

# STATES OF JERSEY



## AMENDMENT TO STANDING ORDERS – REMOTE PARTICIPATION IN STATES MEETINGS

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Lodged au Greffe on 17th September 2024  
by the Privileges and Procedures Committee  
Earliest date for debate: 22nd October 2024

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STATES GREFFE

## PROPOSITION

### THE STATES are asked to decide whether they are of opinion –

- (a) to rescind their Act dated 14th September 2021, in which they adopted the proposition entitled ‘States Meetings: Continuation of Remote Participation’ (P.87/2021), in order that paragraph (1) of Standing Order 55A is re-applied.
- (b) to make the following amendment to the Standing Orders of the States of Jersey, with immediate effect –

#### **Standing Order 55A [Members present and able to vote by means of electronic communication in exceptional circumstances]**

- (i) After paragraph (1), insert the following –
  - “(1A) This standing order also applies to an elected member –
    - (a) who is absent at the start of a meeting day or continuation day for a reason related either to the member’s health or to the health of a family member or household member of that member, or who must leave the Chamber for such a reason during the course of the day; and
    - (b) who has requested to participate remotely in the meeting.
  - (1B) The Bailiff, following consultation with the Privileges and Procedures Committee, must issue guidance on the interpretation of paragraph (1A).”
- (ii) For paragraph (2), substitute the following –
  - “(2) When this standing order applies, the Greffier must make arrangements to enable the elected members affected to participate in the meeting by means of electronic communication, provided that to do so would not be detrimental to the health of the member concerned. The arrangements may include the meeting being conducted entirely by means of electronic communication.”.
- (c) to make the following amendment to the Standing Orders of the States of Jersey, with immediate effect –

#### **Standing Order 55A [Members present and able to vote by means of electronic communication in exceptional circumstances]**

After paragraph (2) insert the following –

- “(2A) If, due to unforeseen circumstances, an elected member is unable to be in Jersey on a day on which the States are meeting, the member may participate in the meeting that day by means of electronic communication from outside Jersey.

(2B) The Bailiff, following consultation with the Privileges and Procedures Committee, must issue guidance on the interpretation of “unforeseen circumstances” in paragraph (2A).”

## PRIVILEGES AND PROCEDURES COMMITTEE

## REPORT

### Introduction

This proposition, if adopted, would amend the current framework for remote participation by elected States Members in States Meetings. Remote participation is currently governed by Standing Order 55A, as amended and supplemented by the decisions taken by the States Assembly in adopting certain propositions and by rulings from the Bailiff. This report sets out the history to this existing framework.

In light of comments received from Members during the development of these proposals, the proposition is presented in three parts that may be voted upon separately.

- The adoption of paragraph (a) alone would see a return to the situation that applied during the initial stages of the Covid-19 Pandemic when public health restrictions were in place: remote participation would only be possible in times of emergency or where the Bailiff felt it was impossible to achieve, or maintain, a quorum of the Assembly on public health grounds.
- The adoption of paragraph (b) alone would, in the view of the Privileges and Procedures Committee (PPC), codify what has become commonly accepted practice since 2021: remote participation would be available to any Member individually if they were unable to attend in person due to health reasons relating either to themselves or to someone close to them. This would include situations not only where a Member was not present at roll call for these reasons but also where a Member was required to leave the Chamber for such reasons later in the day.
- The adoption of paragraph (c) alone would allow for remote participation from outside Jersey in unforeseen circumstances.

### Background

Remote participation in States Meetings was introduced in March 2020 in anticipation that the Covid-19 Pandemic would make it challenging for the States Assembly to hold in-person meetings. This was done with the adoption of [P.20/2020](#), through which Standing Order 55A (Members present and able to vote by means of electronic communication in exceptional circumstances) was introduced. Minor amendments to this Standing Order were subsequently made, in light of practical experience, with the adoption of [P.131/2020](#).

Standing Order 55A only allowed for remote participation in states of emergency (as defined in the Emergency Powers and Planning (Jersey) Law 1990) or in instances where the Bailiff concluded it would be difficult to achieve, or maintain, a quorate meeting of the Assembly due to the health risks involved. The latter provision was used throughout the remainder of 2020 and during the first part of 2021 in light of the restrictions that were in place during that period. Meetings therefore at first saw every Member attend remotely; whilst, as guidance came to permit small numbers of Members to be present in the Chamber, a rota was then introduced to allow for each Member to attend in person when it was their turn (although it was their choice whether to do so).

