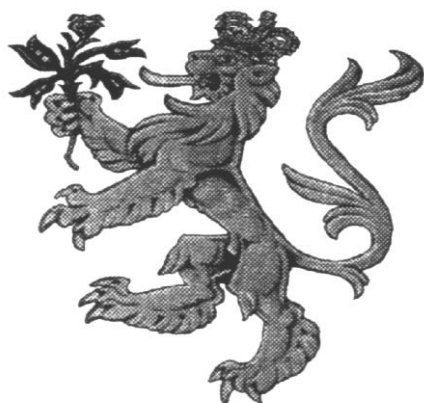


States of Alderney



DELIBERATIONS

WEDNESDAY 16TH OCTOBER 2019

STATES OF ALDERNEY

DELIBERATIONS FOR THE MEETING

ON WEDNESDAY 16TH OCTOBER 2019 AT 17:30

Present: Mr William Tate, President
Mr James Dent
Mr Graham McKinley
Mr Alex Snowdon
Mr Mike Dean
Mr Kevin Gentle
Ms Annie Burgess
Mr Christian Harris
Mr David Earl
Mr Steve Roberts*
Mr Alex Jean*

**Mr Jean and Mr Roberts arrived late and contributed from Item III, Billet No 2 onwards*

Lieutenant G T Workman RN (Rtd) represented His Excellency The Lieutenant-Governor of the Bailiwick of Guernsey.

The President advised that he had received apologies from Mr Roberts and Mr Jean and given his permission for them both to join the meeting late if they are able.

The President asked the Members and those in the gallery to observe a minute's silence to honour the memories of Sir Norman Browse, former President of the States of Alderney, and Mr Raymond Berry, former States Member.

The President advised that as the business for the meeting was contained in three Billets, he would be dealing with the Billets in reverse order beginning with Billet No 3 and ending with Billet No 1 so that the meeting would end as usual with Questions and Reports.

BILLET NO 3

Item I **New Connaught Care Home – Extension**

The States of Alderney resolved to approve the recommendation from the Policy and Finance Committee to provide funds for delivery of the New Connaught Care Home Phase 1 Loft Conversion at an amount of up to £190,000.

*Proposed by James Dent
Seconded by Kevin Gentle
Approved unanimously*

BILLET NO 2

Item I **Replacement Harbour Crane**

The States of Alderney resolved to authorise the Policy & Finance Committee to recommend to the Policy and Resources Committee of the States of Guernsey that approval be given to purchase a Sennebogen E2200 HMC Mobile-Hydraulic-crane at a budgeted cost of £850,000.

*Proposed by James Dent
Seconded by Graham McKinley
Approved unanimously*

Item II **Code of Conduct for States Members**

The following amendment to suspend Rule 14 of The Rules of Procedure was proposed by Mr Earl and seconded by Mr Gentle:-

“Rule 14

I request, without formal notice being given, that Standing Orders are suspended with the effect that Rule 14 does not apply for this Item on the Billet.

Explanatory note: The purpose of this request is to enable the States to decide whether it will vote on each amendment individually or vote on the amendments together, en bloc. Given that this Item has been discussed at two successive Policy & Finance Committees where these amendments could have been proposed, the States should have the option of either dealing with them individually or as a whole.”

Approved unanimously

The following amendment was proposed by Mr Snowdon and seconded by Mr Dean:-

“I propose the new amendments will revise the existing draft Code of Conduct. Below sets out the replacement text for amendments for the proposed 'States of Alderney, draft Code of Conduct for States Members'.

Item 4.4.3 To read-

The President and all Members may, upon ceasing to have a personal or pecuniary interest, of which an entry has been made in the register of Members' Interests, require the Greffier to record in the register the date that the entry ceased to become a declarable interest. The Greffier shall delete the record relating to the pecuniary interest from the Register on 31st January after seven years has passed following the entry ceasing to become a declarable interest.

4.4.4 To read-

After a period of office comes to an end, the Greffier will maintain the records in the Register for a minimum of seven years and, on the 31st January following the expiration of the seven years period will delete the entries related to that officeholder in the Register of Members' Interests.

11.1 To read-

The complainant shall if possible declare any personal connection, business interests or working relationship which may be connected to the member in public office, therefore highlighting any potential conflicts or personal motives. If the complainant has a personal or business connection to the member in question then this should be set out in the complaint, but, without prejudice to 13.1.3., any such connection, does not, of itself, prevent the complaint from being considered by the President and the Greffier.

