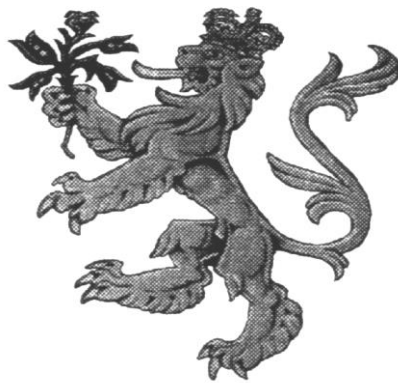


**STATES OF ALDERNEY**



**BILLET D'ETAT**

WEDNESDAY 10<sup>TH</sup> JUNE 2020

Price: £2.35

## **BILLET D'ETAT**

### **FOR WEDNESDAY 10<sup>TH</sup> JUNE 2020**

Members of the States:

I have the honour to inform you that the Meeting of the States will be held at 14:30 pm on Wednesday 10<sup>th</sup> June 2020. The Lieutenant Governor, His Excellency, Vice Admiral Sir Ian Corder KBE CB will be in attendance.

This meeting will be a remote hearing and **is not** taking place in the Court House.

There **will not** be a People's Meeting in advance of the States Meeting. Members of the public may however raise comment upon matters contained in the Billet d'Etat in writing. Any comments should be posted or sent by email to [president.alderney@gov.gg](mailto:president.alderney@gov.gg) by no later than 5pm on Wednesday 3<sup>rd</sup> June. Any comments received will be summarised and read by the convenor during the States Meeting.

William Tate  
President

#### **Item I**      **The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.2) Regulations, 2020**

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

"These Regulations are emergency regulations made by the Civil Contingencies Authority under Part 3 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012 ("the Law"). They are made on the occurrence of an emergency, within the meaning of the Law, in the Bailiwick, arising from the urgent need to prevent, control or mitigate the spread of the virus Severe Acute Respiratory Syndrome Coronavirus 2 and the disease caused thereby, COVID-19 (referred to together in these regulations as coronavirus). They are prefaced with a statement by the Civil Contingencies Authority, as required by section 12(2) of the Law. COVID-19 was made a notifiable disease for the purposes of the Public Health Ordinance, 1936 on 10th February 2020.

These Regulations revoke and re-enact (with minor modifications) regulations previously made by the Civil Contingencies Authority in respect of the coronavirus pandemic.

These Regulations came into force on the 15th May, 2020 and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law.

**Part I - screening, assessment and powers to detain etc.**

This Part enables the Medical Officer of Health to place restrictions and requirements on persons who are or who may be infected with coronavirus, and makes provision in respect of related matters, including powers for the Medical Officer of Health to impose screening requirements, to detain people and keep people in isolation, and to impose self-isolation on people. They also create criminal offences and confer powers of enforcement on police officers, and provide for applications to vary or revoke requirements or restrictions imposed under this part to be made to the Royal Court.

**Part II - control of premises, gatherings etc., and movement of persons**

This Part enables the States Committee for Health & Social Care ("the Committee") to impose restrictions in relation to licensed (and other non-residential) premises, and empower the Committee to impose restrictions in relation to events, gatherings and meetings, and the movement of people outside their homes. The regulations in this Part also create criminal offences, and confer powers of enforcement on police officers. The Committee must consult the Medical Officer of Health before exercising the powers under the regulations, and in addition must consult Her Majesty's Procureur when issuing a direction imposing restrictions in relation to the movement of persons outside their homes; and when exercising powers in relation to premises in Alderney and Sark, the relevant Committees on those islands must also be consulted.

**Part III – medical and health professionals, mental health and pharmacists**

Temporary registration etc. of medical and health professionals

Schedule 1 to these Regulations sets out modifications to the application of various enactments relating to the regulation and registration of health professionals to enable the Committee for Health & Social Care to register medical and health professionals to allow them to practise in Guernsey, Alderney or Sark, even if those professionals are not registered in the relevant UK register. They are adapted from provisions applicable in England and Wales, Scotland and Northern Ireland, enacted in the Coronavirus Act 2020.

Temporary modification of legislation relating to mental health

Schedule 2 to these Regulations sets out the modifications to be made to mental health legislation having effect in the Bailiwick.

Paragraphs 4 to 10 modify the Mental Health (Bailiwick of Guernsey) Law, 2010 ("the Law") to permit any approved medical practitioner (rather than only the patient's responsible medical officer) to discharge a patient under section 35. For the purposes of section 56, an approved medical practitioner (rather than only a second opinion approved doctor) will be permitted to provide a certificate and, in doing so, that practitioner will only be required to consult with one person, where the practitioner is of the opinion that it is not reasonably practicable or would involve unreasonable delay to comply with the unmodified requirements. Listed sections in Part IX will have effect so that the person may be conveyed or admitted within the specified period or as soon as reasonably practicable thereafter. The definition of "mental health practitioner" in section 99 is widened to permit the Committee for Health and Social Care to approve persons as mental health practitioners to carry out the functions of approved social workers, in addition to those of approved medical practitioners.

Paragraphs 11 to 13 modify the Mental Health (Treatment and Forms) Regulations, 2013 to permit an application for a treatment order under section 23 of the Law to be accompanied by a single medical recommendation where an approved social worker (or other person specified in section 39 of the Law) is of the opinion that it is not reasonably practicable or would involve unreasonable delay for the application to be accompanied by the medical recommendations of two approved medical practitioners.

Paragraphs 14 to 16 modify the Mental Health Review Tribunal Procedure Rules, 2012 to provide that the Mental Health Review Tribunal ("the Tribunal") may properly be constituted according to specified criteria and to omit rule 28(1) which requires the hearing of an application regarding an assessment order under section 21 of the Law to start within 10 days of the date on which the Tribunal received the application notice. Paragraphs 17 to 19 are transitional provisions.

