

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 2nd MARCH 2021

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[9:32]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

The Bailiff:

1.1 Welcome to His Excellency the Lieutenant Governor

I am not sure if His Excellency has joined us this morning but if he has then of course we welcome him in the usual way.

QUESTIONS

2. Written Questions

The Bailiff:

There are a number of answers tabled to Written Questions. I have been asked to make a ruling in connection with one of those. Deputy Higgins has raised with me the written answer to Question 61. I have considered this and it seems to me that the question asks for funding allocations from 3 sources of funds. The first is the Government Plan or Budget, the second is the Criminal Offences Confiscation Fund and the third is any other special purpose fund. The answer deals with the Criminal Offences Confiscation Fund and says that there is no other funding from other special purpose funds but no answer is given in connection with the Government Plan or Budget category of expenditure, therefore a further answer will need to be provided to address that particular point.

2.1 The Connétable of St Brelade of the Minister for Treasury and Resources regarding the tender for the provision of a new tug for the Ports of Jersey (WQ.39/2021):

Question

Will the Minister, as shareholder representative for the Ports of Jersey, advise Members of the cost of the tender submitted by Damen Shipyards Group for the provision of a new tug (due to be delivered in Quarter 4 this year), the basis on which the tender was accepted and the source of funding for the tug?

Answer

Ports of Jersey has allocated up to £5.4 million from its commercial revenues into the construction of a shallow drafted anchor handling workboat.

Following a comprehensive tender process which included Pre-Qualifying Questionnaire (PQQ) and Invitation to Tender (ITT) stages, Damen Shipyards Group were awarded the contract based on its amalgamated scores across the relevant scoring criteria.

Damen Shipyards Group, are a Netherlands based company founded over ninety years ago, which operates 36 shipyards across 18 countries. Damen also recently carried out a major dry-dock program of the Duke of Normandy.

The new vessel, a Shoalbuster 2711, is based upon the reliable and proven design of The Duke of Normandy but with increased capacity and capability. It will boast an additional two meters of beam providing extra stability and increased deck space allowing for installation of a larger crane.

The new vessel is not a replacement for The Duke of Normandy, which will continue its operational obligations in local waters and still be used commercially off-island when required. In recent years the Duke of Normandy has spent an average of 181 days off Island, undertaking a range of short and long-term contracts, in particular in the growing renewable energy sector, generating circa £2.5 million in revenue. This revenue is used to maintain services for islanders.

The new vessel is due to be delivered by December 2021.

2.2 Senator S.Y. Mézec of the Minister for Treasury and Resources regarding people earning over £1 million in Jersey (WQ.40/2021):

Question

Further to the answer to Written Question 1/2021, in which it was stated that the number of people in Jersey earning over £1 million a year in 2012 was fewer than 12, will the Minister explain why this figure does not correspond with the information provided in the response that was published on 8th April 2015 to a Freedom of Information request (Reference 202-03-59611), in which it was stated that the figure was 59?

Answer

The FOI response in 2015 related to a request for information relating to people's "total personal income". Written Question 1/2021 related specifically to earned income, which was emphasised in that answer.

In addition the FOI response considered "individual taxpayers" to include:

- Single individuals
- Married couples / civil partnerships that had not opted for separate assessments (counted as one Individual Taxpayer).

(See explanatory notes accompanying the FOI)

Written Question 1/2021 considered each individual in a marriage/civil partnership separately and only included in the data those specific individuals that had earned income greater than £1 m (see first bullet of the notes to the answer tabled).

2.3 Deputy K.G. Pamplin of St. Saviour of the Chief Minister regarding unpublished Government reports (WQ.41/2021):

Question

Will the Chief Minister provide the Assembly with a list of any completed reviews falling within either his remit or that of the Chief Executive that are as yet unpublished or that have not been actioned, including any reviews relating to States of Jersey employees and Government infrastructure?

Answer

There are three reviews that meet your criteria.

Examination of the housing market in Jersey by the Housing Policy Development Board has concluded. It is anticipated that the final report of the Housing Policy Development Board will be published by end of Q1 2021.

The Independent Review of Children's Residential Homes (undertaken by the Independent Children's Homes Association last summer/autumn) has concluded and the Report is intended to be published by end of Q1/Q2 2021.

HR Lounge report

The HR Lounge, a specialist HR consultancy are conducting the review of our handling of bullying and harassment cases. HR Lounge are reviewing the recommendations previously made and reporting on how far the recommendations have been implemented by the Government of Jersey. The HR Lounge have completed their field work. A final report is expected to be presented to the SEB at the end of February and the report is intended to be officially published by end of Q1/Q2 2021.

2.4 Deputy R.J. Ward of St. Helier of the Minister for Education regarding peak flow testing in schools (WQ.42/2021):

Question

Will the Minister provide an update on the following aspects of peak flow testing in schools –

- (a) the number of students tested daily in schools between 12th January and 5th February 2021;
- (b) this number expressed as a percentage of the school-age population; and
- (c) the number of tests that were self-administered by students?

Answer

The answers below are for Lateral Flow Device (LFD) testing in school and colleges:

(a) Around 1,000 students in total over the period. Once the digital app is rolled out across all schools to record this data, the figures will be updated weekly and published on the school and college statistics page on the Government of Jersey website.

(b) 36% of the 2,796 students, in years 11 – 13 in all schools and years 11 – 15 at Highlands College. These are the cohorts eligible for LFD testing currently in accordance with STAC advice. In the same period around 1,500 staff completed a LFD test also.

(c) All tests were self-administered by students, with supervision from trained staff.

2.5 Senator S.Y. Mézec of H.M. Attorney General regarding voting and Powers of Attorney (Jersey) Law 1995 (WQ.44/2021):

Question

Will H.M. Attorney General advise whether the provisions of the Powers of Attorney (Jersey) Law 1995 allow for an individual to attend and vote at a Parish Assembly on behalf of those who have signed over power of attorney to them on that basis; and if so, does this enable one person to vote multiple times on behalf of a number of Parishioners?

Answer

Voting at Parish Assemblies in such ways would not be lawful for the following reasons.

Article 7(1) of the Powers of Attorney (Jersey) Law 1995 (the “1995 Law”) provides that a general power of attorney shall confer on the donee (i.e. the recipient) authority to do on behalf of the donor anything the donor can lawfully do by an attorney. However, the 1995 Law does not provide a list of what may or may not be lawfully done by an attorney.

The laws governing Parish Assemblies and voting rights therefore determine what may lawfully be done by an attorney in this context. I have identified no evidence of voting by attorney being permitted at customary law, nor any statute making provision for it. Rather, two statutory provisions confirm the view that such votes would not be valid.

Firstly, Article 23 of the Rates (Jersey) Law 2005 provides in respect of Parish Assemblies that each member of the Assembly has one vote on any decision by the Assembly and that this applies regardless of whether a member is qualified more than once to be a member of the Parish Assembly.

Secondly, the *Loi (1804) au sujet des assemblées paroissiales* (the “Loi 1804”) sets out procedural requirements for Parish Assemblies but says nothing of powers of attorney. On the contrary, Article 12 of the Loi 1804 provides:

A toute Assemblée Paroissiale, dûment convoquée et tenue, le Président sera tenu de mettre en délibération chaque motion faite par un membre, et secondée par un autre membre de l'Assemblée, et de recueillir les opinions sur le sujet

[At any Parish Assembly, duly convened and held, the President shall be required to put for debate each motion proposed by a member and seconded by another member of the Assembly, and to elicit opinions on the subject concerned]

It follows that the vote must be of those present at the Assembly and must come after having heard a debate amongst those present. To allow voting by power of attorney would be to record votes in respect of members of the Assembly who were not present to hear the debate contrary to the scheme of the Loi 1804.

2.6 Senator S.Y. Mézec of the Minister for Social Security regarding increasing the level of the minimum wage to the same as the living wage (WQ.45/2021):

Question

Will the Minister advise, on the basis of Jersey's minimum wage increasing to the level of the Island's living wage (i.e. £10.96 per hour) –

- (a) how many workers would receive a pay rise;
- (b) how many workers who are claiming Income Support would be raised above the threshold to claim such support; and
- (c) what amount, if any, would be saved from the Income Support budget?

Answer

- (a) Information on hourly wage rates is only available through survey data. The most recent information available was collected in June 2019. At that time the minimum wage was £7.88. The survey results indicate that 5% of private sector jobs were paid at the minimum wage rate and 11% were paid between £7.88 and £8.25. Similar percentages were identified from the previous survey in 2016. It is not possible to estimate the total number of private sector workers who would receive a pay rise if the minimum wage increased from £8.32 to £10.96. All public sector workers have been covered by the voluntary living wage commitment since 2018.
- (b) And (c) An increase of 32% in the minimum wage from 8.32 to £10.96 would have significant impacts across many areas of the labour market and a full economic analysis would be required to provide advice on the possible consequences e.g. potential job losses/sectors. The Chief Minister published a detailed report from Oxera in 2017 ([R.83/2017](#)) which examined the possible impact of an increase in minimum wage from £7.18 to £7.88 (a 10% increase) and from £7.18 to £8.40 (a 17% increase). Furthermore, due to the pandemic, the current economic position and outlook is very different now compared to 2017. As such, it is not possible in this written question to provide advice on the number of workers who are claiming Income Support who would be raised above the threshold to claim such support nor the amount, if any, that would be saved from the Income Support budget, as a consequence of increasing the minimum wage from £8.32 to £10.96.

2.7 Deputy R.J. Ward of St. Helier of the Chief Minister regarding conflicts of interest (WQ.46/2021):

Question

Will the Chief Minister outline the process for declaring and documenting conflicts of interest that arise during any decision-making process, both for Ministers and for employees; and will he advise the Assembly how many decisions, if any, have been taken where a conflict of interest has been identified, specify what any such decisions were, and describe the steps that were taken to mitigate any risks arising from such conflicts of interest?

Answer

In addition to the obligations placed on all Members under Standing Orders in relation to the register of interests and the “Code of Conduct for Elected Members”, the “Codes of Conduct and Practice for Ministers and Assistant Ministers” (the “Ministerial Code”) clearly outlines that Ministers and Assistant Ministers must abide by the seven principles of public life, and thereon scrupulously avoid real or perceived conflicts of interest in the discharge of their public duties. This includes declaring those interests in relation to any topic discussed at the Council of Ministers, as a matter of long-established practice. These declarations are recorded in the relevant “A” or “B” minutes (they are not separately collated).

Ministers and Assistant Ministers, ultimately however, are accountable for their own compliance with the Ministerial Code, making appropriate declarations and reporting any breaches to the Chief Minister or the Privileges and Procedures Committee. However, it should be noted that any directorships and other significant interests are set out in the Register of Interests as held by the Greffier of the States. These interests are held on respective members’ pages on the States Assembly website.

Employees are bound by the Public Finances Manual where accountabilities and requirements are set out in relation to spending and contracts. Accountable Officers are defined within the Public Finances Law and are typically Director Generals or the most senior person in non-governmental departments. They are responsible for identifying actual or potential conflicts of interest and mitigating such conflicts through steps such as declaration or register, requesting for a temporary substitute and resignation, depending on the type of conflict identified. In doing so, they are provided with an annual letter of appointment and make an annual return from their individual areas. These annual returns are returned to the Principal Accountable Officer (the Chief Executive) and the Treasurer, where material they are declared in the Annual Accounts. The Public Finances Manual goes on to highlight this requirement in relation to Arm’s Length Organisations and grants. Commercial Services have specific requirements in relation to declaring conflicts during procurement processes. All activities are subject to Internal Audit at any time. Internal Audit activity is specifically planned to detect any potential instances of corruption.

During the recruitment of employees, declarations are made by the panel (who undertake shortlisting and interviews) with the chair of the panel responsible for maintaining the records. Should any declaration be made for a potential or actual declaration of interest, officers within People and Corporate Services will be consulted.

For senior appointments, the Jersey Appointments Commission oversees and audits the declarations. Each panel member must complete a declaration form.