By September 2021, public health restrictions had been lifted to the extent that full in-person meetings of the Assembly were again possible – meaning that Standing Order 55A could not be invoked as there was no emergency and the Bailiff had concluded that a quorum of the Assembly could be achieved. Nevertheless, at that time the Assembly adopted [‘States Meetings: Continuation of Remote Participation’ \(P.87/2021\)](#). In doing so, the Assembly agreed that –

“notwithstanding Standing Order 55A(1), Members who do not wish to attend in the States Chamber may continue to take part in States meetings using Microsoft Teams until the States has considered and voted upon a proposition to re-apply Standing Order 55A(1) or to repeal or vary the terms of the Standing Order.”

This meant that remote was participation became possible for every Member at any time and for any reason.

**This proposition remains in force as no subsequent decision has been taken by the Assembly to affect, alter or rescind it. Remote participation is therefore currently permitted for any reason.**

Despite the adoption of P.87/2021, it remained a topic of discussion amongst Members as to when remote participation was acceptable; and the Bailiff consequently issued guidance on 14th April 2022. A copy of the guidance has been appended, a key part of which was the following statement –

“In my view, the purpose of the change to Standing Order 55A was to enable members with legitimate and clear health reasons for not attending the Assembly to get the remote link and participate. If such a member for health reasons cannot play a full part even if remote then they should be “malade” and not attend. If, however, even with health concerns they can play a full part (and I do not mean by that they cannot take breaks as members in the Chamber can take in the usual way) then that is a legitimate use of the permissive regime under Standing Order 55A.”

**It is the Committee’s view that this has become the accepted norm amongst Members. Elected States Members generally only ask to participate remotely when there is a health-related reason (either in respect of themselves or in respect of a person close to them). That has included instances in which a Member has to leave the Chamber for such reasons once the meeting has started. With paragraphs (a) and (b) of the proposition, the Committee is not seeking to move away from that accepted norm.**

Experiences during the Pandemic also raised the question of remote participation from outside Jersey. Until the introduction of Standing Order 55A, this was a moot point. However, the implementation of remote participation raised the prospect that Members could take part in meetings from outside the Island.

On 28th September 2020, the Bailiff therefore issued a ruling that “the remote participation provisions do not provide a general permission to participate from anywhere other than the Island and the usual provisions for absence, such as being away on States business or otherwise, should apply”.

Nevertheless, on 28th April 2022, the Assembly adopted paragraph (a) of [‘States Meetings – Remote Participation and Proxy Voting’ \(P.63/2022\)](#) through which it agreed –

“that, at any time when remote participation in States meetings is permitted generally, members should be able to participate remotely from outside Jersey in the event that unforeseen circumstances prevent their participation from in the Island, with the circumstances permitting such participation to be determined in accordance with guidance issued by the Bailiff.”

**This proposition is not in force, however, because amendments to Standing Orders were required in order for the provisions to be implemented and no such amendments have been adopted by the Assembly.**

In general terms, the ruling of the Bailiff from September 2020 therefore continues to apply. Nevertheless, on 17th January 2024, the current Assembly adopted [‘Vote for Remote participation to the States Assembly for the purpose of election of a Chief Minister or Minister’ \(P.3/2024\)](#). This made an exemption to the Bailiff’s ruling to allow Members to take part remotely from outside Jersey in the meetings at which the Chief Minister and Ministers were selected.

**However, the decision to adopt P.3/2024 does not alter the general position that participation in States Meetings from outside Jersey is not permitted. For such participation to be permitted, either an amendment to Standing Orders is required or the Assembly would need to adopt propositions akin to P.3/2024 on an ad hoc basis to address particular situations.**

In light of the previous Assembly’s adoption of P.87/2021 and P.63/2022, the PPC lodged [P.21/2023](#) last year. The aim of this proposition was twofold. To deal with the situation left through the adoption of P.87/2021 and to provide a framework for remote participation; and to implement paragraph (a) of P.63/2023 to allow for remote participation from outside Jersey in unforeseen circumstances. Through proposed amendments to Standing Orders, P.21/2023 put forward a regime for remote participation that would have allowed for remote participation for health-related reasons – either in respect of the Member themselves or in respect of a household or family member.

A number of concerns were raised during the debate on P.21/2023 and the proposition was referred back to the Committee on 23rd May 2023. The Committee subsequently decided to withdraw the proposition and to bring a revised one back to the Assembly for debate, following consultation with Members. The Committee subsequently considered the comments made by Members, engaged with the Diversity Forum and developed revised proposals that were presented to Members at a briefing. The Committee’s response to the concerns that were raised during the debate on P.21/2023 have been appended to this report.

