energy from Alderney's waters into the wider international electricity grid or to take electricity from the grid to serve Alderney's future electrical power requirements.

While the Committee recognises that it is the constitutionally elected body for reaching decisions, and advising the States on such matters as this, it has also found it increasingly difficult to know whether a majority of the Island is opposed to, or in favour of, the States taking measures to implement any in-principle arrangements as set out in the anticipated Heads of Terms.

Accordingly at its meeting held on 18 July 2017 the Policy & Finance Committee agreed to proceed with a mechanism to secure the general views of the public before reaching a final decision on a wayleave agreement.

*The Committee is therefore proposing that if appropriate Heads of Terms can be agreed in principle that a plebiscite be held. This will provide the opportunity for the community to express its voice in a structured manner. The outcome will provide States Members with a greater understanding of the views of the electorate. Although the result of the voting at the plebiscite will **not** bind States Members in how they vote on the commercial deal, it is anticipated that Members will respect the outcome and vote accordingly.*

The Committee therefore recommends the States agrees:-

- 1. To direct the Chief Executive to conduct a plebiscite of the electorate to ascertain whether a majority support the States providing FABlink Ltd the right to pass the cable under and through the foreshore and land;*
- 2. That the date of the plebiscite will be set by the Policy and Finance Committee once it is satisfied with the draft Heads of Terms, and that a minimum of three weeks' notice will be given of that date;*
- 3. The question which is to be put to the electorate to be put before the States for approval (at a date to be confirmed);*
- 4. The question, together with the Heads of Terms and any other supporting information will be circulated to Alderney homes and placed on the States notice boards, and on the States website, at least 10 days in advance of the plebiscite;*
- 5. That only voters on the electoral roll (compiled for the election of the President and members of the States of Alderney) will be eligible to vote. Eligibility of each voter will be determined by checking the person's name and address against the electoral roll, in a manner similar to the process for voting in a States Election. Voting will take place in the Members Room, Island Hall from 9:30 a.m. to 6:30 p.m. on the day fixed for the plebiscite;*
- 6. Each voter will receive a voting slip upon which to mark their vote and place in the ballot box. Eligible voters will be asked to mark YES or NO in answer to the plebiscite question on the ballot paper. Additional comments or markings on the ballot paper, other than a clear indication of the vote, will render the ballot paper as "spoilt" and not be included in the count.*

7. *That the votes will be counted under the oversight of an external official independent of the States of Alderney, and the results publicly announced by that official.*

*[*Dictionary definition of a plebiscite: 'is a direct vote of all the electors of a state on an important public question; a public expression of a community's opinion, with or without binding force.' N.B. in this case it will not be binding.]*

James Dent, Chairman"

The States is asked to approve the procedure as described above and to authorise the Policy and Finance Committee to set a date for the holding of a plebiscite.

Item X Questions and Reports

Issued: 1st September 2017