Accountable Officers are required to confirm that any conflicts of interest identified have been managed appropriately. Across Government there is a wide range of decision-making processes that exist, each has differing types of conflict of interest. There is a central register in relation to directorships and conflicts of interest. Subject to the introduction of the new Code of Practise, which is due to go to the States Employment Board this week, an expanded register will be implemented in due course.

There are no known instances of decisions being taken where an unmanaged conflict was subsequently identified.

2.8 Deputy R.J. Ward of St. Helier of the Minister for Education regarding the free school meals pilot programme (WQ.47/2021):

Question

Will the Minister advise what work, if any, is currently being undertaken to evaluate the free school meals pilot; and will he outline the timescale for decision-making regarding the future of this scheme?

Answer

The pilot scheme is part of the Nutrition Strategy with budget held outside of CYPES. It is being managed by the Pilot Steering Group and Operational team who meet on a regular basis. At these meetings, the pilot scheme rollout, KPI's and key data relating to the following is evaluated:

1. **Meal service** - percentage uptake across the three pilot schools to ensure eligible parents are aware and signing up.
2. **Income support families** – current uptake, (and consideration as to how this will be managed in the future, the approach, working with CLS, compliance/data sharing etc.)
3. **Surveys** - parental survey results and taster sessions
4. **Food waste** - measured to inform menu development
5. **Menu development** – compliance with the Government's food nutrition strategy
6. **Risks and issues** – any current onsite and potential future risks and issues are considered
7. **Finance** - cost per meal, income and expenditure performance and forecast.
8. **Engagement ideas** – internal and external communication and supporting agencies.

The service provider collects, and reports data based on the KPI's agreed at the outset of the partnership. They collect this data through online surveys and using a token system (each day) which is a simple way for children to indicate the meals they like and don't like.

The KPI's include:

- Child satisfaction
- Parent satisfaction
- Current uptake for parent paid meals and free school meals.

Financial projections and food model proposals are anticipated to be presented in June this year, with next steps agreed, including funding requirements and approach, which could include a full procurement and tendering process. The final evaluation of the data, food model and capital outlay will form the decision-making process and it is envisaged that a phased scheme for the provision of a school meals service across the Primary schools will be in place for by Q1 2022.

2.9 Deputy R.J. Ward of St. Helier of the Minister for Infrastructure regarding the priority given to pedestrians, cyclists and horse riders in Green Lanes (WQ.48/2021):

Question

Will the Minister advise what work, if any, has been undertaken to date to bring forward the changes outlined in 'Green Lanes and quiet lanes: priority to pedestrians, cyclists and horse riders' (P.79/2020), adopted as amended by the Comité des Connétables?

Answer

While the Minister for Infrastructure administers the Road Traffic Law (Jersey) 1956 and is responsible for administering main roads, the Parishes are the legal Road Authorities for administering the by-roads.

Clause (c) of the Proposition requests *"...the Comité des Connétables, in consultation with the Minister for Infrastructure, to bring forward for approval the necessary changes to legislation to give effect to paragraphs (a) Page - 3 P.79/2020 Amd. and (b) by the first quarter of 2021, if considered practicable by the Comité and the Minister"* [Emphasis added]

As the legal entities responsible for the administration of the parish roads, the onus can only be on parishes to initiate any consultation. The Minister for Infrastructure is not able to direct the parish

road authorities how to act. Indeed, it would be informative for the Deputy to meet with the Comité to understand their position directly.

Notwithstanding this, I have been advised by the Comité that advice is being sought as to whether it is practicable to enact Clause (a). Until this has been established, it is not possible for the Comité to consult with the Minister for Infrastructure on any changes to the Road Traffic Law (Jersey) 1956 or know whether the remainder of measures set out in P.79/2020 are practicable.

In the meanwhile, I have asked officers to provisionally include it in the rapid plans identified in the STP, this is largely expected to feature in the Active Travel Plan which will support non-motorised journeys.

2.10 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding JT network problems (WQ.49/2021):

Question

Further to reports of problems with the JT network and data connections, will the Assistant Minister advise whether JT has notified the Minister, as shareholder representative, of any such problems; and if so, will he state what explanation has been provided by JT for the cause of the problems, if known, and whether they are ongoing problems or new issues with the network?

Answer

Jersey Telecom (“JT”) operates a “no surprises” policy with the Minister, as shareholder representative, in accordance with the Memorandum of Understanding between the parties.

Under that policy, JT has notified the Minister that they are not aware of any network or data connection issues on the JT network.

2.11 Senator S.C. Ferguson of the Minister for Economic Development, Tourism, Sport and Culture regarding JT reliability and communication (WQ.50/2021):

Question

Given the importance of a reliable data supply to the delivery of improved productivity, will the Minister advise whether any problems with the reliability of the data supply and data sources within JT’s services have been communicated to his Department and, if so, whether the Department has been involved in any investigation of the problems and their impact on productivity; and, if problems have been reported, will he advise why States members have not been notified?

Answer

There have been no recent notifications of issues with the reliability of the JT service and no implications for productivity. The Jersey Competition and Regulatory Authority are currently investigating an outage that occurred in July 2020 and States Members will be notified of the outcome.

For completeness, I would refer the Senator to an answer provided by the Treasury Minister to Written Question 49, which relates to the same issue:

Jersey Telecom operates a ‘no surprises’ policy with the Minister, as shareholder representative, in accordance with the memorandum of Understanding between the parties. Under that policy, JT has notified the Minister that they are not aware of any network or data connection issues on the JT network.

2.12 Deputy C.S. Alves of St. Helier of the Minister for Education regarding Lateral Flow Testing on Students (WQ.51/2021):

Question

Will the Minister state, in relation to the use of Lateral Flow Testing on students –

- (a) what percentage of students are being tested;
- (b) how often they are being tested;
- (c) how many tests have seen a positive result;
- (d) how many results have led to a subsequent P.C.R. test; and
- (e) of any such P.C.R. tests, how many have seen a positive result?

Answer

For the first half of the Spring Term:

(a) In accordance with STAC advice students in years 11 – 13 in all schools and in years 11 – 15 at Highlands College are eligible for weekly LFD testing. 36% of the 2,796 students in these year groups were tested in the first half of the term, as the LFD testing programmes was piloted and rolled out throughout this period. From Monday 22nd February LFD testing will be available to all eligible students and staff on a weekly basis.

(b) Testing is offered weekly, on a day that suits the individual school timetable

(c) 1

(d) 1

(e) None

2.13 Deputy C.S. Alves of St. Helier of the Minister for Health and Social Services regarding the Jersey Covid Alert app (WQ.52/2021):

Question

Will the Minister provide an update on the usage of the Jersey Covid Alert app, including –

- (a) how many devices currently have the app installed;
- (b) how many times the app has been installed and subsequently uninstalled; and
- (c) since the launch of the app, the number of people each month who have been contact-traced via the app?

Answer

(a) As at 5pm on 16 February, 50,859 installations of the Jersey COVID Alert App had been downloaded and activated. At more than 40% of the population of the island, we are unaware of any other country or territory with better Alert App uptake.

(b) Some 700 people have asked to be ‘forgotten’ ie where their phone number is not shown on the App; we do not know how many people have ‘uninstalled’ the app because Apple does not provide these figures.

(c) 969 users have received an Exposure Alert on their device which resulted in their phone number being shared with the contact tracing team for further contact tracing and isolation:

- October 2020: 4
- November: 202
- December: 682
- January 2021: 64
- February: 17

2.14 Deputy C.S. Alves of St. Helier of the Minister for Health and Social Services regarding workforce testing (WQ.53/2021):

Question

Will the Minister provide, by sector, the figures for take-up of workforce testing?

Answer

The table below shows people registered for workforce screening tests during the most recent 8 weeks (21st December 2020 to 14th February 2021). Please note that data is analysed according to how a workforce test is booked in the system – for example, we are aware of some inconsistencies where employment sector is not appropriately selected.

Sector	No of tests	People tested
Advocates and Solicitors	79	77
Agriculture and Fishing	10	10
Building, Construction and Quarrying	642	625
Children, Young People, Education & Skills	108	45
Customer and Local Services	34	23
Domestic and Commercial Cleaning Services	86	83
Domiciliary Care agencies	177	161
Early Years and Childcare Services	290	262
Finance	160	157
Freight, Post and Delivery Services	537	417
Health and Care Services - frontline	3399	1896
Health and Community Services	7825	1452
Hospitality Services (hotels, restaurants and bars)	596	558
Island Utilities and Infrastructure Services	270	268
Justice & Home Affairs (States of Jersey Police, Fire & Rescue, Customs & Immigration, Prison and Ambulance Service)	588	419
Leisure and Recreation Services	161	142
Motor Trade and Repair	15	14
Not categorised	7265	2209
Other Government of Jersey	39	31
Other Health and Care Services - not frontline	299	288
Other Healthcare Services	274	247
Other Public Sector	1148	1075
Public Transport	117	103
Residential and Care Homes	2400	1435

Retail and Wholesale Services	953	920
Schools and Colleges	2731	2432
Security and Facilities Management Services	66	66
Veterinary Clinics	4	4
Voluntary and Community Sector	352	336
Wellbeing, Cosmetic and Beauty Services	162	154
Worship, Funerals and Marriages Sector	23	20

As set out at: <https://www.gov.je/health/coronavirus/health/pages/covid19testingprogramme.aspx>

we continue to encourage those whose type of work falls within any of the categories listed on the website to participate in the workforce screening programme at the recommended frequency of testing.

2.15 Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding the rates of Income Support components (WQ.54/2021):

Question

Further to the response to Written Question 9/2021, will the Minister –

- (a) explain why the response drew a comparison between the change in average weekly claims for Income Support and the prospective uprate in Income Support components on the basis of R.P.I.;
- (b) state the percentage rise in the components labelled as Basic Rates (i.e. removing the rental components) in order to indicate changes in disposable income compared with R.P.I.; and
- (c) state the percentage rise in the rental components over the period 2014 to 2021?

Answer

- (a) Written question 9/2021 requested information on Income Support components and included a request to confirm “how much they would have been uprated by if they had been updated to match inflation”. The answer to question 9/2021 used the Retail Price Index (RPI) as the most common measure of inflation.
- (b) The information given in question 9 provided full details of Income Support rates between January 2014 and January 2021. It noted that:

The Income Support scheme is based on a combination of components and disregards, ensuring that each household claim takes full account of the size and nature of the household and its income and other assets.

There have been many changes to the Income Support scheme since 2014. The disregard applied to earned income has increased from 20% to 26% over this period. For each £100 of wages received in a week, an Income Support claimant now retains £26, compared to a retention of £20 in 2014. The income disregard now applies to earned income, pension income and maintenance income received by household members.

The RPI for December 2013 was 156.4. The RPI for December 2020 was 181.4. Components would have been uprated by 16% if they had been updated to match inflation. The average income support weekly claim amount over the same time has increased by 18% from £218 per week to £257 per week.

It is not possible to calculate disposable income from the Basic Rates. Household disposable income will depend on household composition and income.

The percentage change from the 2014 rate to the 2021 rate is shown in the right-hand column of the table below.

(c) The percentage rise in rental components is shown in the right-hand column of the table.

Table of 2014 and 2021 Income Support component rates and the percentage change over this period.

Note: This table cannot be used to calculate changes in overall Income Support levels or the disposable income of Income Support claimants. The Income Support scheme is based on a combination of components and disregards. The average Income Support weekly claim amount over the same time has increased by 18% from £218 per week to £257 per week.