Temporary modification of legislation relating to pharmacists

Schedule 3 to these Regulations makes modifications to the application of the Health Service (Benefit) (Guernsey) Law, 1990 and the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008, to authorise pharmacists to provide remote, intermittent, occasional or otherwise limited supervision, control or management of activities involving pharmaceutical benefits or medicinal products that would otherwise require direct, personal or more 'hands-on' supervision, control or (as the case may be) management in order to be lawful under those Laws. The Chief Pharmacist is given the power to authorise any method or technique of supervision, control or management if the Chief Pharmacist considers it necessary and proportionate to do so with regard to the emergency.

Parts IV and V - registration of deaths and still-births, and cremations in Guernsey  
These Parts temporarily modify procedures in relation to registration of deaths and still births in Guernsey and Sark and in Alderney (Part IV) and in relation to cremations in Guernsey (Part V). These amendments are to remove requirements for things to be done in person and to simplify procedures relating to registration of deaths and still-births and cremations during the current emergency situation.

The modifications in relation to registration of deaths and still-births are to remove requirements to make declarations of death in person, for a doctor signing a medical certificate of death to certify that he or she had attended the deceased during his or her last illness and to disapply requirements limiting the time a body is kept provided it is in the custody of the States of Guernsey (where the body is in Guernsey), the States of Alderney (where the body is in Alderney) or the relevant funeral director.

The modifications in relation to cremations are to remove the requirements for an application for cremation to be verified by being countersigned or by the applicant giving a declaration made on oath and for a confirmatory medical certificate to be given (Form C in the Cremation Ordinance, 1972).

**Part VI - parochial meetings, etc.**

Part VI makes provision enabling parish business to be conducted despite the inability to hold parish meetings. For all normal parish business, including approval of the expenditure to be incurred by each parish, and the rates to be levied in order to meet that expenditure, decisions will be made by the Constables and Douzaine in respect of all matters, but after consultation with the Rector and Churchwardens where the decision concerns ecclesiastical matters. Notice of the matters to be determined and the proposed decision in each case will be published in La Gazette Officielle and further information and documents will be made available on a specified website; and ratepayers will be given an opportunity to make representations. Meetings of the Constables and Douzaine may be held remotely, in line with the provisions for States' Committees already agreed. The Constables and Douzaine must take into account of any representations received. Their decision must be notified to the ratepayers who will then have the opportunity to oppose the application to the Royal Court for confirmation of the decision in relation to the "remède", having given prior notification to the Greffe and the parish of their intention to object. Any necessary elections during the emergency period may be substituted by appointments by the Dean of the Douzaine, after consultation with the Rector and Churchwardens where appropriate. Such appointments will expire one month after the regulations cease to have effect when an election will need to be held in order to fill any vacancy in the normal way.

### **Part VII - health and safety**

Part VII allows the Chief Health and Safety Officer ("the Chief Officer") to grant a certificate disapplying the requirements for examination, testing and inspection set out in regulation 8 and the Schedule in respect of equipment, occupier's installation or gas appliance and flue (as the case may be) specified in an application. A certificate may only be given where the Chief Officer is of the opinion that the disapplication will not prejudice the safety of any person operating the equipment etc. or any other person likely to be affected by its operation. The certificate may only disapply the relevant requirement for a period of up to 30 days, and may not disapply any other health and safety requirement (and, in particular, the requirement to keep the equipment etc. in a safe condition and good working order). Part VIII – the Court of Appeal, and the registration of legislation.

The provisions in Part VIII enable the Court of Appeal to conduct its proceedings remotely, and enable a Judge of Appeal to be sworn into office by the Royal Court constituted by the Bailiff sitting alone. They also make clear, for the avoidance of doubt, that to avoid the need for the Jurats to gather together, the Bailiff sitting alone may register Orders in Council and other instruments on the Register of the Island.

### **Part IX - schools**

Part IX empowers the Medical Officer of Health to exercise her powers to require schools to take measures to prevent the spread of infection in Sark, and provide, for the avoidance of doubt, that such measures may include the immediate closure of any school.

### **Part X - the States of Deliberation, the States of Alderney and the Chief Pleas of Sark**

#### States of Deliberation

The regulations relating to the States of Deliberation provide that the Reform (Guernsey) Law, 1948 shall apply as if modified by the insertion of a new Article enabling the States of Deliberation to meet remotely. This Part also empowers the States' Assembly & Constitution Committee to make Rules of Procedure governing remote meetings of the States held pursuant to the inserted Article, and includes provision modifying the application of the Reform (Guernsey) Law, 1948 and the States Reform (Guernsey) Law, 2015 to enable the terms of office of People's Deputies elected in 2016 (and at any subsequent election to fill any casual vacancy) to extend beyond 30th June 2020, and the General Election to be held in June 2021 instead of June 2020.

#### States of Alderney

The regulations relating to the States of Alderney apply the Government of Alderney Law, 2004 as if modified by adding a new Part relating to emergency procedures in relation to meetings of the States of Alderney and committees of the States of Alderney, including provision allowing meetings of the States of Alderney to take place remotely during the current emergency. The Part only applies where the President of the States of Alderney has made a determination, following representations from the Civil Contingencies Authority that it is appropriate for it to apply in the light of the circumstances in Alderney in relation to coronavirus. The Part will cease to apply when the President makes a determination, following representations from the Civil Contingencies Authority in the light of circumstances in Alderney in relation to coronavirus, that it is appropriate for it to cease to apply. The emergency procedures include special arrangements so that public meetings do not need to be held, to allow for proxy voting in the States of Alderney, to reduce the quorum of the States of Alderney and to allow members of committees of the States of Alderney to take part in meetings remotely.