### **Revised Proposition**

The Committee is mindful of the potential criticism that debating this new proposition is another example of Members talking about themselves. However, it is the Committee’s view that a decision on the various parts of the proposition is necessary as,

at present, the procedural framework for remote participation is broader than it would consider to be reasonable – and broader than what it believes most Members want. There is also the fact that both P.87/2021 and P.63/2022 anticipated there would be further consideration and decisions by the Assembly.

With P.87/2021 still in force, remote participation can be requested for any reason. Whilst this has not been abused by the current membership, PPC has concluded that a more precise framework is needed; either to return to Standing Orders as they existed in the early days of the Pandemic or to reflect within Standing Orders the commonly-accepted norms that are now in place.

The Committee has included proposals for remote participation from outside the Island in unforeseen circumstances as it was the will of the previous Assembly that this should be the case. PPC recognises that Members may wish to reject that part of this proposition (paragraph (c)) if they do not wish to allow for such participation from outside Jersey. But that decision needs to be taken by the Assembly as a whole; it could not be taken by the Committee alone.

Taking into account the comments received from Members during the debate on P.21/2023 and the Committee’s own subsequent discussions, PPC has therefore structured this new proposition differently from P.21/2023. This will allow Members to vote separately on the different parts, should they so wish.

If paragraph (a) is adopted – and is the only paragraph adopted – the situation relating to remote participation will revert to what it was when Standing Order 55A was first introduced: remote participation would only be possible during formal periods of emergency or where the Bailiff concluded it would not be possible to convene a quorate meeting. Current practice, whereby Members can ask on an individual basis for a Teams link to join a meeting, would therefore cease.

Paragraph (b) of the proposition seeks to reflect within Standing Orders the current convention and practice: that Members may ask to join a meeting remotely for health-related reasons. The terms of this part of the amendment do not, in fact, differ greatly from what was in P.21/2023; it simply codifies what PPC sees as the current behavioural and cultural expectations for remote participation. Adoption of paragraph (b) would therefore, in the Committee’s view, not see any material change from what is happening now. It would also allow for Members who were present in the Chamber at roll call to leave the Chamber and to request a link in order to participate remotely on the basis of health-related reasons.

Paragraph (c) of the proposition seeks to implement the provisions of P.63/2022 by allowing remote participation from outside Jersey in “unforeseen circumstances”.

The Committee has reviewed and revised the draft guidance that would be issued in accordance with these proposed amendments to Standing Orders (and that was initially included with P.21/2023). The revised guidance has been appended.

Prior to lodging this proposition, the draft was circulated to all Members for comment and feedback. 5 Members responded and the nature of their feedback has been incorporated in Appendix 2 (alongside the comments that were made during the debate on P.21/2023).

### **Financial and staff implications**

There are no financial or staff implications arising from this proposition.

### **Children's Rights Impact Assessment**

A Children's Rights Impact Assessment (CRIA) has not been prepared in relation to this proposition as a CRIA is not required, in accordance with Schedule 2 to the [Children \(Convention Rights\) \(Jersey\) Law 2022](#).



## **Appendix 1 – Guidance on Remote Participation issued by the Bailiff on 14th April 2022**

“I have been giving thought to Members’ participation remotely in sittings of the Assembly.

I am aware that some members are concerned about remote participation and hold the view that all members should attend the Chamber unless there are exceptional reasons that makes it impossible for them to do so. I am also aware that certain members have material concerns in connection with their health, some related to Covid and others for different reasons.

I am sure members would agree that there is a real advantage in communication to attendance in person and that should be the default position for the Assembly.

Since the Assembly disapplied the first part of Standing Order 55A the regime of remote participation has continued and there is a concern that members are attending remotely as a matter of preference or convenience but not of health necessity.

In my view, the purpose of the change to Standing Order 55A was to enable members with legitimate and clear health reasons for not attending the Assembly to get the remote link and participate. If such a member for health reasons cannot play a full part even if remote then they should be “malade” and not attend. If, however, even with health concerns they can play a full part (and I do not mean by that they cannot take breaks as members in the chamber can take in the usual way) then that is a legitimate use of the permissive regime under Standing Order 55A.

This is something that should be considered by PPC in the next Assembly but I thought that it may assist if I gave my view of the effect of Standing Order 55A and its use.

