

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 13th SEPTEMBER 2016

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[9:34]

The Roll was called and the Dean led the Assembly in Prayer.

COMMUNICATIONS BY THE PRESIDING OFFICER

1. The Bailiff:

First of all, can I welcome all Members back after the summer break for the work that is yet to be done in the Assembly until Christmas? Secondly, as usual, can I welcome His Excellency? **[Approbation]** I was going to welcome Senator Ferguson but I shall still welcome her. **[Laughter]** She has already been welcomed when she answered the roll call, but congratulations on her election. **[Approbation]** Finally, I would like to let Members know that web streaming is going to be in place as from today but on a test basis. Depending on whether there are any glitches that appear, it will go live perhaps in the next sitting in 2 weeks' time. Members are able to look at the streaming from today if they contact the Greffe, and he would welcome any comments which Members have to make on the test as it goes. Turning to the Consolidated Order Paper ...

Senator L.J. Farnham:

I wonder if I just may ask: can the test be viewed by Members? Thank you. I just would need to make sure that I am here, that is all.

The Bailiff:

Well, you will be able to check later on whether you were here, Senator.

Deputy R. Labey of St. Helier:

The last email I had from Deputy Martin was that she was unwell and she missed our Deputies' meeting this morning in the Town Hall, but I understand that she is making her way here and is feeling better. I just did not want to be misleading the House in that respect.

The Bailiff:

Thank you, Deputy. I quite understand that you took the oath under a misapprehension. It does emphasise that Members must be sure before they take the oath that somebody is malade before they take it.

[9:45]

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

2. Nomination of the Connétable of St. Helier as a member of the Public Accounts Committee

The Bailiff:

Deputy Lewis, do you wish to nominate the Connétable of St. Helier as a member of the Public Accounts Committee?

2.1 Deputy A.D. Lewis of St. Helier:

That is correct.

The Bailiff:

Is that seconded? **[Seconded]** Are there any other nominations? Then I declare the Connétable of St. Helier is elected as a member of the Public Accounts Committee. **[Approbation]**

QUESTIONS

3. Written Questions

3.1 DEPUTY J.A.N. LE FONDRE OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING THE COST OF INWARD MIGRATION FROM THE E.U: [9569]

Question

What was the gross cost to the taxpayer of a person entering Jersey from the EU in 2015 to work for a range of hourly rates commencing with the minimum wage and increasing in bands of £1 per hour until the average Island wage is attained, assuming that:

- (a) the person works 40 hours per week;
- (b) the person has at least one family member aged over 65 in their household on the Island, who makes average use of health and social services for their age group;
- (c) the person has one child of primary school age in their household, attending a States school;
- (d) the person and the child make average use of health care for their age groups;
- (e) the person and the child speak English;
- (f) costs take account of supplementation where relevant and of any other benefit the individual might be entitled to within the time period of 9 years, averaged over a period of 9 years?

What additional gross per capita cost to the taxpayer arises if the person or the child do not speak English?

What additional gross per capita cost to the taxpayer arises if the child is in secondary education?

Answer

Research and analysis is being planned by the Economics Unit to examine the economic and fiscal implications of different levels and types of inward migration, collating and aggregating as required the range of existing information which departments use to plan public finances and services, for example, the absolute and marginal costs of health care by age band, the average weighted pupil costs at primary and secondary school, and other information covering social security contributions and benefits.

Completing the work in this rigorous fashion will deliver rounded and expert information to support the development of the long term plan, inclusive of population policies, and clear aspirations for our economy, community, and environment. Once the scope of this research work is complete, this will be reported, inclusive of expected timing, in support of the long term plan.

In the meantime it is not possible in the time available to provide this information, or some of this information in response to this question and in the form requested, requiring as it does detailed collation across a number of years and departments. In addition, other variables make any easy presentation challenging, for example, a person over 65 would need to be assessed as a separate household for Income Support purposes, and the ability of a person to qualify for pension in due course depends on length of contribution to the Social Security scheme, and indeed, any reciprocal arrangements with the country of origin.

3.2 DEPUTY J.A.N. LE FONDRE OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING THE IMPACT OF INWARD MIGRATION: [9570]

Question

If the costs per individual identified in written question 1240/5(9569) are applied to 50% and then separately 75% of the gross inward migration increase since 2005, on this basis what would the total cost per year be of gross inward migration to the taxpayer?

Does the States of Jersey collect data on the number of people coming to Jersey who work for employers that pay tax locally?

What proportion of the increase in the number of primary school children in States schools since 2011 belong to families that arrived in Jersey within 10 years of the date when the first child in such families first started at such a school? What is the total capital and revenue expenditure for the provision of facilities and staff required to cater for increased pupil numbers since 2011? What is the estimated annual cost to the public purse of additional facilities and staff required for teaching pupils whose first language is not English?

What proportion of the current demand for housing units stems from individuals who have achieved their 10 year housing qualifications since 2010?

Answer

Research and analysis is being planned by the Economics Unit to examine the economic and fiscal implications of different levels and types of inward migration, collating and aggregating as required the range of existing information which departments use to plan public finances and services, for example, the absolute and marginal costs of health care by age band, the average weighted pupil costs at primary and secondary school, and other information covering social security contributions and benefits.

Completing the work in this rigorous fashion will deliver rounded and expert information to support the development of the long term plan, inclusive of population policies, and clear aspirations for our economy, community, and environment. Once the scope of this research work is complete, this will be reported, inclusive of expected timing, in support of the long term plan.

In the meantime it is not possible in the time available to provide this information, or some of this information in response to this question and in the form requested, requiring as it does detailed collation across a number of years and department, and consider the factors mentioned in response to question 9569 (as well as indepth analysis of businesses and their employees, and the marginal impact of people becoming resident after or before given dates).

3.3 DEPUTY R. LABEY OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE RECOMMENDATIONS OF THE CARSWELL REVIEW REGARDING THE ROLE OF THE BAILIFF: [9572]

Question

What progress has been made to implement each of the following recommendations made by the Carswell Review of 2010 into "The Roles of the Crown Officers" and, if a decision has been taken not to implement any of the recommendations, how and when was that position adopted and by whom?

- (a) The Bailiff should cease to act as President of the States and the States should elect their own President, either from within or from without the ranks of their members.
- (b) The Bailiff should cease to be responsible for giving permission for public entertainments.
- (c) The requirement in Article 1(1) of the Crown Advocates (Jersey) Law 1987 of the Bailiff's approval to the appointment of Crown Advocates should be repealed.

Answer

On 30th March 2011, the States Assembly held an ‘In Committee’ debate on the Carswell Review¹ following the presentation of R.28/2011 ‘Review of the Role of Crown Officers (“Carswell Review”)² by the Privileges and Procedures Committee on 14th March 2011.

Since that time, many of the recommendations have been considered and action taken (including by way of States questions, Propositions and debate) by individual States Members, Privileges and Procedures Committee, Ministers and the States Assembly.

The current status of the recommendations is as follows:

(a) On the 29th and 30th of April 2014, this recommendation was considered when the States Assembly debated P.160/2013, ‘Elected Speaker of the States Assembly’, as amended. The States Assembly minutes of that date record:

“THE STATES resumed consideration of the proposition of the Connétable of St. Helier entitled ‘Elected Speaker of the States’ (P.160/2013), as amended, and rejected the proposition that from the date of retirement of Sir Michael Birt as Bailiff of Jersey, Recommendation 2 of the Review of the Roles of the Crown Officers (the ‘Carswell Review’), namely that “2. The Bailiff should cease to act as President of the States and the States should elect their own President, either from within or from without the ranks of their members” should be implemented, subject to the approval of the public voting in a referendum to be held on 15th October 2014 on the question ‘Should the Bailiff cease to be the President of the States?’, provided that the referendum should not be held unless the States had already adopted legislation to give effect to the change which contained a commencement provision which specified that the legislation should automatically come into force if the change was supported by a majority of those voting in the referendum (subject to a minimum turnout threshold to be specified in the legislation) and should not come into force if it was not.”³

On 24th May 2016, Deputy Tadier lodged P.54/2016 ‘Bailiff of Jersey: Cessation of Dual Role and the Appointment of an Elected Speaker of the States’. Comments have been presented by the Privileges and Procedures Committee (P.54 Com./2016) and HM Attorney General (P.54 Com.(2)/2016) which it is anticipated will be debated by the States Assembly in due course.

(b) On 27th May 2016 the Minister for Home Affairs lodged the draft Unlawful Public Entertainments (Jersey) Regulations 201-⁴. The Report noted:

“In December 2010, Lord Carswell’s Review of the Roles of the Crown Officers (R.143/2010), recommended that “the Bailiff should cease to be responsible for giving permission for public entertainments” (Recommendation 6).

In April 2015, the States adopted the 7th amendment (P.27/2015 Amd.(7)) to the Draft Strategic Plan 2015 – 2018 (P.27/2015), agreeing to –

“Delegate authority to the Parish of St. Helier for the licensing of small-scale events within the parish, including in its public squares and precincts, after appropriate consultation with the relevant authorities and subject to all necessary safeguards, risk assessments being in place”.

In June 2015, the States also agreed in principle that marriage should be allowed to take place in the open air and in public spaces (see P.65/2015).

¹ <http://www.statesassembly.gov.je/AssemblyHansard/2011/17448-47349-742011.pdf>

² <http://www.statesassembly.gov.je/AssemblyReports/2011/14688-17346-1432011.pdf>

³ <http://www.statesassembly.gov.je/AssemblyMinutes/2014/2014.04.30%20States%20Minutes.pdf>

⁴ <http://www.statesassembly.gov.je/AssemblyPropositions/2016/P.56-2016.pdf>

In light of these decisions, work has now commenced on scoping an alternative route for the management and approval of entertainments and events in the public domain.

This is, however, a very significant piece of work, which interfaces with a number of other pieces of legislation; for example, the Road Works and Events (Jersey) Law 2016 (L.11/2016). Hence, it is appropriate that these draft Regulations are enacted and brought into force to maintain the current position whilst this work is undertaken.”

This work is ongoing.

(c) P. 25/2015 ‘Draft Crown Advocates (Amendment) Law 201-⁵ (“the Amendment Law”) was lodged by the Chief Minister on 24th February 2015 and was approved by the States Assembly on 14th April 2015. The Amendment Law, which came into force on 20th June 2015, amended the Crown Advocates (Jersey) Law 1987⁶. The Report to the Amendment Law provided that:

“The Legislation Advisory Panel, having consulted with the Attorney General and the Bailiff, has advised the Chief Minister to implement the recommendation of the Review of the Roles of the Crown Officers (the “Carswell Review”) to remove the Bailiff’s veto under the principal Law in respect of the appointment of Crown Advocates. Consequentially, the draft Law also removes the Bailiff’s veto in respect of terminating the appointment of any Crown Advocate.”

3.4 DEPUTY R. LABEY OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE RECOMMENDATIONS OF THE CARSWELL REVIEW REGARDING THE ROLE OF THE LAW OFFICERS: [9573]

Question

What progress has been made to implement each of the following recommendations made by the Carswell Review of 2010 into "The Roles of the Crown Officers" and, if a decision has been taken not to implement any of the recommendations, how and when was that position adopted and by whom?

- (a) Procedures should be adopted to minimise the possibility of conflict arising from the advisory and prosecuting functions of H.M. Attorney General.
- (b) Ministers and government departments should disclose to Scrutiny panels legal advice received by them where it is possible to do so. If that is not possible, or if Scrutiny panels cannot obtain reasonably prompt advice from the Law Officers, they should be free to obtain independent advice.
- (c) H.M. Attorney General should continue to act as titular head of the Honorary Police until an appropriate substitute has been obtained.

Answer

- (a) The procedures referred to are a matter for the HM Attorney General. This question should therefore be directed to HM Attorney General.
- (b) The provision of legal advice is a matter for HM Attorney General. This question should therefore be directed to HM Attorney General.
- (c) It is important to recognise that, in the context of paragraphs 6.28 to 6.30 of the Review, it is clear that it did not recommend that the Attorney General should be replaced as the titular head of the honorary police. In particular, the Review made it clear that there was no difficulty in

⁵ <http://www.statesassembly.gov.je/AssemblyPropositions/2015/P.25-2015.pdf>

⁶ <https://www.jerseylaw.je/laws/revised/PDFs/07.280.pdf>

principle with the Attorney General continuing in his role in respect of the honorary police, including in relation to disciplinary matters. In this case there was, therefore, no recommendation to implement.

3.5 DEPUTY R. LABEY OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE RECOMMENDATIONS OF THE CARSWELL REVIEW REGARDING THE APPOINTMENT PROCESS OF THE BAILIFF AND CROWN OFFICERS: [9574]

Question

What progress has been made to implement each of the following recommendations made by the Carswell Review of 2010 into "The Roles of the Crown Officers" and, if a decision has been taken not to implement any of the recommendations, how and when was that position adopted and by whom?

- (a) The membership of the recommending panel for the appointment of the Bailiff and Deputy Bailiff should be augmented by the addition of two persons with substantial legal experience, one of whom should be from outside Jersey, to be appointed by the Lieutenant Governor
- (b) The membership of the recommending panel for the appointment of the Law Officers should be augmented by the addition of two members of the States, to be appointed by the States.
- (c) The Bailiff's Consultative Panel should no longer be consulted about the appointment of the Crown Officers.

Answer

These recommendations will be addressed through the development of a proposal for the establishment of a Judicial and Legal Services Commission. This project is referred to at page 57 of the Draft Annex to the Medium Term Financial Plan Addition for 2017-2019. Officers within the Department for Community and Constitutional Affairs are currently developing this proposal, which it is expected will be the subject of public consultation in early 2017.

3.6 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING FUNDING MECHANISMS FOR THE PLANNED NEW HOSPITAL: [9576]

Question

What discussions, if any, have the Minister or the Department had with the Minister for Health and Social Services regarding funding mechanisms for the construction of the planned new hospital?

What consideration, if any, has been given to the introduction of a charge on taxpayers to pay for the new hospital? Are other funding mechanisms being investigated and, if so, what are they?

Answer

The replacement of the General Hospital has been a cross departmental project from the start. An officer group has met regularly to discuss and manage the project and a political group was created to agree policy decisions and receive updates on progress.

Responsibilities for different aspects of the project have been shared with Health and Social Services being responsible for the clinical needs and Treasury and Resources originally being responsible for delivery and funding. When Jersey Property Holdings moved to become the

responsibility of the Department for Infrastructure, delivery responsibilities moved to them leaving funding as Treasury and Resources' responsibility.

As far as funding is concerned, until a preferred site was decided and therefore the sum of money required identified, the Deputy will appreciate that discussions have been limited to high level options at this stage. However, those options have been discussed and were, in fact, the subject of an oral question from Deputy Southern in February of this year.

A charge has been considered. Other options currently being modelled include the use of existing reserves, the potential sale of strategic assets and accessing the debt market.

3.7 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING INVESTIGATIONS INTO THE IMPACT OF AN INCREASE IN THE MINIMUM WAGE: [9577]

Question

Following the adoption on 20th January 2016 of Part (b) of 'Minimum Wage: revised hourly rate from 1st April 2016' (P.150/2015), could the Minister update the Assembly on what progress, if any, has been made in investigating the potential impact on the tax and benefits system of a significant rise in the minimum wage, and confirm whether or not she will be in a position to report back to the States on this matter by December 2016?

Answer

Work to date is proceeding as planned. As promised by the Council of Ministers in response to P.150/2015⁷, the Statistics Unit included questions about the impact of a higher minimum wage in the Business Tendency Survey for the first quarter of 2016. In April 2016, the Minister directed the Employment Forum to consider – as part of its annual minimum wage review - the impact of a more significant minimum wage increase, specifically in relation to the aspiration of the States to reach 45 percent of mean weekly earnings by 2026. The Forum consulted in June and July and will deliver its recommendation to the Minister by the end of September. The Minister will then decide whether to accept the recommendation and will lodge any legislation for States debate at the earliest opportunity.

The outcomes of the Forum's review and data from the Business Tendency Survey will feed into the response to part (b) of P.150/2015. It is not anticipated at this time that the report to the States will be delayed. However, further discussions will be required to determine the terms of reference for any further investigations that might be required and to determine the priorities and resources of the Economics Unit in the last quarter of 2016.

3.8 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING POLICY IN RESPECT OF ORGAN DONATION: [9578]

Question

Will the Minister advise what work, if any, has been carried out following the adoption on 24th September 2013 of Part (b) of 'Organ Donors' Register' (P.89/2013) to review the current policy in

⁷ P.150/2015(Com) www.statesassembly.gov.ie/AssemblyPropositions/2015/P.150-2015Com.pdf

respect of organ donations and to bring forward recommendations for improvement? What consideration, if any, has been given to an opt-out system of organ donation for Jersey?

Answer

Since the adoption of Part b) of P89/2013, a number of measures have been taken to increase organ donation on the island and to seek to create a more positive culture around the topic, such that families are aware of the wishes of a loved one to donate their organs. This has included local publicity to support national organ donor awareness events and campaigns and organ donor registration linked to Jersey driving licence applications via the parishes.

Also a new organ donation committee has been set up, chaired by the Hospital Managing Director. These meetings have been particularly successful in raising awareness of the opportunities for organ donation with clinical staff, with early referral where an opportunity for donation arises. The committee has also facilitated close relationships with the NHS Blood and Transplant Special Health Authority.

In terms of the opt-out system of organ donation we continue to follow with great interest developments in Wales with its ‘soft opt-out’ system introduced on 1 December 2015. The intention is to review the position once the Welsh scheme has been operating for a year or more. Other jurisdictions are adopting a similar ‘watch and learn’ approach – notably England, the jurisdiction through which most organs obtained from Jersey patients, or organs being donated to Jersey patients, are channelled.

Any move to adopt something like the Welsh system, however desirable, would of course have resource implications in terms of, for example, possible public consultation, communications, and law drafting time.

3.9 DEPUTY M. TADIER OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE POSSIBILITY OF INVITING LORD CARSWELL TO SPEAK TO MEMBERS BEFORE THE DEBATE ON P.54/2016: [9579]

Question

What steps, if any, were made to invite Lord Carswell to speak to Members ahead of the planned debate on ‘Bailiff of Jersey: cessation of dual role and the appointment of an elected Speaker of the States’ (P.54/2016)? When was correspondence sent, what did it say, and what was the outcome?

Answer

Lord Carswell was contacted in August in order to ascertain whether he would be willing to speak to States Members on this subject once again. Lord Carswell has kindly agreed to address States Members again, but due to other personal commitments, is only available to visit Jersey at the end of September or after the end of October.

I would hope to have an opportunity to discuss potential dates with both Deputy Tadier and with the Chairman of the Privileges and Procedures Committee before agreeing a final date with Lord Carswell. However, given the important debate on the Medium Term Financial Plan on the 27th September, the end of September is therefore not feasible.

3.10 DEPUTY M. TADIER OF ST. BRELADE OF H.M. ATTORNEY GENERAL REGARDING THE PROSECUTION OF PEOPLE CLAIMING TO BE MEDICINAL USERS OF CANNABIS: [9580]

Question

Will H.M. Attorney General state how many people claiming to be medicinal users of cannabis were prosecuted in 2015, if any? What were the sentences in such cases and what was the total known cost of those cases?

Answer

Under the Misuse of Drugs (Jersey) Law 1978, an assertion made by an accused that he or she was in possession of a controlled drug solely for medicinal purposes would not provide them with a defence.

Information of the nature envisaged by the question is not formally recorded either by the Law Officers' Department or the States of Jersey Police. In the time available, we have been able to identify two cases prosecuted in 2015 in which the suspects, when interviewed by the police, asserted that they used cannabis for medicinal reasons. Both cases were dealt with in the Magistrate's Court. In one, the court imposed a Community Service Order; in the other a Probation Order.

It is not practical to provide an estimate of the costs of bringing these two cases to court.

3.11 THE DEPUTY OF ST. OUEN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE LIABILITY OF JERSEY STUDENTS FOR NHS CHARGES WHEN IN FURTHER EDUCATION IN THE U.K: [9581]

Question

In what circumstances, if any, would Jersey students following a course of further education be liable for NHS charges in either England, Scotland, Wales or Northern Ireland if they required:

- (a) Primary care services;
- (b) Accident and Emergency services;
- (c) Ongoing treatment for medical conditions present before commencing further education; or
- (d) Other hospital treatment.

Answer

As has been the practice for many years, Jersey students following courses of further education in the UK of six months or more are treated as though they are resident in the UK and therefore would only be subject to any NHS charges in the instances set out above where they are routinely applied to UK residents, such as prescriptions.

It is recommended that students should register with their university health centre when they enrol at university so they can access a GP (often based in the health centre) and receive an NHS number.

3.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING POSSIBLE IMPROVEMENTS TO MATERNITY LEAVE PROVISION: [9582]

Question

Given the statement in her response to 'Zero-Hour Contracts' (S.R.3/2016) that she wishes to prioritise further improvements in family friendly policies, will the Minister undertake to improve on "Family Friendly" and "1001 Days" initiatives by proposing to give employees the right to 26 weeks of maternity leave supported by maternity allowance paid for from contributions?

Since the debate on ‘Maternity leave: rights of employees’ (P.104/2014) in July 2014, has the Minister considered or consulted upon possible improvements in this area and, if so, will she report to Members the outcomes of any such consultation?

Answer

On 2 February this year, the Minister answered a similar question from Deputy Doublet as follows -

“I have said that I will direct the Employment Forum to review family friendly legislation later this year. This is confirmed in my department’s business plan for 2016. The Forum will make recommendations to me following a period of public consultation and I will base my decisions on these recommendations. I have said on previous occasions that I would like to see a longer period of maternity leave, however we will develop the proposed scope of the Forum’s review later this year. If Members have any suggestions they are welcome to contact me.”⁸

The Minister’s commitment to review the family friendly rights after one year in force is also recorded by the Health and Social Security Scrutiny Panel in the outcomes of its review of the family friendly legislation, as follows –

“The Panel has also been assured that the Amendment will be reviewed one year following its introduction to look at the overall impact and any areas that may need to be amended can be done through future regulations. The Panel has also agreed that within its legacy report, it will strongly recommend that the next HSSH Scrutiny Panel follow up on these assurances and ensure the necessary scrutiny is undertaken.” In response to a number of questions in the States Assembly, the Minister has since confirmed that she intends to instruct the Forum to conduct this review.”⁹

The Minister will not propose any changes to the legislation before the Forum’s review has been completed. In accordance with the Department’s business plan and the Minister’s stated intentions, now that one year has passed since the amendment to the Employment Law came into force, the Minister has directed the Forum to review the existing family friendly employment rights with a view to extending them in a second stage of protection. The Forum has specifically been directed to consider extending the rights to provide a longer period of maternity leave. The Forum will start work on this review later this year, unless the Minister is required to re-direct the Forum to consult instead on other Employment Law changes.

At the Minister’s request, the States of Jersey Statistics Unit included a number of questions relating to maternity, paternity and adoption leave in the ‘Jersey Lifestyles and Opinions Survey’ (JLOS) this year. The outcomes of that survey will be available in December 2016.

A major review of the Social Security scheme is underway and an initial public consultation is planned for later this year. The purpose is to place the Social Security fund on a sustainable footing for the future. The review will take several years to complete and it will seek to understand the extent to which people in Jersey value each benefit and the role each plays in supporting people with life’s events. Maternity grant, adoption grant and the weekly maternity allowance currently cost around £2.5 million each year and are expected to be considered as part of this review.

3.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE IMPACT OF MTFP SAVINGS PROPOSALS ON NEGOTIATIONS AND POLICY IN RESPECT OF SALARIES FOR NEWLY QUALIFIED TEACHERS: [9583]

⁸ www.statesassembly.gov.je/AssemblyQuestions/2016/Dep%20Doublet%20to%20SS%20re%20designating%20maternity%20leave%20as%20parental%20leave%20available%20to%20either%20parent.pdf

⁹ [www.statesassembly.gov.je/AssemblyPropositions/2014/P.109-2014Com\(2\).pdf](http://www.statesassembly.gov.je/AssemblyPropositions/2014/P.109-2014Com(2).pdf)

Question

Will the Chief Minister explain why savings of £240,000 in 2018 and £480,000 in 2019 have been included in the MTFP Addition to be produced from changes to Newly Qualified Teachers' (NQT) salaries, given that any such changes to salaries must be subject to collective bargaining with teachers' representatives and no such negotiation has taken place?

How much freedom for each side to negotiate openly will there be if the savings are adopted by the Assembly, given that savings will need to be found elsewhere if they are not delivered from salaries?

Has there been a change of policy away from free collective bargaining with employee representatives to the imposition of pay awards?

Answer

A review of NQT salaries was identified as an area for potential savings in the MTFP. There is a noted differential between NQT salaries paid outside of Jersey compared to those within and it is appropriate to consider this area as a possible source of savings.

Like all reward structures, the Teachers salary structure is subject to collective bargaining with our recognised Trade Unions. The NQT element of that structure is no different. Any proposals to amend that structure will be dealt with by collective bargaining using the Framework Machinery in place, with the outcome subject to be approved by SEB before any implementation. This was noted in a meeting with teaching unions (Education Consultative Council) from 6th June 2016, whereby the NASUWT raised a concern insofar as any changes to the pay scales would require consultation and negotiation to take place. This was acknowledged and minuted in the meeting.

The States Employment Board (SEB) has and continues to negotiate with its employees within both its agreements with its recognised Trade Unions and cash limits set by the States Assembly from time to time. When, after extensive negotiation and consultation, agreements cannot be reached, all parties need to consider their options, including any alternative savings which would need to be notified to the Assembly

Occasionally, the best outcome for all the workforce, not just union members, is the implementation of a proposal /outcome. This is especially true when the proposal results in an improvement or betterment for the workforce in its pay, terms and conditions. The SEB remains fully committed to collective bargaining both today and in the future.

3.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE DEPARTMENT'S USE OF AGENCY WORKERS BETWEEN 2009 AND 2016: [9584]

Question

Will the Minister detail the Department's use of agency workers over the period 2009 to 2016, to include the following?

- (a) The number of posts filled by agency workers each year.
- (b) The titles of those posts and a description of the duties of each.
- (c) Whether the posts were full-time or part-time and, if the latter, the hours of work that were required.
- (d) The length of the contracts provided and the length of time each agency worker remained in the Department.

- (e) The number of such agency workers who subsequently transferred to full-time employment with the Department.
- (f) The total cost per post if there were direct employment to the post, broken down by element (salary, Social Security contributions, PECRS contributions), compared to the total cost per post of salary and agency fees where an agency worker has been used.

Answer

Temporary staff are engaged by the Department to cover short-term fluctuations in workloads, to support initiatives and projects, or where permanent need or funding has not yet been established e.g. piloting new approaches to improve service. Through this approach the Department has been able to improve customer service, pilot new innovations and develop the Back to Work programme. This has proved to be a successful way of working and many of the temporary workers have secured employment in the Department subsequently.

Temporary workers are not employed by the Department – they are employed directly by the Recruitment Agencies. Their contractual arrangements are a matter for the Recruitment Agency and the individual.

At the Social Security Department, temporary staff are not engaged through an agency with the intention that they will remain on an assignment for extended periods of time of a year or more. However, in some cases, the initial temporary assignment may unexpectedly need to be extended. For example, if the post-holder is on sick leave longer than expected, if the duration of a project has to be extended, or if the person is offered a further temporary assignment to deal with a different project within the Department. A rigorous vacancy management process takes place before seeking to engage temporary staff.

Responses have been provided using available data, and where the number of individuals in these groups is so small (less than five) that disclosure could lead to individuals being identified, the totals have been grouped together.

- (a) Between January 2014 and July 2016 the Department engaged 142 different individuals through Temporary Recruitment Agencies.
- (b) The table below provides a breakdown of the 142 individuals engaged as temporary workers between January 2014 and July 2016 by the initial assignment the individual was recruited for only and does not account for changes in activity, i.e. if an individual moved from a Back to Work project to support an Administration assignment, then this would only be counted as Back to Work.

Administration	25
Back to Work	53
Contributions and benefits	39
Customer Service	13
Projects	12
Total	142

- (c) Most assignments for Temporary Agency workers are for 37 hours per week.
- (d) At the end of July 2016 the Department was engaging 34 staff through Temporary Recruitment Agencies. The periods worked in the Department is provided in the table below and may cover multiple roles.

Temporary Agency workers time in Department	
Less than 12 months	23
12 Months +	11
Total	34

- (e) At the end of July 2016 approximately 1 in 4 of the current permanent or fixed term contract staff working in the Social Security Department had previously been engaged through a Temporary Recruitment Agency.
- (f) Current weekly costs are provided in the table below for comparison based on a grade 7/0 post for 37 hours per week.

Grade 7 - Permanent	Weekly
Basic	£585.13
Employers Pension (New PEP Scheme - 16.0%)	£93.62
Employer Social Security Contributions	£38.03
Total	£716.78

Grade 7 – Fixed Term Contract 6 months or less	Weekly
Basic	£585.13
Employer Social Security Contributions	£38.03
Total	£623.16

Grade 7 – Temporary Agency Worker (costs based on average of three agencies)	Weekly
Total	£676.71

3.15 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR EDUCATION REGARDING GCSE RESULTS IN JERSEY'S NON-FEE-PAYING 11-16 SCHOOLS: [9585]

Question

Will the Minister provide a breakdown of GCSE results per school for the 4 non-fee-paying 11-16 schools in Jersey and state how they compare with the results in such schools in the UK?

Answer

The breakdown of entries into full course GCSE examinations by grade achieved in 2015/2016 is presented below. These results are only provisional at this stage and reflect data submitted by schools on exam day.

		A*	A	B	C	D	E	F	G	U/ X	A*- C
2016	Grainville	2.9	10.1	20.8	28.4	19.4	10.2	4.6	2.9	0.8	62.1
	Haute Vallée	0.4	5.8	14.3	34.7	23.3	13.6	5	1.7	1.2	55.2
	Le Rocquier	3.0	5.6	14.1	30.2	25.8	12.8	5.6	1.9	1.1	52.9
	Les Quennevais	2.3	7.9	15.9	30.3	23.4	12.6	4.8	1.3	1.5	56.4
	Jersey	10.8	18.7	23.3	24	13.3	5.9	2.5	0.9	0.6	76.8
	England	6.4	13.9	21.3	25	17	8.4	4.2	2.2	1.6	66.6

The Education Department Insight team is currently validating the provisional GCSE results and conducting analyses. Later this term, indicators such as the percentage of pupils achieving 5+ GSCE examinations at grades A* to C including English and Maths and progress measures such as Best 8 Value Added will be available by school and by pupil group.

A full analysis of KS4 data will be conducted subsequently, once resits and appeals have taken place. A statistical publication on GCSE performance in Jersey will be published in March 2017.

Results data for schools in England is not available at this stage. UK secondary school performance tables for 2015/2016 will not be released until January 2017.

3.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING A STATISTICAL BREAK-DOWN OF TAXPAYERS: [9586]

Question

Will the Minister, by way of a table and graph, advise Members in respect of income tax for each year between 2008 and 2015 (or the last year for which full figures are available):

(a)

- i. The total number of taxpayers in each year;
- ii. The number of taxpayers who paid tax at the marginal rate;
- iii. The number of taxpayers who paid tax at the 20% rate.

(b)

- i. The percentage of the total personal income tax take paid by taxpayers in the marginal band;
- ii. The percentage of the total personal income tax take paid by taxpayers on the 20% rate.

(c)

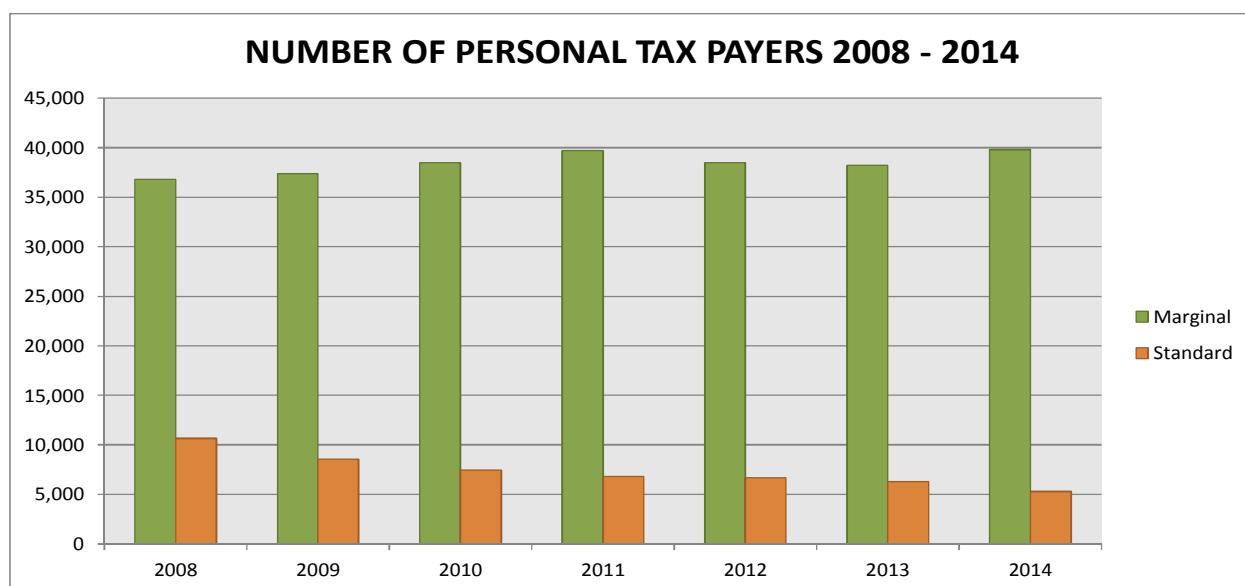
- i. The average rate of tax paid by those in the marginal band;
- ii. The average rate of tax paid by those on the 20% tax rate.

(d) The number of taxpayers in each year who paid no tax.

Answer

(a)

Count							
Year	2008	2009	2010	2011	2012	2013	2014
	(‘000)	(‘000)	(‘000)	(‘000)	(‘000)	(‘000)	(‘000)
Marginal	36.8	37.4	38.5	39.7	38.5	38.2	39.8
Standard	10.7	8.5	7.5	6.8	6.7	6.3	5.3
Total	47.5	45.9	46.0	46.5	45.2	44.5	45.1



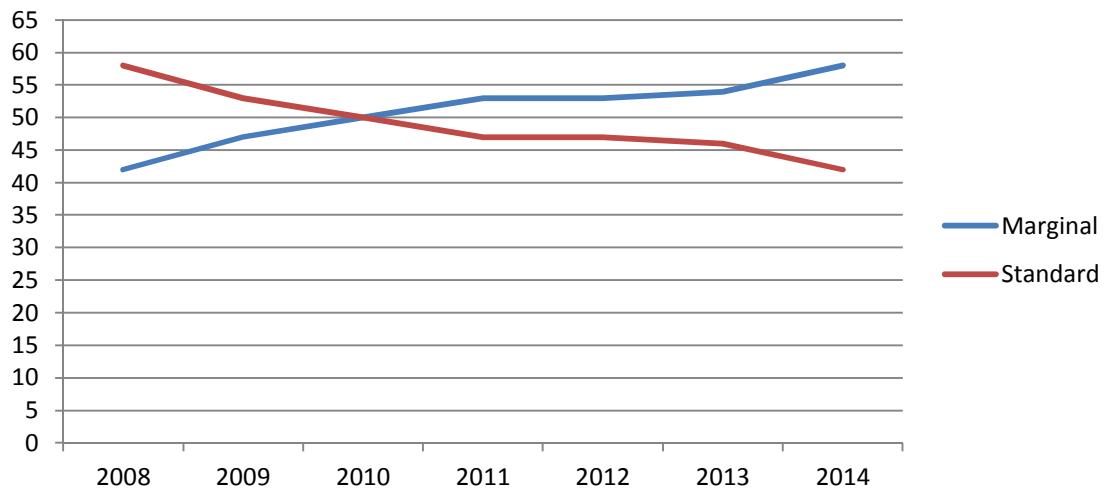
Notes:

1. A Personal Taxpayer is defined as an individual/married couple/civil partnership that pays tax, based on their own liability, in Jersey, for the year. Personal Taxpayers whose liability was less than £50 are counted as Personal Non-Taxpayers. This is consistent with the Taxes Office historical position on gathering tax data.
2. Over the period covered by this question the number of standard rate taxpayers has decreased and the number of marginal rate taxpayers has broadly increased by the same number, this transfer between categories is due to a combination of factors which include:-
 - The effects of the “20-means-20” policy implemented between 2007 and 2011 where allowances were gradually withdrawn from standard rate taxpayers (meaning that some of those taxpayers whose income was just sufficient to make them standard rate taxpayers in 2006 (when full allowances were available) will have become marginal rate taxpayers as the allowances were withdrawn from standard rate taxpayers)
 - The reduction in the marginal rate of tax in 2014 from 27% to 26%
 - The increases in the exemption thresholds over the relevant period
 - The increase in higher child allowances available to marginal rate taxpayers with children attending higher education introduced in Budget 2014
3. Despite this transfer between categories, the proportion of income tax paid by the top quintile of taxpayers has remained consistent over the period.