#### Chief Pleas of Sark

The regulations relating to the Chief Pleas of Sark make special arrangements for the procedures of the Chief Pleas and its committees by removing the obligation to hold meetings in public, allowing for proxy voting in the Chief Pleas, reducing the quorum for meetings of the Chief Pleas and allowing members of the committees

of the Chief Pleas to take part in meetings remotely. They also make provision for meetings of the Chief Pleas to be held remotely if the Speaker, upon representations of the Civil Contingencies Authority, considers that it might not be possible to convene or maintain a quorate physical meeting of the Chief Pleas. The regulations make provision for the procedure to be followed when a remote meeting, as defined, is held, including modifications to the existing Chief Pleas of Sark Rules of Procedure.

**Part XI - miscellaneous and final provisions**

The provisions in Part XI include regulations providing for the deemed variance of Long Term Employment Permits, Medium Term Employment Permits and Short Term Employment Permits, to allow the holder to be resident without being employed and to be employed by a different employer from that specified in the Permit; and for the modification of the Population Management (Guernsey) Law, 2016 and other legislation to the extent necessary to give effect to this.

They also include regulations providing for the Committee for the Environment & Infrastructure to permit the cutting and collecting of seaweed when this would otherwise be prohibited (so facilitating the on-Island manufacture of sanitising gels). Finally they include regulations permitting the holder of a Category C or C1 driving licence which is restricted to automatic transmission to drive a vehicle with manual transmission which is approved for use as an ambulance under the Driving Licences (Amendment) Regulations, 2020 where (a) that licence holder also holds a category B licence which is not restricted to automatic transmission and (b) the Committee for the Environment and Infrastructure approves that licence holder to do so.

I should be grateful if you would place this matter before the States of Alderney with an appropriate proposition.

James Dent, Chairman”

Committee Meeting Attendees:-

Mr James Dent, Chairman  
Mr David Earl, Deputy Chair  
Ms Annie Burgess  
Mr Mike Dean  
Mr Kevin Gentle  
Mr Christian Harris  
Mr Louis Jean  
Mr Graham McKinley OBE  
Mr Steve Roberts  
Mr Alex Snowdon

**The States of Alderney is asked not to annul “The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.2) Regulations, 2020”**

*Proposer: Mr James Dent*  
*Secunder: Mr Alex Snowdon*

**Item II**      **Statutory Discount Legislation**

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

“This Policy Letter is recommending the introduction of legislation designed to remove elements of uncertainty pertaining to the value of personal injury claim settlements. This will remove some of the risk allowance which inevitably forms part of the pricing of insurance premiums which are paid by individuals, companies and government.

It is understood that the absence of this legislation is a factor in local insurance rates being proportionately higher than in the United Kingdom. This is particularly relevant to insurance for medical professionals and improvements in insurers' confidence in the local market will help mitigate rises to future premiums for clinicians which will inevitably be recovered, either from the States as part of the secondary health contract or through patient charges.

### **Statutory Discount Rate**

In some personal injury cases, where the injury is permanent or long lasting, damages are awarded to cater for the cost of future lifetime care. This means that insurers have to pay as a lump sum the full amount that it is estimated it will cost to look after that person for the likely remainder of that person's life at the time of judgment together with compensation for loss of earnings (this can run into several millions of pounds).

In order to cater for the fact that the award is paid up front, a discount is often given to the defendant to offset the gain that can be made in investing the full amount at the time of judgment - rather than the injured person receiving the cost of their care on a periodic basis as the needs arise. In effect, receiving the full amount decades in advance can put the injured person in a better financial position than they would have been had they had to wait for periodic payments, although this may be offset by loss caused inflation over time. Therefore, the discount rate is intended to reflect the financial gain a plaintiff will make upon investment of a lump sum damages award, balanced against the effect of inflation upon the value of that investment. The investment approach adopted by or on behalf of the person receiving an award and the resulting returns will determine whether the income is higher or lower than that expected when the award is made.

In England, the rate is fixed by statute by the Lord Chancellor, pursuant to s.1 of the Damages Act 1996 and the Courts in England and Wales have not departed from the statutory rate. The discount rate is kept under review and is evaluated by actuarial assessment.

In Guernsey, the courts used to adopt the UK discount rate but in the case of *Helmut v Simon* in 2010 the Privy Council departed from the UK rate (then 2%) and determined that the applicable discount rate was negative, i.e. effectively an increase in the amount payable rather than a decrease (-1.5% for certain losses and -0.5% for others)<sup>1</sup>. This judgment and the consequential uncertainty concerning the level of discount rate that the court will set has increased the cost of insurance in the Bailiwick, as it has increased the underwriting risk for insurers of such potential claims.

To avoid uncertainty, it is proposed to introduce a statutory discount rate which would be set by regulations of the Policy & Resources Committee and regularly reviewed. The Policy & Resources Committee would comprehensively research and consult extensively on the appropriate rate in Guernsey with interested parties including insurers; medical professionals; advocates, actuaries, etc. This means that the States will be able to balance the interests of insurers (and those of the public paying premiums) against the needs of potential claimants by setting an appropriate rate.

### **Periodic Payments**

In cases of damages awarded for catastrophic injury, often rendering the claimant unable to support themselves financially and requiring lifelong care, the damages awarded are designed to provide funding to cover for the rest of the claimant's life. However, it is impossible to predict with accuracy how long the claimant will live; care requirements may alter from those anticipated at the time of the settlement; the cost of providing care may change; or investments returns may be above or below those assumed by the prevailing discount rate. Therefore, a lump sum award payment could result in the claimant not having sufficient funding to meet their needs during the last years of their life or receiving more funding than is necessary which cannot be recovered by the insurer.

The Damages Act 1996 also permits personal injury awards to be made by way of periodic payments. This is not presently possible in Guernsey, where only lump sum payments can be made. It would be sensible to have a similar provision in Guernsey to allow flexibility as to how personal injury awards can be paid.

