

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 12th SEPTEMBER 2017**

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[9:30]

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

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

### **1.1 Welcome to Members**

**The Bailiff:**

First of all, I welcome Members back from the summer break for the session that continues until Christmas.

### **1.2 Welcome to His Excellency The Lieutenant Governor**

**The Bailiff:**

I am also pleased to welcome His Excellency. **[Approbation]**

### **1.3 Welcome to the Dean**

**The Bailiff:**

I am sure Members would like me to welcome the new Dean. **[Approbation]**

### **1.4 Welcome to the Assistant Greffier of the States**

**The Bailiff:**

I am sure Members would also like me to welcome and note the return of the Assistant Greffier who is back from maternity leave. **[Approbation]**

## **APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS**

### **2. Resignations of Connétable Alan Simon Crowcroft of St. Helier, Deputy Judith Ann Martin of St. Helier and Mr. Gary Drinkwater from the Public Accounts Committee.**

**The Bailiff:**

I give notice to Members that I have received the resignations of the Connétable of St. Helier, Deputy Martin and Mr. Gary Drinkwater from the Public Accounts Committee.

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

May I say something about Mr. Drinkwater?

**The Bailiff:**

No, I am afraid you may not, Deputy. If there is anything you wish to say, which is relevant to the motion that is coming up later on you will be able to say it then. But at the moment, no.

**Deputy A.D. Lewis:**

It is not the motion, Sir; it is the resignation of Mr. Drinkwater.

**The Bailiff:**

The reason I am not encouraging you to say anything now is that first of all, 2 reasons, that you have stood aside as chairman of the Public Accounts Committee and I think standing aside means it is inappropriate you should say anything at this stage. Secondly, the time for making any tributes to Mr. Drinkwater for the work that he has done may well come at a later stage. We will find some way of doing that.

## **QUESTIONS**

### **3. Written Questions**

#### **3.1 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE RECENTLY ANNOUNCED INCREASE IN THE STATES PENSION: [1(459)]**

##### **Question**

Will the Minister explain why the press release of 31st August 2017, entitled ‘Jersey pensioners to get more money from October 2017’, referred explicitly only to those pensioners in receipt of a full States pension?

Will she also inform members what proportion of locally-resident States pensioners indicated in Figure 7 and Table 8 of ‘Social Security Department: Minister’s Report 2016’ (R.92/2017) are in receipt of a full single-person pension, currently £204.19, and who will therefore benefit from the full increase of 2.8% (i.e. £5.74) referred to in the press release?

Will she further inform members what the average States pension received by local residents is; and whether it is her assessment that those who receive an average pension or less, and who need to claim Income Support, will effectively receive sub-inflation rises after all benefit changes are in place, and will consequently be worse off than at present?

##### **Answer**

The press release of 31st August 2017 accurately explained that

“From 1 October 2017, the Jersey Old Age Pension will increase by 2.8 per cent in line with the increase in the cost of living for pensioners.”

Every pensioner will receive the same percentage increase. The press release then provides two examples – pensioners who have a full rate pension and married couples who receive a full rate pension based on the husband’s record. These are common pension payment amounts for the Social Security Department.

At the end of 2016, just over a quarter of local pensioners were receiving a full rate Old Age Pension. This includes 2,600 pensioners who are claiming a full pension based on their own record and who will be entitled to a full rate single pension of £209.93 from 1/10/2017 and 1,000 pensioner couples who are claiming a full rate married pension based on the husband’s record and who will be entitled to a full rate couple pension of £348.53 from 1/10/2017.

The mean average Old Age Pension amount received by individual pensioners living in Jersey at the end of 2016 was just over £144 a week. Note that this figure averages the amounts received per person, including wives who receive a pension based on their husband’s contribution record and are currently entitled to a maximum pension of £134.82.

Income Support increases in October include:

- increases in rental components for Andium and housing trust tenants to fully match any increase in rental
- increases in private sector rental components and all personal components paid to pensioners of 2.9%.

- an increase in the amount of pension income retained by Income Support pensioners from 23% to 25%<sup>1</sup>.

The net impact of these changes in percentage terms will vary depending on the exact circumstances of each pensioner household.

### **3.2 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE NUMBER OF DEATHS FROM OVERDOSES OR DRUG-RELATED CAUSES: [1(460)]**

#### **Question**

How many clients of the Drug and Alcohol Service have died from overdoses or drug-related causes in the past 5 years, with these figures broken down by age, sex and by year?

#### **Answer**

Information has been collated using available data from completed inquests for drug-related deaths occurring from 01/01/2012 to 31/12/2015, and a comparison made with clients from the Alcohol and Drug Service's electronic records.

A number of inquests for deaths occurring in 2016 and 2017 are not yet complete, with the cause of death not determined. Therefore, these years are not included in this answer.

Over the period 01/01/12 - 31/12/15, 9 individuals – all adults – were known to the Alcohol and Drug Service. Only 5 of these individuals were under the care of the Service at the time of death.

Due to the small numbers involved, we are unable to provide any further breakdown by age, gender or year as this would risk identifying individuals.

### **3.3 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING IMPLEMENTATION OF THE STRATEGIC PLAN: [1(461)]**

#### **Question**

Further to Desired Outcome 5.5 of the ‘Strategic Plan 2015-18’, which refers to the development of a new “*Public Realm Strategy*” for Jersey, will the Chief Minister explain what timetable currently exists for completion of this Strategy?

Furthermore, in light of Desired Outcome 5.11, which refers to an intention to delegate authority to the Parish of St Helier to licence small-scale events within the Parish, what legislative changes, if any, have either been passed or initiated to give the Parish this authority?

#### **Answer**

The development of a Public Realm Strategy is underway, initially focussed on St. Helier as part of the work associated with the Future St. Helier strategic priority. This has involved an audit of the existing open space in the town of St. Helier and the development of a survey to better understand what people think about the provision, quality and accessibility of open space in St. Helier.

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<sup>1</sup> For pensioners receiving income support prior to 1/1/16, a fixed value disregard of £55.31 (£91 for couples) remains available if this is higher than the % disregard.

This survey continues until mid-October –

<https://www.gov.je/Government/Consultations/Pages/StHelierOpenSpaceSurvey.aspx>

The survey findings will be analysed and this information, together with work already undertaken, will inform the development of the strategy. It is anticipated that a draft strategy will be published for consultation during Q1 of 2018, with a view to its adoption as soon as possible after that.

As set out in P.56/2016 changes to the events licensing is not a straightforward matter because of the interface with a number of pieces of legislation including, for example, the Road Works and Events (Jersey) Law 2016, Policing of Beaches (Jersey Regulations) 1959 and the Policing of Parks (Jersey) Regulations 2005). Work is being undertaken to consider a viable and long-term solution for small-scale events and it is hoped that changes will be forthcoming during 2018.

### **3.4 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING LEGISLATION TO ENABLE SAME-SEX MARRIAGES: [1(462)]**

#### **Question**

Given that, in response to Written Question 1(150), the Chief Minister stated that the legislation to enable same-sex marriages to take place would be lodged “*in Summer 2017*”, why has this not happened and will the Chief Minister provide an updated timetable as to when this legislation will be brought to the Assembly for debate?

#### **Answer**

As explained in the answer to Written Question 1(150), law drafting instructions have been issued.

Those instructions provide for significant changes to the Marriage and Civil Status (Jersey) Law 2001 in order to allow for same-sex marriage, open air marriage and more choice over the content of civil marriage ceremonies.

The amended law will also provide improved safeguards against sham and forced marriage, make it easier for residents and visitors to arrange their weddings in Jersey, and make it easier for Jersey residents getting married overseas to prove their civil status.

The extent of these changes has, unfortunately, delayed the lodging of the draft law. I am meeting stakeholders within the next week and will publish a more detailed timetable in due course.

### **3.5 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING COMMUNICATION WITH BENEFIT CLAIMANTS: [1(463)]**

#### **Question**

Is it the Minister’s assessment that the information sent to benefits claimants, when their claim has been amended, is adequate and / or sufficiently compassionate in the way it is currently communicated?

Has she, or anyone in her Department, considered altering the format of the letters in which this information is communicated, so that they clearly indicate exactly how much a claimant will receive in future (including how their States pension or disability benefits are taken into account) and not merely explain Income Support entitlement, to ensure that claimants are not left with an incomplete picture that could cause them concern?

## **Answer**

The Department takes pride in maintaining high customer service standards and aims to ensure that face to face, telephone and written communications are always clear and appropriate to the claimant's personal situation.

In very rare cases we fall below these high standards. When this happens we contact the customer immediately and make sure that they are given the correct information and fully understand their benefit situation.

In line with our [2017 business plan](#) commitment for 2017 to “*Continue the implementation of our customer service excellence and improved communications programme;*” we are currently reviewing and updating all of our standard letters and are confident that this is already helping to improve understanding of the services and benefits offered by Social Security.

### **3.6 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING MEASURES TO INCREASE PUBLIC PARTICIPATION IN ELECTIONS FOR PARISH ROLES: [1(464)]**

#### **Question**

What consideration, if any, has been given to measures to increase public participation in elections for Parish roles, such as Procureur du Bien Public and membership of the Roads Committee? Has any consideration been given to arranging for all elections to Parish Roads Committees and to the office of Procureur to happen simultaneously, so that an Island-wide focus on Parish affairs can take place and joint efforts between Parishes made to generate interest and to increase turn out?

## **Answer**

The election process for the Procureur du Bien Public was changed four years ago when the States approved the Procureurs du Bien Public (Terms of Election) (Jersey) Law 2013. The report to the draft law (P.45/2013<sup>2</sup>) explained that the aim of the legislation was to re-organise the law relating to electing *Procureurs du Bien Public* and to put an end to problems arising from their elections occurring at random.

The Law provides for a public election for one *Procureur du Bien Public* in every Parish at intervals of 18 months, the *Procureur* thus elected to hold office for a term of 3 years. Further, the election dates for the *Procureurs du Bien Public* now fall on the same day (2nd Wednesday of the month) as those of Centeniers in March and September.

This has the advantage that each Parish holds the nomination meetings on the same evening for both Centenier and *Procureur du Bien Public*. Whilst the actual nomination meeting dates vary across the 12 parishes, a single Jersey Gazette notice is published thus giving greater emphasis to the forthcoming elections to generate interest within each parish.

The election of the Procureur du Bien Public is also held in accordance with the Public Elections (Jersey) Law 2002. The process was amended in 2003 following the report of the Report of the

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<sup>2</sup> <http://www.statesassembly.gov.je/assemblypropositions/2013/p.045-2013.pdf>

Working Party on Parish Assemblies (R.C.38/2001<sup>3</sup>) which recommended that elections for the Office of *Procureur du Bien Public* be governed by the Public Elections Law rather than be held at a Parish Assembly to ensure that the mandate of the *Procureur* should be seen to be the widest possible of the electorate within the Parish, thus enhancing the status of the office as befitted the nature and responsibilities of that office.

Members of the Roads Committee are elected at a Parish Assembly. The election process is set out in the Loi (1914) sur la Voirie<sup>4</sup> which says (in translation<sup>5</sup>)

*The said Principals (members of the Roads Committee) and the said Inspectors shall be chosen for a term of 3 years by an Assembly of the Principals and Officers of their respective parishes, convened for that purpose during the month of December, and they shall commence their duties on 1<sup>st</sup> January thereafter.*

The elections are therefore already in the same month every 3 years although the date of the Parish Assembly is likely to vary from parish to parish. The Comité has not, to date, considered an Island-wide focus on these elections.

### **3.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE GENERATION OF ECONOMIC GROWTH: [1(465)]**

#### **Question**

Is it the Chief Minister's assessment that public spending cuts suppress demand within the economy and that, for a genuine sustainable recovery from the 2008 financial crisis to be achieved, such demand has to be boosted?

Is it also his assessment that the policies followed by his government have not achieved their goals of generating economic growth through increased productivity, and balancing tax revenues and spending?

What lessons, if any, has the Chief Minister drawn from the experience of Portugal, where the economy is now in recovery following a restoration of public sector pay, increases in the minimum wage, increasing social security benefits, and a reversal of regressive tax measures?

#### **Answer**

The Council of Ministers' approach since the onset of the global financial crisis in 2008 has been to support the economy in a way that will help mitigate some of the impacts on the local economy but also that is sustainable and does not weaken the underlying structural position of government finances. We have followed the advice of the Fiscal Policy Panel (FPP) initially using the Stabilisation Fund to support projects that were timely, targeted and temporary. In subsequent years a large public sector capital expenditure programme has also added significant support to the economy.

We continue to ensure that the government adds support to the economy and we remain committed to following the FPP's advice in their August letter to the Treasury and Resources Minister, which stated that "While it is still appropriate to support the economy in the short term,

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<sup>3</sup> <http://www.statesassembly.gov.je/assemblyreports/2001/20964-36802.pdf>

<sup>4</sup> <https://www.jerseylaw.je/laws/revised/Pages/25.950.aspx>

<sup>5</sup> <https://www.jerseylaw.je/laws/translated/Pages/25.950.aspx>

attention must remain firmly on putting in place measures that contribute to balancing the budget”.

Our aim on productivity is to raise the underlying rate of productivity growth through the measures set out in the Strategic Plan and MTFP Addition. This is a difficult challenge which many other governments also face, but it is too soon to judge the impact of the policies we are implementing.

Portugal’s experience since the global financial crisis has been interesting. After receiving a bailout from the EU and IMF the economy has shown signs of improvement. In their June 2017 assessment of the Portuguese economy the OECD highlighted that a wide range of structural reforms, backed by accommodative monetary policy and the low oil price, have helped to support growth, boost competitiveness and increase exports. They point out that the outlook is now becoming more challenging and vulnerabilities are rising. With respect to the fiscal position in Portugal the OECD state Portugal has made strong progress in reducing public deficits since 2010, when the deficit peaked at 11.2% of GDP.

The OECD also consider the fiscal stance to be broadly neutral in 2016 and 2017, which is appropriate given the still fragile economic recovery. They conclude that “fiscal policy is in a difficult spot” as putting off fiscal consolidation to support growth implies risks as fiscal sustainability remains weak with public debt of 129% of GDP in 2015.

### **3.8 DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE COMMITTEE’S PLANS TO ADDRESS UNDER-REPRESENTATION IN CERTAIN PARISHES: [1(466)]**

#### **Question**

What plans, if any, does the Privileges and Procedures Committee have to address any under-representation of constituents in Parishes such as St. Helier, St. Clement and Grouville? Is it the Committee’s assessment that such disparities are unacceptable and will the Committee be lodging any proposals to address any unfairness before the elections in May 2018?

#### **Answer**

PPC’s work since 2015 to identify a way of reforming the composition of the States Assembly to provide for a fairer distribution of voters between electoral districts which would command a consensus in the Assembly is set out in its comments to the proposition entitled ‘Composition and Election of the States Assembly’ (P.133/2016) lodged by Deputy Andrew Lewis. Although the Assembly adopted the proposition, as amended, the Assembly did not adopt the law changes necessary to bring the new electoral arrangements into force in time for the next election. The Council of Europe Venice Commission’s Code of Good Practice in Electoral Matters advises that the “*fundamental elements of electoral law ... should not be open to amendment less than one year before an election*”. Consequently, the Committee has no plans to bring forward any further proposals for reform ahead of the election.

### **3.9 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE PROSPECT OF INTRODUCING SHARED PATERNITY LEAVE: [1(467)]**

#### **Question**

In light of the work being undertaken on the 1,001 Days Initiative and the importance of paternal input, where possible, to a child's development, what plans, if any, does the Minister have to introduce shared paternity leave for both parents, irrespective of their sex?

### **Answer**

The Minister has already directed the Employment Forum to consult on whether the family friendly rights provided in the Employment (Jersey) Law 2003 should be extended to provide a right for periods of maternity, parental or adoption leave to be shared by two parents, irrespective of gender.

The Forum conducted an extensive public consultation earlier this year and will present its recommendation to the Minister by the end of December 2017. The Minister will review the Forum's decisions and will reach a decision on whether to introduce shared parental leave in January 2018.

The provision of gender neutral parental benefits will also be discussed in the next stage of the Social Security Review public consultation, which is planned for launch in the next few weeks.

### **3.10 THE DEPUTY OF ST. OUEN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING ASSESSMENT PROCESSES AND INTERVENTION THRESHOLDS IN RESPECT OF CHILDREN IN CARE: [1(468)]**

#### **Question**

With reference to the finding at paragraph 3.19 of the Executive Summary of the Report of the Independent Jersey Care Inquiry (R.59/2017) that "*there has been insufficient clarity about assessment or thresholds for intervention with the result that some children may still come into care unnecessarily and others may remain in harmful environments*", what actions, if any, has the Minister taken following the release of the report to improve the clarity surrounding assessment processes and to establish clear thresholds for intervention? What further actions, if any, will the Minister be taking in these areas and within what timescale?

### **Answer**

Final evidence was submitted to the Jersey Care Inquiry in the spring of 2016. The previous interim Director of Children's Services (J Olsson) gave evidence based on her assessment of the Service up to the point when she left the States of Jersey in August 2015. Ms Olsson was not in a position to comment on the Service beyond that date. Some of the improvements that have taken place over the last two years are summarised in this response.

In August 2016, services working with children in Jersey adopted the *Continuum of Need Guidance* (multi-agency) which replaced the previous *children's threshold guidance*. This guidance has been endorsed after consultation by the Safeguarding Partnership Board and is the guidance used by all agencies when determining the threshold for levels of intervention, from universal services through to statutory intervention from children's social work services ie this guidance helps bring a consistency of approach to determining the right level of support for a child and identifies the appropriate supporting agency or organisation.

<https://safeguarding.je/wp-content/uploads/2016/08/Continuum-of-Need.pdf>

The framework provides all agencies with clear direction in terms of what to do and how to respond if a family appears to be in need of extra help and support. The guidance gives indicators and examples of levels of need across the continuum.

In relation to thresholds for care proceedings, there is currently a *Pre-proceedings Process* in place (similar to the Public Law Order process in England) which seeks to agree the facts of the case with parents/carers in advance of an application for a care order. This process can minimise delay and reduce drag and trauma of protracted adversarial legal proceedings. Legal planning meetings are in place chaired by the Children's Social Work Head of Service and attended by staff from children's social work and the Law Officers' Department. These meetings take place when the service is considering an application for legal measures (applying for a care order), with the meeting focussing on concerns about a child's circumstances, thresholds for intervention, legal options and evidence available. The meetings are convened at short notice (often the same day) to ensure there is no delay in applying to the court. The Head of Service is involved to ensure sufficient management oversight of a child's situation.

These developments have led to improvements in the identification and response to children who may be in need or at risk, as well as closer working relationships with children's social work and the law officers with increased positive feedback on the quality of evidence presented from the court, partner agencies, advocates and guardians. The issue of appropriate legislation is currently being considered by the Community and Constitutional Affairs Department and the Law Officers' Department and will be part of the developments that are being discussed and implemented in response to the Care Inquiry Report.

The Multi-Agency Safeguarding Hub (MASH) provides a shared information gathering and analysis and decision-making point for children who require support. The service reprioritised resources earlier this year to meet the increasing demand for children's social work; this was to ensure the circumstances of children who may have been in need or at risk would be assessed by an appropriate professional without delay.

Jersey has not had early help provision until recently. This has had an impact on statutory services and sometimes on children and families themselves as children have come into statutory services who should have had a more preventative approach to the support. This is a growing area in Jersey with an initial pilot led by an early help co-ordinator and support offered in a 'team around the child' model. This has now received increased resources and a number of family support workers have been employed to develop the service. This should be an increasing area of development. The governance of early help support is currently through the Safeguarding Partnership Board.

The Jersey Practice Model is currently in the development and implementation stage. It is a multi-agency framework to work with children who may need support. Agencies have developed and planned the implementation of a model of working to support the child, young person and their family – from universal services through to statutory intervention. Practice guidance and documents have been developed that can be used at any point of intervention throughout the child/young person's involvement with services. The model will support the early intervention of agencies and help to identify the appropriate service for the child and young person whilst driving consistency in the gathering and sharing of information that may be crucial to planning next steps and providing the appropriate intervention to support and empower the family.

A number of permanent staff have been recruited to key positions within children's social work. This has brought stability and experienced management and leadership to the service. This includes a Director of Children's Social Work and Heads of Children's Safeguarding and

Looked After Children. Experienced officers are filling the other two Heads of Children's Services roles on an interim basis. These staff have considerable professional experience in senior roles in other jurisdictions. However, recruitment across the full range of professional roles in children's social care remains a significant challenge. The department continues to pursue various approaches to deal with this issue.

The Service has not waited for the Jersey Care Inquiry to report before initiating improvements, although there remains more to do. The Service is reporting to the Improvement Board chaired by the Chief Minister and there is also an Inquiry Response Group that is planning and responding to the recommendations of the Jersey Care Inquiry report.

**3.11 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROFIT ARISING FROM THE COMPLETION OF THE FIRST BUILDING OF THE JERSEY INTERNATIONAL FINANCE CENTRE: [1(469)]**

**Question**

Further to his advice at a public hearing of the Corporate Services Scrutiny Panel in November 2015 that the profit arising on the completion of the first building (originally named Building 4) of the Jersey International Finance Centre was estimated by the States of Jersey Development Company as £7.5 million, and given that Building 4 was officially completed in March 2017, will the Minister confirm that this profit was achieved and, if not, what profit was in fact achieved?

Will the Minister further confirm the amount of profit after taking into account any other costs directly associated with Building 4, including the removal of contamination and incentives offered for the part-let?

**Answer**

Whilst the first building in the International Finance Centre - IFC 1 (formerly named Building 4) is physically complete, it is not yet fully let and has not been sold. Ultimately, it is only once the asset is sold that the value will be crystallised and the profit fixed.

The calculation of profit is made after all costs including contamination costs and the costs of commercial incentives provided to tenants.

IFC 1 is currently 70% let with a further 18% in legal hands. It is fully anticipated that the building will deliver a return in excess of £7.5m.

**3.12 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROSPECTIVE PAYMENT OF £50 MILLION TO THE STATES FOR THE REGENERATION OF ST. HELIER: [1(470)]**

**Question**

Given that, with the adoption of 'Esplanade Quarter, St. Helier – Masterplan' (P.60/2008), the States approved a guaranteed payment to the States of £50 million for the regeneration of St. Helier and adjacent urban areas, and in light of the fact that the proposition has not since been amended in any way, will the Minister advise:

- (a) in which year this sum will become available to be spent on such regeneration; and

- (b) on what the Council of Ministers, under their strategic objectives, then intends to spend these funds?

**Answer**

- (a) Proposition P.60/2008 asked the States Assembly to, inter alia, “endorse the intention of the Minister for Planning and Environment to adopt the Masterplan for the Esplanade Quarter as an agreed development framework for the Esplanade Quarter.”

The Masterplan referred to the proposed payments to be made by the third-party developer at that time. However, it has been publicly disclosed that the proposed third-party developer could not complete the transaction and in July 2009 the then Waterfront Enterprise Board Limited terminated the Heads of Terms with the developer.

The States in adopting P.73/2010 agreed the establishment of the States of Jersey Development Company Limited (SoJDC). An objective of SoJDC as stated in P.73/2010 is:-

“To promote, co-ordinate and implement a comprehensive strategy for the development of the whole of the St. Helier Waterfront area [.....] in accordance with approved Masterplan(s) and Development Brief(s) and other relevant guidance prepared by the Minister for Planning and Environment and, where expedient, to undertake development directly.”

P.73/2010 sets out various risk mitigation measures for SoJDC to implement when undertaking direct development. The delivery of the Esplanade Quarter development is therefore demand led.

The Masterplan contains a number of significant and costly public infrastructure elements to be funded by SoJDC as part of its delivery of the overall Esplanade Quarter project.

SoJDC has publicly reported that profits from the development of the Esplanade Quarter can only be paid out as dividends after all the public infrastructure associated with the development has been delivered. SoJDC has stated that the forecast £50m residual return from the entire Esplanade Quarter development will be available in around 15 to 20 years’ time (on completion of the entire development).

- (b) The Minister for Treasury and Resources has committed that the net receipts from the Esplanade Quarter will be ring-fenced and made available for the regeneration of other parts of St. Helier, which is in itself a Strategic Objective.

It is anticipated that the Regeneration Steering Group (comprising the Chief Minister, Minister for Treasury and Resources, Minister for Infrastructure, Minister for Economic Development and the Constable of St. Helier) and the Future St. Helier Group will agree upon a prioritised list of regeneration projects within St. Helier for the funds to be allocated.

**3.13 THE CONNÉTABLE OF ST. HELIER OF THE MINISTER FOR INFRASTRUCTURE REGARDING IMPROVEMENT WORKS IN MIDVALE ROAD: [1(471)]**

## **Question**

Will the Minister provide a detailed timetable for the proposed improvement works in Midvale Road, St. Helier?

## **Answer**

As discussed with the Connétable on a number of occasions, the last time being 7th August 2017, only an outline programme exists at this time.

That is to start preparing stakeholder engagement materials during the remainder of this year, with a view to holding a stakeholder engagement in early 2018, with an intention to start implementation during the latter half of 2018 – subject to any necessary planning permissions or streetwork co-ordination restraints.

As I have already advise the Connétable, as soon as detailed information becomes available, I will be happy share with the Connétable. As with all our works in St Helier, DfI Officers will continue to coordinate closely with their Parish of St Helier colleagues in the development of the scheme.

## **3.14 THE CONNÉTABLE OF ST. HELIER OF THE MINISTER FOR INFRASTRUCTURE REGARDING LEGISLATION CONCERNING DRIVING WHILST USING A MOBILE PHONE: [1(472)]**

### **Question**

Will the Minister provide an update on his Department's review of the legislation concerning driving while using a mobile phone?

### **Answer**

Article 50 of the Road Traffic Law makes it an offence for any person who is driving a vehicle on a road to hold a telephone in any way while the vehicle is in motion.

#### *“50      Restrictions on holding telephones*

*(1)      If any person who is driving a vehicle on a road holds a telephone in any way while the vehicle is in motion, he or she shall be guilty of an offence under this Article.*

*(2)      A person guilty of an offence under this Article shall be liable to a fine not exceeding level 2 on the standard scale”.*

The level 2 (£1,000) fine is simply for holding a phone whilst the vehicle is in motion. If any further offences are caused as a result of this, the penalty may increase as appropriate. The fine for the offence in itself is already a substantial deterrent.

In terms of enforcement, the Minister for Home Affairs has recently responded recently to questions about this<sup>6</sup>. The authorities will pursue prosecutions against any individual caught holding a telephone while their vehicle is in motion – DfI are informed this is not a matter for which words of advice might routinely be given. Recent figures have shown that 218 drivers have been reported for prosecution for this offence in the first six months of 2017. This is nearly equal to the annual figures for 2014, 15 and 16.

Similar to drink driving, this issue requires a culture change as much as legislation and enforcement. The Police ran a road safety campaign in March of this year, which focused on mobile phone use and will run a similar campaign later in the year.

The Jersey Road Safety Action Plan 2017-2019 included an action to develop legislation to enable a penalty points system with lower tolerance for novice drivers and threat of disqualification for repeat offenders, to be in effect by 2019. The intention is that Mobile Phone use will attract a higher level of 6 penalty points, leading to instant disqualification for novice drivers, compared to 3 points for other offences.

The Police are giving significant focus to this issue, and we should work to ensure the culture in Jersey is totally against the use of mobile phones when driving – if we have success in this regard it may negate the need for any further law amendments.

Whether further changes to legislation are required, can be discussed at the next Road Safety Action Plan meeting to be held later this year, in the light of all the available evidence.

### **3.15 THE CONNÉTABLE OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PAYMENT OF RATES ON STATES PROPERTIES: [1(473)]**

#### **Question**

Will the Minister explain what progress, if any, he has made in achieving the payment of rates on States properties in 2018?

#### **Answer**

The Treasury has been working with the Law Draftsman in order to prepare amendments to the Rates (Jersey) Law 2005 (“the Rates Law”) to remove the exemption from paying Parish rates that the States currently enjoys in respect of public buildings.

This law drafting exercise is nearing completion and, consistent with the requirement placed on the Minister for Treasury and Resources by the States in P.12/2017<sup>7</sup>, the Minister has requested to attend the meeting of the Comité of Connétables, due to be held on Monday 18 September 2017, in order to consult with the Connétables on the proposed amendments to the Rates Law.

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[http://www.statesassembly.gov.je/assemblyquestions/2017/\(454\)%20con%20st.%20helier%20to%20haf%20re%20aws%20to%20prevent%20mobile%20phone%20use%20whilst%20driving.pdf](http://www.statesassembly.gov.je/assemblyquestions/2017/(454)%20con%20st.%20helier%20to%20haf%20re%20aws%20to%20prevent%20mobile%20phone%20use%20whilst%20driving.pdf)

<sup>7</sup> <http://www.statesassembly.gov.je/assemblypropositions/2017/p.12-2017.pdf>

### **3.16 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE CHIEF MINISTER'S RESPONSE TO 'RAISING THE MINIMUM WAGE: ECONOMIC AND FISCAL IMPACTS' (R.83/2017): [1(474)]**

#### **Question**

Given that the estimates of the impact of a significant rise in the minimum wage on the Jersey economy contained in the Oxera report R.83/2017 'Raising the minimum wage: economic and fiscal impacts', are largely positive, including, in relation to a 10% increase in the minimum wage –

- a rise in wages for almost 25% of the workforce, totalling approximately £2.9m (*see page 28*)
- an increase in consumer spending of £2.4m (*see page 28*)
- a fall in economy-wide profits of 0.03–0.07% (*see page 28*)
- an increase in inflation of only 0.05–0.06% (*see page 28*)
- a likely 0.1% increase in economy-wide productivity (*see page 28*)
- a net increase in government revenues of £0.3m (*see page 26*)
- a relatively small number of net job losses (*see page 19*)

what actions, if any, does the Chief Minister have under consideration in response to the report, with regard to the aforementioned estimates, and when will he bring any proposals to the States for consideration?

#### **Answer**

The Oxera Report R.83/2017 made it clear that a significantly higher minimum wage could bring both positive and negative consequences. It found that nearly one quarter of employees – 14,800 employees at the lower end of the earnings distribution - would benefit, and there could potentially be higher consumer spending, but it also warned of the potential for some job losses and lower incomes for some.

On balance, however, the report showed that many employees could benefit from higher earnings with limited employment and economic impact, and that the States' aspiration to achieve a minimum wage of 45% of earnings by 2026 is too slow. For this reason, the intention is to accelerate the timetable to deliver this change by 2020. A proposition is being prepared to achieve this, with a debate to take place after the Forum has made its 2018 recommendation.

In doing this we need to be particularly mindful of the effects on individual businesses with a large number of lower paid workers, including those in the agriculture, hospitality, and care industries. I have asked other Ministers to consider how we can help businesses to improve their productivity.

In the meantime, the Social Security Minister has asked the Employment Forum to take this report into account as part of its minimum wage review. The Forum's recommendation on the 2018 minimum wage is due later this month.

### **3.17 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR THE ENVIRONMENT REGARDING AIR QUALITY IN THE TUNNEL: [1(475)]**

#### **Question**

Further to recent testing of air quality in the Tunnel, what plans, if any, does the Minister have to restrict access by pedestrians and cyclists? If none, what steps will the Minister take to ensure the long term safety of users from repeated exposure to harmful emissions?

### **Answer**

While the recent air quality tests in Jersey's tunnel confirm the air quality during peak times is poor, I have no plans to explore restricting access to the tunnel by pedestrians, cyclists or motorists. At this time, I believe it is for the public to decide if they wish to use the tunnel or use an alternative route that has lower levels of pollution. To reduce exposure to poor air quality for people using the tunnel, my Environmental Health team advises:

- drivers should close their windows and switch off air vents;
- when stationary, drivers should switch off engines;
- cyclists and pedestrians should minimise the time they spend in the tunnel.

My Department is working with the Department for Infrastructure in reviewing the signage at the tunnel for drivers, cyclists and pedestrians.

More specialist air quality monitoring of vehicle emissions is scheduled for this year, including a near real-time air quality monitoring system, and this data will inform future evidence based policy decisions.

Air quality in the tunnel is largely determined by the volume of traffic using it, although wind direction and wind speed plays a small part. With Officers and colleagues, I will be exploring ways to reduce vehicle emissions to benefit the air quality across the island through such mechanisms as Vehicle Emissions Duty.

I take air quality matters very seriously and it is important to remember that air quality across the island is generally very good.

### **3.18 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE USE OF ZERO-HOUR CONTRACTS: [1(476)]**

#### **Question**

Has the Minister read the results of the five-year study by Manchester University published on 10th August 2017 in the International Journal of Epidemiology entitled '[Re-employment, job quality, health and allostatic load biomarkers: prospective evidence from the UK Household Longitudinal Study](#)', which finds that the transition to poor quality jobs may be worse for a person's mental health than remaining unemployed? If not, will she undertake to read the study?

Will she engage with the Minister for Health and Social Services to discover what evidence GPs and other mental health professionals have on the validity of the study's findings in the local context, with particular regard to the prevalence of zero-hour contracts?

What further engagement, if any, will the Minister undertake with employers to ensure that the inappropriate use of zero-hour contracts is eliminated?

Will the Minister ban the publication of zero-hour job adverts on the Social Security website and, if not, will she put procedures in place to vet such adverts to ensure that zero-hour contracts are not being used inappropriately?

**Answer**

Officers of the Social Security Department have read the study and I am aware of the results. The study does not present simple conclusions, and in particular does not make any reference to zero hour contract jobs.

The study examines the association of job transition with health and chronic stress related biomarkers, focussing on the extent to which people transitioning to jobs it defines as “poor quality” do or do not see improvements in these underlying biomarkers. The authors are careful to point out that it is an observational study, so it is not possible to make any causal claims. There is considerable evidence that work is good for a person’s physical and mental health, and the study acknowledges this, but seeks to explore whether a transition from unemployment to “poor quality” work may be shown to have a possible long term negative or mixed effect on health. The study does not focus on mental health, but primarily uses a series of established physical biomarkers such as weight and cholesterol as a proxy for possible longer term health outcomes.

To reach a broad definition of “low quality” work, the researchers looked at multiple criteria based on three dimensions of job quality: earnings quality, labour market security and quality of the working environment. In Jersey, these factors may be more or less present in different types of employment, and are neither restricted to nor excluded from zero-hours contract work.

There is no justification at this stage to engage with the Minister for Health and Social Services and divert officers away from their current work in order to seek to validate the results of a medically technical UK-based study within Jersey’s job market. What we will do is ensure that Jersey’s health system and benefit system continue to work together to support Islanders in finding and maintaining good quality employment, and supporting them in periods where they are unable to work.

Social Security’s Back to Work programme remains committed to supporting jobseekers into sustainable employment. This would always aspire towards work that offers good earnings to help a household move towards financial independence, good job security and a good quality working environment. For many jobseekers, particularly the long-term unemployed, taking up the offer of a zero hours or temporary job is a positive first step into employment. Even a temporary job helps a person build up their skills and experience, gain confidence, and improve their overall employability. This increases their chances of securing permanent, good quality work in the future.

Back to Work Advisor support does not stop once someone secures paid work – in-work support is offered and plays a key part in helping people stay in work, but also gives the opportunity for any concerns to be raised and addressed. This support continues for the first six months after securing work, and if an individual is in a temporary role, it would include support for looking for a more permanent opportunity they can transition into, using the skills they have learnt in their current role to support applications. We also support individuals already in work who want help with applications to roles with better pay and conditions.

With specific reference to zero hours contacts, JACS continues to provide guidance and advice to businesses and individuals, seeking to ensure that both parties understand the nature of a zero

hours relationship, including when they are and are not appropriate, the advantages and the disadvantages, as well as providing template zero hours contracts. Unlike in the UK, those working under zero hour contracts in Jersey are likely to be classed as employees and therefore will receive the same protection under the Employment (Jersey) Law 2003 as all other employees. The Minister has already committed to ask the Employment Forum to look at zero-hour contracts after the current family friendly review.

Jobs in Jersey is a part of the gov.je website that provides an easy way for employers to advertise roles to the public free of charge – in many cases the employer does not specify details about the role they are advertising such as salary or contract type. In some cases this may be because the employer has not yet made decisions about the specifics of a role, in other cases it may be that they do not want to share this on a public website. If Social Security were to require employers to give all information about every role in order to use the website for advertising, it could have a negative impact with fewer jobs being advertised through this useful mechanism. For this reason Social Security will not change the current way the system is used and recorded.

### **3.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE PROCEDURES FOR DEALING WITH ILLEGAL IMMIGRATION AND POLITICAL ASYLUM: [1(477)]**

#### **Question**

Will the Minister advise members –

- (a) of the procedure for dealing with cases of illegal immigration;
- (b) of the procedure followed to assess claims for political asylum;
- (c) whether there is a process for returning an illegal immigrant to the UK if they arrived in the Island from there?

#### **Answer**

- (a) There are detailed procedures for dealing with persons found to be in breach of certain sections of the Immigration Act 1971, as extended by the Immigration (Jersey) Order 1993, which may result in a person becoming liable to removal.

These include people who:

- require leave to enter or remain in Jersey but do not have it (such as overstayers, illegal entrants and those refused leave at a port of entry);
- are found to be breaching a restriction or condition of their visa to enter or remain in Jersey;
- seek or obtain leave by deception;
- are family members of a person being removed.

- (b) The Lieutenant-Governor of Jersey, in exercise of powers conferred upon him by the Immigration Act 1971, as extended by the Immigration (Jersey) Order 1993, has directed that the practice to be followed in the administration of the Immigration Acts for regulating entry into and stay of persons in Jersey are set out in a document referred to as the Jersey Immigration Rules. Within these Rules are provisions which provide a comprehensive framework for assessing and determining claims for asylum in Jersey.

Note: Members will recall that, on 21st June 2017, the Assembly agreed to transfer the Lieutenant Governor's functions and powers under the Immigration Acts (as extended to Jersey) to the Minister for Home Affairs. At the time of writing, the Order in Council to enact this change has not yet been made or registered in the Royal Court. It is expected that the change will come into effect before the end of the year.

- (c) Persons encountered at a port of entry having arrived from the UK and where their presence is considered unlawful in accordance with Schedule 4 Paragraph 4 of the Immigration Act 1971, as extended by the Immigration (Jersey) Order 1993, may be refused entry and detained pending their removal to back the UK.

### **3.20 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE REPATRIATION OF PRISONERS: [1(478)]**

#### **Question**

Will the Minister –

- (a) produce a table showing, for each convicted prisoner currently in custody, the nature of each offence committed, the sentence imposed, the time left to serve, any treatment or course that they are receiving to help prevent re-offending, and their nationality;
- (b) state the number of prisoners who have been repatriated to their home countries to serve out their terms of imprisonment, in each year since the repatriation agreement with the respective jurisdiction was made, stating the countries in question and the nature of the offences committed?

#### **Answer**

I am grateful for the opportunity to comment on the range of opportunities available to prisoners which aim to assist them to lead law abiding lives on their release from prison. The attached table provides the information requested although, it should be noted, does not include education and vocational training. While the activities included in the table are not specifically designed to address offending behaviour, and would not be formally described as 'treatment', they are a hugely significant part of the rehabilitation programme.

Raising an individual's self-confidence and /or self-esteem, and providing them with a range of new skills to offer a potential employer will improve their chances of finding work and in the majority of cases that makes it less likely that they will re-offend.

It should be noted that prisoners generally engage in the offending behaviour programmes near the end of their sentence so prisoners who have been involved earlier in the year are likely to have been released. Consequently, a snapshot of the population on a given day may not give a very accurate reflection of prisoner engagement in such activities.

With regard to repatriations, please refer to the table below.