13.1.2 To read-

In determining whether a complaint can be considered by a Members Conduct Review Panel, the President may call upon the Chief Executive, or if the Chief Executive is unable to act another senior civil servant, to carry out a preliminary investigation to establish the facts and advise on whether there is sufficient information for a Hearing Panel to review, and may call upon the Law Officers to give such advice as may be considered appropriate regarding the complaint.

13.2.2 To read-

Members are required to co-operate fully and promptly with the Hearing Panel during any investigation or Hearing even if the Member concerned considers that the alleged breach of the code or abuse of privilege is unsubstantiated or true, unless they are not able, by reason of poor mental or physical health, to do so.

13.2.4 To read-

If it is decided that no further action should be taken, a letter setting out the Panel's decision together with its reasons for the decision will be sent by the President to the complainant and the subject of the complaint. Copies of the letter will be provided to the Greffier, the member will be asked if he/she wishes for the outcome to be made available to the public during normal office hours and the Chief Executive for publication on the States of Alderney website if consent is given from the Member.

13.2.5 To read-

If it is decided that a Hearing should be held, a confidential copy of the draft investigation report will be sent by the Chairman to the Member who is the subject of the complaint and to the complainant and they will be given up to 21 days to make any comments. Comments will then be considered by the investigator and any changes s/he considers appropriate will be made in order to produce a final investigation report.

13.3.2 To read-

Each Member of the Hearing Panel, the investigator, if one has been appointed, and the Member who is the subject of the complaint will receive notification of the Hearing and a copy of the Final Investigation Report which will be confidential until such time as the Panel has published its findings. The Panel Members will be present throughout the Hearing, and able to draw on advice from the Law Officers and the

Civil Service as necessary. The Member who is the subject of the complaint, together with his/her representative if required, and the Investigator will be present for the first part of the Hearing. The Panel may allow other witnesses to appear as part of the Investigator's Report or the Member's Reply. Failure to co-operate in any investigation without any verifiable and justifiable reason, for example, by being unable to owing to poor mental or physical health will, in itself, be regarded as a breach of the Code of Conduct.

13.3.3 To read-

The Hearing Panel will be quorate if at least three Panel members are present. If the Member who is subject to the complaint or his/her representative is absent, the Panel will consider whether it is appropriate to continue or postpone the Hearing. The Hearing will normally be held in private but the Panel may consider at the outset, taking into account any representations made by the Member who is the subject of the complaint, whether the public and press should be present for all or any part of the Hearing. The Public and Press may be invited only when its believe a serious breach of the Code of Conduct has occurred with the Member. The Panel's decision on this matter is final.

13.4.1 To read-

The findings of a Members Conduct Hearing Panel may be subject to appeal by a Member within a twenty-one days period of the determination of an appeal, giving reasons for the appeal in writing to the Greffier. It must be made (1) on the grounds that the Members Conduct Hearing Panel made an error in the process which demonstrably impacted on the outcome, and/or (2) that the decision of the Members Conduct Hearing Panel was not reasonable or justified given the evidence available to them in the Hearing.

14.1 To read-

A Members Conduct panel will, having decided that a breach of conduct or abuse of privilege has occurred, either impose a minor penalty or advise the States as to whether they recommend suspending or disqualifying the member. A minor penalty may be in the form of a caution for a minor breach, a recommendation for suspension may be where there is a more serious breach or repeated minor breaches and a recommendation for disqualification would be in the most serious cases.

14.2 To read-

Where the Panel finds that a complaint has been substantiated but is of the view that the breach of conduct or abuse of privilege was of a minor nature it may dispose of the matter by cautioning the Member concerned. A record of the Panel's decision and any reasoning or explanation for that decision which it considers appropriate shall be forwarded to the Member under investigation and to the Greffier (who shall make the said report available for public inspection whenever the Greffier is open for normal business providing consent is given from the Member) and to the Chief Executive for publication on the States of Alderney website providing consent is given from the Member.

14.4 To read:-

A recommendation for suspension by the Conduct Review Panel, shall be for a period not exceeding two months. The Conduct Review Panel, in making their recommendation will have regard to the seriousness of the breach and the previous conduct of a Member when considering the terms of the suspension to recommend to the States

To insert new 14.4A as follows:-

The States may, in considering the recommendation of the Conduct Review Panel, suspend a Member for the period recommended or for any period not exceeding two months. A Member who is suspended from office may not, during the period of his or her suspension -

- attend or take part in official or unofficial meeting of the States;
- enter the States Chamber or its precincts when the States are meeting

- enter the offices of the States, other than to transact any personal business that s/he has as an ordinary citizen of the States;
- sign any report, requête or other document relating to the business of the States;
- ask any question pursuant to Rule 18 of the States of Alderney 'Rules of Procedure 2010 (as amended)'.