Category	Component	2014	2021	% increase
Basic Rates	Adult	92.12	99.61	8%
Basic Rates	Single Parent (Adult + single parent supplement)	132.51	140	6%
Basic Rates	First Child	63.98	77.98	22%
Basic Rates	Subsequent Child		69.23	8%
Basic Rates	Household	51.31	55.51	8%
Carer Rate	Carer	46.97	50.82	8%
<i>Housing Rental Caps</i>	<i>Hostel</i>	80.64	108.22	34%
<i>Housing Rental Caps</i>	<i>Lodgings</i>	115.71	142.52	23%
<i>Housing Rental Caps</i>	<i>Rented Bedsit</i>	115.71	142.52	23%
<i>Housing Rental Caps</i>	<i>Rented 1 Bed Flat</i>	165.27	210.07	27%
<i>Housing Rental Caps</i>	<i>Rented 2 Bed Flat</i>	207.9	269.01	29%
<i>Housing Rental Caps</i>	<i>Rented 3 Bed Flat</i>	236.18	288.68	22%
<i>Housing Rental Caps</i>	<i>Rented 1 Bed House</i>	187.74	240.87	28%
<i>Housing Rental Caps</i>	<i>Rented 2 Bed House</i>	244.58	305.76	25%
<i>Housing Rental Caps</i>	<i>Rented 3 Bed House</i>	272.79	357.07	31%
<i>Housing Rental Caps</i>	<i>Rented 4 Bed House</i>	295.19	389.2	32%
<i>Housing Rental Caps</i>	<i>Rented 5 Bed House</i>	321.16	430.85	34%
Social Housing	All types	Uncapped from April 2014		
Housing Owner Occupied Rates	Owner Occupied Bedsit	6.02	6.93	15%
Housing Owner Occupied Rates	Owner Occupied 1 Bed Flat	6.02	6.93	15%

Housing Rates	Owner Occupied	Owner Occupied 2 Bed Flat	6.02	6.93	15%
Housing Rates	Owner Occupied	Owner Occupied 3 Bed Flat	8.54	9.8	15%
Housing Rates	Owner Occupied	Owner Occupied 4 Bed Flat	12.11	13.86	14%
Housing Rates	Owner Occupied	Owner Occupied 1 Bed House	6.02	6.93	15%
Housing Rates	Owner Occupied	Owner Occupied 2 Bed House	8.54	9.8	15%
Housing Rates	Owner Occupied	Owner Occupied 3 Bed House	12.11	13.86	14%
Impairment Rates		Personal Care Level 1	22.96	24.92	9%
Impairment Rates		Personal Care Level 2	101.15	109.34	8%
Impairment Rates		Personal Care Level 3	145.25	157.01	8%
Impairment Rates		Mobility Level 1	22.96	24.92	9%
Impairment Rates		Mobility Level 2	45.92	49.77	8%
Impairment Rates		Clinical Costs Level 1	3.15	3.5	11%
Impairment Rates		Clinical Costs Level 2	6.3	7	11%
Category		Component	2014	2021	% increase
Childcare Hourly rate		Child Day Care Age 0 - 2	6.27	7.14	14%
Childcare Hourly rate		Child Day Care Age 3 - 4	4.9	5.57	14%
Childcare Hourly rate		Child Day Care Age 5 - 11	4.85	5.57	15%

2.16 Deputy G.P. Southern of St. Helier of the Minister for External Relations regarding the impact of Brexit (WQ.56/2021):

Question

Given the impact of Brexit on the U.K.'s access to European financial markets, will the Minister advise –

- (a) when, if at all, he expects to see significant progress on the U.K. gaining access through the 'equivalence' of regulations;
- (b) what part, if any, he will have in any equivalence negotiations; and
- (c) whether there has been any loss in business volumes in Jersey's own finance sector in response to the lack of agreement between U.K. and the E.U. or any transfer of business to European countries?

Answer

- (a) The EU and UK have committed to agree a Memorandum of Understanding by March 2021 establishing the framework for regulatory cooperation, which will provide for arrangements on how to deal with equivalence determinations. The EU has recently published draft decisions on adequacy under the General Data Protection Regulation and the Law Enforcement Directive. There has been no indication when the EU will make equivalence decisions on the UK regulatory regime beyond this.
- (a) Decisions on equivalence taken by the EU and UK with respect to the other party are subject to bilateral discussions, to which I would not expect Jersey to participate as a third party.
- (b) We have seen not seen significant impact on our business volumes. The stability and the certainty provided by Jersey has proved attractive to international fund managers as reflected in the continued growth in funds.

2.17 Deputy I. Gardiner of St. Helier of the Minister for the Environment regarding the Blue Badge Scheme (WQ.57/2021):

Question

In relation to the Jersey Blue Badge Scheme, will the Minister advise –

- (a) whether his Department has produced a report into parking for the Scheme and, if so, why;
- (b) when any such report was initiated;
- (c) whether the Minister for Infrastructure was consulted prior to the instigation of any such report; and, if not, why not given that this Minister has responsibility for car parks and Parking Control; and
- (d) whether there is any intention to liaise with the Parking Control Office (which holds relevant information) in order to avoid any duplication?

Answer

To my knowledge, as the Jersey Blue Badge Scheme has no immediate relation to the portfolio of the Minister for the Environment, no report has been produced. The scheme and relevant legislation fall within the remit of the Minister for Infrastructure.

2.18 Deputy I. Gardiner of St. Helier of the Minister for Infrastructure regarding the Blue Badge Scheme (WQ.58/2021):

Question

In relation to the Jersey Blue Badge Scheme, will the Minister provide the following details for each year for the last three years, 2018 to 2020 –

- (a) the total number of applications to the Scheme;
- (b) the number of applications approved together with a breakdown by category;
- (c) the number of applications rejected, and the reasons given for rejection;
- (d) the number of applications that were renewals;
- (e) a breakdown of the total cost to the applicant of an application, to include the cost of the application fee and the cost of any documents that are required; and
- (f) a breakdown of the total administrative costs of a single application?

Answer

Under the Road Traffic Law (Jersey) 1956 the Minister may appoint such other Authority as the Minister thinks fit, and on terms as may be agreed, to issue Blue Badges on the Minister's behalf.

The Minister for Infrastructure, under a long-standing agreement, has appointed the Parish of St Helier to undertake this function and provided for within the specified fee the Parish to recoup its reasonable costs, as permitted by the law.

The application requires a medical declaration that the applicant's doctor must complete or, if they have impaired sight, certification from Eyecan (formerly the Jersey Blind Society).

The applicant must also provide two recent passport type photographs and a fee of £15. Where a permit is being renewed old badge must be submitted before the Parish Customer Services Team can issue the new one. A badge is valid for a period of 3 years.

- a. See answers (b) and (c) below.
- b. Number of applications approved.
 - a. 2020 – 1,355
 - b. 2019 – 1,594
 - c. 2018 – 1,514

Details of medical categories are not held as this information remains confidential between the certifying medical practitioner and the applicant. It is important to note that not all disabilities are physical or visible, the overarching criteria is that the applicant has a permanent and substantial disability, which causes inability to walk or very considerable difficulty in walking or is registered blind with Eyecan.

- c. Rejected applications not recorded, but anecdotally the Parish Customer Service Team report very few. When rejected, it is usually due to incomplete section on form. Once brought to the applicant's attention, the form is amended and resubmitted at no additional cost.
- d. Renewals:
 - a. 2020 – 776
 - b. 2019 - 895
 - c. 2018 – 848
- e. Fee is £15 and the badge is valid for 3 years. Application forms are provided free of charge, some medical practices may charge for a signature or a consultation if required.
- f. Breakdown of costs per application: Consumables (badge with security features, lamination pouch, information leaflets, stationary etc.) £7.60, staff time £6.90 and postage £0.53.

2.19 Deputy M.R. Higgins of St. Helier of the Minister for Health and Social Services regarding the recording of incidents in the Hospital and the wider health service (WQ.59/2021):

Question

Will the Minister advise members –

- (a) how the Hospital and Health service record the details of incidents involving injury to patients (whether in theatre, post-theatre, in wards, during transfer from one part of the hospital or health facilities to another or in post treatment or supportive services);
- (b) where any such records are kept, how patients can access them, and what restrictions on access to them, if any, there are;

- (c) what vetting or quality control, if any, is taken in compiling such reports to ensure their accuracy; and
- (d) what use is made of these records to ensure that lessons are learned?

Answer

- (a) Health & Community Services records patient safety incidents resulting in harm, no harm, or near misses on an application called Datix. Datix is a risk management system that is considered to be the industry standard. Datix is used by over 70% of the NHS and widely across the world by other health and non-health organisations.
- (b) Records can be made available via a ‘Subject Access Request’ by the individual to which the incident relates or by a person who has the verified authority (consent) of the individual to which the incident relates. A Subject Access Request is a right afforded under Data Protection (Jersey) Law 2018. Data that relates to other people (third parties) is restricted to protect their privacy, and records may be restricted should a medical professional consider the disclosure may cause harm to the individual or others should the information be disclosed.
- (c) All incidents reported are triaged daily in a standardised way to ensure they are categorised correctly, which supports data accuracy. Furthermore, nurses, doctors, allied health professionals and other clinical / non-clinical members of staff routinely complete investigations for all reported incidents where further checks are made to ensure accuracy.
- (d) All incident investigations require ‘Lessons learned’ and ‘Actions taken (to reduce the likelihood of reoccurrence)’ to be identified, documented and shared with wards/teams.

2.20 Deputy M.R. Higgins of St. Helier of the Minister for Health and Social Services regarding the recording of incidents in the Hospital and the wider health service (WQ.60/2021):

Question

Will the Minister, in relation to incident reports generated in the Hospital and health service –

- (a) advise how many such reports have been generated each year since 2017 to the present date, in each department or category; and
- (b) detail the nature of the incidents reported in each of the years in paragraph (a), the frequency in which they occurred, and the lessons learned, and actions taken, in relation to them?

Answer

A safety incident is any unintended or unexpected event which could have led, or did lead, to harm. Incidents are investigated to support learning, which, in turn, helps to keep patients safe; incident reporting is actively encouraged across all health and social care settings locally, nationally and internationally.

A high level of incidents reported reflects an improved reporting culture and should not be interpreted as a decrease in the safety of the organisation. Equally, a decrease cannot be interpreted as an increase in safety.

When incidents or near misses occur in care it is vital they are recorded to ensure learning can take place. This means that people work out if anything has gone wrong and why; this way effective actions can be taken locally to help reduce risk. The intention is to protect patients from harm.

Patient safety related incident reports from NHS Trusts are uploaded from their risk management systems into a central repository, which receives over two million incident reports each year.

It is unlikely that any direct comparison with other organisations can be made in health and social care settings, such as HCS, where there are a broad range of services under one roof – care settings

which include acute, mental health, social, learning disability and ambulance services. However, by way of an example, last year the Isle of Wight reported 4,400 incidents and some large acute trusts in the UK can be reporting in the region of over 10,000 incidents per year.

- a) A total of 15,212 incidents were reported between January 2017 and December 2020. This number includes various affected parties (patient/client/service users, under 18s, employees, contractors, visitors and the organisation (HCS).

Below are the totals by year from 2017 to 2020. We are constantly looking to increase the reporting of incidents to improve safety through learning.

2017	2018	2019	2020
3796	4035	3613	3768

High levels of incidents reported reflects an improved reporting culture and should not be interpreted as a decrease in the safety of HCS. Equally, a decrease cannot be interpreted as an increase in safety.

- b) 93% of all incidents result in low harm or no harm. All patients involved in safety events are advised of the event and the nature of any harm. For example, if the nurse gives the wrong dose of a medication this is escalated to the doctors and pharmacists for discussion and patient reviewed, if required. The patient is informed and an explanation provided as to whether this is a no harm event or has any potential side effects. This is documented in the patient record, including the conversation with the patient regarding the incident. Where possible, individual patients are involved in supporting or identifying learning.

We have over 25 categories of incidents, examples include: patient accident, such as slips, trips and falls; implementation of care and ongoing monitoring/review; medication error; access, admission, transfer, discharge (including missing patient); behaviour - violence and aggression; infection control; devices and equipment.

The categories are further broken down into a range of over 200 subcategories and hundreds of potential subgroups – for example, if the main category is an accident that may/did result in injury, this could include events such as a collision with an object; entrapment; a needle stick injury or a moving and handling accident, plus many more.

The top categories reported across HCS will vary according to the care setting because of differences in care and/or treatment provided – for example, in HCS this may range from acute hospital, maternity, social, safeguarding, mental health and learning disabilities services.

Falls / pressure ulcers / medication errors remain among the top preventable harms within acute NHS organisations and HCS has a similar profile. The economies of scale and the amalgamation of many different services under one health (physical and mental) and social care organisation can make comparisons difficult.