Year Repatriated	Nationality	Offence
2013	Polish but gained Dutch citizenship and transferred to Holland	Drug trafficking
2013	Polish	Drug trafficking
2015	Portuguese	Drug trafficking
2015	Portuguese	Drug trafficking
2015	Portuguese	Attempted murder
2016	Portuguese	Drug trafficking
2017	French	Drug trafficking
2017	French	Drug trafficking

ID	Reception Date	EDR	Country of Origin	Offence Category	Sentence (No. of Days)	ASRO-S	BBR	THINKING SKILLS PROGRAMME	ALCOHOL STUDY GROUP	ONE TO ONE		
000001	21/05/2009	20/05/2019	United Kingdom	Sexual Offences	5479							
000002	14/04/2010	12/04/2018	United Kingdom	Sexual Offences	4383			Yes		Sexual offending		
000003	27/02/2014	26/02/2018	Portugal	Sexual Offences	2191		Offered and declined	Offered and declined				
000004	05/03/2014	03/11/2017	Jersey	Break In Offences	2010			Offered and declined		Addressing risk factors from a range of types of offending		
000005	29/11/2014	31/07/2019	Portugal	Sexual Offences	2557							
000006	03/12/2014	02/12/2017	Jersey	Threat and Violence Offences	1643			Offered and declined		Drug related		
000007	09/02/2015	08/10/2019	United Kingdom	Drug Offences	2557			Offered and declined				
000008	02/03/2015	13/06/2018	Portugal	Sexual Offences	1826							

000009	20/03/2015	15/11/2017	Jersey	Break In Offences	1461			Offered and declined		Emotional coping skills			
000010	24/03/2015	23/03/2018	United Kingdom	Sexual Offences	1645		Yes	Offered and declined		Sexual offending			
000011	04/04/2015	26/04/2019	Portugal	Threat and Violence Offences	2222			Yes					
000012	24/04/2015	24/02/2018	Jersey	Sexual Offences	1642								
000013	30/04/2015	29/04/2018	Jersey	Threat and Violence Offences	1644					Coping skills and victim empathy			
000014	07/05/2015	06/05/2019	Portugal	Sexual Offences	2192								
000015	15/05/2015	14/05/2018	Portugal	Sexual Offences	1645					Sexual offending			
000016	19/06/2015	18/10/2019	France	Drug Offences	2375								
000017	19/06/2015	17/02/2019	France	Drug Offences	2010								
000018	23/06/2015	22/10/2017	Portugal	Threat and Violence Offences	1279								

000019	29/06/2015	28/06/2018	Portugal	Drug Offences	1644								
000020	25/09/2015	24/01/2019	Egypt	Sexual Offences	1827					Sexual offending			
000021	10/10/2015	11/10/2019	United Kingdom	Drug Offences	2192			Yes					
000022	27/11/2015	26/03/2019	Ireland	Sexual Offences	1827								
000023	30/11/2015	29/11/2017	Jersey	Threat and Violence Offences	1096			Yes	Yes	Violence / substance misuse			
000024	21/12/2015	20/04/2018	Portugal	Drug Offences	1278	Yes							
000025	24/12/2015	16/11/2019	United Kingdom	Drug Offences	2010								
000026	25/12/2015	26/12/2020	Poland	Drug Offences	2739								
000027	15/01/2016	14/05/2019	United Kingdom	Drug Offences	1827			Yes	Yes				
000028	16/01/2016	17/05/2019	United Kingdom	Drug Offences	1827			Yes					
000029	17/01/2016	17/07/2018	Poland	Drug Offences	1369			Yes					
000030	23/01/2016	24/09/2021	Jersey	Sexual	3104			Yes					

				Offences								
000031	09/02/2016	18/09/2017	Portugal	Threat and Violence Offences	881			Yes		Aggression		
000032	20/02/2016	21/06/2021	United Kingdom	Drug Offences	2922							
000033	20/02/2016	21/10/2018	United Kingdom	Drug Offences	1461		Offered and declined					
000034	20/02/2016	10/01/2021	United Kingdom	Drug Offences	2677							
000035	13/03/2016	09/09/2017	United Kingdom	Threat and Violence Offences	546	Yes						
000036	24/08/2016	09/08/2019	Jersey	Threat and Violence Offences	1734			Yes				
000037	28/03/2016	27/03/2018	United Kingdom	Drug Offences	1095							
000038	01/04/2016	31/03/2020	Jersey	Drug Offences	2191							
000039	20/04/2016	19/08/2019	Bangladesh	Threat and Violence	1826					Aggression		

				Offences								
000040	27/04/2016	16/11/2019	United Kingdom	Sexual Offences	1948							
000041	30/04/2016	10/04/2019	Portugal	Sexual Offences	1461							
000042	01/05/2016	29/09/2018	Jersey	Threat and Violence Offences	1461							
000043	16/05/2016	06/10/2017	United Kingdom	Fraud Offences	638							
000044	16/05/2016	06/12/2017	United Kingdom	Fraud Offences	730							
000045	27/05/2016	25/01/2023	Venezuela	Sexual Offences	3652							
000046	27/05/2016	26/05/2018	Jersey	Sexual Offences	1095							
000047	01/06/2016	10/09/2018	United Kingdom	Drug Offences	1248							
000048	25/06/2016	25/02/2019	United Kingdom	Drug Offences	1461					Drug related		
000049	04/07/2016	13/04/2018	Portugal	Sexual	973							

				Offences								
000050	08/07/2016	07/11/2018	Portugal	Drug Offences	1279	Offered and declined	Offered and declined					
000051	22/08/2016	21/10/2017	Romania	Drug Offences	638							
000052	30/08/2016	29/12/2017	Poland	Threat and Violence Offences	730					Domestic violence		
000053	23/09/2016	22/01/2020	United Kingdom	Drug Offences	1826	Yes				Substance misuse		
000054	25/09/2016	25/01/2026	United Kingdom	Drug Offences	5113							
000055	06/10/2016	05/06/2019	Portugal	Sexual Offences	1461							
000056	07/10/2016	27/11/2017	Jersey	Threat and Violence Offences	638		Offered and declined					
000057	29/10/2016	30/10/2017	United Kingdom	Miscellaneous Offences	547							
000058	16/11/2016	16/03/2018	Jersey	Threat and Violence Offences	730			Offered and declined				

000059	25/11/2016	24/07/2020	United Kingdom	Sexual Offences	2007								
000060	26/11/2016	27/05/2019	United Kingdom	Fraud Offences	1369								
000061	26/11/2016	27/07/2019	United Kingdom	Fraud Offences	1461						Substance misuse		
000062	26/11/2016	27/03/2019	Jersey	Drug Offences	1277								
000063	12/12/2016	11/12/2020	Portugal	Drug Offences	2191								
000064	16/12/2016	15/12/2020	United Kingdom	Drug Offences	2191								
000065	22/12/2016	21/12/2017	Jersey	Sexual Offences	547						Sexual offending		
000066	11/01/2017	10/09/2019	Poland	Threat and Violence Offences	1461								
000067	15/01/2017	15/03/2021	United Kingdom	Drug Offences	2281								
000068	18/01/2017	17/07/2019	Ireland	Sexual Offences	1369								
000069	28/01/2017	29/03/2020	Jersey	Sexual Offences	1734								

000070	30/01/2017	28/09/2019	Jersey	Threat and Violence Offences	1461								
000071	03/02/2017	26/03/2018	Jersey	Sexual Offences	1006						Sexual offending		
000072	03/02/2017	02/12/2018	Portugal	Theft Offences	1003								
000073	10/02/2017	09/02/2020	United Kingdom	Fraud Offences	1642								
000074	20/02/2017	19/10/2017	United Kingdom	Motoring and Traffic Offences	365						Alcohol		
000075	27/02/2017	27/10/2017	Jersey	Threat and Violence Offences	365			Offered and declined			Domestic violence		
000076	14/03/2017	13/07/2019	United Kingdom	Fraud Offences	1280								
000077	23/03/2017	21/01/2018	United Kingdom	Threat and Violence Offences	457			Yes					
000078	21/04/2017	20/04/2020	United Kingdom	Drug Offences	1644								
000079	24/04/2017	23/04/2018	United	Threat and Violence	548								

			Kingdom	Offences								
000080	24/04/2017	23/12/2018	United Kingdom	Threat and Violence Offences	913					Substance misuse		
000081	27/04/2017	26/04/2019	United Kingdom	Threat and Violence Offences	1096					Substance misuse		
000082	02/05/2017	31/12/2017	Ireland	Threat and Violence Offences	365					Substance misuse		
000083	20/05/2017	20/01/2018	Jersey	Sexual Offences	365							
000084	26/05/2017	23/11/2018	United Kingdom	Theft Offences	822					Alcohol		
000085	26/05/2017	29/10/2017	Jersey	Threat and Violence Offences	235					Substance misuse		
000086	26/05/2017	25/07/2018	Jersey	Fraud Offences	641							
000087	26/05/2017	25/05/2018	United Kingdom	Fraud Offences	549							
000088	08/06/2017	07/04/2018	Jersey	Drug Offences	457					Substance misuse		

000089	23/06/2017	12/03/2018	United Kingdom	Threat and Violence Offences	395								
000090	23/06/2017	21/11/2017	Jersey	Miscellaneous Offences	228			Offered and declined		Substance misuse			
000091	24/06/2017	15/11/2017	Portugal	Disorder / Anti Social Behaviour Offences	214								
000092	30/06/2017	29/06/2018	Jersey	Miscellaneous Offences	548			Yes					
000093	10/07/2017	09/11/2017	Jersey	Threat and Violence Offences	184								
000094	14/07/2017	13/05/2018	Jersey	Sexual Offences	457					Sexual offending			
000095	17/07/2017	16/11/2017	Poland	Threat and Violence Offences	184								
000096	17/07/2017	16/11/2017	Poland	Threat and Violence Offences	184								
000097	28/07/2017	07/09/2017	Jersey	Motoring and Traffic	62								

				Offences								
000098	28/07/2017	26/11/2018	United Kingdom	Fraud Offences	730							
000099	02/08/2017	17/09/2017	Portugal	Breach of Community Service Order	70							
000100	22/08/2017	13/11/2017	Jersey	Breach of Community Service Order	126							
000101	23/08/2017	22/10/2017	Jersey	Threat and Violence Offences	92							
000102	30/08/2017	19/11/2017	United Kingdom	Breach of Community Service Order	122							
000103	02/09/2017	01/10/2017	Jersey	Theft Offences	42							

Key

EDR – earliest date of release

ASRO-S - Addressing Substance-Related Offending – Secure

BBR – Building Better Relationships (accredited programme to address domestic violence)

Thinking Skills (accredited cognitive behavioural change programme)

### **3.21 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING INFLATION IN THE ISLAND: [1(479)]**

#### **Question**

Will the Minister explain –

- (a) how his Department measures inflation and, in particular, what measures are used to assess the inflation experienced by the elderly, families with children, single persons and other groups;
- (b) what economic measures can he use to influence inflation in the Island?

#### **Answer**

The Treasury and Resources Department does not measure inflation. The Retail Prices Index (RPI) is the principal measure of consumer price inflation in Jersey and is produced by the independent Statistics Unit using best practice methodology. The all-items RPI is designed to measure the change in the price of the goods and services purchased by an “average household” in Jersey. The spending pattern on which the index is based is revised at intervals, using information from the Jersey Household Spending Survey.

The RPI is compiled using a large and representative selection of over 500 separate goods and services. The price movements for each of these are measured at a representative range of outlets, including the internet. Around 2,500 separate price quotations are used each quarter in compiling the index. Prices are measured on or around the 15th day of March, June, September and December.

Two measures of underlying inflation are also produced by the Statistics Unit; annual changes in the indices RPI(X) and RPI(Y):

- RPI(X) is defined as the all items RPI excluding the cost of mortgage interest payments
- RPI(Y) provides a further measure of underlying inflation by removing the effect not only of mortgage interest payments but also of indirect taxes such as GST and impôts. During periods involving the introduction of, or changes in, indirect taxes, the annual change in RPI(Y) is considered to be the pertinent measure of the rate of underlying inflation

In order to monitor the consumer price inflation experienced by pensioner and low-income households, two further consumer price indices were introduced for Jersey by the Statistics Unit in 2007: RPI Pensioners, for pensioner households; and RPI Low Income, for households in the lowest quintile of household income.

Although Jersey does not have control of interest rates set in the Island, when inflation trends in Jersey are similar to those in the UK decisions by the Bank of England can help to contain inflation in Jersey. In addition, there are a number of other measures that the Island can use which are under our control. Namely:

- Follow FPP advice to make sure fiscal policy acts in a countercyclical way and ensure we balance the budget at the right time to prevent adding to inflationary pressure in the economy.
- Continue to strengthen competition in local markets, which will help keep prices in check by driving efficiency improvements across the economy. This currently includes a continued focus on implementing the 23 recommendations of the Oxera review of the competition framework.
- Implement the Strategic Plan priorities on growth and productivity which will enable supplyside improvements. This includes developing skills, investing in infrastructure and encouraging greater innovation, enterprise and inward investment.

**3.22 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE MEASUREMENT OF PRODUCTIVITY IN JERSEY: [1(480)]**

**Question**

Will the Minister define how productivity in the Island is measured, both overall and per individual, and set out the measures that he can use to directly influence productivity in the Island? Will he also give his assessment of why Jersey has a lower rate of productivity than Guernsey, which has a similar economy to Jersey?

**Answer**

The main measure of productivity in Jersey is labour productivity which is the economic output per unit of labour input. Labour productivity and its two components, Gross Value Added (GVA) and labour input, are measured for Jersey by the independent Statistics Unit. GVA shows the value of economic activity taking place in Jersey and is measured according to the internationally agreed framework and is explained in more detail here in a video by the Statistics Unit (<https://www.youtube.com/watch?v=xAg3GG0aJII>). Labour input is measured on a full time equivalent (FTE) basis, using information on employment derived from the manpower returns.

The measures in place to raise productivity include investing in health, education, St. Helier and the Island's infrastructure as set out in the MTFP Addition. The Strategic Plan also sets out how Council of Ministers aim to raise productivity by:

- Promoting jobs and growth in the technology sector, with a particular focus on Fintech.
- Delivering and further enhancing the existing Financial Services Policy Framework
- Promoting higher productivity in all economic strategies, including the new Tourism, Retail and Rural Economy Strategies
- Developing a new and challenging Enterprise Strategy, a new Innovation Strategy and attracting more inward investment
- Reviewing and upgrading the existing Skills Strategy
- Developing a new Competition Framework and reviewing opportunities to promote competition
- Identifying and addressing barriers to work for key groups
- Adopting environmental management principles to help improve productivity and efficiency and attract environmental businesses in line with our economic growth objectives.

Guernsey do not publish GVA per fte so it is not possible to consider labour productivity in the two islands on a comparable measure. Guernsey do publish data on GDP per worker which is not compiled on the same basis and it is understood that their GDP methodology is being reviewed.

### **3.23 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING PLANS FOR A NEW GOVERNANCE MODEL FOR JERSEY'S HEALTH SERVICE: [1(481)]**

#### **Question**

Will the Minister inform members what relationship, if any, exists between his plans for a new governance model, 'Health and Social Care System: a new governance model' (P.60/2017), and the creation of a Sustainability and Transformation Partnership (STP) or an Accountable Care Organisation (ACO) for the Jersey health service?

#### **Answer**

Sustainability and Transformation Partnerships (STPs) are a relatively new concept in the NHS. They develop plans to transform health and care in the period to 2021, building and strengthening local relationships to deliver on the NHS 'Five Year Forward View'.<sup>8</sup>

In early 2017, NHS England outlined plans for STPs to become Accountable Care Systems or Accountable Care Organisations. These are groups of service providers which collaborate to meet the needs of a defined population, having budgetary responsibility and being accountable for delivering agreed outcomes<sup>9</sup>.

In Jersey, we already have a health and social care system with significant integration. This is in contrast to England, where responsibility for policy, strategy and delivery is divided between numerous organisations. This can hinder true integration and partnership, as it means the individual organisations have to set aside their individual interests for the greater good of the system, which is a significant challenge in a system which has increasing financial constraints.

Our strategic work since 2010 also means that Jersey is ahead of the NHS in terms of transformation plans – our transformation plan was outlined in P82/2012 'A New Way Forward for Health and Social Care', which was approved in the States on 23 October 2012.

Since then, partners from across health and social care have worked together to develop and implement detailed plans which ensure care remains safe, sustainable, affordable and is integrated and delivered in partnership – this was the vision of P82 and remains core to our whole health and social care system strategy.

Senior representatives from partners across health and social care continue to meet regularly to oversee this transformation. This includes partners from the voluntary sector and Primary Care.

However, unlike the NHS, we do not yet have a fully inclusive public and patient engagement programme, and a clear and visible way for Islanders to contribute to strategic decisions about the health and social care that their taxes fund. Nor do we have the same level of transparency and visibility that is enjoyed in the NHS, where Board meetings are held in public, led by an independent Chair and Non-Executive Directors. We also need to strengthen the involvement and influence of care professionals and the voluntary sector. These three elements are common in a range of international health and social care systems, including New Zealand, Alaska and Sweden.

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<sup>8</sup> Sustainability and Transformation Plan footprints. NHS England, March 2016

<sup>9</sup> Accountable Care Organisations (ACOs) explained. Kings Fund, June 2017

The new governance model outlined in P60/2017 (and to be debated in November) aims to improve transparency and participation in strategic decision making for health and social care. It will provide a greater opportunity for care professionals, the voluntary sector and the public to participate in and to understand strategic decisions.

P60/2017 does not propose any changes to the organisational form or structure for health and social care on the Island. Nor does it propose any changes to the current accountability structures – the Chief Executive Officer will remain accountable to the Minister. The Minister will remain Corporate Sole, being accountable to the States Assembly through the Council of Ministers. He/she will ultimately make decisions regarding health and social care, but, in the future, if P60/2017 is approved, these decisions will consider the recommendations of the Strategic Partnership Board, which comprises representatives from the Health & Social Services Department, Clinical and Professional Forum, Voluntary Sector Forum and Public and Patient Forum.

It is proposed that the new governance model would be piloted in the first instance. If it is successful and proves its value, States Members may wish to consider progressing towards an Accountable Care System of service providers in the future. As noted by the Kings Fund, this does not necessarily require a change of organisational ownership or accountability; it can be a group of providers working together in a partnership alliance with shared outcome goals for defined areas of the population or for the whole population. However, it is important to note that such changes in the future will only take place if the Minister of the time recommends them to the States Assembly.

#### **4. Oral Questions**

##### **4.1 Deputy M. Tadier of St. Brelade of the Minister for Social Security regarding the level of Income Support rental component received by Andium Homes and other housing associations: [1(489)]**

Can I just inform the Assembly I will be absent from 10.15 a.m. for a funeral of a family friend. I just asked to be excused for that period, if that is okay. Thank you. Will the Minister provide the total sum of payments, and the mean average payment, made to 27 per cent of Andium tenants on post-April 2014 tenancies who receive the income support rental component; as well as the number of recipients of the rental component in the other housing associations and the private sector and the total sum of payments, and the mean average payment, made to those recipients?

[9:45]

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

Firstly, I think this is unsuitable as an oral question given its complexity and the time permitted to collate the information. I am disappointed that it is the first question of this new season. In addition, most of this information can be found in our most recent annual report, which was published earlier this year. Using this information I can report that the total amount of income support allocated to rental payments for Andium tenants in 2016 was £16.5 million across 2,884 tenants. This figure relates to all Andium tenants who receive income support. It is not possible to identify post-April 2014 tenancies from pre-2014 tenancies within the timescale allowed for an oral question. The total amount of income support allocated to rental payments for other trust tenants was £3.3 million across 590 tenants. The total amount of income support allocated to rental payments for private sector tenants was £9.5 million across 1,868 tenants. On average the income

support claim of an Andium tenant included £110 per week towards rental payments. For trust tenants this was very similar at £109 per week, and for private sector tenants the average was a little less at £98 per week.

#### **4.1.1 Deputy M. Tadier:**

The Minister seems a lot more distant to me today than usual. I am not sure why that is and I am sure if she has an issue with this being an oral question, not a written one, she will take it up with the Greffe or P.P.C. (Privileges and Procedures Committee) as it has been approved and it is in order. But I thank her for the response nonetheless. Does the Minister agree that there is an inherent unfairness at the heart of the new rental policy where all social rental components are covered for those in receipt of the maximum component if they are in social rented housing, but for individuals who are still in the same situation but not in social rented they face a shortfall? Deputy Southern circulates figures, and the Minister will be aware of those figures, that there is, on average, in some cases, at least a £3 shortfall that the poorest in our society have to make up. In some cases, if we look at the maximum rent in Andium properties, it is some £47 above what would be allocated under the income support component. Can the Minister explain these disparities and whether she is comfortable with those?

#### **Deputy S.J. Pinel:**

Firstly, Andium's job, as the Deputy will know, is to house the most vulnerable people in Jersey and that means that these households are likely, on average, to have a low income and to include more families with young children and people with disabilities. Therefore the households will get higher levels of support and so the average benefit rate will be higher. The States agreed in 2013 to make a significant investment in improving the quality of housing and we are already seeing the benefits of that policy. The rent policy that Andium set was so that we can pay back the loan of £250 million that we needed to fund this work. Tenants pay rent at below market value of 90 per cent of the market rate and enjoy a secure tenancy and the extra support that Andium provides.

#### **The Bailiff:**

Minister, I am conscious that you have had problems with your leg, which is why you are sitting where you are. If you prefer to address the Assembly sitting down, that is absolutely fine.

#### **4.1.2 Deputy G.P. Southern of St. Helier:**

Can the Minister explain, given the 90 per cent of private sector rent policy, how come the new rent of a 2-bed in Pomme D'Or Estate, for example, at £259 is higher than the maximum support available to those in the private sector at £256? How can that exist when we have got a policy that says we are supposed to be at 90 per cent of the average private sector rent?

#### **Deputy S.J. Pinel:**

June this year was the latest R.P.I. (retail price index). It was 2.5 per cent so rents have been increased as agreed in the H.T.P. (Housing Transformation Programme) by 0.75 per cent above the R.P.I. In a lot of cases the rents will go up by 3.25 per cent until they reach the 90 per cent of market rates. The exception, which I don't know if the Deputy may be referring to, is if the tenant is under-occupying their property and has not applied to downsize. They will still get the general increase in income support but will need to pay the difference themselves.

#### **4.1.3 Deputy G.P. Southern:**

In response to the answers given earlier that the average payment from Social Security to Andium tenants was £110 per week, will the Minister explain whether those receiving the average or less

will have to pay extra rent from their income elsewhere in order to meet any rises in rents in Andium Home?

**Deputy S.J. Pinel:**

I am not quite sure whether the Deputy is referring to rents elsewhere as being the private housing trusts or private landlord situation but, as I have already said, with Andium Homes the rent is paid for them up to ... part of the rent component, part of their income support up to 90 per cent of the market rate. If in other situations in trusts or private landlords then the rent is paid, as I have already detailed, is £108 a week or £98 a week and if they wish to stay in the situation in the private sector where they have been for a long time perhaps then any additional rent to that component will be paid out of their other income.

**The Bailiff:**

Before we go any further can we just be clear that questions to the Minister for Social Security should be focused on Social Security matters, not on rent payments, which would be for the Minister for Housing.

**4.1.4 Senator S.C. Ferguson:**

The Minister for Social Security will recall that pensions for old-age pensioners have gone up by the cost of living and I have cases where the rents have gone up by the cost of living. Does her department communicate with Andium about these matters because what is the point of your pension going up and your rent goes up the same?

**Deputy S.J. Pinel:**

As I have already mentioned in my opening comments, the Housing Transformation Programme, which was agreed by the States in 2013, agreed that the rental components would go up by R.P.I. plus 0.75 per cent. The rental components being paid to Andium tenants and the pension went up in October by R.P.I. of 2.8 per cent.

**4.1.5 Deputy G.P. Southern:**

A point of clarification from the Minister. When she answered, as if I had asked about rents when I was actually talking about income, if a person is receiving £110 a week towards their rent when the rent goes up how do they pay the remainder of their rent? Out of their income? Does the rent take priority? How much comes out of their pocket and how much comes from Social Security? That is the question.

**Deputy S.J. Pinel:**

I think I did answer that, and in the case of Andium tenants then the rent component up to 90 per cent of market rates is paid for by income support rental component.

**4.1.6 Deputy M. Tadier:**

The Minister earlier said that the most vulnerable in our society, presumably financially vulnerable, are okay because they are covered by social rented and trust housing. But does she accept that some of the most vulnerable in our Island, due to the narrow criteria applied by Housing, and the shortage of social housing, are not covered by her income support components and therefore does she agree that it is not a satisfactory situation to have some of the most vulnerable people in Jersey, who are waiting for social housing, not having their full rent cost and therefore making the gap in their rental to be made up by their own living component?

**Deputy S.J. Pinel:**

No, I do not accept that. That is the whole idea of income support, to be the safety net and support the most vulnerable in Jersey. I think we are all very well aware that there is a very great need for additional social housing which the Minister for Housing is doing her best to meet the demand.

#### **4.2 Deputy K.C. Lewis of St. Saviour of the Assistant Minister for Economic Development, Sport and Culture regarding the securing of restricted areas of Fort regent: [1(488)]**

In light of further intrusions into the restricted areas of Fort Regent by children during the school holidays, will the Assistant Minister agree to ensure the areas are secured and install C.C.T.V. (closed circuit television) until such time as the derelict buildings on the site are demolished?

#### **Connétable S.W. Pallett of St. Brelade (Assistant Minister for Economic Development, Sport and Culture):**

I thank the Deputy for his question and his clear concerns over this matter. I was pleased only yesterday to host a presentation for States Members regarding a planning application that my colleague, the Minister for Infrastructure, submitted for the removal of several derelict buildings at Fort Regent which form the basis of the Deputy's question. The department, working closely with Jersey Property Holdings, constantly reviews security measures in respect of buildings such as the swimming pool and cable car station at Fort Regent and, where appropriate, adopt additional measures to safeguard public safety by securing the site perimeters. Over the summer there were 4 reported incidents with youths in and around cable car station or on the bridge link. As a result of that, options are currently under consideration to install high level cameras at the south end of the ramparts to cover the pool area, and the east outworks where the cable car station is situated. Clearly though the challenge in these areas is the cabling and getting cabling to areas required but the technical team is working on this at the current time. The option obviously is the use of Wi-Fi technology and this will hopefully overcome issues with the cabling. The submission of the planning application though should be taken as a sign that both departments intend dealing with these issues at source, thus overcoming the need to continue investing significantly with further security measures and building repairs for assets that I think the Deputy would agree are clearly beyond their useful life.

##### **4.2.1 Deputy K.C. Lewis:**

I thank the Assistant Minister for his answer, also for the briefing yesterday which was very informative. I will be sad to see the buildings go but I think we are all agreed that they are very, very dangerous buildings and need to be demolished. My question basically is a temporary security arrangement and temporary C.C.T.V. until such time as the building comes down. I did attend the meeting with the Assistant Minister yesterday and after the meeting I walked down to the cable cars which were very easy to access. Even though one of the main gates was locked there is a way around. I can be on the Glacis Field and in the cable car area within 5 minutes, which is really not on. So these derelict buildings are a magnet; not just at Fort Regent but over the Island derelict buildings are a magnet for young people and we really must make sure that they are secure. Does the Minister not agree?

##### **The Connétable of St. Brelade:**

No, I totally agree with the Deputy. In terms of the access routes, they are locked and the buildings have been boarded up and secured with fencing. That is the responsibility of Jersey Property Holdings. Fort Regent staff carry out daily checks on the perimeters to check for youths and to check for breaches in the board and fencing. I think ... pleasingly - if it is the right word to use - there has been no access into the pool over the summer. That is where obviously there are deep concerns about asbestos in the building. But in terms of the cable car station, I do not think we can

deny that it is not the most difficult area to access but it is monitored on a daily basis and we try to keep youths out as best we can. I think with the additional C.C.T.V. it will give us extra information in regards to people accessing that and if we need to increase more physical security on the site we will have to consider that. Obviously when the contractors finally get on to site it will become their responsibility in regards to making sure the site is secure. We will do everything in our powers to ensure that children and young people do not access the site and put themselves at risk.

#### **4.2.2 Deputy M. Tadier:**

The Minister may remember before he came into the States that the Scrutiny Panel at the time in 2010 called for the demolition of the swimming pool at Fort Regent and asked for money to be allocated. Does the Minister think that was a missed opportunity and that we should learn from that mistake of inaction?

#### **The Connétable of St. Brelade:**

I do not think there is anybody in the Assembly this morning that would not have liked to have seen these buildings removed at an earlier stage. They have been an issue for some time.

[10:00]

There was money made available earlier on to remove the buildings and I think there was an opportunity at that time to get on with the work. Clearly there have been issues around planning applications and what might have happened with the pool site. That maybe slowed up the movement towards getting these buildings removed. But I am pleased to say, and I think the Council of Ministers have clearly understood the need to get these buildings down as soon as possible, and have made the funding available. We will be looking obviously subject to the planning approval going through to start these demolitions early in the new year and I think we would all agree that the quicker we get these buildings down the better.

#### **4.2.3 Deputy K.C. Lewis:**

I thank the Assistant Minister for his replies. I would be the first to admit I am no spring chicken but security wise it was remarkably easy to gain access. I am more than happy to meet up with the Assistant Minister and walk him through and show exactly where the children are gaining access. Does the Assistant Minister not agree?

#### **The Connétable of St. Brelade:**

I am quite happy to take that offer up. I would prefer to do that also with the operations manager at Fort Regent so that maybe he can have an understanding as well of potentially the ease of accessing the site. Like I say, both I, he, and I think the department, have sleepless nights about the Fort and those buildings and the risk it poses to the public. But, like I say, everybody is working, I think, at breakneck speed now to try to get this through. But it is subject to planning approval. Once that is done and we can get out to tender then I am hoping we can get onsite early in the new year and rid the States of this problem once and for all.

### **4.3 Deputy J.M. Maçon of St. Saviour of the Minister for Education regarding the work of his department to prepare young people to participate in the upcoming elections: [1(457)]**

Other than any work initiated by the States Greffe, what is being done by the Minister's department to proactively prepare young people to participate in the upcoming elections?

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

Thank you to the Deputy and thank you for his passion in this particular area. I consider that learning about the Island's political system and how to take part in it, it is a vitally important part of our education. It is now embedded in the Jersey curriculum for all ages and takes place throughout school life, not just in the run-up to elections. The subject comes under the citizenship strand of the P.S.H.E. (Personal, Social and Health Education) curriculum. Through this we expect students to acquire a sound knowledge and understanding of how Jersey is governed and how Islanders can actively participate in our democracy. To enhance the quality of lessons some staff had a meeting in June in this Chamber with the Deputy Greffier to discuss how they could help schools. We will be looking at refresher sessions of teachers, at developing teaching materials, and a form of hustings that will be more appealing to younger people than the traditional format. Schools also promote voter registration.

#### **4.3.1 Deputy J.M. Maçon:**

I welcome all of that. It has certainly been a significant change from previous Ministers for Education, so that is noted. Specifically, can I ask what the department over the next 6 months will do to boost ... to focus on those between the ages of 15 and 19 who may not have had the advantages of the change to the P.S.H.E. curriculum since the change?

#### **Deputy R.G. Bryans:**

It is worth drawing the Deputy's attention - in fact the whole Assembly's attention - to the actual curriculum, which is on the website in the P.S.H.E. including citizenship. I will just read out 2 parts which are: "The purpose of study. A high-quality citizenship education helps to provide pupils with knowledge, skills and understanding to prepare them to play a full and active part in society. In particular, citizenship education should foster pupils' keen awareness and understanding of democracy, government and how laws are made and upheld. Teaching should equip pupils with the skills and knowledge to explore political and social issues critically, to weigh evidence, debate and make reasoned arguments. It should also prepare pupils to take their place in society as responsible citizens." Then it goes on at the various key stages and I will just refer to the key stage that the Deputy is referring to, Key Stage 4: "Teaching should build on the Key Stage 3 programme ..." which is inherently teaching about the political system: "... of study to deepen pupils' understanding of democracy, government and the rights and responsibilities of citizens. Pupils should develop their skills to be able to use a range of research strategies, weigh up evidence, make persuasive arguments and substantiate their conclusions. They should experience and evaluate different ways that citizens can act together to solve problems and contribute to society." All of this in the same way that we do as ordinary citizens with access to the full media.

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

In his first answer the Minister spoke about promoting voter registration. Given that individual voter registration forms, as opposed to household voter registration forms, inevitably lead to fewer young people being signed up to vote, would the Minister want to see schools not only promote voter registration among their students but actively help them by providing them with the forms and offering to arrange for them to be delivered to the Parish Halls for them?

#### **Deputy R.G. Bryans:**

Thank you to the Deputy for that suggestion. I mean it is one of the considerations that we have on the table at the moment, how far we go as a department encouraging students to get actively involved. Assembly Members may not know but I have a design thinking opportunity project running, starting on the 19th of this month, along with the Greffier, will be looking at electoral reform. Part of that I am sure will be the ability to do the similar thing as to what the Deputy is suggesting.

#### **4.3.3 Deputy S.Y. Mézec:**

Can I take it from that answer that he is not going to ask the schools to provide the option that I have just suggested, which is that the schools are able to deliver the voter registration forms for the students to the Parish Halls so that they do not have to take the effort, bearing in mind lots of these young people will not be able to drive, they are from all different schools and so visiting lots of different Parish Halls can be quite difficult if they are going out as a group. Do I take it from his answer that he will not be asking schools to do that and will be satisfied with having fewer young people registered to vote?

#### **Deputy R.G. Bryans:**

No, I think he is making a rather grand assumption there. I did not say no to that. I said I would take it on board and have a look at that situation. It is a matter of timing and resource and it is particularly important that we give autonomy to the schools to make their own decisions in this particular matter.

#### **4.3.4 Deputy C.F. Labey of Grouville:**

The Minister may have a citizenship programme but is it not the case that in practice it is not regularly taught and the reasons being twofold; it does not easily fit with the curriculum and there is a lack of knowledge and understanding of the electoral process, other issues with the teachers themselves?

#### **Deputy R.G. Bryans:**

No, I think it is ... the notion of having a curriculum is this is what is taught within our schools and having it written in the way it is very accessible. It is very accessible for not just the teachers and the schools to see but for also the parents and the children. It is important equally to amplify the role that parents play in the education of their children relating to our political system. But I am quite confident that this is being taught within the curriculum. It is worth noting at this point in time, this is a ... putting this into our curriculum was a positive step. It is not done in the U.K. (United Kingdom) and I think I remember what the Deputy was asking me some time ago when a particular teacher from Vic College used to run sessions relating to bringing Deputies in to talk about the political system. I think we have moved on from then and, as I said earlier, we have refresher training for the teachers coming up shortly.

#### **4.3.5 Deputy M. Tadier:**

The Minister will be aware of the successful Pride event which took place for the third year this last weekend, and we took the opportunity as Reform Jersey to sign up some 20 new ... most of them were new voters altogether and most of them will be 16 for the first time by the next election. That said, although we are obviously proactive in promoting democracy it is not necessarily appropriate for Reform Jersey to go into schools to sign people up, although we would happily do so, at the invite of the Minister, or any teachers who happen to be listening out there. But it does seem that there is a niche there for the very good work that is done by the Greffe in vote.je, to be extended directly into schools as a matter of urgency in the next 6 months approaching the election and at such events in the future, where there is a keen appetite for people to sign up in the non-traditional context where politics might not always seem obvious. Does the Minister agree with that and will he take on board to have urgent talks with the Greffe staff so that they can be the ones going into school, registering people right at the heart of where they are most likely to make the most difference?

#### **Deputy R.G. Bryans:**

Thank you to the Deputy. I think I said earlier that we have had meetings with the Deputy Greffier totally in relation to this area and, equally, I mentioned that we have a design thinking project being launched on the 19th of this month that has at its heart ... one of the projects is to deal with electoral reform. So I am quite sure that in that opportunity we will have frank discussions between ourselves as to how we can promote further voter understanding with the children of this Island.

**4.3.6 Deputy M. Tadier:**

It is really a simple yes or no. Will the Minister ensure that in the next few months coming up to election there will be some people going into schools to actively register students to vote at key times, perhaps when they have their free periods, or P.S.H.E. lessons, so we got a maximum amount of young people, first-time voters, on the register for the next election?

**Deputy R.G. Bryans:**

As I say, we will be having discussions with the Greffier to see if that is a possibility.

**4.3.7 Senator S.C. Ferguson:**

When the Minister read out the curriculum - Key Stage 4 I think he said it was - I was a little disturbed to realise that he did not mention history, and surely the history of our system is a very important part of it and if you do not include it people do not know where our democracy has come from and why our particular electoral system is in the form it is. Why has he not got history in the curriculum?

**Deputy R.G. Bryans:**

I have got history in the curriculum. It is covered in the first 3 stages, the Key Stage 1, Key Stage 2, Key Stage 3. I only read out Key Stage 4, which builds upon that. So just to make sure that the Senator is up to speed. This is in Key Stage 3: "The development of the political system of democratic government in Jersey and the United Kingdom, including the roles of citizens, the States Chamber, and the Island's relationship with the monarch" and that goes into the history of how this Parliament has been created.

**4.3.8 Senator S.C. Ferguson:**

Back to 1204?

**Deputy R.G. Bryans:**

Sorry, I missed that.

**The Bailiff:**

Back to 1204, Minister?

**Deputy R.G. Bryans:**

Yes, it goes all the way through. It identifies what the unique place is of this Parliament.

**The Bailiff:**

I think perhaps to even 1066.

**4.3.9 Deputy G.P. Southern:**

The Minister did not promise to undertake any action. Could he outline what promotion did occur before the last election when 16 year-olds could vote in schools and what difference he will make in his decisions to promote voter registration in the coming election?

**Deputy R.G. Bryans:**

I think first of all, going back, we have had discussions, as I say, already in relation to this political situation and the election that is forthcoming, with all heads of the appropriate schools and they have the autonomy to deal with voter registration, voting and the electoral situation in the way I have described through the curriculum and in any way they choose as heads of their schools in the appropriate manner. It was not part of the curriculum in terms of the previous Minister and the work that was done there. This is a brand new curriculum and we have made the Island centric and hence the reason for the inclusion of this. I still am in talks with the Greffier, as I have already outlined, and we will advance the discussion relating to these particular aspects as we move forward.

**4.3.10 Deputy J.M. Maçon:**

I appreciate the work that the Greffe will be doing but I did not want all of the work to fall upon the Greffe. Given that the Minister is still in discussions with the Greffe, will the Minister provide a statement, once a plan has been decided, so that States Members get full understanding about what the Education Department will be providing in the run-up to the election?

**Deputy R.G. Bryans:**

Yes, I am quite happy to inform Members what decisions are made at that point in time.

**4.4 Deputy S.Y. Mézec of the Minister for Social Security regarding her Department's communication with benefit claimants: [1(490)]**

What work, if any, is being undertaken to examine how the Minister's department communicates with benefits claimants to ensure that they are offered clear and unambiguous information about changes to their entitlement so that they do not inadvertently fall into hardship?

**Deputy S.J. Pinel (The Minister for Social Security):**

I can confirm that this work is already underway. We published our 2017 business plan earlier this year and this includes a specific commitment to continue the implementation of our customer service excellence and improved communication programme. This project consists of reviewing all of our customer communications. This includes updating all of our standard letters and the website content.

[10:15]

I am confident that this is already helping to improve understanding of the services and benefits offered by Social Security.

**4.4.1 Deputy S.Y. Mézec:**

The reason I am asking this question is because over summer I had a couple of instances where constituents got in touch with me having received the standard letter from Social Security informing them of a change to their income support entitlement, which upon their reading gave a very clear impression that they were to lose the entitlement they had and potentially face hardship. But then when I contacted the Social Security Department to find out how these benefits reconciled with their States pension entitlement or disability benefits found out that they were not as worse off as they had anticipated but the letter itself did not make that even vaguely clear to them because it only made reference to income support. Does the Minister agree that a helpful way to stop these misunderstandings happening would be for these standard letters to include the entire entitlement of these claimants, not just income support, so that they can see how it is reconciled against other benefits and pensions? Most importantly, a very clear number on the letter that simply says: "This

is how much you will have put in your bank account" so you know how much to live off. Does she thing that would be a step forward?

**Deputy S.J. Pinel:**

In Social Security we administer more than 20 separate benefits and maintain contribution records for over 50,000 individuals and companies, plus we provide Back to Work and other services. We have over 1,000 letter templates and many hundreds of web pages, not to mention our other communication collateral. We are also working across departments to improve our communications. For example, we are working with Health to ensure that people who need to travel for hospital appointments are given the information they need at the time. More importantly, we survey our customers on a daily basis and systematically record and monitor all of our feedback, particularly any complaints we receive, and as I said in answer to the Deputy's first question, that we are changing ... we have already changed ... I am quite aware of what he is saying. We have already changed 250 of the letter templates to date.

**4.4.2 Deputy G.P. Southern:**

Can I firstly praise the Minister for deciding to include details of the income support calculation on the back of their letters and for those who understand the system that makes things a lot clearer? So when the applicant comes to me and says: "What does this mean?" I know what it means and I can find out the details. However, what would be useful on all letters where there is a change involved in the benefit received, that it clearly says: "This is what you were receiving, this is what you will now receive" so that people will know without going any further is whether their benefit has gone up or down. That would be a simple thing, which would solve a lot of queries on my part.

**Deputy S.J. Pinel:**

I am indeed delighted to have had the third occasion of praise from the Deputy in 3 years. **[Approbation]** I understand where the Deputy is coming from and we are trying to improve the information relayed to our customers at the same time as trying to offer the information from the staff in Social Security and on the website with a view to reducing the number of letters that have to go out. But the Deputy is quite right with the clear explanation on the back it does save an awful lot of time, both on behalf of the Deputy and our customers.

**4.4.3 Deputy G.P. Southern:**

There did not appear to be any mention in there of a before and after statement at all. That was part of the question not answered.

**The Bailiff:**

Minister, before and after?

**Deputy S.J. Pinel:**

We are doing that. As I have said, we have already changed 250 out of the thousands of letter templates that we have. The before and after is available to ... certainly to pensioners with the latest uprate in pensions; some by letter and some on the websites.

**4.5 Deputy R. Labey of St. Helier of the Chief Minister regarding the consultation paper, 'Judicial Independence and the Establishment of a Judicial and Legal services Commission': [1(483)]**

Given that the consultation paper *Judicial Independence and the Establishment of a Judicial and Legal Services Commission* preceded publication of the findings of Independent Jersey Care

Inquiry, and that the consultation period was subsequently extended, will the Chief Minister explain how any proposals arising from this consultation will be adequately informed by, and responsive to, the spirit of the conclusions reached by the Care Inquiry?

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

The department is currently considering responses and will publish a formal response to the consultation. Work will then begin on the required law drafting so the recommended changes can be brought before the Assembly and scrutinised appropriately. I, of course, do not wish to pre-empt the final proposals but it is clear that as part of my commitment to implement the recommendations of the Jersey Care Inquiry all relevant proposals brought forward should take account of the conclusions of the Inquiry.

**4.5.1 Deputy R. Labey:**

I thank the Chief Minister for that. I am sure the consultation was well intentioned by all parties concerned. It just feels as a consultation on a blueprint for how our court should work going forward and in the future, and in the light of the Care Inquiry, that there are a lot of elephants in the room that avoid even going there in terms of ... not just the dual role but the multiple roles of the Attorney General, the allowing of making lawful private prosecutions, repealing the Code Civil, as well as the checks and balances issue in a system which proposes a Bailiff and a Deputy Bailiff, as President and Vice-President of the Royal Court, the Appeal Court, of the appointment of the Judicial Commission, *et cetera*, do we need to look at a check-and-balance system? It feels very narrow and it could look like a shoring up of the old fiefdoms instead of modern radical reform.

**Senator I.J. Gorst:**

I am disappointed that the Deputy feels like that. I think it is an important step forward. I think that our court service currently works exceptionally well despite some of the detractors. One of the issues arising out of the Inquiry, whatever Members may think, is that the prosecution service and the court service serve our community well. But the Deputy is right in that a good operational court, as someone said yesterday, is in everyone's interest and everyone should have an interest, and that is why it is right to do a consultation in the way that we did. I think that it is an important step forward and that important step forward can be built on in the future.