14.6 To read

Where the member is recommended for disqualification from office by the Panel, the panel's findings shall be reported to the Chief Executive and the President and the Member shall be invited to address the States in Committee and to provide any such documents as the States in Committee shall request. The President shall thereafter submit the Panel's findings and report for inclusion in a Billet with the recommendation of the Panel and shall request the States to make a resolution, either for or against the proposed disqualification. Disqualification from office is a penalty reserved for the most serious breaches of the Code of Conduct. The States may, in considering disqualification, take into account repeated and persistent breaches of the Code. Allowances paid to a member shall cease immediately with effect from any decision of the States to disqualify a Member.

Explanatory Note

Item 4.4.3 Increase the time members' interests are held from 12 months to 7 years, this will offer more openness in public office. 4.4.4 Is amendment to take the above into context. 11.1 Declares any interest/ conflict from the complainant against the Member. 13.1.2 Adds the use of Law Officers for the President or Chairman of the Panel. 13.2.2 Addresses mental health and well-being be taken into consideration during the process and not force a member to the Hearing Panel. 13.2.4 When no further action is taken the Member will have the choice if the hearing decision should be public or not. 13.2.5- 21 days becomes the allocated time for the Member to make any comments. 13.3.2 Again addresses mental health and well-being. 13.3.3 The public and press invited to attend the hearing if its believed a serious breach of the Code of Conduct has taken place. 13.4.1 Increases the appeal submission to 21 days. 14.1 Will require States of Alderney approval from the disqualification and expulsion of a Member. 14.2 Consent be given from Member for public inspection if the matter was minor in nature. 14.4 The suspension from the office will not exceed two months. 14.6 Again this highlights the full States of Alderney consent is required for disqualification and expulsion of a Member."

Amendment failed

For: Mr Dean, Mr Snowdon

Against: Ms Burgess, Mr Dent, Mr Earl, Mr Gentle, Mr Harris, Mr McKinley

The original item was then voted on and The States of Alderney resolved to approve the revised Code of Conduct, the changes to the Rules of Procedure and to instruct the Law Officers to prepare a change to the Government of Alderney Law, 2004 to confer Absolute Privilege on States Members in States Meetings.

Proposed by James Dent

Seconded by Kevin Gentle

The item was voted on in three parts:-

- (i) Approval of the revised Code of Conduct

Approved by a majority

*For: Ms Burgess, Mr Dent, Mr Earl, Mr Gentle, Mr Harris, Mr McKinley,
Mr Snowdon*

Against: Mr Dean

- (ii) Approval of the Changes to the Rules of Procedure

Approved unanimously

- (iii) To instruct the Law Officers to prepare a change to the Government of Alderney Law, 2004 to confer Absolute Privilege on States members in States Meetings
Approved unanimously

Mr Jean and Mr Roberts arrived mid-way through item II. The President allowed them to take their seats but to wait until the next item in order to take part in the debate and cast their votes.

Item III Good Governance

The following amendment was proposed by Mr Snowdon and seconded by Mr Jean

“I propose that the following text be added to the second resolution - 'Policy & Finance Committee'.

The new text will read the following-

- 1) That the States should move to a system of governance where executive and legislative powers are better separated as soon as possible;

And

- 2) The Policy & Finance Committee is requested to draft appropriate changes to the Government of Alderney Law 2004, and Rules of Procedure for public consultation and for consideration and decision by the States.

Explanatory Note

The amendment makes it clear all members will be involved with instructing a new model of governance for the States of Alderney.”

Amendment failed

For: Mr Dean, Mr Jean, Mr Roberts, Mr Snowdon,

Against: Ms Burgess, Mr Dent, Mr Earl, Mr Gentle, Mr Harris, Mr McKinley

The original item was then voted on and The States of Alderney resolved:-

- 1) That the States should move to a system of governance where executive and legislative powers are better separated as soon as possible;**

and

- 2) The Civil Service and Law Officers, guided by the Good Governance Group, are requested to draft appropriate changes to the Structure of Government, Law and Rules of Procedure for public consultation and for consideration and decision by the States.**

Proposed by James Dent

Seconded by David Earl

The item was voted on in two parts:-

1. Move to a system of governance where executive and legislative powers are better separated
For: Ms Burgess, Mr Dean, Mr Dent, Mr Earl, Mr Gentle, Mr Harris, Mr McKinley, Mr Snowdon

Against: Mr Jean, Mr Roberts
2. *Drafting of appropriate changes to Structure of Government, Law and Rules of Procedure*
For: Ms Burgess, Mr Dean, Mr Dent, Mr Earl, Mr Gentle, Mr Harris, Mr McKinley, Mr Snowdon
Against: Mr Jean, Mr Roberts

BILLET NO 1

Item I The Economic Statistics (Guernsey and Alderney) Law, 2019

The States of Alderney resolved to approve the draft Projet de Loi entitled “The Economic Statistics (Guernsey and Alderney) Law, 2019” and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Royal Sanction thereto.