The data on Lessons Learned and Action Taken consists of qualitative data and can contain large amounts of narrative, therefore, due to the nature of the data and the broad date range requested, providing this full account is not practical as it would run to thousands of pages.

However, lessons from individual incidents and themes are shared at ward level and department level, across and between care groups at their monthly Quality & Safety Governance meetings. Presentations related to some incident learning are also delivered at ward/department meetings, leadership/clinical /care speciality meetings and clinical audit days. Individual teams at ward and department level have safety huddles where events are discussed and learning circulated.

The incident management data, including learning and subsequent actions, are presented by each care group at their performance review every five weeks. This data feeds into the HCS Quality & Risk Committee, which reports to the HCS Board. This forms part of our governance assurance structure that is monitored by the Senior Leadership and Ministerial teams.

2.21 Deputy M.R. Higgins of St. Helier of the Minister for Treasury and Resources regarding the Criminal Offences Confiscation Fund (WQ.61/2021):

Question

Will the Minister advise how much funding has been allocated over the last 5 years, from the Government Plan or budget, from the Criminal Offences Confiscation Fund or from any other special purpose fund, to the following organisations, breaking such expenditure down by funding source and the purpose of the funding –

- (a) the Judiciary (i.e. courts and tribunals);
- (b) the Law Officers' Department;
- (c) the Police (both Honorary and States); and
- (d) any other organization or body that is funded from general funds, but that also has access to such special purpose funds?

Answer

This answer provides supplementary information to the original answer tabled on 22nd February 2021. That answer is reproduced at the foot of this document.

This answer lists all allocations from the Government Plan or budget to organisations listed in (a) to (c). To answer part (d) of the question literally would mean listing all allocations to all departments (who subsequently allocate to other bodies by grant) as already set out publicly in Medium Term Financial Plans. Budgets and Government Plans. This answer assumes that the Deputy is primarily interested in bodies listed (or similar to) those listed in (a) to (c).

The following table shows allocations from the Medium-Term Financial Plan, annual Budgets and Government Plans to the bodies listed in parts (a) to (c) of the question.

Year of funding	Recipient	Approval document	Source of funding	Reason	Allocation (£'000)
2016	Bailiffs Chambers	MTFP 2016-2019	Consolidated Fund	Departmental Revenue Expenditure	1,564
2016	Judicial Greffe	MTFP 2016-2019	Consolidated Fund	Departmental Revenue Expenditure	6,616
2016	LOD	MTFP 2016-2019	Consolidated Fund	Departmental Revenue Expenditure	7,798
2016	Probation	MTFP 2016-2019	Consolidated Fund	Departmental Revenue Expenditure	1,991
2016	Viscount's	MTFP 2016-2019	Consolidated Fund	Departmental Revenue Expenditure	1,321
2016	SOJP	MTFP 2016-2019	Consolidated Fund	Departmental Revenue Expenditure	24,423
2017	Bailiffs Chambers	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	1,688
2017	Judicial Greffe	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	6,558
2017	LOD	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	7,556
2017	Probation	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	2,014
2017	Viscount's	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	1,341
2017	SOJP	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	23,588
2017	LOD	Ministerial Decision	Criminal Offences Confiscation Fund	Revenue - International Centre for Asset Recovery	250
2018	Bailiffs Chambers	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	1,700
2018	Judicial Greffe	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	6,497
2018	LOD	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	7,324
2018	Probation	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	2,018
2018	Viscount's	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	1,350
2018	SOJP	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	23,068
2018	CCA	MTFP 2016-2019	Criminal Offences Confiscation Fund	Capital - Prison Improvement Works Phase 6	6,500
2018	CCA	MTFP 2016-2020	Consolidated Fund	Capital - Prison Improvement Works Phase 6	1,733
2018	Dept of Environment	Ministerial Decision	Criminal Offences Confiscation Fund	Revenue - Combatting Fly Tipping and associated behaviour	6
2018	SOJP	Ministerial Decision	Criminal Offences Confiscation Fund	Revenue - Jersey Fraud Prevention Forum	50
2019	Bailiffs Chambers	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	1,712
2019	Judicial Greffe	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	6,430
2019	LOD	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	7,087
2019	Probation	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	2,022

2019	Viscount's	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	1,346
2019	SOJP	MTFP Add 2017-2019	Consolidated Fund	Departmental Revenue Expenditure	22,468
2019	JHA	Ministerial Decision	Criminal Offences Confiscation Fund	Capital - Living Hope Life Centre	62
2020	Bailiffs Chambers	GP20	Consolidated Fund	Revenue Head of Expenditure	2,222
2020	Judicial Greffe	GP20	Consolidated Fund	Revenue Head of Expenditure	7,474
2020	LOD	GP20	Consolidated Fund	Revenue Head of Expenditure	8,657
2020	Probation	GP20	Consolidated Fund	Revenue Head of Expenditure	2,113
2020	Viscount's	GP20	Consolidated Fund	Revenue Head of Expenditure	1,824
2020	SOJP	GP20	Consolidated Fund	Revenue Head of Expenditure	23,805
2020	Viscount's	GP20	Consolidated Fund	Capital - Phoenix software (£0 spend in 2020. Project deferred to 2021)	45
2020	Judicial Greffe	GP20	Consolidated Fund	Capital - Court digitisation	500
2020	SOJP	GP20	Consolidated Fund	Capital - Minor Capital (Police)	200
2020	JHA-Police	GP20	Consolidated Fund	Capital - Equipment Replacement	170
2020	GHE	GP20	Criminal Offences Confiscation Fund	Capital - Prison improvements Phase 6b	1,714
2020	Judicial Greffe	GP20	Criminal Offences Confiscation Fund	Capital - Conversion Courtroom 1 Magistrates Court (£10k spent in 2020. Project deferred to 2021)	450
2020	JHA-Police	GP20	Criminal Offences Confiscation Fund	Dewberry House (£250k spent in 2020. Project deferred to 2021)	1,000
2021	Bailiffs Chambers	GP21	Consolidated Fund	Revenue Head of Expenditure	1,841
2021	Judicial Greffe	GP21	Consolidated Fund	Revenue Head of Expenditure	7,593
2021	LOD	GP21	Consolidated Fund	Revenue Head of Expenditure	8,452
2021	Probation	GP21	Consolidated Fund	Revenue Head of Expenditure	2,371
2021	Viscount's	GP21	Consolidated Fund	Revenue Head of Expenditure	1,712
2021	SOJP	GP21	Consolidated Fund	Revenue Head of Expenditure	26,804
2021	Viscounts	GP21	Consolidated Fund	Capital - Phoenix Software	45
2021	Judicial Greffe	GP21	Consolidated Fund	Capital - Court digitisation	1,648
2021	SOJP	GP21	Consolidated Fund	Capital -Minor Capital (Police)	200
2021	SOJP	GP21	Consolidated Fund	Capital - Equipment Replacement (JHA-Police)	170
2021	Judicial Greffe	GP21	Criminal Offences Confiscation Fund	Capital - Conversion Courtroom 1 Magistrates Court	440
2021	JHA - SOJP	GP21	Criminal Offences Confiscation Fund	Dewberry house	1,800
2021	JHA	GP21	Criminal Offences Confiscation Fund	SOJP Firearms Range	1,200
2021	IHE	GP21	Criminal Offences Confiscation Fund	Prison Improvements - Phase 6b	90
2021	JHA	GP21	Criminal Offences Confiscation Fund	Capital - Prison Phase 8	666
2021	Judicial Greffe	GP21	Consolidated Fund	Capital - Piquet House Family Court	1,071

Abbreviations used:

LOD Law Officers' Department

SOJP States of Jersey Police

CCA Community and Constitutional Affairs

JHA Justice and Home Affairs

IHE Infrastructure, Housing and Environment

Answer tabled on 22nd February 2021

The table below shows allocations made from the Criminal Offences Confiscation Fund to organisations or bodies since 2017. There were no allocations from that Fund in 2016. There have been no known allocations from any other special purpose fund to organisations listed in (a) to (d) in the last 5 years.

Date request received	Recipient	Reason for request	Amount allocated
29/09/2017	Community and Constitutional Affairs	Prison plan Phase 6	£6,500,000
02/10/2018	Department of the Environment	Combatting Fly-Tipping and associated behaviour	£6,300

17/10/2018	States of Jersey Police - Jersey Fraud Prevention Forum Panel member	Jersey Fraud Prevention Forum - protect Islanders from crime	£50,000
09/07/2019	Justice and Home Affairs - (via capital programme)	Prison Phase 7a - Demolition of old buildings and relocate Atlas lock hub	£1,803,762
30/08/2019	Justice and Home Affairs - capital	Living Hope Life Centre	£61,500
27/08/2020	Justice and Home Affairs - (via capital programme)	Firearms Range	£1,200,000
27/08/2020	Bailiff's Chambers - (via capital programme)	Magistrates Court - Conversion of Courtroom 1	£450,000
27/08/2020	States of Jersey Police - (via capital programme)	Dewberry House - SARC and Child's House Facility	£2,550,000
27/08/2020	Justice and Home Affairs - (via capital programme)	Prison Phase 8 - New pre-release Unit and hard landscaping	£2,408,000

2.22 Deputy L.B.E. Ash of St. Clement of the Minister for Economic Development, Tourism, Sport and Culture regarding the football goals at F.B. Fields and Le Rocquier School (WQ.62/2021):

Question

Will the Minister advise why the football goals were removed from F.B. Fields and Le Rocquier School playing fields during the February half-term, and whether or not this is standard Departmental policy; and if this is standard practice, will he explain why?

Answer

This is not standard practice at either location but goals have been removed to enable essential maintenance and repair work to take place.

FB Fields

Large groups of more than 10 have been using the pitches during very wet conditions and the grass playing surface had been churned and damaged as a result. User groups including Jersey Football Combination and Schools were consulted and they confirmed that they no longer required the pitches so the goals were removed. Grass seed is on order and as soon as it arrives, the whole field will be

renovated. If left, the surfaces would have been in extremely poor condition to the extent that surface smoothness would have been a health and safety concern for the cricket season. Casual family use of the field is still permitted.



Le Rocquier School Playing Fields

The school has been consulted by the Playing Fields section of Infrastructure Housing and Environment, which has the contract for maintenance and marking work on this playing field. The school reported that they were not using the goals and so they were taken down to enable early renovation of the field and preparations to being for the summer term.

2.23 Senator S.Y. Mézec of the Minister for Treasury and Resources regarding Income tax assessment bands for 2011-2021 (WQ.63/2021):

Question

Further to the answer to Written Question 40/2021, will the Minister provide an update on the information that was provided in the response to the Freedom of Information request entitled ‘Income tax assessed in different bands 2003, 2006, 2009 and 2012’ in the same format, but for each of the last ten years?

Answer

The total income figures provided are for total income assessable for tax based on data held in February 2021. This is because where the income assessed differs from income declared on an individual tax return, the actual income declared will not be recorded on the Revenue Jersey legacy system.

In respect of the total income tax assessed, Revenue Jersey has provided details of the tax liability.

(Taxpayers rounded to nearest 10, Total Income and Tax Liability rounded to £100k. Columns may not sum due to rounding.)