Therefore, it is proposed that legislation is introduced that enables the court to order the payment of damages by means of periodical payments. This could be instead of, or additional to, the payment of lump sums. A claimant would receive regular damages designed to cover the financial costs and losses which arise over time. A Periodic Payment Order could be subject to regular review or on application and thus can take account of changes in circumstances.

### **Recovery of healthcare costs falling to the States**

The United Kingdom has a Compensation Recovery Unit which '*works with insurance companies, solicitors and Department for Work and Pensions customers, to recover:*

- i. amounts of social security benefits paid as a result of an accident, injury or disease, if a compensation payment has been made (the Compensation Recovery Scheme)*
- ii. costs incurred by NHS hospitals and Ambulance Trusts for treatment from injuries from road traffic accidents and personal injury claims (Recovery of NHS Charges)'*

It is proposed that legislation is introduced which would enable a scheme to recover costs which would otherwise fall to the States be introduced by subordinate legislation. There would need to be States approval to introduce this subordinate legislation and a Policy Letter would be submitted following consultation with interested parties.

### **Statutory limitation to damages awards**

The cost of personal injury awards continues to rise with consequential increases in insurance premiums. Whilst there is the principle that a claimant should be fully compensated for the losses he has incurred, there are options in how the necessary care is provided. This includes requiring claimants to make use of the services provided by the States where appropriate instead of receiving private care.

It is proposed that legislation is introduced which would enable the introduction by subordinate legislation of a statutory limitation to damages awards. There would need to be States approval to introduce this subordinate legislation and a Policy Letter would be submitted following consultation with interested parties.

The enabling legislation introduces: a statutory discount rate; a scheme to recover costs which would otherwise fall to the States; and a statutory limitation to damages awards.

I should be grateful if you would place this matter before the States of Alderney with an appropriate proposition.



James Dent, Chairman”

Committee Meeting attendees:-

Mr James Dent, Chairman  
Mr David Earl, Deputy Chair  
Ms Annie Burgess  
Mr Mike Dean  
Mr Kevin Gentle  
Mr Christian Harris  
Mr Louis Jean  
Mr Graham McKinley OBE  
Mr Steve Roberts  
Mr Alex Snowdon

**The States of Alderney is asked to approve “The Damages (Assumed Rate of Return and Related Matters) (Enabling Provisions) (Guernsey and Alderney) Law, 2020”**

*Proposer: Mr James Dent*

*Seconder: Mr David Earl*

**Item III**      **The Capacity (Bailiwick of Guernsey) Law, 2020**

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

“By way of a letter received from the Bailiff addressed to the President of the States of Alderney dated 18<sup>th</sup> May, the Policy and Finance Committee were advised that on 16<sup>th</sup> day of March, 2016, the States of Deliberation resolved

- III.      After consideration of the Policy Letter dated 16<sup>th</sup> December, 2015, of the Health and Social Services Department:
  1.      To approve the proposals set out in that Policy Letter, and specifically to approve:
    - a) the introduction of a general capacity test (sections 3.2-3.4),
    - b) the exclusion from the legislation of the decisions listed in paragraph 3.6.1,
    - c) the introduction of legal protection for decision makers on the basis set out in section 3.7,
    - d) the creation of a criminal offence of wilful neglect and ill treatment (section 3.8),
    - e) the creation of statutory Advance Decisions to Refuse Treatment (section 4.2) and Lasting Powers of Attorney (section 4.3), and
    - f) the introduction of Deprivation of Liberty Safeguards as proposed in section 5.2.
  2.      To direct the preparation of such legislation as may be necessary to give effect to the above decisions.
  3.      To note the additional resources required from 2017 to support the implementation of this legislation, which will be prioritised as part of the transformation programme for Health and Social Care.
  4.      To note the potential impact on the Legal Aid budget, and to direct the Committee for Health and Social Care to report to the States of

Deliberation on this issue when the implications are clearer and before the legislation is presented to the States for approval.'

On the 27th February, 2020, the States of Deliberation resolved as follows:-

VI. After consideration of the Policy Letter entitled "Capacity Law" – Supplementary Policy matters and potential financial implications arising from the appeals process', dated 20th January, 2020:-

1. To agree the supplementary matters of policy as described in section 3 of this Policy Letter and direct that the Projet de Loi entitled "The Capacity (Bailiwick of Guernsey) Law, 2020" is drafted accordingly.
2. To agree that legal representation at Mental Health and Capacity Review Tribunal hearings (primarily in relation to protective authorisations) is to be provided under the Legal Aid Scheme generally on a 'no means, no merits test' basis; whilst reserving the right for the Legal Aid Administrator to exceptionally apply a 'means test' to an application, where reasonable and in conformity with human rights obligations.
3. To agree that legal representation for appeals from a Mental Health and Capacity Review Tribunal to the Royal Court or Court of Appeal may be provided under the Legal Aid Scheme on a 'means and merit test' basis.
4. To note that, upon enactment of "The Capacity (Bailiwick of Guernsey) Law, 2020", there are anticipated to be additional ongoing funding requirements of:
  - i. £25,000 per annum for the Guernsey Legal Aid Service; and
  - ii. £75,000 per annum for the future Mental Health and Capacity Review Tribunal

and that requests for additional budget will be submitted as part of the annual budget process.

5. To direct the Committee for Health & Social Care to report back to the States with proposals for the introduction of an advocacy service.'

On the 22nd day of April, 2020, the States of Deliberation resolved as follows:-

To approve the draft Projet de Loi entitled "The Capacity (Bailiwick of Guernsey) Law, 2020", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

As this is Bailiwick legislation it requires the approval of the States of Alderney prior to the projet being forwarded to the Privy Council for Royal Assent.

I should be grateful if you would place this matter before the States of Alderney with an appropriate proposition.