I am conscious that in the new Assembly members will have very shortly before stood for election and will presumably have campaigned. It may be difficult in those circumstances, therefore, to justify non-attendance at the Assembly for health reasons if a member has been in a position from a health perspective to campaign and stand for election in the first place. That will of course be a matter for the next Assembly.”

## **Appendix 2 – Comments made during the Debate on P.21/2023 and on the Current Proposition (prior to lodging)**

The Committee has listed the comments made during the debate on P.21/2023 and on the current proposition (when it was circulated for comment prior to lodging) with its own response to those comments.

- **Adopting the proposition would be in contravention of Members’ oath of office and the Code of Conduct for Elected Members.**

The oath of office for Deputies states that the office holder “will attend the meetings of the States whenever [...] called upon to do so” whilst the oath of office for Connétables contains a similar provision. The Code of Conduct for Elected States Members states that “elected members must give due priority to attendance at meetings of the States in accordance with the terms of their oath of office and should be present in the Chamber when the States are meeting unless they have very compelling reasons not to do so”.

The Committee does not consider that the oaths of office and Code of Conduct preclude remote participation – with this question having already been addressed with the introduction and implementation of Standing Order 55A in the first place. Abuse of any system of remote participation would itself amount to a breach of the Code of Conduct.

- **The residency requirement for States members would be difficult to police.**

Under the States of Jersey Law 2005 and Connétables (Jersey) Law 2008, Deputies and Connétables cease to hold office if they have not been resident in Jersey for a period of 6 months.

The Committee does not consider that its proposals would impact on this area, even if remote participation from outside the Island were permitted (as the expectation is that this would be rare). However, the revised guidance confirms that remote participation from outside Jersey should only be made available if there were no impact on the Member’s ordinary residence in the Island.

- **These measures send the wrong message to the community, particularly to people who do not benefit from this flexibility in their own workplace; and members would be seen to be giving themselves an advantage that others do not benefit from.**

It was raised during the debate that all employees now have the right to request flexible working arrangements, albeit that such requests may be refused on reasonable grounds. The Committee would also highlight that States Members are not employees. This is ultimately, however, a matter for Members to judge when reaching their decision on the proposition. The Committee has considered what is available to States’ employees. There is a flexible working policy that respects the right to request flexible arrangements; and the Committee is aware that such arrangements are readily used by employees. The Committee is also aware that working from outside Jersey is permitted in certain circumstances.

- **There has been no period of ‘normality’ since Covid during which the need for remote participation (and such participation from outside Jersey) can be assessed.**

The Committee is not entirely clear whether ‘normality’ in this instance referred to the position before Covid and the introduction of Standing Order 55A, or to the period when Standing Order 55A was first implemented to allow for remote participation in extreme circumstances. To achieve the former definition of ‘normality’ would require the rescindment of P.87/2021 and the deletion of Standing Order 55A (which could not be achieved with this new proposition); the latter would simply require the rescindment to occur (which would be achieved with the adoption of paragraph (a) of this new proposition). If this new proposition were rejected in its entirety, neither of these descriptions of ‘normality’ would be achieved through that rejection.

- **This would lead to presence in the Chamber being seen as a lesser priority.**

The introduction of a regime for remote participation would not amend the provisions of the Code of Conduct. It is considered that such a regime for remote participation would provide a clear rationale and the “compelling reasons” for a Member not to be present in the Chamber (as indicated in the Code of Conduct); but it would nevertheless remain beholden on Members to ensure that they gave due importance to being physically present.

Remote participation has been possible throughout the life of the current Assembly and, in the Committee’s view, it has not led to presence in the Chamber diminishing in importance.

- **People should not feel under pressure to attend or participate if they are ill, or if they are fulfilling caring duties. This would lead to a requirement for members to provide a ‘sick note’ in the event of illness.**

P.21/2023 included provision that remote participation for health reasons should only be sought by a States Member (and given) if it would not otherwise be detrimental to their own health. This has been replicated in the new proposition. The Committee has been keen to ensure that Members do not feel pressure and that they are still able to be marked as ‘malade’ or fulfilling parental responsibilities. There would be no requirement for a ‘sick note’; the provisions for being marked as ‘malade’ would remain unchanged. This is reflected in the new proposition and in the accompanying guidance that would be published.

- **What is an ‘unforeseen circumstance’ that would apply to remote participation from outside Jersey?**

The guidance has been updated to include more examples of what would be acceptable – or not acceptable – but it is difficult to provide a definitive list of all circumstances due to the very nature of nature of the circumstances being ‘unforeseen’. The revised guidance also includes a definition of “unforeseen” in more general terms.