(b)

TAX %							
Year	2008	2009	2010	2011	2012	2013	2014
	%	%	%	%	%	%	%
Marginal	42	47	50	53	53	54	58
Standard	58	53	50	47	47	46	42
Total	100						

Percentage of total Income Tax Paid By Marginal and Standard Tax payers



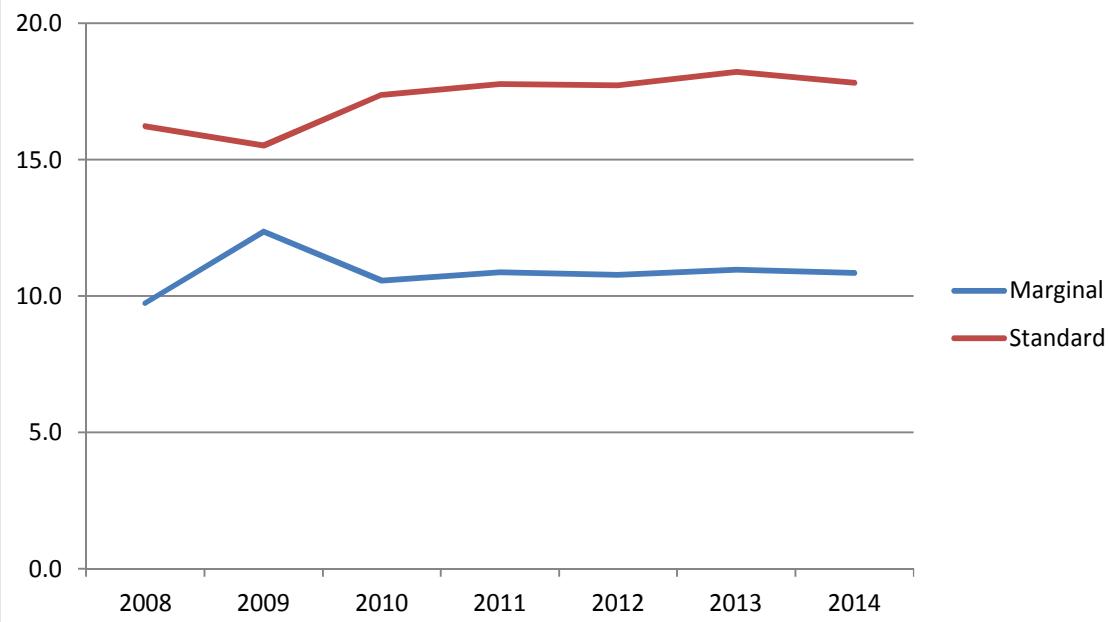
Notes (continued):

4. The gradual increase in marginal rate taxpayers over the period (see (a) above) will have a corresponding effect on the percentage of total personal income tax paid by marginal rate taxpayers.

(c)

Average Rate of Tax Paid							
Year	2008	2009	2010	2011	2012	2013	2014
Marginal	9.7	12.4	10.6	10.9	10.8	11.0	10.8
Standard	16.2	15.5	17.4	17.8	17.7	18.2	17.8

AVERAGE RATE OF TAX PAID 2008 - 2014

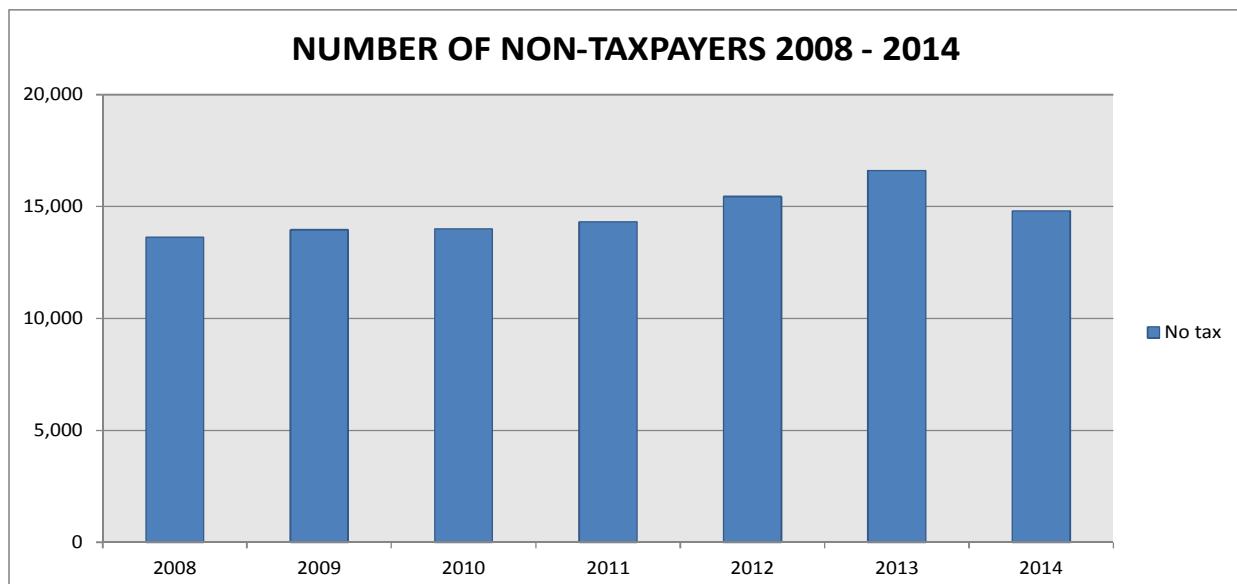


Notes (continued):

5. The average rate of tax paid for each specific taxpayer is calculated by reference to the total income (including taxed at source income) and the tax payable (the amount the taxpayer is required to pay after all tax credits have been deducted).
6. The average rate of tax paid by marginal rate taxpayers has gradually increased over the period, this has been predominantly caused by some taxpayers with higher incomes transferring from being a standard rate taxpayer to a marginal rate taxpayers (see the explanation for why this has occurred in (a) above).

(d)

Year	2008 ('000)	2009 ('000)	2010 ('000)	2011 ('000)	2012 ('000)	2013 ('000)	2014 ('000)
No tax	13.6	14.0	14.0	14.3	15.4	16.6	14.8



Notes (continued):

7. A Personal Non-Taxpayer is defined by the Taxes Office as an individual/married couple/civil partnership who has completed an income tax return and does not have a positive income tax liability for the tax year, based on the income, allowances, reliefs and deductions for the year. The data above does not therefore include individuals/married couples/civil partnerships that do not receive a tax return (such as students that register for holiday job purposes only and therefore have annual income well below the exemption threshold and other members of the population where their income has consistently been below the exemption threshold and their specific circumstances dictate that it is unlikely they will pay tax in the future).
8. The number of “non-taxpayers” (in accordance with the current Taxes Office definition set out above) will vary for a number of reasons which include:
 - Annual changes to the income tax thresholds approved by the States in the annual Budget process
 - Targeted use of resources by the Taxes Office to reduce the number of taxpayers that receive a tax return each year. When resource is available the Taxes Office will review cases where the taxpayer’s income has been consistently below the tax exemption thresholds and is likely to remain that way. The last such review will have impacted on the 2014 figure shown above.

Additional Notes:

1. The data provided is by reference to each year of assessment.
2. Data based on the 2015 year of assessment will not be available until 2017
3. Personal Taxpayers and Personal Non Taxpayers include
 - Single individuals.
 - Married couples / civil partnerships that have not opted for separate assessments (counted as one Personal Taxpayer or one Personal Non- Taxpayer).
 - Married couples / civil partners that have opted for separate assessments (counted as two Personal Taxpayers or two Personal Non-Taxpayers).
4. Non resident personal taxpayers and non-taxpayers are excluded.

3.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING FUND MANAGEMENT COMPANIES IN JERSEY: [9587]

Question

Will the Minister advise Members for each year between 2008 and 2015 of:

- (a) the number of Fund Management Companies established in the Island, breaking them down between those directly operating in the Island and those operating indirectly through Jersey-based sub-contractors;
- (b) the total amount of funds managed by those operating directly and those operating indirectly through sub-contractors; and
- (c) the amount of tax received from those operating directly and those operating through sub-contractors.

Answer

The Chief Minister's Department and the Jersey Financial Services Commission (**JFSC**) are working together in order to provide accurate information in relation to question (a) above. However, in the short time available and due to the complexity of the question (which you will note below), it has not been possible to extract the necessary data. As and when the information becomes available, and to the extent it is available, this will be provided to States Members.

It should also be noted that answers to questions (b) and (c) rely on question (a) being answered first. Again, as and when the information becomes available for these questions, and to the extent it is available, this will be provided to States Members.

The reason for the delay in responding to you is because the JFSC do not report on the data referred to in the question. The JFSC have the information in their systems, but need to extract it and manually write the reports which we can use to respond.

Technical background and assumptions to the response to the question

A person shall not carry on financial service business in or from within Jersey and, a person being a company incorporated in Jersey shall not carry on such business in any part of the world, unless the person is for the time being a registered person under Financial Services (Jersey) Law 1998 (**FS(J)L**), and acting in accordance with the terms of his or her registration. Accordingly, the test is not whether or not a person is "established" and "operating" in Jersey, but whether or not a person carries on one or more classes of financial service business in or from within Jersey or, in the case of a Jersey company, carrying on such a business in any part of the world (noting that a Jersey company is required to have a registered office in Jersey and would therefore be conducting such business in or from within Jersey).

A person carries on financial service business if by way of business the person carries on investment business, trust company business, general insurance mediation business, money service business, fund services business or AIF services business. These six main categories of financial services business are broken down into various activities, which if carried on by a person in or from within Jersey, would amount to that person undertaking one or more of the main categories of financial service business. For example, Article 2(10) of the FS(J)L provides that a person carries on fund services business if by way of business the person is:

- (a) a manager, manager of a managed entity, administrator, registrar, investment manager or investment adviser;
- (b) a distributor, subscription agent, redemption agent, premium receiving agent, policy proceeds paying agent, purchase agent or repurchase agent;
- (c) a trustee, custodian or depositary; or

- (d) a member (except a limited partner) of a partnership, including a partnership constituted under the law of a country or territory outside Jersey,
- (e) in relation to an unclassified fund or an unregulated fund.

As can be noted from the above, there are many technical terms set out in the FS(J)L. However, “Fund Management Company” is not one of them. Jersey does recognise terms such as Manager, Investment Manager, Investment Adviser, AIFM and GP which we traditionally think of as acting in “a Manager like” capacity and they could be established in any form (for example, not only companies but also partnerships). Therefore, in preparing for a response to part (a) of this question, we are likely to assume that the reference to “Fund Management Company” means any person that is authorised to carry on fund services business as a “manager” as per Article 2(10)(a) of the FS(J)L (see above). In addition, we are likely to also assume that the reference to “operating indirectly through a sub-contractor” means a managed entity that relies on a person who is registered to carry on fund services business as a manager of a managed entity (see Article 2(10)(a) above).

Finally, the FS(J)L has a number of exemptions to the requirements of the Law. The Financial Services (Investment Business (Qualifying Segregated Managed Accounts – Exemption)) (Jersey) Order 2014 is one such exemption and enables Jersey-regulated fund managers to service qualifying segregated managed accounts (“QSMAs”) without the need for further regulation in Jersey. As QSMAs are not unclassified funds or unregulated funds (ie there is no collective investment of capital), these accounts will not be included in our response to question (b). In any case, data on the value of QSMAs can be found on the JFSC’s website:

http://www.jerseyfsc.org/investment_business/statistics/totalfundsunderinvestmentmanagement.asp

3.18 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING FINANCIAL SERVICES BUSINESSES WHICH DO NOT PAY TAX: [9588]

Question

Will the Minister provide Members with the number and type of financial services businesses who pay no tax on their business profits and explain the reasons why they do not do so?

Answer

In order to answer the Deputy’s question I have assumed that when referring to financial services businesses he is referring to those businesses that come under the regulation and supervision of the Jersey Financial Services Commission.

These are listed on their website as follows:-

- Banking
- Collective Investment Funds
- Fund Services Businesses
- Insurance Business
- General Insurance Mediation Business
- Investment Business
- Money Services Business
- Trust and Company Service Providers

Where any of these businesses are run through a company, the Jersey Income Tax Law is very specific in what is subject to tax at 10% and, therefore, very specific about what is subject to tax at 0%. This is determined by the specific registrations or permits held in respect of the Financial

Services (Jersey) Law 1998, the Banking Business (Jersey) Law 1991 and the Collective Investment Fund (Jersey) Law 1988 and whether or not the company has a permanent establishment in Jersey.

Those businesses listed above that would pay at 0% (assuming in corporate form) would include:-

- Fund Service Businesses (including fund management) where their business does not require them to be registered as an administrator or custodian in relation to an unclassified fund or an unregulated fund
- Insurance Business (where this does not include any registered investment business) – typically general insurance business
- General Insurance Mediation Business
- Money Services Business
- Any financial services business that does not have a permanent establishment in Jersey

It is not possible to provide numbers in respect of each type of financial services business that pays tax at 0%. This would need intricate comparison and analysis of Jersey Financial Services Commission and Taxes Office data which would require significant resource.

With regard to the Deputy's final question he will recall that at the time that zero-ten was introduced it was essential, in order to avoid being in conflict with the EU Code Group's criteria for harmful taxation, that zero had to be the standard rate of corporate income tax applied in the Island, meaning that the majority of companies and the majority of profits had therefore to be taxed at zero percent. Jersey's approach was to ensure that these criteria were met, whilst raising revenue from the financial services industry by applying an internationally competitive 10% rate to specified sectors of that industry.

The Deputy may find the statement reproduced from P168/2006 Draft Income Tax (Amendment No 28)(Jersey) Law- of interest:-

“3.2 Special rate of corporate tax of 10%

3.2.1 A certain and very restricted sector of the Jersey resident corporate sector will be charged at a special corporate tax rate of 10%. They will be specified financial services companies such as banks and trust companies which will be defined as any company licensed, registered or authorised under specified sections of the Financial Services (Jersey) Law 1998, the Collective Investments Fund (Jersey) Law 1988 or the Banking Business (Jersey) Law 1991. The 10% rate will ensure that the financial services industry continues to pay substantial amounts of tax revenues. This is considered acceptable in meeting the criteria of the EU Code of Conduct on Business Taxation, as it is a feature of the way that the EU interprets its approach on harmful tax practices that assessing one – limited – sector at a higher rate of corporate tax (10%) than the general rate (0%) is acceptable.”

3.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TAXATION OF FINANCIAL SERVICES BUSINESSES: [9589]

Question

Will the Minister advise Members for each year between 2008 and 2015 (or the last year for which full figures are available) of the number of financial services businesses that are paying tax at the 10% rate and of the amount of tax they generated, and explain why there have been changes during that period in the number of firms paying at the 10% rate and in the tax take?

Answer

	2009	2010	2011	2012	2013	2014
Number of companies paying tax at the 10% “Financial Services Companies” rate	189	182	196	206	209	215
	£m	£m	£m	£m	£m	£m
Tax paid by those companies	43.8	39.0	48.1	67.0	62.7	70.0

1. The zero-ten regime was introduced in 2008 only for companies registered on or after 3 June 2008. It was not until the 2009 year of assessment that all companies were included within the zero-ten regime; 2008 data has not therefore been included in the table above.
2. The data is presented on a year of assessment basis.
3. Complete and final 2015 year of assessment data will not be available until 2017.
4. The total number of “financial services companies” outlined above excludes those companies (e.g. nominee and secretarial companies) which are regulated such that they fall within the definition of “financial services company” under the Income Tax Law, but which report no profits themselves. The fees for the provision of these services (e.g. nominee and secretarial services) are reported by the parent trust company which is subject to tax at 10%. No corporate income tax is lost as a consequence.
5. The information requested in this question has largely been provided in answer to Deputy Mezec’s earlier questions (9341 and 9383) tabled in April 2016. Those answers provide further information (including adjusted profits) in relation to corporate tax receipts.
6. Part of the reason for the increase in the tax paid by financial services companies in 2012 can be attributed to the repeal of the International Business Company regime with effect from 1 January 2012. A result of the repeal is that a number of companies that were International Business Companies in 2011 are included within the 10% financial services companies in 2012.
7. The tax adjusted profits of financial services companies (see question 9383 referred to above) and therefore the tax payable will vary for many reasons which will include :-
 - Impact of the global financial crisis
 - Corporate restructuring
 - Changing interest rate environment
 - Movement of financial services firms both into and out of the island as a result of Head Office restructuring

3.20 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE LEVELS OF FUNDS AND BANK DEPOSITS HELD IN JERSEY: [9590]

Question

Will the Minister, by way of a table, show for each year between 2008 and 2015 (or the last year for which full figures are available):

- (a) The total amount of funds under management in Jersey and the tax take from the fund management firms concerned, explaining why there have been changes during the period in question in the levels of funds and the tax taken;

- (b) The total amount of deposits held by Jersey banks and the tax take from those banks, explaining why there have been changes during the period in question in the level of deposits and the tax taken.

Answer

Information on funds under management and bank deposits has been extracted from the Jersey in Figures web pages:

<http://www.gov.je/Government/JerseyInFigures/BusinessEconomy/Pages/FinancialServices.aspx>.

- (a) funds under management

Year	funds under management in Jersey (£ billion)
2008	241.2
2009	166.2
2010	184.7
2011	189.4
2012	192.8
2013	192.2
2014	228.9
2015	225.8

The global financial crisis of 2007 – 2009 played a significant role in the fall in funds under management during the period in question. The financial crisis caused the value of assets to plummet, which directly impacted the amount of funds under management in Jersey. Following the financial crises there was a period of modest growth. However, 2014 and 2015 figures show that funds under management in Jersey have grown back up to almost pre-financial crises levels. We understand that this being driven by alternative asset classes and, in particular, by strong performances in the private equity and real estate asset classes.

In terms of the tax receipts, it should be noted that:

1. Any company that is only authorised by the Jersey Financial Services Commission to act as a “fund manager” is outside the scope of the 10% tax band under the Income Tax (Jersey) Law 1961 and hence will pay tax at 0% on its profits.
2. There are some fund managers in Jersey that are authorised to carry on other financial services activities by the Jersey Financial Services Commission (e.g. as a fund administrator) that may bring them within the scope of the 10% tax band.
3. If a company is inside the scope of the 10% tax band, it pays tax at 10% on all of its profits – so in the example above, the company would pay tax at 10% on both the profits made from administration activities and also the profits made from fund manager activities.
4. In the case of a company as described in 2 and 3 above it is not possible to determine from Taxes Office data the profits made from administration activities separately from the profits made from fund manager activities. No figure can therefore be provided in respect of the tax take solely in respect of the fund manager activities.

The Minister is informed that companies that carry on fund services business in or from within Jersey, such as fund administrators, have been experiencing reduced profits over the period as a

result of margin squeezes and a trend towards (lower) fixed fees. It is for these reasons, in the Minister's view, that tax receipts have declined over the period.

(b) deposits held by Jersey banks

Year	deposits held by banks located in Jersey (£ billion)
2008	206.1
2009	165.2
2010	161.6
2011	158.1
2012	152.1
2013	139.9
2014	132.4
2015	126.5

The Jersey deposit figures have been impacted by a number of factors:

- There has been significant corporate restructuring by banks globally since the financial crisis. This has resulted in some bank/branch closures (which has had some impact on Jersey) as well as capital held in Jersey subsidiaries being repatriated to the parent bank. In addition some banks have restructured from subsidiaries to branches, which do not require the same levels of capital;
- The lowest interest rates in decades over an extended period have seen investors seeking better returns which has resulted in less cash being held on bank deposit. Investors are looking to generate better returns through investment in 'real' assets (such as property) or other opportunities e.g. shares or funds; and
- Exchange rate movements do have some impact on the overall deposit levels as they are expressed in Sterling although Jersey banks collectively do have a significant US\$ book. This volatility may result in some positive movement in the next set of figures which will not necessarily demonstrate any increase in business but does demonstrate the international nature of our business. Internationalising the industry has been a key strategic priority for some years.

It is important to note that the overall deposit levels are just one indicator of business activity but not a key one, especially in the current interest rate environment. Indeed we expect to see further falls in the overall number in the coming months as a result of the loss of two bank licenses already publicised. However from a government perspective we are pleased to see employment numbers in the industry rising and the continued recruitment of local school leavers and returning graduates. The expansion of the financial services industry into new markets and across different subsectors, in line with the strategy set out our Financial services Policy Framework, continues to contribute to employment numbers and taxation receipts.

The Jersey Financial Services Commission and the Taxes Office were already working together in order to provide accurate information on the tax receipts of the deposit taker banks for the years in question. In the short time available to provide this answer it has not been possible to extract the data required. As and when the information becomes available, and to the extent it is available, this will be provided directly to Deputy Higgins.

4. Oral Questions

4.1 Deputy K.C. Lewis of St. Saviour of the Chief Minister regarding proposals for an Island-wide census: [9599]

When will the Chief Minister bring forward proposals for an Island-wide census?

Senator I.J. Gorst (The Chief Minister):

I understand that the United Nations Statistic Division has recommended that all jurisdictions conduct population censuses in 2020 or thereabouts. If Jersey were to follow this recommendation it would maintain a 10-year census cycle but also enable funding to be identified in the next Medium Term Financial Plan with the necessary preparation time for the Statistics Unit and this would seem reasonably sensible.

Deputy K.C. Lewis:

The Chief Minister has answered the question. Just to clarify, that was 2020. Obviously, we need this information for schools, hospitals and housing. I thank the Chief Minister for his reply.

4.1.1 Deputy G.P. Southern of St. Helier:

Is the Minister aware that following his agreement to the loss of 2 posts in the Statistics Department the successful conductance of the census is made very difficult by the loss of 2 such posts?

Senator I.J. Gorst:

I am not sure if that was a question or not. Could I just go back to Deputy Kevin Lewis's question? That is what the United Nations suggests. 2020 seems reasonable. We already understand that the...

Deputy M. Tadier of St. Brelade:

On a point of order, please, is it in order for the Chief Minister to disregard the question which has been asked of him and say: "I do not think that is a question" and then proceed to answer a previous question from a ...

The Bailiff:

Deputy, if he had been disregarding it, then I would certainly pull him up for it. As far as I am aware, he was just about to come on to it. That was what I understood, but if he does not come on to it pretty soon, I will pull him up for it.

Senator I.J. Gorst:

If the Members do not want the information that I am going to give them, then I am not sure what I can do. I was simply saying that Deputy Lewis rather than asking a question made the assumption about 2020. I said that 2020 seems reasonable because it is what the United Nations Statistic Division has said, but the United Kingdom has already decided it is going to be 2021 for them. So we will have to reach agreement about whether it is 2020 or 2021. I do not accept the premise of Deputy Southern's question because he knows that around a census the Statistics Unit employs quite a number of temporary people to undertake the legwork of the census going door to door. He will also be aware that there is a question - well, that question will fall away because Deputy Higgins is not here - about the Business Tendency Survey and the 2 posts there. The Deputy will see in response to his amendment about reorganisation, reprioritisation, bringing in health statistics to the central independent Statistics Unit, and using some of that resource to work more effectively; therefore, being able to reintroduce some of those reports which have been indicated might not be

in the future, but I expect they will be and we are going to work with the Chief Statistician to ensure that they are.

4.1.2 Senator S.C. Ferguson:

In order to keep a coherent policy coming up to the census, will the Chief Minister confirm that there will be a firm population policy being brought out within the next couple of years?

Senator I.J. Gorst:

Yes.

Senator S.C. Ferguson:

A follow-up, Sir? Sorry, a supplementary?

The Bailiff:

I will come to you in a minute.

4.1.3 Deputy L.M.C. Doublet of St. Saviour:

Will the Chief Minister confirm if Back-Benchers or States Members will have some input into the types of questions that will go in the census? Will we be consulted on that?

Senator I.J. Gorst:

The Deputy is testing my memory now about the last census about whether that took place or not. It is a census which is overseen, controlled, managed, rightly, by the independent Statistics Unit. I know that Back-Benchers and Members of this Assembly and departments have input into the Jersey Annual Social Survey questions. I think that is appropriate. I am not sure whether it is appropriate to have input into the questions when it has to be independent, rightly, but I can certainly check with the Chief Statistician.

4.1.4 Deputy J.A.N. Le Fondré:

Is the Chief Minister satisfied that the health statisticians do have spare capacity - one would assume they are rather occupied with whatever work they are doing at the moment - and, therefore, that they can assist the Statistics Department in the work that they will have to make up because of the posts they are losing?

Senator I.J. Gorst:

I am satisfied that we are going to try and find out otherwise we have various pockets of statisticians. We are bringing them together from the Health Unit to try and deliver efficiencies so that we can get similar levels of work, increased productivity, with a smaller number of people. I would have thought that the Deputy was in favour of that approach.

Deputy J.A.N. Le Fondré:

Just as a clarification, I did not express a view one way or another. I asked the Minister a question.

The Bailiff:

Senator Ferguson, I was a little peremptory then. I apologise for that, but a Member does not have an automatic right to ask a second question and you did have a very clear answer - it was either yes or no; I forget which it was - to your first question. But anyway do you have another question to put to the Chief Minister?

Senator S.C. Ferguson:

No.

The Bailiff:

All right, thank you. Any other questions? Final supplementary.

Deputy K.C. Lewis:

That is fine, thank you. It is coming in 4 years' time. May I raise the défaut on Deputy McLinton? Thank you.

The Bailiff:

It is proposed the défaut be raised. The défaut is raised.

4.2 Connétable C.H. Taylor of St. John of the Minister for Economic Development, Tourism, Sport and Culture regarding the potential impact of proposed new waste charges on tourism and catering establishments: [9593]

Will the Minister inform the Assembly what surveys, impact studies and assessments, if any, the department has carried out to determine the potential effect of the proposed new waste charges on the tourism and catering industries?

Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):

My department have highlighted to the Minister for Infrastructure and his officials the need to ensure that the detailed proposals for charging take full account of the impact on businesses of all sizes across all sectors of the economy. I should also add that the Chief Minister, Minister for Infrastructure and I during meetings with the various business representative bodies have undertaken to collaborate with all business sectors during the process of developing the detail to ensure that any new charges are fair and equitable. To that end, officers from my department are working with officials from the Department for Infrastructure on the development of the charging structure and I look forward to seeing and sharing the details in due course.

4.2.1 The Connétable of St. John:

Would the Minister confirm that so far, to date, there have been no studies and no assessments?

Senator L.J. Farnham:

I think the Constable's questions would have been better directed to the Minister for Infrastructure. It is his department that is leading this and, as I have said, we have pointed out to the Minister for Infrastructure and had constructive talks that we must undertake to collaborate with all business sectors. Now, I can confirm that my department has not carried out any studies at this stage, but we have discussed it in-depth with representative bodies. I would suggest that the Minister for Infrastructure might be in a better position to answer the question.

4.2.2 The Connétable of St. John:

Sorry, I was under the impression that the Minister represented the tourism and economic development industries of the Island and those were the industries who I was wondering how they were being affected.

The Bailiff:

Is there a question there? I thought there was.

The Connétable of St. John:

It was really clarification that as he leads those industries has he led the industry in obtaining the necessary impact studies.

[10:00]

Senator L.J. Farnham:

It was remiss of me. I should have addressed that point. Yes, I do and am privileged to lead those industries and will fight hard for them. I am in discussions with the industries and the various business bodies and that is why I said we are going to work very closely with Infrastructure to make sure the charges are fair and equitable because it is concerning the impact it could have on certain businesses, which is why it must be even and equitable.

4.2.3 Senator S.C. Ferguson:

Is the Minister aware that the approximate charges that are being discussed in the industry are pretty hefty? Is he aware of the level of charges that the Department for Infrastructure is thinking of and how is he going to fight this?

Senator L.J. Farnham:

I do not think there have been any figures discussed. I am certainly not aware of any hard and fast figures that have been decided upon. I know there has been hearsay floating around the industry and, yes, it is going to be a big ask between 2017 and 2019 to find £11 million from the commercial sectors. But Members will well know in this era of Zero/Ten, where there is zero corporation tax, the Council of Ministers has been charged with finding additional revenue. I accept the principle of the charge and we have to look to the commercial sector to raise more taxes. But as I said before, I will work collaboratively with the industry, with the Minister for Infrastructure and with officials to ensure that any charges that are introduced are as equitable and as affordable as possible.

4.2.4 Senator S.C. Ferguson:

Has the Minister sat down with some of the managing directors of the various hotels, for example, to discuss the indicated levels of charge which are circulating within the industry? Because I have heard some of the figures and we are talking the best part of £100,000 and this is very frightening for some businesses. Why is the Minister not taking a more proactive stance on this?

Senator L.J. Farnham:

I know the Senator has been absent for a year or 2, but I have been and I am very proactive with the industries I represent. I meet regularly with members from all sectors of the business community and I am aware of the concern there is about these charges, which is why we are going to work very closely and quickly with Infrastructure to make sure we can get some facts out there so people are not speculating about what they might be. The Senator and the Assembly can rest assured, as my past I think will show, that I will fight very hard for the sectors I represent. It might well be in the fullness of time - Sir, I will have to take your advice - that I would remind Members that I am a director of a hotel so there could be a conflict, although I hope there will not be.

4.2.5 Deputy G.P. Southern:

Will the Minister itemise for Members the actual steps that he has taken to consult on the assessment of the size of the charges that will be put in place?

Senator L.J. Farnham:

I wish the Deputy would listen to the answers sometimes. I will go right back to the beginning. My department have highlighted to the Minister for Infrastructure and his officials the need to ensure that the detailed proposals for charging take full account of the impact on businesses of all sizes across all sectors of the Jersey economy. We will work closely with Infrastructure to make sure that happens.

4.2.6 Deputy G.P. Southern:

What research has he done on the actual size of his proposals on particular businesses?

Senator L.J. Farnham:

I think I have answered that.

4.2.7 Deputy J.A.N. Le Fondré:

Could the Minister indicate at this stage whether the proposed charge has the full support of the tourism industry?

Senator L.J. Farnham:

Well, I would doubt that any new tax or charge would have the support of the recipient. Although there has been no formal announcement by the industry, I would think the answer would have to be no. But that is why we have to work these charges up very quickly and sit down with the relevant industries, not just tourism but agriculture and retail and other areas of general commerce, as quickly as possible so we can discuss and make sure that when the charges are introduced they are fair and they are equitable. I have undertaken, as have the Chief Minister and the Minister for Infrastructure, not to implement the charge without full and detailed consultation.

4.2.8 The Connétable of St. John:

Does the Minister share my concerns that 2 weeks from today we will be debating the Medium Term Financial Plan and in that plan it is proposed that we will be adopting the £10 million or thereabouts on these industries and to date you have carried out no studies because you have said: “We will work with the Minister” implying that you will do so in the future, after it has been agreed by this Assembly.

The Bailiff:

Through the Chair, Connétable.

The Connétable of St. John:

Through the Chair, I believe that is very bad leadership.

Senator L.J. Farnham:

We will in the M.T.F.P. (Medium Term Financial Plan) be agreeing the principle of a waste charge and I understand we will by 2019 be undertaking to raise up to £11 million from that decision. I do not know if that is going to be feasible or not at this stage to take £11 million from the business sectors. As I said before, the members of the Reform Party make the most noise about businesses underpaying on taxes, and many Members and Islanders think that businesses have to pay more, so we have to explore these issues. But if we do not find a way of charging fairly and equitably across the business sectors, then there is going to have to be some rethinking at some stage. I think with goodwill and collaboration we will find a way to implement these charges fairly. If I am being honest, I would rather we did not have to implement them, but we are one of the only places in the world that does not charge for the disposal of liquid and solid waste and we have to address that at some stage. I think the sooner it is done the better.

4.3 Deputy M. Tadier of the Minister for Treasury and Resources regarding income inequality in Jersey since 2008: [9602]

Will the Minister confirm whether or not income inequality in Jersey has worsened since 2008 and, if so, what measures, fiscal or otherwise, will he be proposing to address the situation?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

As the Deputy knows, the Jersey Household Income Distribution Report from 2014/15 produced by the Statistics Unit concludes: "Income inequality worsened since 2009/10, particularly once housing costs were taken into account, a result of persistently low interest rates for mortgage holders but increasing rents for those in rental accommodation." Unfortunately, low interest rates are outside of our control and not something we can address, but obviously our housing policy is working to increase supply and, therefore, help to contain future rent increases. In addition, considerable funding is provided through Income Support to assist low income families with the cost of renting their homes. It is worth noting that the Statistics Unit point out that the benefits and tax system work to improve income inequality. The M.T.F.P. and M.T.F.P. Addition are framed against this backdrop, and the significant investment we are making in health and education will help to strengthen the impacts of the tax and benefit system by benefitting Islanders in a progressive way.

4.3.1 Deputy M. Tadier:

I do not know how long the Minister has been in office - I suspect it is for this term - but, of course, he was a Minister prior to that and it is effectively on his watch and on the Council of Ministers' watch that income distribution and income inequality has got worse, despite the fine words and the fine aims that the Minister comes out with today. Interestingly, he mentions housing and saying that there are safeguards built in, but the Income Distribution Survey highlights that, in fact, since 2009/10 the proportion of qualified rental households in relative low income has trebled from one in 10 to 3 in 10 and the proportion in social rented households in relative low income has gone from 27 per cent to a staggering 66 per cent of those households living in low income, many of them in St. Helier, which was another one of the promises of this Council of Ministers to address and invest in St. Helier. When will the Minister admit that he and his ministerial colleagues have this wrong and that they need a drastic change of direction when it comes to addressing these vast inequalities in socioeconomics in our Island?

Senator A.J.H. Maclean:

I think this Council of Ministers is addressing these matters and recognises very clearly that there is a problem that needs to be addressed. That is why, for example, investment of £250 million to Andium, into social and affordable housing, much of which is going into St. Helier, the very area that the Deputy is referring to, is so important. Increasing supply will help to constrain future rent increases and, therefore, deal with the matter of inequality to a certain extent. We have to bear in mind that before housing costs income inequality was similar to that in the U.K. (United Kingdom). I would say, therefore, that this suggests that the impact of lower interest rates on mortgage payments and increases in rent have had a much bigger impact in Jersey.

4.3.2 Deputy S.Y. Mézec of St. Helier:

What effect on income inequality does the Minister anticipate that his policies to cut £10 million of support from the poorest people in Jersey and exempt the wealthiest 3 per cent of Islanders from further tax rises will have on our income inequality statistics?

Senator A.J.H. Maclean:

As I have just said, I think the important point is to focus on what we are investing in, not the fact that ministerial colleagues are trying to ensure that the funding they have available is targeted to those most in need, which is exactly what my colleague at Social Security has been doing. What we are doing is we are putting considerable amounts of money into improving the housing stock, making it more available and, therefore, helping to constrain future increases in rents.

4.3.3 Deputy S.Y. Mézec:

On what planet does it constitute targeting support to people who need it when this Government has cut £10 million of support from disabled people, from single parent families and from pensioners, 3 groups which the Income Distribution Survey pointed out have shocking levels of poverty in the Island? How on earth does he say he is helping those people by saying somehow support is being targeted to those vulnerable groups in our society when he has cut £10 million of support from them? What planet is he living on?

Senator A.J.H. Maclean:

The same planet that the Deputy is living on and, quite frankly, we would like to focus on the fact that we are also investing money in key areas which are particularly relevant to the group that the Deputy is so concerned about, and rightly concerned about I should say, and that is the significant extra funding that is also going into the health service, the health service which members of the cohort that the Deputy is referring to use those services perhaps to a greater extent than many other areas of the community. That is the right thing to do to make sure that we invest in the areas that really matter and make a difference to our community.

4.3.4 Deputy A.D. Lewis:

Surely key to this is the levels of pay for the low paid. Can the Minister explain whether any serious consideration will be given to significantly raising the minimum wage, perhaps closer to a living wage? The gap between the highest paid and the lowest is clearly part of the problem with regards to income inequality, so what plans does the Government have to seriously raise the minimum wage to something more akin to a living wage that will close the income gap?

Senator A.J.H. Maclean:

I know this is a popular topic for the Deputy. This is really more of a focus and more of a matter for the Minister for Social Security in many respects, but what I would comment on is the fact that there is an independent group that assesses income and average earnings and wages in that area and that is updated on a regular basis. As the Deputy knows, there are no plans to look at a living wage beyond what has already been stated by this Council of Ministers in the past.

4.3.5 Deputy G.P. Southern:

I believe the Minister is mistaken on that last answer, but never mind. Can we focus instead on the real nature of what is going on in our society and not just blame it on housing costs, as the Minister has been doing? Is it not the case that the proportion of members of our society living in relative low income is due primarily to a 30 per cent reduction in their wages in the economy that we are running? Is it not time to address this low wage, low tax economy that he is talking about? When he talks about progressive measures, what progressive measures does he have in mind in order to correct this under-functioning in our economy?

Senator A.J.H. Maclean:

I think some facts would be perhaps helpful to the Deputy and I would quote, for example, that mean and median household incomes are still 50 per cent higher in Jersey than they are in the U.K. We have to also look at the recent average earnings data that has been published, which has shown for the last 4 years now we are seeing average earnings increasing at a rate above inflation.

[10:15]

That is positive not just for this cohort but for all income earners across all cohorts in the Island because it means there is slightly more disposable income available than would otherwise have been the case. In previous years, we have very much seen inflation outstrip average earnings. That is not a position we wish to be in so it is much better from that respect what we have seen in the last 4 years.

4.3.6 Deputy G.P. Southern:

Does the Minister accept that that is far from the case for public sector workers who have been meeting restrictions on their cost of living rises?

Senator A.J.H. Maclean:

Well, from an increase perspective that is correct, but you have to look at the base level of salary to make a fair comparison as to what the relative values of earnings happen to be.

4.3.7 Deputy A.D. Lewis:

With respect, the issue here is the gap between the rich and the poor and that can be closed by increased wages. Can the Minister explain exactly what discussions are going on between the Employment Forum at the moment? Because it is within the gift of the Government to, yes, listen to what the Employment Forum say but also make a policy decision to override some of what they say in the interests of the betterment of the community.

Senator A.J.H. Maclean:

There has been no intention to seek to override a decision of the Employment Forum. There is little point in setting up an organisation of that nature with the remit that it has and then to override its decisions, which are arrived at through a process of collaboration and discussion and surveying businesses and individuals. That is absolutely the right way that it should operate as an independent body. There is no discussion currently about the area that the Deputy is particularly interested in, which is with regard to a living wage in Jersey.