James Dent, Chairman

Committee Meeting attendees:-

Mr James Dent, Chairman  
Mr David Earl, Deputy Chair  
Ms Annie Burgess  
Mr Mike Dean

Mr Kevin Gentle  
Mr Christian Harris  
Mr Louis Jean  
Mr Graham McKinley OBE  
Mr Steve Roberts  
Mr Alex Snowdon

**The States of Alderney is asked to approve the Projet de Loi entitled “The Capacity (Bailiwick of Guernsey) Law, 2020 and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.**

*Proposer: Mr James Dent*  
*Secunder: Mr Graham McKinley OBE*

**Item IV**     **The Marriage (Bailiwick of Guernsey) Law, 2020**

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

“By way of a letter received from the Bailiff addressed to the President of the States of Alderney dated 18<sup>th</sup> May, the Policy and Finance Committee were advised that on the 28<sup>th</sup> February, 2019, the States of Deliberation resolved as follows:-

VI: After consideration of the Policy Letter of the Policy & Resources Committee entitled ‘Reform of the Marriage Law’, dated 14<sup>th</sup> January 2019:-

1. To approve the proposals laid out in section 6 (other than proposal 6.1 (15)) of the Policy Letter to reform the marriage law (Appendix 1.).
2. To direct the Policy & Resources Committee to oversee the preparation of the legislation and supporting policy guidance to implement the reforms as agreed in Proposition 1.
3. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

Further, on the 24<sup>th</sup> day of April, 2020, the States of Deliberation resolved that:-

XII: After consideration of The Marriage (Bailiwick of Guernsey) Law, 2020, and the Policy Letter dated 30<sup>th</sup> March 2020 (Appendix 2.):

1. To agree that marriage between certain persons who were formerly related by marriage or civil partnership, as set out in paragraph 2.3 to 2.7, is not prohibited.
2. To agree that a marriage is formed once the celebrant has signed the return, as set out in paragraph 2.8 to 2.11.
3. To approve the Projet de Loi entitled ‘Marriage (Bailiwick of Guernsey) Law, 2020’ and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto, that includes the minor amendments to policy matters included in Propositions 1 and 2 and as explained in the enclosed Policy Letter.

The Marriage (Bailiwick of Guernsey) Law, 2020 will repeal and replace the “Loi ayant rapport aux Mariages Célébrés dans les Iles de Guernesey, d’Auregny et

de Serk”, of 1919, and related legislation, that sets out the formalities and procedures of marriages in the Bailiwick.

As this is Bailiwick legislation it requires the approval of the States of Alderney prior to the projet being forwarded to the Privy Council for Royal Assent.

I should be grateful if you would place this matter before the States of Alderney with an appropriate proposition.

James Dent, Chairman

Committee Meeting attendees:-

Mr James Dent, Chairman  
Mr David Earl, Deputy Chair  
Ms Annie Burgess  
Mr Mike Dean  
Mr Kevin Gentle  
Mr Christian Harris  
Mr Louis Jean  
Mr Graham McKinley OBE  
Mr Steve Roberts  
Mr Alex Snowdon

**The States of Alderney is asked to approve the Projet de Loi entitled “Marriage (Bailiwick of Guernsey) Law, 2020 and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.**

*Proposer: Mr James Dent*

*Seconder: Mr Graham McKinley OBE*

**Item V**      **Audited Accounts 2019**

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

“In accordance with Section 61 (5) of The Government of Alderney Law 2004, as amended, together with the mandate of the Policy and Finance Committee, I attach the accounts of the States of Alderney and the States of Alderney Water Board together with the Policy & Finance Committee Chairman’s report, and the Auditors’ Reports thereon, in respect of the year ended 31st December 2019.

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

James Dent, Chairman”

**Committee Meeting Attendees:-**

Mr James Dent, Chairman  
Mr David Earl, Deputy Chair  
Ms Annie Burgess  
Mr Mike Dean  
Mr Kevin Gentle  
Mr Christian Harris  
Mr Louis Jean  
Mr Graham McKinley OBE  
Mr Steve Roberts  
Mr Alex Snowdon

**The States of Alderney is asked to approve:-**

**(a) The States of Alderney 2019 Accounts**

**and**

**(b) The States of Alderney Water Board 2019 Financial Statements**

*Proposer: Mr James Dent*

*Secunder: Mr David Earl*

**Item VI      Ambulance Service**

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

“The Policy and Finance Committee, at its meeting on 20 February 2020 commissioned an internal review on future options for operating an ambulance service on the island. The Committee requested the Civil Service to provide an evaluation of the following three options:

- 1) Replace the Alderney Ambulance Service Ltd (AAS Ltd) with a new company but keep the same volunteer & subscription model;
- 2) An Ambulance Service provided by the States of Alderney; or
- 3) A service provided by the States of Alderney which combined aspects of the Fire and Ambulance services.

Following discussions with St John Ambulance (Guernsey), the option to become part of this organisation was not pursued as a viable option. The three options were considered at Policy and Finance Committee on 26 May 2020.

The catalyst for this review was an independent review of the Alderney Ambulance Service, 2019<sup>1</sup> by Richard Webber which identified a series of urgent actions required to bring the service up to a safe sustainable standard. The AAS Ltd Board response to the Report resulted in the removal of the Chief Ambulance Officer and, as a consequence, the service volunteers withdrew their cooperation which resulted in urgent support being provided by the St John's Ambulance Service in Guernsey. Subsequently, the AAS Ltd Board decided that it could not continue providing a safe and secure service.

The States of Alderney stepped in at short notice to ensure that an ambulance service could continue to be provided on island. The current service provides an emergency response service, transport between medical services within the island and assists with evacuation off island. The volunteers receive appropriate training and support from professionals. To date, the short-term arrangements have received a great deal of positive feedback from all professional bodies and service users. Evidence to date suggests that ambulance cover has not been put at risk at any time in this period. This is against the background of the risk of Covid 19 and includes a major fire incident.