**4.5.2 Deputy R. Labey:**

I am not a detractor of our Crown Officers and our court system. I am just voicing concerns that I have heard. In a system that we have some people are afraid, some people in the Jersey Bar perhaps, are reluctant to speak out in case it looks like they are a detractor, *et cetera*. That, I feel, is part of the job and I just wanted to make that clear. Does the Chief Minister envisage that the consultation, or what arises from that consultation, will touch on broader issues than is at present the case?

**Senator I.J. Gorst:**

I have not personally read the responses to the consultation but I understand from officials that the Deputy will not be disappointed in the areas that he would hope that the consultation might have raised even if they are not directly covered in the consultation document. That I would hope ... well, will come out when the formal responses are published. I do not accept some of the issues that the Deputy is saying. I think that there are reformers, radical reformers, as well as those who want to maintain the *status quo* within the court service, within the Bar and the Law Society. We are seeing some changes around legal aid. It is important for us to move forward together, enhancing what I think is a currently well operating, well-regarded system, albeit there are some Members of our community that do not feel, as I do currently, about that service in that system.

Therefore this does present an opportunity for them to come forward again with their concerns and for us to consider them together and for this Assembly ultimately to consider them because it is in everyone's interest.

**4.6 Deputy G.P. Southern of the Minister for Housing regarding recent changes to rent levels set by Andium Homes and how those changes met policy in respect of rent levels: [1(486)]**

Is the Minister aware of changes to rent levels of 2-bedroom flats recently communicated to Andium tenants and, if so, taking into account information provided on the Social Security website about the support available for private rents and on the website of Andium Homes about minimum, average and maximum rent levels, will she explain how such changes meet the policy of setting social rents at 90 per cent of private rents?

**Deputy A.E. Pryke of Trinity (The Minister for Housing):**

Yes, I am aware of changes to rent levels recently communicated to Andium tenants. The rent increase is in accordance with the approved States Rents Policy which allows rents to be adjusted annually by R.P.I. plus 0.75 per cent. A cap is applied where the increase would take a tenant's rent above 90 per cent of the market equivalent rent. Tenants living in social housing who receive income support are fully assisted with the full amount of their rent providing that the property size is appropriate to the household needs.

**4.6.1 Deputy G.P. Southern:**

Is the Minister aware that the rent charged on a 2-bed flat in, for example, Pomme d'Or Estate, a new tenancy post 2014, therefore supposedly set at 90 per cent of the private sector rent, is £259 and some pence, which compares to the maximum private sector support available from Social Security of £256. How can this rent, £259, be higher than the maximum available in the private sector, which is bigger, higher rent, than Andium Homes, how can that be greater? How can that £259 be greater than the £256 allowable for private sector?

**The Deputy of Trinity:**

As the Deputy knows, I am sure, that all the flats are independently assessed and obviously do minimum and maximum, and the average rent depends on the state of the flat; whether they have been refurbished or not refurbished, where they are, *et cetera*. So it does vary and that is why on the Andium website it gives very clear indications.

**4.6.2 Deputy G.P. Southern:**

How then does the Minister account for the information on the Andium website updated this year that the maximum rent for Andium is £303, which is 18 per cent higher than any figures being charged at Pomme d'Or Estate?

**The Deputy of Trinity:**

It really depends on where they are living. Each flat is independently assessed so therefore someone living, as I said, in a recently refurbished flat will pay more than a flat that has not been refurbished.

**4.6.3 Deputy G.P. Southern:**

Will pay more than a flat that has not been refurbished I can accept. Will pay more than the maximum rent support available through Social Security in the private sector; is that a statement she is happy to affirm?

**The Deputy of Trinity:**

Nobody pays more than 90 per cent rent. If they reach the cap of 90 per cent then that is the maximum that they will make. Andium, as you know, have got just under 3,000 tenants but only 29 per cent of Andium Home tenants have moved on to the 90 per cent market rent policy.

**4.6.4 Deputy T.A. Vallois of St. John:**

Could the Minister for Housing advise what work, if any, that her department have done in terms of assessing the actual market rental on a regular basis to ensure that the 90 per cent rent policy that we apply is sufficient and accurate?

**The Deputy of Trinity:**

I have got no problems that Andium do the assessing accurately, and as I said, it is independently verified. I know that is one of the points that will be raised in the Social Housing Regulation, which is due to be lodged fairly soon.

[10:30]

That is one of the points that will come up there. But overall the average rent levels that Andium tenants pay are 77 per cent of the market value.

**4.6.5 Deputy G.P. Southern:**

Could the Minister confirm that she says 20 per cent of Andium tenants are now in refurbished accommodation? Is it not the case that that figure should be 27 per cent of some 4,500 tenants? Is that a more accurate figure?

**The Deputy of Trinity:**

Just to correct what the Deputy said: I said 29 per cent of Andium Home tenants have moved on to the 90 per cent market rent policy.

**4.6.6 Deputy G.P. Southern:**

Of how many tenants total in Andium Homes now? Does the Minister know?

**The Deputy of Trinity:**

I have not got the exact figure but I think it is just under 3,000, as I just said previously.

**The Bailiff:**

Solicitor General, the Greffier's charity fund will look forward to receiving your contribution shortly.

**4.7 The Deputy of Grouville of the Minister for Infrastructure regarding the pursuit of payments for encroachments on the foreshore: [1(484)]**

In the absence of a policy on pursuing payments for encroachments on the foreshore, will the Minister explain why encroachments which predate public ownership of the foreshore are pursued, and whether encroachments by quangos will also be pursued; and will he confirm the date of the map being used to show the areas of the foreshore, and that detailed drawings of the dimensions of walled boundaries are being used?

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

There are 3 questions here and I will do the best to answer them within the allotted time. In response to the first part of the question: why encroachments which predate public ownership of the

foreshore are pursued? There are 2 main factors. Firstly, the public has held a succession of contract leases of the foreshore prior to the freehold ownership transferring in 2015. These leases placed all land management responsibilities on to the lessee, i.e. the public, and therefore numerous foreshore encroachment cases were therefore dealt with by the public in conjunction with the Crown prior to 2015 with either the encroachments being removed or financial compensation being received. Secondly, in acquiring the freehold of the foreshore in 2015 and being aware that properties have extended on to the land not in their ownership, it would be a questionable decision to simply allow those properties to benefit from the encroached land without further challenge, i.e. turning a blind eye is not an option. In response to the second part of the question: whether encroachments by quangos will also be pursued, the answer is a definite yes. If it is discovered that quangos have encroached on the foreshore then the same action will be taken as with any other property owner. In response to the third part of the question: will I confirm the date of the map being used to show the areas of the foreshore, and that detailed drawings of the dimensions of walled boundaries are being used? Unfortunately this is not quite that simple. When an encroachment is suspected the first step is to seek advice from the Law Officers' Department as to the extent of the public land and confirmation whether or not that an encroachment has taken place. In some cases this is relatively clear, i.e. where the parties built up to or over a sea defence. With other encroachments the case can rest on historic sea defence construction drawings showing a line of the high water mark prior to the sea defence being built. In all cases - I repeat - in all cases a fair approach is taken. For encroachments which have existed for many years the negotiated settlement - and it is negotiated - is reduced on a sliding scale up to 50 per cent to reflect that. Of course if a property owner can provide evidence that they own the land upon which they have extended then that would likely end the matter. However, as I understand it, such a case is yet to happen.

#### **4.7.1 The Deputy of Grouville:**

I was looking for a date that the Minister is basing all these finds - for want of a better word - from. Because original maps will show that the foreshore started at a very different place to where it is today. I mean we have places like Pier Road and Sand Street, as the name suggests. From what date and where is the line of the foreshore that he is using and using to pursue these charges?

#### **Deputy E.J. Noel:**

As I have already explained, it is not... it is quite a complex matter from which we take advice from the Law Officers' Department to establish whether or not any encroachment in the first place has taken place. There is no specific date and no specific map or plan that can be used.

#### **4.7.2 The Deputy of Grouville:**

I really do not understand that. I do not understand how he can be pursuing people for encroachment if he has not got a map which show where the encroachments occur and from when. I do not understand how he can pursue this.

#### **The Bailiff:**

I think that is a question, can you explain further, Minister?

#### **Deputy E.J. Noel:**

I have sympathy with the good Deputy of Grouville and perhaps she would like to come in and meet with my officers and the Law Officers' Department to go through the process, quite a complicated process that we have to go through to establish whether or not encroachments have taken place. But I am sure she will agree with me that where encroachments have taken place,

turning a blind eye is not an option, which leaves us 2 further options; to remove the encroachment or to seek a negotiated settlement for that encroachment.

**4.7.3 Deputy S.M. Brée of St. Clement:**

The Minister has admitted there is no policy. The Minister has admitted there is no map, so one has to fall back on precedent that has been set in similar cases before. I would remind the Minister of a Ministerial Decision that he signed as Assistant Minister on 8th July 2009 where the report goes into the question of moral issues. It quite clearly states in this it would be morally wrong to seek profit and, yet, that is exactly what he is encouraging his department to do. I would just ask the one simple question, has the Minister's morals changed?

**Deputy E.J. Noel:**

Absolutely not and the Deputy is referring to a particular case where certain particulars apply to that incident. The right thing to do was to agree and negotiate a settlement with that party. My department, nor I, do seek to profit from this; we are merely seeking the appropriate compensation to the public by those who have encroached on public land. We have a sliding scale for a discount to that, depending on how long that encroachment has been there. But we have an obligation to the public at large to get the appropriate value for the encroachments on public land.

**4.7.4 Deputy S.M. Brée:**

It was not a negotiated settlement, it was a very clear stance by the department in 2009 relating to the sea wall that runs from Pontac to La Rocque, where it quite clearly stated that ownership would be ceded to, I believe, 62 properties, their ownership would extend to the rear of the sea wall. Once again, I would ask the Minister, when will he be bringing a policy that goes against the precedent set in 2009 to the States for debate to ensure that the interests of the public are looked after and debated by elected representatives of the public?

**Deputy E.J. Noel:**

I cannot give a precise date of when the policy will be available. I have it in a draft form of the policy. I have asked for the Law Officers' Department to assist my officers in drafting the final version of that policy. I can confirm that the transaction in July 2009 would be compliant under that policy, as all of the transactions that we have done prior to that and since that date.

**4.7.5 Connétable J.E. Le Maistre of Grouville:**

Can the Minister confirm that the contracts that property owners, in reality, have no real prospect of rejecting are only temporary and that when properties are sold on that the States could demand further payments?

**Deputy E.J. Noel:**

I am not sighted on that, I would have to take advice on that. But I was under the impression that the settlement is attached to the property and not to the owner but I will take advice on that.

**4.7.6 Deputy S.M. Wickenden of St. Helier:**

The Minister has explained that it is quite a complex case-by-case scenario that includes officer time and Law Officers' time. What is the cost of the complex working out for each case? Is this going to end up being charging an encroachment that is just going to be costs for the work that is done to identify the encroachment?

**Deputy E.J. Noel:**

Yes, the Deputy is right. It is quite a substantial cost and resource hungry, which is why we are doing it in the first instance on the reactionary basis as and when we are made aware that an encroachment has taken place. The assessments always include the party having to cover the legal costs involved, as well as providing a suitable negotiated settlement to the public for the encroachment.

#### **4.7.7 Deputy R.J. Renouf of St. Ouen:**

May I ask the Minister where the funds are paid that his department recovers as compensation and under what authority are they paid to that source?

#### **Deputy E.J. Noel:**

As with everything that Property Holdings receives in terms of property transactions, the money goes to the Treasury.

#### **4.7.8 The Connétable of Grouville:**

Now that the foreshore is in the ownership of the States, in other words owned by the people of Jersey, does that term “foreshore” mean the perimeter of the whole Island? In other words, could other bays be treated similarly to St. Clement and Grouville, for example, St. Brelade’s Bay?

#### **Deputy E.J. Noel:**

I do not believe so. I think the particular elements that are of ... although the whole of the foreshore was transferred to the public, the encroachments tend to be, unfortunately, in the Constable’s Parish and in the Constable of St. Clement’s Parish in the majority where people have encroached on to the foreshore but I will get the clarification for him in due course.

#### **4.7.9 The Deputy of Grouville:**

The States Treasury can look forward to some hefty monies coming in if we are going to be charging ports and States of Jersey Development Company for all the buildings that have built from Sand Street from Pier Road. I think it is a great shame that the space along the foreshore has been built upon and access along the coast has not previously been honoured. But does the Minister believe this stand and deliver approach that he is going out to get members of the public who are, in most cases, extremely innocent in this? If anyone wanted to point the finger, surely it is down to the legal profession and conveyancers that have not done their work properly. But does he really feel this is the right approach to go out, and do members of the public?

#### **Deputy E.J. Noel:**

I agree with the Deputy in terms of that in some instances it may be the conveyancing that needs to be addressed in some of these instances but is this the right thing to do? Doing nothing, turning a blind eye, is not the right thing to do. You will not find any social housing on the foreshore. The housing that is on the foreshore tends to be at the upper end of our market. Is it right that the general taxpayer and the Island, as a whole, turns a blind eye to people encroaching on public land? I do not think so. Then you have 2 options; you reinstate the land back to the public where it is not necessarily practical to do so or where it would be a significant inconvenience to those landowners to do so, do you reach a negotiated - I repeat - a negotiated settlement based on a sliding scale, depending on how long that encroachment has been there? I believe that what my department are doing is in the best interest of the public, as a whole, but I am being very conscious of the fact of the individuals that are affected.

[10:45]

#### **4.8 Senator S.C. Ferguson of the Minister for Environment regarding the revision of the Masterplan for the St. Helier Waterfront: [1(482)]**

Following his announcement on 15th September 2016 that a review of the Masterplan of the St. Helier Waterfront would be undertaken with a revised Masterplan to be adopted in 2017, will the Minister confirm that the results of this review will be presented to the States this year and, if not, will he explain why not and when they will be presented?

##### **Deputy S.G. Luce of St. Martin (The Minister for Environment):**

A revised development framework for the St. Helier Waterfront will be lodged as soon as possible. It is currently envisaged that this will be done in February 2018 with a view to its consideration by this Assembly in March and not 2017, as originally envisaged. The reason for the time taken to move this work forward is that it was first thought that this review might be relatively limited in its scope. However, working with the Design Council Code, the adequacy of the entire Masterplan relative to current needs and the changed context of the Waterfront is being tested and the scope of this work has been broadened at my request. Any new framework for the Waterfront needs to be properly considered in its context. It is important that the Waterfront becomes better integrated into St. Helier. The principal focus here needs to be on transport, movement and connectivity. Work is ongoing and this is an important project that will shortly broaden out to engage key stakeholders.

##### **4.8.1 Senator S.C. Ferguson:**

Given that the area from Jardins de la Mer along the marina front is prime waterfront property, will the Minister confirm that he will not agree to the property next to Jardins de la Mer being reclassified as a builder's yard at least until after March 2018? It is Planning Application reference P.2017/1070 for the information of the Assembly.

##### **The Deputy of St. Martin:**

The Senator may have to bear with me, I think I know where she is going here. But I would say that obviously work that needs to be done on the Waterfront needs to be serviced and at times there will be a requirement for the development companies that do this work to store machinery, to store aggregates, to store materials and we have recently granted permission for a storage yard to be used there but it certainly will not be for the foreseeable future.

##### **4.8.2 Senator S.C. Ferguson:**

Correction, at the moment quite a lot of the materials being stored there are in fact for College Gardens. Would the Minister comment on that?

##### **The Deputy of St. Martin:**

I am not aware of where the materials are being used but I will certainly look into it.

##### **4.8.3 Connétable A.S. Crowcroft of St. Helier:**

I think it is a shame the Masterplan review has been delayed but I welcome it, nonetheless. Would the Minister agree that when he speaks of consulting stakeholders shortly, that what he means by that is that he will publish a timetable showing how he will indeed engage with key stakeholders but also with members of the public who are going to want to get involved with this? Is he going to be holding open meetings and so on, so that the public really feel they have been involved in this Masterplan review?

##### **The Deputy of St. Martin:**

I think the short answer is absolutely yes.

##### **4.8.4 Deputy G.P. Southern:**

I think the Minister suggested that he would bring back a report to this House if and when the remit of the review was expanded. Would he be prepared, following enhancement of the public realm through developments on the Waterfront, to bring a proposition if there are major changes to the vision for what is happening on the Waterfront?

**The Deputy of St. Martin:**

The last Waterfront Masterplan came before this Assembly and it is for that reason that I thought it was important that the new revised one came before the Assembly as well. As the Deputy says, there are a number of constituent parts to the Masterplan; there is obviously going to be office development there. I would continue to envisage residential, hospitality and some culture and that was envisaged in the original plan but it is the connectivity that is the real issue here. I have mentioned transport, walking, cycling, access and that is the part of the work that is being broadened out. This is not just about the very stark and sharp red line around the Waterfront. This is about how the whole of the southern part of St. Helier connects to itself. We have, for example, a lot of people who cycle and walk into town every day, they get to the end of the Esplanade, only to be faced with 6 lanes of traffic to cross. Those sort of issues need to be addressed right across from West Park all the way to the tunnel. Yes, I envisage it will be come back to the States for a debate some time early next year.

**Deputy G.P. Southern:**

For debate of a proposition if there are major changes to what is now envisaged.

**The Deputy of St. Martin:**

I do not envisage any major changes. As I have said, the main number of constituents, office, residential, hospitality and culture will still remain. I do not see that changing. It may but I would be very surprised if it did. It is the connectivity bit but, yes, the Waterfront Masterplan is an important document. I expect to bring it back to the Assembly and for Members to be allowed to comment and make changes if necessary.

**4.8.5 Senator S.C. Ferguson:**

Yes, it is important. I am glad the Minister recognises the importance of public consultation. Will he confirm when he expects that to commence?

**The Deputy of St. Martin:**

As I said in my original answer, the work will shortly broaden out to engagement consultation and certainly that will happen this side of Christmas.

**Senator S.C. Ferguson:**

But can the Minister give us a date?

**The Bailiff:**

You only get one final supplement, Senator. You still only get one final supplementary. Before Christmas you have been told.

**4.9 The Connétable of St. Helier of the Minister for Infrastructure regarding the introduction of solid and liquid waste charges on the commercial sector: [1(485)]**

Will the Minister advise what steps he is taking to ensure that the introduction of solid and liquid waste charges on the commercial sector alone is fair, practical, the best environmental option and good for tourism?

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

The States, in adopting amendment 5 to the M.T.F.P. (Medium Term Financial Plan) 2017-2019 Addition, limited the charges and indeed all work on considering charges to be limited impacting the commercial sector alone. As a user-pays charge, D.f.I. (Department for Infrastructure), on behalf of the Council of Ministers, have looked at the total cost and the total usage of the waste systems and evaluated the elements relating to non-household use. The Council of Ministers are not proposing that businesses cross-subsidise household use and this will continue to be paid by the taxpayer. However, currently large commercial users are being subsidised by the taxpaying public. The most significant barrier to changing behaviour towards waste in Jersey is the absence of fiscal measures that make it economically effective to reduce waste and encourage recycling. Charges such as we are proposing are seen to be effective elsewhere. Keeping Jersey beautiful is one of our top priorities. We have invested heavily over the years, ensuring that we have the appropriate facilities and take responsibility for our waste. There is an expectation of good environmental practices and Jersey's recycling rate is, unfortunately, currently behind the U.K. and the rest of Europe. Not charging for waste means that recycling is just not seen as a cost-effective option. Tourists, for example, visitors to the Island must wonder why there is little or no segregation of waste in our hotels. But I am pleased that the Constable has assured that the recycling is giving prominence in the public areas of the town.

**4.9.1 The Connétable of St. Helier:**

As the Minister indicated recently at the meeting of the Retail Development Group, it is inevitable that charges for domestic waste will be introduced, would it not be more fair for the Minister to come up with a scheme that is a holistic approach for charging for waste right across the piece, rather than singling out businesses who do feel that the current proposal is unfair?

**Deputy E.J. Noel:**

If States Members would have allowed my department to do that, then it is something that we would have considered.

**4.9.2 The Connétable of St. Helier:**

Will the Minister agree to abandon liquid waste charges, given that water metering, if no other reason, means most of us and most businesses are loathe to waste water? Does not liquid waste charges, which he seized on as an early win, unfairly penalise the hospitality sector, particularly restaurants and hotels? Is there not a real risk that he will be sending out the message that hotels should use less water and restaurants should use less water, which seems to me to be likely to have severe repercussions on the customer?

**Deputy E.J. Noel:**

That is a very long question and I will give it a very short answer. In terms of that, to do as the Constable would ask me to do would be going against a decision of this Assembly.

**4.9.3 Deputy G.P. Southern:**

Will the Minister consider altering his proposals in order to introduce an ability to pay into his waste charge measures?

**Deputy E.J. Noel:**

Again, this Assembly has agreed in principle user-pays charges based on use and the amount of waste produced. It is very difficult to introduce an element of ability to pay. However, myself and my Council of Ministers' colleagues are looking at the waste charges going forward and we will be coming back with a revised plan in the course of the next few months.

#### **4.9.4 The Connétable of St. Helier:**

Indeed, I think not only States Members but many businesses welcome the recent news that the Minister is withdrawing his immediate plans and is going to take it back, so the Council of Ministers comes forward with a further proposition. However, could I urge him... will the Minister agree to engage fully with particularly the hospitality industry and the retailers if he is indeed going to press ahead with this idea that he will only go for the commercial sector and not the domestic sector?

#### **Deputy E.J. Noel:**

Unfortunately, the Constable tries to put words in my mouth. I did not say that we were withdrawing the current proposals, I said that we were revisiting them; that is not the same as withdrawing them. To do it again, as the Constable would wish me to do, which is to look at domestic waste charges, is against a decision of this Assembly and I am, therefore, not able to do so. What I am able to do is indeed consult more with stakeholders and to broaden that and to consult with the public to see if they think that it is fair that businesses start paying for their waste that they produce.

#### **4.10 Deputy M.R. Higgins of St. Helier of the Minister for Home Affairs regarding reviews of the States of Jersey Police: [1(493)]**

Will the Minister advise Members when the States of Jersey Police were last subject to a full inspection by Her Majesty's Inspectorate of Constabulary and what *ad hoc* reviews, if any, have been commissioned in the interim? If there had been any such reviews, will she indicate when they took place, by whom they were commissioned and what subject matters were covered?

#### **Deputy K.L. Moore of St. Peter (The Minister for Home Affairs):**

I recall the Deputy asking a similar question towards the end of 2015 and, as I stated on that occasion, the States of Jersey Police were last subject to an inspection by Her Majesty's Inspectorate of Constabulary in March 2008. Since then, and as the Deputy alludes to in his question, the force has established arrangements with other national police forces to periodically undertake peer reviews in particular areas of practice. In the past 5 years these have included reviews into the conduct of particular investigations, counterterrorism, working practices, the managing of sex offenders, how the police work with children involved in domestic abuse and the force's organisational health and safety procedures, further examples of reviews conducted by the City of London Police and the College of Policing regarding the force's use of firearms. I regret that it is not possible for me to provide all of the information the Deputy is requesting within the time available to me. I would be happy to provide the information in a written form, if that were acceptable to him.

#### **4.10.1 Deputy M.R. Higgins:**

Does the Minister not accept that *ad hoc* reports are very valuable - I accept that, and in the areas concerned - but with 9 years in between a full comprehensive report into the operation of the States of Jersey Police, does she not think that is rather a long period of time so that we can assess the force overall?

#### **The Deputy of St. Peter:**

The Deputy, I think, is aware that there is no particular time restriction on the regularity of inspections and this is a matter of discussion between myself and the Jersey Police Authority.

#### **4.10.2 Deputy M.R. Higgins:**

Can the Minister tell me how many reports from Her Majesty's Inspectorate of Constabulary have been carried out before 2008? How frequent were they in that period?

**The Deputy of St. Peter:**

I am afraid I do not have that information available to me at the moment.

**Deputy M.R. Higgins:**

I think we will leave it at that for the moment.

[11:00]

**The Bailiff:**

We come to question 11, which Deputy Higgins will ask of the Minister for Home Affairs. May I just mention to those Members who are listening outside that we are down to 25 within the Chamber and it would be nice if some returned.

**4.11 Deputy M.R. Higgins of the Minister for Home Affairs regarding the prospective publication of the response of the former Chief Officer of the States of Jersey Police to the 'Wiltshire Report': [1(494)]**

Will the Minister explain why, if the suspension of the former Chief Officer of the States of Jersey Police, Mr. Graham Power, was a neutral act, her department never published his response to the Wiltshire Report; will she commit to publish Mr. Power's response to that report; and if not, why not?

**The Deputy of St. Peter (The Minister for Home Affairs):**

As the Deputy knows, I was not the Minister for Home Affairs or even a Member of this Assembly at the time of Mr. Power's suspension. As far as I am aware, the document being referred to was submitted by Mr. Power as part of his evidence to the Independent Jersey Care Inquiry. My understanding is that this information is, therefore, already in the public domain in an appropriately redacted form and available on the Independent Jersey Care Inquiry website.

**4.11.1 Deputy M.R. Higgins:**

As the Wiltshire Report was published by her predecessor, Senator Le Marquand, and is being used by people as justification for the suspension of Mr. Power, of which he has never properly had the opportunity to answer because no disciplinary proceedings ever took place because he retired beforehand, and there were delays that took, I think, something almost like 3 years before it came out, does the Minister not think that if it is on their website - I believe it still is, if you can trace it through the internet - that Mr. Power's response should be put on the same site so the information can be seen, so that the States of Jersey are giving a balanced view of the whole of the affair of Wiltshire and Mr. Power and so on?

**The Deputy of St. Peter:**

I am sure other Members may have some sympathy for this situation and that these events took place a long time before I was Minister. It is not a matter that has been drawn to my attention until now and I have not, therefore, given it any consideration.

**4.11.2 Deputy M.R. Higgins:**

Let us follow through then, will the Minister now give consideration to doing it and advise the House what she will do at the next sitting?

**The Deputy of St. Peter:**

I am happy to give that consideration.

**4.12 Deputy J.M. Maçon of the Minister for Treasury and Resources regarding a solution for funding students going to university in 2017: [1(458)]**

Further to the response given on 18th July 2017 by the Chief Minister to an oral question in relation to the Student Financing Sub-Committee, that a solution for funding students going to university this year would be given “appropriate consideration” for Budget 2018, can the Minister advise what measures, if any, he plans to propose; and if not, why not?

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

I intend that we bring proposals on this matter to the Assembly in or alongside the Budget 2018. A number of options are being evaluated, including developing the existing grant scheme and variants of a loan scheme. My intention is that any changes to policy would be accessible by all undergraduates from the date at which the measures are implemented.

**4.12.1 Deputy J.M. Maçon:**

Is the Minister able to advise when this information will be available for the States Members?

**Senator A.J.H. Maclean:**

I will be able to update States Members in October with regard to the progress. As I have already pointed out, if some of the measures are to form part of the Budget, then that is going to be lodged on 3rd October and Members will be briefed on the 2nd.

**4.12.2 Deputy L.M.C. Doublet of St. Saviour:**

Is the Minister accounting in his calculations for those who perhaps have already left school over the last 5 to 10 years, are in employment currently, but might reconsider and want to go back into education when there is a funding solution in place?

**Senator A.J.H. Maclean:**

It is an interesting point by the Deputy and it just demonstrates the challenges in considering so many different options; that is one variable of course. We have been talking, as Members would expect, with the Education Department. They are putting together quite a bit of data and that data includes all sorts of variables. I am not sure, off the top of my head, whether it includes the precise example that the Deputy has referred to but I am more than happy to update her when I check on that with my colleague from Education.

**Deputy J.M. Maçon:**

I thank the Minister for his response and look forward to the information as and when.

**4.13 Deputy G.P. Southern of the Chief Minister regarding the state of Jersey's economy: [1(492)]**

Is the Chief Minister aware of the latest report from the Institute for Public Policy Research, *Time for Change: A New Vision for the British Economy*; and, if so, is it his assessment that the Institute’s conclusions that “the British economic model needs fundamental reform” and that the economy’s deep and longstanding weaknesses “make it unfit to face the challenges of the 2020s” apply equally to Jersey?

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

Our Island, of course, shares many challenges with the United Kingdom; Brexit, deeper globalisation, demographic and technological change and the need to reduce our impact on the environment. I understand that the major issues highlighted in this report were already being considered as we develop the Island's long-term vision. We are looking at ways to seize the opportunities of technological innovation and achieve higher productivity. We are aiming for a sustainable economy that minimises its impact on our unique environment.

**4.13.1 Deputy G.P. Southern:**

In particular, on page 4, the conclusions of this report, it suggests at least 2 things here that I would argue apply to Jersey and I seek the Minister's agreement. It says, third: "Wiring the economy for justice, which includes more secure jobs and regulating unjust practices in the labour market." Does he agree that that equally applies to Jersey and what actions will he take on those issues?

**Senator I.J. Gorst:**

It is a very broad-ranging report; the Deputy has picked out 2 areas. I think all governments, and ours not least, want to ensure that there is justice. The Minister for Social Security is responsible for employment legislation, for health and safety legislation and they are constantly under review, even now. We are out to consultation on changes to discrimination legislation about disabilities. Of course, in that regard we do accept that those areas should be under review. This is a wide-ranging report, it is their analysis of where the United Kingdom economy is but they are coming forward with proposals at a later stage. Let us not get ahead of the game in that regard, as it were, let us see what those proposals might be at a later stage to address some of the issues that they consider with regard to the U.K. economy.

**4.13.2 Deputy G.P. Southern:**

Will the Minister act to regulate the inappropriate use, for example, of zero-hours contracts in the Jersey economy?

**Senator I.J. Gorst:**

The Deputy knows there is already consideration being given and continues to be given. The Minister for Social Security has an open door for anyone to come forward where there are cases where it can be proven. I know that she has been in conversation with the Deputy of St. Ouen, who felt that he was aware of some cases. I do not know what the progress of that conversation is. I am quite clear, there is and can be a perfectly legitimate use for zero-hours contracts, even the States of Jersey uses them. But we have undertaken a piece of work to go through our use of zero-hours contracts and remove them where we think they are inappropriate and I hope that other employers will do the same.

**4.13.3 Deputy S.Y. Mézec:**

We had the recent report from the Stats Unit that showed that over the last 10 years in real terms earnings have only increased by 0.1 per cent. In the context of this report from the Institute for Public Policy Research, what consideration does the Chief Minister and the Council of Ministers give to ensuring that where there is economic growth in Jersey that the proceeds of that growth are distributed fairly and that those proceeds are not simply focused at people at the top of the income distribution scale but helping those people at the lower end who have seen their standard of living go down in recent years and towards the middle, people who are feeling more and more squeezed over recent years? Is this something that features in conversations he has around the table with the Council of Ministers?

**Senator I.J. Gorst:**

The Deputy knows this and he is trying to make his point, as he is able to do. Ministers have brought forward and lodged and brought to this Assembly impact analysis from various measures that are being proposed. We are thinking about budget measures for later this year and how they can be balanced and the effect that they will have across our community. It is why we supported the work that Oxera did into minimum wage. It is why we are reviewing the potential for the Caritas living wage and what that might mean, as an employer as well. Of course, we do so but we try to do it reasonably and in a balanced way.

**4.13.4 Deputy G.P. Southern:**

The Chief Minister has talked a little about wages but is he prepared to reform his tax system, as advised, to make certainly the U.K. system fairer? Is he equally prepared to reform the tax system to make it fairer and to spread wealth more fairly in our economy?

**Senator I.J. Gorst:**

The Deputy is picking up on the analysis, not what the solutions are that this body will come forward with. I do speak in particular to one of these individuals who produced this report fairly frequently and we discussed some of these issues. I think the analysis for the U.K. economy is reasonably straightforward, as they have done here, but I have no doubt whatsoever that the answers and solutions that they might propose are extremely complex. We are talking about improving productivity across our economy. We are talking about the effect of technological change on jobs and earning capacity. We are talking about the ageing demographic and providing for those who become older in our community, that is as in this Assembly, not those who are currently old and how we are going to provide for them; pensions, long-term care, health care. On top of that, of course, the cost of education, investment in infrastructure, investment in housing. It is not just one narrow particular political point that the Deputy is trying to make. It is a broad range right across our economy. The Deputy, I think, will admit that in lots of those areas we are taking action. We do have plans to provide more affordable homes. The Minister for Social Security is reviewing about changes that might be needed in pension and long-term care over the next 20 or 30 years dealing with demographics. The Minister for Health and Social Services is investing more in health. The Minister for Education is investing more in skills. These are all important interconnected parts of delivering an economy for everyone.

**4.13.5 Deputy M.R. Higgins:**

Does the Chief Minister believe that there is inequality within the Island and, in many cases, it is exceptionally bad inequality? If he does, what measures will he bring in? Forget about the U.K. and their problems. I believe there is - I believe even the Chief Minister probably recognises there is - a great deal of income inequality. What measures will he bring in to try and address the issue?

**Senator I.J. Gorst:**

I assume that the Deputy is alluding back to the Income Distribution Survey that deals with income equality. I suppose there are 2 issues there and that is while income distribution is an important economic measure and that is the differential between the lowest and the highest paid, that I do not think should be a government absolute priority. All of these things are interconnected and we want the poor to get richer. We do not just want the rich to get poorer to deal with inequality and we have to be careful that policies do not drive in that direction. But if we look at the last Income Distribution Survey we know that that worsening, or at least no improvement over the last 10 years, which is what that showed; it showed an improvement 5 years ago and then a worsening again over the next 5 years, was about house prices and was about the recession and was about interest rates.

The Deputy knows that the Minister for Housing is putting a lot of effort in a lot of work to helping address some of those issues.

**4.13.6 Deputy G.P. Southern:**

The Chief Minister falls back on his prop, it is all about housing and ignores the fact that he has failed over certainly his tenure of the past 6 years to grow productivity on the Island.

[11:15]

What specific measures does he have in mind, at this late time, before we get a new session, to improve productivity once and for all on this Island, which he has singularly failed to do so for the past 6 years?

**Senator I.J. Gorst:**

Once again the Deputy wishes to make a political point. He is a politician, of course, he may. But he knows that the reduction in productivity is what we expected because we knew that banking, which is our highest and most productive sector, would be losing jobs as it consolidates, as it suffers from the continuing effect of the economic downturn. Our challenge was around replacing those jobs and any sector that you care to look at that where we would replace those jobs, which we have done a very good job at doing, is going to have lower productivity than the ones that were being replaced. The Deputy, it is about time that he understood our economy and what was happening. It is not an accident, it was by design. Banking was consolidating, it was dramatically affected by the recession. Those jobs that were being lost here and elsewhere needed to be replaced. They could only be replaced with jobs that had a lower productivity because there is no other sector that could have a higher productivity. It is disingenuous for him to suggest anything other than that. Having said that, of course, officers are in the process of bringing forward a new enterprise strategy that will look at new ways of improving productivity going forward.

**The Bailiff:**

When you say disingenuous, Chief Minister, you mean unintentionally misleading, do you not?

**Senator I.J. Gorst:**

Sir, I do apologise if I said anything out of order and I withdraw the word “disingenuous” but he does keep seeming to make the same statement.

**Deputy G.P. Southern:**

That was a half-hearted withdrawal. [Laughter] Why then does the Minister promise to improve productivity time and time again when he stands on honesty and never delivers?

**The Bailiff:**

Deputy, you have had your last question on that particular topic.

**4.14 Deputy S.Y. Mézec of the Minister for Infrastructure regarding work undertaken during the summer recess on the proposed waste disposal tax: [1(491)]**

Will the Minister update the Assembly on what work, if any, has been undertaken over the summer recess to engage with the business community on the impact of the proposed waste disposal tax and indicate whether he anticipates making any changes to the proposals for when they come back to the Assembly?

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

I could say: what summer recess? The department and I have met with a number of businesses and trade associations over the course of the last few weeks since the start of the summer recess to further explain the charges and to seek their views of those present. Over the course of the next few months the department will, together with Treasury and E.D.T.S.C. (Economic Development, Tourism, Sport and Culture), continue with its stakeholder engagement programme and with the public to better understand the impact of the charges on non-households. The M.T.F.P. target and the in principle decision on waste charges have left my department with little room to amend the proposals. Any changes to the level of income achieved have to be found from elsewhere within the overall States budgetary envelope. There is no new money. As the States agreed a user-pays charge, it is difficult to propose a charging scheme that does not reflect user pays. Inevitably, those industries, such as the hospitality sector with the highest water usage are also likely to be among those paying more. It is a simple equation because their usage of the sewerage system is also likely to be greater. Some quarters of the business community have not welcomed this proposal of the Council of Ministers and we are working on measures that will assist the businesses which are hardest hit. Options include providing an extended transitional period, providing a service to help businesses improve their environmental performance, working with the Parishes to streamline the collection methods and simplifying charging. My final point is to remind colleagues that currently the public of Jersey, through direct taxation, are subsidising businesses in terms of their waste disposal. Our recycling rates, as I said earlier, are very low, compared to any other European jurisdiction and without commercial waste charges the businesses of dealing with waste will not have sufficient funds to continue to protect this wonderful Island of ours.

#### **4.14.1 Deputy S.Y. Mézec:**

I also spoke to businesses who are concerned about this during the summer recess and I found that many of those I spoke to had a large degree of sympathy with what the Minister has just said, particularly the point about income taxpayers subsidising the service. But what they found difficult was the very nature of this proposed tax will see these businesses charged an amount that bears no correspondence to their actual ability to pay it. With income tax the more you are able to pay, the more you pay, the less you are able to pay, the less you pay, that principle is not being applied to this tax. Does the Minister think that in the interests, not just of the environment but also for economic growth, it would be good to go back to the drawing board and look at some form of way of charging these businesses so that they are contributing for the services that they are benefiting from but doing so in a progressive way that is based on that business's profitability, its viability, so that we do not damage these businesses and end up in a situation where hotels simply see that they are better off converting into accommodation, rather than hotels because then they will not be subjected to this tax?

#### **Deputy E.J. Noel:**

I know that the Deputy was in the Assembly when we debated the addendum to the M.T.F.P. Similar to the Constable of St. Helier, what he is asking me to do is outside that States decision. I simply cannot do what he is asking me to do. I have no remit to come up with other ways of taxing businesses. I have a remit from this Assembly to bring back the detail to introduce user-pays charges for non-households and that is what I am doing. Until this Assembly changes its decision, that is my remit.

#### **4.14.2 Deputy G.P. Southern:**

Does the Minister consider that user pays includes an element of ability to pay and that it is perfectly possible for him to bring something that contains ability to pay, alongside user pays, without breaking any of the propositions passed through the Assembly?

**Deputy E.J. Noel:**

No, I do not agree with Deputy Southern in that respect. User-pays charges are exactly what they are, it is user pays, that bringing an element of affordability to that changes the nature of them and then need some cross-subsidisation of those costs that the user is supposed to be paying for.

**4.14.3 Deputy G.P. Southern:**

Does the Minister then interpret user pays to be a punitive measure?

**Deputy E.J. Noel:**

I interpret it in the simple language that it is, it is user pays for the services that they are consuming. If they want to mitigate their costs, they have to mitigate the use of those services.

**4.14.4 Deputy S.Y. Mézec:**

Is the Minister, as a Member of Jersey's Parliament, aware of the doctrine of parliamentary supremacy, which says that a Parliament cannot bind a future Parliament? Does he not agree that if it then turns out that the principle of user pays is inappropriate, he is able to bring a proposition asking the States to reverse that decision and instead pursue another path? Would that not be a more sensible way forward, a way of reaching a consensus where Members from across the divide are able to accept that we should be asking businesses to contribute to services but to do so in a proportionate and progressive way that does not risk harming economic growth but still enables his department to do the job that it needs to do? Does he not agree that that would be a sensible way forward and in line with the doctrine of parliamentary supremacy?

**Deputy E.J. Noel:**

I look forward to a foremost proposition doing exactly that. Whether or not I support it or not would be another matter.

**5. Questions to Ministers without notice - The Minister for Treasury and Resources**

**The Bailiff:**

That brings that part of Question Time to an end. We now come to questions to Ministers without notice and the first period is for the Minister for Treasury and Resources. Deputy Southern.

**5.1 Deputy G.P. Southern:**

Has the Minister read the Oxera report on the potential for increasing the minimum wage in Jersey? What comments has he on the net benefit to the Exchequer of between £500,000 and £800,000, which the Oxera suggests might be achieved by such an increase?

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

I have read the report. It is an interesting report. It clearly focuses on one particular area. It is a debate that, no doubt, will ensue for some time in terms of minimum wage. I think this Council of Ministers have made it clear that we support, firstly, the independent body that has been set up looking at such matters with regard to what the minimum wage should appropriately be and, indeed, into the future that the minimum wage should be increased as is appropriate to meet, hopefully, the objectives that are laid out and partly alluded to in the report.

**5.1.1 Deputy G.P. Southern:**

Does the Minister agree with the numbers revealed in the report that there would be a net benefit to the Exchequer of up to £800,000?

**Senator A.J.H. Maclean:**

That is possible, yes. The report clearly does give some numbers, which the Deputy is referring to. There are other factors that need to be taken into consideration perhaps, but yes, those numbers are in themselves interesting.

**5.2 The Deputy of St. Ouen:**

The Minister will recall that during the last Budget debate I brought an amendment relating to stamp duty, which was not supported, but the Minister did say during that debate that his department would be looking into rates of stamp duty, particularly distinctions between residential and commercial properties. I wonder if the Minister could advise the Assembly what stage that work has reached and whether he is bringing any proposals in the forthcoming Budget.

**Senator A.J.H. Maclean:**

Yes, such matters have been given some consideration and I will be able to update the Deputy and Members at the time when we lodge the budget at the beginning of October. Clearly, Members would appreciate it would not be normal practice to start referring to potential changes in advance of that. I am happy, though, to speak privately to the Member if he would like to do so afterwards just to give him some further background.