4.3.8 Deputy M. Tadier:

The Minister likes to make comparisons with the U.K. but the Income Distribution Survey says quite clearly that income inequality was worse in Jersey in 2014/15 than in the U.K. despite the Minister's attempted spin. Can the Minister explain on the one hand how he can seemingly be in support of reducing income inequality in our Island but yet singularly be introducing a stealth tax to this Assembly which deliberately lets the most wealthy in our Island off paying the full proposed 1 per cent charge on that, but everyone else who is a lower earner paying up to the full 1 per cent? Can he reconcile that with that previous belief of reducing income inequality and, if not, what will he do to change that?

Senator A.J.H. Maclean:

I assume the Deputy is referring to a proposed or potential health charge and on that basis I would simply say to the Deputy, and this is applicable more broadly and I have made this point before, that 30 per cent of the population, due to our generous levels of allowances and reliefs, do not pay income tax. That would include the long-term care charge and it would include also the proposed health charge. That is 30 per cent of the lowest earners in our community will not be impacted by the health charge and are not currently impacted by the long-term care charge either due to the generous level of our reliefs and allowances.

4.4 Deputy R.J. Renouf of St. Ouen of the Minister for Health and Social Services regarding the referral of young adult wheelchair users to the facility provided by Les Amis at Maison Allo: [9594]

What assessment has the Minister made of the importance of short breaks as part of a care package for young adult wheelchair users and in relation to such people's carers, and for what reason does his department not refer young adult wheelchair users to the facility provided by Les Amis at Maison Allo?

Senator A.K.F. Green (The Minister for Health and Social Services):

As part of any assessment of need in respect of a young adult wheelchair user consideration is given as to what informal support is offered to the young adult, i.e. their carers, at home. The more support that is provided the greater the need for short breaks and respite to give the carers a break and to avoid burnout. I visited Maison Allo about 6 weeks ago with Senator Routier. It is an excellent registered facility to take young adults, 18 to 21, for respite. It has 4 beds and caters for one wheelchair user. We have referred - or signposted would be a better description for 18 year-olds because they can choose where they go - recently 2 people to Maison Allo. Both declined, which is a shame because it is an excellent facility, but one preferred to have more support at home and the other one chose an alternative facility.

4.4.1 The Deputy of St. Ouen:

Is the Minister really saying that in the past few months only 2 people have been referred to that facility? Because we are hearing from Maison Allo that that bed for which the public are paying has not been used since it was opened. Surely there are more people needing that facility. Can the Minister say why others are not being referred and accepting that post?

Senator A.K.F. Green:

Young adults receive an allowance based on the assessment from Income Support on long-term care and it is for them to determine where they wish to partake in services. I will say again that I thought the facilities at Maison Allo were excellent and it would be a shame not to use the facilities. For that reason, 6 weeks ago I asked senior officers to make sure that people understood the facility was available, but you cannot make people use a facility.

4.4.2 Deputy G.P. Southern:

Does the Minister accept that the provision and the facilitating of respite care is an essential ingredient to the proper wraparound care for members of our society who require respite care? Is it not the case that the mechanism for delivering respite care is not functioning properly?

Senator A.K.F. Green:

The latter part of the question: there is always room for improvement but people have different needs. Some require short breaks during the day, others require overnight and even longer periods away from home. I would agree with the Deputy, though, that respite care is absolutely essential both for the wellbeing of the carer and of the person who has the disability, and to that end we always regard the facilities to be important. But again, if the facilities are there and we signpost them and people do not take them up, I cannot do much about that.

4.4.3 The Deputy of St. Ouen:

Is the failure to take up the facilities because the families or these young adults are being moved into the long-term care scheme and does this not show that the long-term care scheme is an inadequate mechanism to deliver this essential respite facility?

Senator A.K.F. Green:

I could not agree with the Deputy less. I nearly said “more” but I could not agree with him at all. The days of one size fits all and we will decide what is good for your young person that you are caring for have gone. The long-term care scheme is there to give people appropriate funding to choose how to support their family appropriately. I absolutely think it is the right way to go and I do not think it is appropriate ... I think it is doing an excellent job.

4.5 Deputy G.P. Southern of the Chief Minister regarding vacant posts across States Departments:

Will the Chief Minister advise how many posts across departments are either vacant and awaiting appointment, filled by an agency worker or filled by a consultant and explain how such posts are accounted for in the headcount targets agreed for each department with the Council of Ministers or the States Employment Board?

Senator I.J. Gorst (The Chief Minister):

There are 979 and a half full-time equivalent positions vacant across departments of which just under half are under active recruitment and 183 are covered by temporary staff. This includes new positions created as a result of decisions to invest in our priority areas across the life of the Medium Term Financial Plan. This headcount is agreed and managed through the plan and monitored internally. We do this for the same reasons as any organisation, to manage costs, and as we reform areas such as Infrastructure, Health and Education it can help provide protection for staff and flexibility for the organisation.

4.5.1 Deputy G.P. Southern:

Is the Chief Minister aware that the easiest way to save money apparently in the system is to delay appointment of replacement staff by let us say 6 months and you get 6 months' salary not being paid and, therefore, available for other purposes? Does he consider that the levels he quoted are really about meeting financial targets rather than protecting the workforce?

Senator I.J. Gorst:

Not at all. On the one hand the Deputy's explanation might seem to be appropriate but the reality is the Medium Term Financial Plan is a 4-year plan and departments will manage vacancies to deliver change and reform within their own department so that perhaps where they have had 3 vacancies going forward they only need 2. That is what we would expect them to do. That is what this plan is about, delivering efficiencies which are sustainable throughout the course of the 4 years and beyond.

4.5.2 Deputy A.D. Lewis:

I wonder if the Chief Minister could explain why in a recent investigation carried out by Scrutiny it was revealed that a vacancy rate occurs at Infrastructure between 23 and 27 per cent. If Infrastructure are managing without these staff, why are they still being held open as vacancies?

Senator I.J. Gorst:

I do not know what this recent investigation being referred to is, but the Deputy knows that the Infrastructure Department is managing its staff in a different way as it is transforming the way that it provides services. That is appropriate. When vacancies become available, it would be wrong for the department to simply fill them with full-time permanent positions when they know that they are in a period of transformation. That is what we want departments to do so that ultimately over the course of the 4 years the money will come out of the bottom line of the budget and the headcount will reduce as well.

4.5.3 Deputy A.D. Lewis:

Is the Minister saying that this is part of the transformation programme with Infrastructure, that is why they are running such a high vacancy rate, and those vacancies will not be filled, they will be extinguished as it is part of the plan for reducing the size of the public sector? Can he confirm that?

Senator I.J. Gorst:

Absolutely.

4.5.4 Deputy G.P. Southern:

If I may move on, the question talks about use of agency workers. Does he accept that Social Security's extensive use of agency workers - 142 over a 2-year period, only 12 of which were on projects - is another way of manipulating the headcount numbers because they do not count because they are supposedly temporarily employed, temporarily employed through agencies where they are on zero hours contracts, in fact? Is this not another way to massage and manipulate the headcount figures that he receives?

Senator I.J. Gorst:

It is not a way to massage and manipulate headcount figures. It is a way to run departments with appropriate staffing, not only for the long-term day-to-day work but for the project work that departments want to undertake. Members of this Assembly, members of the public, have been criticising the States for overemploying, spending too much money, not managing projects, and departments are now doing just that. Where they have a project, they are taking on temporary work. Where they are looking to long-term day-to-day work, they are reforming and changing the way they deliver that work. I know that the Deputy visits Social Security. If he were to go round the department with the Minister, with the officers, he would see a transformed department where they are doing more with relatively fewer staff and for less money. They are a model department that others are following.

Deputy G.P. Southern:

Sir, I do not get a second supplementary on that, do I?

The Bailiff:

You do not, no.

4.6 Deputy C.F. Labey of Grouville of the Chief Minister regarding potential problems facing people buying or selling a house: [9600]

Is the Chief Minister aware of the practice of house purchasers and sellers having an agreed price changed at the last minute leaving people either unable to complete the transaction, having to pay up, or accept a lesser sum and, if so, is he prepared to ensure changes are put in place to stop this practice happening?

Senator I.J. Gorst (The Chief Minister):

Could I ask Senator Routier to answer this question?

Senator P.F. Routier (Assistant Chief Minister - rapporteur):

Buying or selling a home is one of the most important transactions anyone will make. Any last minute changes must cause significant pressure and stress. This is why the work of the review panel, which has been established under the chairmanship of the Deputy of St. Mary, on property transactions is so welcome. We look forward to his report and taking any necessary actions that can create greater certainty. I am aware that the use of a presale binding agreement is becoming more commonly used and these can create more certainty for buyers and sellers.

[10:30]

4.6.1 The Deputy of Grouville:

Does the Assistant Chief Minister accept that this is his area of responsibility and it is not a new issue and, therefore, is he prepared to bring measures into place? I am sure the work of the Scrutiny Panel, if it is a review panel, will be extremely welcome, but given that the responsibility

is with his department could he give us some reassurances that these practices, which as I say are not new issues, will be stopped and measures put in place to stop people being treated in this way?

Senator P.F. Routier:

Certainly, we do recognise that there is an issue to be addressed. We were considering that the work that the domestic property review panel were carrying out was important information that they were gathering. They have a good terms of reference and we were looking forward to the outcome of their report. If we had ignored that I do not think it would have been appreciated, so it is a joint approach which is being carried out. We recognise that there is an issue to be looked at and to see if there are some ways in which we can help to avoid this unfortunate gazumping and gazundering that has been going on. I think one of the pieces of work which is being carried out is to try and find out the actual extent of it because there are certainly different views among the professional people of the amount of it that is carried out. Where there are obviously circumstances where it does, we will be looking, with the help of the economic team in our department, into what can be done.

4.6.2 Deputy D. Johnson of St. Mary:

Following on from the reference from the Assistant Chief Minister, yes, the subpanel has indeed commenced its review. We have had a break over summer to concentrate on M.T.F.P. matters. We are about to resume and are due to see further stakeholders during the month of October with a view to issuing a report by mid-November. The matter to which the Deputy of Grouville has referred, you will not be surprised to know, has come up several times. We will be considering that along with other representations. May I again invite Members and the public at large to submit further representations as soon as possible, please, if they wish their opinions to be taken into account?

The Bailiff:

Your question to the Assistant Chief Minister is? **[Laughter]**

The Deputy of St. Mary:

Would the Assistant Chief Minister be prepared to delay any further report until he sees our review? Would he also encourage Members to submit further representations?

Senator P.F. Routier:

We very much welcome the work that is being carried out and encourage any members of the public or any professional bodies that wanted to make representations to the panel to do so, so that we can jointly come forward with our proposals.

4.6.3 Connétable L. Norman of St. Clement:

I wonder if the Assistant Chief Minister is aware of the Jersey Law Commission's report of 2002 which recognised the difficulties that the Deputy of Grouville has highlighted this morning, plus many others in the area of conveyancing. It made some significant recommendations to improve the situation and perhaps if the Assistant Chief Minister is aware of this report, why no action has been taken in the intervening 14 years?

Senator P.F. Routier:

Having just come to this issue very recently, I have to say I was not aware of the report of 2002, but certainly I will be looking at it when I get back to the office.

4.6.4 Deputy A.D. Lewis:

With the powers of communication of the Chief Minister's Department, would the Chief Minister be prepared to publicise more widely the fact that things like exchange contracts can be done in advance, as you mentioned earlier? The public simply are not aware that they can do that, pre-contract, and it just needs to be publicised a little more. Opportunities like this are an opportunity to promote it. Would the Chief Minister's Department be prepared to do more to make the public aware of what currently exists? The panel that I sit on with the Deputy of St. Mary is reviewing all of this matter, but more publicity about the issue would be greatly appreciated, by the Chief Minister's Department.

Senator P.F. Routier:

We would be very happy to do that, certainly with the use of social media and getting out the message about what is available. I had a discussion with legal people about the more common use of pre-sale and binding agreements now, which are working because there are penalties if people do not progress with the transactions. I would say that the Chief Minister's Department will be promoting that as an opportunity for people.

4.6.5 Deputy M. J. Norton of St Brelade:

I wonder if the Assistant Chief Minister would consider using technology for a modern land registry, which could possibly assist, and in fact maybe even unblock the channel of Friday transactions by having transactions done on other days apart from a Friday, by using a digital land registry.

Senator P.F. Routier:

Yes, that is certainly one of the options that will be looked at. I am very aware that 2 of our ministers went to Estonia recently and looked at what is happening there with regard to e-land registers, and it is certainly something for the future we should be looking at.

4.6.6 The Deputy of Grouville:

I welcome the fact that the review panel shall be bringing out a report in mid-November, however, as I said initially, this is not a new issue and I think a timeframe from the Council of Ministers from the Chief Minister's Department who are responsible for this would be extremely welcome. We have just heard this morning from the Constable of St. Clement that there has been a report hanging around for 14 years now. So, I would welcome a published timeframe so that obvious measures can be put in place to stop all these bad practices.

Senator P.F. Routier:

The Deputy is quite right to highlight that the issue has been raised before. I understand that when it was raised before there were some certain hurdles from various members of the professions that wanted to maintain the status quo with regard to how transactions were carried out. I think we are in a different place now and I believe that, with a good will and with the report of the review panel, we will be able to get things moving very quickly. With regard to publicly saying today a particular timeframe, I would need to consider that, but certainly we will get on with it as soon as we possibly can.

4.7 Deputy G.P. Southern of the Minister for Education regarding appointments to specialist posts in secondary school teaching: [9598]

Given the shortage of candidates for teaching qualifications in the U.K. and a consequent shortage of newly-qualified teachers, will the Minister state what measures he has under consideration or in place to enable appointments to be made to secondary specialist posts in Jersey and will he further

state how many teachers are engaged locally teaching G.C.S.E. (General Certificate of Secondary Education) and A. (Advanced) level classes in subjects other than their specialist subject?

Deputy R.G. Bryans of St. Helier (The Minister for Education):

The Deputy has asked this question before but I am happy to assure the Assembly of the steps we are taking and how we are addressing this problem; we are very proactive in this area. We have a 4-pronged approach. We train local graduates to be teachers, a successful scheme that has produced more than 60 teachers for our secondary schools. We recruit direct from universities. Four science specialists have come to Jersey from Newcastle University and are working in our schools currently. We are now working with the same university recruiting for maths teachers. We are reviewing how and where we recruit teachers, and will be using more social media, targeting areas around transport hubs and airports. We recently made a short film advert. In future, if plans to restructure pay are agreed in negotiations, we should be able to redirect some funds to offer financial incentives to teachers in shortage areas. We do not have information about teachers working outside their specialist subject. This changes from week to week. It is not unusual for people to teach a second subject. It is in the gift of the head teachers to make choices about which staff are best placed to deliver the best education in the school.

4.7.1 Deputy G.P. Southern:

If I may, this is the standard answer that the Minister for Education gives me every time I ask this question. Will he now return to the House with figures that show how many A. Level and G.C.S.E. classes are being taught by non-specialists? Will he seek that answer from his head teachers and return to the House with those numbers, because he keeps saying this, that it is the responsibility of his head teachers. It is not; it is the responsibility of the Minister for Education to ensure that specialisms are taught by specialists and that is one of the ways we can get good results. Will he return to the House with those figures?

Deputy R.G. Bryans:

I have not been asked this particular part of the question before. I have already answered it in the last part of what I stated, but it is important that the Assembly understand that it is the heads of the schools who have the autonomy to choose what their teachers teach in their particular areas. I have already stated that we are looking to recruit directly from universities in specialist areas.

4.7.2 Deputy G.P. Southern:

Is that a yes or a no? I am not clear on that. Will he return to the House? It is not week on week, it is term on term. This term, how many non-specialists have been thrown into a specialist class?

Deputy R.G. Bryans:

There are no teachers that are thrown into classes. Everything done is deliberate and with a great amount of professionalism and expertise. Currently, I have asked the heads to provide some information but at the moment the information is not available, so the answer is no.

4.7.3 Deputy A.D. Lewis:

Could the Minister advise as to whether any retraining goes on with his cohort of teachers so that they can teach specialist subjects? Once they are in-post, is there training that goes on so they can retrain to teach in a specific area and does the department fund that?

Deputy R.G. Bryans:

There is retraining done, if necessary. It is important for the Assembly to understand that we attempt, wherever we can, to address this problem. We recognise it is a massive problem in the U.K. I was looking at the latest Department for Education figures in England, their latest figures

for teacher recruitment, which show some signs of improvement. As the U.K. improves in their figures so, hopefully, we will do the same. Deputy Lewis is quite right; we need to look at the retraining of individuals. At the drop-in session last Friday I spoke to one individual who is coming out of the civil service and has decided he wants a career in teaching; I will do everything to support those kinds of initiatives.

4.7.4 Deputy K.C. Lewis:

Just prior to the summer recess, I did ask the Minister for Education a question regarding a proposal to reduce the wages of newly-qualified teachers by £11,000. The answer given was that there was a surplus in the U.K. and this was now the going rate. Deputy Southern informs us there is now a shortage of newly-qualified teachers. Would the Minister please give an account?

Deputy R.G. Bryans:

I am not quite sure what the question is, but I think what Deputy Lewis is referring to, and let me just clarify one issue: it was not £11,000 it was £8,000. It was mis-reported in the *J.E.P. (Jersey Evening Post)*. Currently, we are paying newly-qualified teachers somewhere in the region of between £35,000 and £38,000. The consideration is that we would look, again working with the unions, again discussing it with everybody concerned, to reduce that by around £8,000. This is still well above the U.K. rate of pay for newly-qualified teachers, which is around £22,000 to £23,000.

Deputy K.C. Lewis:

The question was not answered. Is there a surplus or is there a shortage?

Deputy R.G. Bryans:

At the moment there is no shortage within our own schools but there is definitely a shortage in the U.K.

4.7.5 Deputy G.P. Southern:

The answer I have is: "No; I shall be asking some questions of my head teachers." I will try and be specific and let us see if we can get a yes or no out of this. Will the Minister return to this House with numbers indicating how many non-specialist teachers are teaching G.C.S.E. and A. level specialist teaching classes, in his service?

Deputy R.G. Bryans:

If that information is available from the heads, I will certainly give it to the Deputy.

4.7.6 Deputy G.P. Southern:

No ifs or buts; will he ask his head teachers to supply those figures to him, and therefore to us? We need to know what is going on.

Deputy R.G. Bryans:

As I said before, I will request it of the head teachers. If that information is available, I will pass it on to the Deputy.

4.8 Deputy P.D. McLinton of St. Saviour of the Minister for Education regarding the testing of students for dyslexia: [9591]

It is good to be in the Assembly to ask this question. Can the Minister inform the Assembly what arrangements, if any, are in place to test students for dyslexia?

[10:45]

Deputy R.G. Bryans (The Minister for Education):

This is a complex area, because the term “dyslexia” often causes confusion. There are many reasons why a child may have difficulty with reading and writing and our job is to identify precisely what the problem is and how to help the pupil overcome it. This is an ongoing process over the course of a child’s schooling. There is no single test for dyslexia. However, over the past 3 years, our educational psychology team have developed a comprehensive new tool for assessing children with a range of literacy difficulties, including possible dyslexia. I can hold this up and, in future, people will be able to see what I am holding up. It is called the “Jersey Literacy and Intervention Tool” and is used to identify strengths and weaknesses. Issues around reading and writing all come under the term “Specific Learning Difficulty.” The term “dyslexia” is not generally used unless there is no improvement over a long period and after help has been put in place.

4.8.1 Deputy P.D. McLinton:

As a pupil is being continually assessed, I wonder if the Minister could cast light on the fact that I have recently come across a 17 year-old student who has only just been diagnosed, at the end of her educational career on Jersey, with dyslexia, having had her educational career entirely compromised. I wonder if the Minister could (a) explain how that could happen and (b) explain, perhaps in more depth, what he and his department intend to do about avoiding this happening in the future.

Deputy R.G. Bryans:

Obviously, I cannot comment on that specific case because I do not know the particular details, but I sat with the head of a primary school just yesterday, talking about this subject and a lot of other subjects besides it. His school has over 200 pupils, has one student that has been identified with these learning difficulties, and another one who is going through the process. To outline to the Assembly what the process is, either a parent or a teacher, who are very intimate in terms of the knowledge of their children, can identify learning difficulties. They would then get in touch with what we call S.E.N.Co.s, which are Special Educational Needs Co-ordinators, who will then bring in an educational psychologist. On a child-by-child basis they will look at that particular situation and evaluate that child and see what those learning difficulties are. Then there will be an intervention and strategies will be put in place to help that particular child.

4.8.2 Deputy M. Tadier:

On this subject, a constituent has submitted a question which I will quote more or less verbatim. She asks why parents are not being told that children have problems until they are in Year 6 and about to leave, and they are not picking up on learning issues or behavioural issues before that stage?

Deputy R.G. Bryans:

Again, I do not know that that is particularly true. It is obviously true in the case of that individual that you have asked the question on behalf of, but I do not know the case. What I can say is that our teachers are highly skilled. As I have intimated before, they are very aware of their particular children in the classes. The problem we have is that children mature at different rates, so something that may be perceived as an inability to read very well, or literacy problems of one kind or another, can disappear as the child grows older, so it is very difficult to identify. We do have this tool, we do have that special educational needs in place co-ordinated and we do have an educational psychologist that can intervene where necessary.

4.8.3 Deputy M. Tadier:

Is it also possible, even at an unconscious level, that we have teachers and healthcare professionals who are working under increasing strain and with difficult conditions and that there are resource

issues which may make them reluctant to diagnose at the correct stage, leaving students, pupils, in the lurch for too long so that these issues are not picked up until it is quite late, if not too late?

Deputy R.G. Bryans:

I know of no teacher that would prevent any child from gaining an intervention of the kind I have described.

4.8.4 Connétable D.W. Mezbourian of St. Lawrence:

Is this new tool to be used in all schools, including secondary schools? When older pupils have been identified as suffering from dyslexia what procedures will be put in place to ensure that they are aided before they reach the end of their school life?

Deputy R.G. Bryans:

Thank you to the Connétable for the question. Yes, all schools have been trained, and staff are now using the new tool, alongside other methods, to address literacy difficulties. The recent work means that schools are now far more adept at identifying literacy needs and developing bespoke packages of intervention to address each child's individual needs. All primary and secondary schools have had training in the new assessment tool and 2 conferences related to dyslexia were held earlier in the year to ensure that there is a more robust understanding of how difficulties, including dyslexia, can be identified and then addressed. If there is a particular case in the way you describe it, they have access through our educational psychologist to identify those problems and intervene.

4.8.5 Senator S.C. Ferguson:

Surely it is essential to the Minister that these cases are identified at the primary school level, because otherwise you have children coming up suffering a great hindrance to their education. The one place I have not heard him mention is the Dyslexia Society in the Island, which I understand is quite active and has done some very useful work. Where does this fit into the Minister's discussions?

Deputy R.G. Bryans:

I think I have already said that the primary schools are very involved in this, and one of the problems that we come across, and there is no fault at any of the schools that I am aware of, primary schools in particular, where the teachers do not, when they think there is a learning difficulty of one kind, give consideration to that particular child and provide interventions of one form or another, using this tool and speaking to the special educational needs co-ordinators. With reference to Dyslexia Jersey, I have been on the website, I have seen the information provided. We provide as much information as we can, we work very closely alongside them in that sort of concept, and they themselves identify that there is a consideration. It says here: "Dyslexia tends to run in families and is not related to intelligence or to a person's background" and it goes on in relation to the difficulties and real strengths that can be identified. We do do that, that is part of what we do, and I am very secure in saying that I feel that all primary schools in particular are now well versed and have that opportunity to intervene where necessary.

4.8.6 Deputy J.A. Martin:

I am not sure really how to frame this. It is a concern of mine, and I would like the Minister to answer: we have got the Assistant Minister with, I think, responsibility for part of Children's Services, definitely C.A.M.H.S. (Child and Adolescent Mental Health Service), asking the Minister for Education what he has done about dyslexia in the Island. He has pointed out what many of us know about the Special Educational Needs service, which does work with C.A.M.H.S. My question then is: why are the ministries not working together? Why does the Assistant Minister for

Health and Social Services not know what the Minister for Education is doing with children who have special needs when he is working with these people in his own department? Are they not working together at the top?

Deputy R.G. Bryans:

Yes, very much so. The holistic overview of health for children, of one kind or another, whether it is to do with learning difficulties or any other problems that children encounter in their school lives, the considerations that I have with the Minister for Health and Social Services and various other Ministers in the Council of Ministers, are taken into consideration. I think people are very aware of the situation that we deal with and, as I have displayed, I think we are on top of the particular problem related to dyslexia.

4.8.7 Deputy P.D. McLinton:

Yes, we do work together, however, this is just an interest of mine as to how this could slip through the educational net. I am reassured there are tools in place. I wonder if the Minister could reassure this Assembly that we make sure that, not only are our young people taught information, and at school we are all taught information, but strangely, not taught how to learn, because we all take in information in different ways: kinaesthetically, auditory, visually. If we are taught how to learn I am sure many educational difficulties that our young people go through would be picked up a lot earlier. Could the Minister reassure that he will look into this?

Deputy R.G. Bryans:

Thank you to the Deputy. This is related to Deputy Martin's question to some extent, and I thank Deputy McLinton for his answer; we do work together and one of the things I will attempt to do is take Deputy McLinton into some of the primary schools so he can witness for himself the kind of excellent teaching that is being provided in our primary schools. That may allay any of his fears.

4.9 Deputy K.C. Lewis of the Minister for Social Security regarding measures to ensure less well-off people would not be disadvantaged by budget cuts: [9604]

What action is the Minister taking to ensure that less well-off people are not disadvantaged by the £10 million cuts to the social security budget?

Deputy S.J. Pinel of St. Clement (The Minister for Social Security):

I am grateful to the Deputy for raising this question so that I can clarify the position. Last year States Members agreed to hold the benefit budget of the Social Security Department at its 2015 level throughout the Medium Term Financial Plan. I can reassure you that all necessary changes to departmental budgets were approved to identify the £10 million contribution to invest into the vital areas of health and education. No Minister takes pleasure in restricting a benefit budget. The changes agreed last year were a small but vital component of the overall plan to maintain sustainable public finances. With regard to the Social Security Department, there is no need for any further measures to achieve the targets set within the Medium Term Financial Plan. In particular, and contrary to some recent reporting, a budget has already been allocated for an increase in income support rates and allowances each year from 2017 onwards. The best way that we can help people is to support them in the move towards financial independence. We have had significant success in getting people back into employment and have expanded our services to include some people with long-term health conditions and also to parents when their children start nursery.

4.9.1 Deputy K.C. Lewis:

I love the term “financial independence” there. I would like to congratulate most sincerely the Health and Social Security Panel for their excellent report. Has the Minister read the report and will the Minister agree with Scrutiny’s recommendation 78 that the Minister should suspend the freezing of benefits in 2017 in order to alleviate the pressure on low income households?

Deputy S.J. Pinel:

Yes, I spent the best part of a very beautiful weather weekend reading the report, and as the Scrutiny Panel know, we will be producing a very considered response within the 6 weeks allocated. As regards to suspending the budget, freezing it, as I just said in my answer, it will be increased in October 2017.

4.9.2 Deputy G.P. Southern:

Will the Minister accept that the changes she made to the disregard from income support to pensioners amount to something like £9 a week on disposable income of only about £145 a week, and that is significant and causes hardship for some pensioners? Is that not the case and does she accept that is the case?

Deputy S.J. Pinel:

The introduction of a 23 per cent disregard has been introduced and will only affect pensioners coming into the scheme now; it does not affect pensioners already in the scheme, who take advantage of the £55 disregard that they already have. The disregard was brought in to be comparative with earned income.

4.9.3 Deputy G.P. Southern:

Does she not accept the figures that previously those in the scheme would see themselves with disposable income of around £145, and this will be £9 less for new entrants into the scheme? Is that not the case?

Deputy S.J. Pinel:

It is the case that, with new entrants into the scheme, it will be less. The reason for doing this was to encourage people to make arrangements for their own pensions in the future. It will not affect people already in the scheme. People coming into the scheme will not lose £9 because they will not have had it in the first place.

4.9.4 Deputy M. Tadier:

The Minister a moment ago said that the cuts were a small but vital reduction in States spending. I dare say that, to those who are already living below the poverty threshold, or the relative low income threshold, it is anything but small for them. Does the Minister accept the findings of the report that, for those who subsist solely on income support and/or long-term incapacity or other benefits, the value of their income is already below the relative low income threshold? That is before her cuts were even implemented. If she does, what actions will she take to remediate this situation?

[11:00]

Deputy S.J. Pinel:

I have a little problem with the word “subsist”; the whole reason behind income support is to look after people who, for reasons possibly beyond their control, cannot work and therefore have to rely on the States to provide some basic income for them. The reductions that we made were asked to be made in the whole scheme of the Medium Term Financial Plan, and the States agreed them last year. There are no further measures to be cut within the Social Security Department and, in fact, within the Medium Term Financial Plan addition, there is £1 million worth of additional funding

being targeted mainly at pensioners. If this is approved, it will support the 65+ health scheme, the targeted Christmas bonus and the renewal of the Food Costs bonus.

4.9.5 Deputy J.A. Martin:

The Minister, in answer to Deputy Lewis of St. Saviour's question, said there is already money in her budget next year for benefits to be increased in 2017. Is the Minister completely sure that these are increases, seeing that many of these components in the benefits have been frozen now for up to 3 years? Is she just not bringing the benefits back to what they could have been, but they are still going to be below what they should have been if they had been following the increase that everything else has been following over the last 3 years, that is, inflation?

Deputy S.J. Pinel:

I was correct in saying that income support will increase in October next year, as do pensions every year, pensions have not been frozen, neither have rental costs or childcare costs. As to the proportion of the increase in 2017, we will have to wait and see what the inflation figures are then.

4.9.6 Deputy S.Y. Mézec:

The Scrutiny report describes the decision of the Minister for Social Security to abolish the single parent component of income support as being unsound. Shortly after she initially made that decision, the Income Distribution Survey came out and showed that single parent families were the largest group of people in our society living in relative low income. On that basis, with hindsight, does she now accept that she was wrong to have made that decision and will she accept the recommendation of the Scrutiny Panel that the one parent component of income support should be reinstated as a matter of urgency?

Deputy S.J. Pinel:

Thank you for the Deputy's question. No, I will not attempt to reinstate it; it was a States-approved decision that we went ahead with this and, having read the report very thoroughly, nowhere does it say that this reduction in the lone parent allowance of £40 a week is over a period of the Medium Term Financial Plan, so it is not removed immediately, it is by £10 a week per year.

4.9.7 Deputy K.C. Lewis:

It has often been said that a society is judged by the way it looks after its least well-off. I have had to go to 2 charities in recent times to find some funds for a pensioner's dentures. With the increased use of food banks, does the Minister not agree it is time to stop penalising Islanders in need?

Deputy S.J. Pinel:

The Deputy refers to a parishioner who needed dental treatment. With the increased input of £200,000 into the 65+ health scheme, this will allow us to improve the cost related to claimants for check-ups and also for their dental and G.P. (general practitioner) visits.

4.10 The Deputy of Grouville of the Minister for Economic Development Tourism, Sport and Culture regarding the requirement of tourism establishments to keep records of their guests: [9601]

Could the Minister advise whether Visit Jersey no longer requires establishments to keep a record of their guests, along with passport and residency details, of their E.U. (European Union) and non E.U. visitors and, if so, explain why?

Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):

The legal duties of establishments regarding guest records changed on 1st July this year when Article 25 of the Tourism (General Provisions) (Jersey) Order 1990 was formally repealed. For this, 2 laws essentially required the same thing. Proprietors of hotels and other tourist accommodation establishments are still obliged to keep a record of all persons of, or over, 16 years of age who stay in their premises, and this requirement remains by virtue of the Immigration (Hotel Records) (Jersey) Order. So proprietors are no longer required to fill in and return completed guest registration cards at regular intervals. That is the main difference. This is in line with my desire to remove red tape and unnecessary bureaucracy for businesses, and presents Visit Jersey with an opportunity to capture visitor data in a far more efficient and innovative way.

4.10.1 The Deputy of Grouville:

Could the Minister tell us if it was he who instigated these changes for there no longer being a legal requirement? At a time when we have no population policy and, we learn this morning, no census until 2020, does the Minister consider this action to scrap these records, to be responsible?

Senator L.J. Farnham:

I do, I think it is completely a responsible move. The move was instigated by my department with the full support of the Visit Jersey board and the industry. I think the Deputy could be missing a point, because we have the Immigration (Hotel Records) (Jersey) order, which requires businesses to keep exactly the same records; there was a duplication of work. E.E.A. (European Economic Area) nationals have to have full name, nationality and date of arrival recorded; for non E.E.A. nationals the record must include full name, nationality, home address, passport number, place of issue, and all other identity document arrival details next to destination, et cetera. So the law requires all registered accommodators to keep that information, and it is available for inspection by police officers, immigration officers or other persons authorised by the Minister for Home Affairs. I do think it is responsible and I think it was a helpful move for the hospitality sector.

4.10.2 Senator S.C. Ferguson:

I do wonder if, while it may be reducing red tape, whether it is a slightly retrograde step, given the terrorism aspects of life today. I am not sure how much information the Minister says establishments will be keeping, because the comment I have from the industry - and I must perhaps declare a conflict here, Sir, because I am a director of a hotel - is that passports are relevant re non-British customers, but it is a bit of a nonsense, as many travel with just an I.D. (identification) card. Exactly how, as the Deputy of Grouville said, are we going to keep a check on people if we are not getting the information? Perhaps the Minister would like to enlighten us.

Senator L.J. Farnham:

But we are getting the information because the Immigration (Hotel Records) (Jersey) order requires that all the information that the Senator has just talked about is obtained and kept by the accommodation providers. They have to supply that information. There was a duplication; that information, or part of that information, was being legally required on a visitor registration card, which was filled in in duplicate. One half had to be filed and one half had to be returned to the Tourism Department. Now the accommodation providers just have to keep that record, and some of them still do use cards, but some of them now in the digital era are storing the data securely electronically. I think that is much more efficient. To reiterate, that detailed information is required and is kept.

4.10.3 Senator S.C. Ferguson:

Yes, the information may be taken and kept on a visitor card but if your visitors arrive with an I.D. card and no passport, how are you going to cope?

Senator L.J. Farnham:

I am not sure I understand the question because, if a visitor arrives from a country that requires them to show their passport, they will have their passport with them and they would have needed it to enter the Island. Other forms of identity are full acceptable, and they always have been.

4.10.4 Deputy M. Tadier:

I am presuming the underlying reason for the question is so we know exactly how many tourists are in the Island at any one time so we can keep up-to-date figures and compare them to previous years to see what trends there are. Is the Minister aware that, of course, nowadays people do not just stay in the traditional establishments but they are increasingly using facilities like couch-surfing, a website, or Airbnb, which do not necessarily get registered? Is there any effective way of monitoring the number of tourist visitors that we get to the Island as opposed to just general footfall through the airport and harbours?

Senator L.J. Farnham:

That is a really good question and that is at the heart of one of the drivers for making these changes because, of course, the information that the old Tourism Department had been gathering for decades from these registration cards was very limited and, of course, they only counted people that stayed in registered accommodation providers, they did not count people who stayed with friends or relatives or in other places. So, as well as the hotels still maintaining records of every single visitor that stays with them, Visit Jersey, and they have an excellent Statistics Department led by a very able statistician, between 1st July this year and the early part of next year will exit-survey over 40,000 people. Information about all visitors will be available, not just those staying in accommodation sectors, but also staying in other forms of accommodation, such as the Deputy has mentioned. Also, on those exit surveys, much more detailed information can be asked, for example, information of money spent while they are on the Island, their sentiment about the Island, whether they will be returning, whether they will be recommending to friends and relatives. All in all, I think we are going to, in the years ahead, collate a much more rich and useful source of information.

4.10.5 Deputy J.A. Martin:

I think this follows on: when is a visitor not a visitor? How long are they staying? What work is the Minister for Economic Development, Tourism, Sport and Culture doing with our Minister in charge of our non-population policy, Senator Routier? The Minister has mentioned every department himself: Visit Jersey, Home Affairs; we have an Assistant Chief Minister in charge of a population policy that has not been mentioned in this House today. I think that is where the Deputy of Grouville is coming from. We want to know, are they visitors? Two weeks, that is fair enough. Are they visitors staying, actively seeking work? We do not know. Are you working together? That is the question I am putting to this Minister. I keep hearing silo upon silo this morning.

Senator L.J. Farnham:

This was a question about visitor registration cards. Far from working in silos, the Government are working together like we have never worked together before. All of the information again that the Deputy mentioned there, and I will repeat this for the third time, is required to be kept by accommodation providers under the Immigration (Hotel Records) (Jersey) Law, so that information is still collated and is available for inspection.

Deputy J.A. Martin:

Sorry, I had a supplementary. Is it passed on to ...

The Bailiff:

I am sorry, Deputy, I nearly disallowed your question before as not really relating to this particular question. Final supplementary.

4.10.6 The Deputy of Grouville:

Just to clarify, the underlying reason is to demonstrate we have no record of who is in the Island and this requirement that is no longer needed just exacerbates it. We have no population policy, no census until 2020. It is Government's job to know who is in the Island and how long they are staying, not down to the establishments that may be letting their rooms out, not for visitors, for long-term residents of this Island that want to stay. I cannot understand why the Minister feels this is a step forward into getting Government just to scrap all these records that have been kept for decades, and especially at this time. I would like his comment on this. Is it a responsible move?

[11:15]

The Bailiff:

He has already answered that question, but Minister?