A longer-term approach to providing an ambulance service is now essential, and this paper summarises the issues to be considered in deciding the preferred option. In every option, the focus is on providing patients with an excellent, sustainable and professional ambulance service which is safe, effective and responsive.

The Policy and Finance Committee recommendation is that the most cost-effective and resilient model would be for the States to move towards a model of an integrated Fire and Ambulance service. Furthermore, the Committee considers that ultimately this model should be funded by States revenue rather than through subscriptions.

The committee's recommendation was based on a detailed evaluation of all options and consideration of some confidential data which cannot be published and included in this report. However, the relevant facts are set out within this report.

As a key stakeholder, the Island Medical Centre has been consulted on the options and expressed a clear preference for Option 3, the integrated fire and ambulance service on the grounds of:

- Economies of scale, scope and interoperability;
- Improved communications;
- Operational effectiveness;
- Cost-effectiveness; and
- Clinical governance standards.

The option appraisal assumes an average of 200 call-outs per annum in each case. If patient-transport operations are included, these average 100 trips. Initial modelling is based on a subscription and fee model with the States providing a grant equivalent to the level included in the original 2020 budget.

Remuneration rates are based on the most recent rates for the option in question. These are the AAS rates used in 2019 in respect of option 1. The rates for options 2 and 3 are based on the current rates paid to the volunteer fire service which are being used for the interim ambulance service.

In all options, it is assumed that clinical standards and policies and procedures would be assessed and approved by States of Guernsey Health and Social Care Committee. The States would also require ongoing assurance to be demonstrated by a third party in Option 1.

It is also assumed that for each model, there would be the opportunity to formally transfer the assets of the former AAS to the new operator. The mechanism for doing this is to be determined and will require legal advice.

### **Option 1: Establish a new company with volunteers & subscription model**

This would be an independent company and/or charity set up on the same basis as the AAS Ltd. It would not be the same entity but established similarly but with different directors.

Funding would be through the existing subscription and fee model with the States having the ability to consider a grant in the event of a shortfall in funding. The grant agreed for 2020 was £40,000 and this figure has been used in this assessment. Any grant of this level is subject to a Service level Agreement (SLA).

Staffing levels through volunteers would be determined by the new company. The volunteer complement for the previous model was a Chief Ambulance Officer plus Deputy and seven volunteer crew to cover the ambulance call-outs as well as administrative support.

As well as typical ambulance services, it is assumed that this model will also continue with patient transport in the same way as the former AAS.

Based on budgets from the former AAS, the net cost of this model is estimated to be a deficit of £23,800.

Risk management would be a matter for the new company and the States would seek assurance on this with professional advice.

### Summary of pros and cons

Pros	Cons
<p>Model is familiar to community;                      Provides an opportunity for some former volunteers to continue using skills and experience;                      SoA can seek oversight through grant and Service level Agreement (SLA) arrangements.</p>	<p>Model indicates that it would run at a <b>loss</b> and would therefore require:</p> <ul style="list-style-type: none"> <li>• additional SoA grant; and/or</li> <li>• efficiency savings; and/or</li> <li>• additional subscriptions.</li> </ul> <p>Would require some of existing volunteers to be retained or else rapid recruitment and training of new volunteers;                      Risk of previous issues in independent report recurring;                      Potential risk of reliance on one family should former crew be reinstated;                      Staff costs more expensive and model is less efficient than other options;                      Long term dependency on subscriptions and billing;                      Visitors and Tourists frequently expect a free service similar to the NHS UK Ambulance Services;                      New Board would need to be recruited and established;                      May require assurance to be given to Guernsey's HSC;                      Significant time to set up new company structure and governance/operational arrangements.</p>

### Option 2: A States of Alderney Ambulance Service

The States is currently running the Ambulance service and has been successfully doing so since having to undertake emergency interim measures in December

2019. This option provides for good operational management as well as procedures used across the States to ensure resilience and good risk management. This option builds on the interim arrangement by embedding joint working with on and off island professionals including the Island Medical Centre, Mignot Memorial Hospital and St John Ambulance (Guernsey) to support governance and operations including up-to-date and relevant training and risk management.

This option also provides the opportunity to consider an alternative funding model rather than the current subscription model.

Staffing will be a pool of 12 volunteers including a manager who will be in overall charge of the day to day operation. The current manager is the Chief Fire Officer and he will continue to exercise this role at 20 hrs per week, separately from the ambulance responsibilities. A Clinical Support Officer will work with the team for 6 months to help manage the transition.

This model does not include basic patient transport which can be arranged through taxi firms or other volunteer providers. This arrangement is currently in place and is working very well. There are multiple licensed vehicles on island which have the capacity and capability to manage these non-emergency transfers, freeing up the ambulance service purely for emergency situations.

The estimated costs for this model suggest that if the income from subscriptions, fees and grant will cover the costs and provide a surplus of £26,500. The variation from Option 1 is due to lower volunteer and vehicle costs and the ability for the States to accommodate other costs within the civil service capacity.

Risk management will be addressed in the following ways:

- By effective policies and procedures;
- Appointment of a temporary Clinical Support Officer for 6 months;
- Liaison with CHSC;
- Clinical governance arrangements using St John Ambulance (Guernsey) and clinicians in the Island Medical Centre;
- Training; and
- Effective budgeting and cost control.

Resilience will be addressed by:

- Recruiting sufficient volunteer numbers to maintain a sustainable and fit for purpose service;
- Effective budget management.