**5.3 Deputy M.R. Higgins:**

The Minister when he was responding to Deputy Southern in response to the £28 million said there were other factors which would work against the £28 million. Will he elaborate on what they are, please?

**Senator A.J.H. Maclean:**

I made the point that the Oxera report is, indeed, interesting. It does raise the possibilities of increased revenues as a result but, of course, there are further impacts that could be resulting from changes that such an increase would give to the shape of the economy. I think some additional work needs to be done to look at what those might be. So, although there could be some gains in some areas, there could be some losses elsewhere, and we just need to see what the impact on certain sectors within the economy might be by such a move.

**5.3.1 Deputy M.R. Higgins:**

A supplementary: could the Minister be a little bit more precise? You say that there are other factors and you need to look at them. Can you just indicate the specific areas, please?

**Senator A.J.H. Maclean:**

There are certain sectors within the economy that get impacted by changes to minimum wage more so than others, and the Deputy and Members will be aware of what those sectors are. They are what I would describe as the traditional sectors such as agriculture and hospitality more broadly. It covers a number of different areas, clearly, the hospitality term. It is in those particular areas and particularly around competitiveness that we would need to, I believe, do some additional work to make sure there is not going to be an unsatisfactory decline as a result of the changes that are mentioned in the Oxera report.

**5.4 Deputy J.A.N. Le Fondré of St. Lawrence:**

There were strong indications made earlier this year, including in the accounts of States of Jersey Development Company, as to the strong likelihood of a disposal of what used to be referred to as Building 4 sometime this year. Given that very recent Ministerial Decision in respect of a

revolving credit facility, has the sale of what is now referred to as I.F.C. (International Finance Centre) 1, also referred to as Building 4, now been delayed?

**Senator A.J.H. Maclean:**

Yes. The decision was taken by the board, I believe absolutely correctly, that to proceed with a sale of Building 1 ... that was, for Members' interest, originally described as Building 4. It has had its name changed to totally avoid confusion. It is, in fact, now Building 1. The board felt that at least 90 per cent of the building should be let before a sale was entered into. We believed that was going to be the case. It has not progressed quite as quickly as anticipated. In fact, a written answer that I have submitted today shows that 70 per cent of the building is let. In fact, I can tell Members since that written question was submitted it has now increased to 75 per cent - an additional 5 per cent - and there are 18 per cent of the building with lawyers. That would take us to the 90 per cent and, therefore, a sale process would start soon thereafter. So, we are getting very close now.

**5.5 Deputy G.J. Truscott of St. Brelade:**

Balancing the books is so important and I was just wondering if the Minister could provide the Assembly with just a general update of how things are going. [Laughter]

[11:30]

**Deputy G.J. Southern:**

That is definitely a plant.

**Senator A.J.H. Maclean:**

Yes, exactly, how long do Members have?

**The Bailiff:**

You have 90 seconds, Minister.

**Senator A.J.H. Maclean:**

Indeed. Matters have been progressing quite well. Members will be aware that 2016 economically was a good year. Employment reached record levels. We saw income receipts up. We saw our investment returns up quite considerably. We saw the balance sheet of the States of Jersey increase to £6.2 billion. That was up over £300 million. I hasten to quickly add that a lot of that was in the Social Security reserve funds area. It is not money that can be spent but it does give us security for the future. It does give the Minister for Social Security flexibility now or in future to consider when he or she, she or he, might decide to increase rates, and that horizon could be delayed as a result of the good performance last year. So, all in all, the public finances are in a good shape but, as the Fiscal Policy Panel has made clear in their latest report, the risks principally around Brexit still exist and, therefore, we have to continue on with our programme set out very clearly in the Medium Term Financial Plan to balance our books by 2019.

**5.6 Deputy S.Y. Mézec:**

What consideration, if any, has the Minister and his department given to our income tax model and how public finances could benefit from a simplified system where we moved away from having 2 rates of income tax to one standard rate applied across the board at a lower rate than the marginal rate? Is that something his department have considered?

**Senator A.J.H. Maclean:**

I thank the Deputy for the question and I am pleased to say that the Deputy and his colleagues on the far bench have been in to Treasury and put a number of views they have in this area across,

which has been evaluated. We are continuing to consider all matters with regard to the tax system. As the Deputy will know, and Members, there is a review currently under way of the income tax system. The first phase has been published and the second phase, particularly focusing on independent taxation, is under way now. We hope to be in a position following the summer to be able to publish that. It is also my intention to very shortly go out to Members to put together a working group drawn from across the Assembly to assist with that particular work and, indeed, Members on the far bench looking at me now inquisitively may indeed like to put their names forward for that.

### **5.7 Deputy A.D. Lewis:**

Could the Minister advise how he intends to balance the Budget by 2019 following the States' rejection of the specific health charge?

#### **Senator A.J.H. Maclean:**

That is another very good question, of course. We have seen as a result of the improved performance of public finances through 2016 the good position of the economy has generated additional income. The revised position for 2019 was that we would have a fairly thin surplus of £3.6 million. As a result of 2016, and the improved position there, that grew to £7.5 million. Again, it is still very thin. But that relies upon a replacement for the health charge that the Deputy has referred to, which is £15 million by 2019. It also makes an assumption that the waste charges, both liquid and solid, are implemented. That is a further figure of £11 million. So, in the absence of those 2, there would be a significant deficit by 2019. These are matters to be addressed. I can tell the Deputy that as far as the health charge is concerned, this year's budget, Budget 2018, will include measures which will bridge the gap for the period up until 2019, after which, as I have said previously, there will need to be long-term sustainable measures put in place for the increasing costs of health as we go forward, particularly focusing on the ageing population.

#### **5.7.1 Deputy A.D. Lewis:**

A supplementary: does the Minister have a plan B, then, for the future if these charges do not become established in the next few years?

#### **Senator A.J.H. Maclean:**

Well, first and foremost, as I have said to the Deputy in my earlier comment, we have measures within this year's Budget which will be a matter for this Assembly to consider, which will provide funding through until 2019. That will deal with the short-term issues. It does not get away from the fact that a future Assembly will need to tackle what the long-term sustainable position will be for an ageing population and, as a result of that, considerably increasing costs in areas like health. There will need to be consideration. The Assembly has quite clearly said that a health charge as was proposed is not something that is supported. However, there will have to be an alternative to deal with that matter.

### **5.8 Deputy G.P. Southern:**

Would the Minister like to occupy a couple of minutes by telling us how good a holiday he had and whether he has come back refreshed? No, no, no, please do not. The Minister said he was bringing forward in the next Budget measures to bridge the gap between now and 2019. Would he indicate how he proposes to bridge the gap?

#### **Senator A.J.H. Maclean:**

No, not at this moment because those are Budget measures which will be and are quite rightly going to be published on 3rd October. That is when the Budget gets published. Members will be

briefed prior to that on 2nd October and that is the appropriate way forward. There are still one or 2 of these measures that the Council of Ministers is still considering and have yet to be finalised. Broadly speaking, the plan is in place and when it is complete, as I have said on the timetable I have outlined, the Deputy will be informed. I can tell the Deputy I had a very nice summer holiday, thank you very much for asking.

**Deputy G.P. Southern:**

I will rein in my impatience, then.

**The Bailiff:**

If there are no questions, then we will go on to the question period for the Minister for Education, which starts now.

**6. Questions to Ministers without notice - The Minister for Education**

**6.1 Deputy G.J. Truscott:**

Les Quennevais School I understand has been making progress through the planning procedure and the latest design has come through. Could the Minister update the Assembly whereabouts we are and when is he anticipating the first spade to go into the ground?

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

Thank you to the Deputy for the question. The revised planning application was submitted in July and we are now waiting for the outcome of the Planning Committee decision. They are expected to consider the proposal in mid-October. Meanwhile, the purchase of the land is under way. There is still a difference of views about the traffic issues and D.f.I. have employed transport experts to address this with Planning and the Parish. The option for an artificial sports pitch is not included in the project for 2 reasons. The first is budgetary and the extra funding that would be required, but more significantly the size and land gradient on the site meaning it is not suitable. But to answer your question more fully, if all goes well we aim to have spades in the ground by the end of this year and the students in their new school in September 2020.

**6.2 Deputy G.P. Southern:**

Is the Minister in a position to update Members on progress concerning funding for nursery education on the Island?

**Deputy R.G. Bryans:**

To some extent, yes. I had a meeting with an individual that we have asked to consider the early years, who is coming forward with a strategy for early years, of which the nursery education funding is part of that. We met yesterday and the strategy I think is due in early October.

**6.3 Deputy L.M.C. Doublet:**

Could the Minister update the Assembly on the progress of the creation of a new child and family centre out west and any related discussions of the C.A.V.A. (Children and Vulnerable Adults Policy Group) Ministers, please?

**Deputy R.G. Bryans:**

We have yet to meet with the new C.A.V.A. board and discuss this matter. I think there is a meeting to be established this week. With regard to the new family centre, I think that is part of the agenda. I do not have any more details at this current time.

#### **6.4 The Deputy of St. John:**

Could the Minister advise what concerns he has with regards to the recent report completed by the Complaints Board with regard to higher education funding and the statements made by that board with regard to ambiguous information provided by the department with regard to maintenance grants and whether the Minister will be doing anything to improve the situation?

#### **Deputy R.G. Bryans:**

As Members will be aware, the complaint was not upheld and was found in favour of our department in terms of what we did. But initial meetings have taken place internally to look at the issues raised in the case of paramedic students and a team are now looking at new ways of how to move forward. However, solutions might involve a change in the Order, which would require input from the law drafting team. This means it is unlikely to be a quick change. The complaint was not upheld, as I say, but I have had meetings with our H.E. (higher education) funding team and we are looking for ways to remove those ambiguities.

#### **6.5 Deputy G.P. Southern:**

I was going to ask another question but I am intrigued by the answer to the last question in that the Minister yet again said that there may be delay because of law drafting for an Order. An Order seems to me a very simple thing and to suggest that there is a delay because of law drafting on this issue is a bit extreme. Surely if there is a problem with the Order and it needs correcting, it could be done in a fairly short time. Would the Minister not agree?

#### **Deputy R.G. Bryans:**

If that is possible, absolutely right. I am just really reporting back what was relayed to myself. If we have the opportunity to move forward as quickly as we can, then we will do that.

#### **6.6 Deputy L.M.C. Doublet:**

Could the Minister outline any improvements that he has made to parenting support services during his time as Minister?

#### **Deputy R.G. Bryans:**

We have created quite a lot of different support services for parents over my term of office. In particular, I think the initial 4 principles that we set out included changing the curriculum, raising standards, and I have forgotten the fourth one now but certainly families was in there. We have created a new parents' forum, which looks particularly at parenting for vulnerable students. We have increased the amount of dialogue that we have with parents in relation to what information they receive from schools. We are at this point in time creating a brand new document which I would like to be able to put into the hands of parents which tells parents a timeline. So at a point when they have a child - from the point of the child's birth - they have a consideration of what they would have to do, what the child will have to contemplate during that period of time while he is in the remit of the Education Department, and then considerations for what they would do further to that with regard to higher education. That will be the first time a document of this kind has ever been produced.

##### **6.6.1 Deputy L.M.C. Doublet:**

A supplementary, please. I was wanting to enquire specifically about the classes and the courses offered to parents through parenting support services. Has the Minister reviewed what is being offered through those classes and courses? If he has not done that during his term of office, will he commit to doing so, please, and to making any improvements that he deems necessary?

**Deputy R.G. Bryans:**

Yes, this is an ongoing piece of work, as I say, which relates to the families. It was part of our principles as we put out at the first point and, yes, I do commit to working more closely with families and parenting in particular. I think it is really important that parents are included within the remit of what we do within education so that they have a clear idea of what is expected of them, what is expected of their children, and they have access to the information that will help them in their own parenting skills.

**6.7 Deputy G.P. Southern:**

It seems to me that one of the things that the Director of Education is very keen on is, to put it simply, keeping up with the Joneses, meaning keeping up with U.K. results. Is he aware that some assessments of results in the U.K. have declined by 5 per cent over the past 4 years or so and that there has been a similar decline, although comparatively we have maintained our position, in Jersey as well?

**Deputy R.G. Bryans:**

No, I am not aware of what the Deputy is referring to, if he could just elucidate a little bit further.

**Deputy G.P. Southern:**

I believe the test is the modern Bacc, the English, maths and whatever the technical subject is, and if you look at those I believe there has been some decline in results in the U.K. and possibly here.

**Deputy R.G. Bryans:**

If it is referring to the change of moderation with regard to the G.C.S.E.s (General Certificate of Secondary Education) I would be happy to say that the reverse of that has been true here in Jersey. So, the new change, moving away from the alphabetical grading of G.C.S.E.s to the numerical one, so a 9 now being an A and 2 stars, a brand new grading, in the U.K. it was thought to be that students would achieve around ... 3 per cent of students would achieve this result. It was something closer to 2.5. I can tell you that in Hautlieu the result was quite outstanding. Their result was closer to 8.5.

**Deputy G.P. Southern:**

Sir, if I may, could I just have a supplementary?

**The Bailiff:**

All right.

[11:45]

**6.7.1 Deputy G.P. Southern:**

I was asked for a clarification before. The Minister must be aware that G.C.S.E. results are norm referenced in that the exam is set, the marks are given and then the borderlines about 9s, As or A+ or Bs, is set equally, norm referenced. Therefore, there is very little reference to the standard of student learning. Is that not the case?

**Deputy R.G. Bryans:**

I understand what the Deputy is saying with regard to norm reference but I have to say that, going back to his previous question, we have looked at this. We spent a great deal of time when we created our new curriculum looking at the moderation of exams and moderation of the skills of our students within the schools. I can say that there has been a substantial increase. I know we have

broken for the summer recess recently, but during that period of time the examination results that we have across the board have been exceptional.

**6.8 Deputy L.M.C. Doublet:**

Could the Minister please update the Assembly on any further developments towards acquiring some land from the old police station site for the use of Rouge Bouillon School, please?

**Deputy R.G. Bryans:**

Yes, Jersey Property Holdings and all interested parties are aware that we have an interest in the old fire station. We are involved in ongoing discussions but we have not reached a conclusion at this point.

**6.8.1 Deputy L.M.C. Doublet:**

A supplementary: would the Minister update the Scrutiny Panel, please, on the progress of these discussions?

**Deputy R.G. Bryans:**

Yes, of course I will.

**6.9 The Deputy of St. John:**

Noting the Minister's answer regarding Complaints Board findings: what is the Minister's current stance on postgraduate funding?

**Deputy R.G. Bryans:**

I think it is exceptionally important. You have a Minister here that if it were at all possible I would like all students, whatever their financial background, to be able to access higher education. I think the Minister for Treasury and Resources has already answered that some of the proposals that we are looking at at the moment are in discussions with Treasury. We have 10 options on the table at the moment and hopefully, as he has stated, we will reach a conclusion in October.

**6.9.1 The Deputy of St. John:**

A supplementary: my question was with regard specifically to postgraduate funding. Does the Minister not seem to be concerned with regards to the rules, the policy or even the legislation that surrounds postgraduate funding and the fact that there is little or no information and that there is a great deal of ambiguity around how that particular funding is applied?

**Deputy R.G. Bryans:**

Yes, I think I have already answered this to some extent. I think there are ambiguities and it was at the start of my tenure as a Minister that I asked that we start to work our way through these. It is a very complex issue. I sit on the appeals for the funding for postgraduate students and I have to say that this year we were able to grant all of the students that applied to us with the grants that they expected. So, it is difficult, it is complex, and I am hoping to produce a better result soon.

**6.10 Deputy L.M.C. Doublet:**

Has the Minister ever done any work on the books and materials used in schools to assess whether they reflect the diversity of the world around us?

**Deputy R.G. Bryans:**

Not myself personally, no, I have not, but I do think the Deputy is aware of this. I think there was a discussion that we had on the table at some point in time where we were going to be looking at children's rights and within that is children's rights within schools and within education. Within

that, it is mentioned about the diversity and I think particularly the school that she used to teach in is one of those that has always adhered to making sure that all of the materials that were produced and given to the children in the primary stages related to that.

**6.11 Deputy R. Labey:**

Given the recent tragic suicide of a 15 year-old high school student in the U.K. who had chosen to begin their gender realignment procedure with a change of name and had that failed to be recognised by the head and the school at which this student was attending, is there a sufficiently supportive policy for all schools with transgender children which will be supportive of their choices?

**Deputy R.G. Bryans:**

I thank the Deputy for this question because I think it is a very interesting place. I think the Deputy is aware that from my particular stance anything that supports the diversity and the situation with regard to transgender students and anything that affects the mental health of our students is particularly close to my heart. Just yesterday I had a discussion with our psych consultant within the department about these issues, strangely enough, and I wanted to generate a wider discussion with students and a wider discussion with teachers. So, that is something that we are pursuing at this point in time, but I do believe that all schools are aware of this issue and are fully supportive of what the Deputy is suggesting.

**6.12 Deputy G.J. Truscott:**

I am pleased that we still have time. I am a great supporter of the tracking scheme and obviously at Back to Work we are looking to upskill people. I know the Minister is very keen to promote a local university. I was just wondering has he taken into consideration the old school at Les Quennevais and whether that would be an appropriate building to perhaps aid us in progressing everything.

**Deputy R.G. Bryans:**

That is an interesting question itself but unfortunately the old school will then fall towards Jersey Property Holdings, and the scope of what they do with that building and the considerations of it will lay with them. Certainly, if there is a thought about that I would suggest the Deputy contact Property Holdings and make that suggestion.

**6.13 Deputy A.D. Lewis:**

The Minister will be aware that many of our schools have excellent facilities and they are used by the wider community. Some schools are very, very good at doing this and involving the local community and use the facilities that they have. Can the Minister give us any indication as to how much further that could go so that some of these facilities can be used to a greater extent by the wider community? Because they are excellent and perhaps in some cases they are underutilised.

**Deputy R.G. Bryans:**

I would suggest that anybody who is listening to this that they contact the school directly. We have passed, as we said before, greater autonomy to heads to decide what considerations their schools can have to the wider community. In fact, it is a point of reference that when we were working on the design of the new school at Les Quennevais employing design-thinking principles, we spoke to the community about the use of the school and very much that has been built into the new design. So, I think anybody who is interested in contacting the school and wants to use the facilities is able to do so.

**6.14 Deputy M.J. Norton of St. Brelade:**

With the new school year the Minister will know that there will be a plethora of school photographs from every year right the way through that will be landing on the doorsteps of many a parent. The Minister will also be aware that many of the companies that operate this are from outside of the Island. Is the Minister content with the procurement process for photographs and photographic companies when there are so many suitable candidates within the Island to operate this?

**Deputy R.G. Bryans:**

Yes, I have had private individuals contacting me with regard to this and wishing me to promote them to the schools here in Jersey. Schools historically have always used different photographers for different reasons, and once again this is something that I do not adopt as a particular policy. I suggest that schools are operated in a singular way; in other words, the heads once again have the autonomy to make decisions about who to choose. As the originator of Think Twice, Buy Local, I think it is a point of reference that I would like schools if possible to adopt use of local photographers, but it is entirely up to them and their resources.

**The Bailiff:**

Three-quarters of a minute, Deputy Doublet, question and answer. [Laughter]

**6.15 Deputy L.M.C. Doublet:**

Action plan from the teachers' survey, please?

**Deputy R.G. Bryans:**

Yes, we are going into a second teachers' survey which we have just had sanctioned by the union, so we are repeating the exercise that we first did to confirm and see the differentials between the 2 surveys. We will be contacting the Scrutiny Panel to advise them of this shortly.

**The Bailiff:**

Have you not anything more to say, Minister? You have another 10 seconds. [Laughter] Very well, that brings Questions to Ministers without notice to an end.

## **PERSONAL STATEMENTS**

**7. Deputy Andrew David Lewis of St. Helier made a personal statement.**

**7.1 Deputy A.D. Lewis:**

As Members will know, I have been cited in the Independent Jersey Care Inquiry report of having lied to the panel and also to this Assembly. I emphatically deny both allegations. The alleged lie to the Assembly is said to have occurred in the States Chamber on 2nd December 2008. There is no doubt about what I said as this is accurately recorded in Hansard. In the material passage I said in answer to a question from the Constable of St. Helier that I had read an alarming report from the Metropolitan Police which led me to the decision in the first place. Perhaps that answer could have been better expressed. What I had read was alarming extracts from the report from the Metropolitan Police which was contained in a summary report from the Deputy Chief Officer of the States of Jersey Police. For obvious reasons, I was anxious not to identify him as one of the sources of my information. The Deputy Chief Officer, in commenting on his Chief Officer, put his own career in jeopardy. In hindsight, I may have used language under pressure of answering questions that was not as clear as it should have been. In other words, I used shorthand when referring to the name of the report. In retrospect, I accept this was less than ideal but necessary to explain the situation. I also accept that it was possible for my words to be misconstrued. I had no intention, however, of misleading any Member of the States. I deeply regret not being more precise

in the language I used and I wish to express my sincere apologies to any Member of the States at that time who may have felt misled by what I said. In summary, my statement to the Assembly and later statement to the Inquiry was never intended to deceive. With regard to the Committee of Inquiry, I sought to co-operate fully with their investigation. At no time did I provide them with any false information. I do not know how they reached the conclusion that they did. Their report does not state in what respect I am alleged to have lied to them. I asked to discuss the matter with them but they refused to do so. I intend to continue to request an explanation from the chair of the panel. Some Members have suggested that I should resign from the chairmanship of P.A.C. (Public Accounts Committee). With the agreement of the P.A.C. I stepped aside several months ago. I believe this was the most practical and honourable thing to do. I have discussed the matter more recently with the remaining members of the P.A.C. and they have asked that I take no further action in this regard until the outcome of the censure vote is known.

## **STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

### **8. The Chairman of the Care of Children in Jersey Review Panel made a statement regarding the formation of the Panel**

#### **The Bailiff:**

We come now to matters under K, Statements on a matter of official responsibility. The first is by the chairman of the Care of Children in Jersey Review Panel, Deputy Mézec.

#### **8.1 Deputy S.Y. Mézec (Chairman, Care of Children in Jersey Review Panel):**

The report by the Independent Jersey Care Inquiry panel into the abuse of children in the Island's care system over many years was presented on Monday, 3rd July 2017. The Inquiry's 15 terms of reference dealt with matters between 1945 and the present day. As relayed on the Inquiry website, evidence was heard from more than 450 people who had lived in the care system or were otherwise connected to it. The panel held 149 days of public hearings and also saw more than 200 witnesses. It considered more than 136,000 documents. The experience of children within the care system was at the heart of the Inquiry's work. The final report identified individual and systematic failings and made 8 core recommendations for the future management and operation of Jersey's residential and foster homes to ensure the Island provides a safe and secure environment for the children in its care. Furthermore, it relayed 659 recommendations put forward by individuals or stakeholder organisations in Jersey which it grouped into 11 themed categories. The Chairmen's Committee has established a review panel to objectively examine the implementation of these recommendations and any associated proposals and legislation put forward to achieve them. Our terms of reference are as follows: to examine the policy of the Council of Ministers in relation to the 8 core recommendations made by the Care Inquiry; to consider the recommendations contributed to the Care Inquiry by members of the public and stakeholder organisations in Jersey, 659 individual recommendations grouped into 11 categories by the Care Inquiry panel, and examine the policy of the Council of Ministers to those matters; and to scrutinise all legislation arising from the recommendations made by the Independent Jersey Care Inquiry. Membership of the review panel currently consists of myself, Deputy Vallois as the vice-chairman, Deputy Hilton and Senator Ferguson. As you will note, this constitutes 4 members from the Scrutiny Panels most involved in this matter and as such will enable effective coverage of all topics arising from the Care Inquiry as well as effective communication with the existing Scrutiny Panels. Membership may evolve further over time as work streams develop and we would welcome expressions of interest at any stage from Members who may be interested in joining the panel.

Our intention is that the Care of Children in Jersey Review Panel will conduct all reviews in relation to any policy arising from the Care Inquiry as well as examining both new and revised legislation that may be brought before the States Assembly. Scrutiny of individual pieces of legislation where deemed necessary will be undertaken by the Care of Children in Jersey Review Panel as distinct reviews. It is vital that the recommendations put forward by the Care Inquiry are implemented correctly and thorough. Scrutiny will be essential in ensuring that what is put in place is both fit for purpose and helps to improve the care and wellbeing of children in Jersey.

**The Bailiff:**

There is now time for questions of the chairman, if any. Does any Member have any questions? Chief Minister.

**8.1.1 Senator I.J. Gorst:**

I welcome the statement. Scrutiny normally rightly says it is independent and it puts any political opinions aside prior to undertaking the review. It is my view that this is a wholly different sort of review and I wonder if the chairman could give confirmation to this Assembly that every current member of this review and any that they may wish to co-opt in the future is absolutely committed to ensuring that the best possible policy and legislation is brought forward to deliver the recommendations.

**Deputy S.Y. Mézec:**

Absolutely, and I am glad to receive that question from the Chief Minister. In the aftermath of the publication of the Care Inquiry review there was obviously lots of political discussions about what the best way forward was to ensuring that what comes before the States Assembly is of the highest quality and will deliver what it is meant to deliver. Members will have had different considerations in thinking about where they are best placed to undertake that role and to make sure that this is done properly. I am somebody who very strongly believes in the Scrutiny process being objective and taking the evidence and not using it as a platform for political point scoring, and I am absolutely confident that the other members of this review panel, who I think are highly regarded scrutineers and very experienced, I am sure will make this effort that we are undertaking what I hope to be a very successful process that at the end result we will be able to have confidence that the work that the Government has done is scrutinised properly, where we are able to hold the Government to account when they may make mistakes and able to make recommendations to enhance this entire process. As I said in my statement, I would welcome other States Members who are interested in being part of that process to get in touch with us and we can talk about how we can move forward on that.

**8.1.2 Deputy L.M.C. Doublet:**

I would like to thank the chairman for taking on this important work. Does he agree with me that this is an exceptionally strong panel? Could he outline the work that has already been started and how the work will be structured?

**Deputy S.Y. Mézec:**

I thank the Deputy for her kind words about the membership of this panel. Of course, I entirely agree with what she said. In terms of what work the panel will be doing, we have currently had our first meeting to establish some of the basic groundwork and then we will be having a further meeting on the 20th of this month. We know that there have so far been I think 2 major announcements from the Chief Minister with regards to independent inspections and also a Commissioner for Children and that is likely to constitute some of the first pieces of work we look to do because the wheels are already in motion for those. As I said in my statement, there will be

capacity for having sub-reviews set up for particular pieces of work and we might seek to co-opt Members on to those specific reviews. Of course, we will have consistent communication with the Scrutiny Panels that would ordinarily have responsibility for these different areas to make sure that there is no duplication of work and make sure that our entire efforts are best placed and consolidated in the appropriate places.

**The Bailiff:**

Are there no other questions for the chairman? No. Then there is a statement to be made by the Minister for Housing.

**9. The Minister for Housing made a statement regarding the acquisition of the Gas Works site by Andium Homes**

**9.1 The Deputy of Trinity (The Minister for Housing):**

I am very pleased to be making this statement to the Assembly confirming that Andium Homes have purchased the Gas Works site. The acquisition of the site provides a tremendous opportunity to deliver regeneration in the North of Town and I congratulate Andium Homes on their hard work in securing the site. **[Approbation]** The provision of good quality homes alongside the delivery of enhanced open space and public realm improvements in St. Helier is an absolute priority. Together with Andium Homes and other proposed developments in the area, which include homes at Ann Court and on the Brewery and Boiler House sites, the acquisition of the Gas Works enables a joined-up, long-term vision for the north of town to be developed, which is consistent with the Council of Ministers' strategic aim to deliver regeneration in St. Helier through the Future St. Helier initiative. I will, therefore, be bringing forward a proposition to this Assembly in due course so that Members can have their say on the future use of the site, including the provision of new affordable homes and a potential extension of the Town Park, and consideration of the necessary funding options. Once this Assembly has had an opportunity to debate these proposals, Andium Homes will be able to begin a process of consultation with local residents, the Parish and the wider community about the plans for the Gas Works site before submitting a planning application.

**9.1.1 Connétable L. Norman of St. Clement:**

The Minister says the provision of good quality homes alongside the delivery of enhanced open spaces and public realm improvements in St. Helier is an absolute priority. Bearing in mind the decision to build some 200 homes in the St. Clement green zone with no improved social, leisure or community facilities, why do the same standards not apply to my Parish? **[Approbation]**

**The Deputy of Trinity:**

We know that the Samarès site ... we are getting off the Gas Works site, but we know that the Samarès site went through a rigorous planning process and it was rezoned in the Island Plan which was approved by this Assembly back in 2012, I think, but I stand to be corrected there. The green space part of the development is essential and this is our chance of doing something really good in the North of Town.

**9.1.2 Deputy J.A.N. Le Fondré:**

Sorry, I thought the Constable of St. Helier was in front of me. Could the Minister inform the Assembly of the consideration paid for the site by Andium? I do assume it either has or will be going through contract in the Royal Court or will be appearing in the accounts of Andium, so I assume it is somewhere in the public domain at some point. Could she tell us how much Andium have paid?

### **The Deputy of Trinity:**

Yes, it will do in due course. The purchase value at this moment in time is commercially sensitive. Andium Homes will fund the purchase in the short term from their own resources. Making this information public at this present time would put Andium and the former landowner at a disadvantage in negotiations for further sales and purchase sites, and I am assured by the Treasury that they went through a transparent process.

### **9.1.3 Deputy G.P. Southern:**

First is a simple question, which is: how much did Andium pay for the Gas Works site? Secondly, how many units of accommodation, and thereby people living in and around the Millennium Town Park, are going to be developed by Andium and by others? Does she have a figure for the resulting population density that will occur in this particular district?

### **The Deputy of Trinity:**

I have just answered that question about the cost. Andium bought the site with a planning permission for 253 homes. Their plan - but it depends on the proposition that will come to the States - indicates that 110 homes could be delivered on that site.

### **9.1.4 Deputy G.P. Southern:**

This is the Minister for Housing and she was asked how many units of accommodation in total Andium and others propose for the site around the Millennium Town Park which will lead to what population density around Millennium Town Park. Can she answer?

### **The Deputy of Trinity:**

As I said, Ann Court is going through the planning process at the moment. I do not have those figures at hand but I can certainly give them to Deputy ... they are looking at the Brewery site and the Boiler House site, of developing those 2, but the most important thing to remember other than they could develop a Town Park is that Andium now has a chance of being much more joined up in how they develop the North of Town, part of the North of Town Masterplan, with those 3 sites. It is really an opportunity to be joined up and I think that is one of the plus points of acquiring the site.

### **9.1.5 Deputy S.Y. Mézec:**

I think it is fair to say that this is a drastic improvement from the situation we were facing before. With Andium being behind this, it does offer the opportunity for joined-up thinking that the Minister has mentioned. As the constituency representative for part of this area, I share Deputy Southern's concern about the density when we are looking at also Ann Court, the Brewery and the play.com warehouse. So, okay, that is not Andium, but that is going to increase the density a lot. Would the Minister like to offer the Assembly an assurance that this is something that will be taken into account in the broader sense with other States departments, whether it is the Environment Department, whether it is the Health Department as well, bearing in mind the health impacts that living in highly densely populated areas have, and come forward to the Assembly with some sort of report that demonstrates what the potential effects of the increased density in population in this area are going to be and have Andium to be able to be in a position where it can modify its plans, not just on the Town Park, but also on Ann Court as well, to accommodate the information that we will get about the population density and potential health and environment issues.

### **The Deputy of Trinity:**

I am pleased that Deputy Mézec realises this is a good purchase. It is a good purchase when you think about that planning permission was given for 253 homes on that site and now Andium have

indicated that it could be reduced to approximately in the region of 110 homes plus the Town Park. This is good news for the people and residents of the North of Town and for Islanders in general. So it is good news; obviously the density will be reduced. Andium take great care in how they proceed with planning applications. As was demonstrated in Ann Court, and I think I met Deputy Mézec there during a consultation process with the residents around there, they take great concern in residents, they like to hear their views as part of the planning process. But also you have to think there is a shortage of social housing, we know that, the Gateway list continues to rise; such a shortage of one-bedroom houses when people wanted to downsize. So we must make use of any land to its full potential but also recognise that amenity space is important. It is a fine balance but this is good news.

**The Bailiff:**

I will announce to Members that we have just over 5 minutes left for the questions on the statement and 5 Members have indicated they wish to ask questions. The Deputy of St. John. There will be no supplementaries.

**9.1.6 The Deputy of St. John:**

With Andium having a Strategic Plan, us having a North of Town Plan, the Planning Department, Housing Strategy and Island Plan and a bond in place, and the fact that this Assembly has been dismissed from a previous Assembly's decision, I am curious as to why the Minister will be bringing forward a proposition.

**The Deputy of Trinity:**

I need to bring forward a proposition so this Assembly gets behind the understanding if it needs the Town Park, and how it will be funded. That is the most important thing. Andium build social housing and they can do that and if they purchase from the bonds then the bond is only used for social housing. The Town Park needs to come from another source of funding and that is where the proposition that will come to the States will indicate that.

**9.1.7 Senator S.C. Ferguson:**

The value of the property with 253 houses is significantly in excess of the value of the property with 110 houses and a park. What is the surplus funding that is going to be needed for the park? How much has been paid already and what is the surplus that is going to be required from the States when we are short of money?

[12:15]

**The Deputy of Trinity:**

In some ways I have answered the question before. That is why we need to have a States proposition so we understand fully the cost of the Town Park and where the funding is going to come from. That is the next stage.

**9.1.8 Connétable C.H. Taylor of St. John:**

For this project of a mixture of housing and increased park to be successful, we will need to have the park delivered shortly, if not at the same time, as the housing. We now learn that it is coming from 2 different budgets. Will the Minister assure this Assembly that the extension to the park will be finished within months of the housing and that we do not have an empty car park until the next millennium?

**The Deputy of Trinity:**

I wish I could give that reassurance but, as you know, I cannot at this present moment in time. We know that there is contamination underneath the Gas Works site so that has to be taken into context. But all these questions hopefully will be more fully answered when the proposition comes back to the States hopefully before the end of the year.

**9.1.9 Deputy L.M.C. Doublet:**

Has the Minister spoken to the Minister for Education about whether there are sufficient school places nearby for the additional families?

**The Deputy of Trinity:**

Yes, I know that Andium talk very closely with Education Department to look at the demography, but also the Youth Service to look at Youth Service facilities. So, yes, it is joined up and Andium are very good at doing that.

**9.1.10 Deputy D. Johnson of St. Mary:**

Many Members will have attended a presentation a few weeks ago as to the lack of youth facilities. Would the Minister please confirm what she advised us in the public hearing last week that a requirement for youth services will be very much taken into account when considering this particular development?

**The Deputy of Trinity:**

Yes, I know that the Youth Service officer has spoken to Andium and they are fully aware of the Youth Service needs and the work will still continue. This is not a finish, this is work in progress and they will work up whatever is needed and how Andium can help in helping Youth Service facilities going forward. This is one of the main things about Andium being joined up with the 3 full sites, it allows Andium to do this work, to work across the departments or with departments to produce something that is really, really good for the North of Town, for the residents and for the young people.

**The Bailiff:**

Members have shown remarkable self-discipline there. We now have more time and no one asking questions. The Connétable of St. Helier.

**9.1.11 The Connétable of St. Helier:**

I did not have my light on to start with but I must say, like other Members, I am startled and possibly a bit suspicious that we have heard for the first time today that a report and proposition is coming to the States. Leaving that aside, why is the Minister going to come to the States before as she says she is going to do the public consultation. Surely that is the wrong way around.

**The Deputy of Trinity:**

We need to come with that so that we can understand the cost of the Town Park, how much it will be and if it is something that we need as an Assembly to approve, which I hope will be positive. But part of it is going to be consultation. As you know, Andium have really stepped up to the mark and really work well with the residents and listen to their views around the proposed development, so this is good.

**9.1.12 Senator S.C. Ferguson:**

If the States does not pass the proposition for the extra money to pay for the park, will Andium then go for 253 houses on the site to make up the difference?

**The Deputy of Trinity:**

Senator Ferguson is very negative this morning. This is good news. If the States miss this opportunity to secure funding and to get the Town Park and get behind the Town Park, well I do not know. If they do decide that it is a missed opportunity, which will never ever come back and happen again. **[Approbation]** This is a once in a lifetime opportunity to be able to extend the Town Park, perhaps - and I am not committing to anything - put a little bit of public parking underneath and deliver much-needed social housing at the end of that site. If the States Members do not agree that, well perhaps I might say something un-parliamentary, so I will stop. **[Laughter]**

**The Bailiff:**

Deputy Le Fondré, 30 seconds for question and answer.

**9.1.13 Deputy J.A.N. Le Fondré:**

I think the point is that I was not aware it was States policy to extend the Town Park. It sounds like we have been committed to extending the Town Park and committed to sums of money to do that and that we now have a gun to our head if we do not do it. So, yes, it could be good news, but that is the way it is being portrayed. Could the Minister also confirm whether the contract has been passed and whether it is a contract to buy land?

**The Deputy of Trinity:**

The contract went through the Royal Court on Friday. We have to start somewhere.

**The Bailiff:**

You also have to finish somewhere, Minister, because we have now run out of time. **[Laughter]** Very well, we now come to Public Business.

**PUBLIC BUSINESS**

**10. Vote of Censure: Deputy A.D. Lewis of St. Helier (P.76/2017)**

**The Bailiff:**

The first item of Public Business is P.76 and I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to censure Deputy Andrew David Lewis of St. Helier whom the Privileges and Procedures Committee has determined breached the Code of Conduct for Elected Members by failing to maintain the integrity of the States.

**The Bailiff:**

I call on the Chairman of the Privileges and Procedures Committee.

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

It is my difficult duty today as Chairman of the P.P.C. to bring forward this vote of censure in Deputy Andrew Lewis. Bringing forward this proposition is not a pleasurable task, nor has it been an easy process, but I suggest it is essential if we are to uphold our Code of Conduct and show the public that honesty and integrity are fundamental to our Island's politics. The 5 members of the P.P.C. who considered this matter are unanimous that Deputy Andrew Lewis of St. Helier breached the Code of Conduct for Elected Members. That decision has been made. What we are asking the States today or what we are deciding today is whether we should censure Deputy Lewis for that breach. The majority; that is Deputy Brée, Deputy Mézec and myself, are in full agreement that the code has been breached by Deputy Lewis as a consequence of the following: (a) the findings of the

Independent Jersey Care Inquiry that he lied in 2008 in the Assembly, the Inquiry also concluded he had lied to it when he gave his evidence; and (b) that, irrespective of the findings of the Independent Care Inquiry, he misled the Assembly in 2008, did not seek to rectify the situation at the earliest opportunity, and failed to acknowledge and apologise for having misled the Assembly even during the P.P.C. hearing, until about half an hour ago when he made a statement some 9 years later. The minority of my committee, the Constable of St. John and Deputy Wickenden, while not seeking to challenge the findings of the Independent Care Inquiry, do not feel it appropriate that the findings of a third party, an independent committee of inquiry, should be used as the sole basis on which to determine that a breach of the Code of Conduct for Elected Members had occurred. The Constable and Deputy Wickenden are however in full agreement with the rest of the committee that Deputy Lewis did breach the Code of Conduct for Elected Members through his actions and inactions after the misleading statement was made. We did not make the decision to bring this vote of censure lightly. When P.P.C. convened a public hearing on 1st August this year it was for one purpose and one purpose only and that was to determine whether Deputy Andrew Lewis had breached the Code of Conduct for Elected Members. At the very beginning of the hearing, I read out a statement outlining the scope of the hearing to ensure that all those present understood that the committee would not be determining whether or not Deputy Lewis had lied to the Independent Care Inquiry or to the States Assembly. The committee did not seek to challenge the conclusions drawn by the Independent Care Inquiry Panel, nor did we have the resources to investigate that matter again. What mattered to the committee was whether, during the course of his time as a States Member, throughout his dealings with the Independent Care Inquiry, and his responses to the Assembly, Deputy Lewis's actions complied with the code. In other words, whether his actions maintained and strengthened the public's trust and confidence in the integrity of the States and its Members or not. Despite having been sent a copy of my statement on 28th July, some 5 days before the hearing, Deputy Lewis and his companion, Senator Bailhache, decided to speak at length regarding the Independent Care Inquiry's findings and indeed sought to criticise the Independent Care Inquiry's processes, particularly the fact that Deputy Lewis was not allowed legal representation during the Inquiry's questioning and that the legal practice of maximisation was not followed by the Inquiry. My committee agrees that Deputy Lewis should have been given prior notice of the findings, given the strength of the comments made by the Inquiry. But I do not accept the criticisms that Deputy Lewis has since levelled at P.P.C. following the publication of this proposition that we did not respond to any of the points raised by him and Senator Bailhache within our accompanying report. We were quite explicit in advance of the meeting, right in the beginning of the hearing, and also after Senator Bailhache had spoken, that we had no desire to reopen the Care Inquiry or question its processes. Those processes were entirely a matter for the Inquiry itself and, as I have said before, our remit was to consider whether Deputy Lewis had breached the code of conduct. All States Members should comply with the code of conduct at all times. The code states: "Elected Members should at all times conduct themselves in a manner, which will tend to maintain and strengthen the public's trust and confidence in the integrity of the States of Jersey, and show endeavour in the course of their public and private conduct not to act in a manner, which would bring the States or its Members generally into disrepute." In his statement circulated after this proposition was lodged, Deputy Lewis claims that the Hansard extracts contained in our report from various States sittings have been taken out of context and that the report appears to infer that they are statements of fact. They are. Hansard is a verbatim record of what people have said in this Assembly and the point Deputy Lewis is missing is that the extracts contained in our report are the words uttered by Members of this Assembly in response to this matter. The undeniable fact is that some Members clearly misunderstood the meaning of what he said back in 2008 and this morning, about half an hour ago, the Deputy recognised that at last. Deputy Lewis also said in his statement that: "Even if he had recognised the significance of Deputy Le Claire's chosen words, there was not

an immediate opportunity for me or anyone else to correct the Deputy's use of language or to describe the report to which he was referring." This may well have been the case at that specific point in time on 2nd December 2008 but my committee finds it hard to accept that Deputy Lewis had no opportunity from thereon in to remedy this misunderstanding, which he could easily have done by sending perhaps an email after the event to all sitting Members or via the Greffe to respect the confidence of the in camera debate and discussion. Even if, as he claims or he has claimed, that he was not aware that it was an issue until quite some time later when he was no longer a serving politician, he could still have made contact with the Assembly to address this misunderstanding. We do not have to be a States Member to communicate with this Assembly; we frequently receive emails from the public via the Greffe, which are circulated to all Members. It was not until our proposition was published that Deputy Lewis finally circulated a statement to Members in which he apologised to those Members who were present on 2nd December 2008 and felt misled by anything he said. P.P.C. believes that he had ample opportunity to make that apology in the preceding 9 years and failed to do so. It is my duty, as chairman of P.P.C., but also as a Member of this Assembly, to do everything I can to reach out to the public and try to ensure that the trust they place in us when they cast their vote for us to represent them is deserved.