- **There is no guarantee that the system will not be misused.**

Ultimately, the Committee accepts that no such guarantee can be given to 100% certainty. However, P.21/2023 highlighted that abuse of the proposed regime would amount to a breach of Standing Orders and of the Code of Conduct. This remains the case with the new proposition – and a complaint could therefore be tabled against any Member who was perceived to have abused the system of remote participation. In the Committee’s view, leaving the situation as it stands – whereby remote participation can be requested for any reason – is more likely to see misuse of the system.

- **Covid was the reason for the introduction of remote participation – not any other rationale or principle or ideal.**

This is correct. Consideration of the question of remote participation had been prompted by experience during the Covid pandemic; but subsequently the Committee has considered this in light of the fact that at least some Members have wished to see the introduction of a regime of remote participation and an environment that allows for flexible working.

- **‘Exceptions can become the norm.’**

It can be challenging to prescribe everything procedurally (e.g. in Standing Orders) as opposed to allowing behavioural or cultural expectations to determine some of what is acceptable in relation to attendance. It is almost impossible to ‘legislate’ within the Assembly’s procedures for every single scenario. It is the Committee’s view that its proposed amendments to Standing Orders strike the right balance between procedural clarity and allowing for behavioural and cultural considerations.

- **Members were being asked to ‘try it in order to see if it is effective’.**

Whilst any proposition and accompanying guidance can be adapted to reflect the feedback provided during the debate on P.21/2023 (and this has been done with the new proposition), it is the case that any regime would need to be kept under review to ensure it is working as foreseen and in line with Members’ expectations. The Committee will review the provisions of paragraphs (b) and (c), if adopted, after 12 months in order to determine their effectiveness.

- **Why should members participating remotely need to be in a position to speak when those in the Chamber can choose to leave the Chamber? Why is it important that a member can speak from home when it is their vote which is the most important?**

P.21/2023 stressed that a Member participating remotely should be able to speak in order to mitigate the risk of Members simply ‘dialling in’ to States Assembly meetings. There would not be a requirement to speak, as is the case in the Chamber, but participation should allow for the same opportunities, whether it be in the Chamber or via Teams. If a Member is not in a position to speak, or to respond, when joining via Teams, they are not ‘participating remotely’. The question of whether a States Member should be able to cast a vote whilst absent (and unable to participate in a debate) is a different matter and is a question of proxy voting (not covered by this proposition).

- **States Members sign up to the responsibility of attending States Meetings and it is important to attend important meetings in person. Members miss being in the Chamber and seeing others in the Chamber; the online experience is not an equivalent.**

P.21/2023 did not suggest Members should avoid attending meetings in the Chamber. Indeed, the Committee believes that attendance in the Chamber should always be the preferred option. The proposals are simply providing an alternative means to participate should it be absolutely necessary.

- **It would start the Assembly on a slippery slope and would represent the thin end of the wedge. Members would be sleepwalking into a situation with**

**perpetual virtual sittings. There would be no meetings in the future that will not be in a hybrid format.**

The Committee concedes that the provisions of P.21/2023 allowed for hybrid meetings on a permanent basis and this is also the case for the new proposition. However, the parameters for remote participation that are proposed reflect the cultural and behavioural expectations that have been in place since the adoption of Deputy John Young's proposition in 2021 (i.e. that remote participation should be allowed for health-related reasons). Since the elections of June 2022, relatively few Members have participated remotely (compared to what happened during Covid) and not all meetings have been held in the hybrid format despite the availability of remote participation.

- **The changes might prompt alterations in behaviour; for instance, spending more time out of the Island.**

This would need to be subject to monitoring; but the revised guidance includes statements to the effect that this should not be allowed to occur.

- **How exactly will this be implemented? There needs to be more clarity regarding the circumstances in which these new rules would apply.**

In broad terms, P.21/2023 had envisaged a continuation of what happens now; and this is reflected in paragraphs (a) and (b) of this new proposition. In that Members would need to apply for a link from the States Greffe. The Committee has agreed that the States Greffe would not proactively police the system and it would be for Members themselves to judge whether they should (or could) apply to participate remotely – on the basis of the guidance. The States Greffe would retain records, however, in order to report to PPC on the use of remote participation and Members participating remotely would be shown as such in the States minutes. It would also be clear to Members that any infraction would be contrary to the Code of Conduct (and could therefore lead to a complaint) and that the Committee reserves the right to investigate and ask questions if it felt the system was being abused.

- **The proposition should be split in order to allow for separate votes.**

The revised proposals have been redrafted to allow for separate votes surrounding the proposed regime for remote participation.