### Summary of pros and cons

Pros	Cons
Current temporary model well received; Volunteers already in place; Cost effective when compared to existing model; Accountability to SoA; Policies and procedures are in place to help manage and mitigate risk;	Ongoing learning curve for new crew; Risk assumed by SoA; Cost implications for States depending on business plan to be developed; Administrative demands on States;



<p>Compliance such as data protection would fall into current remit of SoA;                  Data Protection Officer with support from States of Guernsey;                  Opportunity to change funding model and make service cheaper inclusive to all residents and visitors;                  Professional oversight agreed by St John Ambulance (Guernsey);                  Professional oversight and support agreed by medical professionals on island</p>	<p>Risk of system abuse if no subscription and charging- mitigation in place already to minimize; Dependent on clinical practitioners external to States;                  May require assurance to be given to CHSC;                  Governance arrangements to be developed and implemented by SoA</p>
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**Option 3: A States of Alderney run fire and ambulance service**

As an extension to Option 2, there is now an option to consider the benefits of a wider emergency service for the island. This was proposed previously in 2015 as a strategic aim. Recent events now provide the opportunity to develop a compelling business case for a viable, efficient and sustainable emergency service available to all residents and visitors.

This option would bring together the States Fire Service and new ambulance volunteers (many of which are from the town & airport fire services) into an integrated emergency service with overarching governance and management, aligned contact centre and common policies and procedures. Boundaries on the extent of medical intervention would be established so that the extent of medical training will be managed and reduce risks, there could be opportunities for volunteers to develop a specialism. SoA will provide management and leadership, clinical governance and response support will be provided by St John Ambulance, Island Medical Centre (IMC) and Mignot Hospital.

Staffing will be a pool of 16 volunteers led by a Manager and Deputy. Some volunteers will cover both services and others will specialise in fire or ambulance. The model will ensure a total pool of 12 for each service at all times. A Clinical Support Officer will work with the team for 6 months to help manage the transition.

As with option 2, this option also provides the opportunity to consider an alternative funding model rather than the current subscription model.

This model does not include basic patient transport which will be the responsibility of the individual or Care Home to arrange with a taxi firm or other volunteer provider. Patient transfer service requires no first aid.

The total cost of this service is estimated at £136,500 and with income levels consistent with the above options, this could operate at a surplus of £29,700. This includes the costs of the Voluntary Fire Service of £62,000 already in the states budget. The variation in costs is due to lower volunteer and vehicle costs as well as other efficiencies from economies of scale and use of existing civil service capacity.

Risk management will be addressed in the following ways:

- By effective policies and procedures;
- Appointment of a temporary Clinical Support Officer for 6 months;
- Liaison with CHSC;

- Clinical governance arrangements using St John Ambulance (Guernsey) and clinicians in the Island Medical Centre;
- Training; and
- Effective budgeting and cost control.

Resilience will be addressed by:

- Recruiting sufficient volunteer numbers to maintain a sustainable and fit for purpose service;
- Effective budget management.

### Summary of pros and cons

Pros	Cons
<p>Current temporary model well received;</p> <p>Volunteers in place and more could be sought;</p> <p>Modernises the emergency services;</p> <p>Opportunity for a number of operational benefits from joint working;</p> <p>Cost effective and value for money compared to existing model;</p> <p>Accountability to SoA;</p> <p>Policies and procedures already in place to manage and mitigate risk;</p> <p>Compliance such as data protection would fall into current remit of SoA Data Protection Officer with support from States of Guernsey;</p> <p>Opportunity to change funding model and make service cheaper inclusive to all residents and visitors;</p> <p>Professional oversight agreed by St John Ambulance (Guernsey);</p> <p>Professional oversight agreed by medical professionals on island;</p> <p>Support from Island Medical Centre.</p>	<p>Steep learning curve for new crew, although this is in progress within agreed boundaries;</p> <p>Cost implication to States depending on business plan to be developed;</p> <p>Administrative demands for States;</p> <p>Risk assumed by SoA;</p> <p>Risk of system abuse if no subscription and charging;</p> <p>Mitigation in place already to minimize;</p> <p>Some service aspects may be incompatible;</p> <p>Dependent on clinical practitioners external to States;</p> <p>May require assurance to be given to CHSC;</p> <p>Governance arrangements for an integrated service to be developed and implemented by SoA.</p>

### Financial comparison summary

Whilst the delivery of an ambulance service should first and foremost focus on the standards of safety and reliability, if these standards are met, the financial costs are a further significant factor which needs to be considered. The financial costs for each model have been prepared on a consistent basis using the data in the Alderney Ambulance Service annual budget for 2020. The comparison of costs and funding is summarised in the table below:

**Cost Comparison of options**

	Option 1	Option 2	Option 3
	£	£	£
<b>Service Cost</b>	133,818	77,250	136,550
<b>Funded by:</b>			
SoA Grant	40,000	40,000	40,000
SoA Fire Budget			62,400
Subscriptions	33,830	33,830	33,830
Fees	30,000	30,000	30,000
Other	6,150		
<b>Total Income</b>	109,980	103,830	166,230
<b>Surplus/(Deficit)</b>	<b>(23,838)</b>	<b>26,580</b>	<b>29,680</b>

The funding comparison demonstrates that Options 2 and 3 are much more efficient and could result in a substantial annual saving on the annual budget for the Ambulance Service. This also raises a further question for consideration which is whether the current subscription mode is sustainable in the long term. There is the potential to fund the service as a public service to provide assurance and promote inclusivity for all residents and the island's visitors. This would mean including the cost of the service within the portfolio of States services either as a separate budget heading or as part of a combined emergency fire and ambulance service.

The advantages of ending the subscription system would be that the ambulance service would be inclusive and available to all residents and the island's visitors. It would also avoid the need to check patient subscription status, collect debts and write off bad debts, all of which represent a significant administrative cost. It is evident that those least able to afford the subscription are the most likely not to subscribe and are in most danger of getting into serious debt if they need to call on the service.

A disadvantage of ending subscriptions would be the removal of the financial deterrent to those who abuse the service by repetitive call-outs. However, these numbers are small and steps can be taken to manage this situation.