[12:30]

The rules, which govern the behaviour of States Members, the code of conduct, are not extensive and perhaps there is scope for my committee to work with the new Commissioner for Standards to make improvements in them. However, I think the reason they are not extensive is that, when they were drafted, certain aspects of our behaviour was taken for granted, almost as read. If you are going to be a representative of the public then you should behave in a way, which gains and maintains their respect and trust. We might not always vote the way the public would want us to, but they should know that nothing we say in this Assembly is untrue and that we as individuals are accountable for our words and for our actions. If we make a mistake, we should own it, apologise for it, and take steps to mitigate its impact. I do not think that Deputy Lewis in any way is a bad man and he has done much good work in this Assembly. However, whether we think he deliberately misled the Assembly or not, his actions since December 2008 in this regard have not maintained and strengthened the public's trust and confidence in the integrity of the States. Rather than resolving the matter in 2008 or apologising for not doing so subsequently, Deputy Lewis chose instead to robustly defend and justify his actions; question why the Law Officers did not step in to correct his mistake; provide email exchanges to intimate that he was not party to the machinations of civil servants behind the scenes; blame the pressure of work and his lack of familiarity or experience in this role; question the motives, political or otherwise, of those who have sought to raise this issue over the intervening years; and most recently to claim the way in which he was treated by the Independent Care Inquiry was unjust. He did not own his mistake. He has taken 9 years to apologise for it and his actions in the intervening years did little to mitigate its impact. P.P.C. considers this to be a breach of the code of conduct and it is for this reason my committee seeks to bring this vote of censure in Deputy Lewis. I make the proposition.

### **The Bailiff:**

Is the proposition seconded? **[Seconded]** Deputy Andrew Lewis.

#### **10.1.1 Deputy A.D. Lewis:**

I thank the P.P.C. chairman for his observations. This is an important speech for me; it is an important speech for the Assembly, so I have written a speech and I intend to deliver it. Before I do, I would just like to make one observation of the chairman's speech. Members will remember, will know, that the offending thing that was said in 2008 was said in camera. Those minutes were not released to the public until 2016. I do not believe it would have been appropriate for me to

comment on what were effectively leaked minutes until after that date. So I felt the most appropriate place and time to put the record straight was at the public inquiry, which is what I did. When the public report was published, at the earliest opportunity that I realised how they had cited me, I apologised to this Assembly during the in committee debate. Unfortunately in the P.P.C. report they have used the word that Members deserve an apology to suggest that it was not an apology. It most certainly was. I was standing in this Assembly saying Members deserve an apology; I was not standing anywhere else and Members were sitting here at that time and I apologised to them. So today Members are being asked by the P.P.C. to support a proposition to have me censured by this Assembly for allegedly failing to maintain the integrity of the States. In December 2008, when answering questions as a newly-appointed Minister, I accept that I may have unintentionally misled some Members of this Assembly, for which I have apologised and would like to repeat the apology again. If any Member of this Assembly, past or present, felt misled by anything that I said on 2nd December 2008 I am truly sorry. However, I can sincerely assure Members that at no time was there any intention on my part to mislead or miscommunicate or deceive in any way. In my statement earlier, I explained how the situation had occurred. The question for Members today is whether such actions warrant a motion of censure. Members will be aware that most, if not all, Members will have at some time during this time, and during their time in this Assembly, said something that is recorded on Hansard that may not have been entirely what they intended at the time, if later scrutinised out of context. That of course does not mean that they have uttered any intentional untruths. My own situation is no different. On 2nd December 2008, under intense questioning, the central message I had to get across was there was good and substantial grounds for suspending the Police Chief. There is no doubt that these grounds existed as subsequent reports have demonstrated. The Chief Executive of the States, then Bill Ogle, had presented me with a preliminary report written by the Deputy Police Chief summarising key findings from a review carried out by the Metropolitan Police into Operation Rectangle, and those will remember Operation Rectangle was the abuse inquiry. It was the report from the Deputy Chief of Police, which summarised the findings made by the Metropolitan Police that I was referring to when I said, in answer to a question, that I had read an alarming report from the Metropolitan Police. On reflection, I could have clarified the position by stating that I had read a report about the Metropolitan Police report. I, and most others in the Chamber at that time, saw no meaningful significance in the semantics of this description at that time. Furthermore, my understanding of the original allegation is that this omission somehow fuelled speculation that the Police Chief had been subjected to a conspiracy to remove him. This theory has been discounted by both the review carried out by Dr. Brian Napier in 2010 and the Care Inquiry itself. I hope Members would accept this shows that there was no motive or intention to deceive. The Chairman and P.P.C. suggested in their report that I should have sought to rectify the situation earlier. I said this already, but I will say it again, Members need to bear in mind that the record was said in 2008, was recorded in camera. Despite the fact that these minutes were leaked, it would still not have been appropriate for me to comment on them until they became publicly available. The minutes were finally released to the public inquiry in 2016. It was at this point that I could have spoken about their content and that is what I did; it was an appropriate time to do so and I spoke fully about it at the public inquiry. I have also been criticised for seeking to defend my actions. When you are under attack, the natural reaction is to defend, and I hope I did that in a polite manner. I regret if my rebuttal has caused offence, but I believe now, as I did then, that my actions and the actions of the Government of the day were correct and, most in particular, in the best interests of Islanders, in particular victims of abuse. States Members have at all times had the best interests of all Islanders at the forefront of their mind; I have always endeavoured to behave as the public would expect me while in public office. However, I do accept that at the same time as defending my position I should have given more attention to the possibility that some Members may have felt that they had been misled at that

time. So I ask elected Members today, my respected peers, to objectively consider the circumstances as a whole and to properly reach the conclusion that I have not breached the code of conduct. I would assure you that I have never lied to the States or anyone else in relation to this subject area. There would be absolutely no reason to do so and nothing to be gained from doing so. The P.P.C. have suggested that I have been untruthful to this Assembly, yet as far as I know no formal complaint has ever been made by any Member of this Assembly on this matter. It would appear that the P.P.C. have uncritically accepted every assertion made by the public inquiry without conducting their own investigation as to how the Inquiry justify their conclusions. Every other report we receive in this Assembly, we scrutinise, we question, and we do our own reports sometimes as well. On this occasion that apparently is not a process that we are going to adopt. In order for the public inquiry panel to have reasonably reached their conclusions in their finding against me, they would have had to have proved beyond reasonable doubt that I deliberately and wilfully intended to deceive them and this Assembly in a manner that was material to an outcome. They have not done this. I would ask Members to consider that the report on this critical point has failed to discharge the normal basic burden of proof. I would also like to take this opportunity to clarify some facts that are quite relevant to this issue. The Chief of Police was never dismissed; he was suspended on full pay for a period of nearly 2 years and retired on a full pension without ever facing a disciplinary hearing. I agree with some Members that dragging out this process until his retirement is unfair but this was not of my making. It is also important to note that, when acting as Minister for Home Affairs, I was by statute required to make a statement to inform this Assembly of the action that had already been decided upon. However, as the suspension occurred some 2 weeks earlier, the purpose of the statement was informative only, no vote was required from Members, so whatever had been said or not said that day would have had no material effect on the decision that had already been made. I can also explain that I had been advised and directed by senior civil servants, the Chief Executive of the States of Jersey and the Director of Human Resources, who were in turn advised by the then Solicitor General. Also I and the Home Affairs Department were under immense pressure from the Chief Minister and the Council of Ministers to take swift and decisive action, something that was alluded to by Senator Routier only a few weeks ago. Members should also be aware that the decision to suspend was taken with the full knowledge and support of the Chief Minister and Members of the Council of Ministers. If I could refer to the report on page 1 of P.P.C.'s report, it states that I misled the Assembly. Of course I accept that it is possible that certain Members may have felt that they had been misled and for that I am genuinely sorry. But this does not mean that everyone was misled and most importantly it does not mean that I had any intention of misleading anyone or that my answers had any material effect on the proceedings of the day. This issue has deeply troubled me, so I have taken the liberty of contacting many of the Members, as many of the Members that I could, who were present on 2nd December 2008 and asked them if they had felt misled and to apologise to them if they had been. Sadly, a number of Members are no longer with us, it is that long ago, but I spoke, I wrote, others wrote to me, they told me, they stated in the media, that they did not feel misled and they have asked me to mention their names: former Senator Terry Le Sueur; former Senator Terry Le Main; former Deputy Celia Scott Warren; former Constable of St. Ouen, Ken Vibert; former Constable of St. Brelade, Mike Jackson; former Senator Ben Shenton; former Connétable of St. John, Graeme Butcher; former Connétable of St. Lawrence, Geoffrey Fisher; former Connétable of St. Clement, Derek Gray; former Connétable of Trinity, John Le Sueur Gallichan; former Deputy Ben Fox; Deputy of Trinity Anne Pryke; former Deputy Gerard Baudains; former Deputy of St. Peter, Collin Egré; Senator Alan Maclean; former Deputy Peter Troy; Deputy John Le Fondré; former Senator Jimmy Perchard; and Senator Ian Gorst, then Deputy. Needless to say, I do accept that even if a single Member had felt that what I said was in any way misleading then such an unintended result must be taken seriously and I fully and sincerely apologise for that. I have also been accused by

P.P.C. of not maintaining the integrity of the States. The Code of Conduct for Elected Members however is silent on the definition of integrity. However, P.P.C. say in their report that it is widely accepted that the word “integrity” means adherence to moral principles. To be accused of not adhering to normal moral principles without knowing the reason why has been deeply hurtful and upsetting to my family and myself. I very much regret that this issue has become a huge distraction from the main substance of the Jersey Child Care Report, there being serious failings in our care system.

[12:45]

It was of course never my intention that this issue had developed into what it has become. I am very sorry to the members of the public who expect Members of this Assembly to be getting on with the serious work of continually improving our society for the benefit of all, in particular those who are most vulnerable. I want to put this issue behind me as soon as possible so I can continue with my important work of serving my constituents and through the work with the P.A.C. ensuring that public funds are spent wisely on continually improving our society that we live in. I take my duties as a politician very seriously, working diligently in this Assembly on my own volition, co-operating fully with other Members pursuing common goals, aimed at the betterment of the lives of the people that we serve. I work hard for my District and Parish, being an active member of several community groups, youth groups. As part of one of my election promises I am delighted to have instigated the creation of the St. Helier Youth and Community Trust. I have championed the issue of low pay and helped establish the Living Wage Foundation. I continue to lobby hard for student finance solutions and made recent representations to the Minister for Education and Minister for Treasury and Resources in a hope that this issue can be finally resolved. I wish to state once again, I am very sorry that this issue should have caused such a distractive from the substantive Child Care Report. I am truly sorry if anything I have said in the Assembly in December 2008 caused any Member to feel distressed, misled or concerned. I had absolutely no intention to deceive anyone at that time. This is very, very important to me; it has troubled me, therefore I would like Members to very carefully consider the burden of proof presented by P.P.C. and whether it warrants the sanction that they propose. It is me standing here today; it could very easily be any one of you saying something many years ago that is later brought up and scrutinised, and in this case and others, perhaps out of context. I would not like to see that happen to anybody else. I have not had a great summer. I would like to put it behind me. Members today have that opportunity to decide as to whether the vote of censure is fair, has been fairly put together and is reasonable. I would like to suggest to Members that it is not. That decision is in your hands and I would ask you to carefully consider the evidence that I have circulated, both in the past and most recently and what I have said today. Thank you very much.

## **LUNCHEON ADJOURNMENT PROPOSED**

**The Bailiff:**

The adjournment is proposed. The States will now stand adjourned and will reconvene at 2.15 p.m. this afternoon.

[12:47]

## **LUNCHEON ADJOURNMENT**

[14:15]

**The Bailiff:**

Before we resume the debate, can I just announce the Draft Health and Safety at Work (Freight Container Safety Convention) (Amendment) (Jersey) Regulations - P.80 - has been lodged. Copies will be on Members' desks. We now return to P.76, the vote to censure on Deputy Andrew Lewis. Does any Member wish to speak? The Connétable of St. Martin.

#### **10.1.2 Connétable M.P.S. Le Troquer of St. Martin:**

I was not in this Assembly in 2008 so I am unable to say I was misled by the Deputy when he answered questions in camera on that fateful day. We have heard from the Deputy this morning that many senior and experienced politicians were not misled, they did not believe they were misled, and he has contacted them to tell them. What I have learned in my short time in this Assembly, and I in fact learned it very soon after coming into it and before I made my maiden speech, was how the Ministers and Assistant Ministers, Deputy Ministers, the Chief Minister himself, were able to answer questions on the cuff, answer immediately, know everything, or expected to know everything, and not have someone alongside them even to jot a couple of notes while they were speaking or even having the officer in the back room passing written notes out to the Minister. Of course this was in 2008 before we were allowed iPads and laptops in this Assembly. I wish I could say I have never made a mistake. I have stood in this Assembly and referred to Senator Bailhache as a Minister for Foreign Affairs and a realisation later that evening sitting at home that is not his title at all, is it, but I had said it and I said it, not in the heat of the moment, but nervous because you are standing up speaking in front of everyone and in this Assembly. Our thoughts are with Senator Bailhache today. **[Approbation]** I have made mention about the States of Jersey Police Force in the U.K. that we were the only force that could not use C.S. (2-chlorobenzalmalononitrile) spray. Of course, even knowing that we are not part of the U.K. I had said it, not meaning our nearest neighbours, and we know that it is the U.K. force that send over the Inspector of Constabulary, even if, as we learned this morning, the last time was in 2008. But that is by the by. I had said it and I had made a mistake, and not meaning to mislead anybody. I am sure there have been many other times too that I have said something that might not have been factually correct. I have become confused during debates, made a slip of the tongue. I challenge Members today in this Assembly that never become confused during a debate, maybe some less than me, maybe some more, I do not know. But all of us have probably said something that was incorrect at some stage, not willingly, not maliciously, but have said it. We know there is confusion in some debates, when we have an amendment to an amendment to an amendment and then have to go back. We have the Greffier giving us notes, guidance notes, before an Assembly sitting the way it will go through, yet we still struggle. Even you, Sir, and the Deputy Bailiff, having to give us guidance on occasions as to what stage we are in a debate and what the vote is being called for when we decide to vote. We are not perfect and we all make those mistakes and we thank you for the support or for the advice that you give us. I am standing today in a debate and some may think I do not know what I am talking about and maybe they are right, I hope I will never be forgotten for speaking in debates on what I believe and the standards I set myself. There are 2 ways we could be looking at this situation: the first is a scenario, and I think it was Deputy Tadier made in his second speech when we had the in-house debate on the Independent Care Inquiry Report back in July, a very thought-provoking speech that created, in my view, a possibility of a conspiracy. I have read it again this week, listened on the day and I have read it again this week, right from the top. It was identifying what could be seen as a conspiracy from the top cascading down through government, its agencies and departments, and that Mr. Power, the Police Chief at the time, was edging on uncovering a horrendous scandal and therefore had to be removed. Of course a conspiracy, I am sure, we have the Solicitor General with us, but a conspiracy is an agreement of 2 or more persons to do an unlawful act or to do a lawful act by unlawful means. Do we think that happened? Well, if it did, it has not been discovered and identified. The second

scenario of course was that the Deputy, a relatively new Minister, put into a very difficult position because of the fast-moving events in the department... and I did have an interest in it, I served in the police force for a long time. After having received much advice, professional advice, he was prepared to make a decision and come to this Assembly to tell the Members the decision that he had made. Of course, I could be going off at a tangent now, a bit of conspiracy theory, important as it may be. Much has been said, not in this Assembly today, but much has been said through the media and in recent months, the offence of perjury. Perjury is an offence, for those who probably do not understand it completely and I am not a legal expert, but perjury is an offence committed by a person lawfully sworn as a witness or interpreter in any judicial proceedings who wilfully makes any statement material to that proceeding, which he knows to be false or does not believe to be true. The issue of protection for States Members at such hearings is not a question for today. That is a completely different issue and I believe that no Member should be protected from committing the offence of perjury and I will always do that. However, there are points to prove in perjury. It must be wilful. Was the statement wilful? I do not think it was. Must be a material statement that affects the court's decision. Did it in any way, what the Minister had said during the debate in answers to Members, following making his statement, affect the court's decision? There was no decision to make; he was just making a statement. It must be a material statement known to be false or believed to be untrue. Was it known to be false by the Deputy? If I viewed a report, or part of a report, cut and paste sections together with further input from a very senior police officer of the States Police, I would be thinking and probably even saying, being a slip of the tongue, but during intense questionings, that I had seen a report. It would be up to a court to decide the facts and believe if lies had been said under oath. So now we come to the findings of the Independent Care Inquiry. The Deputy is accused of lying, deliberately false, untrue, looking at definitions, and I know Senator Bailhache had the definitions when he spoke to the P.P.C. during their investigation. The result of that P.P.C. inquiry is we have members of the Privileges and Procedures Committee who have, as is their role at the moment and I know later in this week, or today or maybe tomorrow, we will be debating P.59, so there are some changes afoot. But P.P.C. have examined the allegations made in the Care Report. This is from an independent Care Committee of Inquiry who have produced a very long report for £23 million, refused to be questioned about it other than the initial briefing that they gave on their findings on the day of the release, where everything in their report seems to have been accepted without question, because everything they have said and found has to be correct and we have to act on every recommendation, everything they have said, albeit some of those may be questionable things we heard earlier on, 8 core recommendations, 659 relayed and backed recommendations, and where there has been much criticism. People have been subject to criticism. I want to mention one today and that is the nuns, the sisters at the Sacre Coeur who have no way of answering back, the care and love they gave to the children at that home, and they have all passed away now and I know it is causing great concerns at their religious order back in France. We have a Committee of Inquiry who have made the recommendations that they have made and the Chief Minister wanting a committee, to propose a committee to sit on it, we are having difficulty finding Members to fill that. At the moment I am the Member under the Assistant Chief Minister. My main issue of concern is that P.P.C., and they have only what they have to do in the way we have Standing Orders, but they have reviewed the evidence, they have acted as judge and jury, they are now acting as prosecutor today, and they are giving us the recommendations as to sentencing. Now that is what I find quite difficult. I heard the media report this morning on the radio saying that Members were going to be asked today to judge. We are not being asked today to judge really, we are being asked today what sentence the Deputy should be given. This is not where I want to be today. I believe the whole matter has gone off at a tangent and very distracting from the work that needs to be done. **[Approbation]** Of course the further difficulty we now have is that, if it is not supported today, what happens to P.P.C.? Do they all stand down? I feel a great

deal of sympathy for Deputy Lewis and his family. I cannot imagine the grief and upset that he has suffered from what was only a decision he made as the Minister at the time, the only decision that he could properly make, it is no comfort him being criticised or accused, not to the extent that the Deputy is facing today. We had a no confidence vote in S.E.B. (States Employment Board); we have recently had an inquiry, P.P.C. have looked at a scrutiny aspect that I am involved with, and I have personal accusations, if you like, on a different one, which I am at the moment going through, which I find very difficult, so I do not know how the Deputy must be feeling today, or his family. I cannot speak for Members back in 2008 but I believe it is unfortunate that more of them did not support the Minister but just wanted more and more information on that day on a decision, a correct decision, that the Minister had to make. Sadly, I believe, whatever the outcome today, the damage has been done to the Deputy in this frenzy and it is on a matter really that is unrelated to the Child Care Inquiry. In one recent article in a newspaper, and I said before there have been many that the Deputy has mentioned this morning, but a recent article in a newspaper, and I could not have put it better myself, I made reference earlier in my speech with the mistakes that I have made, and the comment was: "Deputy Lewis has never been implicated in child abuse, the concealment of child abuse, and the subsequent cover up or indeed any wrongdoing. He was under pressure and made a momentary verbal mistake, as many politicians have done before, and will no doubt do again." I will not be supporting the proposition to censure the Deputy and I ask Members to do likewise. If I could help with these few words that make any Member change their mind if they were considering and not sure which way they were going to vote. It is not being weak or trying to cover up anything. Let us just concentrate on the real issues; on the Care Inquiry Report. [Approbation]

#### **10.1.3 The Connétable of St. Helier:**

I want to start off by agreeing with Deputy Lewis. He is a very good Parish Deputy. He did not say he was a very good Parish Deputy, he said he is very committed, hard-working, and so he is. I do not want to create discord among the other 9 Deputies of St. Helier, so I am not going to attempt to rank him. But he has been responsible for some really creative, practical and forward-thinking, ideas while he has been working for the Parish and indeed for the States. As he says, this is an unfortunate distraction from the real business of the Independent Care Inquiry Report. I also sympathise with him and his family for the absolutely rotten summer that they have had as a result of this matter, and I would include myself, as a result of P.A.C. members having resigned and forced that committee into limbo. But that is probably about as far as I can go in my words that will reassure the Deputy because I do have concerns on 2 major fronts, which would lead me to support the Privileges and Procedures Committee in their vote of censure. The first one is in what happened back in 2008. Members will appreciate that I was in the Assembly then, I knew the Chief Officer of the States of Jersey Police well, we met for drinks, we shared an interest in real ale, and we spoke about our 2 police forces, obviously very cautiously and sensibly and never had more than was good for us. But I knew him reasonably well and it was a great shock to me when he was suspended and I subsequently acted for him as a McKenzie friend in a number of situations.

[14:30]

I think what the Deputy has attempted to do today, and indeed in his statement and in the lobbying that he has done of Members, and I include myself in this, is to in some way minimise or play down the importance of what happened in those days following the suspension of Mr. Power. In fact this morning I think in his comments he said: "We are all likely to do this, we all say things, we misspeak, we make mistakes. What politician does not over-egg the pudding when trying to make a case before the States? Exaggeration is probably second nature to politicians; rose-tinted spectacles are worn at all times and so on." I want to take Members back to what happened in camera on 2nd December when the questions on the statement took place. Because the Deputy said this morning that he may have misled some Members. He then reeled out a list of Members who

said they were not misled, or former Members who were not misled. I would encourage Members to read back through that in camera debate and see just how often the then Minister for Home Affairs stressed to the Assembly that this absolutely had to be done. Now, if it had just been once, if the Minister had referred to a report in a misleading way once, then that might have been acceptable, but he did it again and again and again. Even when there were chances in that question time to correct himself, he did not take those opportunities. So we start off with former Deputy of St. Martin, Bob Hill, asking: "Why was there not a preliminary investigation before the suspension?" The Minister said: "Members will be aware that an investigation has been carried out by the Metropolitan Police and I was presented with a preliminary report on the basis of that investigation." That is pretty clear. Later on, Senator Syvret in his immortal words described this as: "The Government of Jersey mounting a coup against the Chief Constable of its police force." He always had a way with words. The Minister replied: "As far as I am concerned, this investigation has been conducted in a thorough and professional manner and I would not have it in any other way. [Approbation]" There was quite a lot of approbation during this question time: "I find it quite disingenuous that the Senator in the past has called for accountability for people in the public sector, senior officers in particular. We have brought or I have brought the Chief Officer to account." I do not know if that was a Freudian slip: "We have brought", but there has certainly been a lot of discussion about who exactly knew and when they knew that the Chief Officer of Police was going to be suspended. Former Deputy Le Claire also questioned the procedure and the Deputy then, he did this a couple of times during that session, he said: "Please do not ask any more questions." He said: "I would urge Members to resist from questioning me on this subject in the Chamber." I then tackled the Minister on the procedure followed, put simply the procedure, which was enshrined in law for the suspension of a Chief Officer of the States of Jersey Police, had not been followed and I explained very clearly why that was the case. I said: "The Minister is not reading his own code properly. Mr. Power was never given an opportunity to have any assistance at the meeting; he was not told he was being invited to a suspension meeting." Indeed this is something that the independent inquiry picked up on as well. But any professional H.R. (human resources) person would know you do not just suspend someone, you tell them what the meeting is about, you invite them to bring a representative, probably a lawyer, and you do it properly. The Minister said: "No, I do not accept that. My interpretation of the code is that I had every right to take the action I did. Furthermore, under the law I also have that right to outside of the code, so I believe it to be in the interests of the Police Force, the interests of Jersey, and the interests of justice, for the Chief Officer of Police to take this action." He was not mincing his words about removing the Chief of Police. The Deputy then asked us not to ask any more questions but the States extended question time so it could go on beyond the 10 minutes. Then, once again, I came back to the Disciplinary Code; I did not ask all the questions, by the way, other Members were busy as well. The Minister said this: "The result of the investigation is some fairly damning evidence about the command, control and supervision of the investigation. So, yes, the process was adopted and the outcome was a report that was presented to me that gave me absolutely no choice other than to suspend the Chief Officer of Police in order to investigate the allegations of gross misconduct in terms of management, supervision and control of quite considerable sums of money and quite considerable resource." That is the second time the Minister has reinforced this allegation before the Members. Further on, the Minister talked about the fact that the Chief Officer of Police was not suspended; he was not asked to consider his position. He said, in fact, it was not really a suspension and he said that Mr. Power was guilty of, and I quote: "a complete fabrication" and you will hear that word again later in what I have to say. Senator Syvret then asked a few questions and the Deputy talked about his conspiracy theories and he finished off by saying: "When I saw the preliminary report I was astounded, so much so that my actions I believe are fully justified. If the preliminary report is that damning, Lord knows what the main report will reveal, so my successor

will have an interesting time.” At that point, the Bailiff drew him short and said: “Minister, do not go down this road, please.” He has already been down that road 3 times but we move on. Further during the questioning, this is the Minister replying to me again, I apologise: “I have taken advice from Her Majesty’s Inspectorate of Constabulary, they feel that such action is wholly appropriate in the circumstances. I have read an alarming report from Metropolitan Police which led me to this decision in the first place. I can do no more. [Approbation]” Deputy Le Claire … this is interesting because former Deputy Le Claire twice in his interventions referred to this report. The first time he says: “The Minister has made reference to the Metropolitan Police report which, as an interim report, he has described is alarming. As an interim report he has said that it has swayed and made his decision something he has relied upon.” The Minister replied to that and then later Deputy Le Claire says again: “Surely the full interim report should be available because the full interim report has been given to the Minister for Home Affairs and it has been that interim report that has given him this position”, the sixth reference to it and the Minister does not speak. He does not reply. That was his opportunity to say: “Hang on a minute, I have not seen the report. I have had a letter from Mr. Walker raising concerns.” But he had already said 6 times he had seen the report and then we have a seventh one after an intervention from former Deputy Peter Troy: “I am purely acting on the information contained in a report that was about an investigation into an operation which is code-named Rectangle and that is what the report was about and that is where my concerns were.” Seven separate references to a report which he had not seen. Now I think that is significant. I do not think that is a casual reference to a report that should not have been made. I think it is unfortunate the Deputy has attempted to downplay the significance of how badly the States were misled. If we think about the effect of that, and several Members referred to it at the time, it was huge in its implications. Senator Syvret was not wrong when he talked about it being a coup against the Chief of Police, and I am not going to go down the road of who was behind the coup because that is certainly not for today. Maybe it is not for ever but it is a separate matter. Now I come on to the second matter I want to refer to. I have worked closely with Deputy Andrew Lewis as his vice-president on the Public Accounts Committee, another area where I think he is extremely able and a very good chairman, and I was reluctant to leave the committee simply because of this difficulty that he was in. But what happened during the summer was that he turned the spotlight away from himself on to some evidence that was given to the Inquiry and said that it was fabricated and that evidence was given by the former Minister for Home Affairs, from whom he took over, and her husband. Before I refer to that in detail, I just want to explain that I know the family very well. I have known them for 30 years and Mr. Harris is a godfather to one of my children. That is very remiss of me to say that but some of you probably pay more attention to godparents than others. I know that he is a godparent to one of my children. **[Interruption]** **[Laughter]** There are quite a lot, yes. **[Laughter]** Also I should say that Mr. Harris invested - I do not know whether wisely or not - in the Language School which I started up locally in the late 1990s. I am happy to say, before it went bust, I managed to pay him back. So, I have known the family well; I have no present financial or particularly personal interest. I know the Minister is happily retired, and so I believe is her husband, but I retain a great deal of affection for them and respect for them. I also want to say that I was not contacted by the family either. They appeared to be reasonably sanguine about the fact that Deputy Lewis had accused Mr. Harris of fabricating a minute note following a meeting that he had with them. So what happened this summer was this: Deputy Lewis took me aside and told me his version of events which I had heard before because of course he had made statements in this Assembly about them. I contacted the family and I said: “I want to come and see you” and in fact I sat on the same sofa that Deputy Lewis did when he was Assistant Minister and he went to see his Minister. Because I wanted to hear for myself which version is right: did this couple fabricate a file note which was then produced to the Committee of Inquiry? Search me why they would do that but I wanted to hear exactly what happened. Indeed in

the course of that meeting, I was entirely satisfied that what took place in the living room was as the independent inquiry established in their findings which Members will have read. So that gave me a real problem. Was I prepared to have people that I knew well, Islanders that have contributed a great deal, have their reputations besmirched, technically be accused of perjury or did I accept the view of the Inquiry that Deputy Lewis had for some reason decided to say that they had no discussions about the Chief of Police when he went to see the Minister? Clearly it was at that point that I decided that our ways really were going to have to part. It was not helped either because on Friday, 18th August Deputy Lewis circulated once again the bullet points of the Wiltshire Inquiry and essentially these were the worst things that could be said about the Chief of Police. They were part of a process, there was no ability for the Chief of Police to reply to them, but he decided to circulate these as if the end justified the means. No matter how bad the suspension was and, well, perhaps he did over-egg the pudding when he spoke to the States, but because this Chief of Police needed to go, then that is all right, is it not? Well of course it is not. **[Approbation]** So really that is why I felt I had to resign as his vice-chairman. Because to work with someone like this who is prepared to besmirch the reputation of 2 local Islanders and who effectively is in denial about what happened in this very Chamber back in 2008, I think was simply further than I could go. I am going to finish with some questions which I would like the Deputy to answer. They will not all make sense and he may not be able to answer them all today but I would be grateful for answers to them. The first question is: was the Deputy when he was Minister contacted by the then Chief Minister by telephone and asked to try and persuade the Minister - that was the then Minister - from resigning? That is a question I would like an answer to. The second question is: there is a reference in Napier to changes in the terms of reference that were put to Napier in his inquiry. That change was never explained. I am just curious because this of course was after Deputy Lewis's time with us so perhaps he cannot answer that question but it is certainly one that I would like to come back to. I would like to know his motivation, thirdly, for circulating States Members in August with the bullet points from that infamous Wiltshire Report that we now know he did not have, of course.

[14:45]

He did not have that evidence but he circulated the Wiltshire Report. Finally, I would like to know whether the Deputy stands by his ...

**Deputy A.D. Lewis:**

Can I just call a point of order? The Constable is saying that the Wiltshire Report was not circulated or was not available publicly. That is a publicly-available document. I think the Constable may have mentioned, say, the Metropolitan Police report.

**The Connétable of St. Helier:**

Yes, the report that the Deputy circulated, or the bullet points, were from the Wiltshire Report which I accept are available publicly but they are one side of a prosecution case, so it was incomplete. Indeed, we had a question about that only today from Deputy Higgins. Finally, I would like to know whether the Deputy stands by his evidence to the Independent Committee of Inquiry that the file note of his conversation with his Minister on 18th October 2008 was fabricated; in other words, that they perjured themselves. As I say, it gives me no pleasure to make these remarks but I have been watching the process. I must at this point just pay tribute to some States Members who, if you like, continue to plug away at it because some of us cannot do that all the time. Former Deputy Bob Hill certainly tried to get to the bottom of what took place before he retired. I have to pay tribute to Deputy Higgins who has been consistently trying to get to the bottom of it, and equally to some other Members who have been asking questions. I think these matters are important. We are not saying we are perfect, of course we are not, but we do not want

to carry on as an Assembly with these unanswered questions and these accusations that certainly to my mind need proper clarification. Thank you.

**Deputy G.P. Southern:**

Sir, can I have a point of order? I intend in my speech to refer to pages 772 and 773 of the Independent Jersey Care Inquiry Report where it refers to the evidence of one William Bailhache Q.C. (Queen's Counsel). I am wondering while I do that whether it is appropriate that you should be chairing this meeting if I am going to rely on evidence that you have given the Committee of Inquiry.

**The Bailiff:**

Well apart from the possibility ... and I might say it cannot be relevant to something against Deputy Lewis, and I have not heard what you have got to say yet, so it may be relevant. I cannot myself see that it should prevent me from presiding over the Assembly, Deputy. If I may say so, in 17 years people have attributed things to me many times in this Assembly and it has not caused me to withdraw. At the moment I do not see any reason to withdraw. I may change my mind when I hear from you. Deputy Doublet.

**Deputy M. Tadier:**

May I raise a point of order as well? For your own peace of mind, I or other Members are likely to refer to the utterances of your brother while he was in the Chair. While I know that it is not your fault or anyone else's fault that we cannot choose our family ... I did not mean it like that.

**The Bailiff:**

No, it is all right, I would choose him, so that is fine.

**Deputy M. Tadier:**

So as long as you are comfortable with that if ...

**The Bailiff:**

It would not be the first time in this Chamber that I have heard my brother criticised, Deputy.

**10.1.4 Deputy L.M.C. Doublet:**

I deeply resent the time that we are having to spend on this matter. I would really like to be doing work improving the lives of Islanders and so I will be very brief. I have one main point to make, really. As others have said, I respect Deputy Andrew Lewis. He is a hard-working Parish Deputy. I have worked with him on the Chairmen's Committee, he does some excellent work. But the main point that I want to bring Members back to is that the negative impact of this one mistake is far outweighing all of the positives that Deputy Andrew Lewis brings. I do not often disagree with the Constable of St. Martin; I have to disagree with what he said about States Members making mistakes. I do not think that is good enough. I think that we should be holding the highest standards for ourselves. We are all human beings, yes, and we do make mistakes but I think if we make a mistake we need to admit to that straightaway at the earliest opportunity. We need to be ready to sacrifice our own careers if necessary for the greater good of the States Assembly and ultimately for Islanders. I would like to see all States Members have some humility and put the States Assembly, the holistic picture, ahead of their own careers. The eyes of the public are on us and I for one cannot endorse any behaviour that damages the public's trust in this Assembly. It is already so, so low. We are on a turning point here, we can go one of 2 ways: we can build the public's trust in us or we can damage it further. I really regret that I will have to vote for this

censure motion. I regret that personally for Deputy Andrew Lewis but I stand firm in my decision that that is the best thing to do in the interests of the public in general.

#### **10.1.5 Deputy S.M. Brée:**

To stand in judgment on one's peer is not an enviable task for any fair and decent person. However, for an Assembly of elected representatives to do so with the sole aim of maintaining its integrity in the eyes of the public I think both acknowledges the weakness of mankind and illustrates an advanced and open legislature. I can never say that word and my apologies. Let us be in no doubt that our actions and decisions today are being carefully watched, not just by those in the public gallery, not just by our electorate, but also by the world at large. Let us not be swayed by missives from ex-politicians nor media comment from various political commentators, bloggers or whoever they may be. We here today are the elected representatives. We here today are the sole decision makers in this matter. "I have read an alarming report from the Metropolitan Police." Ten words uttered by Deputy Andrew Lewis during the in camera debate on which everything hangs. Did he say those words? Without any doubt. What did he mean by those words? We must not fall into the trap of attempting to interpret another's words no matter how much we may wish to do so, for that path only leads to confusion, supposition and misrepresentation. We can only deal with the facts and the truth. Those 10 words: "I have read an alarming report from the Metropolitan Police" are very clear, totally unambiguous and unquestionable. Any reasonable person could do little else but to take them to mean that the Deputy had read an alarming report from the Metropolitan Police. How else could one interpret them? But the Deputy had not read such a report at the time he uttered those words. This is an incontrovertible fact, a fact which is not contested by the Deputy himself, a fact which he has subsequently confirmed. He had not read an alarming report from the Metropolitan Police and yet at no time during the in camera debate did Deputy Lewis attempt to clarify the statement, despite having ample opportunity to do so when reference was made to the report by other Members of the Assembly present at that time. The Independent Care Inquiry are clear that the Deputy lied. I agree with their finding. We are all human, we all make mistakes, but what sets people apart is how they accept and deal with their mistakes. But what we are dealing with here is very different. A false statement was made; that has been proven. Some people may think it was a genuine mistake but the Deputy has never once admitted that he inadvertently misled the Assembly. Why not? That I cannot answer. Nevertheless, it remains that the Deputy stands by his statement made during the in camera debate. He has criticised the findings of the Care Inquiry and called into question the findings of the Privileges and Procedures Committee, a body mandated by this Assembly to investigate possible breaches of the code of conduct and report back to Members on its findings which is exactly what P.P.C. has done. I would ask: are these the actions of a Deputy seeking to maintain the integrity of the States? I would suggest not. There has then been raised the question of: despite what the Care Inquiry have found in their findings that Deputy Lewis lied, not only to this Assembly but also to the Care Inquiry itself, people are questioning: what is a lie? Well, there are other words that you can use for the word "lie": an untruth; a falsehood. Now, interestingly, if you look at Black's Law dictionary when you look at the definition of "falsehood" - so I am not using the word "lie" - it says: "A statement or assertion known to be untrue and intended to deceive" or (2) - there are 2 definitions: "A wilful act or declaration contrary to the truth." I think that we can possibly all agree that certainly definition number 2, that being a wilful act or declaration contrary to the truth, is what happened. We have also heard as some form of defence that the end justifies the means: "It is okay that I did not clarify the statement because what the resulting action was, was good." Well irrespective of whether you feel the suspension of the police chief was good or not, I am afraid in my book the end never justifies the means. That excuse has been used by dictators, despots and tyrants throughout mankind's history and I am afraid I refuse to accept that as a legitimate political stance. There is

also a contract, silent but implicit, between the electorate and the elected that their elected representative will act with honour, integrity and honesty in representing and acting in the electorate's best interests.

[15:00]

I do not believe that Deputy Andrew Lewis has maintained that contract. One's opinion of the Deputy as a person has no bearing whatsoever in this case. One's opinion of Deputy Lewis' work as a Parish Deputy and as chairman of P.A.C. once again has no bearing in this case. We can only deal with the facts and the truth. The Care Inquiry finding was very clear, totally unambiguous and stated without question or doubt that Deputy Andrew Lewis lied, both to this Assembly and to the care inquiry itself. P.P.C. have found that the Deputy has breached the Code of Conduct for Elected Members and today Deputy Andrew Lewis made a personal statement and yet still has not apologised properly. What he says in his statement is: "I wish to express my sincere apologies to any Member of the States at that time who may have felt misled by what I said." You cannot apologise to somebody how they feel about your actions, you can only apologise if your actions were incorrect. That is not an apology, in my humble opinion. That is an attempt to get around the fact that the Deputy has never once admitted to inadvertently misleading the Assembly and apologising for that fact. To apologise for how I feel is irrelevant. Without doubt, I believe that P.P.C. are quite correct in finding that Deputy Andrew Lewis has breached the code of conduct for elected Members and as such I would recommend that there is but one course of action available to this Assembly: to support the vote of censure. We as an Assembly have a duty of care to the public we represent and that is to maintain the integrity of this Assembly and to ensure that the public continue to trust their elected representatives. Not to vote in favour of this censure, I would suggest, will send completely the wrong message to those people watching and listening to us today. That message would be that we as an Assembly are not prepared to deal with one of our own who has undoubtedly breached the Code of Conduct for Elected Members. So I would urge all Members to think very seriously about how they are going to vote on this matter. P.P.C. were mandated by this Assembly to investigate and report back to this Assembly with their findings. We have done so and we now look to this Assembly to support the findings of P.P.C. Thank you very much.

#### **10.1.6      The Connétable of St. John:**

Why are we here today discussing this subject? I think, to summarise, that we need to go back to 2008 when a debate was held in camera. During that debate the Minister, the then Minister, inadvertently made a misleading statement. It was inadvertent, it was a mistake, but what happened subsequently was that in camera debate was deliberately and intentionally leaked by somebody in the Assembly at that time. Who broke the code of practice? The person who deliberately leaked and intentionally leaked or somebody who inadvertently made a false statement? Because in 2010 it was on blog sites and it was also reported that a misstatement had been made but it was not until 2016 that the minutes, the Hansard of that debate, were released. To therefore expect a Minister, or a former Minister, to apologise or to make comment on a leaked minute would be incorrect because firstly it gives that minute credence and it condones the person who leaked that minute. I believe that Deputy Lewis did, when the minutes were released, apologise. I accept, not a very grovelling apology but he did make some form of apology. As a member of P.P.C. I was in agreement that Deputy Lewis has had a long time in which to apologise and that was what guided me the way I went. But over the summer I have been doing much research, and I confess it has kept me awake many a night, but the bottom line is: should a Minister, or former Minister, make comment on a leaked report? Who is really the guilty person? The person who leaks or the person who inadvertently made an incorrect statement. The first opportunity therefore to formally apologise that Deputy Lewis had was not 9 years ago, as this Assembly has been informed, but last year when

the Hansard was released. What is the real issue here? I think this is where we need to get down to the nitty-gritty. The real issue here is childcare here in Jersey. I want to see Jersey having the best childcare available and that is what I believe in, that is what I want to see. I do not want to see distractions and I do not want to see the report being torn apart, being taken off in tangents, whether it is replacing the Bailiff, whether it is knocking down Haut de la Garenne, whether it is changing our oath of office, whether it is: did the Minister lie or not? The real issue is simple: better childcare. Let us get on with the work that we need to do. I was privileged enough as Constable of a Parish to be at the swearing of our new rector last Wednesday and the address was given by Bishop Willmott - Trevor Willmott - of Dover and he made a very, very strong point: "A society that points a finger of blame is an unhappy society because it is a society that looks for retribution and it looks to accuse others. A happy society is a society that works together and helps people when they make mistakes to go forward in a better way." I realise some people may not agree with the terms that the bishop said but I do and I think they are very valuable. So I ask this Assembly to examine their own records. Have you always said exactly what you meant or did you afterwards go: "Oh, got that wrong"? I am the first to stand up and say I know I have said things incorrectly and when I have been pulled up I have gone: "Oh, terribly sorry, I got it wrong." So, I would ask that Members think carefully and reject the proposition because the vote of censure I believe far outweighs the error made by the former Minister. Thank you.