- **What is meant by 'member of the same household'?**

This was not defined explicitly in P.21/2023 and is not defined in the new proposition, in part because the regime would rely upon States Members exercising judgement. Generally speaking, however, the Committee intended it to refer to a person who lives with a States Member.

- **The measures could stop the Assembly from becoming more accessible and inclusive (i.e. these changes could mean PPC avoids works and reasonable adjustments in the Chamber to make it more accessible).**

This was not the Committee's intention. The regime for remote participation is not intended to be a means by which a Member could permanently attend meetings of the Assembly. There is other work that needs to be done to ensure that the proceedings of

the Assembly are as accessible as possible; a matter due to be considered by the Committee as part of its ongoing work programme.

- **Paragraph (1) of Standing Order 55A provides sufficient clarity.**

Paragraph (1) does not currently apply, having been suspended with the adoption of P.87/2021. Returning to the application of the existing wording of Standing Order 55A would reintroduce the regime as it stood during the early part of the Pandemic, when public health guidance was in place. This would be achieved by simply voting for paragraph (a) of the proposition. This would mean that remote participation could be permitted during a state of emergency or if the Bailiff decided there would be difficulty in achieving a quorum – but in no other circumstances.

- **Would this impact on the Assembly’s ability to decide whether a Member should be excused?**

P.21/2023 did not seek to amend the provisions for the roll call and neither does this new proposition; the Assembly would still decide whether or not a Member should be excused.

- **There should be more clarity about what constitutes an ‘emergency’ or a time when the Bailiff might conclude that a quorate meeting could not be achieved.**

“‘Emergency’ is defined in accordance with the provisions of the Emergency Powers and Planning (Jersey) Law 1990. It is therefore a specific term to refer to instances in which the Lieutenant-Governor, in accordance with Article 11 of the Law and following consultation with the Emergencies Council, declares a state of emergency. The Committee has concluded that further definition of the term is not therefore needed for this proposition. The second part of this provision within the proposition (about the difficulty of achieving a quorum) was initially drafted and introduced with respect to the Covid-19 Pandemic, where legislation and public guidance meant people could not gather in groups. It is when, for whatever reason, similar circumstances arose that the Bailiff would have the authority to determine that remote participation by Members was permitted.

- **Should there be more detailed criteria regarding the documentation or proof needed when requesting remote participation?**

As the report accompanying the proposition indicates, PPC already intends to monitor the application of the Guidance for remote participation and has asked the States Greffe to retain a record of the reasons provided for remote participation. No documentary proof (such as a sick note) would need to be provided by Members when requesting remote participation, however. This reflects the fact that no such proof is needed for a Member to be marked as ‘malade’.

- **Allowing for participation from outside Jersey in unforeseen circumstances i concerning. Can there be a more specific definition of “unforeseen circumstances”?**

It remains the case that “unforeseen circumstances” are by definition difficult to predict and to define. If there is disquiet amongst the membership in respect of this part of the proposition, there is the possibility to reject that part – so that remote participation from outside the Island was not possible. It has been established that the Assembly could

nevertheless allow for remote participation from outside Jersey in specified circumstances through the adoption of a standalone proposition (as seen for Members early in 2024 for the meeting held to select a Chief Minister).

- **Should additional provision be made in respect of remote participation in “unforeseen circumstances” from outside Jersey – for instance, to avoid situations where Members are criticised for missing States Meetings whilst absent on States business?**

This would go beyond the provisions of P.63/2022, which only sought to allow participation from outside the Island in “unforeseen circumstances”. Absence on States business does not fall within that definition and has not been included in the reasons that would allow a Member to participate remotely from outside Jersey.

## **Appendix 3 – Draft Guidance on Remote Participation in States Meetings**

### **Introduction**

Standing Order 55A governs the ability for Members to take part in States meetings via electronic means so that they are not physically present in the States Chamber but are nevertheless able to participate in the meeting.

In accordance with Standing Order 55A(1B) and Standing Order 55A(2B), this guidance has been issued by the Bailiff, having consulted the Privileges and Procedures Committee (PPC), to explain –

- (a) how arrangements work for Members participating remotely for reasons related to their health (or that of a household or family member), in accordance with Standing Order 55A(1A); and
- (b) how “unforeseen circumstances” are to be interpreted in situations when Members are able to participate remotely from outside Jersey, in accordance with Standing Order 55A(2A).