2009

Income Range £	Taxpayers	Total £'m	Income	Tax £'m	Liability
less than 50K	44380		989.2		90.4
50K to 99K	9620		658.3		95.2
100K to 199K	2910		384.5		62.6
200K to 299K	510		123.1		19.2
300K to 399K	190		64.8		9.8
400K to 499K	80		38.0		5.8
500K to 999K	150		103.3		13.2
>=£1m	60		128.4		9.2
Total Including TAS	57900		2,489.6		305.4
Tax deducted as source (TAS)					13.6
Total Including TAS					319.1

2010					
Income Range £	Taxpayers	Total £'m	Income	Tax £'m	Liability
less than 50K	44020		987.4		93.0
50K to 99K	9720		665.3		99.4
100K to 199K	3050		404.7		69.4
200K to 299K	530		126.3		21.6
300K to 399K	190		66.1		10.2
400K to 499K	110		48.1		7.3
500K to 999K	140		95.4		13.7
>=£1m	70		129.6		14.6
Total Including TAS	57830		2,522.9		329.2
Tax deducted as source (TAS)					9.0
Total Including TAS					338.2

2011					
Income Range £	Taxpayers	Total £'m	Income	Tax £'m	Liability
less than 50K	44200		988.1		93.1

50K to 99K	10100	692.0	105.6
100K to 199K	3220	427.7	75.2
200K to 299K	580	139.7	24.0
300K to 399K	200	67.4	11.1
400K to 499K	110	49.2	7.5
500K to 999K	190	130.4	20.5
>=£1m	70	144.6	11.7
Total Including TAS	58660	2,639.0	348.7
Tax deducted as source (TAS)			7.0
Total Including TAS			355.7

2012					
Income Range £	Taxpayers	Total £'m	Income	Tax £'m	Liability
less than 50K	43450		976.2		87.2
50K to 99K	10260		706.2		106.3
100K to 199K	3390		450.1		79.0
200K to 299K	610		147.4		25.6
300K to 399K	200		69.1		11.5
400K to 499K	120		51.4		8.0
500K to 999K	170		116.4		17.4
>=£1m	60		115.0		15.0
Total Including TAS	58260		2,631.9		350.0
Tax deducted as source (TAS)					5.6
Total Including TAS					355.6

2013					
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Income Range £	Taxpayers	Total £'m	Income	Tax £'m	Liability
less than 50K	42320		975.8		84.7
50K to 99K	10470		720.4		108.1
100K to 199K	3520		466.9		82.1
200K to 299K	610		147.0		26.4
300K to 399K	200		65.6		11.7
400K to 499K	90		40.5		6.4
500K to 999K	190		129.3		21.1
>=£1m	50		167.2		8.2
Total Including TAS	57440		2,712.7		348.7
Tax deducted as source (TAS)					14.3
Total Including TAS					363.0

2014					
Income Range £	Taxpayers	Total £'m	Income	Tax £'m	Liability
less than 50K	41910		979.7		82.5
50K to 99K	10750		742.4		107.2
100K to 199K	3750		499.2		86.8
200K to 299K	650		156.2		27.8
300K to 399K	220		74.3		12.8
400K to 499K	100		44.3		7.2
500K to 999K	190		126.0		19.3
>=£1m	70		159.8		13.6
Total Including TAS	57650		2,781.9		357.3
Tax deducted as source (TAS)					4.4
Total Including TAS					361.7

2015					
Income Range £	Taxpayers	Total £'m	Income	Tax £'m	Liability
less than 50K	43030		1,005.7		85.4
50K to 99K	11120		768.3		111.4

100K to 199K	3970	529.5	92.3
200K to 299K	730	175.6	31.4
300K to 399K	220	75.6	13.0
400K to 499K	110	48.0	7.7
500K to 999K	210	140.3	23.0
>=£1m	80	152.3	14.4
Total Including TAS	59470	2,895.3	378.5
Tax deducted as source (TAS)			4.6
Total Including TAS			383.1

2016					
Income Range £	Taxpayers	Total £'m	Income	Tax £'m	Liability
less than 50K	43730		1,024.5		88.8
50K to 99K	11220		774.6		113.4
100K to 199K	4250		566.8		99.2
200K to 299K	790		188.9		34.4
300K to 399K	230		79.2		13.8
400K to 499K	120		53.7		9.1
500K to 999K	260		168.8		27.4
>=£1m	100		194.1		18.8
Total Including TAS	60690		3,050.6		404.9
Tax deducted as source (TAS)					4.4
Total Including TAS					409.3

2017					
Income Range £	Taxpayers	Total £'m	Income	Tax £'m	Liability
less than 50K	43660		1,032.2		90.2
50K to 99K	11720		810.3		118.6
100K to 199K	4480		602.7		105.8
200K to 299K	800		190.4		34.9
300K to 399K	290		100.0		17.1
400K to 499K	110		50.3		9.0

500K to 999K	250	170.6	28.5
>=£1m	90	229.6	17.5
Total Including TAS	61410	3,186.2	421.7
Tax deducted as source (TAS)			5.0
Total Including TAS			426.7

2018			
Income Range £	Taxpayers	Total Income £'m	Tax Liability £'m
less than 50K	43430	1,016.8	90.7
50K to 99K	12150	838.5	123.2
100K to 199K	4960	666.5	116.2
200K to 299K	900	214.3	39.4
300K to 399K	290	100.5	17.9
400K to 499K	130	59.2	10.5
500K to 999K	270	182.1	32.1
>=£1m	100	216.1	18.4
Total Including TAS	62230	3,294.0	448.3
Tax deducted as source (TAS)			12.7
Total Including TAS			461.0

Notes:

Since the FOI “Income tax assessed in different bands 2003, 2006, 2009 and 2012 (FOI)” produced 8th April 2015, a number of assessments will have been revised and taxpayer entities may have changed circumstances. The legacy computer system did not have the functionality to store this information and therefore this data is presented as of the position on 25/02/2021.

Some income suffers tax deducted at source (TAS) and paid by another entity (for example, a dividend), the amount relating to this tax has been shown on a separate line.

A 'Taxpayer' may be defined as:

- Single individuals
- Married couples / civil partnerships that have not opted for separate assessments (counted as one Individual Taxpayer or one Individual Non- Taxpayer)
- Married couples / civil partners that have opted for separate assessments (counted as two Individual Taxpayers or two Individual Non-Taxpayers).

This data includes the income and tax relating to High Value Residents (HVRs)

2.24 Senator S.Y. Mézec of the Minister for Treasury and Resources regarding incomes above £1 million and relative low incomes (WQ.64/2021):

Question

Will the Minister provide the following information, by year, for the period 2010 to date –

- (a) a breakdown of the total amount of income declared by all Island residents with incomes of, or exceeding, £1 million; and
- (b) a breakdown of the total amount of income declared by all Island residents with incomes at, or below, 60% of the median income (i.e. those living in 'relative low income')?

Answer

a) Following discussion with the Senator this information is presented for registered taxpayers and is based on data as it stood in February 2021.

A 'Taxpayer' may be defined as:

- Single individuals
- Married couples / civil partnerships that have not opted for separate assessments (counted as one Individual Taxpayer or one Individual Non- Taxpayer)
- Married couples / civil partners that have opted for separate assessments (counted as two Individual Taxpayers or two Individual Non-Taxpayers).

(Taxpayers rounded to nearest 10, income rounded to £100k. Columns may not sum due to rounding.)

Year	Number of Taxpayers	Total Earned Income	Total Unearned Income	Total Income
2010	70	£58.1m	£71.5m	£129.6m
2011	70	£29.9m	£114.7m	£144.6m
2012	60	£45.8m	£69.2m	£115.0m
2013	50	£25.0m	£142.3m	£167.2m
2014	70	£43.7m	£116.1m	£159.8m
2015	80	£40.6m	£111.7m	£152.3m
2016	100	£71.2m	£122.9m	£194.1m
2017	90	£57.5m	£172.2m	£229.6m

2018	100	£44.2m	£172.0m	£216.1m
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b) The Minister is grateful for the Senator’s agreement to reply to this part at a future date due to the degree of work needed to answer.

2.25 Senator K.L. Moore of the Chief Minister regarding letters of instruction issued by Ministers (WQ.65/2021):

Question

Will the Chief Minister state how many letters of instruction have been issued by Ministers since the 2018 election, with the information broken down by year, Minister, and the subject of the decision?

Answer

Accountable Officers (who are normally the Directors General) are appointed by the Principal Accountable Officer (PAO) in government departments. The Public Finances Law 2019 places a personal responsibility on the Accountable Officer for a number of matters, including the propriety, regularity and value for money (economy, efficiency and effectiveness) of all income and expenditure for their area(s) of responsibility. In this respect Accountable Officers are accountable to the PAO and answerable to the Public Accounts Committee.

Letters of instruction are a procedure under the Public Finances Manual where an Accountable Officer considers that a course of action requested by the Minister responsible for their department’s activity may have implications, specifically for these statutory responsibilities of propriety or regularity; economy, efficiency and effectiveness. In such instances the Accountable Officer will write to the Minister setting out their concerns. If the Minister still wishes to proceed, the Accountable Officer will request a formal letter of instruction. A copy of this letter must be sent to the Comptroller and Auditor General. The Public Accounts Committee should then be expected to recognise that the Accountable Officers bears no personal responsibility for the course of action.

The Chief Minister understands that the Treasury & Resources Minister has requested the Treasurer of the States for advice with the aim of publishing such letters in the future.

It is entirely possible for an Accountable Officer to understand and agree with the need or policy imperative for a particular course of action but still require a letter of instruction because of concerns relating to these narrower responsibilities.

The Chief Minister understands that four formal letters of instruction issued since the 2018 election. The first three concern support schemes for businesses suffering detriment as a result of Covid-19 and resulted from a need to accelerate that support. The fourth relates to an Education policy matter.

The first, dated 14th December 2020 from the Minister for Economic Development, Tourism, Sport and Culture to the Acting Director General, Economy (who is the Accountable Officer for that area of expenditure), concerned the Attractions and Events Scheme. The Accountable Officer had pointed out a number of risks relating to the Scheme. The Minister acknowledged these risks, but considered that they were outweighed by the urgent need to provide additional support to this sector. In instructing that the Scheme should continue, the Minister noted checks and balances in place and that the Scheme was supported by the Council of Ministers in their meeting of 16th October. The Scheme was funded from within the head of expenditure available to the Acting Director General, Economy.

The second, dated 29th January 2021 from the Minister for Treasury and Resources to the Treasurer of the States and the Director General – Customer and Local Services, concerned Phase 4 of the Co-funded Payroll Scheme (CFPS). Those Officers had written to the Minister on 28th January 2021. The Minister considered that, taking into account the economic advice received, the representations made

by the business community, and the recommendations of her ministerial colleagues, the package of changes to the CFPS proposed by officers, and amended by Ministers, should be implemented in light of the need to deliver support and liquidity to the economy urgently. The amendment to the Scheme had been approved by the Competent Authorities Ministers and Ministers responsible for the CFPS on 20th January 2021. The Minister for Treasury and Resources accordingly allocated funding from the Covid Reserve by public ministerial decision (MD-TR-2021-0011).

The third, dated 8th February 2021 from the Minister for Economic Development, Tourism, Sport and Culture to the Acting Director General, Economy (who is the Accountable Officer for that area of expenditure) concerned the Fixed Cost Support Scheme. In this instance the Accountable Officer had expressed concern over a number of risks, but the Minister instructed that the Scheme be introduced to provide extra support for a broad range of impacted businesses not eligible for help under other Schemes. In doing so the Minister noted that the Scheme had been supported by the Competent Authorities Ministers and the Economic Recovery Political Oversight Group, and had a number of safeguards built into it. The Scheme was funded from within the head of expenditure available to the Acting Director General, Economy.

The fourth letter of instruction was issued on 25th February 2021 from the Minister for Children and Education to the Director General of Children, Young People, Education and Skills (the Accountable Officer). The Minister instructed the Accountable Officer to implement changes to the Nursery Education Fund (NEF) so that it offers up to 30 hours funded education each week, for 38 weeks, during school term-time only, from September 2021. The Minister further instructed an increased hourly rate for the registered providers to £6.70 per NEF funded hour. The Accountable Officer had identified a number of risks. The Minister considered that these risks were outweighed by the urgent need to honour the Government’s commitments made by the previous Education Minister. CYPES will be expected to plan to meet the cost of the proposals from within their head of expenditure.

Letters of instruction are a valid and appropriate mechanism, to be used where necessary as part of an overall framework of good governance, used in Jersey and elsewhere, enabling Ministers to consider the wide range of issues they are required to, and allowing Accountable Officers to discharge their responsibilities.