Senator L.J. Farnham:

As much as I do respect the Deputy of Grouville, I think a lot of her opinions here are based on conjecture because, I repeat, all of the same information is kept by the hotels and is available, and I quote: "Records must be available for inspection by police officers, immigration officers or other persons authorised by the Minister for Home Affairs." That is a provision of the law, so that information is there. Repealing Article 25 of the relevant order really means that hotels do not have to do work in duplicate and triplicate and return little bits of card to the Tourism Department every week. I think that is a step forward.

4.11 Deputy M. Tadier of the Chairman of the Privileges and Procedures Committee regarding steps to determine the reasons for voter abstention and to increase voter turnout in future: [9603]

In view of the low turnout at the senatorial by-election on 7th September 2016, what steps, if any, does the Committee plan to take to ascertain the reasons of such a high level of voter abstention and to increase voter turnout in future?

The Connétable of St. Clement (Chairman, Privileges and Procedures Committee):

Firstly, can I pay tribute to the Greffe who had very short notice, as we all did, of this by-election, and implemented most of the initiatives to engage with voters, that occurred in 2014, and will hopefully occur again in 2018. The one area they were not able to engage too much with was the younger voters because the build-up to the election took place during school holidays. Nevertheless, leaflets about the election were given to students in the envelopes containing their G.C.S.E. and A. Level results. I am not sure which paper competed the best in that particular area. The by-election was covered in exactly the same way as the 2014 general election. The vote.je website was rebooted as a central resource for all candidates and, indeed, voters. We created candidate profile videos, which had over 3,000 views by electors, and filmed all of the Parish hustings, which had over 5,000 hits. The manifesto document, which was an excellent document in my view, was circulated to all households in Jersey before the pre-poll voting station opened. A number of factors can explain the low voter turnout and, of course, each individual voter will have his or her own reason for not having turned out on 7th September. I have had things from: "I forgot it was on", "I did not know it was on", "Obviously not enough posters were put up." There is a myriad of reasons. But the P.P.C. (Privileges and Procedures Committee) will continue to provide as much information to prospective voters as we can so that they are able to make an informed choice, even if that informed choice is not to vote. As the States know, as Members know, we are

aiming to introduce electronic registration before 2018, and also investigating with the team the possibility of online voting for future elections. One thing we cannot do is make people vote.

4.11.1 Deputy M. Tadier:

I share the congratulations of the Greffe staff; it seems to get better year on year [Approbation] and everyone involved in the election and its administration, and it also has to be said that in Jersey there is no excuse for not voting; there are certainly many ways to do it, both before and on the day, one can even walk, those methods are there. But the question must remain: does it concern the Chairman and the committee, as it concerns me and my party, when we have such high and overwhelming levels of abstention in Jersey? That must be a matter of concern for democracy in our Island.

The Connétable of St. Clement:

Of course it is of concern. The reality is that people do have to make their own choices. P.P.C., the States, the Greffe, cannot force people to come out and vote, unless we go down the Australian system and have compulsory voting. Until that happens, if that happens, and I am not sure it would be a good idea - in fact, I do not think it would be a good idea at all - but that would be the only way you could make people vote. Why do people not vote? Well, I am sure Deputy Tadier and others have been knocking on doors leading up to the election and must have had the messages come through as to why people did not vote. There are so many different reasons. You cannot legislate for that. It is disappointing. One of the things which we must not forget, we have been concentrating over the last few years on getting more and more people on to the register, and we introduced voting for 16 to 18 year-olds, and a lot of work has gone into increasing numbers on the register. Therefore, it is pretty well known that younger people in particular do not take a great interest in our local Jersey elections, therefore the percentage turnout is bound to be lower, that just happened. In this election I think there were 12,200 voters, in the 2010 by-election it was over 15,000, but going back to 2004, there were only 11,000 voters. So it will vary depending on who the candidates are, what time of the year it is and what the issues are at the time. It is impossible to know what the reasons are for each individual voter.

The Bailiff:

Chairman, if you had been a Minister, I would have cut you back on 2 of your answers. If you can try and keep them a bit more concise, please. Deputy Mézec.

4.11.2 Deputy S.Y. Mézec:

Would the Chairman consider that one thing that could help with voter turnout is to review the locations of where our polling stations in our constituencies are? There are some Parishes where the polling station is not at a very particularly convenient location, St. Clement being one example, where, if a location much more towards the eastern side of the Parish were chosen, it would be on people's way to work or on their way to drop the kids off at school. Would he agree that we should review where the polling stations are and try and make them in the most convenient locations so that it is easier for people to get to them, particularly for people who do not drive?

The Connétable of St. Clement:

Absolutely. I think all these things have to be considered as to what is most convenient for the electors. We have always done this. One of the things we did not so long ago was increase the voting hours from 8.00 a.m. to 8.00 p.m. instead of 11.00 a.m. to 8.00 p.m. We have introduced pre-poll voting to make it as easy as possible. There is no point in moving a polling station to another part of a Parish, be it God's own Parish or another one, because it is more convenient for some people but less convenient for others, where there is no parking or where there is a lot of parking. One of the things that has happened, certainly in election campaigns that I have been

involved with, and where it is difficult for people to get to the poll, who wish to go to the poll and not pre-poll or have a sick vote, or whatever, is that candidates very often provide transport for people to get to the poll. There are many hundreds of ways, or dozens of ways, that people can exercise their vote, and just by playing at the edges I do not think is going to make a huge amount of difference.

4.11.3 Senator S.C. Ferguson:

I wonder if the Connétable will agree with me that we are addressing the symptoms rather than the actual source. Surely, it is a question of education. What concerns me is that there is very little education at a young age to get people interested in the politics and how it works over here.

The Bailiff:

I think that is the question, Senator; we are not giving speeches. I have got 8 questions here. Is it a question of education, Chairman?

The Connétable of St. Clement:

I think it is unfair to say that there is a lack of education. Certainly, the P.P.C., through the Greffe, organises the year 5 Assembly in this place, we have the Youth Assembly, the Youth Parliament recently came into existence. The young people do know about our politics. Perhaps I could suggest to the Senator that the candidates have a role in this as well: that they need to go out and enthuse the public, get the public excited about their policies and what they intend to do and, in that case, they will come out and vote.

4.11.4 Deputy P.D. McLinton:

Would the Chairman agree that not only is the Greffe during an extraordinary job trying to engage to make people vote, but it is, sad to say, people's democratic right to not vote?

The Connétable of St. Clement:

I think the Deputy was saying that people do have a democratic right not to vote. Yes, of course they do.

4.11.5 Deputy P.D. McLinton:

Yes. Would you agree that they have a democratic right to vote and is a great deal of that aligned as to why people are not showing up? They are deciding that they are not engaged with it, no matter how far we try and how hard we try, we cannot make people vote, unless of course we make it illegal not to.

The Connétable of St. Clement:

I am sorry the Deputy was not listening to my earlier answer: it is quite clear people have a choice. They make an informed choice, and one of those choices they can make, if they so wish, is not to vote.

The Bailiff:

May I remind Members this is not a debate.

4.11.5 Senator L.J. Farnham:

Could the Chairman undertake to carry out some fairly urgent housekeeping? During the election, we saw a sitting Member stand without having to resign his seat, and I congratulate Deputy Mézec, I think he did exceptionally well and I am sure we will see him on the senatorial benches in the future, but also, during the election period, the Deputy tabled questions and propositions, which I think is probably inappropriate. Will he also undertake to investigate in time for the next election the possibility of introducing deposits?

The Bailiff:

I am not sure that either of those questions is related to the question about voter turnout at the last election, so I disallow them.

4.11.6 The Connétable of St. John:

When I first got involved in elections some 37 years ago it was, ironically, for the post of Constable of St. John. In those days we had bands going round on the back of lorries, playing around the Parish, we had cars covered in bunting ferrying people to the polling station, and a bit of a competition as to who could get the poshest car to take voters to the polling station. Does the Chairman agree that perhaps we should turn the clock back and reinvestigate the possibility of reintroducing these types of activities?

The Connétable of St. Clement:

There was also a tradition of voters being kidnapped [Laughter] while the poll was open. It is not a matter for P.P.C. to organise bands and bunting. I repeat what I said before: it is up to the candidates if they want to make the election more exciting, make themselves seem more attractive, to go out there, put on colourful wigs, or whatever they want to do, hire a band and make the whole time more exciting. But P.P.C. should not be doing that, it is the candidates who have really got to enthuse the public if they want them to come out and vote for them.

4.11.7 Deputy G.P. Southern:

Saving the best until last, perhaps; I do not know. I am glad that the Chairman started by talking about young people in his first line, because the key thing to attract young people to vote is the possibility of online voting; they are online all the time. Is there a possibility, and I accept that it may not be possible to have proper Island-wide online voting in place for 2018, but what progress is he making in having a pilot available in 2018 so that we can assess the doability, the feasibility, of such schemes?

The Connétable of St. Clement:

I cannot answer that question, but certainly the eGov team is working very hard to come up with a practical solution to introduce online voting. I would love to see that in place fully for 2022; whether it will be or not ... One of the things that worries me is, is total security, but if we can get over that, then obviously this is something that is going to come. But I am not involved in doing the research into this, this is the eGov team that are doing that, so we look forward to hearing from them in due course.

4.11.8 Deputy G.P. Southern:

In his role as Chairman, will he question the eGov team to assess whether a pilot is possible in 2018 rather than beyond 2018?

The Connétable of St. Clement:

Yes, I can certainly ask the question.

4.11.9 Deputy M.J. Norton:

Following on from the comments there of digital online voting, I am aware that work is going on from the digital team, as just mentioned by the Chairman. Should we have an electronic central register very shortly and, if we should have that central electronic register, would the Chairman support the idea then that voters could vote at any polling station? [Approbation]

The Connétable of St. Clement:

One of the things we are certainly expecting is that online registration will be in place for the 2018 election. Once you have electronic voting, of course, then people will be able to vote from anywhere, from home or go to the voting station, whichever voting station suits them, and vote there, or perhaps at the library, or whatever. So people should be able to vote anywhere they like.

[11:30]

4.11.10 Deputy L.M.C. Doublet:

Is there any way that we could make it easier for those living in St. Brelade, St. Saviour and St. Helier to know what district they are in? I know it seems like a simple thing but, for many who do not know, it is that extra step, that extra barrier towards voting. Perhaps, rather than waiting for people to come to the Parish Halls to ask, could we make it really easy for people and notify people in those Parishes what their district is, before voting time?

The Connétable of St. Clement:

Certainly for the next general election, the Parishes will be required to send out a notice to each individual household explaining to them who is on the register in that household, but also telling them which district they are in and where they need to vote. So that is already in hand.

4.11.11 Deputy M. Tadier:

I am sure we could all name things that might encourage people to vote, or things that would stop people or prevent them from voting. I am sure these cameras at some point will have a positive impact on at least the entertainment value that the public get out of the States, if not necessarily the voter turnout, and I am sure that the rise of political parties in Jersey will also do something to engage the politics, but we will have to wait and see. My concern is that some of the answers we have heard from the Chairman seem to favour people's right not to vote more so than the problem of such high levels of abstention, which is a democratic problem, I think, for all of us. Will the Chairman undertake to perhaps consider a survey, which could be conducted online, asking people questions: "Did you vote in the last election?": "What would have encouraged you to vote?", "What would make you more likely to vote?", "What put you off voting?", "Did you, perhaps, vote for the first time in this election? If so, what made you vote for the first time?" Questions to do with this, so that at least we can have some kind of information to look at what steps we can do. I do agree with the premise of the Chairman that there are so many ways to vote in Jersey, that it is so easy, but we need to make people want to vote.

The Bailiff:

Your question?

Deputy M. Tadier:

Will the Chairman agree to undertake that survey so we can find out why people in Jersey do not seem to want to vote and want to engage currently in our political system?

The Connétable of St. Clement:

I think that is an excellent suggestion which I would like to take up, and perhaps the Deputy would forward me the sort of questions he thinks should be asked. My worry is that if 80 per cent of people decided not to take part in the election for Senator, how many are going to take part in a survey asking why they did not take part? That is the worry, but I certainly think it is an excellent idea and one I am prepared to follow up.

5. Questions to Ministers without notice - The Minister for Health and Social Services

The Bailiff:

We come to Questions without notice. The first question period is of the Minister for Health and Social Services. Deputy Hilton?

5.1 Deputy J.A. Hilton of St. Helier:

I have no doubt the Minister for Health and Social Services is as disappointed as I am at the premature departure of the recently-appointed head of the Children's Service. Was an exit interview carried out and, if so, was the Minister satisfied all areas of concern were covered in the interview which took place?

Senator A.K.F. Green (The Minister for Health and Social Services):

I was very disappointed when the head of Children's Services resigned. She resigned for personal reasons. I can confirm that an exit interview was carried out, but it would be wrong to discuss the detail of that, other than she resigned for personal reasons.

5.2 Deputy G.P. Southern:

In various documents I have read that there are delays on certain aspects of P.82. Will the Minister inform Members what sectors of the service are subject to those delays and what the consequences mean in terms of re-transfiguring the whole service in its entirety?

Senator A.K.F. Green:

There are some delays, particularly in developing some of the services in the community and taking some of the services that we would like to take out of the hospital into the community. This has purely been down to the sheer volume of work. The funding is there; we are working on it. There is not a change in plan, it has just taken us a little bit longer than we would like.

5.2.1 Deputy G.P. Southern:

Can the Minister outline for Members what the blockages are or where in particular there are blockages?

Senator A.K.F. Green:

The health service as a whole, as well as the public sector is undergoing the biggest transformation that it has ever undertaken. Part of that is driven by the new hospital and the design of the new hospital because if we were to lift the services that we provide in the hospital today and attempt to put it into the new hospital we would have to build a much bigger hospital and we would have a hospital that would not be affordable going into the future. So it is essential that we take a more realistic and pragmatic approach in supporting people in the community which aligns with what they told us they wanted us to do in P.82.

5.3 Deputy R. Labey:

Is there official policy requiring triage staff and other medical practitioners to give visitors to A. and E. (Accident and Emergency) the kind of third degree over why they are there and not at their doctor's. The inference being that they are unfairly claiming some kind of freebie, is that official policy and is that appropriate if it is?

Senator A.K.F. Green:

It is totally appropriate for medical practitioners to ensure that people are accessing the right service at the right time.

5.4 The Deputy of St. Ouen:

Does the Minister accept the findings of the Scrutiny Panel's "Living on Low Income" review that the costs of G.P. visits are deterring many people on low income from seeking appropriate and timely medical treatment? If he does accept that, what proposals can the Minister bring forward to alleviate that position?

Senator A.K.F. Green:

I accept that it is a challenge for some people but I will take Members back to P.82 when consultation on that was made. It was said by the people that were asked that they valued the co-payment system. That said, I do know that it is very difficult for some people, which is why we have the social security system to support them. We are carrying out a review of primary care but I do not want to mislead anybody by them thinking that there is going to be some massive reduction in charges.

5.5 Deputy M. Tadier:

I have been contacted by Mark in St. Helier who suffers from a variety of painful medical conditions. Mark would like to ask the Minister does he accept the increasing body of evidence that herbal cannabis and other extracted forms of cannabis have any medical value and, if so, what would the Minister's response be to Mark who is seeking to use cannabis to treat pain, inflammation and migraines?

Senator A.K.F. Green:

My response, although sympathetic to pain, pain even at a low level that is constant is debilitating and I do understand that. I would advise Mark to contact, through his G.P., the pain clinic and get appropriate support. There is no way - there is absolutely no way - other than Sativex which is available on prescription, there is no way that I as Minister will approve the use of any medication, be it cannabis or any other medication, without (1) the medical practitioners advising it and (2) N.I.C.E. (National Institute for Health and Care Excellence) approving it.

5.6 Senator S.C. Ferguson:

When will the department have a regulation scheme for the agencies and staff being used for care at home?

Senator A.K.F. Green:

We have some scheme in place now, already. That is headed up by an officer within the Medical Officer of Health's Department. Of course we will have a full blown scheme when we have the Care Commission, which I think is next year.

5.7 Deputy R.J. Rondel of St. Helier:

How often should children's teeth at the school dentist be examined? I presumed it would be every 6 months. I have been contacted by a few constituents recently, the latest they had an appointment for this Friday, that has been cancelled and the earliest they can now have that next appointment is 18th January 2017. That will be 18 months since their last appointment. Could the Minister elaborate, please?

Senator A.K.F. Green:

No, I cannot. I do not know the answer to how often dentists should examine teeth, that is a matter for the dentist. I am happy to ask and pass the answer on to the Deputy.

5.8 The Deputy of Grouville:

Is the Minister confident that the A. and E. staff are equipped to deal with mentally ill or those suffering with drug withdrawal symptoms and in urgent need of immediate care?

Senator A.K.F. Green:

Yes, I am. We have done a lot of work to ensure that we also have appropriately qualified psychiatric staff available to A. and E. should they be needed.

5.8.1 The Deputy of Grouville:

Can I ask a supplementary? I have a constituent where that was not apparent and having ill-equipped staff within the A. and E. Department does the Minister appreciate it often - often - places at best an unreasonable burden on the police?

Senator A.K.F. Green:

It is difficult for me to comment without knowing the case. However, we have done a lot of work in ensuring that appropriate training has been given to the staff in A. and E. to understand mental health as an illness like any other physical condition as well. Also the availability, as I said, of properly qualified psychiatric support. If the Deputy has a concern about a particular case, if she would like to let me know I will ask someone to look at it.

5.9 Connétable S.A. Le Sueur-Rennard of St. Saviour:

Quite recently I was unexpectedly hospitalised and I had to see the out-of-hours doctor who was at the hospital. It was 10 o'clock at night and when the doctor saw me he said: "You have to be admitted straight away" and my daughter was expected to push the wheelchair with me in it up Gloucester Street and around and to come through the main entrance. At the time I was vomiting very, very badly. The doctor was very concerned so he eventually found somebody with a pass key to take me through internally. Could something not be done because I cannot have been the only one who has had to go through this and it was quite nerve-wracking for me and for my daughter in the condition that I was in?

Senator A.K.F. Green:

First of all, I am sorry to hear the Constable has not been well. I am delighted to see that she is on form today and I apologise for the fact that that was done. That is totally unacceptable. Porters work all night in the hospital, they have access to the hospital at all times and I personally will intervene to find out what happened there.

5.10 Deputy A.D. Lewis:

Is the Minister confident that patient care for stroke victims is comparable with that available in the U.K. and, if not, will the Minister be implementing any improvements to the service in this area any time soon?

Senator A.K.F. Green:

It is difficult for me to be an expert in everything but from what I understand we actually perform better than the U.K. in providing support for people with stroke care and brain injury. That does not mean we have everything right and we can always improve. If the Deputy has any particular concerns, bring it to our attention because that is how we learn.

5.10.1 Deputy A.D. Lewis:

Supplementary? The Minister will soon be aware that I have submitted a written question on this matter because it is of some great concern to me as there seems to be quite a lot of anecdotal evidence within the community, particularly with those involved with stroke victims, that we are somewhat behind the U.K. Can the Minister supply any data to verify and clarify the fact that we are not behind the U.K. in this area?

Senator A.K.F. Green:

The only way that we are behind the U.K. is that sometimes it is not possible for us to provide the full range of rehabilitation services, in which case, if it is appropriate, the person accesses that service in the U.K., because we cannot do everything in Jersey.

5.11 Deputy G.P. Southern:

Returning to the question posed by the Deputy of St. Ouen, as the Minister noted, the reservations expressed by the G.P., we talked to the chair of the G.P.'s body who suggested that the last people who should be in charge of rationing or charging a lower rate are the doctors themselves. It is a very inefficient way of rationing access to G.P.s if they have to say who and who is not sufficiently poor to be given a lower fee rather than the full £40 or whatever it is.

Senator A.K.F. Green:

G.P. charges are a matter for the G.P.s. Social Security share the co-payment, I think it is about £22 that Social Security also make available. Now, some practices have already decided, for example, not to charge children. That is a matter for them, but there is a working group looking at access to primary care.

5.11.1 Deputy G.P. Southern:

The question was: did the Minister note the fact that the G.P. concerned said it was a very inefficient way of delivering a service? Could he not improve on that?

Senator A.K.F. Green:

I can note it but that is one G.P.'s opinion.

5.12 Deputy J.A. Hilton:

Can the Minister confirm the exit interview was carried out by a member of the Health H.R. (Human Resources) Department and does he consider it might be helpful to engage an independent person to carry out the exit interview in order to examine areas which may have been too difficult to explore with a member of the H.R. staff?

Senator A.K.F. Green:

I am not going to go any further into the reasons why the head of childcare left. It was personal reasons and it would be inappropriate to start discussing that in this Assembly.

5.13 The Deputy of St. Ouen:

Can the Minister update the Assembly with regard to his department's alcohol strategy, given that fixing a minimum price per unit of alcohol appeared to be unacceptable to many members of the public?

[11:45]

Senator A.K.F. Green:

It is not my department's alcohol strategy. I am on a licensing group, along with other Ministers. At the moment we are in the throes of just about to lodge a new law and then the work of the panel really starts. It is a new law around licensing and then the work of that panel will really start.

5.14 Deputy M. Tadier:

The Minister seems to be supporting the co-payment system for G.P. visits. Could he perhaps put on record what he thinks is the right level of financial disincentive for the public to put them off going to the doctor?

Senator A.K.F. Green:

It is not about disincentives. What the public told us is that they valued the co-payment system, but they valued the fact that they could ring their G.P. practice and see a G.P. today. If they want to see a particular G.P. of choice they may have to wait until tomorrow but they did not want the same service as the U.K. where you can wait up to 3 weeks to see any G.P.

5.14.1 Deputy M. Tadier:

Of course those who have enough money to opt into the co-payment system will be quite happy to pay if it guarantees them faster access to a doctor but for those who have not been to see their G.P. in years and who, no doubt, cost the system much more money further down the line, they do not have the option of saying: "We are quite happy with the co-payment system." So would the Minister agree that it is fundamental that health care be accessed at least for those who can least afford it, if not universally.

Senator A.K.F. Green:

I could not agree more. That is why we have the excellent income support system that supports people that really help to access primary care.

6. Questions to Ministers without notice - The Chief Minister

The Bailiff:

If there are no other questions, that brings the questions to the Minister for Health and Social Services to an end. We now have questions for the Chief Minister. Deputy Southern.

6.1 Deputy G.P. Southern:

In the light of the fact that the removal of one post from the Statistics Unit has led to the abandonment of the Business Tendency Survey, the Retail Sales Survey, the Jersey Annual Social Survey and the Jersey/U.K. comparison of the cost of living, does the Minister consider that a further loss of a post will lead to further complications and a poverty of information coming from the Statistics Department?

Senator I.J. Gorst (The Chief Minister):

As I said earlier, my officials are working with the Chief Statistician, together with the statistics user group to work on reorganisation and at the same time preserve some of those reports that the Deputy has just spoken about, particularly their Business Attendance Survey, which I accept is extremely important as Deputy Higgins would have asked about had he been here today. Therefore, it is a matter of reorganisation and redesigning, and trying to get a similar level of service with a restructured department.

6.1.1 Deputy G.P. Southern:

Supplementary if I may? Furthermore, does he not consider that the opinion of the Chief Statistician is that estimates of population are becoming less and less reliable the further we get from a census and that in the absence of a fully functioning population register, they will get so weak as to become untenable? Does he not accept that reduction of staff in the Stats Department is a mistake, whether we are going up or down, we need to know where we are, we need to know which direction to go and that requires good honest statistics?

Senator I.J. Gorst:

The Deputy is again trying to conflate 2 issues. He is. Senator Routier and his officials are working with the Statistics Unit on an e-census and it has always been known that to deliver that e-census required further resources from that available. So that is being dealt with separately outside

of the reorganisation of the department, the need for resource to deliver the e-census, which is something that Ministers support.

6.1.2 Deputy G.P. Southern:

If I may? I am not leaving it there. The fact is that we are now 5 years from the last census. The head of the Stats Unit says the reliability of his predictions are already calling into question, and as he gets 6, 7, 8 years from the last census they will become so weak as to be untenable. Does he not accept that further reductions in staff will cause problems for the Chief Minister's understanding of what the economy is and where we are going in it?

Senator I.J. Gorst:

I know the Deputy likes to overstate his point but the normal interval for census has been around 10 years and, as I said in answer to Deputy Kevin Lewis about the United Nations Statistics Unit, what they were suggesting around 2021, and that seems reasonable to me and we will work towards that. Alongside that, I accept the point the Deputy is making about the need to refresh numbers and information throughout that 10-year gap and that is why we are starting work with the Statistics Unit on an e-census and that will need resource as well.

The Bailiff:

Is it on the same point?

6.1.3 Deputy G.P. Southern:

Similar point, yes. Does the Minister accept that it is his department which has failed to produce a functioning population register in the last, I think it is, 8 years and does he not accept some responsibility for that failure?

Senator I.J. Gorst:

No, they are 2 different things as the Deputy knows.

6.2 Deputy M. Tadier:

Will the Chief Minister be putting himself forward for election in the general election in 2018 and, if so, will he be doing that as a candidate for a not currently formed political party?

Senator I.J. Gorst:

I am not sure how that falls within the Standing Orders of my official responsibility but you may rule otherwise.

The Bailiff:

I have always taken the view the Chief Minister has to answer almost any question, Chief Minister, but of course if you have not made up your mind yet you will not be able to answer.

Senator I.J. Gorst:

The next general election is not until May 2018. It would appear to me that some Members of this Assembly are more focused on a date in May 2018 than they are in setting the public service on a trajectory which is going to benefit Islanders for 5, 10, 15 and 20 years into the future. That is what I am focused on. That is what the M.T.F.P. is focused on. It is focused on investing in health, it is focused on investing in education, it is not focused on whether I am going to stand for election in 2018 or not, it is focused on the best long-term interests of Jersey and I will continue to focus on the best long-term interests of Jersey, whatever I might ultimately decide about May 2018. I ask every single Member of this Assembly to do the same. [Approbation]

6.2.1 Deputy M. Tadier:

I thought I heard some thunder there but I am not sure whether it was outside the Chamber, the footstamping or the Chief Minister's thundering voice. Presumably we are all focusing on doing what we can, not just in this term but after the next election and one would hope that if the Chief Minister and his party colleagues in the Council of Ministers are so confident of the scathing cuts they have delivered on the poorest in our society and their record of making Jersey even more unequal than when they first came to office in 2009 that they should be looking towards the next election to put their promises and their policies before the electorate in a coherent way. I would suggest that if the Chief Minister is so confident and so boisterous in his rhetoric that he puts coherent policies to the public so they can vote on a coherent party political platform.

The Bailiff:

Your question, Deputy.

Deputy M. Tadier:

Does the Chief Minister not agree?

Senator I.J. Gorst:

I know the Deputy enjoys party politics but we in Jersey have a long tradition of independents working together collaboratively on any particular issue. The 3 Members opposite do not accept that view, they believe that a party where there is a straitjacket where even fewer people have input into the policy as we see in parties elsewhere across the world. So when I speak to people and I say them ...

Deputy G.P. Southern:

Point of order.

The Bailiff:

Chief Minister, a point of order.

Deputy G.P. Southern:

In answering a question surely, the Minister could speak on his own behalf, he cannot speak on my behalf.

The Bailiff:

No, I thought that was a perfectly legitimate response to what was put to him. Chief Minister.

Senator I.J. Gorst:

So when I speak to them and say that we have a tradition of independent politicians they look at me aghast and think: "Wow, that must be great, you are not tied to party politics, you have not got a straitjacket, you can make your decision on any single issue based on the best interests of your community" and therefore I think there are things that need to be preserved from our independent system of politics.

6.3 Deputy G.P. Southern:

Does the Minister consider that collective responsibility is also a very far tighter straitjacket than anything that we have got on this bench here?

Senator I.J. Gorst:

Absolutely not, because that is about government delivering coherently in a joined up way. Even this morning we have been criticised for some areas where we have perhaps not been as joined up as we ought to have been. But let us remember, there is no collective responsibility between the Assistant Minister for Health and Social Services and the Minister for Education, contrary to what

some Members of this Assembly would like to put out into the public domain. Collective responsibility is about government delivering in a joined up, cohesive and appropriate way for this community. I think that is the right way.

6.4 Deputy J.A. Martin:

The Minister has answered my question, or Deputy Southern's question, about collective responsibility and then went on to say that the Assistant Minister for Health and Social Services does not have collective responsibility to the Minister for Education. But is it not true that the Chief Minister and this Council of Ministers, in their working together for the best of the community, emphasises how they are working together and now he is telling me they are not. Which is correct? The Minister cannot have it both ways.

Senator I.J. Gorst:

Collective responsibility is a definition in the ... I am not sure if it is in the States of Jersey Law or it is the Code of Conduct or a combination of the 2, but my point is, it has been suggested that collective responsibility is a mechanism to get people to vote for things that they do not like. It absolutely is not. It is as mechanism to deliver effectively and efficiently for our community. The fact that the Assistant Minister for Health and Social Services, he can vote in what he thinks is the best interests of the community and not just because the Council of Ministers think something is in the best interests of the community. If it is coming from the Minister for Education, it does not stop them working together, of course they work together, of course they argue about what the best policy is, about what the best course of action is but ultimately the Assistant Minister for Health and Social Services votes for what he thinks is best and the Council of Ministers will vote for what they think is best.

6.5 Deputy J.M. Maçon:

Will the Chief Minister not concede that if an Assistant Minister carried on in that manner for a long time they would not remain very long as an Assistant Minister, and therefore this thinly veiled approach to collective responsibility, while it might not be there in the Standing Orders, it is certainly there by convention?

Senator I.J. Gorst:

Absolutely not, it is possibly somewhat ironic I am looking at the Assistant Minister for Health and Social Services. He has probably got a record of voting against the Council of Ministers on any number of occasions and yet he is still a valuable member of the team, he is still contributing a valuable contribution to the transformation that Health is delivering right across our community.

6.6 Deputy S.Y. Mézec:

If what the Chief Minister says about collective responsibility is true in that it does not stop Members of this Assembly from voting for what they believe in, would he therefore support a proposition to repeal collective responsibility seeing as it plays no constructive role in our political system whatsoever?

Senator I.J. Gorst:

I did not say it did not play a constructive role. I explained quite clearly the role that it did play but also explained the limitations to whom it applies and that is at odds with what most people in the community think. That is why we work with Deputy Wickenden on his proposition to try and give some clarity to the public about how it works.

6.7 Deputy G.P. Southern:

It is wonderful to hear such a mastery of new speak from our Chief Minister. He talked about coherent, joined up policies. Will he be presenting coherent, joined up policies to the electorate at the next election or will he be, as usual, just saying: "Trust me, we are going in the right direction"?

Senator I.J. Gorst:

I have never said: "Trust me, we are going in the right direction", that would not be appropriate. I have laid out where I think we need to go and I will continue to do that for as long as I continue to seek political office. Here is a document that is a joined up, coherent policy for the next 4 years, for the best interests of our community. We will be coming to debate it, perhaps improve it, change it, throughout the course of the next States sitting.

[12:00]

6.8 Deputy M. Tadier:

Does the Chief Minister agree with the various comments that we heard on the doorstep, I am sure that Senator Ferguson heard on the doorstep and other candidates when they were knocking on doors, to the effect that collective responsibility in an Assembly of independents is nothing short of dictatorship? It is fine to have collective responsibility when you are elected as a party on a party manifesto but for the Chief Minister to stand up and praise the independent system in Jersey because Members, apart from Ministers, can all vote with their consciences, perhaps that does not matter anyway.

The Bailiff:

Can we come to the question, please?

Deputy M. Tadier:

Does he agree that with that statement of many members of the public in Jersey who do value both independent politics and party politics that a collective responsibility is nothing short of dictatorship in the current Jersey set up?

Senator I.J. Gorst:

I am sure as a responsible Member of this Assembly when that opinion was put to him, he explained to the person asking the question that it only applied to the Council of Ministers and any given specific Assistant Minister at that point and therefore it could not be a dictatorship because the government comes into this Assembly on every single occasion and has to build consensus and get votes to get any single piece of legislation through this Assembly. It is not a dictatorship and the Deputy knows it is not so I hope he corrected those and explained to those who suggested otherwise.

The Bailiff:

Thank you very much. That brings question time generally to an end. We now come to K - there is nothing under J for Personal Statements - Statements on a Matter of Official Responsibility and the Chief Minister has a statement to make regarding Brexit.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

7. The Chief Minister - statement regarding Brexit

7.1 Senator I.J. Gorst (The Chief Minister):

Well over 2 months have passed since the United Kingdom voted to leave the European Union. Prime Minister Theresa May has taken office and assembled a new team of Ministers to deliver on the referendum result. She has made clear that there will be no second referendum on the result of

negotiations as she says: “Brexit means Brexit.” Our engagement with the United Kingdom Government since the referendum has been positive. We have received written confirmation from the Prime Minister and from the Lord Chancellor, the Right Honourable Liz Truss, M.P. (Member of Parliament) that the referendum result does not change the constitutional relationship between the United Kingdom and the Crown Dependencies and that her government will seek to ensure that our interests are properly taken into account. She confirmed that we will be kept informed and given the opportunity to contribute where appropriate. We have already had regular engagement at official level with the U.K. departments leading the U.K.’s preparation for Brexit, including the Cabinet Office, the Foreign and Commonwealth Office, the Department for Exiting the European Union and the department through which the Crown Dependencies relations with the U.K. are managed, the Ministry of Justice. Our most regular contact has been through the Cabinet Office which is providing introductions to relevant individuals in the Department for International Trade and the Department for Business, Energy and Industrial Strategy. In due course at the appropriate time we will be seeking meetings at ministerial level with the Lord Chancellor and the Secretary of State for Exiting the European Union, David Davis. I look forward to welcoming the Minister of State at the Ministry of Justice with responsibility for the Crown Dependencies, Sir Oliver Heald Q.C. (Queen’s Counsel) M.P. to the Island on Monday, 10th October. This will be an important visit and will offer government a further opportunity to ensure that our interests are being taken into account. We have created a Brexit planning unit at the heart of government that is responsible for all Brexit related activities during this process. They are co-ordinating a high level working group of all departments to assess potential implications for Jersey and assess our cross-cutting interests in Brexit negotiations. This analysis will feed into the work of 4 workstreams set up to mirror the approach taken by the U.K. Government, which will focus on, firstly, free movement in the common travel area; secondly, agriculture and fisheries; thirdly, financial services; and fourthly, customs union and market access. We also have an ongoing active engagement programme with the E.U. institutions and with E.U. Member States to ensure that interests in Europe are promoted and protected. Our close relationship with countries across Europe will continue to be of great importance. It is essential that States Members and members of the public are able to engage on this important issue and will be working to ensure that all views are taken into account. We will be holding public forums, meeting business groups and creating chances for our diaspora communities to have their say. I plan to meet with States Members on Wednesday, 28th October, where Members will have the opportunity to pose questions, offer their perspectives and contribute to the process. Planning for Brexit will need the help of all community groups on the Island and I hope Islanders will contribute during this process. The fundamentals of our economy are strong. We are well placed to deal with any short-term uncertainty in the U.K. economy but equally to take opportunities the U.K. change in relationship with the E.U. might present. Our approach to the M.T.F.P. addition has been supported by the F.P.P. (Fiscal Policy Panel). We have ensured that there is a level of flexibility inherent in the public finances to help us deal with any unforeseen volatility. We do not have long-term net debt and do not have to deal with large interest payments and debt repayments as is the case in many other countries. The pound remains lower than its pre-referendum heights and while this will impact on business it will benefit our tourist and export businesses in the short term. The diversified nature of our financial services industry means that we are well placed to succeed in a post-Brexit environment. We are already outside of the E.U. for financial services, our well respected regulatory regime means that we are one of 5 jurisdictions approved for the E.U.’s A.I.F.M.D. (Alternative Investment Fund Managers Directive) passport and this will not change after Brexit. We will continue to ensure that Jersey’s role in upstreaming considerable funds from around the world to the U.K. and Europe is understood. I would like to emphasise that the right of Islanders to travel, study and work in the E.U., the right of E.U. citizens to live and work in Jersey, and the rights of Jersey businesses to trade with the E.U. will continue during this period. We have received no official word on the Government’s plans to trigger

Article 50 of the Lisbon Treaty, which will give, of course, a negotiating period of at least 2 years for the U.K. and E.U. to find new terms. After this period the U.K. will cease to be an E.U. Member State. Brexit will be a long process. It is currently only now in its infancy, the negotiations will bring together all E.U. Members States to discuss their future relationships. We do not know what the outcome of these negotiations will be, however, we have set out the broad basis of our position and will be working on the detail of what Jersey wants and needs in the coming months, together with the other Crown Dependencies, the U.K. Government to ensure that Jersey's interests are understood and protected over the course of the coming months and years. Negotiations have not started but I can assure the Assembly that we have prepared for them thoroughly. The work we have undertaken lays the foundations for success and while there is still more to be done, we can be confident that our preparations stand us in good stead. Thank you.

The Bailiff:

We now have up to 15 minutes of questions. I call on Senator Ferguson. You had your light on, if you are not ready I will come back to you. Deputy Kevin Lewis.

7.1.1 Deputy K.C. Lewis:

The Chief Minister has mentioned that he has had engagements with Member States but when it comes to actual negotiations will the Chief Minister and his team be negotiating with the 28 Member States or will he be relying solely on the United Kingdom to look after our best interests?

Senator I.J. Gorst:

The Deputy asks a good question and, as he knows, it is the U.K. which is leaving the European Union not Jersey. Our relationship we are seeking to maintain. That would be maintaining the status quo, even though at the end of the 2 years it would not be governed by Protocol 3. We are engaging with Member States and we have had a programme of engaging with Member States. I am due to be in Brussels later this year to continue that engagement with my Guernsey colleagues. We are in conversation and being consulted with the U.K. Government, but it is the U.K. Government who will be negotiating with the Member States and the E.U. because it is they that are leaving the E.U.