**The Bailiff:**

Does any other Member wish to speak? If not then ... no other Member wishes to speak? Senator Maclean.

**10.1.7 Senator A.J.H. Maclean:**

Before I speak, I would just like to explain that, as Members are well aware, Senator Bailhache has been taken unwell and as a result Members will be aware also that he has been a great supporter of Deputy Andrew Lewis. I have been asked to deliver the speech that Senator Bailhache was intending to deliver today. I have agreed to do that and therefore it is the words of Senator Bailhache that I am going to speak now: "I want to make it absolutely clear that if Deputy Lewis lied to the States or to the Committee of Inquiry a vote of censure by this Assembly would be, in my view, a very moderate punishment. I do not condone lying to the Assembly; lying undermines trust and if people are to have any faith in politicians, dishonesty of that kind should not be tolerated. My problem with the proposition of P.P.C. is that I am convinced that Deputy Andrew Lewis did not lie to the Assembly. At worst, he allowed a perception to take root in the minds of a small number of Members that he had seen the interim report of the Metropolitan Police and he did not correct it, but that is not a lie. A lie is a deliberate false statement with intent to deceive and Deputy Lewis did not make any such statement to the Assembly. We have therefore this problem: no one wants to be seen to condone lying to this Assembly but it is not certain that he did lie. So, do we make a judgment on that or do we throw him to the wolves on the basis that it does not matter whether or not he lied? The Committee of Inquiry has pronounced that, we have to accept that. That seems to be the view of some Members but it would seem strange justice to me. The prophet Isaiah stated: 'This is what the Lord says: 'Maintain justice and do what is right.' I assisted Deputy Lewis at the P.P.C. hearing and some have questioned why I did it. There is a simple answer: all my professional life I have tried to do justice and when I see injustice, in this case, gross injustice, I cannot remain silent. The truth is that the Committee of Inquiry got it wrong. They had wide-ranging terms of reference but the only relevance of what Deputy Lewis said to the Assembly in December 2008 related to the question whether the suspension of Graham Power was intended to derail Operation Rectangle, the police inquiry into historic child abuse.

[15:15]

That was why counsel to the Inquiry spent 2 days in hostile cross-examination of the Deputy, far longer and more aggressively than with any other witness. It was to see whether there was corruption in government. It was to see if the Chief of Police had been suspended in order to stop the Inquiry in its tracks. The Committee of Inquiry found that there was no corruption. They stated: ‘There is no evidence that Andrew Lewis or anyone else was involved in an attempt to derail Operation Rectangle or otherwise cover up child abuse by participating in the orchestrated removal of Graham Power.’ So why turn on Deputy Lewis? The panel’s lawyers had told them very clearly: ‘It is all in the counsel’s closing address that if they found no evidence of intent to derail the Inquiry, the nature of Deputy Lewis’ statement to the States was not necessarily relevant.’ In effect, it did not matter that he had been imprecise in his language, so where did this devastating finding that Deputy Lewis had lied come from? Not once in 2 days of questioning was it put to him that he had lied to the States in 2008. Not once. If you do not put an allegation of misconduct fairly and squarely to a witness, he has no opportunity to rebut it and to explain why he did not lie. The panel stated in its report that it did not know why Deputy Lewis had lied but they added that they could readily see why these acts have given rise to public suspicion that all or some of those involved were acting improperly. In other words, they could understand why some might have thought that the suspension of Mr. Power was evidence of corruption. This I think may be the key to why Deputy Lewis was defamed by the panel. When first established by the States it was called the Committee of Inquiry into Historical Child Abuse but it changed its name to the Independent Jersey Care Inquiry. Independence was clearly and rightly important to it. The panel had found that there was no government corruption. In order to prove to those who had suspicions that they really were independent of government, did they decide to couple that finding with a finding that a Government Minister had lied? I think the panel decided, consciously or not, to make Deputy Lewis a scapegoat. It is entirely unnecessary but it was convenient for the panel to act as it did. Let us picture the scene on 3rd July 2017, the media gathered in force at St. Paul’s Centre, Government Ministers and scores of others were present for the unveiling of the long-awaited report. Only the panel knew the devastating bombshell that was to come. Deputy Lewis was chairing a meeting of the Public Accounts Committee at the time in blissful ignorance of what was to come, that he was very publicly to be branded a liar, and a liar twice over, not just to the States but also to the Committee of Inquiry. In what respect is he supposed to have lied to the panel? It is not clear, they do not explain, there is just a casual reference at paragraph 10.376 which says: ‘Andrew Lewis lied to us’, nothing more. Deputy Lewis had not been given the chance to defend himself against the allegation that he lied during the hearings. He had no idea that this was to be said. He had not been shown the relevant parts of the report in advance. There had been no Maxwellisation; the first he hears of it is a text message from a colleague who is at St. Paul’s Centre. The media descend upon him like a pack of wolves and he has still not seen the report. His family life and his professional relationships are turned upside down. He is shamed in the eyes of colleagues and of the world and all without any notice that this devastating finding was to be made. It is astonishing that a distinguished Q.C. could have acted in such gross breach of the rules of natural justice. In relation to Deputy Lewis, the panel made a serious mistake. At the hearing before P.P.C. I tried to explain how the Committee of Inquiry had been unfair to Deputy Lewis and why P.P.C. should reach its own decision as to whether the Deputy had lied to the Assembly. P.P.C. listened politely but they did not hear for their minds were closed. Before the hearing and during it P.P.C. repeated that the Inquiry was not going to determine whether or not Deputy Lewis had lied. The P.P.C. was not prepared to investigate the only crucial question there was because it had already been determined by the Committee of Inquiry and that is what they say in their report. That was contrary to the Standing Order and a mistake. Standing Order 157(1) provides: ‘Where the P.P.C. has information, whether or not received from a complainant, that suggests that an elected Member may have acted in breach of the code of conduct it shall, without undue delay,

inform the Member and investigate the act.' P.P.C. had information from the I.J.C.I. (Independent Jersey Care Inquiry) Report that Deputy Lewis had lied which was a *prima facie* breach of the code. The Standing Order tells the P.P.C. to do 2 things: first, inform the Member of the information suggesting that he may have breached the code and, secondly, investigate it. In fact, P.P.C. did neither of those things. They did not tell Deputy Lewis in what respect they thought he might have broken the code. They declined when Deputy Lewis put the question to them in writing and when I asked the chairman of the hearing, I said: 'Mr. Chairman, may I ask, is the P.P.C. going to make clear to Deputy Lewis in what respect he is alleged to have broken the code of conduct?' the reply was: 'If we find that he has breached the code of conduct, certainly we will do that.' What that meant was: we are investigating an alleged breach of the code of conduct but we are not going to tell you what it is; we will tell you when we get to the end. If a civil servant appearing before a disciplinary inquiry was treated in that way, there would be outrage. The union would be up in arms, there would be a successful application for a judicial review, but Deputy Lewis has none of these remedies. What is the point of having a procedure laid out in Standing Orders if the P.P.C. takes no notice of it? P.P.C. took the report of the I.J.C.I. as fact and they had no right to do that, they should have conducted an investigation. Perhaps P.P.C. felt that the report of the Committee of Inquiry was the equivalent of a report from the Commissioner for Standards but it was not. The Committee of Inquiry was not investigating whether a breach of the code of conduct had taken place. Their terms of reference were entirely different. When the Commissioner for Standards conducts his first investigation into an alleged breach of the code of conduct, he will tell the Member what the allegation is and what paragraph or paragraphs of the code of conduct are in question. That will give the Member the opportunity to defend himself. Deputy Lewis was not given that opportunity. I am afraid that P.P.C. has let us down. Deputy Lewis has been treated with unfairness, not once, but twice. The truth is, and I say this with regret because I know that all members of the P.P.C. were acting in complete and good faith throughout, but the truth is that their proceedings were a travesty of justice. They were a travesty of justice because guilt has been determined before they even began. P.P.C. was not willing to consider whether or not the I.J.C.I. findings were justified. If starting from the position that Deputy Lewis had lied to the States and to the Committee of Inquiry, of course, there was a breach of the code. If he had lied in that way, then of course he was not maintaining the integrity of the States. So we had a process where the outcome had been pre-determined and the only question was how the deeply-divided members of the committee could express their findings. This process is obvious from the report. A whole lot of material is there which was never put to Deputy Lewis, including some things apparently reported by bloggers on social media. There is much that could be said about the report but I will restrict myself to paragraph (b) on the first page. P.P.C. states that his subsequent robust offence of his position and failure to acknowledge and apologise for having misled the Assembly, even during the P.P.C. hearing, constituted a breach of the code. The committee was wrong to say that. At page 27 of the transcript in answer to a question from the chairman, Deputy Lewis states: 'I do not believe that I have ever made a mistake. What I have done is to use the wrong language to describe a report and some Members have clearly been misled by that. I can only apologise for that.' On page 28 he adds: 'What I regret is that some Members appear to have been misled by that, whether they be current Members looking at the transcript today, those that may have been in the Assembly at the time, and I regret that.' It is not correct to state that he failed to acknowledge and apologise for having misled the Assembly. I would only add in relation to the earlier part of paragraph (b) that if the day ever comes when defending yourself robustly or not becomes in itself a breach of the code of conduct, there is little hope for any of us. Indeed, that gives rise to another important point and it is the last one I want to make. P.P.C. has a duty under Standing Order 128F: "To champion and defend the privileges of Members of the States." One of our most precious privileges is the freedom under the law to say what we want in the Assembly without fear of retribution. That

privilege is balanced by our obligations under the Standing Orders and the code of conduct which we have made. But the privilege is important and does not seem to have been considered by P.P.C. We all sometimes say things that are wrong or mistaken or badly expressed. If we have in future constantly to be looking over our shoulders, metaphorically speaking, and worrying whether some words that we used years ago will later be taken out of context and form the basis of an allegation of lying, that would be a bad outcome for democracy. When under pressure, Deputy Lewis has not always helped himself in some of the things he has said or not said but he is not, in my opinion, a liar. He is a decent and honourable Member who has much more sinned against him than sinning. He has been made a scapegoat and it is not a pretty sight. It would be shameful if the Assembly were to adopt this proposition.” That is the end of Senator Bailhache’s comments and I thank Members for allowing me to read that out in his unfortunate absence. I am sure all Members wish him a speedy recovery. [Approbation]

**Deputy M.R. Higgins:**

A point of clarification ...

**The Bailiff:**

Senator, the Hansard will properly recall that it is your speech. For the avoidance of doubt, if there was anything you want to say yourself you must say it now because you will not have an opportunity later.

**Deputy M.R. Higgins:**

Can I just ask a point of clarification first? In the middle of Senator Bailhache’s speech which he read out, he made reference to “counsel’s closing arguments”. Can he say who the counsel was? Was it the counsel to the Inquiry or was it the States lawyers making their representations to the Inquiry beforehand? Because I do not believe it was the counsel to the Inquiry, I suspect it was a counsel representing the States of Jersey or some other body.

[15:30]

**Senator A.J.H. Maclean:**

I do not think it is question time and I am not sure that I can answer the question.

**The Bailiff:**

You cannot clarify it?

**Senator A.J.H. Maclean:**

I simply read what I was asked to read and I do not have any way of answering the question the Deputy has asked. I was not planning to say anything at this time but you have quite rightly and properly pointed out that if I wish to make a comment it has to be now. I will simply say I have read with interest last night the words of Senator Bailhache; I believe he makes some very valid points. I do understand the difficulty that this Assembly will face in making this decision. I understand the difficulty that P.P.C. must have had in arriving at the decision to bring this before the Assembly and indeed to have to make a decision on the matter. It is not easy for anyone. It is not particularly easy for Deputy Andrew Lewis or, I may say, his family to have been put in the position that he has been put in. I find this extraordinarily difficult personally but I was a Member in this Assembly in 2008. There are not many of us left, there are a few, and I do recall that day at the very end of that particular term. It was my first term, it was Deputy Andrew Lewis’s first term, and there were one or 2 others. I know that Deputy Lewis was put in the position as an Assistant Minister when his Minister resigned of suddenly having to step up to the plate in an extraordinarily difficult and pressured circumstance to deal with a situation that I do not think there are many

would have wished to have been having to face. I sat and listened to the statement that he made. As he rightly pointed out earlier, it was in relation to informing Members of this Assembly of an action that had already been taken. It was not asking this Assembly to make a decision. There was no vote involved. I do not recall - it was a number of years ago, and I have referred back to Hansard - but I do not recall at the time being of the impression that the Deputy had lied in any shape or form. When one reads through what was put into Hansard, one can take it perhaps a number of different ways but there was certainly, in my view, no intent there as far as lying was concerned that I could see or that I could remember. So I take no personal offence and do not feel that I was misled at that particular time but the integrity of this Assembly and every Member in it is clearly key, as the P.P.C. chairman rightly stated in his opening remarks. The confidence of Islanders in the proceedings and every individual within this Assembly is absolutely paramount. I do not believe there is a case that is reasonable to censure Deputy Andrew Lewis. I will not be supporting, I regret to say on this occasion, P.P.C. in this matter for the reasons that I have briefly outlined. I thank Members for allowing me to make the earlier comments on behalf of Senator Bailhache.

#### **10.1.8 Deputy M. Tadier:**

I will start perhaps from a strange point of view, and that is to say that although only a few weeks ago I stood and spoke robustly about why we should change the Chief Minister - and I stand by those comments; there were political differences between the 2 of us - nonetheless I am glad that that proposition did not succeed. Because ultimately I think it is right that for at least the remainder of this term, although I hope for a change at the next election of course, that we have somebody at the heart of government who I think is completely in favour of changing the way we do things as an Island, to get rid of the bad Jersey way and to introduce proper scrutiny and to look after the vulnerable, certainly the children, in this Island. I hope that also his economic policy will reflect that too. Before I go off on too much of a tangent, I think it is important to say that because there is a wider context in which this debate takes place and there was a wider context in 2008 during which the statement delivered secretly in this Assembly which was exposed later also was made. I am disappointed, but not surprised, by the speech that was read out and written by Senator Bailhache, because I cannot help saying that he finds himself almost consistently to be on the wrong side of history. I will explain what I mean by that in a moment and I am going to speak robustly. I make no apologies for that. I will try not to make things personal, but this Assembly is about getting the facts out and representing different points of view, but there is one area and one point in which I do agree with Senator Bailhache and that is we cannot have it both ways. This is about whether Deputy Lewis lied. I was slightly surprised at the statement at the public hearing at St. Paul's when I heard the kind of intellectual somersaults that were going on on BBC. I appreciate they are in a difficult position because they are a composite group and not everybody in BBC thinks that Deputy Lewis has done anything wrong. Some of them do not believe he has lied and some are quite convinced that he did. I appreciate that there is a difficult situation there as a starting point, but it is the case that if he did lie, that is an automatic breach and a censure. If he did not lie, then there may well be other reasons why we still should pass a censure today. I believe there is another key reason why we should pass the censure. That has been touched on already and I think very well by the Constable of St. Helier. It has not really been mentioned anywhere else, but what about the former Minister for Home Affairs, former Senator Kinnard, and her husband, who is named in the report, Christopher Harris? They were accused by the Deputy, Deputy Lewis, not only of having misremembered events - because of course anyone can misspeak, we are told, even no doubt Senator Kinnard and her husband could misspeak, they could have a misrecollection of the events and they could present evidence which was not factually correct - but he accused them of fabricating evidence when he was giving his evidence to the Care Inquiry. It seems that the

double standards are already starting to appear there. No suggestion that they misspoke; we will look at that in a moment. Let us look at it now, I have got the email in front of me. What the Committee of Inquiry said in 10.345 of their report is that on 18th October 2008, Senator Wendy Kinnard met her Deputy Minister, Andrew Lewis. This is at the time when she was still in post, she had not yet resigned. Her husband, Christopher Harris, a lawyer, was present for some of the meeting and shortly after drafted a handwritten note on the main points, so he wrote that note straight after. There is no suggestion that a lot of time had elapsed. There is no question of a couple of years or 7 years having elapsed before he recollects what he has written. He made the notes there and then straight away. That is what you would expect from somebody in his profession. According to Senator Wendy Kinnard, Andrew Lewis told her of steps being taken to remove or discipline Graham Power. He told her about an extract note from a Metropolitan Police report and said: "For God's sake, do not tell Frank what I am telling you." She advised Andrew Lewis not to do anything until he had the full information. She was reassured when he told her that he would stand up to any pressure to invoke suspension. Senator Wendy Kinnard had no further discussions with Andrew Lewis about the proposed suspension of Graham Power. Then on 20th October, 2 days later, she resigned as Minister for Home Affairs and then of course Andrew Lewis succeeded her. The next paragraph in the report says that: "Andrew Lewis denied that there were any discussions about Graham Power's suspension and asserted that Christopher Harris' note was fabricated." So of course you cannot both be correct, something has got to give, either one or the other was correct. It was not Andrew Lewis who was incorrect, it was Mrs. Kinnard and her husband. They fabricated the evidence, he said. He claimed to have known nothing at all about the proposed suspension until 11th November 2008, so this is almost 2 weeks later, despite the fact that as Minister for Home Affairs, he would have been the only person with the power to suspend the Chief Officer. We are starting to see already why the Committee of Inquiry were sceptical about the Deputy's evidence. I am sure they have sat on many cases. Certainly Frances Oldham Q.C. and her esteemed colleagues, I do not think there is any suggestion from any of us that they are unprofessional, that they do not know what they are talking about, that they get things wrong. I suspect that we chose them for a particular reason, because we think they are competent. They are the ones who started to look at the account of former Deputy Lewis at the time, thinking: "This does not stack up." They go on to say: "We accept the account that they gave to us about their meeting with Andrew Lewis." It then goes on to say: "Dr. Brian Napier Q.C., an expert in employment law, subsequently investigated Graham Power's suspension. Andrew Lewis told Dr. Brian Napier that between the 22nd and 28th of October, he had discussed with Mr. Crich, the Director of H.R., and Bill Ogley the possibility of Graham Power being suspended." That was between the 22nd and 28th October, so he has told Napier one thing and that was a couple of years previous. This was of course between when the secret transcripts were still unknown, so he was operating in an area where he knew there would not be any public scrutiny, save for the Members who were there at the time and those who perhaps administratively were privy to the proceedings. Nobody else knew, including Dr. Napier, I would suspect. "Andrew Lewis said in evidence to the Inquiry that he may have got muddled when talking to Dr. Brian Napier. However, we find that Andrew Lewis was not muddled. His account to Dr. Brian Napier provides confirmation of the accuracy of Senator Wendy Kinnard and Christopher Harris about meeting with Andrew Lewis. He clearly knew well before 11th November 2008 of the plan to suspend Graham Power." So when people stand up and say: "Well, the Inquiry said that he has lied, but they do not tell us why he lied or why they think he has lied" it is there in front of us. That is one of the reasons they say that he lied, because they do not accept his evidence, that he was not muddled and that he lied, but that is their words. They also find that he lied to the States Assembly, which is something that we should be concerned about. This debate is unfortunately about the Jersey way. I know people have stood up and said: "Oh, would it not be nice if we were not discussing this, if we were just making

sure that all our children were better, if we were putting more money into the education system, putting more money into income support, into housing, *et cetera*? We could be talking about those issues.” But there is a fundamental problem, that we are not the ones who necessarily have a choice in this matter. We are not the ones who are judging Deputy Lewis, because that judging has already been done. It would be strange, Sir, if you were in court and you consult with your Jurats, whether in a superior or inferior number, and a verdict is returned of guilty and you turn to whoever it is - the Ushers, no doubt - and say: “Please take him away to a place far from here in a dark western Parish in the southwest of the Island” and he says: “No, Sir, I am not going, I am afraid, because I do not agree with the verdict” or indeed, it would be even stranger if the Ushers then turned around, and the police, who were to escort him to that place, said: “No, we do not agree with that finding, Sir. We respect you, but we think you have got it wrong. We think that all your other decisions are correct, incidentally, but we just think that this one verdict is incorrect, so we are not going to take him to the prison.” We really cannot have it both ways, because we are told in this Assembly that, first of all, States Members do not lie. If you think that somebody has lied in this Assembly, you cannot say it, you have to say that they misled the Assembly, but you cannot say they have misled the Assembly either, you have to say they inadvertently misled the Assembly. Even if you do not think it was inadvertent, you have to lie if you think somebody has lied. You are not allowed to say what you believe. But there has been a game-changer here, because it is not us or anyone else in this Assembly who has found another Member of the Assembly to have lied, it is a Committee of Inquiry. We have delegated that responsibility to somebody else. It was part of their terms of reference, incidentally, to look at the whole area. That was done deliberately, because there have been continual references in the Assembly saying: “I have got grave concerns about what was said here” and it was for them to judge and they have judged it. I can understand why P.P.C. - quite correctly, in many ways - say it is not for us to judge whether he has lied. He has already been found to have lied by the Committee of Inquiry.

[15:45]

I wish that P.P.C. would have gone further and simply said: “Because he has lied, and we accept the findings of the Committee of Inquiry, and because of that, we have to bring a censure.” It should really be that simple: “There has been a lie; it has been established. Lying is against the code of conduct, therefore we have to censure you.” Job done. Now, the problem when we say that is that really, and this is where I think the Deputy’s P.R. (public relations) skills really come to fruition, I believe that the Deputy did lie. I believe he lied to this Assembly, because it is simply beyond the realms of reason for somebody as educated as Deputy Lewis to be able to stand up and... okay, if he did it once, said: “I saw a report. I saw a document” call it a document: “and it said this” and then later on somebody says: “What do you mean by that?” “Well, I got a letter. I spoke to the Chief of Police, Interim Acting Police Chief. He told me this and there is going to be this report that is coming out and it is going to be damning.” But he did not say that, he referred specifically to: “I have seen the interim report.” He said it a sixth and again a seventh time. It is just not feasible that somebody intelligent like that makes that mistake over and over again. What we are seeing played out in this Assembly is again the Jersey way. There is a power play going on here. Let us not be funny about it, the Jersey way, in its negative sense, because of course there must be a positive sense somewhere on that and hopefully at some point in the future, we can reclaim that phrase. But the Jersey way, as it is dictated and referred to in the report, as I see it, is that you decide the outcome that you want, you ignore the facts. Where possible, you act under the veil of secrecy. Again, that was one of the necessary conditions. This all took place in camera. When there was a risk of it coming out, of course when somebody brought a proposition saying: “Look, we need to publish this report”, “No, sorry, you cannot do that.” Secrecy is much more important than exposing somebody who may have told a lie and who is subsequently seen to have

told a lie. You change the facts, that when somebody has lied, you change the word “lie” to “mislead” and then you change it to “inadvertently misled”, then: “I misspoke”, then: “Well, he had to go anyway. There was no material difference, even if Members at the time had felt misled.” You put it into the passive, it is not active anymore, it is not: “I misled” it is: “They were misled. They felt misled. Some may have felt misled. I apologise if some might have felt misled, but anyway, it does not matter because the guy was not a good egg and he had to go anyway.” I always thought that in the Christian tradition, when we talk about forgiveness and accusing others, of course you say: “Do not cast the first stone” but I always thought that it was one of the precepts that there had to be a recognition of the mistake in the first place for any forgiveness to take place. There are those in the Assembly who are better placed to speak about the Christian tradition than I am, but you need to recognise the mistakes that you make. That is the idea of repentance, that you turn from your ways and where you have made an error - call it a sin or whatever you want in the more modern context - you own up to it and you turn away from it and you move on. I think there is an attempt to rewrite history here. I think there has been an attempt to plant the seed of doubt. I would ask, in addition to the Constable of St. Helier’s questions, the following questions of the Deputy. First of all, will he apologise to former Senator Wendy Kinnard and her husband, Christopher Harris, for alleging that they fabricated evidence, essentially perjured themselves before the Committee of Inquiry? He could have taken the same leaf that he is asking us to take out of his own book, which is to say: “Well, people misspoke” but his initial reaction at that Committee of Inquiry was to go on the defensive and say: “I did not lie, they lied. They must be mistaken about what they said.” There has definitely been a finessing of evidence from Deputy Lewis, because although I could not follow all of the Committee of Inquiry, I did go to some of the hearings. One that I particularly went to was the session where he gave evidence. It was quite clear on that occasion that they simply could not believe what they were hearing. They were reasonable, I think, in all of their dealings with individuals, but what was quite clear is that they are very shrewd and they are very experienced individuals. They are used to taking lots of evidence from a wide variety of people and they could clearly smell a rat here, they knew that there was something. This is not again peers setting on their other peers. It is not the fact that you have got somebody who lives down the road who says: “Why do we not meet for a coffee, I do not know, let us say down at Greve de Lecq? Let us go for a coffee and let us see if I can explain the story to you over breakfast or can I come around to your house tonight and tell you my version of events?” This was done in a neutral territory in a professional way, with evidence being presented on both sides. The experienced and professional Committee of Inquiry said: “No, we do not believe this individual.” Senator Bailhache has touched on it in his speech today and in previous speeches, and others have said: “It is absolutely remarkable that a Committee of Inquiry would single somebody out for special treatment and say that they lied when they do not normally do that.” Absolutely, I agree. That is absolutely strange that they would do that. It is very powerful that they have done that and they would not do that lightly. I cannot come to the same conclusion as them, where they say: “Because that is an anomaly, we must ignore that. They must have got it wrong.” No, because it is so unusual, because they do not normally do that, they must have been seriously and extra convinced in their dealings and their findings. I do not think that they had an axe to grind when it came to Deputy Lewis. I do not know why they would. You can accuse States Members, local people, with having an axe to grind for whatever reason, and you can accuse the supporters of Deputy Lewis of having their own agenda as well, but you cannot accuse a Committee of Inquiry, who are ostensibly, and I think genuinely, independent of doing that. What I see going on here is I think we do have - and I talked about the wider context - a battle going on here for the soul of Jersey. I think we have got an old guard. Credit to them, they are rallying around to the defence of one of their own and that is one version of the Jersey way. On the other hand, we are seeing a new order of politically ambitious people in the Council of Ministers again who have got a different way

of operating, heralding a new progressive way. I cannot help thinking that is some of what is going on here. I think some Members at the time in 2008... this is the problem I have got, it is when you try and assume what people were thinking. Deputy Brée touched on it quite well, I thought. As soon as we start presuming what other people might have thought at the time and then of course asking them - and some people are polite, of course, they are not going to say necessarily what they think over the phone to you - "Oh, do you think I lied?" "No, I was not misled." I am not really sure that counts for much. I know for one that former Deputy Bob Hill, he felt that he had been lied to. He sat here in 2008 listening to the evidence, and afterwards, when it became apparent that there was no Metropolitan report that the Minister could have seen, he felt: "I have been misled here." There has been a play of course on the fact that: "Well, it does not matter whether I lied to the Assembly or whether they felt misled, because in fact they did not have a choice in the matter. I had already suspended him. Frank and my mates had already stitched this up." That is not what he would have said, of course, but there was a conspiracy to get rid of the former Police Chief. Deputy Lewis, in his opening remarks - I was not here, but I managed to listen to it outside the Chambers - said that the Committee of Inquiry did not find any conspiracy to get rid of the Police Chief. That is not what they said. They said: "We did not find any evidence to get rid of him because of any political conspiracy to pervert the child abuse inquiry to cover up child abuse or to derail Operation Triangle." That is what they said, but of course it was a conspiracy to get rid of the Police Chief. That is why there were meetings going on behind the scenes. That is why allegedly, even from Deputy Lewis, legal advice was not being shared, despite the fact that the Minister at the time said to him: "Do not suspend him unless you have got the full information." Your evidence, Sir, when you were Attorney General, to him said: "Make sure you do not suspend anybody without the full Metropolitan report in your hand." Those are other examples of why he should be censured anyway. There was a complete malfeasance, which the Committee of Inquiry talks about, on page 32 of her opening address to the public when she gave the evidence: "We record our disquiet at the manner in which the suspension of Mr. Power was handled. We note the fact that Mr. Graham Power was suspended with no notice in respect of alleged past failings. There was no suggestion that those past failings could have an effect on his ability in the future to carry out his duties." So while there has been a big sympathy play for Deputy Lewis here today, saying: "Look, I have been mistreated. I have not had due process applied to me", at the time when he was suspending the former Police Chief - a decorated former Police Chief with an unblemished record up until that point, it has to be said, and still beyond that point, because there has never been any proof that he did anything wrong, he has been completely acquitted - it was okay for Deputy Lewis not to apply the correct process to that individual. Let us face it, we all know that Deputy Lewis was brought in to do a job. He was in there for a space of a couple of weeks. He was serving, as I see it, his political masters at the time: "You have got this one job to do." You could see by the approbation in the States at the time, again the context of the time was you had one Chief Minister saying: "This is about the reputation of the Island." "No, Frank, this is about dead children, for God's sake." That is essentially what was being said at the time. Similarly, you have the same person standing up for Deputy Lewis today. He is not in the Assembly; he has his speech read out. Again, it comes down to reputation before the proper way to do things. We have seen it again today, have we not, that the Jersey way says: "It is okay to lie, because I do not accept lies anyway. I can change facts to what I want them to be"? But if you try and expose the lie, we go after the whistle-blower. That is what some of us do in this Assembly. That is the Jersey way that people talked about in the Committee of Inquiry. You go after the victim, not the perpetrator. You save reputation above all and we all rally around and protect our institutions, even when they are wrong and even when they need to change. That is exactly what we have seen today in one of the speeches. You go after the whistle-blower, who said: "I do not think it is acceptable" whoever that he or she was who leaked that document. I say thank you to that individual, because now it is out

in the public domain and it is there for the Committee of Inquiry to see. They have decided, not us, that one of our own number has lied to this Assembly, that he has lied to them and he has accused former States Members and members of the public of fabricating evidence to the Inquiry. There has been no apology for that. All of those things I believe are more than sufficient for a censure. Lastly, we should not be discussing this, because the Deputy should have resigned by now. We should not be in this position. It would be inconceivable anywhere else, I think, for somebody in that position. Not only did he not resign the chairmanship of the P.A.C., he has not resigned from this Assembly. Ultimately, it is his constituents who need to give him a vote of confidence. It is not us. We cannot remove one of our own Members, and thankfully for that, because we would not want to resort to mob rule, I do not think. People have said: "Why do you not just kick him out?" I think that is very dangerous. It could be any one of us, the Deputy is quite right, and the balance is there and the P.P.C. are doing what they should or they can do in bringing a censure. If today the censure goes against the Deputy, I hope that if he genuinely believes that he has done nothing wrong, he will take that back to his constituents, he will fight for his seat and that he will explain himself to his constituents. After that, the matter is put to bed. If his constituents have confidence in him to do his job, then it is not for us to say, but really we cannot be put in this invidious position anymore. I do not see we have any choice today, with the compelling evidence that there is. Despite the attempts from some in this Assembly and some outside the Assembly to rewrite history, we have got no choice but to vote for this censure motion today and I would encourage Members to do that overwhelmingly.

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

Excuse me, Sir, could I just ask the last speaker to clarify something that he has said? Is that possible or not?

**The Bailiff:**

You can.

**The Connétable of St. Saviour:**

Because I would like it, because the press are hanging on every word of what is going on here, because it is news and it really is not. But the speaker did mention dead children.

[16:00]

I do not recall any children that were abused being found dead, contrary to rumours that came out with the police a long time ago, and it has just been mentioned again in this House. That did not happen and I would like the speaker to clarify that, please.

**Deputy M. Tadier:**

I am absolutely happy to clarify that.

**The Bailiff:**

I understood you, Deputy Tadier, to say that this was what Senator Syvret had said to Senator Walker and I think that was an accurate comment.

**Deputy M. Tadier:**

Could I just clarify, again because there are 2 senses in which I think that comment is right? It was a quote of Senator Syvret. Of course many of the children who were abused at Haut de la Garenne and elsewhere have gone on to kill themselves. We talk about survivors often, but there are numerous abuse victims in Jersey and elsewhere who nobody knows about and they have been

living with depression and many have turned to suicide. That is an issue which remains in our society, so I think it is fair to talk about dead children.

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

Clarification, if I may.

**The Bailiff:**

For the Deputy?

**Deputy J.A. Hilton:**

Sorry, yes. I believe I heard Deputy Tadier to say that Deputy Lewis had not received legal advice from the Law Officers or it had been withheld. Is that what he said?

**The Bailiff:**

No, I understood him to say that he had not followed the advice from the Law Officers.

**Deputy M. Tadier:**

What I referred to is that I recall Deputy Lewis saying that the Chief Minister may have received different legal advice about the way in which to proceed that was not passed on to him.

**Deputy J.A. Hilton:**

All I wanted to clarify was that ...

**The Bailiff:**

If you are going to make a speech, you will get your opportunity to do that later. Deputy Martin.

**10.1.9 Deputy J.A. Martin of St. Helier:**

Finally. Yes, this is a very important debate. Like the Constable of St. Helier, over the summer I found myself in a position on P.A.C., because I had worked with Deputy Andrew Lewis, I had understood that Deputy Andrew Lewis would, I thought, adhere to what P.P.C. would find. I did not sit on that P.P.C., although I am on P.P.C. I was out of the Island, so in that way I was not conflicted at all. When I found that P.P.C. had upheld the breach and that there was a vote of censure I was called into a P.A.C. meeting, where I said it was not tenable because the chairman would not resign, so I did. That is where we are today. I have worked well with Deputy Lewis, but that does not mean I can rewrite history, because I was here in 2008. It has been interesting to hear today, especially from people that are unreported, that is Senator Gorst, who was then a Deputy. I have just heard from Senator Maclean that there may have been a few that were misled, but he was not misled. When you read Hansard, I do not think anyone in that Assembly that day, in that in camera debate, felt they were misled. The Deputy, for the Constables of St. Martin and St. John, does not inadvertently say once: "I have seen and read a damning report by the Metropolitan Police." He says it at least 5, 6 and 7 times. There is not one questioner in the in camera debate who questions that. It is evidence. We all felt on the day he was telling us reasons; he had to justify. Let us go back again, 2 weeks the Chief of Police had been gone. The Deputy, the Minister, made a statement in the House on the Tuesday morning and then we went into camera to ask questions why. Now, do I believe I was misled then? I did not believe it at the time. Do I believe I was lied to now? Yes, I do. I am sorry to say it, there is nothing there that you can inadvertently say 6 or 7 times about a report you did not read. That to me is as simple as that. That is where we are today and all these people who say they were not misled on the day, they probably were not, like me. I was not misled, but I was misled obviously, so to me did the Deputy lie? People say it is inadvertently. It is like self-defence, you can only fall on the knife once, you

cannot keep saying that the person fell on the knife 6 times and still say that was self-defence. Then today, and we have to have this context, sometimes I wonder - and Senator Bailhache said it in his speech that was made by Senator Maclean - sometimes the Deputy does himself no favours. In his statement today he said: "What I had read was alarming extracts from the report of the Metropolitan Police, which was contained in a summary report from the Deputy Chief to the States of Jersey." Then he goes on to say: "For obvious reasons, I was anxious not to identify him as one of the sources of my information." What he should have gone on to say was the information that led him to suspend the Police Chief. Then you start to unravel what you heard on that day. Somebody had told him there was an alarming report coming out, but a new Minister had to come in that day and justify why he had got rid of the Police Chief. Once this red herring started running, he never, never changed it. He was the one who started it. Everybody believed he had read that report and the Committee of Inquiry found out that he did not. In fact, it was found out in 2010, and as it was in camera, we have heard, nobody could say anything. To me, it is a very, very easy decision. Somebody lied that day, somebody told this Assembly they had seen something, a damning report, to make their actions justifiable. That is all I can say, but at the time, no, I did not think I was lied to or misled; you can say it much politer, as Deputy Tadier said. We have to be careful what we say. Unfortunately, now I do not like where we are. I agree with a lot of people that this is becoming a side issue, but who is making that a side issue? I am sorry, I would have took my medicine 8 or 9 weeks ago and said: "I am sorry, I misled the House, I did, and I apologise." Even, as Deputy Tadier says, it is only apologising to people he thinks he may have misled or the very few who thought they were misled. There were 53 Members in that House that day. We were not even down to 49. Who are these few that were misled or did everybody know something I did not know? Oh, I am sorry, you can make this a bigger conspiracy theory, because I am telling you now, nobody was misled, but we were all lied to.

#### **10.1.10 Senator I.J. Gorst:**

Members often stand in this Assembly and say they are being asked to make a difficult decision. I do not think any Member today would say anything other than they are being asked today to make a difficult decision and most Members would not want this decision to be personal, for all the reasons that some Members have said. But it is inevitably personal, because it is about an individual Member of this Assembly that some of us have worked with for a long time. Deputy Andrew Lewis has served previously and was first elected to this Assembly at the same time or the same election as I was and spent some time out of the Assembly and has now returned again. A lot of debates in this Assembly end up, for all the wrong reasons, being quite personal in nature. As you will know from my previous speeches, I am not always very good when it comes to recollecting timescales. Sometimes in my job a day seems like a week, but it does not seem to me, although we have had the summer recess inbetween, very long ago that we all stood in this Assembly and had an in committee debate and spoke of our initial thoughts and responses to the Care Inquiry. Some of us say totally forgettable things; some of us remember the things we said for a long time because we did not say them lightly. I have been criticised by some of my political colleagues for on the day of the publication of the Inquiry saying that I would dedicate myself in those 10 months, as it was then, to the implementation of the recommendations of the Inquiry. Only time will tell whether I was right or wrong to do that. I believe I was right then and it is right now to deliver on the recommendations. It will not surprise you to know that I have had quite a large postbag around the Inquiry. I have had a number of people coming to see me to talk about their experiences. One of those correspondents to me has written in terms of the right and wrong side of history. I do not always like to think in those emotive terms, but I do like to think in the terms of is it in our best long-term interest? Is it right for the people that we serve? When I said in that in committee debate that I only wanted Members to work to fulfil, to implement policies,

legislation that would deliver on the recommendations who were committed to doing do, because it would be difficult, it would not be popular, it may not bring electoral success and in actual fact, there a good chance it would do the reverse, I did not say it because I thought it sounded eloquent or because it was political posturing. But in those moments that I had prior to the chair of the panel launching the Inquiry, that hour that I, together with some others, had to look at the executive recommendations, I knew, as I said back in July, that delivering those recommendations, what the Inquiry had found was difficult. It was difficult on so many levels. Thus today we are here on 12th September, facing one of the difficult issues that the Inquiry found. There will be many more like this, perhaps not quite of the same personal nature, but there will be many more if we are going to implement the recommendations of the Inquiry. I asked the question I did this morning of the chairman of the sub-panel for a very specific reason, because only today we see in one of our media outlets that I have been snubbed, that my desire to deliver the recommendations are in tatters because of 2 honourable Members of this Assembly that I invited to sit on an advisory panel, they have chosen to work with Scrutiny. That is not the recommendations in tatters. That is not me being snubbed. That is about them committing themselves to delivering the recommendations, but in a different way, using the existing structures of government.

[16:15]

I do not want to use this speech to talk about how I personally think those structures are failing our community, because there will be an opportunity to do that in the future, but they are. I do not believe any Member is less committed to delivering the recommendations today than they were back in July, but today we have a very difficult decision to make. It has been said to me that I have only publicly said I accept the recommendations; I have never said I accept the findings. I think that is a difficult position for Members to try and make, it is a difficult argument for Members to try and make, because the recommendations in a report are based upon the findings. I ask Members to think very carefully before, as we have heard some Members do this afternoon, picking holes in the recommendations, in the findings, and picking holes in the ability of the chairman of the Inquiry and picking holes in the Inquiry itself. I ask Members to think very carefully before they do that. We are living today in 2017, but we must translate ourselves as best we can back to 2008. They were extremely difficult times. I recall when the police inquiry was first made public feeling - and it is a strong feeling, and it is I think for most of us an unusual feeling - shame about what had happened in our community and what the police investigation was finding. I am not talking about the controversy of how the media was handled and the issue of bones and death and that, I am just talking about what they were finding, about decades of abuse that had happened to people, to children, to individuals in our community and they had not been listened to. It was a difficult environment and we read it again, do we not, in the documents of the Inquiry? Deputy Andrew Lewis, as the Minister for Home Affairs, had very difficult decisions to make. I think that most Members of the Assembly respect him for making those decisions, as difficult as they were. The atmosphere, we heard Senator Routier say, in the Council of Ministers was ... I am not sure if cruel is the correct word, but it was extremely difficult. The pressure being placed upon Deputy Andrew Lewis I can only imagine was immense. Members sitting in these benches here, where I stand today, were placing - as were some Deputies - Deputy Lewis under immense pressure to do something. We see in the Inquiry's report the allegations against the police inquiry, the conspiracy theories about a suspension of Mr. Power. We see all that laid out, and the Inquiry draw conclusions about that; it draws the conclusion that the police investigation carried on, without fear or favour, once Mr. Power was and had been suspended. It draws the conclusion that it could see no conspiracy to stop that police investigation and to stop the Inquiry into historical abuse. But we come to, I suppose, where many are struggling: did Deputy Lewis mislead the Assembly? I have said to him, as did Deputy Martin, I did not feel misled but, in what he said, which is now recorded

in Hansard and in the public domain, did he mislead the Assembly? He did, inadvertently, unwittingly as may be, but what he said was not correct in regard to having seen the Metropolitan Police Interim Report. He had seen a letter in the form of a report from the Deputy Chief of Police; that letter raised concerns about the way that the investigation was being handled, but we cannot, I think, say anything other than the Assembly was misled, whether I personally felt misled or not. This is the difficulty that we face, because we know Deputy Lewis, in our interaction with him, to be an honourable man. We know what it is like to face a barrage of criticism and the effect that it has upon us as individuals; perhaps more difficult for us, the effect that it has upon our families, the criticisms that they get, the questions that they get asked, the comments that school colleagues say to and make to our children. We know that is difficult to bear and, therefore, of course every Member wants to have sympathy with Deputy Lewis this afternoon, as I do too, and his wife and his family. Some have said that this is just a side show, that it is not important, that we should be getting on with delivering for children, and it is Children's Services which is the most important. Children's Services and improving that service is really important, but this Inquiry report presents many challenges to us: challenges about Children's Services, challenges about the way the service of government is structured and how it delivers on behalf of Islanders, or not, as the report shows; not one of them is easy. This is but the first of many difficult decisions that the Assembly is going to be asked to make because it comes down to, as the Chairman of P.P.C. said at the opening of this debate, standards in this Assembly, and upholding standards in this Assembly. Do I get everything right? I do not. Do I misspeak in this Assembly? Only this morning, Sir, you have had to correct me for using the word "disingenuous"; one of my favourite words.