The Jersey process outlined above is based upon a similar process in the UK, where Ministerial Directions are issued if Accountable Officers express concerns. Members may be interested to note that 19 such directions were issued by UK Ministers in 2020, and 2 so far in 2021. Further details can be found at <https://www.gov.uk/government/collections/ministerial-directions#2020>

2.26 Senator S.Y. Mézec of the Chair of the Privileges and Procedures Committee regarding States Members as private residential landlords (WQ.66/2021):

Question

Will the Chair provide a list of every sitting States Member who has declared an interest as a private residential landlord during previous States debates, and (if available) the details of that interest in each case?

Answer

Member	Debate/Question	Details, if applicable
Senator L J Farnham Senator S C Ferguson Senator J A N Le Fondré The Connétable of Grouville The Connétable of St. John	Draft Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 (Appointed Day) Act 201-	The members listed declared an interest in respect of being a tenant or a landlord. The Members listed remained in the Chamber for the

<p>The Connétable of St. Peter The Connétable of St. Ouen The Deputy of Grouville Deputy M Tadier of St. Brelade Deputy S J Pinel of St. Clement The Deputy of St. Martin The Deputy of St. Ouen The Deputy of St. Mary Deputy G J Truscott of St. Brelade Deputy J H Young of St. Brelade Deputy K F Morel of St. Lawrence Deputy G C U Guida of St. Lawrence The Deputy of St. Peter The Deputy of Trinity</p>	<p>Debate held on 11th September 2018</p>	<p>duration of the debate. It has not been possible to specify who were landlords and who were tenants.</p> <p>The Connétable of St. Ouen declared that he owned a lodging house and his wife was the Chair of the Jersey Landlords' Association.</p> <p>Senator Farnham declared that he was a director of a company that acted as a landlord.</p>
<p>Connétable of St. Ouen</p>	<p>The Connétable of St. Ouen asked a question of the Minister for the Environment regarding plans to engage with bodies such as the Jersey Landlords' Association in respect of the implementation of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018.</p> <p>This question was asked on 25th September 2018</p>	<p>The Connétable declared that his wife was the Chair of the Jersey Landlords' Association. The Connétable remained in the Chamber for the duration of the consideration of the question.</p>
<p>Senator I J Gorst Senator S C Ferguson Senator K L Moore The Connétable of St. Peter The Connétable of St. Mary The Connétable of St. Ouen The Deputy of Grouville Deputy S J Pinel of St. Clement The Deputy of St. Martin The Deputy of St. Ouen</p>	<p>Rental price caps law to limit rental prices to reasonable rents (e-petition)</p> <p>The in-Committee debate was held on 12th March 2019</p>	<p>The members listed declared an interest and remained in the Chamber for the duration of the in-Committee debate.</p> <p>Senator Farnham declared that, whilst not a landlord in a personal capacity, he was involved in businesses that provided accommodation.</p>

<p>The Deputy of St. Mary Deputy G J Truscott of St. Brelade Deputy J H Young of St. Brelade Deputy K F Morel of St. Lawrence Deputy G C U Guida of St. Lawrence The Deputy of St. Peter The Deputy of Trinity Deputy I Gardiner of St. Helier</p>		<p>During this debate it was confirmed that there were 17 landlords and 4 tenants, but it has not been possible to specify who were landlords and who were tenants.</p>
<p>Senator I J Gorst Senator L J Farnham Senator K L Moore The Connétable of St. Helier The Connétable of Grouville The Connétable of St. John The Connétable of St. Mary The Connétable of St. Ouen Deputy Mt Tadier of St. Brelade Deputy S J Pinel of St. Clement The Deputy of St. Martin The Deputy of St. Ouen The Deputy of St. Mary Deputy J H Young of St. Brelade Deputy K F Morel of St. Lawrence Deputy G C U Guida of St. Lawrence The Deputy of St. Peter The Deputy of Trinity Deputy I G of St. Helier</p>	<p>Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 201-</p> <p>Debate held on 25th February 2020</p>	<p>The members listed declared an interest and remained in the Chamber for the duration of the debate.</p> <p>Deputy Gardiner declared that her husband was a landlord.</p> <p>Deputy Tadier declared that he was a tenant and his partner was a landlord.</p> <p>The Deputy of St Peter declared that he was a member of the Jersey Landlords' Association.</p> <p>Senator Mezec and Deputy Ash declared that they were tenants.</p>
<p>Senator I J Gorst Senator J A N Le Fondré The Connétable of St. Helier The Connétable of Grouville The Connétable of St. John The Connétable of St. Mary The Connétable of St. Ouen The Deputy of Grouville</p>	<p>Covid-19 (Residential Tenancy) (Temporary Amendment of Law) (Jersey) Regulations 2020</p> <p>Debate held on 9th April 2020</p>	<p>The members listed declared an interest and, apart from Deputy Young, remained in the Chamber for the duration of the debate.</p> <p>The members provided their declarations through the chat function and so it has not been possible to</p>

<p>Deputy M Tadier of St. Brelade Deputy S J Pinel of St. Clement The Deputy of St. Martin The Deputy of St. Ouen Deputy G J Truscott of St. Brelade Deputy K F Morel of St. Lawrence Deputy G C U Guida of St. Lawrence The Deputy of St. Peter The Deputy of Trinity Deputy I G of St. Helier</p>		<p>provide the specific details of the declarations. Deputy Young of St. Brelade declared a direct financial interest and withdrew from the meeting for the duration of the debate.</p>
<p>Senator Ian Joseph Gorst Senator J A N Le Fondré Senator K L Moore Senator S Y Mézec The Connétable of St. Helier The Connétable of Grouville The Connétable of St. Mary The Connétable of St. Ouen Deputy C F Labey of Grouville Deputy M Tadier of St. Brelade Deputy S J Pinel of St. Clement The Deputy of St. Martin The Deputy of St. Ouen The Deputy of St. Mary Deputy G J Truscott of St. Brelade Deputy J H Young of St. Brelade Deputy K F Morel of St. Lawrence Deputy G C U Guida of St. Lawrence The Deputy of St. Peter The Deputy of Trinity Deputy K G Pamplin of St. Saviour Deputy I Gardiner of St. Helier</p>	<p>‘Investigation into the establishment of a digital register of landlords and tenants’ (P.82/2020) Debate held on 16th July 2020</p>	<p>The members listed declared an interest and remained in the Chamber for the duration of the debate. The Connétable of St. Helier declared that his wife was the co-owner of a one-bedroom flat. Senator Gorst declared an interest as a landlord and a tenant. Deputy Truscott declared an interest as a commercial property owner. Deputy Gardiner declared that her husband was a landlord. The Deputy of St. Peter declared that he was a landlord and a committee member of the Jersey Landlords’ Association.</p>

		<p>Deputy Tadier declared that he was a tenant in private accommodation and that his partner was a landlord.</p> <p>Senator Mézec and Deputy Pamplin declared an interest as tenants.</p>
<p>Senator Ian Joseph Gorst Senator J A N Le Fondré Senator K L Moore The Connétable of St. Helier The Connétable of Grouville The Connétable of St. John The Connétable of St. Mary The Connétable of St. Ouen The Deputy of Grouville Deputy M Tadier of St. Brelade Deputy S J Pinel of St. Clement The Deputy of St. Martin The Deputy of St. Ouen Deputy R L of St. Helier The Deputy of St. Mary Deputy J H Young of St. Brelade Deputy G J Truscott of St. Brelade Deputy K F Morel of St. Lawrence Deputy G C U Guida of St. Lawrence The Deputy of St. Peter The Deputy of Trinity Deputy I Gardiner of St. Helier</p>	<p>Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 201-P.106/2019</p> <p>Debate held on 8th September 2020</p>	<p>The members listed declared an interest as landlords or tenants and remained in the Chamber for the duration of the debate.</p> <p>Senator Le Fondré declared an interest as a landlord and as an honorary landlord in his capacity as trustee of Le Vaux Housing Trust.</p>
<p>Senator I J Gorst Senator J A N Le Fondré Senator K L Moore The Connétable of St. Helier The Connétable of Grouville The Connétable of St. John</p>	<p>Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 201</p> <p>Continuation of debate held on 9th September 2020</p>	<p>The members listed declared an interest as landlords or tenants and remained in the Chamber for the duration of the debate</p>

The Connétable of St. Mary		
The Connétable of St. Ouen		
The Deputy of Grouville		
Deputy M Tadier of St. Brelade		
Deputy S J Pinel of St. Clement		
The Deputy of St. Martin		
The Deputy of St. Ouen		
Deputy R Labey of St. Helier		
The Deputy of St. Mary		
Deputy J H Young of St. Brelade		
Deputy G J Truscott of St. Brelade		
Deputy K F Morel of St. Lawrence		
Deputy G C U Guida of St. Lawrence		
The Deputy of St. Peter		
The Deputy of Trinity		
Deputy I Gardiner of St. Helier		

The specific interests of each Member are registered in accordance with Standing Order 152. The entries made by each Member can be found on the ‘Members’ section of the States Assembly [website](#).

2.27 Deputy K.F. Morel of St Lawrence of the Minister for Treasury and Resources regarding electricity charges levied by Jersey Electricity (WQ.67/2021):

Question

In her role as Shareholder Representative, will the Minister provide an annual breakdown of the increases in electricity charges levied by Jersey Electricity for each year since 2015, providing also a comparison with R.P.I. Low Income for each year?

Answer

The table below shows the required information. In the period 2015-2020 the average annual electricity price increase was 1.4% against the average Jersey Low Income RPI figure of 2.5%.

	2015	2016	2017	2018	2019	2020	Average Cumulative per year	
Electricity price rises	0%	0%	0%	2.0%	3.5%	2.5%	8.2%	1.4%
Low income RPI	1.1%	1.8%	3.3%	3.4%	2.5%	1.9%	14.8%	2.5%

2.28 Deputy K.F. Morel of St Lawrence of the Minister for Treasury and Resources regarding telecom charges levied by Jersey Telecom (WQ.68/2021):

Question

Will the Minister, as Shareholder Representative, provide an annual breakdown of the increases in telecom charges levied by JT for each year since 2015, providing also a comparison with R.P.I. Low Income for each year?

Answer

The majority of JT's customers purchase landline, broadband and mobile from JT and the most popular tariff is the JT One Unlimited and JT One Lite plan. In real terms over the 5 year period, the price of these services has fallen as is demonstrated in the table below:-

	2015	JT %	2016	JT %	2017	JT %	2018	JT %	2019	JT %	2020
Low Income RPI	1.1%		1.8%		3.3%		3.4%		2.5%		1.9%
JT One (landline, broadband, mobile) bundle	£59.00	0%	£59.00	0%	£59.00	0%	£59.00	0%	£59.00	5%	£61.90
JT One Lite (landline, broadband, mobile) bundle	N/A		N/A		£39.00	0%	£39.00	13%	£44.00*	7%	£47.14

* broadband made unlimited. Previously unlimited broadband was charged separately at £5 per month in addition to a subscription fee

All prices exclude GST

In addition, JT has migrated all customers from a copper provided service (up to 20Mb) to a fibre service during the period and has increased the speed of its entry level broadband product to the 1Gb that is provided today which was upgraded in April 2020 due to COVID work from home restrictions.

	2015	2016	2017	2018	2019	2020
Broadband Speed (Mb)	20	50	100	100	250	500 *
Broadband Only Price	£17.99	£22.99	£24.99	£26.25	£27.50	£29.52
Cost per Mb	£0.90	£0.46	£0.25	£0.26	£0.11	£0.06

* Speed upgraded to 1Gb during COVID

Further thoughts on the impact of telecoms deflation on national productivity can be found in the following articles: -

<https://blog.ons.gov.uk/2018/01/19/measuring-the-digital-economy-is-history-about-to-be-rewritten/>

<https://www.escoe.ac.uk/publications/a-comparison-of-approaches-to-deflating-telecoms-services-output/>

<https://www.ft.com/content/108a35e5-2aa0-4b82-9410-bee0e86d54b9>

<https://www.ft.com/content/abc14c66-fb78-11e7-a492-2c9be7f3120a>

2.29 Deputy K.F. Morel of St Lawrence of the Minister for Treasury and Resources regarding charges levied by Jersey Water (WQ.69/2021):

Question

In her role as Shareholder Representative, will the Minister provide an annual breakdown of the increases in water charges levied by Jersey Water for each year since 2010, providing also a comparison with R.P.I. Low Income for each year?