### **Remote participation for health reasons**

Standing Order 55A(1)A allows for a Member to participate remotely in States meetings for health-related reasons, or for health reasons relating to a household or family member (including the delivery of care by the Member concerned).

In order to participate remotely, an application must be made to the Greffier of the States for the link to the relevant meeting. It is for the Member to judge themselves whether to apply for the link. The Greffier and States Greffe will ask for the health-related reasons that apply in order that a record can be taken and reports provided to PPC on a regular basis. The fact a Member has participated remotely in a meeting (whether entirely or for a part of the meeting) will also be recorded in the States minutes.

In looking to participate remotely, Members should expect to be able to take part in the meeting as fully as if they were in the Chamber: by speaking in debate or asking questions; by voting; and by following the debate. The only distinction is that the Member, for health-related reasons, cannot be in the Chamber. Members should not therefore join the meeting remotely and then undertake business in a way that they could not do whilst in or around the Chamber. Nor should they join remotely in order simply to vote if they would otherwise be unable to speak, or contribute, if called to do so.

It is important that Members do not participate remotely in a way that is likely to be detrimental to their own health. The possibility of participating remotely does not remove the ability for a member to be marked as ‘malade’ (ill). Nor, if the reason for absence is related to the health of the member’s child, does it remove the ability for a member to be marked as absent due to parental responsibilities (see [‘Policy Guidance in Respect of Standing Order 53\(2\): Parental Responsibilities’ \(R.3/2022\)](#)). The ability for the Assembly to agree to a member being marked as ‘excusé(e)’ (excused) also remains.



It is not possible to list exhaustively all health-related reasons that might lead a Member to participate remotely; but the following circumstances are considered appropriate –

1. In instances where there is a requirement to self-isolate for public health reasons (e.g. Covid-19), particularly if the Member concerned is not symptomatic or is otherwise well enough to participate.
2. In preparation for, or following, a surgical or medical procedure that requires the Member to rest, recuperate or self-isolate – thereby preventing their attendance in the States Chamber but not impacting on their ability otherwise to participate.
3. Where someone in the Member's family or household is ill, or whose health and wellbeing are affected or at risk, and the Member concerned has caring responsibilities for the other person.

### **Remote participation whilst outside Jersey**

Standing Order 55A(2A) allows Members to participate remotely in States meetings whilst outside of Jersey in unforeseen circumstances.

For circumstances to be unforeseen, they must be unexpected, unpredictable and unknown. In the context of this guidance, that means a Member is not able to attend a States meeting in person because they are stuck outside of Jersey due to reasons they did not know about, did not expect and could not have reasonably predicted before they left the Island.

Members can be marked absent for roll call (and therefore from the meeting) due to being absent from Jersey on States business. Standing Order 55A(2A) cannot be used by any Member for remote participation on any day when they are outside the Island on States business, including days on which it had been planned for them to travel.

Unforeseen circumstances that would allow a Member to participate remotely in a meeting from outside Jersey include the following scenarios –

1. Extreme weather conditions unexpectedly impact upon pre-existing travel arrangements and delay the Member from returning to the Island in time for the meeting (and where the pre-existing travel arrangements would have seen the Member return to the Island in good time for the meeting).
2. Public health guidance (e.g. for Covid-19) or health-related reasons (e.g. an accident) prevent the Member concerned from travelling back to the Island when initially planned.
3. A meeting of the Assembly has been arranged or is required at short notice, either due to a requisition or for the selection of a new Council of Ministers, and the Member concerned had already made travel arrangements that would see them out of the Island at the time of the meeting.

In looking to participate remotely, Members should expect to be able to take part in the meeting as fully as if they were in or around the Chamber: by speaking in debate or asking questions; by voting; and by following the debate. The only distinction is that

the Member cannot be in the Chamber. Members should not therefore join the meeting remotely and then undertake other business that they could not do whilst in the Chamber. Nor should they join remotely in order simply to vote if they would otherwise be unable to speak if called to do so.

Remote participation from outside Jersey should not be requested, nor will it be provided, if it is considered that to do so would impact on the status of the Member's ordinary residence in the Island.

If a Member, when making a request to the States Greffe for remote participation from outside Jersey, is unclear whether the reasons given meet the definition of "unforeseen circumstances", as required by Standing Orders, a ruling should be sought from the Bailiff (via the States Greffe), who may consult the Chair of PPC before providing that ruling on whether remote access can be provided. The States Greffe will keep a record in order that reports may be provided to PPC on a regular basis; and the States minutes will record any instance in which a Member has participated remotely from outside Jersey.