**The Bailiff:**

But not in here, Chief Minister.

**Senator I.J. Gorst:**

Because I think it says, ever so politely, what is happening, but I had to be corrected. If Senator Green was well enough to be here today, he would remind us of an instance where he spoke in the Assembly and had to be corrected by one of his officials and come back and set the record straight, but we do that because it is critically important that we do, because it upholds standards of integrity and trust in the Assembly. It has been said to me that it could be me that had misspoken and people going through Hansard and saying I had made this mistake. It has been said to me that if we accept this vote of censure today people will not stand in the election in May because they will just say: "It is not worthwhile. Why put ourselves through the bother?" It has been said to me that, by supporting P.P.C., I am aligning myself with individuals for whom I have very little politically in common. It has been said to me that I am aligning myself with the conspiracy theorists. This Independent Care Inquiry showed us that as a community we must rise above that. We must rise above it; we must stop the old way and find a better way. P.P.C. had decided that Deputy Lewis has broken the code. The actual question that we are being asked to consider today is: is the vote of censure a sanction for the breach of that code? The Inquiry has made its findings, the Inquiry has made its recommendations. P.P.C. has found a breach of the code and is asking us to censure our friend, our colleague; that is a difficult ask but we should not shy away from doing it. Are we really going to say that we know better than the Care Inquiry? I know P.P.C. will not be surprised if we say we know better than P.P.C., because P.P.C. has for decades had this Assembly say that to it, but I think we would be wrong to say that as well.

[16:30]

I understand how difficult this is for many Members but I ask them to think very, very carefully before they indicate to the public, and to the world at large, that they know better than the Inquiry. For decades individuals have suffered abuse, they have not been listened to. For us, this may seem

a minor issue; not to them, it is part of what they feel they have been fighting for decades. It is part of them not being heard or listened to that they have been fighting for decades. We are a democracy; Members will vote as they see fit this afternoon. I know which way I am voting and I know why. I ask every Member to think carefully before they vote.

#### **10.1.11 Deputy G.P. Southern:**

I start with the personal statement made earlier today, because I genuinely believe that in making this statement Deputy Lewis was digging a deeper hole. He says clearly in the first paragraph in response to the Constable of St. Helier on 2nd December, his words: "I have read an alarming report from the Metropolitan Police", and I look at that and say: is that precise? Is that open to interpretation? "I have read an alarming report", said by 2nd December, might have read it. Should it have said: "I had read an alarming report from the Metropolitan Police", would that be improved? I do not know, but just in case there is any doubt, he finishes the sentence thus: "Which led me to this decision in the first place." Clear as a bell: read the report and: "This led me to my actions." It is absolutely clear what he is intending to say, and he says it. However, in the rest of the paragraph he says that this may not have been clear. People might have been misled: "My words might have been misconstrued." Not by me; clear as a bell. "In hindsight, I may have used language, under the pressure of answering questions, that was not as clear as it should have been." Sorry, absolutely clear. "I used a shorthand", in other words, referring to the name of the report: "In retrospect I accept that it was less than ideal." No, it is not. You are making this statement, you made it then and it is clear. "I also accept it was possible for my words to be misconstrued." As Deputy Martin has already said: "I did not misconstrue it. I was not misled. That was clear as a bell." He then goes on, without paying attention to the half apology that is given: "I do not know how the Inquiry had reached the conclusions that they did. The report does not state in what respect I am alleged to have lied to them." Well, let me, if I may, help Deputy Lewis to some understanding. Deputy Tadier has already pointed out earlier that the discussion around suspension had taken place back in October and Senator Wendy Kinnard and her husband had notes of a meeting in which that was discussed, and that was corroborated by Dr. Brian Napier, also in the evidence, that says: "Deputy Lewis said in evidence to me that he had discussed the suspension with Mr. Crich." Corroboration was found; that might be a clue as to why they believed those 2 people, those 2 bits of evidence, and not Deputy Lewis. But let us have a look at the timeline around this decision, which has then been given a false position to. "On 6th November 2008 the Solicitor General advised that Ministers did have power to suspend the Chief Officer while that officer was absent from the Island." He added: "Whether it would be wise to do so is, of course, a different question, the answer to which will depend on the content of the Metropolitan Police report." The content of the report must be a key element in suspending. Of course, the Metropolitan Police had not delivered its report at that point; it was waiting for an interview with Lenny Harper. David Warcup asked for an interim report, which he received on 10th November 2008. On 11th November, the Solicitor General advised on the content of a letter of suspension and he said the following: "I reiterate my advice that if this action is being considered in advance of the full report being available from the Metropolitan Police, there must be sufficient objective evidence available to justify what is proposed. I would urge that particular caution be exercised to check that there are no provisos or caveats for any of the conclusions reached upon which reliance is to be placed, and that the reasons for action are robust." So if you are considering before you receive advice then make sure there are no caveats in the information that you are using. Did that happen? Let us have a look. David Warcup did not provide a copy of the interim report to Bill Ogley but set out in a letter his criticism of the way in which Operation Rectangle had been conducted. In his letter dated 10th November, David Warcup made extensive criticisms of the management of Operation Rectangle under Lenny Harper and in concluding the letter he wrote: "The interim

findings of the review by the Metropolitan Police fully support my previous comments and the opinions which I have expressed therein.” So that is an interim report that has been demanded and, he says, fully supporting. When asked about it by the Inquiry panel, David Warcup was asked in his oral evidence about the accuracy of that last sentence: “Fully support the previous comments and opinions” and accepted that it gave a misleading impression, as his comments and opinions in the letter went far beyond those expressed in the interim report. However, he said he made a very clear distinction about what his views were and what the Met findings were. So now we have got an interim report and a letter attached to it which went way beyond what the interim report, and presumably the full report, said. So: “I have read the report and it caused me to take the action I did.” Did it? In an email dated 11th November 2008 the Attorney General, advising of the content of a proposed press release wrote: “If you get to the stage of suspending Graham Power then, of course, some statement will be necessary, but surely you will need to have the full Met review in your hands for that purpose and allow a little time for it to be assimilated.” So again, advice coming from the Law Officers’ Department saying: “Do not act without the full Metropolitan report.” “Frank Walker said that William Bailhache’s comment was based on the incorrect premise that the Metropolitan Police report was the reason for suspension.” Whoa. Well, it was: “It was, he said, all the other evidence in David Warcup’s letter that was the reason for the suspension.” Hang on, we have now got not a report, final report, or even an interim report, but we are going to suspend the Chief Officer because of accusations written in a letter, which go way beyond evidenced statements elsewhere. Andrew Lewis, admittedly, admitted to us that he knew on 11th November 2008 that the Metropolitan Police had said that their review was not to be used for disciplinary purposes like suspension. He saw nothing wrong, however, with using extracts or observations from it when deciding whether to suspend Graham Power. So he has gone with the letter. He said he could not recall whether he had been aware of the Solicitor General’s advice that he should ensure, before relying on the report, that there were no caveats in it. And there was a major caveat which said: “Please do not act in a disciplinary way using this evidence.” The caveat was there, writ large. I come back to remind Deputy Lewis of what the Committee of Inquiry has said, and they say in 10.373: “We do have to record our disquiet at the manner in which the suspension was handled and in respect of some of the evidence given to us about it. We refer, in particular, to the following issues: those responsible for his suspension did not heed the advice of the Solicitor General or the Attorney General about the risks of reliance on the Metropolitan Police Interim Report. David Warcup exaggerated to Bill Ogle the extent to which his own concerns were supported by the Metropolitan Police Interim Report. Andrew Lewis used the interim report for disciplinary purposes, knowing that it was an impermissible use. This is fairly damning. William Bailhache Q.C., as Attorney General, understood that the decision had already been made on the evening of 11th November and that Graham Power was to be suspended. His evidence to us on this point was at odds with the evidence of Bill Ogle. We prefer the evidence of William Bailhache Q.C.” “Andrew Lewis lied to the States Assembly about the Metropolitan Police report, pretending that he had sight of it when he had not. Andrew Lewis told Brian Napier Q.C. that he had discussed the suspension of Graham Power in October, while telling us that he knew nothing about it until 11th November.” Again, and I repeat just briefly: “Andrew Lewis denied that he had discussed with Wendy Kinnard and Christopher Harris the possibility that Graham Power would be suspended. We do not accept his evidence in this respect.” I return to that initial statement on the personal statement made today: “I have read an alarming report from the Metropolitan Police which led me to this decision in the first place.” I will change the wording of the investigative panel and say: was that statement true? The answer, I am afraid, is no, and we have not received any withdrawal of that: “Sorry, I made a mistake”; any full apology for that, and we must, I believe, sanction the Deputy.

#### **10.1.12 Deputy J.A.N. Le Fondré:**

This is, as we all know, an incredibly difficult afternoon for all of us, I think, in terms of obviously the subject matter; this is one of our colleagues that we are being asked to discipline.

[16:45]

I do take slight issue with the comments from the Chief Minister in that I do not, or I try very rarely to, rubberstamp things. If a decision is brought to me to make, I want to make that decision. That decision is whether we support P.P.C. or not in a vote of censure on Deputy Andrew Lewis, because otherwise we become rubberstampers. I accept that the argument here is that somebody has gone through all this already and therefore why should we even want to challenge something? Well, that is what we are here for and so, therefore, it comes down to: are we perfectly satisfied with, in this instance, the recommendations of P.P.C.? I will speak as one of the Members who would have been, I assume, present in the Assembly on 2nd December 2008 when Deputy Andrew Lewis made that statement. I have been through Hansard at least twice, and will be referring to that shortly, and I requested the tape and listened to the recording as well. My summary, and I will go into why in some detail shortly, is that I will not be supporting the vote of censure. I think the context of what was said in December 2008 is relevant in terms of, I think, somewhere in what I have read in the last few days and weeks, it has been described as a “febrile atmosphere”, there was major criticism going on over the police investigation, basically ever since the remains of a child had become a coconut. There were allegations everywhere from all sides, and Deputy Andrew Lewis had been appointed Minister on around 20th October 2008. Yes, he had had responsibility previously as an Assistant Minister, but the Minister had resigned, I believe. His statement was made on 2nd December. From what I can see on Hansard, the last sitting was on 3rd December and I presume, in respect of Deputy Andrew Lewis, the new States was in place on 8th December, because that was when the new Chief Minister was being appointed. So this is right at the end of the term of Deputy Andrew Lewis’s office. I am not too sure from exactly what date, whether it is when the new Assembly was sworn-in, because in this case this was a Minister, but Deputy Andrew Lewis was, in principle, no longer a Member of the States and at the point he no longer was a Member of the States, he would no longer have been covered, for example, by parliamentary privilege. What is clear here is that one is in a potential litigious situation: one has a suspension in place. As we have been reminded, in fact, and it was something I had forgotten, it was an in camera statement, and therefore I think the point has been made already, I disagree with the comment he had 9 years to correct the position because, if it was in camera, and it was in camera, it was only released in 2016, and that is the earliest point. Certainly, as a non-States Member in that situation I think I would have been very reluctant to comment on matters because in a litigious situation anything you say, as we are seeing here, can be used against you, and in that instance one is no longer protected if one inadvertently makes the wrong statement about legal advice. I think there has been some focus on the mechanisms of the decision that was made. By that I mean it is not about whether we agreed or disagreed with the suspension of the Chief of Police; that was a ministerial decision to make on the grounds that the Minister had in front of him, and so the focus is very much, I think, on what was said on the day to this Assembly. I think in the back of my mind it is also relevant that the successor Minister for Home Affairs, as far as I am aware, never rescinded the suspension. So I think, in the context, it was a very charged time and, loosely, in the Assembly he had about 2 days to correct matters if they had been raised. I think it is also again worth reiterating the point the Care Inquiry has said, that there was no conspiracy in the suspension to try and wreck the investigation or wreck the Inquiry. I think it is relevant as well that, I suspect at that time, the Minister, Deputy Andrew Lewis would have wanted to try to be fairly careful about who said what, where and when, because the issue of David Warcup is reporting on his boss, who was the Chief of Police. Therefore there is a delicacy that was required in there. I think also, therefore, we are coming down to a lack of precision in what was said. Everyone talks about lack

of precision, and I am not going to go into the Care Inquiry side at all, I want to focus mainly on what has been said in this Assembly, but I will make one point about precision. I do not want to tack holes in the Care Inquiry report, I just want to make an example there. That example is in one part of the report of the Care Inquiry, page 771, it says: "At this time, Andrew Lewis had not seen the Metropolitan Police report." The "at this time" is, interestingly enough, they say 10th December 2008, which must mean 2nd December 2008, by the way, because 10th December was the new Assembly. So they said: "At this time, Andrew Lewis had not seen the Metropolitan Police report." Further down the line, over the page: "The Care Inquiry report says Andrew Lewis used the interim report for disciplinary purposes knowing that it was an impermissible use." If one wants to be precise about that, it should be that: "Deputy Andrew Lewis used extracts that had been provided to him by David Warcup from the interim report", I think. So what I am trying to say is that even in the Care Inquiry ... and so if we are focusing on precision, precision goes across the board. I am trying to go back and focus ... and I will talk about words shortly; it is about substance over form, in my view, I am afraid, which is: was there documentary evidence that the Minister had available to him to justify the decision to suspend? I think there is. Deputy Andrew Lewis has held this up in the Assembly before; this is the document he had. It is a covering letter on 11th November from the Chief Executive, and there are about 10 or 11 pages in here from David Warcup as Deputy Chief Officer, States of Jersey Police. In the covering letter from the Chief Executive, there are various bits. It says: "Dear Andrew, I have today received his report." So the Chief Executive treats it as a report, interestingly enough, Mr. Warcup states: "The purpose of this letter ..." A letter is sometimes a couple of pages, or whatever; this is quite detailed. Irrespective of what the label is, I would be comfortable in describing this as a report. The Chief Executive states in his conclusion, David states: "I believe that these failings have the potential to undermine the integrity and reputation of the Force and to seriously affect public confidence and policing in the Island. Based on the contents of his report, backed up as it is by Metropolitan Police review, I concur fully with his conclusion. In fact, it seems to me that once the investigation failings are made public they will undermine public confidence in policing." That is going to get the attention of any reader and, if that is not damning, we will continue. I will use the word "report" produced by Mr. Warcup. It gives a background, it carries on, and it says: "As you are aware, I took up the post as the Deputy Chief Officer on 4th August 2008 and, on 11th August 2008, following the departure of Mr. Harper, I took over responsibility for the historic abuse investigation, known as Operation Rectangle. Having taken over responsibility, I immediately began a strategic review of the Inquiry, as a result of which it quickly became apparent there were a number of failings in respect of the command, control and conduct of the Inquiry." There is a lot in here: "The Inquiry has not met the standards which might be expected in an investigation of this nature, and I have provided a brief synopsis on what I feel are the key issues." He talks about the need to have effective command structures in place: "There is no evidence of a proper command structure with a designated gold commander. There is no evidence of an overall strategy. There is no evidence of a strategic co-ordinating group. Community consultation, use of an independent advisory group has not been effectively managed. There is no recorded evidence of any strategic oversight and approval of tactical plans. No resource management plan has been developed and approved. Media strategy: there was no doubt that too much detail was disclosed to the media. The use of detailed briefings as well as extensive off-the-record briefings undoubtedly had a significant impact. The consequence of the impact of this approach are now a matter of public record. There is also little doubt there has been improper disclosure to the media, including potentially unlawful disclosures in breach of the Data Protection Law. Where inaccurate and misleading reporting did occur, there is no evidence of any attempt to issue corrections to the media. The adversarial and combative stance adopted by the S.I.O. (Senior Investigating Officer) was allowed to continue unchecked. Financial controls appear to have been weak ... the lack of an overall strategy and the

lack of a day-to-day control.” This does not feel to me like a letter: “Overtime was allowed to continue over many months, unrestricted and without due regard to the cost of welfare of staff members. Expenditure in relation to forensic matters has been significant. In the absence of a forensic strategy there were therefore no effective controls of the potential levels of spend in this area. Expenditure in respect of consultants and specialists appears to have proceeded unchecked.” This is then headed up: “Haut de la Garenne. The evidence on which the searches were commenced was not strong and it does not appear there were grounds to commence the search at the home at Haut de la Garenne. The piece of child’s skull is not human bone and was recovered from within a Victorian era. The blood strains in the bath have not been identified as blood.” It then talks about the milk teeth: “There are 65 teeth recovered in the floor voids, and once elsewhere. They are milk teeth which come from at least 10 people, possibly up to 65 people. They generally have the appearance of being shed naturally.”

### **The Bailiff:**

Deputy, I am sorry for interrupting. The rights and wrongs of the Chief Officer’s suspension are not for debate in this Assembly. The limit of its relevance seems to me to be where you started quite a few minutes ago: that, in your view, Deputy Lewis had adequate basis upon which for saying the things he said to the Assembly. Because it is for that that a censure motion is being brought.

### **Deputy J.A.N. Le Fondré:**

Yes, Sir, sorry. What I was trying to demonstrate, because much has been placed on was this a report or a letter; that is why I am giving the extracts because, to me, it is sufficient reason for Deputy Lewis to have stated what he said to the Assembly. I am not trying to go through the reasons for it, I am not trying to say whether these are right or wrong; this is the information that the Minister will have received. There will have been other briefings around it as well, we have been told there were briefings, but if one receives this, one is not going to ignore it and, in my view, it is therefore justified to describe this as a “report.” Sorry, within there, which I had wanted to refer to as well because it is relevant to how things have gone, there is a section which was referred to as: “The Metropolitan Police Review Interim Report. I commissioned the Metropolitan Police to carry out a review of the historic child abuse investigation. On 10th November 2008 I received an interim report detailing their initial findings. The report itself is restricted for the purposes of circulation, due to the fact it contains sensitive information, some of which may be disclosed in future trials, which may be also a reason ...” in other words, this is the sensitivity again about media comment and the danger on future prosecutions. Towards the end there is an extract ... that is probably not relevant. “The report also expressed concerns about the media strategy, the manner in which some information was imparted to the media, and the quality of this information and language employed.” Then we get to a concluding section: “I have found the environment was highly risk-averse and where bullying and intimidation are commonplace. Central to all of these issues is the lack of proper oversight and proper application of standard working practices.

[17:00]

Unless action is taken to address these issues, then I suggest the Force will yet again find itself the focus of attention at the centre of another critical incident. This is perhaps best exemplified by recent incidents and the level of internal investigations which are currently conducted by U.K. police forces, as well as the very real risk which exists beyond their circulation within the wider intelligence community.” I am sorry for going on for quite a while, but there is a lot of focus on what Deputy Andrew Lewis had in front of him and, no doubt, there will have been other information, and then how he relayed that to the Assembly. I hope that is sufficient to clarify in Members’ minds, certainly in my mind, why the Minister then chose to refer to it as: “A damning

report.” Now, this again is not about whether a decision was badly made, it is about how it was reported to the Assembly. Because Ministers make decisions all of the time, and it is up to them to stand by those decisions and justify them to the Assembly. What I do want to do is then touch on Hansard, and again, I apologise for the length of this, but there have been various comments made already. One of the problems here, and that is why I wanted to listen to the tape, is how people listen and hear words. We can all look or listen to one person saying something and receive different interpretations. So the starting point for the Deputy of St. John at that point, Deputy Andrew Lewis: “Members will be aware that an investigation has been carried out by the Metropolitan Police ...” okay, that is what has been going on: “... and I was presented with a preliminary report on the basis of that investigation.” That is the preliminary report, as far as I am aware, and it is on the basis of that investigation. So he is not saying: “At this stage I have seen the Metropolitan report”; that is my interpretation. Other people are interpreting it saying: “I have seen the Metropolitan report”; for me, it says: “On the basis of that investigation.” “So far as I am concerned, that is the preliminary investigation. I acted on the information that was contained in it and, in order to pursue a disciplinary investigation it was necessary to suspend the police officer.” Later on: “I cannot elaborate further on it, otherwise that would interfere with the process of the Chief Officer of Police defending himself.” This is one of the issues that the Minister is facing: bluntly, how frank he can be with this Assembly because there is going to be a process that is going to follow through this, and it is going to be potentially litigious. It talks about the advice that he has taken at varying points, which includes from the Solicitor General. He then says: “The results of that are some fairly damning evidence about the command, control and supervision of that investigation. The outcome was a report that was presented to me that gave me absolutely no choice other than to suspend the Chief Officer of Police in order to investigate the allegations of gross misconduct in terms of management, supervision and control of quite considerable sums of money and quite considerable resource.” Hopefully I have touched on that by identifying some of the paragraphs that have been brought to the Minister’s attention. “I saw an absolute necessity, in order to investigate these things thoroughly, to suspend the Chief of Police so that we could have an uncontaminated investigation, with him having the full rights of appeal and process that he can defend himself.” What is interesting is that Senator Syvret makes reference to a preliminary or interim review by the Metropolitan Police. Now, that is still a basis of a report and he says: “That interim review remains incomplete, it is not yet finalised, so no final review document by the Metropolitan Police has been produced.” So it seems pretty clear, certainly to at least that Member, that this was, I will say, the start of the process; that is why a suspension has taken place. Deputy Andrew Lewis states in response to that: “As far as the accusation you raise about the Metropolitan Police, when I saw the preliminary report I was astounded” but that is this report: “If the preliminary report is that damning, Lord knows what the main report will reveal, so my successor will have an interesting time.” That is the point. This is at the end of this term of office for the Minister. It is going to be the future Minister who has to deal with this. He is then interrupted, so that would have interrupted the flow. Now, the President of the Assembly at that point, does summarise the position and states he has informed Members of the suspension of the Chief Officer of Police and he has done so by means of a statement which enables Members to question him on the statement. He did not have to deal with matters in that way, which is interesting. It implies that the Minister was not obliged to bring a statement to this Assembly. Perhaps it could have been done differently. Now, 37 minutes into this questioning process is where, to me, everybody has focused on one sentence and I think it is one word. So, carrying on: “I have taken various advice. I think the actions are wholly appropriate in the circumstances.” Then he says: “I have read an alarming report from ...” and to me that is almost the key word that people are focusing on: “... the Metropolitan Police which has led me to this decision in the first place.” If he had said: “I have read an alarming report based upon the Metropolitan Police report”, which he did not, I do not think

we would be here. The difficulty is that at that point, then, is that just inadvertently making a mistake? For me, that probably is the case. I am going to come to consistency in a minute as well, because then it carries on and basically matters conclude, something like 45 minutes down the line. It is interesting. It has been a while since I have had to answer questions in the Assembly. These days I tend to ask them, but I have been in a position in earlier days of answering the questions and it is normally 3 or 4 minutes. 37 minutes down the line was when that mistake was made. It is about precision at the end of the day and maybe that is where people want to hang their hat and say: "Ah, but." Well, what I wanted to comment on is I have also experienced, shall we say, number one, being a witness in a very extensive review where I certainly know that in the past I could have been more precise in what was said. I assumed somebody had understood to mean X when I meant Y. I was able to correct it because they came back to me a few weeks later, but that was a different set of circumstances, but I can understand how people can be less precise than they should be. Equally, I have made a complaint against a Minister, which was subject to the ministerial code. We have had situations in this Assembly where Ministers have said: "I did not say X. I said Y." I do not know if it is politically correct these days, but it is in black and white: "No, you did say this." There have been others when it has been more grey and to me that is where we are because my view, from what I have seen, how I have read it and listened to the tape, that length of time down the line the Minister slipped-up. I do not think it was intentional. I do not think it was deliberate and I am also then looking at, as I said, the complaint I made which went to the ministerial code. It was not identical but it was a similar scenario in that I asked a question, when I had received a particular answer other questions were asked and somewhere in there the next question I asked got split up. So I interpreted it one way, the response was given which was potentially slightly different, and when one got back to the facts of the matter what had been said to me was not correct. However, what the conclusions were on that finding, if I can read from that, because it went through the ministerial code, it was subject to a fairly extensive review process and there was a report released at the end of it to me and to the Minister concerned and the one bit I want to quote from is the conclusion. This is the people writing the report: "In our view in any definition of truthfulness or dishonesty intent must exist in order to contrast deliberate actions with inadvertent error or lack of knowledge." This is obviously not the complaint I made. There is no evidence that establishes that that particular Minister intended to mislead the Assembly. So I am trying to be consistent and think in the circumstances I am aware of there that was the conclusion, that it was an inadvertent error. In these circumstances here, in my view, we are facing a similar situation of an inadvertent error, probably one word. Then that comes down to, as I said, what, ultimately standing back, was really relayed to this Assembly, that the Minister had relied on some form of written documentation and advice to perform an action which had taken place 2 weeks before and needed to inform the Assembly of that. That is the substance of what he said. Within the three-quarters of an hour of questioning that resulted from that statement he made he slipped up. For me, everybody does slip up. In fact, I go back to the comments made by the Connétable of St. Martin. That slip-up to me is not sufficient 9 years on, having been re-elected, to put a censure on someone who is now in a completely different post. I think it is worth reading the email that came round from the former Chief Minister or Minister for Treasury and Resources on 2nd December 2008, Terry Le Sueur, or Mr. Le Sueur, I suppose, these days when he has stated that: "Duties of confidentiality meant that Deputy Andrew Lewis was restricted in the amount that he could disclose to the States." He says: "I well understood the message of your statement which was that you had received information which warranted the suspension of Mr. Power. Whether you had seen the actual report of the Metropolitan Police [and as I said that is one word] or merely been informed of its principal findings seemed to me both then and now to be an immaterial distinction which did not at the time even occur to me. At the end as many of us should know, I repeat, I personally do not feel that you misled the States in any material way in what you said in the States in November, December 2008."

Now, we know that this is incredibly difficult. We know, as a number of people have alluded to, the very stressors that are placed on any individual who faces this, but for me a vote of censure or a vote of no confidence is a very serious thing, and I accept that the P.P.C. have not brought this lightly, but in my view it has been brought to us to make a decision and on the basis I hope I have laid out, which to me standing all the way back from it, the Minister informed the Assembly on a number of occasions he had written documentary evidence to support a decision to suspend. That is the written documentary evidence. Whether it is a report or a letter it refers to the Metropolitan Police within there, with the pressure of the context of the weeks and months building up to this and on this day and I suspect the pressure that was around once the decision to suspend had been made public I do not hold Deputy Andrew Lewis, when I say: "significantly culpable", I do not believe he intended to deceive or mislead, and on that basis I will not be supporting the vote of censure.

**Senator I.J. Gorst:**

Sir, I wonder if now might be a good time to just consider whether we are going to complete this, this evening. I do not know how many more speakers there are.

[17:15]

**The Bailiff:**

I was going to prompt things now, Chief Minister. Nobody else has indicated an intention to speak at the moment. One person just has. I am quite sure that Deputy Lewis would prefer to see it concluded this evening if at all possible and I suspect that Members would feel that we ought to continue beyond 5.30 p.m. and complete this evening, but I would be grateful if Members could show whether they agree with that. If Members are prepared to sit beyond 5.30 p.m. would you please stand? A clear majority. Thank you.

**10.1.13 The Deputy of St. Ouen:**

Deputy Andrew Lewis is in trouble today because the Care Inquiry made a finding that he lied. I do not believe that finding was sound. To be full and frank about it, I was surprised and dismayed at a fundamental mistake made by that Inquiry in not complying with important, basic rules of procedure when considering this issue, and those rules would be well known to lawyers, to the Q.C. presiding, to all tribunals, inquiries and other bodies who are empowered to make findings, that no person directly affected by a decision shall be condemned unless that person is first told of the allegation and then given an adequate opportunity to prepare and submit his case and also to rebut the opposing argument. Here, Deputy Andrew Lewis attended to give his evidence. He gave his evidence and he answered questions on the matter under consideration in the terms of reference, the circumstances surrounding the dismissal of the Chief of Police. The Inquiry reached a finding on that term of reference. Then it went, it seems to me, way outside its terms of reference and reached a finding that Deputy Lewis lied to this Assembly and to the Inquiry. It did that without following the basic tenets of fairness: Hear the other side. Deputy Lewis was never told of the allegation that the Inquiry were considering that he lied. He was never given an opportunity to respond to it. He was never given that opportunity to put forward the evidence he wished to in rebuttal, and he was not allowed to ask questions after the finding was announced. So these, it seems to me, are fundamental rules of justice which have been adopted all over the civilised world, and we express concern rightly when standards like that are not followed in various parts of the world. They are important, of course we know, because we are legislators and political leaders and a tribunal that adopts fundamental rules of fairness is able to reach a sound decision because it ensures the evidence it receives is tested by hearing the other side, and if it passes the test then that decision can be regarded as reliable and credible. Regrettably, I cannot fathom why the Inquiry chose to act in

the way it did, but I do not believe its decision can be shown to be a sound decision. It is not reasoned and the harm that such a finding could do to any person, let alone someone in public office, would have been obvious to the Inquiry. All we have, it seems to me, is a bare statement in one short sentence. There is no explanation of what led the Inquiry to its conclusion. We have been struggling today in various speeches to infer that this is what the Inquiry meant. No evidence, no explanation of why it preferred the evidence of others, and rejected the evidence of Deputy Lewis, and why it expressly concluded that this was more than just a misstatement; this was a deliberate effort on the part of Deputy Lewis to fabricate an untruth rather than being muddled in answering questions. We would like to know why they reached that decision but of course we, and more importantly Deputy Lewis, have never had an opportunity to ask those questions. Therefore, as I said, I find it alarming that the Inquiry acted in this way and in the absence of any explanation why it chose to disregard the normal rules to ensure fairness.

**The Bailiff:**

Sorry, Deputy. It has been going on a long time, chatter from the back row of the Senatorial benches and I would be very grateful if that could be kept to a minimum.

**The Deputy of St. Ouen:**

Thank you, Sir, for that. This leads me to the P.P.C. report, which says on page 3 that it: "Would not be seeking to reopen the Independent Jersey Care Inquiry to determine whether or not Deputy Lewis lied to the Inquiry or States Assembly. The Committee does not challenge the conclusion drawn by the I.J.C.I. panel. I was astonished to read that because I had understood, I had hoped, that a reference to P.P.C. concerning the behaviour or the conduct of a Member of this Assembly would be investigated, but P.P.C. refused to consider whether Deputy Lewis lied or not. In fact, they did not even give Deputy Lewis a chance to ask them to make that investigation because that paragraph begins: "The committee decided before the hearing that it would not be seeking to reopen the Care Inquiry finding." So between them, before hearing from Deputy Lewis, they have decided it is an open and shut case. They are going to accept, without question, the Inquiry finding. Having decided that, particularly in the light of procedural failings they identify and which are recorded on page 6 of the P.P.C. report the committee accepts that: "Deputy Lewis should have been given prior notice of the findings, given the strength of the comments contained therein." So even having determined that, they do not want to hear from Deputy Lewis. They do not want to give him a chance to put forward his defence. They are accepting, without question, a finding that unfortunately is flawed because it is tainted with unfairness. How then could Deputy Lewis receive an impartial hearing on the allegation before the P.P.C.? In fact, what was the point of holding a hearing except to decide what the proposed censure was to be? It seems that P.P.C. were not prepared to exercise any independent thought. They could have just gone into a conclave, perhaps, to announce the sanction that they sought to impose. So, once again, Deputy Lewis was not treated fairly. He had an opportunity, I would have hoped, before the P.P.C. to put his case, and he did know the allegation against him, that he lied, but it seemed to be all pointless because P.P.C. had decided in advance that he had lied and they were not going to change their minds. Here there also seems to be a distinction between 3 members of P.P.C. in a majority and 2 members in a minority, or is there? Because all decided that they would not start from the beginning and examine whether a lie was told. All 5 of them accepted that Deputy Lewis lied, so we have parts of the report that says the majority are in full agreement that the code has been breached by Deputy Lewis as a consequence of the findings of the Inquiry, that he lied. That lie in itself constituted a breach, but even the minority say it is said that they do not seek to challenge the findings of the Inquiry. So all are conducting the P.P.C. proceedings on the basis that Deputy Lewis is guilty of lying. Of course, if there had been a proper inquiry and Deputy Lewis was allowed to put forward evidence and that evidence was not accepted, then certainly a lie would have been determined after due process, after

a fair hearing, and that would amount to a breach of the code, but at no time we can see that the Inquiry nor P.P.C. considered the evidence that Deputy Lewis in the case of the Inquiry would have wanted to put forward if he had known about the case, the allegation, in the case of P.P.C. that he did wish to put forward to them. Instead Deputy Lewis is criticised for putting forward a robust defence. Is he not entitled to defend himself? No one is listening. No one of these official bodies is prepared to listen to him. Instead, P.P.C. have compounded the failing of the Inquiry and have decided to continue in that vein, that no one will listen. So Deputy Lewis has to maintain his defence and he comes and puts his defence before us today. It is a serious allegation, of course, that a Member lied. A lie means a conscious, very deliberate falsehood and I believe this can be the only basis for this vote of censure. This is what so much of the discussion has been about. This is what the public are talking about, a finding that Deputy Lewis lied. I regret I cannot go along with the strange view of the minority on P.P.C. that they will accept the Inquiry finding that Deputy Lewis lied but that is not sufficient of itself to find a breach of the code. Instead, that minority found that they have got to find some other failing of Deputy Lewis and rule that that was sufficient. That just seems totally illogical to me. This vote of censure, this finding against Deputy Lewis if it is to be carried, must be about whether a deliberate lie was told. I cannot make out from P.P.C.'s report on what basis they are asking us to censure Deputy Lewis. If I read from the paragraph headed: "Vote of Censure" on page 7, which appears to be a summary of what has gone before it says: "The committee believes that this breach of the code of conduct should be grounds for a vote of censure." The words "this breach" singular, so the committee have come to a conclusion that one breach of the code is grounds for a vote of censure, yet the report accepts that Deputy Lewis lied and the majority of the panel say that he has breached the code as a consequence of 2 failings, the lie and the fact that he did not rectify the situation. Yet at the end they are saying "this breach" so I regret to say that I just do not understand what P.P.C. are doing here. This is not an adequate investigation, I regret to say, because what exactly is the vote of censure to be based upon? A single breach, but the committee are agreed that a single breach is a breach of the code. That can only be the finding that Andrew Lewis did not seek to rectify the situation. It seems to me that the committee have totally ignored the allegation that Deputy Lewis lied.

[17:30]

They have not given us any guidance as to whether the vote of censure should be based on that fact. They are trying to do these conceptual somersaults and say that the vote of censure should be based on the lesser charge, let me put it that way, that he did not seek to rectify the situation, but Deputy Lewis deserves a finding. After due consideration of all the evidence, after he has been able to put forward his case that he lied or he did not lie, and P.P.C., I regret to say, have ducked that and this is just an unfair process. Members will be thinking that they have heard this from Senator Bailhache and I do align myself wholeheartedly with all the words that have been said today by Senator Bailhache, except that he has been able to say it far more eloquently than I can. It is highly important that we, as political representatives, uphold the rules of fairness when dealing with people. It is what we would do for our constituents if we felt they were being treated unfairly and Deputy Lewis should not be placed in a different position. Unfortunately he is being placed in that position because he is being made a scapegoat. I do not believe it is sufficient to say that for the sake of public confidence and trust we must overlook a fundamental failing of the Care Inquiry, that we can throw Deputy Lewis to the lions, to use the phrase that Senator Bailhache used, I think. Deputy Lewis, like any person in this Island, deserves a full, demonstrably fair process and he deserves an opportunity to have been able to put his case. That has not been given to him and therefore I cannot support the vote of censure on the basis that the investigation has not been carried out in a fair and proper manner. There is one other aspect that I have considered, and that is that Deputy Lewis was answering questions as the Minister for Home Affairs. He was not acting as

an individual Back-Bencher as he is today, but as part of a Government dealing with the business of Government. Now, when Ministers are on their feet in this Assembly answering questions we know and we see teams of officials in the 5 rooms ready to help out their Minister and to correct him at the earliest opportunity if they feel he has said something that was not quite right. So I do not know if those officials from the Department for Home Affairs were there that day in 2008 to assist their Minister, but they should have and if they were not in the precinct they should have been listening to the broadcast on the radio. Was there a radio broadcast? Oh, it was in camera, yes, of course, so it would not have been on the radio, but in any event they should have been assisting the Minister and it seems no department official considered anything misleading had been said or no department official brought it to the Minister's attention, and Deputy Lewis the Assembly soon after. The P.P.C.'s report tells us that in the years that followed there was a growing public perception of a conflict surrounding the accounts of those involved in the Police Chief's suspension and P.P.C. suggests that Deputy Lewis should have acted at that time and clarified his involvement. But if there was this growing public perception of a conflict could it not be said that successor Ministers for Home Affairs should have picked up on that and those successor Ministers should have considered whether any action should be taken, whether any statement should be made to this Assembly, or any means of rectifying a situation? Because Deputy Lewis was at the time conducting Home Affairs business and this matter rumbled on in the Department for Home Affairs and in this Assembly after he ceased to be Minister, but no Minister for Home Affairs has sought to make the correction made by a predecessor. Nothing has been said, despite the considerable resources available to Government, and I find it peculiar that the burden of minutely examining every word he said as Minister and deciding whether to re-enter the public realm with a statement should be placed on Andrew Lewis, by then out of politics and a private citizen, an extremely difficult thing to do and I take the point raised by Deputy Le Fondré about the question of parliamentary privilege, which would not have been available to Deputy Lewis. So, Deputy Lewis has been subjected to a process which I deeply consider unfair and that does not comply with accepted standards of justice. In those circumstances I cannot support the proposal that he should be censured.

#### **10.1.14 Deputy S.Y. Mézec:**

In the run-up to the Care Inquiry publishing its report I anticipated that it had the capacity to be a transformative moment for the Island, and given the conversations that I had had with survivors of abuse and people who had been in the States over the years and witnessed various problems as they had occurred I anticipated that when the report came out it would include many things that we would find shocking and that it would make recommendations which would challenge what many of us may previously have thought would be acceptable in our government processes and what services the States provides. I believed that it had the capacity to be that moment where politicians and also members of the public perhaps changed their minds on things that might have been considered acceptable before and we could use it as an opportunity to drastically improve how we deliver services for vulnerable people in the Island and change the attitudes of people in power so that they were less resistant to change and more open to new and progressive ways of providing services to vulnerable people. When that report came out I was like any ordinary human being. I read stuff that I found surprising or things that did not necessarily chime with what I thought the important emphasis was or a particular way of phrasing things, but I had said to myself that if Jersey was to make the most out of the exercise of having a £23 million inquiry we had to commit from the outset to treating it incredibly seriously and aiming to implement as much or all of what it was recommending to us so that we could be sure that we were taking advantage of this opportunity to improve our Island and make sure nobody goes through what they had previously gone through in Jersey. So ... someone's iPad next to me is going off. Sorry about that. It is not mine.

**The Bailiff:**

It is your party though, Deputy?

**Deputy S.Y. Mézec:**

There is no collective responsibility [Laughter] it does have to be said. [Aside] So serving on P.P.C. it was inevitable that when this was raised as a particularly prominent point in the Care Inquiry's report that we were going to have to deal with it and I personally found the entire process to be very unpleasant, and I am sure that other members of P.P.C. will agree with me that it was far from ideal, us having to do that. It was emotionally difficult and it was emotionally difficult for me from the point of view that I happened to think that in our time together as States Members that Deputy Lewis has done nothing but show me kindness and generosity when I have interacted with him and I have admired a lot of the things politically he has done in this electoral term. But then I look back at the recommendation that the Care Inquiry report made, recommendation 7, which spoke about "the Jersey way" and I know that that is a point of contention for lots of people in our Island because there are those of us who are incredibly proud to be from this Island and that we cherish the generosity and the charitable nature of many people in our Island, how people volunteer and contribute to make this Island what it is, but I also think that the Inquiry report was right to point out that there are attitudes in our Government system and, in particular, attitudes that powerful people in Jersey have towards one another and towards those who do not have a voice in our Island that it was right to pick up on and I think it was right to recognise that there are thousands and thousands of people in Jersey who do have a negative perception of the Jersey way, who are deeply suspicious of the Island's institutions, they dislike all of our politicians, irrespective of what side of the political spectrum they may be on, and there is an element of that antipathy which I think is uniquely Jersey and is not necessarily found in this exact form around the world. I feel that accepting that recommendation and considering what can be done to erode that negative perception of the Jersey way is essential, in fact it is the most essential thing the Government and the States can do to creating a better Island so that we know we have an Island community that does have faith in our government process and does have faith to get on board with consultations, with elections and all that goes with it so that we have all voices and all perspectives included in this process when we are deciding how we deliver public services. I feel that some of the ways that this debate has been conducted and some of the contributions that have been made by some Members will have reinforced that negative perception of the Jersey way and there will be many people out there who will be disappointed that some politicians are I think disregarding this finding of this £23 million inquiry, an inquiry whose members will have spent far more time investigating this issue than any of us in this Assembly and I think that the process of me being on the P.P.C. forced me to take notice and go through the transcripts and read reports that otherwise I would not have had the opportunity to do. I saw things that I had not seen before, things that were said, things that do not add up, inconsistencies, inaccurate statements that I was not aware of before. The Constable of St. Helier and Deputy Southern in particular I think went through in quite a lot of detail pointing out some of those inconsistencies, so I am not going to repeat all of them, but it does have to be said that the initial statements of having read an alarming report was an inaccurate statement. There is no justification, I think, for saying it is true. Deputy Le Fondré attempted in his remarks to justify that statement and in the public hearing P.P.C. held Deputy Lewis and Senator Bailhache tried to say that it was an unalarming report: "a report" rather than "the report" and that it could be said to be referring to the letter from David Warcup when in fact later on throughout that States sitting the phrase "the report" was used several times. Other Members, including the then Deputy Paul Le Claire made several statements referring to "the interim report" that the Minister had seen and based his decisions on where no effort was made to correct that and explain: "No, no, it was not the report. It was somebody else's words referencing that report." Several Members have made

statements about how in reality the earliest opportunity to correct that record would have been when the transcript was made public but it does have to be said that many public references to this incident in the States have been made well in advance of 2016.