7.1.2 Deputy G.P. Southern:

The statement we are well placed to deal with any short-term uncertainty in the U.K. economy is, in fact, rather an exaggeration. I am accused often of exaggerating, there is a written exaggeration from the Chief Minister surely. What we are due is at least 2 years of uncertainty coming up and then we go for - what is it called - Article 50 and that will be 2 years' negotiation, that is 4 years, 5 years in negotiation. Is it not the case that what he proposed when he first stood and had a strategic plan it was all based around growth? Is it not the fact that F.P.P. has said we have to revise our economic growth figures downwards to zero? The latest British Chambers of Commerce revised theirs from 2.3 to 1.1 per cent, looking at next to no growth. Is it not the case we have next to no growth because of uncertainty for at least the next 4 years?

Senator I.J. Gorst:

Of course we are surrounded by uncertainty, I said that the day after the referendum result. I said it in my first statement to the Assembly. Of course we are surrounded by uncertainty and we are surrounded by volatility. We have seen the markets be volatile as well. We have seen the value of the pound plummet, but we have to remember that we are not in the E.U. for financial services. At this point we offer a safe haven of stability, of certainty for the future. It is because we have planned in Senator Bailhache's ministry, it is because we have planned in Senator Ozouf's areas, because we planned centrally in the Chief Minister's Department that we find ourselves in a position of preparedness (a) to deal with the negotiations and to be consulted and be plugged in and

be part of what is happening in the United Kingdom, and that is no mean feat in itself. That has been through hard work and engagement right across those 3 sections. At the same time, we have opportunities to continue to grow our economy, to take advantage of the uncertainty that surrounds us because people want certainty, they want stability, and we can offer them at this time, because of the very reason that for financial services and business services we are not in the E.U. The Chairman of the F.P.P. said: “Do not respond to the volatility of the announcements coming out of the U.K., that is absolutely right. Do not add to any potential risks” and we will come on to that at the next States sitting for Members who might be thinking of deferring the M.T.F.P. or kicking it out altogether, talk about giving away an advantage that you might have. That is exactly what that would do. It would give away the advantage that we had, “but look for upside opportunities and take them”. That is why we have the economic growth and productivity pot. That is why we have said some of that money is going to be spent on taking upside advantages for Brexit.

The Bailiff:

Chief Minister, there are a number of other questions to come.

Senator I.J. Gorst:

Sir, I am happy to take questions for longer than 15 minutes.

7.1.3 Deputy J.A. Martin:

In the penultimate paragraph the Minister states: “We have created a Brexit planning unit at the heart of government” and then states 4 areas that they are mirroring the approach of the U.K. Can the Minister at least give, if not names of the people in charge of these area, a job title because in the years to come when this hopefully goes right, or does not, everyone needs to know who was put in charge of these areas so we can ask the right questions. This will go into the next government, it will not just be this government, we need to know now. I hope the Minister has these names.

[12:15]

Senator I.J. Gorst:

I wonder if I could just ask the Deputy to clarify what it is that she is asking. Is she asking who is taking political responsibility for these areas of work or is she asking which officers from a Jersey perspective are going to be involved?

Deputy J.A. Martin:

Well, obviously I think the Minister may answer that he would have overall political responsibility. The area is officers in departments because we need to know ... as I said, if the Minister cannot give the name, I want at least the job title so we know in the months to come who we can ask where the work is and what they are doing.

Senator I.J. Gorst:

It is not difficult at all because it is being co-ordinated by the Ministry of External Affairs. The 3 Ministers involved are, of course, myself, Senator Bailhache and Senator Ozouf, because those areas are overseeing the overall co-ordination. But that co-ordination then flows down to the departments; we have the issue with fishing and how that will work. The actual detailed knowledge about how fishing works now is held at the Department for the Environment, so they will be involved with the central co-ordinating unit and liaising with the groups that are being set up in the United Kingdom and plugging that information into there. So it will always be a 2-pronged approach, which is the department that is directly involved, for example, Home Affairs and Customs and Immigration will be involved in certain areas, together with the co-ordinating unit. I do not have the names of exactly the people in each area but I can provide the job titles in due course.

7.1.4 Connétable J. Gallichan of St. Mary:

I have a really simple question for the Chief Minister. I am looking forward to being able to offer my perspective but Wednesday, 28th October is not this year. 28th October is a Friday and it is during half-term. Would the Minister, if he is considering having it on 28th October consider moving it out of half-term week or does he mean Wednesday, 28th September, which is during a States sitting so maybe he would like to meet with us then?

Senator I.J. Gorst:

I thank the Connétable for that extremely astute observation. I shall make sure that the co-ordinator of diaries, who has a very difficult job certainly with my diary, it has to be said, provides confirmation of exactly when that date is. I would have thought that half-term was not a suitable time to have that.

7.1.5 Deputy A.D. Lewis:

One of the biggest debates around the issue of Brexit was immigration. Does the Chief Minister think that there is an opportunity for review of our own border controls? The Prime Minister of the U.K. discounted the idea of any kind of points system control of immigration but it has been discussed and mentioned many times in Jersey. Does the Chief Minister feel this a really good opportunity to review our own immigration policy, our own border controls and in conjunction with the U.K. Government, as we are still in the U.K. common travel area, including Ireland as well, and this is an opportunity not to be missed? In the 2 years we have to discuss this maybe a solution can be found.

Senator I.J. Gorst:

The Deputy will know from the statement that I have just given that one of the first working groups that the U.K. Government has set up is around free movement, common travel area and therefore that is going to be addressed pretty soon out of the gate, and that will have requirements for Home Affairs. Of course it will be an opportunity for all those involved in the common travel area and the implications for any potential change in the free movement to consider how they respond and how they react. I cannot envisage a situation other than whatever the U.K. might decide we would not also want to layer over our own controls as we currently do. But whether the controls that we currently have will deal with what is negotiated in the future we cannot say at this point, but I would expect that whatever is negotiated by the U.K. we would still want to because of our various scarce resources we would want to layer over our own controls in the future as well.

7.1.6 Deputy T.A. Vallois of St. John:

The Minister set out 4 particular areas that this planning unit will be focusing on. In terms of having an appropriate engagement and ensuring that Members or members of the public are speaking about the same types of thing, would the Minister endeavour to provide some form of information in terms of the types of policies that would potentially be affected, the areas that will be affected and be able to have that discussion on an informed basis rather than assumptions. I have heard many Members at many briefings asking about this Brexit and if it is going to be affecting certain things to do with the European Court or the E.E.A. so if the Chief Minister could endeavour to that I would appreciate it.

Senator I.J. Gorst:

The Deputy makes a good point about the broad gamut of policy and law that needs to be reviewed and decisions that need to be made and what the effect may or may not be on those particular areas. Members will see either this afternoon or tomorrow going into the public domain extra resources being provided for the Department for External Relations together with the Law Officers' Department and the financial services section to start doing some of this work, and Law Officers

have already started reviewing some of those laws. It might be that ultimately we need to think about whether the structure we have got in place of those 3 areas is fit to deal with the next 2 years where we will be pretty intensively dealing with all these Brexit issues. But, yes, is the short answer.

7.1.7 The Deputy of Grouville:

Is it not the case that fishermen are a lot happier to be free from the quota system and the E.U. fishing measures, so are a lot happier free from Brexit and see it as a positive move?

Senator I.J. Gorst:

That is an interesting view. I think that the fishing area in particular might be one of those areas that on the surface might be seen to be positive but potentially when the U.K. - and we will be involved in this - is negotiating its relationship with the E.U. fisheries will be an interesting issue because on the one hand you could be released from the E.U. quota which will be a great positive, so you could potentially have increased catches. On the other side, is the potential imposition of tariffs and how they will offset each other. So there will be a lot of work to be done in this particular area. So we can see there is positive potential but with all these issues there is also downside risks that we are going to need to manage and understand what the effects might be if they cannot be mitigated.

The Bailiff:

Thank you, the 15 minutes has come to an end. We now come to a statement by the Deputy of St. Ouen, Chairman of the Health and Social Security Scrutiny Panel.

8. The Chairman of the Health and Social Security Scrutiny Panel - statement regarding its report entitled 'Living on a low income' (SR.4/2016)

8.1 The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):

In the foreword to the panel's report on "Living on a low income" I stated that panel members had been alarmed and saddened but not altogether surprised by what we learned in the course of our review. We were alarmed in considering the ramifications of an increase in the numbers of people living on low income, now one in 4 households rather than one in 5 in 2009. We were alarmed by the growing gap income inequality, noting that the average disposable household income of the poorest section of our community had decreased by 17 per cent over a 5-year period. All of this at a time when our Strategic Plan acknowledges that nothing undermines social inclusion more than financial hardship and we have set ourselves a strategic goal to help people in Jersey achieve and maintain financial independence and safeguard the most vulnerable in our community. We were saddened by the evidence of hardship we received. There is a growing reliance on charitable help, including food banks, used by people from a range of backgrounds. These are not scroungers taking advantage of a handout but typically are established working people who are coming as a last resort with heavy hearts. We were saddened to hear from individuals, charities and doctors that increasing numbers of people feel they cannot afford to visit their doctor. When income support was introduced in 2008 this Assembly was told that no one should fear the cost of going to their doctor because income support would cover that cost. Unfortunately, 8 years later increasing numbers of people are fearful of just that because income support no longer adequately provides that support. We all know the potential consequences of not addressing health issues at an early stage. There is a reliance on doctors to offer discounts or judge from their limited knowledge who might be deserving of a free consultation. But this is not sustainable. The fear of the cost of a doctor's visit is a serious and urgent problem for us to resolve. We find that the income support scheme is failing to achieve its aim of reducing poverty in the Island as embodied in the principles

of the scheme discussed by this Assembly more than 10 years ago. The real value of income support benefits have steadily declined over the years and now does not reach a significant proportion of people living on low income. A decade on from the approval of the principles we recommend that the Minister begins a thorough review of the scheme to ensure it is aligned with its principles and reaching those in need. One part of our report deals with what we have called the benefit trap. I am not aware of any other published work on this subject in Jersey and we hope our report will be useful to show how financially difficult it is for claimants to move out of income support. Other jurisdictions seem to have greater incentives to encourage this and we recommend the Minister include this area within her review. The statistical evidence for the increasing number of people living on low income relates to the 5-year period ending in 2014. Since then this Assembly has approved £10 million of benefit savings which we fear will only increase the pressures on people relying on this safety net. We recommend that the Minister should review the impact of some of these changes and we suggest that in the longer term to support needy and vulnerable people they should receive the same protection in the next Medium Term Financial Plan as has been accorded to Health and Education in the current M.T.F.P. If I may at this stage just add something not on the printed statement, which is to make a correction within our report. Paragraph 45 contains a table showing States support for charities, including sums given to the Red Cross, suggesting those sums were used to support local people living on low income. In fact, those monies were received by the Red Cross from the Jersey Overseas Aid Commission for appeals, disasters and projects throughout the world. So I regret that in seeking information we did not ask a question with sufficient clarity and that has given rise to confusion. May I apologise to the Red Cross and Jersey Overseas Aid Commission for any confusion and embarrassment caused. Returning to my statement, our report contains some short term recommendations but it is also a report for the longer term. We hope it will inform further discussions on these issues and enable us to concentrate on achieving that important strategic goal. It will not be easy but dare we hope that the next Household Income Survey, which is due in 2020 will show a narrowing of the gap between the Island's rich and poor. I urge all Members to consider our report and please respond to panel members with your thoughts and comments. Thank you, I am grateful. [Approbation]

The Bailiff:

There will be 15 minutes of questions for the Scrutiny Chairman. Senator Ferguson.

8.1.1 Senator S.C. Ferguson:

Did you consider what used to be the Westfield Scheme ...

The Bailiff:

Through the Chair.

Senator S.C. Ferguson:

Sorry, thank you, Sir. Did the panel consider what used to be the Westfield Scheme for Dental Assistance, which now provides £500 over 2 years for assistance with dentures, which when a set of dentures costs something in the order of £1,500 is absolutely ridiculous?

The Deputy of St. Ouen:

We did not consider the scheme directly as changes to the scheme were being proposed at the same time as we were conducting our review, but we did consider the issue of special payments for such things such as dentures or the purchase of white goods or the payments of deposit for accommodation, whatever special needs may arise for people living on low income.

[12:30]

We found that the use of special payments as grants by the Minister for Social Security had decreased and instead there were far more being offered as loans with really a minimum repayment of £21 a week to most people required to take out one of these loans. Clearly the payment has to be repaid but we criticise the level of repayments that are being required because it only serves to diminish the household income available to people living on low income, a continuing spiral of difficulty. We find that people are just not managing at the end of the week. If they have managed to pay their household normal weekly then they are faced with something out of the blue such as the need for a doctor's visit, that is when difficulties arise particularly.

8.1.2 Deputy S.Y. Mézec:

Is the Chairman as dismayed as I was to hear in answers to questions earlier on today that the Minister for Social Security has already decided to dismiss the panel's recommendations when it comes to reinstating the support that was cut to single parent families? A group which the Income Distribution Survey showed that 54 per cent of them already live in relatively low income. Some of whom could now be subjected to a reduction in support of £2,000 a year. Further to that, what does the Chairman believe it will take to get this Government to stop burying its head in the sand over the way it is treating the poorest and most vulnerable people in our community?

The Deputy of St. Ouen:

The Minister has said that she is going to be considering the report and noted the 6-week period in which she has to consider it. So I trust she will pay careful attention to it in that 6-week period. I hope the Minister might engage with the panel if she needs any more information, if she wishes to know the reasons why we made certain recommendations. As to the longer term, we will continue to question the Minister on whatever responses she gives us but I hope, as I have said, that this is report is something that this whole Assembly can use because it is packed with factual information about the effect of living on low income in Jersey. This is a sizeable section of our population. I hope that all of us, whether ministerial team or Back-Benchers will be able to pay greater attention to addressing these issues as a result of our report. Thank you.

8.1.3 Senator P.F.C. Ozouf:

I have listened to the statement with interest and I have not studied every single part of the report. But would the Chairman agree that it is important when looking at the whole issue of low-income individuals, not simply finding ways of spending more public money and redistributing, but rather making it possible to make, for example, markets work better for consumers? For example, most pensioner households have had their homes insulated and have seen therefore their costs of heating fall, quite apart from the energy costs of most fuels falling. Would he agree that his panel might also want to consider and will work with some of my political responsibilities? One of the reasons why people have got low incomes is because their costs are high, and their costs are high because markets are not perhaps working as well as they should be. We need Scrutiny Panel support, and will he give me his support in the work that we are doing to reduce costs in areas such as energy and working with C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities)? That is as equally important, if not more, in taking millions of pounds out of the cost of running people's homes, would he agree?

The Bailiff:

A crisp question, please.

Senator P.F.C. Ozouf:

Because his report seems to be completely absent and silent on it. You cannot just put more money in; we have to make markets work better, does he not agree?

The Deputy of St. Ouen:

I am sure we would all want to ensure that markets are working efficiently. Now our report does not deal directly with C.I.C.R.A. or such markets that the Minister has referred to but it does deal with one market which is the housing market. We found that the States do not really have an adequate policy to deal with rental housing in Jersey. So much of our income support payments go to private landlords; 40 per cent of all income support payments are paid in rental. Is that an efficient use of the housing market and of the income support scheme? If the Minister wishes us to consider markets, may I draw his attention to our recent zero-hour contract report? The employment market is not functioning properly for people living on low income with a great uncertainty of income. This is part of the reason why income levels have fallen over the past 5 years. We have a significant level of zero-hour contracts used by employers when they are, in reality, offering permanent jobs and those workers should be moved on to a full, proper contract and have a certainty of income.

8.1.4 Deputy J.A. Martin:

Yes, it follows on nicely. I was alarmed to see that it is now one in 4 households rather than one in 5 households living on a low income. Would not the Chairman of the panel like people like Senator Ozouf in his capacity as Minister, and other Ministers, to look at all the policies that have obviously contributed to this? It is not just Social Security. They want to stand up and ask the questions of the panel. They should really look at their own departments because one in 4 instead of one in 5 rising from 2009 is absolutely disgusting in this society in Jersey today. Would the Chairman not agree?

The Deputy of St. Ouen:

Yes, I absolutely agree. This is a topic which runs across the whole of the public administration and we have made recommendations which cover a number of ministerial areas, so we hope that our report will be a subject for discussion within the whole Council of Ministers.

8.1.5 The Deputy of St. John:

Could the Chairman advise what consideration was given by the panel to the impact of this Assembly's agreement to charge 90 per cent of market rent in social housing [Approbation] especially for those people on lower incomes?

The Deputy of St. Ouen:

Yes, we took evidence from individuals who found that that gap in rents posed them a substantial difficulty. They might be on income support, having either 90 per cent of their rent paid or a lesser proportion. The high rents mean that they are struggling to make ends meet. We found that private landlords follow any States rental increase. This only adds to the difficulties incurred by those in the private sector. We found for all groups, income before housing costs had fallen, so there is a whole section in our report on this subject which I would recommend to the Assembly.

8.1.6 Deputy L.M.C. Doublet:

Thank you to the panel for another excellent report. Could the Chairman please highlight any particular findings within the report on the impact on children who are living within a low income environment and how this might be affecting their life chances and what does he think the most important things are that we can be doing to help these children and families?

The Deputy of St. Ouen:

The Housing Income Distribution Survey reported that the proportion of children living in relative low income households has increased from 22 per cent in 2009 to 29 per cent now, said to be affecting 4,900 children. We had not taken any specific evidence on the effect on children but one can only imagine the stresses within households caused by trying to make ends meet by parents

working perhaps on 3 jobs and still not being able to make ends meet, not being able to spend time with their children. One can only imagine the difficulties of living in accommodation and housing stress that arises and the educational needs and societal needs of those children being affected. So low income will affect children, it will affect our ability to grow, to ensure that we have a population in the future who are able to take those posts in Jersey that we want them to take, and we run the risk of socially excluding a large number of people within our society which we fear greatly.

8.1.7 Connétable A.S. Crowcroft of St. Helier:

Did the panel find, as well as the issues around funding, that the presence of support services in low income families was important? I am particularly interested to know to what extent the States support services are supplemented by Parishes that have retained either professional or voluntary community services visitors and also by the third sector of the churches, in particular. How important are these support services in low-income families?

The Deputy of St. Ouen:

They are very important. They are assuming increasing importance and we expressed concern that in the longer term they would be unable to cope with the pressures and the demands upon them. At the moment it seems they have attempted to negotiate a programme of work within the monies available to them. But with increasing pressures on grants, we do fear that those funds will be vulnerable and the services offered by charities will no longer be available. We did see some evidence of that within Headway, who we had a very interesting meeting with. They had chosen to drop some services which they would like to offer which would be of great benefit, but their budget just does not stretch to it any longer. We are well aware of the support given by the Parishes and St. Helier is one of them with an advance support system and the churches. There is one small part of our report which deals with some historic funds we know are available to the Parish and to the rectors of the Parishes and we would like to see those co-ordinated in a way which might make them better known and available for helping people out with some emergency costs such as dental treatment. We recommend that the Minister for Social Security engage with the Connétables and rectors to ensure that might happen.

8.1.8 Senator P.F.C. Ozouf:

If I may just come back to my question. The panel has certainly some important information in this report and the Chairman makes important and accepted conclusions about incentives to work. But the inescapable conclusion of what I can see from this report is the solution is simply to spend more money on income support. Does he not also accept that when he speaks about, and his riposte in answering a question to me about housing benefit, money, States money, makes markets worse? It is hard but it does not work.

The Bailiff:

Ten seconds for your question, Senator.

Senator P.F.C. Ozouf:

My question is: I have not seen any economic analysis in this report which speaks to the importance of ... the real way you get people out of poverty is making markets work and getting people into jobs, not simply telling the Minister for Social Security to spend more money which is what I am getting. Does he not agree?

The Bailiff:

Senator, thank you. Chairman, as a result of the Senator going on rather longer than expected, you have an extra minute to answer the question. [Laughter]

The Deputy of St. Ouen:

I do wish the Senator had been present when we were visiting people living on these low incomes and when we met them at the Town Hall. **[Approbation]** No, of course he could not because he is not a member of our panel. But what the Senator speaks of is really completely outside the experience of these people, I am afraid. If he is criticising me for saying that we need to spend more within that to support vulnerable people then, yes, that is the firm conclusion of our report. There is a level of support that is needed that must be given otherwise, to quote the Strategic Plan, social inclusion will be damaged. We have a goal to support the vulnerable and the needy. If that support is falling away, it does not matter how markets work at a higher level.

[12:45]

We must bring social inclusion to bear and make sure that these people are in a position ... we are not just talking about working families, we are talking in our report about pensioners who are suffering low income and children who are living in households with low income. So, there is a minimum level of support which the States must give in order to preserve the social cohesion of our society and we are in danger of falling beneath that. **[Approbation]**

The Bailiff:

Thank you very much. That brings questions to the Chairman to an end.

Senator L.J. Farnham:

I wonder if I could just move the Assembly. P.70 is a relatively, I hope, quick appointment of a Chairman for the Gambling Commission which is due to be held in camera. I wonder if it would make logistical sense to deal with that now, if Members were minded, to just spend a couple of minutes on it.

The Bailiff:

The Senator is right that P.70 is a proposition that needs to be heard in camera. Would Members find it convenient to deal with that now or would Members prefer to deal with it later on? Those Members in favour of dealing with it now, kindly show? Those against? It seems the consensus is to deal with it now.

PUBLIC BUSINESS**9. Jersey Gambling Commission: appointment of Chairman (P.70/2016)****The Bailiff:**

Therefore, P.70/2016 is the Jersey Gambling Commission: appointment of Chairman lodged by the Minister for Economic Development, Tourism, Sport and Culture. It is to be considered in camera. Before we go into camera, I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion, in accordance with Article 2(2) and Schedule 1, paragraph 2(1) of the Gambling Commission (Jersey) Law 2010, to appoint Advocate Cyril Edward Whelan as Chairman of the Jersey Gambling Commission, with effect from 1st October 2016 until the expiration of his current term as a Commissioner on 1st November 2019.

The Bailiff:

Very well, the States will now go into camera. Can I ask those in the public gallery to leave and the media to leave also?

Deputy M.J. Norton:

Could I also ask at this point, because we have test cameras in, are we assured that test cameras are also switched off at this time?

The Bailiff:

Yes, they have been switched off, I am advised by the Greffe. **[Aside]** Very well, then, Minister, please make your proposition.

[Debate proceeded in camera]

The Bailiff:

Could those Members in favour of adopting the proposition kindly show? Those against? The proposition is adopted.

Deputy A.D. Lewis:

Just a point of order for the Greffier, really. We could not hear anything the Minister said in these rows here. Perhaps there is something wrong with his microphone. I wonder if the Greffe's Department could have a look at it. Thank you.

The Bailiff:

Thank you very much, Deputy.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed. The States now stand adjourned until 2.15 p.m. this afternoon.

[12:51]

LUNCHEON ADJOURNMENT

[14:18]

The Bailiff:

Before we resume, I would like to inform Members that over the lunch adjournment I administered the oath of Acting Greffier to Mr. William Willow so that he is now able to act as Greffier in the absence of the Greffier and the Deputy Greffier. **[Approbation]** It also has the advantage of my saying so that is now enrolled in Hansard so everybody knows about it.

10. Draft Former La Motte Street School (Validation and Abrogation of Covenants) (Jersey) Law 201- (P.9/2016)

The Bailiff:

We now come to Public Business for this session. The first item is P.9 the Draft Former La Motte Street School (Validation and Abrogation of Covenants) (Jersey) Law 201- lodged by the Minister for Infrastructure and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

Draft Former La Motte Street School (Validation and Abrogation of Covenants) (Jersey) Law 201-. A law to validate the use of land formerly known as the La Motte Street School and to abrogate

certain restrictive covenants attaching to that land, and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

The Bailiff:

Minister, propose the principles, please.

10.1 Deputy E.J. Noel of St. Lawrence (The Minister for Infrastructure):

Firstly, I would like to thank Deputy Martin and the Deputy of St. Ouen for their contribution to the previous debate on 26th April and in particular for Deputy Martin's proposal for a reference back on certain points of detail. I would also like to take this opportunity to apologise for the gaps in the information provided in the original P.9 report which led our 2 colleagues to raise concerns and for the reference back to be called. This reference back has given my department the opportunity to provide Members with additional information which will help them better understand this somewhat complicated matter. Before moving to the key points of the addendum to P.9, I wish to briefly recap on the purpose of bringing this law to the Assembly for approval. The historical ownership of the La Motte Street site is relatively complicated, as are the use of restrictions that were agreed by certain parties when the transactions were completed many, many decades ago. Our understanding, based on advice, is that the use of the restrictions is now deemed to be spent. However, it is in the public interest to confirm that position by formally cancelling out the conditions. The proposition also validates the various uses of the land since at least 1964 which have been contrary to the restrictions and probably well over the past 100 years or so. As I said in April, society has changed since the 1840s and subsequently 1926 when the restrictions were put in place. We no longer have schools for the poor, providing care and religious instruction for a large number of children of specific ages. We are faced with a position whereby we cannot comply with the use of restrictions and whether we continue the unsatisfactory action of ignoring the problem or, as what I believe is the right course of action to take, is that we seek to address it. We are proposing the options of cancelling the restrictions by law for 3 reasons. Firstly, having regard to the age, nature and standing of the restrictions, this method is deemed by the Law Officers' Department to be by far the most effective for the public, as confirmed by the Attorney General on 26th April earlier this year. Secondly, the concern with alternative options such as compulsory purchase is the risk that in the future a party comes forward claiming to hold an interest. Our understanding, again, based on advice, is that no party could legitimately make such a claim. However, should this unlikely event happen, the potential cost to the public in dealing with it would be significant. Unfortunately, we cannot rule out the slim possibility of a repeat of a Les Pas-type situation scenario taking place whereby a completely disconnected party seeks to acquire certain rights and then advances a case. I reiterate, advice is that no party could legitimately make a claim; however, that does not stop someone from making a claim and this would be very costly to the public in dealing with it. Thirdly, this method has been approved by the States before at the old Jersey College for Girls' site at 33 Belmont Road and the former maternity site now known as the Les Bas Centre and more recently at Howard Davis Farm. Members will note from the addendum that we have explained the fundamental differences between the circumstances of the abrogation of the Howard Davis Farm and the proposed abrogation of the covenant of La Motte Street. I would also like to summarise, if I may, what I understood to be the key points made by the Attorney General when he advised this Assembly in April. They are: neither of the restrictions provide that the sold or gifted land should revert to the heirs of the vendor or donor in the event that the conditions of the gifts are not complied with. Accordingly, the heirs have no status in law in respect of those gifts. The heirs have no powers to agree the variation or abrogation of the restrictions. The restriction in the case of Sir Jesse Boot in 1926 was a personal one and not expressed to be in perpetuity. His entitlement to take action on that covenant ended on his death in 1931. Nevertheless, both restrictions were referred to in the 1964 conveyance from the Parish to the public which was done at a commercial sum of £12,000 as opposed to a gift. The Parish does,

however, have a theoretical right at least to take action for breaches of the covenants but such a right is merely theoretical, as it would be subject to the 40-year limitation period. Indeed, an Act from 1963, the year before the sale, refers to the former La Motte Street School and the indication that it was to be used for purposes of further education which is clearly contrary to both of the covenants. The second covenant in some respects conflicts with the first, indeed, and one of the views is that the first covenant has been breached well in excess of 100 years. The course of action in relation to the Parish was time-barred 40 years after the conveyance in 1964. Any action will be time-barred and even if there was a theoretical right to, any claim would be limited to an injunction or damages; an injunction to ensure compliance with the covenants or damages in respect of any breach. An injunction would not be granted as it is an equitable remedy ended by delay and a delay of 50 years would make it impossible to succeed. As to damages, nothing has been lost by the Parish of St. Helier in relation to these covenants. In 1964 it gained a commercial payment of £12,000 and in turn lost the obligation to maintain the premises. So, in summary, the clauses are not enforceable and there are no current rights of individuals that are being ignored or set at nought by virtue of this proposition. The advice and the position set out in this proposition has not changed since the debate in April. I am therefore going to focus now on the further information on the 4 points of the reference back provided in the addendum. I will quickly summarise the responses to these 4 points. Point 1 was to seek to establish the principal heirs of the original parties who created the respective 1840 and 1926 restrictions. There are 2 principal heirs: firstly, the late Reverend James Hemery Janvrin who, in 1840, sold the premises in 2 sections to Major General Touzel and Messrs. Hammond and Hemery, trustees of the company instituted in the Island for the education of the children of the poor. Despite conducting further research locally, including contacting a distant relative and engaging a genealogy research practice based in England, it has not been possible to trace the principal heir of the late Reverend Janvrin. The research focused on a family member who was living in Dundee, Scotland in 1918 when she signed a power of attorney in her absence from the jurisdiction. The key documents, being probate papers which should exist in the Scottish Court, appear to have been mislaid by the Scottish authorities and cannot be supplied. We therefore consider that all reasonable attempts have been made and exhausted. Secondly, the late Jesse Boot who, in 1923, transacted with the Parish for part of the site, with the assistance again of a genealogy research practice based in England, Sir Jesse Boot's principal heir has now been traced. Point 2 of the reference back was that if such principal heirs are traced, to seek their views on the proposal to abrogate the respective 1840 and 1926 restrictions. The late Jesse Boot's principal heir, as I have already confirmed, was contacted in writing and has replied in support of the proposals. His reply was attached at appendix 3 to the addendum. Point 3 was to clarify the position of the restrictions created when the Parish sold the site to the public in 1964. As advised by the Attorney General during the debate on 26th April the Parish has a theoretical right to sue in relation to the 2 covenants. I say "theoretical". As I have already said, even if it could be upheld, it would be subject to the 40-year limitation period which has now expired. Indeed, an Act of the States from 1963, as I have said, the year before the purchase from the Parish, refers to the former La Motte Street School, and there is a clear indication that it was to be used for purposes of further education which was and is contrary to the 2 covenants. This may have been connected with the decision for the sale to be subject to a £12,000 consideration, at the time a commercial payment of consideration and not a gift, to effect that the premises would be used for other public purposes. A final point was point 4, was to propose an arrangement to respect the "charitable intent" of the respective 1840 and 1926 restrictions. My officers and I have worked on this matter since the debate on 26th April, including liaising with other States departments regarding possible projects to which a financial contribution could be made. There is no absolute requirement to make such a contribution but I consider that it would be reasonable to do so in this case and I have given a ministerial undertaking to do so. When determining an appropriate sum, we considered the decision of the States when an arrangement was reached in 1989 between the

States and the trustees of the former maternity hospital at Les Bas Centre to allow a new use to take place. At that time a sum of £25,000 was agreed in that case which inflated to the present day equates to just under £70,000.

[14:30]

Again, apologies to Members that both the addendum and the reissue of the addendum still contained a typographical error where it mentions the figure of £60,000. To date, regrettably, it has not been possible to identify a specific local project linked to the welfare and development of young children to which a one-off but lasting contribution could be made. However, for me it is an important factor that this money should be spent to directly benefit young children up to 6 years of age and with particular emphasis on the 1,001 Critical Days' concept by the enhanced input into the children's life up to the age of 2 to render lifelong benefits. The proposal is therefore to continue to work with other States departments and children's charities to identify an appropriate project to which a contribution of £80,000 - and I repeat £80,000 - could be made which would be over and above any existing funding proposals. I stress that this will be new money arising from whatever capital project leads to the regeneration of the site. It will not be diverted money from an existing educational or other revenue budget but will be part of the capital costs of any development on the La Motte Street site. To this end, I am meeting with the Chief Executive of Brighter Futures later this month to understand if they have currently unfunded proposals that would meet the criteria as a suitable project and I further undertake to inform the States of the chosen project as and when one is identified. In addition, it is intended that any future development of the La Motte site will also include an appropriate feature recording the history and the contribution made by Messrs. Janvrin and Boot. I trust that that summarises the position and that Members now have sufficient information and reassurances to support the proposition which I understandably admit they should have had in the first instance for which again I apologise. I make the proposition.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the principles kindly show? Deputy Brée, I could not see your light, I am so sorry. Deputy Brée.

10.1.1 Deputy S.M. Brée of St. Clement:

I probably am going to be a lone voice in the Assembly on this one. Despite the evidence that has been provided by the Minister, I am feeling very uncomfortable with the Assembly voting on a covenant and that is for a number of reasons. Firstly, it is a question of respect, and by respect I mean respecting the wishes of the original people who set this covenant in place. Now perhaps I am wrong in thinking that but I do not feel that this Assembly is the place in which we should be debating this covenant. The reason for that is it boils down to a question of trust and by trust I mean that any donor or any person wishing to improve the lot of the poor or the needy in the Island and decides to do so by setting a covenant on a piece of land, which is very common practice under Jersey law, will be in a position where he is unable to trust the Government that they will not seek to overturn that covenant for their own usage, and that I feel very uncomfortable with. It boils down to a question of integrity. Are we as a States Assembly quite happy and quite content with the fact that we are being asked to vote on a proposal to overturn a covenant that may have been set many decades ago? But the purpose of the covenant was to provide education for the poor of the Island. The La Motte Street site has been allowed to fall into disrepair because of the lack of investment by this Government into the infrastructure. We are being told by the Minister for Education that we need more nursery schools, we need more educational facilities. Well, perhaps I am wrong in thinking that surely there is a bit of joined-up thinking that could go on between departments. I also question the financial incentive that is being offered up to Members of £80,000 that will be allocated for the use. Perhaps I would feel a bit more comfortable if the actual amount of money being offered up by the Minister for funding good causes in that area were substantially

more and represented the commercial value of that site because that is what we are talking about. It is the use of a site that was originally intended for a very good cause and a covenant was put down. Irrespective of whether or not we receive legal advice as to a challenge, I do not believe that is what is at stake at the moment. What I believe is there is a principle at stake here. I would also question whether or not we are - if we vote in favour of this - giving a signal to the Minister for Infrastructure to look at every other site that the States has an interest in that has a covenant on it. Because we are saying: "Yes, fine, let us do away with it, we do not respect the wishes of the original people many decades ago who set this out." So, I am afraid, even though I am a lone voice, I am sure, I cannot support this and it is a question of respect, trust, integrity and principles. Thank you.

10.1.2 Deputy R. Labey:

Of course one hears what Deputy Brée is saying about respecting the wishes of the original covenants. But times change and covenants with excessively-detailed restrictions of their time do date. They do date. I think that the Minister here has been very gracious in his opening remarks, in his proposition speech, and I think the department and the Minister have done everything they can to contact the relevant heirs now and they have had that letter from the principal heir which gives the plan their blessing and a green light. I do not know whether a decision was taken to move the access of the town south or whether that was just by natural osmosis but that is what is happening. The town of St. Helier is gradually moving south into the waterfront, et cetera, with the offices, the banks and the legal officers moving down south. The trouble with that is, if we are not careful we will leave a vacuum in the north of the town. To put the Government H.Q. (Headquarters) if that is what it is, going to be, and I hope it will be, with all the staff that will be working there, to put that in this area is exactly what this area needs. It will be a massive boost [Approbation] it will be a massive kick to the economy of this area. I can tell Ministers and their departments and civil servants if they are planning to go there, you will find a fantastic Indian restaurant just opposite. [Laughter] Planning have just approved a Domino's Pizza around the corner if you need to get something in and there is a whole host of restaurants up La Motte Street into town that you will find will service you very well. It will be great to have them serviced too by this injection to the economy of the north of town which would be incredibly beneficial. For that reason, I have no doubt to support this proposition.

10.1.3 Deputy R.J. Rondel:

I will just wait for the camera to leave Deputy Labey and focus on me. [Laughter] I do think we need to take a pragmatic approach here. Not to do so would risk delaying a legitimate new use for the site with all the benefits that that will bring. I am aware that some of my colleagues were feeling that because in 1840 a gentleman sold the land to a company with a restriction on specific teaching use. We would never stray from an education-linked use no matter how far removed from the original intentions. Confining ourselves like this would lead to the property lying vacant, deteriorating to the detriment of the area; therefore, to the detriment of the public as the owner of the land asset. We have to act in the public interest and make the necessary arrangements for the land to be given a new use. To an extent, it has been restrained thinking that has led to the Le Seelleur Workshop in Oxford Road lying vacant and now in very, very poor condition. Opportunities to sell the site at a good price and for the receipts to be used in line with the donor's wishes have sadly been lost, with the present condition and market conditions having reduced the site value. I wish to avoid a repeat of that and urge Members to take a decisive action in the public interest. As my Minister has said, society was very different in the era of Reverend Janvrin when the gentleman had aspirations for a school for the poor. Luckily, that need became redundant and I think we should celebrate an opportunity finally to archive the restriction by cancelling it and allowing a new use of the land which reflects the need of today's society. It is widely known that the business sector is shifting from this area of town to the waterfront area. With that comes

challenges for the old north of town district. There is an opportunity here to assist with the regeneration of that area in both the short and long term. However, if we become and remain fixated on the idea that the use can only ever be a school, in all likelihood no regeneration will happen and instead an empty, dilapidated building will stand out in that part of town. Turning to the Minister's commitment to respect the charitable intent of the 1840 and the 1926 restrictions by spending £80,000 on an appropriate project, I believe that this will have a significant and positive impact on the chosen cause and the target age group of children. As mentioned in the addendum, this sum was benchmarked against the negotiated settlement in the case of the Le Bas Centre in 1989. I have been asked why the £80,000 is not part of the proposition. It is simply because in this particular case the payment is an honourable gesture to respect the original intentions. It is not a buy-back out of the restrictions which, as explained, is not needed in this case, but a gesture of goodwill. On that basis, it would be inappropriate to make it part of the proposition. On the subject of funding, I respectfully remind the House that £3.2 million has recently been spent on upgrading the former St. James's Church as a much-improved youth facility for La Motte Street. In my view, that has been the best possible use of St. James and has freed up La Motte Street for regeneration. I finish by stressing that if the historic restrictions are left, I believe the States will feel uncomfortable about spending public funds on a regeneration project, and in all likelihood the building will lie dormant. That will be a poor outcome for the Parish of St. Helier. I respectfully ask my colleagues to support this proposition.