## **Conclusion**

Members are required to judge for themselves whether to request remote participation in a States meeting on the basis of these criteria; the States Greffe will not proactively police the applications for remote participation at a meeting. Members must therefore be aware that, in extremis, if they were found to have requested and used remote participation inappropriately, this would be a breach of Standing Orders and of the Code of Conduct for Elected Members.

PPC reserves the right to monitor the application of this guidance and has asked the States Greffe to retain a record of the reasons provided for remote participation in order that its use can be reviewed. The Committee also reserves the right to propose that a request for remote participation be refused in instances where the guidance has been misused.

**Appendix 4 – Standing Order 55A, shown as amended by the proposed amendments**

**55A Members present and able to vote by means of electronic communication in exceptional circumstances**

- (1) This standing order applies during the period of a state of emergency, as defined by the Emergency Powers and Planning (Jersey) Law 1990, and at any other time when the Bailiff considers that it might not be possible to convene or maintain a quorate meeting of the States in view of substantial risk to the health of members of the States or any other person.
- (1A) This standing order also applies to an elected member –
  - (a) who is absent at the start of a meeting day or continuation day for a reason related either to the member’s health or to the health of a family member or household member of that member, or who must leave the Chamber for such a reason during the course of the day; and
  - (b) who has requested to participate remotely in the meeting.
- (1B) The Bailiff, following consultation with the Privileges and Procedures Committee, must issue guidance on the interpretation of paragraph (1A).
- (2) Where this standing order applies, the Greffier must make arrangements to enable the members affected to participate in the meeting by means of electronic communication, provided that, in any instance arising from paragraph (1)(c), to do so would not be detrimental to the health of the member concerned. The arrangements may include the meeting being conducted entirely by means of electronic communication.
- (2A) The Bailiff, following consultation with the Privileges and Procedures Committee, must issue guidance on the interpretation of paragraph (1)(c).
- (2B) Notwithstanding paragraph (1), where, due to unforeseen circumstances, an elected member is unable to be in Jersey on a day on which the States is meeting, the member may participate in the meeting that day by means of electronic communication from outside Jersey.
- (2C) The Bailiff, following consultation with the Privileges and Procedures Committee, must issue guidance on the interpretation of “unforeseen circumstances” in paragraph (2B).
- (3) Elected members participating in the meeting by means of electronic communication –
  - (a) are entitled to vote, under this standing order; and
  - (b) are entitled to ask a question, speak in a debate, propose a proposition or amendment, and otherwise contribute to the proceedings of the States in the same manner as members present in the Chamber, subject to any modifications to procedure and practice directed by the Bailiff.
- (4) When this standing order applies, the provisions of these Standing Orders relating to voting are varied as follows –
  - (a) standing votes are permitted, where practicable, with the Bailiff making any provision that the Bailiff considers necessary to enable

- elected members participating in the meeting by means of electronic communication to vote;
- (b) where there are members participating in the meeting by means of electronic communication, any reference in these Standing Orders to a “secret ballot” is read as a reference to an “open ballot”;
  - (c) where a recorded vote using the electronic voting system is taken, elected members participating in the meeting by means of electronic communication must inform the Greffier of their vote by means of electronic communication no later than the end of the time allowed for votes to be cast and, if necessary, the Greffier must inform the presiding officer of the numbers of those members voting “Pour”, “Contre” or abstaining, so that the presiding officer can combine those votes with the votes cast using the electronic voting system and declare the result;
  - (d) standing order 92(8) to (10) apply as if the votes cast under this paragraph were cast using the electronic voting system;
  - (e) where a recorded vote is taken by open ballot, elected members participating in the meeting by means of electronic communication must inform the Greffier of their vote, or the name of the candidate for whom they are voting, by means of electronic communication no later than the end of the time allowed for the ballot and the votes so taken are treated as if they were written on ballot papers in accordance with standing order 94;
  - (f) where a recorded vote is taken by roll call vote, elected members participating in the meeting by means of electronic communication must vote by saying “Pour”, “Contre” or abstain or inform the Greffier of their vote by means of electronic communication no later than the time allowed for the roll call and, if necessary, the Greffier must inform the presiding officer of the numbers of those members voting “Pour”, “Contre” or abstaining, so that the presiding officer can combine those votes with the votes cast by members in the Chamber.
- (5) Elected members participating in the meeting by means of electronic communication may declare an interest under standing order 106 by means of electronic communication to the Greffier. The Greffier must inform the presiding officer of any interests so declared and the presiding officer must read out the member’s name and the nature of the interest.