[17:45]

In 2014, just after the General Election, Deputy Higgins in questions when Deputy Lewis was a candidate for I think it was Minister for Economic Development, he brought up this incident and Hansard shows that Deputy Lewis did not take the opportunity at that point to unequivocally correct the record and I think it is very regrettable that he did not take that opportunity, because had he simply held his hands up and said: "Yes, sorry, I did not phrase it particularly well. What I had meant was this. I apologise. It was wrong to have said it that way" then I think a lot of the issues that we have to deal with today simply would not have come up, but he did not take that opportunity to do that. In 2010, so when he was not a States Member and significantly before when he then became a States Member again, February 2010, a press release was put out which says, and I will read the paragraph here: "During my final meeting with Mr. Power he was not asked to resign. He never has been. It was an action that I did not wish to invoke because it was important that a thorough investigation of the allegations made in the Met review was undertaken before any further action was taken in respect of Mr. Power's position, hence the suspension was an important neutral act. I am not at liberty to disclose the contents of the Met report as I am bound by the disciplinary code." Again, there are references to a Met report which was not read, where it was somebody else's recollection of the Met report. So what I am saying here is that several instances Deputy Lewis had the opportunity both in the States Assembly in his first comment, which he got wrong and people can say: "Okay, fair enough, slip of the tongue" or whatever, but later on in that States sitting other States Members very clearly stood up in this Assembly and asked him questions that said: "You have seen the Met report and you have made your decision as a result of that" and he did not make an attempt to correct them and in this Assembly, okay, we have Standing Orders that dictate how you are allowed to interrupt a Member when they are speaking. I think that if a Member says something about what you have just said that is clearly not what you believe you would stand up and say: "Excuse me, Sir, the Member has misrepresented my position there. It is X, Y and Z." That opportunity was not taken up. The press release in 2010, that opportunity was not taken up to clear the record. 2014 where Deputy Higgins was asking questions in this Assembly, that opportunity was also not taken up. So if we look at P.P.C.'s report that supports this vote of censure and on page 3, the first page of the report, paragraph (b), it says: "That irrespective of the findings of the Independent Jersey Care Inquiry he misled the Assembly in 2008 and did not seek to rectify the situation at the earliest opportunity. Moreover, his subsequent robust defence of his position and failure to acknowledge and apologise for having misled the Assembly, even during the P.P.C. hearing, constituted a breach of the code." So I say to Members even if you do not accept the findings of the Independent Jersey Care Inquiry, which if that is what you do then I think that is regrettable, I think we should accept the findings of the Care Inquiry, even if you do not accept the findings. Paragraph (b) says: "Forget those findings, his actions that we have investigated aside from the Inquiry, whether it is the press release in 2010, whether it is the questions in the States from Deputy Higgins, they constitute a breach because they were not sufficiently clear, they were not correcting the record and allowing this misunderstanding to continue and for Members to be misled." So those who have attempted to say that this £23 million inquiry, and I keep pointing out it is a £23 million inquiry because its members spent far more time dealing with this issue than any of us here did, P.P.C. could not reopen this issue because we do not have £23 million going spare to look at this and open this and take legal advice, and all the other things that we would have had to have done to have matched the Inquiry, to have come to a conclusion that would have had the same strength as the Inquiry, and even if you do ignore it P.P.C.

has raised other instances that I would say are worthy of censure, and that is what we are proposing. We are proposing a censure. We are not proposing expelling Deputy Lewis from this Assembly, we do not have the power to do that. We do have the power to propose suspending him; we are not doing that either, we are not getting in the way of him continuing to serve as a States Member. We are proposing a motion of censure which is essentially a slap on the wrist. That may well be upsetting for Deputy Lewis to have next to his name, I would find that upsetting if it was something I was subjected to, but it is just a slap on the wrist. His actions - P.P.C. have determined - have breached the code of conduct. It was on an incredibly serious issue. The Jersey Care Leavers are quoted on the BBC today saying that this episode put off many of the people they represent from coming to the authorities to talk about what they had been through because they saw this controversy and what was going on, they saw things which did not add up, and it helped them lose confidence in the institutions that were meant to be dealing with the complaints that they would have raised. That is part of the Jersey way. It is vulnerable people not having the trust and confidence of the institutions that should have been defending them because of what they perceived from the actions of people who are in authority; so it was a serious incident. The report that P.P.C. has produced and the process that we went through I will be the first to say was not ideal, but remember that because of the way Jersey's version of parliamentary privilege works, if the Deputy were to have gone through the full justice system - a court system under a charge of perjury - he would have had the opportunities that the Deputy of St. Ouen seems to see as unfair that he has not had. But of course he cannot have that opportunity because the law does not allow it as it stands because his position as a States Member in a States initiated inquiry makes that impossible. So I accept the point that this process has been far from satisfactory. I have found it incredibly unpleasant to have to be involved in, I think it is very regrettable that we are in this situation and I think it is regrettable that the States were misled in this way in the first place and that Deputy Lewis did not take the opportunity to correct the record when he had several opportunities to do so. For that P.P.C. has said even if you do not accept the findings of the Care Inquiry we can still conclude that he breached the code of conduct and deserves a motion of censure on that basis. So I am hoping that Members will accept that we have a variety of different strong views all pointed in different directions here, but Jersey is now at a potential crossroads - and I think this may have been what the Chief Minister was alluding to in his speech - where we have the opportunity to try and restore some faith in the public so that they can begin to rebuild that trust that we need them to have in us, in our institutions, so that our institutions can be fit for purpose for delivering improved services in the future, particularly for vulnerable people; and to remind the public that those in power who make mistakes will be held accountable for it. It does not matter whether you are a king or a pauper; if you make a mistake you should be held accountable for it and the perception that there is in Jersey is that there is one rule for them and one rule for us. They do not like that, it undermines the trust that they should have in their institutions, and it is what I believe the Care Inquiry was referencing in their recommendation 7 and I, therefore, think to not accept this proposition from the Privileges and Procedures Committee is to reinforce that negative perception of the Jersey way. Many Members have clutched at straws to find their excuses for not supporting it. This is, frankly, the most modest course of action P.P.C. could have taken given the circumstances we are in, so I will be voting to support it on the bases that I have laid out and I truly, truly hope Members will see sense and vote to support this as well because I think this will do untold damage in the Island if we do not.

#### **10.1.15 The Deputy of Grouville:**

I was not initially going to speak but I want to first say that the speech that Deputy Doublet made encapsulated everything that I was thinking I wanted to say. But having heard Senator Maclean read out Senator Bailhache's speech, and indeed some of the remarks made by the Deputy of St.

Ouen, I could not help but stand to say that I find some of the double standards that are applied in here are quite incredible. The criticisms and the justice that we are trying to apply to Deputy Lewis, and then when we consider how with Deputy Lewis at the helm what happened to Graham Power and everything that was read out in justification for Deputy Lewis could have been applied to the suspension; and why was it a suspension? Why was a man suspended for 2 years? Why was he not disciplined and dismissed if found guilty? But all the things that were attributed, the “he was not treated fairly” I wrote them down as they were being read out: he was denied a fair hearing, he was not treated fairly, they spoke of natural justice was denied to Deputy Lewis by Frances Oldham; just as natural justice was denied to Graham Power. Yet here we are and there are people in here defending Deputy Andrew Lewis for exactly the same things that were done to Graham Power. I just find these double standards absolutely breath-taking. I was in this Assembly in 2008, I know what we were told and we were told it over and over again. This Assembly was misled; end of. But I just wanted to make the point about the double standards applied for us and how the Police Chief was treated by this Island.

#### **10.1.16 The Deputy of St. Mary:**

Deputy Mézec is right to draw our attention to the fact that there are 2 alleged breaches involved, and I deal with each in turn. We heard earlier the address given on behalf of Senator Bailhache, to which I could readily identify. One expression then used was “natural justice” and as the Deputy of St. Ouen elaborated even further, the rules of natural justice cannot have been applied if somebody is charged with an offence of lying if he is not being given the opportunity to reply. For that reason alone, without going into any more detail, I believe that I cannot support the proposition in relation to (a) simply because the P.P.C. take the view that that lie itself constituted a breach of the code, that they take as read the fact that the Care Inquiry verdict on that subject is absolute. They too can make mistakes. I do not wish to undermine the Inquiry but on that point alone I think they have not followed the rules on natural justice and accordingly the case against Deputy Lewis falls away. On point (b) I have more sympathy that he perhaps could have apologised earlier. The problem I now have is that the censure motion does not divide the 2, and if it is approved as now is the public at large may well think that he is guilty - and I use that word wisely - of lying as well. I simply inquire whether there is any way of splitting the censure motion to identify which breach is being referred to if he is censured.

#### **10.1.17 Deputy S.J. Pinel:**

I have great respect for the chairman of P.P.C. and understand that his panel have been faced with a very, very difficult decision. There is a question as to whether 5 politicians should be in the position of having to judge its peers. As I was not a Member of the Assembly in 2008 I asked Deputy Lewis to explain the sequence of events to me and now understand the restrictions placed on him by in camera sittings, and the complexity of issues at the time preventing open and public discussion.

[18:00]

I am not discussing any of the recommendations of the Jersey Child Care Inquiry but I am saddened and disappointed that the *raison d'être* of this prolonged, difficult - emotionally difficult - and costly investigation has been overshadowed by 3 items not directly related to the care of children in Jersey. I know Deputy Andrew Lewis is a colleague with integrity, strong business acumen, intelligence, eloquence, courtesy and respect; a description of what I believe the public would like to see in their representative in the States Assembly. This is not a court of law. The degree to which Deputy Andrew Lewis and his family have been pilloried over the last few years has been out of all proportion. Enough damage has been done. I will be voting against the motion of

censure and ask others to do likewise and allow us to get on with our job of providing a Government for this Island.

**10.1.18 Deputy M.R. Higgins:**

I might say I had not come prepared for this debate because I have been rather busy elsewhere. However, this morning I started rereading the transcripts of the evidence given by Deputy Andrew Lewis to the Care Inquiry, and I wonder how many other Members of this Assembly have bothered to look at the evidence that he gave. I think if they had they would have seen how the Committee of Inquiry came to the conclusions that they did. Deputy Andrew Lewis has changed his story over time, and even today we have seen a change of the story. He told the Committee of Inquiry that everyone knew that he was not referring to the Metropolitan Police report, that what he was referring to was the letter that he had been given by Mr. Warcup. That is what he told them. He said everybody knew. Mr. McGarry, the counsel acting for the Inquiry said: "You have got a copy of the transcript of the in camera debate before you, can you point out to the Committee where that was said?" Deputy Andrew Lewis could not do so because he did not mention at any point that the information he was referring to was contained in the letter from Mr. Warcup. That was the first point on that. Then he has told us today, for example, that he did not mention Mr. Warcup as being the source of his information, and I believe he said it was to protect him - Mr. Warcup - as a whistle-blower. First of all, he said to the Committee of Inquiry he was referring to a letter from Mr. Warcup which everybody knew that he was referring to, and yet he did not mention Mr. Warcup at all. However, today - as I say - he has told us that he should have perhaps said that it was Mr. Warcup who gave him the information but he was protecting Mr. Warcup because Mr. Warcup was a whistle-blower. He did not say that to the Committee of Inquiry. That is a change in the story yet again. Sorry, I am going to jump around I am afraid on here. Why, again, was the Committee of Inquiry critical of Mr. Andrew Lewis? Well, certainly if you read through - and I will just read part of it to you - it is page 36, line 7 of the transcript and this is in relation to something that Deputy Southern brought up earlier, and that was that Deputy Lewis was criticising, accusing the former Minister for Home Affairs, Wendy Kinnard, and her husband Mr. Christopher Harris, a lawyer, of fabricating evidence to the Inquiry. He accused them of fabricating evidence. I will just read the actual statement here. I am just trying to get the right page for my section because they keep on changing it. It is page 36, line 7: "So I would say that this is a complete fabrication." In other words, Mr. Harris made some notes on the meeting that Deputy Lewis had had with Senator Kinnard and her husband. After the meeting had concluded he went into his study and he made notes on what was said in the meeting. Deputy Lewis accused him of fabricating evidence. He claimed that none of it was said. The Committee of Inquiry, in their report to us at St. Paul's Centre made quite clear, they said when they looked at the evidence that had been provided by Mrs. Kinnard and her husband they preferred that evidence to that given by Deputy Lewis. If you read through that section you will see again how he kept on jumping around. He acknowledged certain things were true; then they were not true. Also the Committee of Inquiry made the point that Deputy Andrew Lewis criticised more people in his evidence, if I remember correctly, than all the other people who gave evidence together criticised other people. In other words, it was everybody else who was at fault other than Deputy Andrew Lewis. Again, I will go back to some of the things that some other people have mentioned as well, and that is a great play has been played here on the unfairness to Deputy Andrew Lewis. The Deputy of Grouville was quite right to point out that the whole process that was used against Graham Power when he was suspended was totally contrary to the rules of natural justice and, in fact, if I remember correctly - and I may be mistaken but it is a recollection I have because I was there when Deputy Andrew Lewis gave his evidence to the Committee of Inquiry - he said we suspended Graham Power so he could prove that he was innocent. Now, the whole basis of natural justice is that you should be given the argument against

you, in other words the case against you, and you should be given the opportunity of presenting your side of the story and so on to be reviewed. But the evidence that was given was we suspended him for him basically to prove his innocence. So all this talk about poor Deputy Andrew Lewis, he has been denied natural justice; he did not give it to the former Chief of Police and that was one of the reasons why I got so exercised by the whole thing going back. The point is there are dual standards and dual standards have been expressed in this Assembly today, and I think it is absolutely appalling. Also, for example, the question of the Metropolitan Police report; in the evidence again Deputy Lewis mentioned the Metropolitan Police report, it was "so damning" and so on. He was referring to the Metropolitan Police report. He was asked by the Care Inquiry: "Did you know that the Metropolitan Police report was not supposed to be used for disciplinary purposes?" "Yes, I did." But he used it anyway, and the information that was contained in the Metropolitan Police report by the way did not totally substantiate what Mr. Warcup was saying. Again, he went against the advice of the Solicitor General and others. They were told that they should not use any information from the Metropolitan Police report, the interim report, unless it was substantial and would stand up very, very strong. They also stressed that there must be no caveats. Sorry, I have forgotten Mr. Harper's title at the time, he had not even been interviewed by the Metropolitan Police, he was away on a cruise, so he had not had a chance to answer any of the questions that had been put to him. Other people had not been interviewed, and yet if we go back to the statements to the States, we have heard Deputy Lewis going on - whether it be in a letter from Mr. Warcup or not, he did not mention at the time if it was a letter - he kept on referring to the Metropolitan Police report and what it contained. He knew it should not have been used. Did he tell States Members that; that none of that information should have been used for disciplinary purposes? No, he did not, so there is something else that he has left out of his account going forward to Members. Again I have got notes all over the place here which I was just writing as we were going through. Also Deputy Lewis told the Inquiry that he did not know anything about the suspension or the actions that were being planned by the Chief Executive, Bill Ogle, or the head of H.R. before 11th November. He said that is when he first found out, 24 hours before they were calling Graham Power in for an interview. They did not even tell him it was a suspension interview, by the way, they said they just wanted him to come into talk about some aspects of the Metropolitan Police report. He was questioned: "Why did you not tell him that he was going to be called in for a hearing about whether he should be suspended?" He said: "We could not do that." They said: "Well, surely if a person is facing the possibility of suspension they should be allowed to know what the argument is against them, they should be allowed to see a lawyer or bring someone along to help represent them?" No, he did not think that was appropriate. It is all here in his evidence to the Care Inquiry, and yet everyone is going on about poor Deputy Lewis is being denied natural justice. The whole process of the suspension of Graham Power reeked of a failure of natural justice, it was totally inequitable, the whole thing.

**The Bailiff:**

Deputy, you said that you have not prepared for your speech and frankly that is not a courteous way of treating the Assembly, particularly not at 6.15 p.m. If you have got something to say would you please say it, we need to get on with this.

**Deputy M.R. Higgins:**

Yes, sir. For example, Deputy Lewis, let us look at your role in the suspension ...

**The Bailiff:**

Only with regard to Deputy Andrew Lewis's censure motion.

**Deputy M.R. Higgins:**

Yes. Deputy Lewis - in fact I would like him to explain this - he says that he was not aware of the advice that you gave, Sir, as Attorney General that again they should have the full Metropolitan Police report before they took any action. I would like to know if that is true because he has made different statements, I believe, on that.

**Deputy M. Tadier:**

Could I just intervene on a point of order? I suspect Deputy Higgins was not expecting to speak at this time, most of us presumed that we would finish at 5.30 p.m. I know a previous decision has been made but could I test the mood of the Assembly to adjourn and reconvene? We have to be back tomorrow morning anyway. I will maintain that but if it does not find favour of course Members can show ...

**The Bailiff:**

You are entitled to do that. Perhaps we ought to wait until we finish hearing from Dr. Higgins.

**Deputy M.R. Higgins:**

Dr. Higgins; thank you very much. [Laughter]

**The Bailiff:**

Deputy Higgins.

**Deputy M. Tadier:**

Part of the intent was of course that it might enable Deputy Higgins to ...

**The Bailiff:**

No, I am sorry, Deputy, that is not a time to raise it.

**Deputy M.R. Higgins:**

A number of Members have made great play about the denial of natural justice to Deputy Lewis. I am saying these criticisms are critical of the lack of naturalisation. I know that the Care Inquiry were highly critical of the Law Officers' Department and also the States of Jersey lawyers and some of their tactics beforehand in terms of getting information from the States. The point I am trying to make here is, yes, they did not go for naturalisation, maybe ...

**Senator I.J. Gorst:**

Sir, I wonder if the Deputy could point to us where this alleged criticism is in the Care Inquiry Report?

**Deputy M.R. Higgins:**

I cannot say that it was in the Care Inquiry Report, I heard it from source, I cannot say where. [Members: Oh!]

**Senator I.J. Gorst:**

I wonder if that being the case he could withdraw that point?

**Deputy M.R. Higgins:**

Yes, I will withdraw that because I do not want to mislead the House as others have done in the past. [Members: Oh!] I must admit, I really do apologise for not having all this really in a logical order but I have been listening to the debate as we have been going.

**Deputy M.J. Norton:**

This is getting very discourteous at a very late stage; could someone please intervene?

**The Bailiff:**

Well I have once. Can I encourage you to finish your speech?

**Deputy M.R. Higgins:**

I will finish. What I will say is if Members had bothered to read the evidence given to the Care Inquiry ... I will give you the references and I would suggest people do so afterwards because I think you will get quite a shock, the reference is day 136, day 138, so we are looking at 11th February, 12th February, 16th February and 17th February 2016.

[18:15]

If you read those documents you would have a totally different interpretation of what went on and the role of Deputy Lewis. Deputy Lewis, in my view, did mislead the States. At the time no one knew it because they did not know other than what he had said. He had said: "I have read this alarming report" *et cetera*. Had I been a States Member at that time I would have said: "My God, this is terrible." In other words, there is fire with the smoke, there is something really bad here; something has got to happen. The truth of the matter is we did not even discover it until over 2 years later and that was because of the evidence that Deputy Lewis had given to the Napier inquiry. He tells the Inquiry that he did not know before 11th November. He told Napier he did and gave examples. In terms of the Wiltshire Report, again, he tells them he had not seen the Metropolitan Police report. No one knew all this so in other words everyone believed he had seen a report at that time. They were misled, they believed it. I would have believed it. Later it comes to light. The point is those Members who were there ... as Deputy Martin has said, she now believes that she was lied to. The evidence is there that he had not seen Metropolitan Police report. The point I am trying to make is that I believe that Deputy Lewis did mislead this House and he misled the Care Inquiry. The example I am giving is the evidence he gave against the former Minister for Home Affairs, Wendy Kinnard, and her husband. It was quite clear they did not take that evidence nor, if you read the transcript, they did not believe what he was saying about when he first knew about the proposal to suspend the Deputy Chief of Police. Nor did they like what they heard about the breach of natural justice. I am not going to say anymore, I have made my point clear, but what I will say is the States does stand at a turning point. The public of this Island consider this House with almost contempt and with total disrepute, and I would argue that if the Assembly does not support P.P.C. in upholding the code of conduct for the Assembly then, as I say, we will have no credibility whatsoever and they can believe that anything that is said in this House is a lie and you do not have to believe anything that is said. I shall sit down at this point but I make it quite clear I shall be supporting P.P.C. with this proposition.

**The Bailiff:**

Does any other Member wish to speak? If not then I call on Deputy Andrew Lewis to sum up and then I will call on the chairman of P.P.C.

**10.1.19 Deputy A.D. Lewis:**

I do not intend to criticise anybody here, but the last speaker I am afraid has goaded somewhat. Deputy Higgins has pontificated about this particular issue for many years, yet he comes to this Assembly completely unprepared for this debate and I am sorry, Members, that he was discourteous to you. But I do need to pick up some of his points because he has selectively taken extracts from transcripts from the Care Inquiry without referring to other transcripts. He is right; there are hundreds and hundreds of pages of transcripts. I spent most of my summer holidays reading them. You will find that my testimony to the Inquiry mirrors somewhat almost completely

with that of David Warcup, the D.C.O. (Deputy Chief Officer), Bill Ogley, Frank Walker and a number of others. They all corroborate. The one bit that did not was evidence that was given by Mr. Harris. Now, Mr. Harris and I, we have clearly a different understanding of events. This was 9 years ago. I am supposed to remember in some huge detail exactly what happened over a cup of tea. I had gone to the Minister's home - she was the Minister at this stage - to discuss a completely separate matter, that being the changing of the law of corroboration. That is not mentioned at all in the minutes that he made, which is not a minute - and some Members here have seen it - it is some random remarks of what was clearly going on during that period of time. There is in fact little evidential dispute between Mr. Harris, save in respect of some specific terminology used at the meeting at their house, so I am surprised that the Inquiry appeared to give so much emphasis to that note. I have shown a number of Members here over recent weeks the evidence that I have - which P.P.C. have not seen, although I tried to talk to them about it - clearly demonstrating that officers behind the scenes were doing what officers do, prepare Ministers for situations. I have emails that clearly show that discussions were going on behind the scenes that may involve some disciplinary action in the future. I am not copied in on a single one of those memos or emails during that 3 or 4-week period leading up to the suspension, yet 3 weeks before I am accused of discussing the concept of suspension in the home of the former Minister. It is not even a concept at that stage. I am not even the Minister. I have no powers to suspend, it is not something I would be discussing. I emphatically deny that I discussed it. The only point the Inquiry has suggested is that the dates of the suspension are different between what I said - and Mr. Warcup said the same, as did Mr. Ogley - but Mr. Harris said different. I regret calling the note that he wrote a fabrication, it would have been politer to say that it was a different recollection of the events to mine. That is the language that I would expect of a Q.C.: "We believe the evidence of Witness A over Witness B, but we do not believe Witness B is a liar." That is not the normal language of a Q.C. Mr. Ogley in fact when he was interviewed, the description in the report clearly says of the Attorney General of the day: "We prefer the evidence given by the Attorney General over the evidence given by Mr. Ogley." They did not call Mr. Ogley a liar. But they called me a liar. I was cross-examined in a manner that no other witness was, and I do not understand why. Two days of testimony I gave willingly, co-operatively, but I do have my limits, as I think all Members would and there was one occasion which is mentioned in the P.P.C. report whereby I finally said: "Ma'am, I really cannot answer any more questions on this subject, I refuse to do so. I cannot keep answering questions about the same question over and over again." That was about the name of this report. I am clear in my mind as to what I was referring to that day; clearly others were misled and I have apologised for that. The majority of Members that I have spoken to - and I read out a list earlier - were not. The important thing here is that it was not material to a decision that the States were being asked to make. There was no intention to deceive anybody. Deputy Higgins has taken it upon himself for many years to suggest otherwise: that is disappointing and it has become now almost a myth and a legend. It is suggested that a conspiracy of some kind took place, which has been disproven by 2 reports now: Dr. Napier's and the Care Inquiry Report. There was no conspiracy to remove the Police Chief. In the meeting that I had with Mr. Ogley and Mr. Power on the morning of his suspension ... he was telephoned by me, by that stage I was the Minister so I took it upon me to ring him myself, not a civil servant, I did. I had a good working relationship with Mr. Power, I respected him, so I called him. He came to Mr. Ogley's office the next day. I did tell him why he was coming to that meeting, I said: "We have some concerns about Operation Rectangle and the findings of a peer review" which was currently underway which he was aware of, which was being conducted by the Metropolitan Police. He came to Mr. Ogley's office, he met with me. Three weeks' before that plans had been made by senior civil servants and others to prepare documentation and potential suspension, but it was a 3-week period that they were discussing between themselves without copying me in. It would have been wrong for a Minister to be

intrinsically involved in the maturations of a disciplinary process until they have to be; and I was not, and I can prove that with the correspondence that has been produced which I have shown to some Members. It would have been wrong for a Minister to be involved in the minute detail of a personnel matter until he or she had to be, and that day was on 11th September. I received a letter from Mr. Ogley hand-delivered to my office. Deputy Le Fondré referred to it earlier. The letter went something like this: "I have received a report from the Deputy Police Chief." He expressed concern about this report. It was a report. It was in the form of a letter to Mr. Ogley. I have shown that report to many Members; it is, no question, a report. It is weighty, it is substantial, it is concerning. It was given to me to read before then having a meeting with the Chief Executive. I then went to the Chief Executive's office and he discussed the options that there were that could be taken. They had been working on this for 3 or 4 weeks, unbeknown to me, but doing what good civil servants - and we have got some very good civil servants in our public sector - they were doing that job. They presented me not with just a problem but with a solution, and that was to take a neutral act and potentially suspend the Police Chief. When he came to the office this was discussed with him. He was given time to consider the correspondence put before him. He was offered a room to go to, to consider it. He chose not to do that. Instead he chose to rubbish Mr. Ogley, in fact he was somewhat rude and aggressive. The meeting lasted about 20 minutes. He left Mr. Ogley's office, went to the BBC, and announced to the world that he had been suspended; and then later complained that his daughter found out on her way to work in Australia because he had told them on the BBC. Mr. Power, during that meeting I said to him: "I do hope, Mr. Power, that you have the opportunity to prove and show [as Deputy Higgins said] that there is perhaps no case to answer here. But you need that time to do that." Suspension was a neutral act. He was appointed legal representation, representation of a senior chief constable. He had the support of the Police Association. He had every bit of support that he could possibly have to represent him. I left office a week later. It was then up to the next Minister to ensure that process remained fair and balanced. The Chief of Police challenged that suspension twice and twice it was upheld in court as a legitimate suspension. Deputy Higgins on the front page of his manifesto in 2014 cited me as effectively committing an illegal act by suspending the Police Chief and saying that the suspension was not valid by the Royal Court, when in fact it was upheld by the Royal Court. This situation is unpleasant for many people, not least Mr. Power, and myself, my family and the Care Leavers Association too. There were 2 primary reasons why the Police Chief was suspended, in fact one could say there were 3. The Council of Ministers had lost confidence in the police service. I had lost confidence in the police service. The Chief Executive believed that the people had lost confidence in the police service. In any other normal circumstance in the U.K. a Police Authority would automatically suspend that Police Chief. There were 2 other serious issues: we had prosecutions lined up for court, we had a live investigation into murder at Haut de la Garenne. It was being told to us that possibly many children had been murdered. There were headlines across the whole world. The Chief of Police at that time refused to accept that that investigation had gone somewhat wrong and there was no evidence of murder.

[18:30]

There were some serious abuse allegations and prosecutions ready to go to court. Had we not taken the action that we did the Care Leavers Association would have been faced with abusers not possibly being prosecuted, because a mistrial may well have been called by Crown advocates because how can you have a fair trial if at the same children's home that some of this abuse occurred, murders apparently had happened too? The Police Chief refused to accept that and refused to allow his Deputy to go out to the public and say that. The Deputy Police Chief was extremely concerned about this. His relationship with Mr. Power had broken down. They were no longer speaking, the relationship was non-existent. It was not a tenable situation. Furthermore, the

Deputy Police Chief was the Police Chief Designate, he was to take over from Mr. Power, he was our succession plan. He was leading the investigation, he was qualified to do so, Mr. Harper was not. Had we lost Mr. Warcup we would have had nobody heading up the investigation, we would have had nobody heading up our police force in the future. A decision had to be made and it was, and I believe it was the right decision to make at that time. What happened subsequently I fully accept took an awful long time, and I know not why that happened. It was not my making. But during questions in the Assembly 2 weeks after the suspension I was asked a series of difficult questions; I answered them to the best of my ability. I had been the Minister but a few weeks. I have spoken to other Ministers here who have taken on those new roles in this Assembly and the first few weeks and months of that position they found it daunting; particularly question time. I was faced with a remarkably unusual situation of having to have made a decision 2 weeks' previously, make a statement to the Assembly, then answer difficult questions about it. I did my best. I have been accused today of mentioning the Metropolitan Police report in those Hansard minutes 6 times. That is not true. If you look at those minutes you will find I mention the Metropolitan Police report once at the very end, and Deputy Le Fondré referred to it. At every other time during that report I either called it a preliminary report or a report. It was the report of David Warcup. I accept that that last comment was wrong and if anybody was misled by that and thought I had read another report of some kind, I regret that. It was not material to the situation; that does not make it right to get the report name wrong, I fully accept that, but I did not have an opportunity during that debate to correct it as some have said. Have I had an opportunity since? Yes, I have and, yes, I really wish I had done it earlier, I really do, for all the reasons that people are saying today. But I have not. There was a good reason, it was not released until January 2016. I should not have commented on it before that, it was a leaked document. I commented at the public inquiry, that was the right place to do it. The scripts from that public inquiry clearly demonstrate as to why I did what I did, under the full support of the Council of Ministers of the day. I was the legal entity that could sign that piece of paper to suspend. I could have walked away from it. Some days now I wish I had. I had a week to go in this Assembly. But I did not. I also took through in that same week changes in the Firearms Law. Everybody said: "You are mad. Why take such a controversial law through the Assembly?" I finish the jobs that I am asked to do and I did that and it did go through, it did get full support from the Assembly. I could have walked away from that too. I did not. I took my job seriously and I did it the best I could. To be standing here today defending that action is uncomfortable, but I can understand why Members that perhaps were not there then see something here more than perhaps it is. Issues of integrity, issues of being honest with our public, honest with the Assembly, are serious and I take that really seriously. I had absolutely no intention of misleading anybody. In the public inquiry likewise; I do not know why they made the ruling that they did. I do not have an opportunity to challenge that either, and many Members have articulated the issue of what recourse I have, what justice that I have, so I will not repeat those arguments. Mr. Power was treated as fairly as I could possibly have done on that day. I would hope that Members would treat me with fairness too today. We uphold fairness in this Assembly for our constituents all the time, it is important, and I would hope that we want to do the same for ourselves. So today you have an opportunity to do something for another Member. My integrity has been impugned. I hope today I have had an opportunity to demonstrate I am not the person that some are claiming; others have said it for me and I thank them for that. I particularly thank Senator Bailhache; he has been amazing the last few weeks. I wish his family well because what happened yesterday was very sad. But he had the bravery yesterday to insist that his wife call me and say: "Please will you take this speech and ask a Minister to read it?" So I am very pleased that Senator Maclean agreed to do that and I hope that it articulated things rather well. Furthermore, I am very grateful to former Chief Minister, Senator Le Sueur, for the words that he used in an email recently, which you have all had. Because of the complexities of this situation and

the thousands of words being written, the thousands of pieces of paper, I feel he summarised the situation in 2 short paragraphs that I hope you read and I believe you all did, and I hope it articulated exactly where we were and why this happened and the unfairness of it, perhaps. So today is my only recourse, my only opportunity to say to the public that I have not lied, I have not intentionally misled anybody. This is my only opportunity to do that. The public inquiry, I have no recourse against them. There is no appeal, yet it was treated like a court. Anywhere else there would be a right of appeal. There is not one. This is my right of appeal, my peers. So I hope that Members today look at the fairness of it all, look at the evidence, look at what is really important here - which is a serious report about childcare - and get on with the business of implementing it. Let me get on with my constituency work, my work with P.A.C., and have this blemish on my integrity, my political career, my business career, my family, removed. That is all I ask of you and if you can do that today I will be most grateful, by voting against P.P.C.'s motion.

**Deputy M.R. Higgins:**

Can I just seek a point of clarification from the previous speaker? You mentioned the Napier Report and said that they found nothing untoward. Is it not true that the Napier Report had not had sight of the in camera transcripts and, therefore, did not know of all the other things that were going on and, therefore, had limited knowledge of what was going on?

**The Bailiff:**

Deputy, I do not know if you are able to answer that or not?

**Deputy A.D. Lewis:**

I do not know the answer fully to that. All I know is that Dr. Napier was quite right in criticising the process. We were working with a 1978 law that was way out of date. He was quite correct to criticise it. What he did say though was that he found no conspiracy to remove the Police Chief whatsoever and the Care Inquiry found the same.

**10.1.20 The Connétable of St. Clement:**

I hope Members understand - I am sure they do - that bringing this proposition on behalf of the committee gives me no pleasure whatsoever; in fact, exactly the opposite. But when a £23 million Committee of Inquiry set up by us, terms of reference agreed by us, tells us that a colleague has lied to us, lied to it, I think we have no choice but to sit up and take notice. I would say to the Deputy of St. Ouen, the breach of the code which has happened is not specifically that the Deputy lied to the Inquiry or lied to us or misled us, the code asks whether his actions maintain and strengthen the public's trust and confidence in the integrity of the States and its Members. That is the breach of the code we have considered and it has resulted in this vote for censure. It was interesting to hear Senator Bailhache by proxy, he made a good speech as he always does, as indeed did the Deputy of St Ouen. But it seemed to me that both of those speeches were there to try and criticise and undermine the process not only of the Committee of Inquiry - the Childcare Inquiry - but also the processes adopted by my committee. I think I should remind Members that Privileges and Procedures is not a court, it is not a legal process, it is a political process. It follows on from that political process to this political process because of the decisions that we had to make. There was some question about whether the committee allowed Deputy Andrew Lewis to defend himself properly. Deputy Lewis was treated strictly in accordance as it needed to be with the Standing Orders in relation to our investigation. It is wrong to say that he was thrown to the lions. We heard his views and that of his McKenzie Friend who came to the meeting, even though they strayed considerably from our own terms of reference which they were advised of. But we listened patiently to what they had to say completely, we did not interrupt them once. I think they spoke for about 1.5 hours or so and we listened to every word that they had to say. It is quite clear from our

report that the committee has not said that it agrees totally with the Childcare Inquiry's report. What we said was we do not seek to challenge the findings of the Childcare Inquiry. As I say, it was a £23 million inquiry, loaded with lawyers and Q.C.s and dozens and dozens of witnesses. It would not be reasonable or practical for a small committee of the States with a small budget to try and replicate what the Childcare Inquiry have done. There were many findings of the Childcare Inquiry, they found there was no conspiracy to remove the Police Chief, although to be honest with you my committee was not worried about the rights or wrongs of removing the Police Chief, that may be have been right, it may be wrong, it was not our concern. But they did find that Deputy Lewis had lied, and quite simply we cannot ignore that. If we can accept that there has been no corruption and no conspiracy, why is it we cannot accept their other finding that Deputy Lewis lied? We have got to face the fact that Deputy Lewis was criticised much more than any other witness or any other person involved in this Inquiry. If we start to do that we are starting to cherry-pick from the findings and the recommendations. That would be our choice and our right, and we have done it before of other inquiries, but is that wise and is that honest? I would suggest not. The other thing that Senator Bailhache said is P.P.C. have a responsibility for protecting the privileges of the States. That is right and one that my committee accepts totally. One of those privileges is we can say what we want in this Assembly without fear of repercussions legally or whatever. Now, I will draw a line there, I will be careful here. I will accept that totally but I will draw the line because everything that is said in this House should be true and should be honest, and if we do that I will protect that privilege with my dying breath because that is so important. But it must be true and it must be honest. Earlier on this afternoon my colleague, the Constable of St. Martin, said we are not perfect, we make mistakes. Of course that is true, there are very few of us who have not made mistakes in speeches in this Assembly.

[18:45]

How often have we heard a Minister or a chairman of a committee or a panel say an hour later: "I said something this morning which was not correct. I would like to put it right". Or perhaps a day or 2 later we get an email from a Minister or chairman of a committee or chairman of a panel saying: "I made a mistake." Unfortunately we did not get it in this case. I have to say, and I hope he will forgive me for saying so, but Deputy Le Fondré did spend a lot of time telling us that Deputy Andrew Lewis slipped up on 2nd December 2008. But as the Constable of St. Helier reminded us earlier this afternoon, he slipped up quite a number of times and he had every opportunity at that time to correct what he had said. If he had done that at any time we would not be in this position that we are in today. If we do not value honesty and integrity in this Chamber, even under privilege, we will never have the respect and trust and confidence of the public. That is essential. Deputy Andrew Lewis could have corrected his error at any time from 2008 onwards. He could have done it on the day, he either chose not to or did not realise he had made the mistake. But certainly by 2010 he knew there were concerns, he knew that what he had said was not accurate, that Members had been misled. It is easy to say: "I have spoken to all these Members who were there on 2nd December 2008 and all of them say they were not misled." Well of course they were not; they believed, quite understandably, as I did, every word that the Deputy had said. It was only 2 years later that many of them realised that what he said at the time was not accurate. So naming these people who said they were not misled on that date is totally irrelevant. He could have done it in 2010; how: by contacting the Greffe who could have sent a confidential email to all Members correcting the record. That could have been done without breaching the confidentiality of the in camera debate. He could have done it in 2014 in the same way when he was re-elected, but chose not to do so. He could have done it in 2016 when the transcripts of that question time were released, but again chose not to do so. What slightly upset me today was something the Deputy said, that in our in-camera debate in July he felt he had apologised. He said: "The States deserve

an apology.” He did say that, he did say the States deserve an apology. The trouble is he did not give one. When he came to the Inquiry at St. Paul’s Centre he could not even remember having said that. It was not an apology but even if he thought it was it cannot have been sincere because he could not remember even saying it. But today he has, today he has, although not totally accepted by all Members. From time to time the Deputy has said - and he said it again in his summing up just now - that the comment about having seen the Interim Metropolitan Police review was not material or not significant. Perhaps. Perhaps by itself it was not. But in the context of what we were talking about which was the potential career-ending of the States of Jersey Police Chief, it was absolutely vital. Sadly it was never corrected, it was never apologised for. If that had been done in 2008, 2010, 2014, perhaps even early in 2016, I suspect we would not be here today. As I say, this gives me absolutely no pleasure at all. I hate it. But to me honesty and integrity are vital for this Assembly. As I said just now, if we do not value honesty and integrity in the Chamber, even under privilege, we will never regain the respect, regain the trust, regain the confidence of the public. To be honest with you, that is more important than any individual sitting in this Assembly. I maintain the proposition and ask for the appel.

### **The Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the proposition of the Privileges and Procedures Committee to censure Deputy Andrew Lewis. I ask the Greffier to open the voting.

<b>POUR: 29</b>	<b>CONTRE: 16</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier	Senator A.J.H. Maclean	
Senator I.J. Gorst	Senator L.J. Farnham	
Senator S.C. Ferguson	Connétable of St. Peter	
Connétable of St. Helier	Connétable of St. Martin	
Connétable of St. Clement	Connétable of St. John	
Connétable of St. Lawrence	Connétable of Trinity	
Connétable of St. Mary	Deputy J.A.N. Le Fondré (L)	
Connétable of St. Ouen	Deputy of Trinity	
Connétable of St. Brelade	Deputy E.J. Noel (L)	
Connétable of St. Saviour	Deputy S.J. Pinel (C)	
Connétable of Grouville	Deputy R.G. Bryans (H)	
Deputy J.A. Martin (H)	Deputy A.D. Lewis (H)	
Deputy G.P. Southern (H)	Deputy of St. Ouen	
Deputy of Grouville	Deputy of St. Mary	
Deputy J.A. Hilton (H)	Deputy G.J. Truscott (B)	
Deputy K.C. Lewis (S)	Deputy P.D. McLinton (S)	
Deputy M. Tadier (B)		
Deputy of St. John		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy of St. Martin		
Deputy of St. Peter		
Deputy S.Y. Mézec (H)		
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)		

**The Bailiff:**

The adjournment is proposed. The States now stand adjourned until 9.30 a.m. tomorrow.

**ADJOURNMENT**

[18:52]