10.1.4 The Connétable of St. John:

Firstly, I would like to congratulate the Minister for the research he has done and bringing the facts forward. It is always a very difficult subject because, as Deputy Brée earlier pointed out, these are donations that have been made for the benefit of the Island and these must be respected. The intent is to respect that. However, I do have concerns about the level of payment. The Minister has taken the sum of money from the 1980s for the valuation of the Le Bas Centre, but if you go back to the early 1960s when it was sold for £12,000, £12,000 would have bought a very nice Jersey farmhouse, now in the region of £2.5 million. It is a little difficult to value exactly how and when the sales have taken place and what the covenant might be worth.

[14:45]

To me what is important is not a one-off payment of £70,000 but the continuation of that payment over a number of years so that the generous gift is remembered in perpetuity and not just as a one-off. I would ask that the Minister examine ways in that a permanent or an annual gift is given as opposed to a one-off payment. Reluctantly I will support this because I know that when somebody makes a gift, it is a gift for the benefit of people or whatever the gift is given for. Time changes, and the last thing the donors who made this gift with a covenant on it would want is for it to turn into a millstone or a liability, which will be expensive for the Island to keep and maintain in their name. It is for that reason, and the reason that the generosity of the gift has turned into a liability, that we should support this change, but at the same time whatever we do should be in perpetuity, not a one-off payment. Thank you very much.

10.1.5 Deputy J.A. Martin:

A lot of what I was going to say has been covered, but as the person who requested the reference back with the excellent contribution from the Deputy of St. Ouen, I feel that it is now for me to stand up and say whether I think the Minister has fulfilled the questions put in the reference. I would say he has. If you compare the report we were presented in April of this year and the report we have now, I would give the Minister an A+. [Approbation] He has gone above and beyond, and he has found the people, and he has gone through a majority of places to research and search for any longstanding relatives, and the ones they have contacted are basically saying: "It is fine with us." I was where, say, Deputy Brée was in April, and the further report and the research that

has been done has absolutely endorsed that this is the right move. The speech from Deputy Rondel pointed us to the Le Seelleur building. Not only is it hanging around the neck, it is costing Property Holdings thousands - Health before that, when I was on Health - just to maintain it to be a safe building where people are not getting hurt. We do not want to see that here. 1814, 1926, for nursery children under the age of 6, 150 children. Times have moved on. One thing I will say: the excellent facilities have moved from La Motte Street to St. James Centre. They are fantastic, and that facility has been funded. That is why La Motte Street was left to not be funded and not to be refurbished. In the great scheme of things, and Deputy Andrew Lewis always bangs on about this, where was the succession planning? You knew you wanted to do something with the old La Motte Street. Why did this question of the covenant not come a little bit earlier on? Then I think everybody would have been assured; they would have seen the steps and where it was going and what it was coming for. I know now there are plans for possibly the new Empire Strikes Back building [Laughter] and I wish them well, but it was going to be some sort of offices at some point. I will finish. For the person who did make the Minister or request the Minister through you, Sir, to go back and do the work on the 4 points, to me they have absolutely been done, and I absolutely endorse his proposition and wish the Minister best of luck in getting on with it. Thank you.

10.1.6 The Connétable of St. Helier:

I think Deputy Martin deserves our thanks too for the reference back, and indeed so will the recipient of the generous donation that the Minister is proposing to make, whoever that should be. I am also grateful to Deputy Brée for starting this debate going before it was almost timed out, because it has allowed us to hear some important speeches. I was grateful to Deputy Labey for his words about urban regeneration in the La Motte Street area, which is absolutely right, although I would say to Deputy Martin you could apply the same argument to the police station, but we will not go there. [Laughter] The purpose of speaking, really, picking up on Deputy Brée's reluctance to endorse this change, is that I do not believe supporting this proposition in any way sets a precedent or indicates that an individual Member believes that covenants in general can be changed or abrogated or set aside. It is particularly important that I say that because certain covenants that St. Helier enjoys are, I believe, in the spotlight, we might say in the firing line. If this did set a precedent I would not be able to support it, because I believe that every covenant must be taken on its merits. We have had the merits of this covenant and abrogating it explained to us. I am prepared to support it. Thank you.

10.1.7 Deputy A.D. Lewis:

Just briefly, I would like to congratulate the Minister on bringing this forward in such a comprehensive way. The thing that I would like to highlight, though: is this the start of a complete reorganisation of the States property portfolio? I do hope that it might be, and this is a good sign. Will it be Fort Regent pool next? Will it be South Hill? Will it be many of the other buildings that we no longer require? I do hope that this is the sign, because what this will do is save the public a lot of money in the future, and that money can be invested in education, health, and the sorts of things that the benefactors or the contributors of this particular building would have wished for. I think it is all quite good news, and I do hope that the Government will continue with their objective here of securing one location for all of our business to be done in a location that will regenerate St. Helier, which will tick another box, which is a strategic aim, which is the regeneration and investment in St. Helier. I can only see good news, but I do take on board Deputy Brée's comments about covenants in the future. We need to think very carefully about them and make sure that they are respected whenever it is necessary to do so. Thank you.

The Bailiff:

Does any other Member wish to speak? Then I call on the Minister to reply.

10.1.8 Deputy E.J. Noel:

Thank you to the Members who have participated in this debate. Just for ease, I will refer to Deputy Andrew Lewis's comments first. No, this is not the start. It is a continuation of the work that J.P.H. (Jersey Property Holdings) does and has done for some time and will continue to do. Going back to Deputy Brée and Deputy St. John, the points that they made were similar, so I will try to address them both at the same time. The States bought this site in 1964 for a commercial sum of £12,000. It has already paid for the site, so even if it was revalued to today's value at a nice farmhouse of £2 million, we would be paying for it twice. We were not gifted the site. The site was sold originally in 1840 and then part of the site was gifted to the Parish in 1926, but the States bought it at arm's length for a commercial sum. This is the reason why also that we are suggesting a one-off payment based on the most recent guidelines that we have, which is the payment made to the trustees for them to give up their rights when the maternity moves from Le Bas Centre to the General Hospital. We are not purchasing any rights in this instance, but I do feel that it is right and proper that we make a contribution to a cohort of young people that would have matched the original intentions of both Messrs Janvrin and Boot. To go back to Deputy Brée, I believe that we are respecting the original wishes of the individuals, and by the letters that we have had from both the church of St. James and also from the principal heir of the Boots family, I believe that we have evidence to suggest that their heirs are accepting of the provisions that we are making. Also he made a point about trust, a property given to the States, but as I have already said, this particular site was not given to the States but was purchased at arm's length. We have made extensive provision, particularly in the last few years, for nursery provision within the Island with our friends at Education, and I had the pleasure over the summer to visit a number of those extensions. As in April this matter has been thoroughly debated with some strong views given, and I respect those, and I thank Members for their interest and their thoughts, but in my summing up I would again like to make the following key points. The youth function that previously operated from La Motte Street was of course contrary to the historic restrictions, but they have been replaced and enhanced at St. James at a cost of some £3.2 million. One of the key drivers for that investment was to leave the La Motte Street site ready for regeneration to provide or to support a new public service or services for that site. We were very much mindful of succession. Originally that site we thought may be used for affordable housing, but current thinking is that would make a better location for us to change the culture of the civil service and to bring the civil services under one roof and to drive efficiencies, and also to provide much needed investment in that part of town, not only by having people working there but those people integrating in the surrounding areas at lunchtime, et cetera, and contributing to the economy in that specific area. The site has historical restrictions attached, but we know that in one case the restriction was personal and ceased on the donor's death, and in the other unfortunately it has not been possible to trace the principal heirs of the vendor. Notwithstanding that, the heir, even if traced, would still have no status to agree a variation or cancellation. Really what I wanted to say was to repeat a lot of what I have said in my speech, so I am going to cut it short. This process of cancelling is, therefore, in my mind, seen as dotting the i's and crossing the t's, and applying the advice of the Law Officers' Department. Notwithstanding that, the April debate led me down a course to respect the charitable intent, and indeed I believe it is fully appropriate. As such, again I reiterate I make the public commitment for myself and any Minister for Infrastructure that follows me that a capital sum of £80,000 will be put aside out of the capital allocation for the development of that site for a cause that meets the original intentions. I would just like to take this opportunity to remind Members of our strong commitment to primary education. In the past 10 years, significant investment has been provided to our primary school-aged children so they have the best built facilities. Some 16 primary schools have either been extended, rebuilt or improved at a total cost of some £43 million over the last 10 years. Finally, unlike the *J.E.P.* last Friday, we prefer to avoid decision making based on cartoon sketches. What we are proposing I believe is right and proper for the public to avoid unnecessary uncertainty, and

in my opinion it honours quite rightly the families and will assist in regeneration in this part of St. Helier, and with that I maintain the proposition.

The Bailiff:

All Members in favour of adopting ...

Deputy J.A. Martin:

Can we have the appel, please, Sir?

The Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the principles of P.9, the Draft Former La Motte Street School (Validation and Abrogation of Covenants) Law, and I ask the Greffier to open the voting.

POUR: 40	CONTRE: 3	ABSTAIN: 2
Senator A.J.H. Maclean	Deputy K.C. Lewis (S)	Deputy J.A.N. Le Fondré (L)
Senator I.J. Gorst	Deputy L.M.C. Doublet (S)	Deputy of St. Ouen
Senator L.J. Farnham	Deputy S.M. Bree (C)	
Senator P.M. Bailhache		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy E.J. Noel (L)		
Deputy of St. John		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		
Deputy S.Y. Mézec (H)		
Deputy A.D. Lewis (H)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy M.J. Norton (B)		
Deputy T.A. McDonald (S)		
Deputy of St. Mary		

Deputy G.J. Truscott (B)			
Deputy P.D. McLinton (S)			

The Bailiff:

This is probably a matter for the Corporate Services Scrutiny Panel. Do you wish to scrutinise, Chairman? I would ask the Deputy of St. Mary whether it is an infrastructure matter, but it looks like property more than infrastructure to me.

Deputy E.J. Noel:

Sir, property now comes under my department, so it is the Deputy of St. Ouen's panel.

The Bailiff:

Deputy of St. Mary. Right. Very well. That is a funny place to put it. Never mind. Deputy of St. Mary, does your panel wish to scrutinise this legislation?

[15:00]

The Deputy of St. Mary (Chairman, Environment, Housing and Infrastructure Scrutiny Panel):

No, Sir.

The Bailiff:

Thank you. Minister, how do you wish to deal with this?

10.2 Deputy E.J. Noel:

I believe the majority of the debate has already happened. It is a very important but very simple law.

The Bailiff:

Take it *en bloc*?

Deputy E.J. Noel:

I would take it *en bloc*.

The Bailiff:

Do you propose to second it? You cannot second it as well. Seconded? **[Seconded]** Yes, thank you. Does any Member wish to speak on any of the Articles?

10.2.1 Deputy J.A.N. Le Fondré:

I apologise, because I was getting some last-minute research on the matter, and I was curious if the Minister could enlighten me as to whether on the Hemery side of the family they tracked down whether the Olympic gold medallist who visited Jersey in 1977 - and is apparently aged 72 at present, and unveiled a plaque or unveiled Hemery Row housing - is any relation or any descendant of the Hemery family. There is a Jersey website page, I understand, called Jersey Family History, which has a Hemery page on it with various descendants. I am sure the Assembly will be voting this through, but could I ask for his assurances that, in the absence, if they had not contacted that family, they will do? Thank you. For clarification, that is why I abstained.

The Bailiff:

No doubt a good question. Far too late, Deputy. **[Laughter]** Does any Member wish to address Articles 1 to 4 of the draft law? I am not sure you need to reply to that, Minister, but perhaps you would help Members by replying if you can.

10.2.2 Deputy E.J. Noel:

Certainly I can. We were tasked with tracing the principal donor, in this case the Janvrin family, which is what we have done. The subsequent trustees were covered by the letter from the church, which effectively would have been the current beneficiaries. Though it is an interesting piece of information from Deputy Le Fondré, it is completely irrelevant to what we are trying to do here today.

The Bailiff:

Thank you. Those Members in favour of adopting Articles 1 to 4 kindly show. Those against? The Articles are adopted. Do you propose the Bill in Third Reading, Minister?

Deputy E.J. Noel:

I do, Sir.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All Members in favour of adopting ... the appel is called for. I invite Members to return to their seats. The vote is on whether to adopt P.9 in Third Reading. I ask the Greffier to open the voting.

POUR: 38	CONTRE: 3	ABSTAIN: 2
Senator A.J.H. Maclean	Deputy K.C. Lewis (S)	Deputy J.A.N. Le Fondré (L)
Senator I.J. Gorst	Deputy L.M.C. Doublet (S)	Deputy of St. Ouen
Senator L.J. Farnham	Deputy S.M. Bree (C)	
Senator P.M. Bailhache		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy E.J. Noel (L)		
Deputy of St. John		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		

Deputy S.Y. Mézec (H)			
Deputy A.D. Lewis (H)			
Deputy R. Labey (H)			
Deputy S.M. Wickenden (H)			
Deputy M.J. Norton (B)			
Deputy T.A. McDonald (S)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy P.D. McLinton (S)			

We now come to P.54, Bailiff of Jersey, cessation of dual role, and the appointment of an elected Speaker of the States.

Deputy E.J. Noel:

Apparently that has been deferred.

The Bailiff:

Would it not be customary to tell the Bailiff if something is going to be deferred? Very well. It still would have been courteous to tell the Bailiff.

11. Draft Air Navigation (Amendment) (Jersey) Law 201- (P.64/2016)

The Bailiff:

We now come to P.64, the Draft Air Navigation (Amendment) (Jersey) Law, lodged by the Minister for External Relations, and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Air Navigation (Amendment) (Jersey) Law 201-. A Law to amend the Air Navigation (Jersey) Law 2014. The States, subject to the sanction of her most excellent Majesty in Council, have adopted the following Law.

11.1 Senator P.M. Bailhache (The Minister for External Relations):

This project is to bring before the Assembly a minor amendment to the Air Navigation Law of 2014. At the present time, the courts of Jersey have a rather large jurisdiction over any offence committed on board an aircraft registered in Jersey, wherever that aircraft may be. If the aircraft is parked on the ground in some far-flung foreign city and an offence takes place on board the aircraft, the courts of Jersey could assume jurisdiction to deal with that particular offence. This practice is out of line with the practice in other parts of the British Isles and also out of line with the Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, so the purpose of the amendment is to insert 2 words in Article 173(a) of the Air Navigation Law so as to provide that the jurisdiction of the Jersey courts will only apply when the offence is committed on board a Jersey-registered aircraft which is actually in the air. I move the principles of the Bill.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak on the principles? All those in favour of adopting the principles kindly show. Those against? The principles are adopted. Do you move the Articles *en bloc*, Minister, all 2 of them?

Senator P.M. Bailhache:

I may move the 2 Articles together, Sir. I move Articles 1 and 2 of the Bill.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak? Deputy Brée?

Deputy S.M. Brée:

Oh, I am sorry.

The Bailiff:

I should have asked for Scrutiny first. Corporate Services is your panel, is it, Deputy?

Deputy J.A.N. Le Fondré (Chairman, Corporate Services Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Those Members in favour of adopting Articles 1 and 2 kindly show. Those against? The Articles are adopted. Do you move the Bill in Third Reading, Minister?

Senator P.M. Bailhache:

I move the Bill in Third Reading.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak? Those Members in favour of adopting the Bill in Third Reading kindly show. Those against? The Bill is adopted.

12. Draft Policing of Parks (Amendment No. 6) (Jersey) Regulations 201- (P.66/2016)

The Bailiff:

We come next to P.66, the Draft Policing of Parks (Amendment No. 6) (Jersey) Regulations, lodged by the Minister for Infrastructure. I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Policing of Parks (Amendment No. 6) (Jersey) Regulations 201-. The States, in pursuance of the Order in Council of 26th December 1851, in Article 92 of the Road Traffic (Jersey) Law 1956, have made the following Regulations.

The Bailiff:

Minister, you should propose the principles.

12.1 Deputy E.J. Noel (The Minister for Infrastructure):

This is an amendment to the Regulations to enable the proper policing and management of the new Moignard Liberation Gardens in St. Lawrence and what is commonly known as the Elephant Park in St. Brelade. It is necessary to formalise designation of these areas as parks by including them, for the Moignard Liberation Gardens, under part 2, and for the Elephant Park under part 5, of the Schedule of the Policing of Parks. I maintain the Regulations amendment.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak on the principles?

12.1.1 The Connétable of St. Lawrence:

I would just like to thank the Minister for bringing this forward for the Moignard Liberation Garden, which was formally opened on 9th May this year to celebrate the 70th liberation of Jersey. I invite all Members, when these Regulations have been approved, to visit and enjoy the gardens in St. Lawrence. Thank you.

The Bailiff:

As long as they do not breach the Regulations. [Laughter] Does any other Member wish to speak?

12.1.2 Connétable S.W. Pallett of St. Brelade:

Just very briefly, I want to echo the thanks given by the Constable of St. Lawrence in regard to the Elephant Park. They are much needed Regulations. My Honorary Police have asked for some time for having the necessary powers to deal with dog fouling in the park, so I thank the Minister for his assistance in this matter.

The Bailiff:

Does any other Member wish to speak? Those in favour of adopting the principles kindly show. Those against? The principles are adopted. Deputy of St. Mary, does your panel wish to scrutinise these Regulations? Do you take Regulations 1 and 2 together, Minister?

Deputy E.J. Noel:

Yes, Sir.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak? Those in favour of adopting Regulations 1 and 2 kindly show. Those against? The Regulations are adopted. Do you propose in Third Reading, Minister?

Deputy E.J. Noel:

Yes.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak in Third Reading? Those Members in favour of adopting the Regulations.

Deputy E.J. Noel:

The appel, Sir.

The Bailiff:

The appel is called for. All right, if Members return to their seats. The vote is on whether to adopt P.66 in Third Reading. I ask the Greffier to open the voting.

POUR: 38	CONTRE: 0	ABSTAIN: 0
Senator A.J.H. Maclean		
Senator I.J. Gorst		
Senator P.M. Bailhache		
Senator A.K.F. Green		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		

Connétable of Trinity			
Deputy J.A. Martin (H)			
Deputy of Grouville			
Deputy J.A. Hilton (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy of Trinity			
Deputy K.C. Lewis (S)			
Deputy E.J. Noel (L)			
Deputy of St. John			
Deputy J.M. Maçon (S)			
Deputy S.J. Pinel (C)			
Deputy R.G. Bryans (H)			
Deputy of St. Peter			
Deputy S.Y. Mézec (H)			
Deputy A.D. Lewis (H)			
Deputy of St. Ouen			
Deputy L.M.C. Doublet (S)			
Deputy S.M. Wickenden (H)			
Deputy S.M. Bree (C)			
Deputy M.J. Norton (B)			
Deputy T.A. McDonald (S)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy P.D. McLinton (S)			

13. Ratification of the Agreement between the Government of Jersey and the Government of the United Arab Emirates for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (P.67/2016)

The Bailiff:

We now come to P.67, the Ratification of the Agreement between the Government of Jersey and the Government of the United Arab Emirates for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, lodged by the Minister for External Relations. I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of the opinion to ratify the agreement between the Government of Jersey and the Government of the United Arab Emirates for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed on 20th April 2016.

13.1 Senator P.M. Bailhache (The Minister for External Relations):

This proposition invites the Assembly to ratify the double taxation with the U.A.E. (United Arab Emirates). It forms part of a continuing programme of entering into tax agreements with relevant partners. The agreement is in line with the O.E.C.D. (Organisation for Economic Co-operation and Development) Model Tax Convention and provides for the avoidance of double taxation to facilitate the exchange of goods and services and the movement of capital, technology and people. The agreement also makes provision for information exchange on taxes to the agreed international standard. The Assembly will be I think familiar with this type of agreement and I move the proposition.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the proposition? Those in favour of adopting the proposition kindly show. Those against? The proposition is adopted. There are a number of pieces of draft legislation to be considered by the States today and, if necessary, tomorrow, which will almost certainly be cited in or applied by the court on a regular basis. It is always possible, as Members will know, for an individual in an individual case for litigants to be asked whether they object to the Bailiff or Deputy Bailiff presiding over the court, on the basis that he is also presided in the States. When on the rare occasions that happens the result is nearly always that the parties raise no objection because they realise that the Bailiff has no vote and that he has not been responsible for the policy or for the drafting instructions, or the drafting of the legislation. But it would be inconvenient to have to do so, to ask that question of litigants, with legislation that frequently comes before the court, and unusually today we have 4 propositions, P.74, which is about criminal penalties; P.76, which is about parental responsibility in family cases; P.78 and P.79 dealing with mental health in criminal cases and capacity. They all fall, therefore, into that category and I have, therefore, asked the Connétable of St. Clement to preside over P.74 and P.76, and the Greffier will preside over P.78 and P.79, to ensure that no difficulty will arise in the future. I would like to add it is a precautionary step and not one that I consider to be a necessary one. Any Member who has taken the trouble to read court judgments which involve Ministers of the States will appreciate that there is no doubt about the impartiality and the independence of the Bailiff when sitting in court, just as I hope there is not a doubt about that in this Assembly. **[Approbation]**

14. Draft Criminal Justice (Miscellaneous Provisions) (Jersey) Regulations (P.74/2016)

The Connétable of St. Clement (in the Chair):

Right, as the Bailiff said, we now come to P.74, the Draft Criminal Justice (Miscellaneous Provisions) Regulations, and I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Criminal Justice (Miscellaneous Provisions) (Jersey) Regulations 201-. The States, in pursuance of Article 3.2 of the Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016 have made the following Regulations.

[15:15]

Senator I.J. Gorst:

Could I ask Senator Bailhache to act as rapporteur for this and the next item?

14.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):

The Assembly will recall that the Draft Criminal Justice (Miscellaneous Provisions) Law came before the Assembly and was adopted by the Assembly on 20th October 2015. That law brought into effect a number of changes to financial penalties of different laws, and amended slightly the standard scale of penalties by reducing by one the number of levels on the scale from 4 to 3. Level 1 on the scale of penalties now is a maximum penalty of £200, level 2 a maximum penalty of £1,000, level 3 a maximum penalty of £10,000, and if that penalty is not thought to be sufficient the penalty is expressed to be an unlimited fine. These Regulations make provision for a number of transitional arrangements in that since the law was adopted by the States and before it was given royal sanction and registered in the Royal Court, a number of pieces of legislation were passed which necessarily reflected the law as it then stood. These Regulations accordingly deal with those offences which were created in laws and regulations which were passed after the adoption of the new law, and its coming into force which, subject to the will of the Assembly, will be very shortly. I move the principles of the Regulations.

The Connétable of St. Clement (in the Chair):

Are the principles seconded? **[Seconded]** The principles are now open for debate, does anyone wish to speak? If not will all those in favour please show? Those against? Chairman of the Corporate Services Scrutiny Panel, do you wish these referred to ...

Deputy J.A.N. Le Fondré (Chairman, Corporate Services Scrutiny Panel):

No, thanks.

The Connétable of St. Clement (in the Chair):

How would you like to take the Regulations?

14.2 Senator P.M. Bailhache:

If I may I will take the Regulations *en bloc* together with the schedule which sets out the different offences where the penalties are to be uprated or changed. So I move Regulations 1 and 2 of the Regulations and the schedule setting out the different offences in question.

The Connétable of St. Clement (in the Chair):

Are the Regulations seconded? **[Seconded]** The Regulations are open for debate, does anyone wish to speak? In that case all those in favour of adopting the Regulations, please show. Those against? Would you like to propose the Regulations in Third Reading?

Senator P.M. Bailhache:

I move the Regulations in Third Reading.

The Connétable of St. Clement (in the Chair):

Is that seconded? **[Seconded]** Anyone wish to speak in Third Reading? All those in favour please show. All those against? The Regulations are adopted in Third Reading.

15. Draft Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016 (Appointed Day) Act (P.75/2016)

The Connétable of St. Clement (in the Chair):

I will now move on to P.75, the Draft Criminal Justice (Miscellaneous Provisions) Law 2016 (Appointed Day) Act. I ask the Greffier to read the preamble.

The Deputy Greffier of the States:

Draft Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016 (Appointed Day) Act 201-. The States, in pursuance of Article 5 of the Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016 have made the following Act.

15.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):

This Act is the final stage of the bringing into force of the law to which I referred in moving the Regulations that the Assembly have just adopted. The Act will bring the law into force on the day after it is made, that is to say tomorrow, and subject to 4 exceptions. Set out in the Act are references to 4 pieces of legislation which would have been amended by the 2016 Law but which have, subsequent to the adoption of the law, either been repealed or amended in some way as to make it inappropriate to bring those provisions into effect. They are minor parts of the whole and I ask the Assembly to bring this important new law into effect. I move the proposition.

The Connétable of St. Clement (in the Chair):

Is the proposition seconded? **[Seconded]** The proposition is now open for debate, does anyone wish to speak? In that case all those in favour please show. Those against? The Appointed Day Act is proved.

16. Draft Children and Adoption (Amendment) (Jersey) Law (P.76/2016)

The Connétable of St. Clement (in the Chair):

I move on to P.76, Draft Children and Adoption (Amendment) (Jersey) Law, in the name of the Minister for Health and Social Services, and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Children and Adoption (Amendment) (Jersey) Law 201-. A law to amend the Children (Jersey) Law 2002 in relation to the acquisition of parental responsibility by unmarried fathers, and make consequential amendments to the Adoption (Jersey) Law 1961. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

16.1 Senator A.K.F. Green (The Minister for Health and Social Services):

I am pleased to present this proposition, which will amend the Children (Jersey) Law 2002 and the Adoption (Jersey) Law 1961. The principal purpose of the amendment of the law is to enable an unmarried father to acquire parental responsibility for his child at the point at which he becomes officially registered as the father of the child. This is the case currently with married fathers. Parental responsibility is of course an essential aspect of being a parent, and it determines who can make decisions about a child. Those decisions relate to a number of factors critical to the wellbeing and the upbringing of that child, such as determining where a child goes to school, consenting to a child's medical treatment, and taking the child abroad for holidays. The current position under the Jersey Law is that an unmarried father does not acquire parental responsibility for his child when registered as the child's father. In other words, his name can be on the birth certificate but he does not acquire parental responsibility. In order to obtain parental responsibility the father must either apply to the Royal Court for an order to grant him responsibility, or he must enter into a parental responsibility agreement with the child's mother. Jersey Law is out of step with the legal position in England and Wales where an unmarried father will acquire parental responsibility if he becomes registered as the child's father. In addition, the current Jersey Law is a source of some distress - I think that puts it mildly - but certainly some distress for unmarried fathers, and can lead particularly to unfortunate consequences for that father. Unmarried fathers who have been included on a child's birth certificate often assume incorrectly that they have parental responsibility for their child, and it is often only in unfortunate events, such as a relationship breakdown with the child's mother, that they realise that they do not have parental responsibility, again without applying to the court. They are, in effect, prevented from exerting influence and decisions about their child. This proposition seeks to remedy that situation and accordingly in this proposition I am proposing to make the following amendments. The principal amendment is to the Children (Jersey) Law which contains provisions relating to parental responsibility. The law will be amended so that an unmarried father who is named on the birth certificate is automatically conferred parental responsibility. Secondly, the Adoption (Jersey) Law will be amended in 2 regards. These amendments are consequential amendments, flowing from the principal amendment to the Children Law. These are that the Adoption Law is amended so that before the court makes an order freeing a child for adoption the court must be satisfied that a person claiming to be the child's father has no intention of acquiring parental responsibility for that child by requesting registration as the child's father. Also the Adoption Law is amended so that the effect of a revocation of the order freeing a child for adoption would include the revival of the unmarried father's parental responsibility acquired by virtue of him being registered as the child's father. So those are the relevant amendments covered by this law. In conclusion, this proposition is a relatively straightforward one, but it is a very important one. The law is designed to enhance the status of unmarried fathers with regards to their relationship with their child. It will address aspects of the current law which cause significant distress for some unmarried fathers. I make the proposition.

The Connétable of St. Clement (in the Chair):

Are the principles seconded? [Seconded]

16.1.1 Deputy L.M.C. Doublet:

I want to thank the Minister for bringing forward this amendment to the law. Members will know my own commitment to equality and this is certainly in line with the aims of the Community Relations Trust for which I am the States trustee, so I really hope that Members will support it. Fathers have been seen as second class parents sometimes in some of our laws and policies for too long and I would really like to see this changing. Beyond the obvious biological differences a father is just as capable of being a nurturing parent as a mother is, and I really hope that the precedent we are setting here for recognising mothers and fathers equally for their value as parents will continue to be applied to new laws and policies that the States are bringing in. I particularly would like to see this when the Minister for Social Security is reviewing her family friendly legislation, and I hope that we can go even further in recognising the value of fathers by investigating options such as shared parental leave so that families can choose which parent cares for the child. Also I wonder if the Minister when he sums up could clarify the actual process by which couples obtain the parental responsibility order, because being that this is not retrospective there may be lots of couples that would like to know how to do this now and I think it is quite a straightforward, simple process. So if the Minister could just detail that in his summing up, thank you.

The Connétable of St. Clement (in the Chair):

Does any other Member wish to speak? Then I call on the Minister to respond.

16.1.2 Senator A.K.F. Green:

I thank the Deputy for her support and I will try and answer her question. She quite rightly said that laws generally are not retrospective and this one is not, but we did look at it because we know that this causes a huge amount of upset for families. Once the father is on the birth certificate he automatically assumes, if you like, joint responsibility for the child's welfare and upbringing. Arrangements as to where the child lives and suchlike has to be determined between the 2 of them and if they are cannot determine that if they are not living together then it will end up being determined by the court. But normally couples are able to sort that out. I hope that answers the Deputy's question and I make the proposition.

The Connétable of St. Clement (in the Chair):

All those in favour of adopting the principles? The appel is called for. I ask Members to return to their seats, and I ask the Greffier to open the voting.

POUR: 34	CONTRE: 0	ABSTAIN: 0
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		

Deputy J.A. Martin (H)			
Deputy G.P. Southern (H)			
Deputy of Grouville			
Deputy J.A. Hilton (H)			
Deputy of Trinity			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy J.M. Maçon (S)			
Deputy S.J. Pinel (C)			
Deputy of St. Martin			
Deputy of St. Peter			
Deputy S.Y. Mézec (H)			
Deputy A.D. Lewis (H)			
Deputy of St. Ouen			
Deputy L.M.C. Doublet (S)			
Deputy S.M. Bree (C)			
Deputy M.J. Norton (B)			
Deputy T.A. McDonald (S)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy P.D. McLinton (S)			

The Connétable of St. Clement (in the Chair):

This comes under your Scrutiny Panel, Deputy of St. Ouen, do you wish to have the item referred to you?

The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):

No, we do not.

The Connétable of St. Clement (in the Chair):

Minister, how ... when you have finished adjusting the furniture. **[Laughter]**

Senator A.K.F. Green:

Can we take it *en bloc*?

The Connétable of St. Clement (in the Chair):

How would you like to take the Regulations?

16.2 Senator A.K.F. Green:

En bloc, if I may, Sir.

The Connétable of St. Clement (in the Chair):

Of course. You have proposed the Regulations, have you? Are the Regulations seconded? **[Seconded]** Does anyone wish to speak on the 3 Regulations?

[15:30]

16.2.1 Deputy L.M.C. Doublet:

I am not sure the Minister understood what I was saying. I was hoping the Minister could, for the public, just clarify that it is a very simple process, that families who wanted to obtain this equality whose children are already born, I think all they have to do is go to the Judicial Greffe and obtain a form, and just to encourage them perhaps to do that and it is not seen as a very complicated process.

The Connétable of St. Clement (in the Chair):

We are now on the Regulations but when the Minister responds if he wishes to comment on that, that would be acceptable. Does anybody else wish to speak? Minister, do you wish to respond?

16.2.2 Senator A.K.F. Green:

Yes, I did misunderstand the question, I am sorry. For those who wish to simplify their situation it is quite simple. They can apply to the court to share parental responsibility, or they can indeed have a parent responsibility agreement with the mother. So it is quite simple but it needs to be done, might I suggest, when relationships are good. It is easier.

The Connétable of St. Clement (in the Chair):

All those in favour of adopting the Regulations, please show. Those against? The Regulations are adopted. Do you wish to propose the Regulations in Third Reading?

16.3 Senator A.K.F. Green:

Yes, please.

The Connétable of St. Clement (in the Chair):

Is that seconded? [Seconded] Does anyone wish to speak on the Regulations in Third Reading?

16.3.1 The Deputy of St. John:

Could I just ask the Minister to confirm the date in which this comes into force?

16.3.2 Senator A.K.F. Green:

To be perfectly honest I am not sure on the date it comes into force so I will have to check that and come back.

The Connétable of St. Clement (in the Chair):

I may be able to help you, Minister. Regulation 3 says this law may be cited, and so on: "And shall come into force 7 days after it is registered." That information was available to all Members. All those in favour of adopting ... the appel is called for, I ask Members to return to their seats. I ask the Greffier to open the voting.

POUR: 38	CONTRE: 0	ABSTAIN: 0
Senator P.F. Routier		
Senator A.J.H. Maclean		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		

Deputy J.A.N. Le Fondré (L)			
Deputy of Trinity			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy J.M. Maçon (S)			
Deputy S.J. Pinel (C)			
Deputy of St. Martin			
Deputy of St. Peter			
Deputy S.Y. Mézec (H)			
Deputy A.D. Lewis (H)			
Deputy of St. Ouen			
Deputy L.M.C. Doublet (S)			
Deputy R. Labey (H)			
Deputy S.M. Wickenden (H)			
Deputy S.M. Bree (C)			
Deputy M.J. Norton (B)			
Deputy T.A. McDonald (S)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy P.D. McLinton (S)			

17. Immigration Act 2014 (Fees): extension of certain sections to Jersey; and repeal of an associated part of the Immigration Asylum Act 1999 (Jersey) Order 2003 (P.77/2016)

The Connétable of St. Clement (in the Chair):

Just bear with me. All right, we are now going to Projet 77, Immigration Act 2014 (Fees): extension of certain sections to Jersey; and repeal of an associated part of the Immigration Asylum Act 1999 (Jersey) Order 2003 in the name of the Chief Minister and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to agree, pursuant to Article 31(1)(b)(i) of the States of Jersey Law 2005, that a request be made to Her Majesty in Council for the making of an Order in Council that would (a) extend to Jersey, with appropriate modifications and adaptions, the provisions of sections 68 to 70 of the Immigration Act 2014 (Fees); (b) repeal section 5 of the Immigration and Asylum Act 1999 (as extended to Jersey by the Immigration and Asylum Act 1999 (Jersey) Order 2003), as summarised in the attached report of the Chief Minister.

Senator I.J. Gorst (The Chief Minister):

Sir, I would like to ask the Minister for Home Affairs to act as rapporteur, please. Thank you.

17.1 Deputy K.L. Moore of St. Peter (The Minister for Home Affairs - rapporteur):

Sections 68 to 70 of the Immigration Act 2014 are new provisions in the U.K. under which the Secretary of State sets fees in connection with immigration or nationality. This has simplified the charging framework, previously found in Acts of Parliament in 2004, 2006 and 2007, none of which were extended to Jersey. The Minister for Home Affairs in Jersey has always had a power to prescribe Jersey fees for functions performed by Jersey immigration officers and this power is now contained in section 5 of the Immigration and Asylum Act 1999, which was adapted and extended to Jersey by Order in Council in 2003. The fees provision in the 1999 Act have long been defunct in the U.K., although they still apply in Jersey. The powers under the 1999 Act are limited to fees for applications for leave to remain in the Island, a variation of leave to enter or remain and the

fixing of indefinite leave stamps. As we have seen, the new U.K. provisions are much wider and simpler, namely to provide for fees to be charged for functions in connection with immigration or nationality. This Order in Council would put the Jersey Minister's powers to prescribe these on the same footing as those of the U.K. Secretary of State. In order to do that the Order in Council would specifically provide that the Minister may, by order, provide for fees to be charged in respect of the exercise of any function in connection with immigration or nationality. Such fees will be able to cover functions exercised by the Lieutenant Governor, any Jersey Minister or any Jersey immigration officer or any other States employee. It will not matter where those functions are exercised. If it is a Jersey-paid officer doing the work, whether in Jersey or in Saint Malo or in Guernsey, the Jersey fees will apply. To put it another way, if the Jersey taxpayer is paying officers' wages the Jersey fees will apply. But this will not include certain functions of His Excellency in connection with registration and naturalisation because those functions come under the British Nationality Act. There is not a separate power in the Minister to prescribe fees. It is very important to note that even though the Secretary of State will prescribe the level of fee, the income from these registration and naturalisation fees will still be payable to Jersey. Again, this works on the principle that fees should accrue to Jersey where the Jersey taxpayer underwrites the cost involved in discharging the relevant function. On a slightly different tack, Members will have noted that the Order in Council will also extend the power of the Secretary of State to prescribe immigration and nationality fees and to recover the same. Some Members may query why there is a need to do so. The answer is that a person has incurred U.K. fees, i.e. in obtaining entry clearance to the Island through U.K. personnel who are stationed abroad, those fees must be recoverable in a Jersey court. Therefore, the Secretary of State's right to recover the U.K. fees needs to form part of Jersey law. The Order in Council will provide for this by extending the relevant provisions to Jersey but this will not mean that the Secretary of State is able to recoup Jersey fees for the U.K. Finally, returning to the Jersey fees that apply at the moment, the Order in Council will keep the current ministerial order in force until the Minister prescribes fees under the new powers conferred by the 2014 Act as extended.