Answer

Jersey Water is committed to keeping any price increase to a minimum and has applied a policy of maintaining price increases at or below the cost of living (as measured by the Retail Price Index, RPI) in all but 2 of the previous 20 years.

Over the past ten years, allowing for the effects of RPI, the price of water in Jersey has decreased by 5.6% (6.5% against low income RPI) representing a reduction on average household bills for water consumption of £20.24 per year (£24.07 per year against low income RPI).

Year (effective 1 April)	Measured Water unit price £/m ³	Low income Inflation adjusted 2010 price	Inflation adjusted 2010 price	RPI Low income (prior Sept)	RPI (prior Sept)	Tariff Increase
2010	2.3300	2.3300	2.3300	2.7%	-0.60%	0.00%
2011	2.3300	2.3789	2.3801	2.1%	2.15%	0.00%
2012	2.3900	2.5050	2.5086	5.3%	5.40%	2.58%
2013	2.4400	2.5802	2.5789	3.0%	2.80%	2.09%
2014	2.4644	2.6266	2.6098	1.8%	1.20%	1.00%
2015	2.5075	2.6818	2.6594	2.1%	1.90%	1.75%
2016	2.5577	2.6818	2.6621	0.0%	0.10%	2.00%
2017	2.6089	2.7274	2.7153	1.7%	2.00%	2.00%
2018	2.6806	2.8174	2.7995	3.3%	3.10%	2.75%
2019	2.7825	2.9244	2.9198	3.8%	4.30%	3.80%
2020*	2.7825	3.0005	2.9987	2.6%	2.70%	2.70%
2021	2.8576	3.0575	3.0257	1.9%	0.90%	0.00%

* increase delayed to October

In March 2020, in order to help mitigate the impact of COVID-19 restrictions on Jersey Water customers and avoid any anxiety that increased charges might cause over the lockdown period the Company delayed the planned tariff increase to October 2020. The Company have also confirmed there will be no further increase in the price of water until January 2022.

Following the introduction of COVID-19 restrictions in March 2020, Jersey Water encouraged any customer concerned about paying their bill to contact them to discuss their individual circumstances. The Customer Services Team worked closely with each customer to create a tailored payment plan and will continue to work with all customers in financial hardship caused by the pandemic.

2.30 Deputy R.J. Ward of St. Helier of the Minister for the Environment regarding subsidising the Home Energy Audit Scheme (WQ.70/2021):

Question

Will the Minister provide details of the overall cost of subsidising the Home Energy Audit scheme since its inception?

Answer

The costs for this ongoing scheme are provided in two categories

1. Direct subsidy grants for applicant - £87,050

The scheme is current and continues to offer subsidies of between £200 - 250 to any homeowner on the island.

The use of energy assessments and the production of certificates is a key part of uplifting the energy efficiency of buildings. This scheme applies to private homes but a similar programme for commercial buildings is being developed.

Applicants have been able to apply for subsidised audits since January 2019. To date 395 audits have been carried out with total subsidy awarded to islanders of £87,050. This is an average of £220.38 per property.

2. Scheme costs - £86,957

This includes:

- Developing the bespoke Jersey scheme with the Buildings Research Establishment E.g. Software development for Jersey Energy Audit tool including amendment of the SAP/RdSAP tool, ongoing updates of the tool including updated fuel prices;
- Developing and delivering a training programme for 20 local energy efficiency assessors who now offer HEA as a service alone or as part of a wider architectural package. This includes direct training provision to local candidates by the Building Research Establishment, verification of local auditors, costs of training provision (room hire etc);
- Promoting the scheme through various media channels;
- There are ongoing costs to the provisioning of this scheme. Quidos manage the software which holds the Energy Performance Certificates.

Please note – this scheme is different to the Home Energy Scheme that previously offered a turnkey service to low-income householders to improve the energy efficiency of their homes. This scheme ran for 6 years installing 100% grants for energy efficiency measures, such as insulation and heating system improvements and upgrades in over 1700 households.

2.31 Deputy R.J. Ward of St. Helier of the Minister for Infrastructure regarding fuel issues (WQ.71/2021):

Question

Will the Minister advise what dialogue, if any, has been undertaken with the Island's fuel companies and the outcome, if any, of any such dialogue, in relation to –

- (a) the provision of increased ethanol content fuel across the Jersey supply;
- (b) the availability of all alternatives to diesel and other hydrocarbon fuels; and
- (c) the provision of carbon offset systems for fuel users?

Answer

Where appropriate, and in the process of policy development, officers have regular dialogue with a wide range of relevant stakeholders. I am pleased to be able to report that fuel products with an increased ethanol fuels are available on Island. These products comprise of 5% or 7% ethanol in the fossil fuel petrol or diesel and contribute a small reduction in emissions. Whilst the contribution that this makes to our emissions reduction is welcomed, it is recognised that this will not be enough to achieve our aim to be carbon neutral. We also recognise that fuel suppliers are providing 100% renewable products which result in a c.90% reduction in tailpipe emissions and welcome the fact that fuel suppliers are choosing to import these products providing diversity and choice for Islanders in the marketplace.

As the Deputy will appreciate, we need to respect commercial confidentiality, but I can assure him that dialogue is ongoing and will continue to take place with valued stakeholders from the fuel supply sector, through the policy development process in support of both the objectives of the Sustainable

Transport Policy and in the development of the Carbon Neutral Roadmap led by the Minister for the Environment.

As mentioned in responses to previous questions, the Deputy will be aware that the use of second generation renewable fuels, as an alternative to hydrocarbon fuels, will play an important role in reducing our emissions from the use of hydrocarbon fuels as the Island transitions to carbon neutrality. The use of these alternatives is identified in both the Sustainable Transport Policy and the Carbon Neutral Strategy.

The Climate Conversation is providing a way for everyone in our community (including fuel companies) to get involved in this discussion ahead of the Climate Citizens' Assembly that will be starting in March. The recommendations from the Citizens' Assembly will inform the Carbon Neutral Roadmap, to be lodged by the end of the year, which will include the proposed policies and initiatives accompanied by a resourcing plan for how the transition will be funded.

As the Deputy will be aware, carbon offsets form an important part of the conversation on carbon neutrality and we committed, in the Carbon Neutral Strategy, to ensuring that any offsets used by the Government of Jersey must be of the highest standard. It would not be appropriate for me to comment on individual schemes other than to note as a point of principle, it is heartening to see businesses launch voluntary schemes demonstrating that they recognise that their customers take carbon reduction seriously.

2.32 Deputy R.J. Ward of St. Helier of the Minister for Education regarding use of consultants to produce the education reform program (WQ.72/2021):

Question

Will the Minister provide the following details in relation to the use of consultants to produce the education reform program for 2021 to 2023 –

- (a) the estimated total expenditure;
- (b) how planned expenditure is agreed and allocated; and
- (c) what the process is for awarding contracts to consultants?

Answer

In responding, the interpretation of the *Education Reform Programme* is as described in the Government Plan 2021 – 2024 (GP21-CSP1-2-05).

(a) This programme was informed, in significant part, by the output and recommendations of the Independent Schools Funding Review. The consultants commissioned to undertake this review (2020 Delivery Ltd) were paid £227,675.

(b) & (c) Future expenditure on consultants commissioned through the Education Reform Programme will follow established governance arrangements. Specifically, these arrangements are set out in a supporting document to the Public Finance Manual titled Procurement Best Practise Procedures.

2.33 The Deputy of St. Mary of the Assistant Chief Minister regarding the relocation of the Crematorium for the hospital project at Overdale (WQ.73/2021):

Question

In relation to the new hospital project at Overdale, will the Minister advise whether any consideration has being given to the relocation of the Crematorium in order to incorporate that site into the area designated for the hospital; and, if so, have the following been part of any such consideration –

- (a) the reduction of the effect on (and the need to acquire) neighbouring properties;

- (b) the improvement of traffic flow in the area by eliminating that currently associated with the Crematorium;
- (c) the provision of a larger Crematorium (including parking facilities);
- (d) the appropriateness, arising from their respective functions, of having a Crematorium sited next to a hospital;

and, if consideration has not yet been given to the above, will he confirm that such consideration will now be given?

Answer

Relocating the crematorium is not within the brief for the Our Hospital project and the Overdale site does not include this piece of land. However, the Our Hospital team are currently liaising with colleagues in Customer and Local Services (which is responsible for the crematorium) to ensure that the needs of the facility are considered throughout the development process, including issues such as car parking, for example.

Hospital designers are working to a brief in which the Crematorium remains in-situ into the short to medium term. It is recognised across the Government that, as is the case with all buildings and facilities, the Crematorium facility and equipment has an operational lifetime and will need to be replaced or relocated at some point. However, a separate capital project would be required to move or rebuild the crematorium and, if agreed in future that it should be re-sited, some of the current site might become available as expansion space for the hospital in the longer term. Areas such as the gardens of remembrance and war memorials would be carefully and respectfully considered.

- (a) the reduction of the effect on (and the need to acquire) neighbouring properties;

The Crematorium is not included in the footprint of the hospital at Overdale so the effect on neighbouring properties is not changed.

- (b) the improvement of traffic flow in the area by eliminating that currently associated with the Crematorium;

As part of the planning process for a new hospital, impact assessments will be undertaken that consider traffic movements and parking arrangements.

- (c) the provision of a larger Crematorium (including parking facilities);

This will be an issue for any future capital project to relocate/redesign the crematorium.

- (d) the appropriateness, arising from their respective functions, of having a Crematorium sited next to a hospital;

The crematorium is currently situated next to hospital facilities at Overdale. Any project to rebuild or relocate it will carefully consider the sensitivity of location in future.

2.34 Deputy K.G. Pamplin of St. Saviour of the Minister for Health and Social Services regarding the selection of the Independent Advisory Panel to the Assisted Dying Citizen's Jury (WQ.74/2021):

Question

Will the Minister advise what process was followed, and what criteria were applied, for the selection of the Independent Advisory Panel established in relation to the Assisted Dying Citizen's Jury; and what connections, if any, do the members of the Panel have to his department?

Answer

An Independent Advisory Panel was established in November 2020 following input and advice from Involve, the public participation charity which is supporting the Government of Jersey with the

planning and facilitation of the Jury sessions. Panel members were invited by the Minister for Health and Social Services to participate.

As noted in the Independent Panel's [Terms of Reference](#)¹, Panel members were selected from a variety of backgrounds and experience to provide an objective voice and to check and challenge the proposed process. Serving politicians were not eligible for membership of the Advisory Panel.

One Panel member, James Le Feuvre, worked in the Department of Health and Social Services between 1991 and 2011. He then took up the post of Executive Director of Mind Jersey from 2012-2020.

As Executive Director of Mind Jersey, he was one of four invited third-sector representatives that served on the Health and Community Services Board chaired by the Minister and established in 2019.

No other Panel members have declared connections to the department.

2.35 Deputy K.G. Pamplin of St. Saviour of the Minister for Children and Housing regarding staffing levels at C.A.M.H.S (WQ.75/2021):

Question

Will the Minister provide a full breakdown of the staffing levels at C.A.M.H.S. (the Child and Adolescent Mental Health Service), the number of referrals to the service from 1st March 2020 to date, and the current waiting time for an appointment?

Answer

Recruitment to posts in CAMHS can be very challenging (due to their specialist nature) not only in Jersey but other jurisdictions. The restrictions experienced though 2020 as a result of the pandemic have made it difficult for some staff with family in the UK to keep personal and family relationships as they would like, this has meant that a small number of staff have decided that their future was not in Jersey.

Within the last two weeks CAMHS have been recruiting for nursing posts and have successfully recruited to four posts with the new staff taking up posts after serving their required notice periods. These four staff are on island and so understand Jersey life and have some knowledge of the service.

Additionally, there is detailed work underway on implementation of the new redesign which will see an expansion of services and resources available which will provide early intervention and intensive community based support services.

Full breakdown of staffing levels

The current establishment is 21.35 full-time equivalent (FTE) posts. This includes posts of child psychiatrists and a medical secretary who remain employed by the Health and Community Services Department in accordance with other medical posts in the Government of Jersey.