Funding the service through taxation may also provide the opportunity for the States to waive event fees for voluntary body events in future.

The introduction of the Single Property Tax will mean that the notional cost of adding the Ambulance Service into the budget would equate to approximately £50 per annum for an average domestic property of 300 TRP units. So, the cost per household would compare very favourably with the cost of subscriptions.

**Conclusions**

This options paper sets out a consistent comparison between the established company/charity model and the model based on the current service provided by the States of Alderney. It identifies significant cost advantages in Options 2 & 3, which are based on the current approach. These options also offer stronger governance and operational advantages. Option 3 offers a small additional annual saving over

Option 2 and also the additional resilience of a combined emergency service without compromising the response and cover available and with the ability to utilise all ambulance and fire assets in the event of a serious incident.

The reduced costs of Options 2 or 3 provides an opportunity for the States to consider a move to fund the service through tax receipts rather than part-funding through a subscription service.

I should be grateful if you would place this matter before the States of Alderney with an appropriate proposition.

James Dent, Chairman”

[<sup>1</sup><http://www.alderney.gov.gg/CHttpHandler.ashx?id=122525&p=0>]

**Committee Meeting Attendees:-**

Mr James Dent, Chairman  
Mr David Earl, Deputy Chair  
Ms Annie Burgess  
Mr Mike Dean  
Mr Kevin Gentle  
Mr Christian Harris  
Mr Louis Jean  
Mr Graham McKinley OBE  
Mr Steve Roberts  
Mr Alex Snowdon

**The States of Alderney is asked**

**1) To approve the implementation of option 3 to create a combined Ambulance and Fire Service;**

**and**

**2) To request the preparation of options to move away from a subscription service in the 2021 budget.**

*Proposer: Mr James Dent  
Seconder: Ms Annie Burgess*

**Item VII      Amendments to the Code of Conduct – Emergency Provisions**

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

“The proposed amendments to the Code of Conduct for States Members, make provision for emergency measures to be put in place, similar to those of the States Committees and the State of Alderney, as follows:

1. After paragraph 14 (Penalties for breach of the Code of Conduct), insert –

**15.            Convening of a remote Members Conduct Hearing Panel**

**15.1          Application of this section**

15.1.1 This section shall apply only in the circumstances set out in paragraph 15.2 and despite any other provision of this Code.

15.1.2 The circumstances are that the President has made a determination, upon representations from the Civil Contingencies Authority, in the light of circumstances prevailing in the Island, which make it appropriate for this paragraph to apply.

15.1.3 This paragraph shall cease to apply if the President makes a further determination, upon representations from the Civil Contingencies Authority, in the light of circumstances prevailing in the Island, that it is appropriate for it to cease to apply.

## **15.2 Remote Members Conduct Hearing Panel**

15.2.1 A Members Conduct Hearing Panel ("the Hearing Panel") may hold a hearing remotely.

15.2.2 A member of the Hearing Panel, the Member who is the subject of the complaint and his or her representative (if any), any Investigator and any person who the Hearing Panel permits or requires to appear shall be treated for all purposes of this Code as present at a hearing of the Hearing Panel, (including, but not limited to, the purpose of the members of the Hearing Panel forming a quorum in accordance with paragraph 13.3.3), if by means of electronic communications or telecommunications, or otherwise –

(i) the member of the Hearing Panel or other person has declared that he or she is present, and

(ii) in the case of a person other than the Chairman of the Hearing Panel, the Chairman has declared that the person shall be treated as present.

15.2.3 For the purposes of this section, a hearing of the Hearing Panel is a remote hearing if the members of the Panel, and any other person required or permitted to be present at the hearing, communicate during the hearing solely, or primarily, by means of electronic communications or telecommunications.

15.2.4 The Chairman of the Hearing Panel may issue directions as to the conduct of a remote hearing concerning in particular the matters set out in paragraph 13.3.4.

## **15.3 Consequential modifications to provisions of this Code etc.**

15.3.1 Any requirement in this Code for the Greffier or another person to make a register or document available to the public, or for public inspection, at the Courthouse or other premises (however worded) shall not apply so that such document or register need only be made available on the States of Alderney website.

15.3.2 The penultimate sentence of paragraph 13.3.3 shall apply as if the words following "subject of the complaint," to the end of the sentence were substituted by "whether a record or recording of all or part of the hearing should be made available to the public and the press".

15.3.3 For the avoidance of doubt, any requirement for a document to be laid before the Hearing Panel is satisfied by being sent to the Panel by electronic communications.

2. In the Definitions section, before the definition of "qualified privilege" insert –

"Civil Contingencies Authority" means the body of that name established under section 1 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012

"Investigator" is construed in accordance with subparagraph 2 of paragraph 13.2.1.

I should be grateful if you would place this matter before the States of Alderney with an appropriate proposition.

James Dent, Chairman”

**Committee Meeting Attendees:-**

Mr James Dent, Chairman  
Mr David Earl, Deputy Chair  
Ms Annie Burgess  
Mr Mike Dean  
Mr Kevin Gentle  
Mr Christian Harris  
Mr Louis Jean  
Mr Graham McKinley OBE  
Mr Steve Roberts  
Mr Alex Snowdon

**The States of Alderney is asked to approve the amendments to The Code of Conduct for States Members, approved by resolution of the States on 16<sup>th</sup> October 2019.**

*Proposer: Mr James Dent  
Seconder: Mr Kevin Gentle*

**Item VIII      Questions and Reports**

No Questions or Reports received at time of publication.

Note:- The legislation referred to in this Billet d'Etat may be viewed online at [www.GuernseyLegalResources.gg](http://www.GuernseyLegalResources.gg) and [www.alderney.gov.gg](http://www.alderney.gov.gg).

**Issued: Friday 29<sup>th</sup> May 2020**