The Greffier of the States (in the Chair):

Does anybody wish to second the proposition? [Seconded] Does any Member wish to speak on the proposition? We will come to the votes, those Members who are in favour of the order, kindly show.

The Connétable of St. Lawrence:

Can we have the appel, sir?

The Greffier of the States (in the Chair):

The appel is called for. Members are invited to return to their seats. I ask the Greffier to open the voting.

POUR: 34	CONTRE: 0	ABSTAIN: 0
Senator P.F. Routier		
Senator A.J.H. Maclean		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Lawrence		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		

Connétable of St. John			
Connétable of Trinity			
Deputy J.A. Martin (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy J.M. Maçon (S)			
Deputy S.J. Pinel (C)			
Deputy of St. Martin			
Deputy of St. Peter			
Deputy R.J. Rondel (H)			
Deputy S.Y. Mézec (H)			
Deputy A.D. Lewis (H)			
Deputy of St. Ouen			
Deputy L.M.C. Doublet (S)			
Deputy R. Labey (H)			
Deputy S.M. Wickenden (H)			
Deputy S.M. Bree (C)			
Deputy M.J. Norton (B)			
Deputy T.A. McDonald (S)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy P.D. McLinton (S)			

18. Draft Mental Health (Jersey) Law 201- (P.78/2016)

The Greffier of the States (in the Chair):

The next item is the Draft Mental Health (Jersey) Law lodged by the Minister for Health and Social Services, which is P.78. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Mental Health (Jersey) Law 201-. A law to make provision as to the care and treatment of persons suffering mental disorder; and as to the treatment, under the criminal justice system, of offenders and other persons who may suffer mental disorder; and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

18.1 Senator A.K.F. Green (The Minister for Health and Social Services):

Before I start, can I say how good it is to see a member from Mind in the public gallery? **[Approbation]** This Assembly will be aware of Mind and the Council of Ministers' commitment to improving lives of people with mental health problems. The new legislation is part of a programme of initiatives that will raise standards of care that we provide to people experiencing mental health problems. I am advised and it is estimated that one in 4 people will experience a mental health problem at some point in their life, that is one in 4 of all of us. One in 6 adults are likely to be experiencing a mental health problem at any one time. One in 10 children aged between 5 and 16 has a mental health problem and many continue to have mental health challenges and problems into adulthood. Mental health problems can affect people of all ages. When we discuss ill health it is often assumed that we are referring to physical health issues, yet for people under 65 nearly half of all ill health is mental illness. It is a frightening statistic that people with severe mental illness die on average 20 years earlier than the general population. While we must celebrate the fact that there is an increase in people living longer, living into older age, we know

that the number of people living with dementia would increase. Mental health problems can have a wide-ranging impact for individuals in a number of areas of their life, including housing, employment, education, training, physical health and relationship with families and friends. In fact, it affects the whole family, not just the sufferer. It is not just the responsibility of Health and Social Services in providing appropriate care and support for people experiencing mental health problems. But it is a responsibility of the whole of society. However, it is my responsibility and the responsibility of the Health and Social Services Department, among other things, to ensure that the legislation relating to people with mental health problems is fit for purpose. In 2015 a local mental health strategy was endorsed by this Assembly, as well as the imperative to improve the quality of statutory services. The statutory emphasis, the need for Government and departments to work closely together, alongside service users and carers. These combined efforts are focused on promoting and improving wider public mental health and wellbeing, reducing stigma and discrimination and achieving greater equity between mental and physical health. The strategy also reflects a wider policy and legislative requirements are placed on health and social care. The drafting of this new law has been completed in partnership with those responsible for the new mental health strategy. The policy team responsible for this new law have also been working simultaneously, and we will debate this next, on the Capacity and Self-Determination Law, which is due, as I say, to be debated next. The joint preparation of these significant pieces of legislation has allowed the continuity of approach to ensure that both pieces of legislation dovetail and complement each other. This dovetailing of approach is demonstrated in the removal of the antiquated curatorship provisions from the Mental Health Law, their replacement with more modern powers to manage a person's affairs with, of course, the appropriate processes and safeguards being included within the Capacity and Self-Determination Law. Why do we need a new Mental Health Law? At present, the treatment of people affected by mental disorder is underpinned in the Mental Health (Jersey) Law 1969. It is essential that the provision of mental health services is underpinned with a modern and clear legal framework.

[15:45]

A framework that safeguards the rights and the dignities and wellbeing of people experiencing significant mental health problems. A framework that also provides assurance to the public that where there are risks to the public or to the individual themselves, both will be protected from harm. In short, a modern framework. There are a number of difficulties with the 1969 Law and the purpose of this law is to introduce a modern mental health law that is fit for purpose in the 21st century. This new law has been comprehensively researched and reviewed to reflect the many advances that have been made in the care and treatment of people experiencing mental health. It will ensure that the safeguards for their dignity and liberty are available, as they are elsewhere and that those safeguards will be available here in Jersey. You will be aware that there has been frequent criticism directed at the absence of appropriate provision within the 1969 Law to enable the courts, where appropriate, to order a person accused of a crime to be remanded or sentenced to detention in an appropriate mental health facility, sentenced to that facility to receive treatment for his or her mental disorder. These powers are now included in part 9 of the new law. Further, it is important to recognise that there will be occasions when a person's mental disorder is of such a nature and extent as to mean that they are unable to participate effectively in a criminal trial. At present provision is made in the Criminal Justice - I hate this term - (Insane Persons) (Jersey) Law 1964, so that a person accused of committing a criminal offence can be found unfit to plead, with the result that they would not be subject to a criminal trial but may be subject to detention. Some of the archaic language of the 1964 Law, such as the one I have just used, itself has been unhelpful and we have changed to a modern, more appropriate and purposeful interpretation for the courts. The new Mental Health Law replaces the 1964 Law with a provision reflecting and building on the case law arising from the 1964 Law. It will enable a person to be diverted from the criminal justice

system where they are unable to participate in a criminal trial to an appropriate environment where they can receive that treatment for their disorder. In the preparation of all aspects of this new law we have sought to have a balance between ensuring that the legislation is both appropriate and proportionate in Jersey, but he is sufficiently aligned with equivalent laws in the U.K. and Guernsey. This is really important as due to a person's circumstances or the availability of some specialist services, which may be required elsewhere in the British Isles. It will mean sometimes, as it does now, that patients need to be transferred to another place in the British Isles to receive appropriate care. The legislation in the U.K. and in Guernsey has already been extensively modernised and it is important that Jersey's legislation gets up to date and keeps pace to ensure that people can access the care they need, when they need it, with appropriate safeguards. I would like to speak just briefly about how we develop the law. The Council of Ministers agreed in 2014 that the project should commence to not only replace the 1969 law with the new Mental Health Law but to simultaneously develop a new piece of legislation to enable people to plan for a time when they may lose capacity to make decisions for themselves. This was always an ambitious objective. The project was to consult widely on the content of these laws, draft them and implement them by April 2018. To fulfil this objective a project team of officers from Health and Social Services, the Law Officers' Department, the Law Draftsman's Office, and what is now called Community and Constitutional Affairs Department was established. As a new Mental Health Law had come into force in Guernsey 2011 the project team drew on the experience of the expertise of their counterparts in Guernsey. A detailed consultation process culminated in a public consultation on the new draft Mental Health and Capacity and Self-Determination Law in the second half of last year. The level of participation and commitment to the consultation shown by the public and stakeholders in attending the events, making timely and considered and helpful written submissions, has been exceptional. The people gave up their time, including private individuals, carers, representatives from voluntary and community sector organisations, as well as States organisations. These included frontline Health and Social Services staff, the States of Jersey Police, staff from Her Majesty's Prison at La Moye, the judiciary, both from the criminal and the Mental Health Review Tribunal, the Judicial Greffe, the Viscount's Department, the Law Society, the Safeguarding Partnership Board, but I would particularly like to thank Mind Jersey for the work that they did, and the representatives drew on their experience and their expertise as well as their further professional support in providing detailed - and I mean detailed - but very helpful feedback. They gave very useful feedback both on this law and the Capacity and Self-Determination Law and ensured that their clients' interests were represented within the consultation process. The Citizens Advice Bureau, Alzheimer's Jersey, also had significant input. The project team gave careful consideration to the consultation responses in setting out the draft law. To the summary of the draft law. The purpose of this law is to ensure that the provision of the mental health services are underpinned with a modern and clear legal framework, which safeguards the rights and dignity and wellbeing of all people experiencing mental health problems, which provides assurance to the public that those persons and the public will be protected from harm. The new law will be underpinned by a code of practice that will be published under the law by the Minister for Health and Social Services and will include a series of values and principles, which are informal care and treatment should always be considered before recourse to compulsory powers. That patients who are detained under the law, who are receiving treatment voluntarily, should be involved as far as is possible in developing and reviewing their own care plans with the involvement of people of their choice where possible. The health and safety of the individual patient and the protection of the public are of key importance in determining whether compulsory powers should be imposed. Consideration should be given to the long-term needs of the patients wherever possible and where compulsory powers are used care and treatment should be in the least restrictive setting, consistent with the patient's best interest and safety, as well as the safety of the public. The new law sets out the processes that must be followed when it is necessary to detain a person for the purposes of

assessing the person's mental health and wellbeing, or to provide them with appropriate treatment. It sets out emergency powers for doctors and nurses to detain an individual when it appears necessary to protect them from harm or from harm of others. However the safeguards on the exercise of those powers have been increased while the minimum period for which a person may be detained for treatment has been reduced. The States of Jersey Police working together with Health and Social Services professionals will continue to have powers to detain a person temporarily. To take them to an appropriate place of safety so that an assessment of their mental health can take place. The powers and the law can be used more flexibly and appropriately than those in the 1969 law and in conjunction with the enactment of these provisions. Work is taking place to ensure that the use of the police station as a place of safety is minimised and is only utilised in exceptional circumstances and, if possible, ideally eventually completely eliminated. The new law includes measures to protect the human rights of people detained under the law. In particular, it makes it explicit provision regarding the circumstances in which an individual is detained. It makes explicit provision in which an individual may be treated without his or her consent, including provision for the review of the patient's treatment plans by independent, what is called, second opinion doctors. This law will enable where appropriate for individuals to be treated in the community for extended periods rather than, for example, for long periods in a hospital setting. But with the ability to recall the person to hospital if that is necessary in the patient's best interest or for the protection of other persons. The law will continue to enable a person with a mental disorder to have a guardian appointed to safeguard their welfare while they continue to live in the community. This will help to ensure that the packages of care and support can be most effectively tailored to the needs of the individual. The Mental Health Review Tribunal will continue to play a very important role in safeguarding patients' rights. However, the draft law will also make express provision for the appointment of independent mental health advocates who will help patients and persons affected by the draft law to understand their rights and assist them to exercise in their own best interest. As I have already explained, the courts will be provided with appropriate powers to dispose of criminal cases involving individuals who are mentally disordered. This law will allow the Magistrate's, the Youth Court, and the Royal Court to determine whether or not an individual is capable of participating in a criminal trial. Where the individual is not capable of being tried or where they are capable but require treatment for a mental disorder the courts can send individuals to hospital for treatment or to another place deemed appropriate for the safety of the individual and the general public. I propose these principles to the Assembly.

The Greffier of the States (in the Chair):

Are the principles seconded? [Seconded] Does any Member wish to speak on the principles?

18.1.1 Deputy J.A. Hilton:

Just a brief question, I think this is probably the correct place to ask it. We very helpfully received a briefing yesterday from the Minister for Health and Social Services on the 2 pieces of legislation before us today. Yesterday the Minister mentioned the level of involvement with Mind Jersey. Apparently the consultation was extended because of the lengthy response that Mind had given. The question I wanted to ask the Minister was: were there any concerns that Mind raised in their response to you which the Health Department disagreed with?

18.1.2 The Connétable of St. John:

I would like to congratulate the Minister for Health and Social Services for bringing forward this law. It is long overdue and the old law of 1964 is certainly well out of date. Ordinarily I would not compliment a Minister on consulting our sister isle but as it is a mental health law I will make an exception. If we could turn to a query I have on page 60 and 61. On page 61 under the ... or should I take this in the Articles? I will take that in the Articles.

The Greffier of the States (in the Chair):

Sounds like an Articles point.

The Connétable of St. John:

In which case, following on this law, I would just like to raise the point that prevention is better than, in this case, there is seldom a cure. Particularly mental health at an elderly age, and I talk of dementia, can be prevented because certain drugs are prescribed and the family of benzodiazepines and also anticholinergics. The benzodiazepines are commonly known as sleeping pills. The other one, which I will not pronounce again, is commonly used for cystitis and for sinus problems. Use of those drugs for an extended period of over 2 weeks, research is showing, significantly increases the risk of dementia. I have a parishioner who was prescribed both those drugs for a period in excess of 10 years and it is now no surprise that that parishioner suffers severe dementia.

[16:00]

So I would ask that in conjunction with this law that the Health Department take on research and take on examining prevention so that the elderly, and we are getting more elderly on this Island, are protected from prescribed drugs that can cause some mental illnesses.

18.1.3 Senator P.F. Routier:

Before I was a States Member I can recall being asked to become involved in a review of the Mental Health Law. It was many years ago and it was the anticipation that a new law would be developed and brought forward. It has been a long, long way to get to where we are today. I can only congratulate the Minister for getting us to this position today, because it has been so many working groups and people who have been involved in formulating this law and getting the appropriate legislation before us today. I believe this piece of legislation is very thorough, it is really well developed and I believe it is something that we can get fully behind. I am sure many of us know people who have suffered some level of mental illness and we, within our community, need to face these things on a regular basis. I, myself, had a mild session a few years ago, before I was a States Member, where I was supported very well by the Health Department to get over a period in my life which was very, very difficult. I know that there are also other people within our Assembly who have faced those sorts of issues. We need to talk about it. We are talking about it today. We should not be afraid to talk about it because it is something that many people in our community have to face and we need to recognise that and support people within our community. I think what we have before us today is the right legislation for us to be able to help and support people. Having the right care packages in place to ensure that the legislation is appropriate to ensure that people have the ability, if they do get to a stage where they need to be kept into a facility which is going to look after them, there need to be the right appeals processes to ensure that they can have their case looked at on an even-handed basis and I believe the way this legislation has been formulated it does allow for that. There is an appeals process. That was one thing I looked at very carefully when this has been brought together. So I hope everybody will be able to support this legislation and ensure that we are able to go forward in an appropriate manner.

18.1.4 Deputy J.A. Martin:

I do apologise to the Minister for not being able to attend yesterday. I do try and attend as many briefings as possible and these sort of questions ... the one that I am specifically going to ask now could have been asked. I was at a P.A.C. (Public Accounts Committee) public hearing and could not move that because many other people are involved. I firstly congratulate the Minister and this is long overdue. I was in Health and before that on the Health Committee in 2003, 2004 and 2005, I think. The law looks very good. It looks as good as what they have in the U.K. and the updates. My question is: on page 15 of this piece of legislation we have financial and manpower

implications and these concern me gravely. To implement it will take: “6 more full-time equivalents, being 4 in the Judicial Greffe, one in the Law Officers Department and one in the Health and Social Services Department. The total cost of £1.166 million in 2016, 2017 and 2018.” Then the second paragraph says: “Bringing both pieces of legislation into full force as described in the report, via Appointed Day Acts, will have further financial and manpower ...” This is the introduction. The other £1.166 is getting there and when it is there the declaration says it will be £1.9 million over 2018 and 2019. It sounds a lot of money when you say £1.9 million but what is in here and what is needed, the Minister, himself, said: “We hope to see no detainees of people with mental health at the police station.” Will £1.9 million cover this? I very much doubt it. Again, I commend the Minister and I look forward to and explaining why it is only £1.9 million, and obviously ongoing. That is for 2 years so it is under £1 million a year in 2018 and 2019 for a massive piece of legislation that completely treats those with mental health problems correctly, bringing them up to date. I do not think the manpower ... well, it covers the finance, I cannot see anything on manpower in the Health Department and associated bodies. So I am very dubious. Obviously I will support this but I really send a message to the Minister that I think he will expect to start fighting in his corner a bit harder because this will not do the job.

18.1.5 The Deputy of St. John:

I believe it is of great importance that we give this new piece of legislation the respect and the consideration that it deserves. On that note, I think it is important to thank the Minister. I sent an email last night to him with regards to the briefing we had yesterday. It gave us great opportunity to ask specific questions about particular Articles and the way that this has been brought forward. But I also thank all those stakeholders and Mind Jersey, in particular, for the contributions they made and the assistance that they gave. But it is important also for us to recognise that in the 21st century in which we live, and the difficulties among society in recognising what some people would term as hidden illnesses, and people not being able to understand these particular issues going forward. On the basis of the questions that I asked yesterday I think it is important that I ask those of the Minister today so that they are in a public domain. The one particular area that I did put forward was with regards to the actual Mental Health Review Tribunal itself. I specifically asked why it was so heavily reliant on the Bailiff appointing the members and why it was the Bailiff that ... the appeals were to the Royal Court therefore the Bailiff’s Court. There was a lot of Articles which to a lay person, like myself, reading the legislation you could easily assume that there may be some conflict in those areas. I think it is important to ask that question of the Minister today, as to why that is the case. Why that was not considered in terms of whether there had to be a more independent approach to that particular Tribunal and a separation between the judicial and the public service that is providing some of the services. The only other area was, of great concern to me, the culture that you will see in the western world, specifically these days, is the way that treatment is seen among a minority but it is becoming known more and more around the world in terms of treatment for mental health issues or other illnesses whereby drugs are the first and foremost approach rather than other treatment that may be more important and more helpful to that individual. Every individual case is completely different and needs to be tailored in that way. So I would just like some reassurances from the Minister, and I know that I am due to meet with his department about prescription drugs in Jersey, but I would just like some assurances that going forward that we try to encourage a culture, especially from a public health point of view, that it is not always just about prescribing drugs and hoping that that person will be okay and hoping that everything will be okay after that. That us, as a society, recognise that we all need to support each other and not be so judgmental at first point of contact.

18.1.6 Senator S.C. Ferguson:

I am delighted to see this new law because the operation of the old law was a nightmare. I am also pleased to see the capacity law because in my experience capacity in some cases was a bit of a rule

of thumb and there was no real independent assessment of this. I am disappointed to see the curatorships go because those were a very good check and balance on the conduct of the financial affairs of anybody who was under anything like a curatorship or needed any sort of care. They are described as being burdensome and so on. They were very simple and the Judicial Greffe were fantastic in helping with that. I am a little lost as to how we are going to get regulation of delegates. I have mentioned carers already today, which is probably more in the dementia end of the Mental Health Law, but I think these need to be kept in mind. The other thing, regarding dementia, I am glad to see so many advances being made in medicine that I am hopeful that I shall avoid it.

18.1.7 Deputy P.D. McLinton:

Firstly, I would like to speak to Senator Routier who bravely admitted to something that many more people in society would feel more comfortable admitting to hopefully, and that is to struggle with their thoughts at times. It is worth mentioning that we are all fellow strugglers and I look forward very much to the day when we can talk openly about mental ill health as easily as we can about our physical ill health. I should talk to this area of the new law. A key difference between psychiatry and other medical specialisms arises from the fact that in some cases patients experiencing significant mental disorder may, as a result of their illness, be unable to recognise that they need treatment and consequently refuse it. Although these cases are in the minority, where such a refusal for treatment would lead to considerable risk either to the individual or others it may be necessary to impose treatment. For this reason, and because of other potentially disabling consequences of mental disorder, legislation is required to regulate the care and treatment of people with a mental disorder, and so provide the appropriate safeguards in doing so. This new law does all the above. There have been so many advances in the treatment of mental disorder since implementation of the 1969 law. I would like to speak to the Constable of St. John. There is not such a thing as dementia. It is an umbrella term for neurological disorders and I am sure he would be more than welcome ... I am quite happy to take him up to see the Dementia Unit, and explain some of the hard work they do, and help inform him as to what dementia really means. Yes, the avoidance of drugs, unless of course they work, would be a marvellous thing if at all possible. But whatever is best for the person in question. The law, itself, is long overdue. It has been through a very significant, as the Minister alluded to, consultation process. It has taken cognisance of development in mental health care and is appropriate for Jersey while dovetailing with our closest neighbours. I urge Members of this Assembly to fully support this new legislation.

18.1.8 Senator I.J. Gorst:

We tend to think that the big political moments play out on the big screen or on the radio or on the front page of a newspaper. Occasionally they do. Sometimes those big moments are not quite so big as they are pretending to be portrayed.

[16:15]

But sometimes big political moments take place on a wet, humid, Tuesday afternoon, and they are done quietly and they are done calmly with not very much commentary in the media. I say that because today is one of those days. The previous Minister, Deputy Pryke, started really putting a rocket under this work. The current Minister, together with the other Ministers on some strange sounding body called C.A.V.A. (Children and Vulnerable Adults), but that consists of the Deputy of St. Peter, Deputy Pinel, Deputy Bryans, Deputy Pryke, Senator Routier, supported by the Constable of St. Peter, supported by Deputy McLinton. They have given their absolute 100 per cent commitment to driving this change forward. They have not been able to do it on their own. They have done it with wide engagement right across the community, particularly those voluntary organisations that day-in and day-out see the effect of mental ill health upon members of our community. I well remember in the run-up to the last election sitting around a radio microphone

with Senator Green - Deputy Green as he was then - Senator Routier, and Senator Ferguson and almost being moved to tears by a person that phoned in in sheer desperation about not knowing which way to turn and what were we going to do about the mental ill health issues in our community. Others have said it and Senator Routier and Deputy McLinton picked up on it. But most of us probably know someone for whom this has been and continues to be a real challenge. That might be in our family, it might be among our friends. It might just be our constituents or parishioners. I think the statistics ... I am not sure if Senator Routier gave it, it is something like one in 4 people suffer with these issues. They largely suffer in silence. They largely suffer behind closed doors because there has become a stigma in our community about talking about our thoughts, about talking about our mental health, about being embarrassed that we suffer from those issues. So we have got to unveil mental ill health issues. We have got to talk about them. We have got to put our arms around those people that suffer in this way. We will not understand it. Sometimes it is the difficulty of understanding that means that it gets pushed to one side and is not spoken about. But this law today is going to start to drive that change. There will be Members who have got questions about particular bits and I pick up on Deputy Martin's point about the money. This is only the start because this is the change to the law. After this will come training, will become practice notes, it will filter down to delivery of care into and across the community, and that is going to cost more money into the future. That is one of the reasons why in the M.T.F.P. we are putting more money into mental health services. So we are not alone in facing these issues as a community. It is right across Europe. It is certainly right across the U.K. But we are pulling ourselves into the future by bringing forward this legislation and the next piece of legislation by putting money into these services and by standing up and saying to people who suffer in this way: "You are not alone. We will do what we can to help and support you." It will be a long road. There is no magic overnight fixes and the issue that the Deputy of St. John raised about medication being the first course of action, because that is the society we have lived in for a number of decades now, is one of the issues. That there is not always a pill that makes you feel better. Sometimes it is about talking. Sometimes it is about coming to terms with the situations that life has thrown at you. Sometimes about coming to terms with decisions that you have made. It has got to be the broad approach to dealing with these issues. So I thank those Ministers and everybody that has been involved. By bringing this to the Assembly today for agreement, that is every Member of this Assembly who votes for it, I thank them for making this wet, humid, Tuesday, the first sitting of the States after a summer recess, transforming it from just an ordinary day into a red letter day that is going to transform people's lives in our community into the future. It is on days like this, even if some of the details need to be amended, and there are various places that people might not agree with and the regulations have got to come underneath, it is days like this that I think we can take pride that this Assembly works well and it works in the best interests of the most vulnerable members of our community. **[Approbation]**

18.1.9 Senator P.F.C. Ozouf:

Very briefly. I thought all the speeches that have been made in this have been extremely important and the Chief Minister, there is nothing much one can add from that, except to say 2 things. The first thing is that some of us might not have agreed with all of what some politicians elsewhere said. But it was Ed Miliband that started saying that mental health should be destigmatised. I was at the Labour Party conference and I heard the passion in which that was said. In fact, it was the first time I had heard it in the U.K. In fact the former Minister for Health and Social Services who demanded that I come up to St. Saviour's Hospital to see the state in which the mental health facilities were there, that I became aware of the chronic underfunding and the stigma that has been associated with mental health for far too long. Moreover, when I stood in for the Minister for Health and Social Services before Deputy Pryke, I had the invidious position of having to make decisions as a stand-in Minister on mental health issues. We have a long way to go but we have

come a long way. I do not want to draw attention to it, but I do not think the Constable of St. John meant what might have been assumed to have said in some of his remarks because mental health is a really serious issue that affects people around the world. It affects, as Deputy McLinton said, all of us to a greater and less extent and we all have a journey to understand our egos and how our minds work and how we get upset, and how we do not get upset. Indeed politics can affect people's mental health more than anybody because we live in a very unkind world. What I would say to Senator Ferguson is that I understand her comments, and no doubt the Minister will sum up, but I have seen first-hand, not only the tragic state of our mental health services now improved - and this law of course is just part of that improvement - but I have also seen the Judicial Greffe and the way that they have dealt with curatorships. I do not agree with Senator Ferguson that curatorships and the replacements that are in this law is a bad thing. The curatorships arrangements may well have worked but having been involved and seen one family member, the way that the court should not be simply involved in making decisions in the way that the curatorship works. That is no criticism of our courts. They have done a valiant and fast-track job. But in family courts and in other areas we have got a long way to go to move on from courts in our Samedi Division, or whatever the division of the Royal Court is in making decisions. It is absolutely the wrong place. I welcome most strongly of many of the issues, the changes in the curatorship arrangements. It is absolutely right what has been put in place and I am also delighted that the funding is going to be available to give to the Judicial Greffe, where there is no means available for people to deal with the issues of when you are incapable by dint of dementia or whatever, which comes to so many people as one of the big issues. It is one of the big issues that is not spoken about in the world that is going to happen in greater and greater numbers. The guardianship arrangements are right and I wish to compliment the Judicial Greffe over many years for having dealt with curatorships where nobody else could do the job and that they have done so. They have done so with skill, with great compassion, and I think the new arrangements are better. Better for them, better for the individuals and are a vast improvement. So I hope that Senator Ferguson, while understanding the court has done a sympathetic job, it is not right that you go to court in order to basically have to sell a piece of furniture or to do all the things you have to do. It is just simply we need to move on from that. Just like we need to move on from the court deciding on the future in the way that they do of certain family matters. It needs to be speeded up. We need to modernise. I think that Jersey can become a leading jurisdiction in many of these areas as the Health Department and our people in mental health are showing. When one hears the news in the U.K., and this Assembly will be discussing the M.T.F.P. next week, and we will be discussing many issues about the corresponding financial issues that arise, the money for this is in the M.T.F.P., as the Minister I think is going to be saying. It is clear from the news in the U.K. that they have got their head in the sand. There is no money for health services and particularly mental health services. Politicians speak about destigmatising but there is no money. Well, we are putting money in and I think that is an even more important matching and complimentary point to the Chief Minister making, this is the law that the money is going in, and we are improving it, and we are really destigmatising as Deputy McLinton, who probably knows more about this than most of us. We are actually destigmatising in a positive way the mental health ... we all have mental health issues, we need to look after our physical and mental health, particularly politicians.

18.1.10 Deputy A.E. Pryke of Trinity:

As has been said, I am so pleased that we reached this point. It has taken us time. It has taken well over 2 years to get here. But it has been a very complicated piece of work of law and, as has been said, much needed. Mental health affects so many people in so many different walks of life, whether you are old, in the middle, or very young. We know the pressures that are on C.A.M.H.S. today. That is why it is important too that not only with this piece of law that we also put early detection/prevention as part of it as well. I would also like to take this opportunity too, to thank the

work of the voluntary groups. One of the members of the voluntary group is up there in the gallery. But also Mind, who are trying to erase the stigma of mental health. All of us, I think, me included, even during my professional career, where I had to deal with a lot of patients, and their family, because we must not forget the families too, who had mental illness. Whether it suddenly came on due to a bereavement or due to something happened within the family, it is so difficult to cope with because, as has been said, there is no quick fix. It is not like having an infection where you can take antibiotics and hopefully 24, 48 hours you are beginning to feel better. Mental health could take years, if not you might have to end up living with it. Getting the voluntary groups, Mind Jersey as well as all the others and families supporting people through that is so important.

[16:30]

So we need that confidence to help people, even if we walk up in streets today. We might walk up in King Street, Queen Street, and I did that a couple of months ago. There were obviously a patient who had mental health problems and was finding it difficult and did we all, as a group, people passing her, did we have a confidence to go and help her? I was going to. Several think: "Oh, do I need to get involved? Shall I get involved?" But yes, it is everybody's business and I am pleased to say that I did get involved and, as luck would have it, there was a member of the mental health team not very far behind me, so I was able to give her the support and hopefully he took over. We seem sometimes to be afraid of mental health but we should not be. It is an illness. It is not like physical where you can see the disability. But because we cannot see it we have difficulty in helping people. But this should not be. It is everybody's business and the more we talk about it, the more we talk about our personal circumstances, and how mental health has affected us, it makes us more of a caring and loving community. With this law behind it ... and during my professional career I had to get clinicians involved with a family who had just lost their father and the mother just could not cope, to encourage her to be sectioned. That was not only traumatic for the family, very traumatic obviously for the wife, but so sad for me, as a professional, that I could not help her. But I knew she needed that help. So this law is very welcome. It has taken a long time to get here but this is the first step and we should grab it with both hands and really march on and get this law into place. Get the regulations done. Get those clinicians and get the professional frontline staff up to speed so they can deliver it because it is them, at the end of the day, who will be working with the patients and working with the families who are really going to make that difference to our Island.

The Greffier of the States (in the Chair):

Does any other Member wish to speak? In that case I call on the Minister.

18.1.11 Senator A.K.F. Green:

I would like to thank everybody that has spoken. I will try and answer the questions, if I have understood them all. I think I have. I will try and answer the questions that I can. But I would like to pick up on a couple of things first. A couple of Members have talked about stigma and that is really, really important. It has to be safe for people to be able to talk about their whole health, their mental health condition as well as their physical health condition. The other day - it was about 4 months ago - I bumped into a young man. I will not say where because I would not want to identify him. He came bounding up to me and said: "Another busy day in the States?" It was a Tuesday. As it happened, I was not in the States that day. Then he went on to say: "I am so grateful for Talking Therapies. I should have gone years ago." I really just wanted to cheer, not because he was grateful about Talking Therapies, but he felt able to talk about it. I have heard of cases where people will discuss their family members being in hospital, say, with a broken hip but they would never talk about mum being in hospital with a mental health condition. We have to change that. The Chief Minister rightly pointed out that this is a very important day. I think this could be probably the biggest piece of legislation, most important piece of legislation that affects

more people on the Island than anything else that we will debate in the life of this Assembly. What he did not do was tell you how much he has supported me in driving this forward. The previous Minister had started it as he pointed out. I think he said that the previous Minister had put it under rockets or we put it under enhanced rockets, but the Chief Minister supported me in that and I am very, very grateful for that. It is said that one in 4 people suffer from a mental health disorder at any one time. I take issue with that now in the work that I have done. I think all of us suffer from a mental health disorder at some time. Some of us are able to deal with it at a low level with maybe talking to friends or Talking Therapies or other interventions, and I would go so far as to say one in 4 need that more formal intervention. I would suggest that all of us, if we were honest, have had mental health challenges at one time or another. As I said, I thank everybody. I would like to now try and tackle some of the questions. Deputy Hilton asked a question about Mind. We had extensive consultation with all the charitable sector but particularly with Mind. The lady that did most of the work is sat up in the public gallery and I am very, very grateful. I think that we have solved or at least resolved all of the issues she had, albeit one or 2 little clarifications this morning, so thank you. I hope that puts Deputy Hilton's mind at rest. We had a question from the Deputy of St. John about the Tribunal. The chairman of the Tribunal - that is the chairman of the current Mental Health Tribunal - was included in the consultation process, as was the Bailiff and other judicial holders. Paragraphs 57 to 61 of the Law Officers' human rights notes on page 25 and 27 of the project address the human rights parts about the independence of the tribunal. What we were trying to do here in layman's terms - I am a fairly simple person - is get the Tribunal independent of Health, of myself, because I am very often the one that signs the final order based on the information given to me by medical practitioners. The appointment of members of that Tribunal had to be completely independent of the States. Maybe there are other ways of doing it, but that is the way that we have done it. Picking up on curatorship, and I will come back to one or 2 other things - the Constable of St. John I know has a question that he asked about - curatorship has worked well in supporting persons to manage their financial affairs in the past, but I am advised it has a large number of shortcomings. The majority of people who responded to the consultation welcomed the change and advised that the biggest problem with curatorship and the existing provisions of the Mental Health (Jersey) Law 1969 are that a curator has no authority to make health or welfare decisions for the person. They are looking after their financial affairs, not their welfare. Once a person has a curator appointed, they lose control over all aspects of their life, even those aspects that they did have some capacity to influence. While many professional curators have behaved responsibly with the best intentions within the rules to provide controls of fees that they charge, in some cases it has led to a person's assets being depleted and then they have to fall back on the state. Those are just some of the reasons why we think that the new system is more in keeping with the wellbeing of the patient. Going back to the Constable of St. John's comment, I am not a medic and everybody knows I am not, but I do know that when looking at the use of medication - and I am talking about not medication for mental health purposes but medication - practitioners do have to weigh up the risk of the side effect of that medication versus the benefit of taking the medication to prevent a certain condition. That is something that they have to weigh up and that should be discussed with the patient, but there should be regular reviews of that medication. In fact, good practice within the Primary Care Law does require that regular review. Picking up on Deputy Martin's question regarding financing, the money that we have in the implications here is merely to put the law into place. It does not allow for the building of any new facilities. That is something that we are dealing with separately. This puts a structure in place and a lot of the money is going into having a robust and independent appeal system with the Judicial Greffe. So all the money is there to put the law into place. Funding any new facilities which are not part of the law will be subject to capital rather than this law. I think I have covered most of the questions. I would like to thank Senator Routier for being very honest about mental health and how

it affects people and also for his unwavering support on C.A.V.A. to get this through. I think I have offered all the questions and I commend the principles to the Assembly.

The Greffier of the States (in the Chair):

Those Members who are in favour of the principles kindly show? [Interruption] The appel has been called for. Members are invited to return to their seats. I ask the Greffier to open the voting.

POUR: 47	CONTRE: 0	ABSTAIN: 0
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator A.J.H. Maclean		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy E.J. Noel (L)		
Deputy of St. John		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		
Deputy S.Y. Mézec (H)		
Deputy A.D. Lewis (H)		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy S.M. Bree (C)		
Deputy M.J. Norton (B)		
Deputy T.A. McDonald (S)		
Deputy of St. Mary		

Deputy G.J. Truscott (B)			
Deputy P.D. McLinton (S)			

The Greffier of the States (in the Chair):

Deputy of St. Ouen, does your panel wish to scrutinise this matter?

The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):

No, we do not. We recognise the importance of the law but we realise also it has been fully consulted upon and do not feel the scrutiny process would add.

The Greffier of the States (in the Chair):

We move on to the Articles. How do you wish to deal with the Articles, Minister:

18.2 Senator A.K.F. Green:

Normally I would be one that would stand here and say: “Just take the whole lot *en bloc*”, but I think this is too important a law to do that. I think we need to go through the different parts of the law. I would like to take parts 1 and 2 first and then I would like to take others as I work through under appropriate headings. So commencing with parts 1 and 2, the law which covers the definitions and the roles, the new law introduces clarity with regards to roles and responsibilities. A number of new roles are included in the law to ensure a higher standard of care to safeguard the individual as well as enhanced decision making surrounding the treatment of those suffering from a mental health disorder. These include an authorised officer who will co-ordinate the process of assessing a person’s mental health and be responsible for making any application for compulsory admission for assessment, treatment or guardianship. Approved practitioners will be approved medical practitioners with appropriate training and expertise in mental health. Second opinion approved doctors will be an independent psychiatrist who in circumstances described in part 6 will be responsible for reviewing certain types of treatment that might need to take place without consent as well as certifying whether treatment should continue or take place. Independent medical health advocates will provide assistance to patients and persons affected by the provisions of the law to help them understand and exercise their rights. Part 1 of the law deals with the overall administrative framework under which care is to be provided to patients in Jersey. Article 1 is the interpretation provision of the whole of the draft law. In particular, it defines key concepts such as “mental disorder” and “treatment.” It also introduces roles not previously codified in statute such as the role of the medical health advocates and responsible medical practitioners. The new law simplifies the definition of “mental disorder” so that it captures any disability or disorder of the mind. This is in line with the definitions used in the U.K. and Guernsey and will help to ensure, as I talked about earlier, that people are not excluded inappropriately from mental health services. However, the open definition of mental disorder is balanced by tests that are applied when deciding whether to compulsorily admit someone. These will continue to ensure that somebody can only be compulsorily admitted when this is necessary in the interests of the patient’s health and safety or for the protection of others. However, the application of the definition of a mental disorder is limited by Article 1(2) of the law so that people with learning difficulties - and this is right, this is so right - may only be detained for assessment or treatment under the law if their disability is associated with abnormally aggressive or seriously irresponsible conduct.