Proposed by James Dent
Seconded by Graham McKinley
Approved unanimously

Item II The States’ Register of Contact Details (Guernsey and Alderney) Law, 2019

The States of Alderney resolved to approve the draft Projet de Loi entitled “The States’ Register of Contact Details (Guernsey and Alderney) Law, 2019” and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Royal Sanction thereto.

Proposed by James Dent
Seconded by Graham McKinley
Approved unanimously

Item III The Public Holiday (Alderney) Ordinance, 2019

The States of Alderney resolved to approve “The Public Holidays (Alderney) Ordinance, 2019” so that the early May bank holiday in 2020 moves to Friday 8th May 2020 to mark the 75th anniversary of VE Day on the day itself.

Proposed by James Dent
Seconded by Annie Burgess
Approved unanimously

Item IV **Appointment of Code of Conduct Panel Member**

The States of Alderney resolved to approve that Mr Donald Hughes be confirmed as a Member of the States Members Code of Conduct Review Panel until the next Annual January Meeting of the States of Alderney.

Proposed by James Dent
Seconded by Louis Jean
Approved unanimously

Item V **Budgets for 2020 and Revised Budgets for 2019**

The States of Alderney resolved, after consideration of the Budget Report:-

- 1. To accept the States of Alderney Revenue and Capital Budgets for 2020, to include an increase of 5% in Occupiers Rates for 2020.**
- 2. To accept the States of Alderney Water Board Revenue and Capital Budgets for 2020, to include an increase of 5% in Water Rates for 2020.**
- 3. To amend the financial rules to increase the Committee capital expenditure authorisation level from £100k to £150k.**

Proposed by James Dent
Seconded by David Earl

The item was voted on in three parts:-

1. States Budget
For: Ms Burgess, Mr Dean, Mr Dent, Mr Earl, Mr Gentle, Mr Harris, Mr McKinley, Mr Roberts, Mr Snowdon
Against: Mr Jean
2. Water Board Budget
For: Ms Burgess, Mr Dean, Mr Dent, Mr Earl, Mr Gentle, Mr Harris, Mr McKinley, Mr Snowdon
Against: Mr Jean, Mr Roberts
3. Capital Expenditure authorisation level
For: Ms Burgess, Mr Dean, Mr Dent, Mr Earl, Mr Gentle, Mr Harris, Mr McKinley,
Against: Mr Jean, Mr Roberts, Mr Snowdon

Item VI **Questions and Reports**

The following questions were received:-

Questions from Mr Snowdon for the Chairman of the Policy and Finance Committee:-

1. *Could the Chairman of Policy and Finance Committee indicate the projected income from the Alderney Gambling Control Commission (AGCC) for 2019 and the reason why the potential income is lower than 2018?*
2. *Following the release of the 2020 Budget from Guernsey's Policy & Resources Committee, can the Chairman of Policy and Finance Committee explain what impacts the budget may have on Alderney?*
3. *Can the Chairman of Policy and Finance Committee update Members about his recent trip to the Normandy Council on behalf of the States of Alderney?*
4. *Following the situation with the London Convention lapsing on 31 October 2019, could the Chairman of Policy and Finance Committee explain what is happening with fishing rights in Alderney and the Bailiwick of Guernsey?*
5. *Does the Chairman have any updates regarding the PSO and transport-related matters? Also does the Chairman have any views on the open letter about Aurigny's service dated 2nd October 2019?*

Question from Mr Dent for the Alderney Representatives in the States of Deliberation:-

Could our Guernsey Representatives briefly summarise their activities in Guernsey over the last month.

Question from Mr Earl for the Chairman of the Policy and Finance Committee:-

Would the Chairman of Policy and Finance Committee care to comment on the impact of the recent leaks of confidential information.

Responses to each of the questions above were given verbally by the respective States Members and will be available in due course on the Hansard Report for this meeting.

Report received from Mr Dent for noting:-

Royal Connaught Residential Home Financial Statements 2018.

Meeting Closed: 2102hrs

Issued: 18th October 2019