[16:45]

I am glad to say that we have moved on from regarding learning difficulties as mental health difficulties. **[Approval]** In most cases, any restrictions that may be necessary to impose on the liberty of a person with a learning disability will be authorised under the provisions of the Capacity and Self-Determination Law which we will debate next. This reflects best practice in relation to the

provision of care to people with learning difficulties, which focuses less on the compulsory admission and treatment and more on the provision of care and support to enable those people with learning difficulties to live their full lives in the community. The new law removes addiction as a reason for compulsory admission. It has long been recognised that there are many positive treatments for people who have addictions but there is very little, if any, evidence that they can be treated effectively under compulsory treatment orders. Articles 2 and 3 set out the duties of the Minister for Health and Social Services under this law. The primary duty is to make provision for the care and treatment of patients. Article 4 deals with the appointment of an administrator, who must publish an annual report and administer the law on behalf of the Minister. Article 5 describes the responsibility of the Minister in approving establishments or premises for the purposes of care and treatment of patients. Article 6 confers powers on the Minister to appoint authorised officers with training and experience in mental health. Part 2 of the law concerns the role of the nearest person in relation to a patient. Article 7 provides that it is presumed that a patient's nearest relative will be his or her nearest person unless the patient nominates a person other than their nearest relative, which they can do under Article 10, or a nearest person is appointed by the court under Article 11. The rules for determining which family member constitutes a nearest relative of an adult patient are given in Article 8 and some additional rules are given by Article 9 of certain patients aged under 18. An adult patient has the right under Article 10 to nominate a person other than the nearest relatives. The principal rights of the nearest person to receive information as to the patient's care or treatment are stated in Article 13. Can I now call upon the Assembly to vote *en bloc* on Articles 1 to 13, which cover parts 1 and 2 of the law?

The Greffier of the States (in the Chair):

Are Articles 1 to 13 seconded? **[Seconded]** Does any Member wish to speak on Articles 1 to 13?

18.2.1 Senator P.F. Routier:

The Minister did mention in his remarks about the differentiation between learning disability and people with mental illness, and I am very grateful that he has structured the law in such a way that does afford people with learning disabilities the appropriate care that they require and I really am very pleased that he has been able to do that.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on these Articles? Minister.

18.2.2 Senator A.K.F. Green:

I thank Senator Routier for his comments and it is absolutely appropriate. On a private visit I was with the chief executive of Mencap in the U.K. last week and told her what we were doing here and she was 100 per cent supportive and said: "It is absolutely right that you separated the 2." I am very grateful to the Senator for his comments.

The Greffier of the States (in the Chair):

Those Members who are in favour of adopting Articles 1 to 13 kindly show. Those against? Articles are adopted. Minister?

18.3 Senator A.K.F. Green:

I make no apologies that this is quite a long route but this is so important. Moving on to part 3 and 4, the administration and guardianship. Part 3 deals with the administration to an approved establishment and detention of patients in those establishments for care and treatment, generally under the civil regime for which I as the Minister - or the Minister, whoever that might be - has overall responsibility. As in the case in the 1969 Law there is nothing in the draft law to prevent a patient who has capacity to consent to agree to being admitted to an approved establishment to

receive treatment for a mental disorder. A patient may be admitted of his own volition under Article 14. Article 15 provides for emergency admission of up to 72 hours when in the opinion of an approved practitioner it is likely that the person is suffering from a mental disorder and their remaining at liberty would endanger either themselves or others. An approved practitioner is defined by Article 16. Article 17 gives nurses powers to detain patients already receiving treatment for up to 6 hours where the patient's liberty would endanger their own or others' safety and it is not practical to secure the immediate attendance of an approved practitioner. In other circumstances a patient must be admitted by application being made for the purpose under Articles 18 and 19. Article 18 states the general requirements for admission applications, which must be made to the Minister in writing by the authorised officer, an authorised officer who has personally seen the patient within the 7 days preceding the application, and - where it is reasonably practical - following consultation with the patient's nearest relative. An admission application must be made on the grounds stated either in Article 21, admission for assessment, or Article 22, admission for treatment, as the case may be, and must be accompanied by a medical recommendation by 2 registered practitioners, one of whom must be an approved practitioner. The need for medical recommendations is set out in Article 19, which also contains safeguards to ensure that such recommendations are made independently. Article 20 gives authority for the patient to be conveyed to an approved establishment within 72 hours, and detained in the establishment for an initial period of up to a week. The grounds for admission and detention assessment, as stated in Article 21, are that the patient appears to be suffering from a mental disorder of the nature of degree which warrants detention in approved establishment with or without treatment, for at least a limited period, and that such detention is necessarily either in the interests of the patient's safety or the protection of the person. The grounds for admission and detention for treatment are started in Article 22 and they are similar. Article 23 permits any defect to be rectified with consent of the Minister. The remaining provisions of part 3 deal with the different circumstances in which persons are liable to be detained under that part if they leave or be absent from, whether lawfully or not, the approved establishment. Article 24 covers leave of absence from the approved establishment under the new law. Leave of absence from the hospital can be granted for a short period, i.e. a day trip to visit family, or for a longer or indefinite period, for example to support an individual's return to the community. Article 25 sets out the process for the return of a patient who is absent without leave. Article 26 deals with the transfer of patients between the approved establishments. Article 27 provides for the discharge of patients, and Article 28 covers special provision for patients who are absent without leave. Dealing with part 4, Article 29 requires an application for guardianship which must be made to the Minister by an authorised officer, and be accompanied by medical recommendations from 2 medical practitioners. A person may, under guardianship, who appears to be suffering from mental disorder, and it is in their interest or their welfare or their protection for others. Once authorised by the Minister, guardianship application is, under Article 30, sufficient authority for the reception of the patient. Article 31 provides that the patient may be taken into custody and returned to that place of treatment by the guardian or the person authorised by the guardian. Article 32 deals with the transfer of patients between different guardians, and provides for substitution of a guardian by another if the first one becomes incapacitated. Article 33, a guardianship authorisation has effect for 6 months, beginning from the date of approval, and may be renewed for a further 6 months and then subsequently 12 months. I call upon the Assembly to approve *en bloc* Articles 14 to 33, which covers parts 3 and 4 of the Law.

The Greffier of the States (in the Chair):

Are Articles 14 to 33 seconded? **[Seconded]**

Deputy J.A. Martin:

Can I have the appel please?

The Greffier of the States (in the Chair):

I do not think I have called for a vote yet.

18.3.1 The Connétable of St. John:

I just have a query on Article 15, emergency admissions. It allows an approved practitioner under part 4(a) to detain a patient for a period of 72 hours, beginning when the opinion mentioned in paragraph (2) is formed. But under Article 17 where a nurse may detain in an approved establishment for a period of no longer than 6 hours, beginning from the time when the record is made, then in part 3 of Article 17: "If an approved practitioner attends the patient during the final hour of the period mentioned in 2(b) above, the patient may be detained for a further period of not longer than one hour." Which makes a total of 7 hours, which is inconsistent if the general practitioner had come in the first place that he could do 72 hours. Am I confused or does that need adjusting?

18.3.2 The Deputy of St. John:

I would just like to ask a question particularly on Article 14. I did ask a question on the other legislation yesterday at briefing but I am going to ask on this particular area here: "Where a patient aged 16 years or over has the capacity to do so, consents to the making of arrangements such as are mentioned in paragraph (1). Those arrangements may be made, carried out, and determined on the basis of that consent, even though there are one or more persons having parental responsibility for that patient." Then on the other hand we have just approved Article 1 which gives you the determination of under 18 years being a child. As a layperson trying to understand, because we have got different types of legislation which may determine a child at that particular age, as we have in Article 1, but then we are saying that at the age of 16 you can then voluntarily admit yourself. Surely a parent will feel in a difficult position if they have a responsibility to look after what is determined as a child under Article 1, but yet under Article 14 we are saying a 16 year-old can basically admit themselves but they are determined as a child under this legislation. So I just want some clarification from the Minister regarding that and whether there are any other pieces of legislation that could challenge that position that has been made in this particular Mental Health Law and that particular Article.

18.3.3 Senator S.C. Ferguson:

Mental health is somewhat of a specialist area for doctors, and particularly G.P.s. Will there be any additional C.P.D. (Continuing Professional Development) for G.P.s in this area, because I am not sure that perhaps all of them have done a course recently on the medical aspects of mental health.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on these Articles? Minister.

18.3.4 Senator A.K.F. Green:

I will deal with the Constable of St. John's question first. He is confused. [Laughter] But he did ask. But I can understand because this is a very complex law but a very important law. The nurses' holding power is 6 hours, and this is dealt with under Article 17, a nurse can detain a person who appears to be suffering from a mental disorder for up to 6 hours.

[17:00]

Where the confusion comes in is if the nurse has asked for an approved practitioner who cannot get there within the 6 hours the nurse can extend that period to 7 hours, in other words she can add on extra hour, to allow the approved practitioner to get there. The approved practitioner can then detain somebody for 72 hours and that would also take into account the 6 or the 7 hours that had previously been used up. So I hope that helps the Constable. The second question from the Deputy

of St. John was one that we had huge discussions about, not just discussion yesterday but around the table when we were going through the draft law, because we also had a discussion whether 16 was appropriate or whether in some circumstances a lower age might be appropriate. We settled on that a young person of 16, who can vote, who can get married, can determine - if they have got the capacity - to voluntarily accept treatment. The parents do have a role with more significant things but a patient who is 16 can consent to treatment, they can consent to all sorts of other things, sexual intercourse, they can consent to voting, they can consent to all sorts of other things so we thought that was appropriate. I am not a lawyer but we had some discussion around aspects of what was known as the Gillick law, which we have talked about before. So this has been looked at really thoroughly by myself and by those that scrutinised it, the voluntary sector and suchlike. Senator Ferguson asked me a question about training. Training is a huge part of the implementation of the law. I cannot remember the number of people that we do need to train but you do notice that under the law that when somebody is receiving treatment compulsorily that it has to be a registered practitioner who has seen the patient within the last 7 days, and also supported by another doctor. So training and C.P.D. will be a very important part of it, but they will be supported by specific doctors who have more thorough training, if you like. We have got something like over ... I think it is 3,000 people to train when we get into the capacity law, so it is important ... it is in the budget. With that, I commend these Articles to the Assembly.

The Connétable of St. John:

Sir, this is a point of clarification.

The Greffier of the States (in the Chair):

This is a point of clarification? Okay.

The Connétable of St. John:

It is in typed English: "If an approved practitioner attends the patient during the final hour (that is the sixth hour of the 6-hour detention by the nurse), of the period mentioned in 2(b) above (which I have said is the sixth hour of detention), the patient may be detained for a further period of not longer than one hour beginning at the time of attendance." I think what the Minister means is if an approved practitioner is unable to attend then the nurse may, in the final hour - in the sixth hour, that is - allow a further period of not more than one hour for the doctor to attend or the practitioner to attend.

Senator A.K.F. Green:

In this case we are both correct because if the registered practitioner arrives at the sixth hour, he then has an hour to carry out his assessment as well. So we are both right.

The Connétable of St. John:

I am glad I was not confused, Sir. [Laughter]

The Greffier of the States (in the Chair):

It is a happy outcome. Those Members who are in favour of adopting Articles 14 to 33 ...

Deputy J.A. Martin:

Can I have the appel please, Sir?

The Greffier of the States (in the Chair):

The appel has been called for. Members are invited to return to their seats. I will ask the Greffier to open the voting.

POUR: 43	CONTRE: 0	ABSTAIN: 0
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Senator P.F. Routier			
Senator A.J.H. Maclean			
Senator I.J. Gorst			
Senator L.J. Farnham			
Senator P.M. Bailhache			
Senator A.K.F. Green			
Senator S.C. Ferguson			
Connétable of St. Helier			
Connétable of St. Clement			
Connétable of St. Peter			
Connétable of St. Ouen			
Connétable of St. Brelade			
Connétable of St. Martin			
Connétable of St. Saviour			
Connétable of Grouville			
Connétable of St. John			
Connétable of Trinity			
Deputy J.A. Martin (H)			
Deputy G.P. Southern (H)			
Deputy of Grouville			
Deputy J.A. Hilton (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy of Trinity			
Deputy K.C. Lewis (S)			
Deputy E.J. Noel (L)			
Deputy of St. John			
Deputy J.M. Maçon (S)			
Deputy S.J. Pinel (C)			
Deputy of St. Martin			
Deputy R.G. Bryans (H)			
Deputy of St. Peter			
Deputy R.J. Rondel (H)			
Deputy S.Y. Mézec (H)			
Deputy A.D. Lewis (H)			
Deputy of St. Ouen			
Deputy L.M.C. Doublet (S)			
Deputy R. Labey (H)			
Deputy S.M. Bree (C)			
Deputy M.J. Norton (B)			
Deputy T.A. McDonald (S)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy P.D. McLinton (S)			

The Greffier of the States (in the Chair):

Minister?

18.4 Senator A.K.F. Green:

Part 5 covers other forms of legal custody and places of safety and makes provision for certain situations where it may not be clear but suspected that a person is suffering from mental disorder. It creates a suite of provisions whereby the Bailiff and the police force may legally deal with such persons, including taking them into custody. At times it will be necessary for the police to

intervene either to ensure someone's safety if they are in a public place or to access private premises where it is suspected that a person is mentally disordered and in need of urgent assessment or treatment. As is currently the case under the 1969 law, the new law will provide the police with powers to enable a warrant to be issued to enter private dwellings to remove a person to a place of safety for assessment up to 72 hours and a police officer who has concerns for the persons found in any other place and may be suffering from mental health illness and needs immediate care or control. He may remove or ... he or she may remove that person to a place of safety for up to 72 hours to enable an assessment to be carried out. Article 34 defines the expressions for the purposes of part 5 in: "What is a place of safety?" Article 35 confers on authorised officers the power to apply to the Bailiff for a warrant to enter and search premises where there is reasonable cause to suspect that such a person is believed to be suffering from a mental health disorder is being ill-treated or is living alone but unable to care for himself. A warrant under this Article may authorise the removal of such a person to a place of safety for the purpose of either making an admission application in respect of the person under part 3 or making other arrangements for the person's care and treatment. Warrants may be issued under Article 35 for the entry and search of premises for the re-taking into custody of a person reasonably believed to be there where admission to the premises has been or is likely to be refused. Article 36 for the more urgent removal from any other place than a private dwelling of a person apparently suffering from a mental disorder and in immediate need of care and control. The maximum period of detention in a place of safety under this Article is also 72 hours. Article 37 deals with persons who escape from legal custody, including a place of safety, and provides that such persons may lawfully be retaken into custody by a person from whose custody they have escaped or by a police officer, authorised officer or, in the case of a guardianship, by any person who would be entitled to take that person into custody under Article 31. I ask the Assembly to approve Articles 34 to 37.

The Greffier of the States (in the Chair):

Are the Articles seconded? [Seconded] Does any Member wish to speak on Articles 34 to 37?

18.4.1 Deputy J.A. Hilton:

Yesterday I asked the Minister about the use of police cells to detain children with mental health difficulties. My understanding is that we do have now 2 operational beds in Robin Ward, which is an absolutely fantastic development and obviously I am really, really pleased that we are there. Can the Minister confirm how many times police headquarters has been used this year to detain children and also, I believe the Director of Adult Mental Health yesterday told Members that currently we do not have sufficient places of safety for adult patients. I wanted to ask the Minister what work is being conducted at the present time to identify places of safety for adult patient?

The Greffier of the States (in the Chair):

Does any other Member wish to speak on these Articles? Minister?

18.4.2 Senator A.K.F. Green:

I will answer the question as best I can. I am afraid I do not know the answer yet to whether children have been held in the police station recently. What I do know, as the Deputy confirmed, is that we have a very good, new facility in Robin Ward for 2 places of safety. This law though, defines places of safety in a number of ways. A place of safety for some people might be their home. It might be somewhere appropriate for their needs. It does not necessarily mean being in a secure environment in a hospital, although often it does. My ambition is that hopefully by the time we get to the end of this Assembly's life that we will rarely have anybody, adult or children, held in a police station in a place of safety. They may be held there for a short time during transfer but that is ... the desire is not to use the police station for a place of safety. I hope that assures the Deputy that we do take it very seriously.

The Greffier of the States (in the Chair):

Those Members who are in favour of adopting Articles 34 to 37, please show. Those against? The Articles are adopted. Minister?

18.5 Senator A.K.F. Green:

Sir, we are well on a roll here. Moving on to part 6. This is the part where treatment requires consent. Part 6 of the draft law includes clear and express powers enabling certain treatments to be administered to the patient without his or her consent either in an emergency or if the patient is liable to be detained for assessment or treatment. The principal provisions of part 6 are found in Article 38, which creates safeguards by requiring consent and a second medical opinion before administration of certain types of treatment. These treatments are listed in Article 40. But, wherever possible, consent should be obtained from the patient before any form of treatment is administered. Article 42 of the draft law makes it clear that where consent is provided for treatment, the patient may, if they wish, withdraw that consent at any time. The new capacity law will create a new statutory test, which would apply when assessing a person's capability or capacity to consent to medical treatment, including the treatment for mental disorder. That test will be applied to a particular decision at any particular time by the doctor. What we are trying to say there is that somebody may have capacity at one time but the next day not have capacity so you need to apply the test appropriately. Article 39 of the draft law makes it clear that medication may be given to a patient who is liable to be detained for up to 3 months without, if need be, the patient's consent. At the end of that period, the responsible medical officer can only continue to treat if the person has the capacity and consents to that treatment or a second opinion approved doctor has assessed the patient. That second opinion approved doctor, by the way, is likely to be appointed from the U.K. or from Guernsey to give complete and utter independence. They will be a psychiatrist who is approved to undertake assessments. Article 40 lists the treatments that require both the consent of the patient and a second opinion. These are surgical operations for destroying brain tissue, surgical implantation of chemicals, electrical convulsive therapy and other types of treatment that are included within the Order. Article 41 describes treatment requiring either the consent or a second opinion. Article 42 allows the patient to withdraw consent given for treatment at any time. Article 43 provides that duration of a certificate given by a second opinion approved doctor under Article 40 or 41 is limited to 6 months. Article 45 provides for the form of such certificates and sets out the powers of the approved practitioner or the second opinion approved doctor to examine patients and their records for the purposes of part 6. Article 44 provides the power to provide emergency treatment to a patient without consent where it is immediately necessary to save that patient's life. Article 46 creates a regulation-making power for the purposes of making further provision as to the application of consent requirements and, in particular, as to the circumstances in which treatment may be administered to a child or to a person incapable of giving consent. I call upon the Assembly to approve Articles 38 to 46.

[17:15]

The Greffier of the States (in the Chair):

Are the Articles seconded? [Seconded] Does any Member wish to speak on Articles 38 to 46?

18.5.1 Deputy J.A. Hilton:

Just briefly, I am going to bring up the subject of the second opinion approved doctor again because I am looking for certainty from the Minister. My difficulty with this is that my understanding is that in the U.K., a second opinion approved doctor is appointed by an appointed body like the Care Quality Commission. On page 13 in the notes attached to this legislation, it is worded: "It is expected that second opinion approved doctors who will undertake work in Jersey will be practising in the U.K. or Guernsey", so it is expected but it is not specified specifically in the

primary legislation that they will be totally independent. I think the concern for people with serious mental health conditions is that currently the way it stands at the moment, all the people involved in their care could be employed by the Health Department and so there does not appear to be any independence. I think I am looking to the Minister to clarify this and to put it either in regulations that the second opinion approved doctor will be totally independent of the Jersey Health Department.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on these Articles? Minister?

18.5.2 Senator A.K.F. Green:

I am really grateful to the Deputy for her question yesterday, which is the same question as she has put to me publicly today but I am very grateful for that question because it is implied there that the independent doctor will come from Guernsey or the U.K. but I did discuss with officers this morning whether it might be appropriate to take the Deputy's suggestion up that they be appointed by the U.K. Care Commission. Now, we do not know whether the U.K. Care Commission will do that but I promise to explore that option because I truly want a robust, independent system. I thank the Deputy and I ask Members to approve Articles 38 to 46.

The Greffier of the States (in the Chair):

Those Members who are in favour of adopting Articles 38 to 46, please show. Those against? The Articles are adopted. Minister?

18.6 Senator A.K.F. Green:

Mental Health Review Tribunal, part 7, Schedule parts 1 and 2. A Mental Health Review Tribunal is currently provided for under the 1969 Law. The rules of procedure for the Tribunal have been recently modernised in some respects and a lot of work has already been done collaboratively between Mind Jersey, the Law Society and Judicial Greffe. To ensure that Tribunal members and legal advocates appearing before the Tribunal are provided with appropriate training to ensure - we must do this - that high standards are maintained. This new law will continue to provide for the Tribunal and assist them to consider applications for discharge from detention under the assessment or treatment authorisation from guardianship. The Tribunal panel will continue to consist of legal, lay and medical members. Panel members will have high levels of expertise and be sufficiently independent of the Health and Social Services Department. When a patient is detained for treatment, they can request that the Tribunal considers the need for continued detention once during the 6-month period for which the detention is reviewed and thereafter one appeal could be made during each subsequent 12 month period. Part 7 establishes the Mental Health Review Tribunal. Article 47 provides for the appointment by the Bailiff of a panel from which membership of the Tribunal will be drawn. The duration of terms of office of members of the panel are provided for by Article 48. Under Article 49, the Bailiff is obliged to appoint a chairman, a vice-chairman and a number of members required to discharge the functions of the Tribunal. Article 49 also brings into effect part 1 of the schedule, which deals with the detailed constitution. Article 50 sets out the principal functions of the Tribunal and makes reference to part 2 of the schedule, which gives the full list of decisions and of the persons that may make applications for review to the Tribunal. Article 51 permits references to the Tribunal by the Attorney General or the Minister in relation to patients liable to be detained under part 3 or subject to a guardianship under part 4. The Tribunal has the power to direct the discharge of a patient unless the Tribunal is satisfied that the continued detention or guardianship is necessary as provided in Article 52. Provision is made in Article 53 as to the examination of patients by registered medical practitioners for the purposes of the application to the Tribunal. Article 54 enables appeals to be made to the Royal Court from the decisions of the tribunal. I call upon the Assembly to approve Articles 47 to 54.

The Greffier of the States (in the Chair):

Are the Articles in the schedule seconded? **[Seconded]** Deputy Martin?

18.6.1 Deputy J.A. Martin:

Yes, I think it really boils down to ... again, I apologise I was not there, but what the Deputy of St. John was saying. Why, in Article 47 and all the other Articles that follow on very neatly, is it: "The Bailiff shall appoint in accordance with this Article and maintain the Mental Health Review Tribunal panel." So my question is then this law does mirror very much the U.K. equivalent. What happens in the U.K.? Why do we have the Bailiff establishing the Tribunal panel?

The Greffier of the States (in the Chair):

Does any other Member wish to speak on these Articles? Minister?

18.6.2 Senator A.K.F. Green:

I do not know what happens in the U.K. in this respect because they do not have a Bailiff but what we are trying to do here is to get a complete separation from the appointment of people for the Tribunal from Health and Social Services or any other statutory organisation that is involved. Now in time, that may change, but at the moment, the Tribunal works well. Okay, we have tweaked the rules a little bit around there. It works well and at the moment the Bailiff appoints the Chairman and the Vice-Chairman and ... sorry, I do not see any reason to change that. If Members were not happy, they could have brought an amendment to that.

The Greffier of the States (in the Chair):

All those Members who are in favour of adopting Articles...

Deputy J.A. Martin:

Can we have the appel please, Sir?

The Greffier of the States (in the Chair):

Articles 47 to 54 and the schedule, the appel has been called for. Members are invited to return to their seats. I will ask the Greffier to open the voting.

POUR: 39	CONTRE: 1	ABSTAIN: 0
Senator P.F. Routier	Deputy J.A. Martin (H)	
Senator A.J.H. Maclean		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Deputy of Grouville		
Deputy J.A. Hilton (H)		

Deputy J.A.N. Le Fondré (L)			
Deputy of Trinity			
Deputy K.C. Lewis (S)			
Deputy E.J. Noel (L)			
Deputy of St. John			
Deputy J.M. Maçon (S)			
Deputy S.J. Pinel (C)			
Deputy of St. Martin			
Deputy R.G. Bryans (H)			
Deputy of St. Peter			
Deputy R.J. Rondel (H)			
Deputy S.Y. Mézec (H)			
Deputy of St. Ouen			
Deputy R. Labey (H)			
Deputy S.M. Bree (C)			
Deputy M.J. Norton (B)			
Deputy T.A. McDonald (S)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy P.D. McLinton (S)			

18.7 Senator A.K.F. Green:

Okay, I will keep moving on then, Sir. We are nearly there. On parts 8 and 9, the Criminal Justice and Mental Disorder. As I stated in my opening address, there have been significant criticisms of the existing Mental Health Law and this has been primarily due to ... or, among other things, the absence of powers available to the court to make orders for assessment and/or treatment of persons whose offending behaviour is associated with or influenced by their mental disorder. Reforming the court's disposal powers in this respect is a key objective of this draft law. At present the Criminal Justice (Insane Persons) Law 1964 provides that the superior number of the Royal Court has the jurisdiction to determine whether a person is fit to stand for trial for a criminal offence or whether they may be able to rely on the defence of insanity in respect of their offence. The test to be applied by the Royal Court in determining these questions are not set out in the 1964 Law but have been the subject of careful consideration by the Royal Court in a number of key cases. The Royal Court has adopted tests that are compatible with human rights standards and that differ in some respects from those applied in other jurisdictions, including England. Part 8 of the law codifies the test that is applied by the Royal Court and the Magistrate's Court or the Youth Court to determine whether a defendant is capable of participating in a criminal trial. The law also makes more comprehensive provision about the procedures to be followed before a finding may be made where the defendant is not capable. Part 8 also makes provision as to the powers of the court to make orders that the person may be detained for appropriate treatment. Part 8 applies in any proceedings where it appears to the court that the defendant may be incapable of participating because of a mental health disorder or inability to communicate. This part replaces the Criminal Justice (Insane Persons) (Jersey) Law, which is repealed by Article 97. Under Article 56, the court may adjourn the proceedings to enable determination on any issue of capacity. The factors that must be taken into account in determining whether or not a defendant is incapable within the meanings of part 8 are set out in Article 57. On the initial findings of incapacity, Article 58 provides that the court may make an order under part 9 remanding the defendant on bail. However, if on medical evidence the defendant will foreseeably remain incapable of participating effectively, the court may dispose of the proceedings in accordance with Article 59 by acquitting the defendant or making a treatment order, guardianship order or as provided in the regulations. Part 9 of the

draft law creates a suite of powers that can be used by the court to ensure that defendants who appear to be or are suffering from mental health disorders may be detained for appropriate assessment or treatment in an approved establishment, either during the course of or following conviction for a criminal offence. Most of these powers would be available to all of the criminal courts though the Royal Court alone will have the additional powers to replace restrictions on the discharge of any patient whose offence and part-offending behaviour mean that they pose a risk to the public. They could transfer prisoners to an approved establishment for treatment during the prison sentence. They have the power to make orders for compulsory assessment or treatment in part 9. This is subject to a number of safeguards, as you would expect, to ensure that they are only made where there is sufficient medical evidence that detention is necessary to assess or treat the defendant. In addition to the new provision made under Article 72 of the draft law where the defendant is capable of participating in the criminal trial, if at the time of the offence, the offender was suffering from a mental disorder to such a substantial degree that they ought not to be held criminally responsible for their actions, a court making such a finding will be able to make an order so that the person can be detained for appropriate treatment. Article 60 includes the interpretation and application at part 9. Article 61 is that the court may remand a defendant on bail and order his or her attendance at an approved establishment. Article 62 enables the court to remand the defendant to a specifically approved establishment for the purpose of obtaining such a report. Article 62 also provides for a defendant's rights to obtain independent medical report and to apply to the court for remand to be terminated. Article 63 gives the power to remand the defendant to an approved establishment for the purposes of treatment. Where medical evidence indicates that the treatment order may be warranted, the court may order admission and detention of the defendant also under Article 64. A period of detention of up to 12 weeks may be specified under Article 64 with subsequent renewals of 28 days up to a maximum of 26 weeks in total. The court may make a treatment order that the defendant be admitted and detained in an approved establishment under Article 65 in lieu of a prison sentence. Similarly, where it is most appropriate having regard to all the circumstances under Article 66, the court may order the defendant to be received into guardianship.

[17:30]

If it is appropriate to impose a sentence of imprisonment, but the defendant is suffering from a mental disorder for which appropriate treatment is available in an approved establishment, the court may direct under Article 67 that the defendant be detained in such an establishment rather than in a prison and may specify restrictions on discharge of that defendant. Further restrictions on treatment order may be imposed by the Royal Court only to protect the public from serious harm and this is in accordance with Article 68, a defendant subject to a restriction order is admitted and detained under treatment authorisation. Article 69, a prisoner subject to transfer order may be detained in an approved establishment for 6 months initially, renewably for a period of a further 6 months and thereafter 12-monthly. Article 70 provides that the application ceases to have effect at the end of that period. Article 71 deals with committal to the Royal Court of defendants committed in other courts of offences punishable with prison where it appears that the restriction order would be appropriate. Article 72 provides where there is evidence that the defendant committed the alleged act but at the time of so doing was suffering from a mental health disorder to such a degree that he or she ought not to be held criminally responsible. The court must record a special verdict to that effect and either acquit the defendant or make a treatment order, a guardianship order or another order as may be specified in regulation. I ask the Assembly to approve Articles 55 to 72.

The Greffier of the States (in the Chair):

Are the Articles seconded? **[Seconded]** The clock has ticked past 5.30 p.m. so I would ask Members to decide whether they wish to adjourn or to carry on.

Senator P.F. Routier:

Carry on, Sir.

The Greffier of the States (in the Chair):

Does any Member wish to speak on Articles 55 to 72? In which case, those Members who are in favour of adopting the Articles, kindly show. Those against? The Articles are adopted. Minister?

18.8 Senator A.K.F. Green:

We are nearly there. Moving on to parts 10 and 11. Part 10 of the draft law makes a more comprehensive and modern provision to protect mentally disordered individuals from sexual exploitation. These provisions reflect the approach to modernisation of sexual offences; that is planned to take place generally. Article 73 makes it an offence for the managers and staff of an approved establishment to ill-treat or wilfully neglect patients in that establishment. It is also an offence under the Article for an individual to ill-treat or neglect a patient subject to his or her guardianship or otherwise in that individuals care or custody. Article 74 creates an offence of committing certain acts of a sexual nature; prohibited acts with, towards or in relation to a person suffering from mental disorder who is unable, because of the disorder, to refuse involvement in such an act. Article 75 creates a similar offence where one person is involved in the care of another who suffers from a mental disorder. Article 76 makes it an offence for a person who knows, or who could reasonably be expected to know, that the person has a mental health disorder, therefore to go on and secure participation of that other person in a prohibited act. Article 77 describes the range of penalties and safeguards created in part 1. Article 78 requires managers of an approved establishment to take all reasonable steps to ensure that the patient in the establishment understands the terms of her or his detention and their rights of advocacy and representation and review available under this law. Article 79 is the power for the States to make regulations requiring the Minister to make arrangements for the provision of an independent patient advocate service on behalf of patients who are detained, liable to be detained or subject to guardianship. Article 80 makes it an offence punishable by 2 years in prison and/or a fine for a person to forge documents or to make use of forged documents, in particular admission applications and medical recommendations. Under Article 81 the Minister may pay amounts in respect of occasional personal expenses of patients who otherwise would be without resource to meet such expenses. Articles 82 and 83 provide for the circumstances in which a patient accesses electronic media, postal correspondence and may be restricted by managers of an approved establishment in which the patient is detained. Article 84 confers a right on the patient and the addressee of postal correspondence where notice of a relevant restriction has been given to apply to the Mental Health Review Tribunal for a review of that restriction. I ask the Assembly to approve Articles 73 to 84.

The Greffier of the States (in the Chair):

Are the Articles seconded? [Seconded] Does any Member wish to speak on Articles 73 to 84? In which case, those in favour of the Articles, kindly show. Those against? The Articles are adopted. Minister?

18.9 Senator A.K.F. Green:

I was going to apologise for taking so long but I think this is so important that these Articles did need to be explained as we were working our way through. So we are going to look now at the transfer of patients between Jersey and other jurisdictions. There will be times when specialist care and treatment will not be available or will not be appropriate to provide it locally and the new provisions in part 3 and 9 of the draft law help to ensure that there is parity between Jersey's legislation and that of the U.K. and Guernsey. This will help to ensure a smooth transmission to specialist care and treatment off the Island. It also ensures a continuity of legal status on returning

to the Island. Part 12 regulates the circumstances in which patients may be transferred. Generally a patient may not be removed from Jersey except as authorised by an order of the court. Under part 12 of the law, the Royal Court will be able to order the transfer of a patient who is detained following conviction of an offence for the purposes of them receiving specialist treatment in the United Kingdom. In Article 85, the role of the Mental Health Law Tribunal, in reviewing the authorisation of the Minister in removing patients from Jersey is described. Article 86, the Minister may authorise the removal of patients from one place to another in the British Isles where it appears that it is in the patient's best interests and there are reciprocal arrangements, sometimes to be nearer family. Article 87 allows for the Minister to authorise that a patient be removed to a place where there is no provisional reciprocal arrangements if the patient is ordinarily resident at that place. Again, if it is in the best interests of the patient. Article 88, the Minister may authorise the removal of a patient who is an alien - I hate that term but that is what the law says - and it is in the patient's best interests. Article 89 provides for an application of the law to persons brought to Jersey under enactments corresponding to Article 86. I call upon the Assembly to approve Articles 85 to 89, which cover part 12 of the law.

The Greffier of the States (in the Chair):

Are the Articles seconded? **[Seconded]** Does any Member wish to speak upon Articles 85 to 89? In which case, those Members in favour of adopting Articles 85 to 89, please show. Those against? The Articles are adopted. Minister?

18.10 Senator A.K.F. Green:

Finally, part 13 of the miscellaneous and general provisions. This Article 90 empowers and requires the Minister to issue codes of practice for the guidance of persons carrying out functions under the law, which must include a statement of principles informing decisions under the law, addressing specified matters, and weight them according to each of them. The code of practice is to be followed by all staff in regard to medical treatment of patients. The code will address such matters as respect for the wishes and feelings of the patient, involvement of patients in determining their own care and treatment, respect for diversity, including issues of religion and sexual orientation, minimal restriction on liberty, effectiveness of treatment, respect for the views of patients' carers and the wellbeing and safety of patients and public safety. Offences of assisting a patient to abscond or obstructing an authorised person in carrying out their functions under the law are created in Articles 91 and 92. Article 93 confers protection for acts done in the discharge of functions under the law so long as the act is not done in bad faith or negligently. Such protection does not prevent an award of damages under Article 71. Articles 94, 95, and 96 confer general powers to make regulations, orders and laws of the court. Article 97 repeals the Criminal Justice (Insane Persons) (Jersey) Law 1964 and the Mental Health (Jersey) Law 1969. Article 97 also makes a saving provision to retain in effect provisions of the law relating to curators in case the Capacity and Self-Determination (Jersey) Law, which will replace the system of curatorship with a new system of appointed delegates, should not have commenced by the time this part of the law comes into force. Article 98 provides for the citation of this law and its commencement by act of the States. I call upon the Assembly to approve Articles ... I have got 14 to 33, but that is not right here, Sir.

The Greffier of the States (in the Chair):

90 to 98.

Senator A.K.F. Green:

Thank you.

The Greffier of the States (in the Chair):

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles? In which case, those Members who are in favour of Articles 90 to 98, kindly show. The appel has been called for. Members are invited to return to their seats. May I ask the Greffier to open the voting?

POUR: 35	CONTRE: 0	ABSTAIN: 0
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator A.J.H. Maclean		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Helier		
Connétable of St. Peter		
Connétable of St. Ouen		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy E.J. Noel (L)		
Deputy of St. John		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		
Deputy of St. Ouen		
Deputy S.M. Bree (C)		
Deputy M.J. Norton (B)		
Deputy T.A. McDonald (S)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy P.D. McLinton (S)		

The Greffier of the States (in the Chair):

Minister, do you wish to propose the matter in the Third Reading?

18.11 Senator A.K.F. Green:

Yes please. I would just like to finally make a couple of comments. The process of bringing this law before the Assembly, as I said, has included consultation with all of the key stakeholders, not least those who represent the voice of the people who have experienced mental ill health, their carers, but primarily from Mind and I will always be grateful for the amount of work that Mind, in particular, put in. The need for a modern, fit-for-purpose, mental health legislation has, as we have all agreed, been long overdue. This new law brings legislative processes required for supporting

people with mental health disorder and protecting the public into the 21st century. We have, by necessity, ensured that our law is compatible with our closest neighbours while ensuring that it meets the needs of people in Jersey. I would like to thank the officers from my department and the Law Officers' Department, the Law Draughtsman's Department, the Chief Minister's Department and all the voluntary sector people that have been involved working with us and for ensuring that we have a comprehensive, compassionate piece of legislation and that we produced it in a very timely fashion. Thank you, and I commend this legislation to the Assembly. [Approbation]

The Greffier of the States (in the Chair):

Does any Member wish to speak on Third Reading? If not, those Members who are in favour of adopting the law into Third Reading ... the appel has been called for. Members are invited to return to their seats. I ask the Greffier to open the voting.

POUR: 39		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Greffier of the States (in the Chair):

So, we now come to the Draft Capacity and Self-Determination (Jersey) Law.

Senator P.F. Routier:

May I propose the adjournment, Sir?

The Greffier of the States (in the Chair):

Yes. [Laughter] The adjournment has been proposed. Are Members generally in favour? Good. Before we finish, I need to tell you that 2 further amendments to the M.T.F.P. addition have been lodged today. The twelfth amendment has already been handed around from Deputy Mézec. The thirteenth amendment, which I believe is from the Connétable of St. Saviour, will be emailed to you very shortly. Otherwise, the Assembly is adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:45]