There are currently five posts of the permanent establishment covered by agency staff, one post vacant, and one practitioner on sick leave.

Resource has been provided by the Government of Jersey in recognition of the increase level of need and referral during the pandemic and through 2020. This resource has been used to temporarily employ an additional 5.4 full-time equivalent temporary staff posts. These posts are primarily focused on providing a Duty and Assessment Team which will assist with the outstanding increase

1

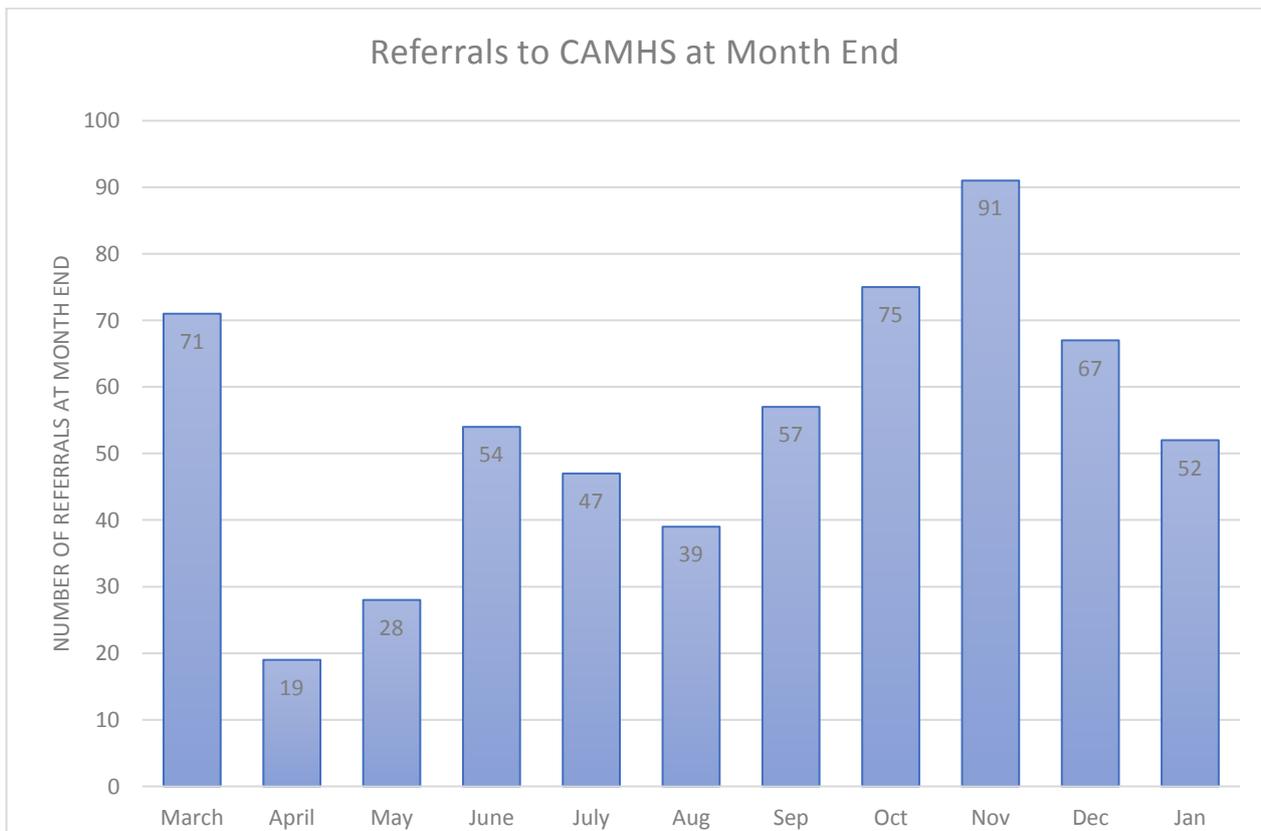
<https://www.gov.je/SiteCollectionDocuments/Caring%20and%20support/ID%20Assisted%20Dying%20Advisory%20Panel.pdf>

in need, with a focus on supporting children, families and young people in the community and additionally supporting young people who may require in-patient care.

CAMHS Current Staff in Post			
	Role	Permanent/ Agency/ Vacant	FTE
Establishment	CAMHS Manager (interim)	Permanent staff member act-up	1
	Nurses	3.5 Permanent, 3.0 Agency,	6.5
	Therapy- PIP, Art, Systemic	3.0 Permanent, 0.74 Agency	3.74
	Clinical and Assistant Psychology	3.7 Permanent, 0.81 Agency	4.51
	Clinical Senior Social Worker	1.0 Permanent	1
	Office Manager & Administration	2.0 Fixed term contract	2
	Health	Psychiatry	1.6 Permanent, 1.0 Agency
Medical Secretary		1.0 Vacant	0
TOTAL CAMHS TEAM		21.35	
Additional	HCA	1.0 Agency	1
	CAMHS Practitioners	4.0 Agency	4
	Educational Psychologist	0.2 Contract	0.2
	Clinical Psychologist	0.2 Contract	0.2
	TOTAL		5.4
	TOTAL INC ADDITIONAL		26.75

Numbers of referrals to the service

Referrals to CAMHS in 2020 have increased on previous years. In 2017, they were 541 referrals, 2018- 579, 2019- 661 and in 2020 they were 683. Like other jurisdictions CAMHS referrals reduced during the ‘first lockdown’: in April there were 19 and in May 2020, 27.



Current waiting times

The mean current waiting time from referral to treatment is 12 weeks.

Redesign

There is detailed implementation plan underway to develop the structures and new establishment based on work through the redesign. This will include:

- Implementing an early intervention service focused on emotional and mental health for children of all ages
- The current service refocused appropriately as a specialist service, with improved transition services
- Implementing a community-based intensive support service, working across seven days to reduce escalation of issues and avoid the need for more specialist support
- Quality and performance management systems are robust and used appropriately.

Impacts are likely to be seen in the short, medium and long term depending on the individual, their needs and services provided.

2.36 Deputy K.G. Pamplin of St. Saviour of the Minister for Health and Social Services regarding staff in his department (WQ.76/2021):

Question

Will the Minister provide a full break-down of the current staff across his department, showing job titles and duration in post and including bank nursing positions?

Answer

The breakdown, which extends to over 4,000 rows of data, is available in this Excel spreadsheet.



Please note that the answer relates to the number of posts, rather than the number of staff. In some cases, employees who hold a substantive post may also fill a position on the bank. The response also includes staff who have been involved in the Covid response across government.

2.37 Deputy M.R. Higgins of St. Helier of H.M. Attorney General regarding bias in relation to activities of politicians, civil servants, the Law Officer’s Department and the Judiciary (WQ.77/2021):

Question

Will H.M. Attorney General explain the concept of perceived, apparent and actual bias in relation to the activities of politicians, civil servants, the Law Officers’ Department and the Judiciary, highlighting any legal difference between these terms, and advise what legal, procedural or other remedies are available to individuals who believe they have been affected by any such bias?

Answer

This question is broad, and it is not possible to cover all aspects of it in detail. The remedies available to individuals who have been affected by bias will depend on the particular circumstances.

Regarding the legal definition of bias, apparent bias is where the individual is suspected to be biased because of his or her allegiances, interests or conduct. The test for apparent bias was set out in the case of [Porter v Magill \[2002\] 2 AC 357](#) and has since been applied in Jersey in a number of cases². The test for apparent bias set out in that case is as follows:

“The question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.”

This test is an objective test. In *Syvret v Chief Minister [2011] JLR 343* Commissioner Sumption stated (quoting Lord Hope in *Helow v Home Secretary [2008] 1 WLR 2416*) that the ‘fair-minded and informed observer’ is:

“someone who views the matter with some detachment, and reserves judgment until she has seen and fully understood both sides of the argument. She is not unduly sensitive or suspicious, but nor will she shrink from the conclusion that there is a real possibility of bias, if this can be justified objectively by things that [the impugned judge or judges] have said or done or associations that they have formed may make it difficult for them to judge the case before them impartially.

....

She will form her judgment on this matter only when she has taken the trouble to inform herself on all relevant matters, and put them in a fair and complete overall context, recognising that this is part of the material which she must consider before passing judgment.”

Regarding the remedies available to individuals who believe they have been affected by bias; the procedures will be dependent on the parties involved.

Law Officers’ Department

Lawyers in the Law Officers’ Department are required to comply with the [Code of Conduct for lawyers in the Law Officers’ Department](#) as well as the States of Jersey [Code of Conduct](#) and a complaint can be made to the Attorney General by a person who considers that the Code may have

² See for example: [Barette v AG \[2006\] JCA128](#); [Syvert v Attorney General \[2009 JLR 330\]](#); [Syvret v Chief Minister \[2011 JLR 343\]](#); [Bisson v The Minister for Infrastructure \[2019\] JCA181](#); [AG v Sinsel and Chiddicks \[2014\] JRC126B](#)

been breached. The procedure for making a complaint can be found [here](#). The Code requires all lawyers to uphold the highest standards of conduct.

A complaint can also be made against the Attorney General or the Solicitor General; the procedure can be found [here](#).

Civil Servants

Pursuant to the [Code of Conduct](#) for Civil Servants, civil servants are required to adhere to high standards of conduct and act in the public interest.

Both members of the Law Officers' Department and civil servants may be subject to disciplinary action if, after investigation, they are found to have breached the relevant code of conduct.

Politicians

Elected members of the Assembly are required to comply with the Members' Code of Conduct, which is set out in [Schedule 3 of the Standing Orders of the States of Jersey](#), and can be the subject of a complaint to the Commissioner for Standards if there is an allegation that they have breached the Code.

Ministers and Assistant Ministers are also required to comply with the [Code of Conduct for Ministers and Assistant Ministers](#).

Judiciary

All courts and tribunals in Jersey, whether criminal or civil, are public authorities and obliged to conform to Article 6 of the E.C.H.R. (European Convention on Human Rights) which guarantees the right to a fair trial. If a person considers that the Judge who is going to be presiding over their case is biased then they can make an application to the Court for the Judge or Jurat to recuse themselves from the case (see for example *AB v AG (Capacity) [2020] JRC038A*) and they can also appeal to an appellate court.

A person can also make a complaint against the Bailiff in accordance with the [Bailiff Complaints Procedure](#) or against a member of the judiciary in accordance with the [Judicial Complaints Procedure](#).

Previous Attorneys General have provided answers to questions of the States Assembly concerning the independence and impartiality of judges and jurats on [1 March 2011](#), [15 May 2012](#), and [23 October 2012](#). These answers remain correct and supplement this answer.

2.38 Deputy M.R. Higgins of St. Helier of the Minister for Social Security regarding Income Support (WQ.78/2021):

Question

Will the Minister advise –

- (a) the total owed by Income Support recipients due to overpayments at the end of each accounting year from 2015 to date;
- (b) how this total can be broken down –
 - (i) by the actions of the recipient; and
 - (ii) by mistakes or other failures of the department;
- (c) whether these overpayments are classed as debt owing to the States or otherwise accounted;
- (d) how the department takes into account that all overpayments are not always the fault of the recipient but can be caused by mistakes or failures of the department in how it handles cases;
- (e) how does the department recover overpayments, to what extent does it consider ability to pay, and over what periods does the department recover these sums;

- (f) how many individuals have been taken to Court to recover outstanding overpayments each year since 2015 to date;
- (g) how many individuals have been prosecuted each year since 2015 to date for fraud in relation to overpayments;
- (h) what the department's policy is regarding writing off overpayments, and in what circumstances this applies; and
- (i) what the Ministers discretion is in dealing with overpayments and to what extent has she delegated this discretion?

Answer

The Income Support system is designed to provide payments in advance to low income households. Paying in advance ensures that vulnerable households are not left without funds to support their basic needs immediately following a decrease to their household income, particularly when first claiming benefit or in situations where employment ends unexpectedly.

A system designed to make payments in advance **will always** have a delay in catching up with situations where a household's income has increased. This is the cause of many small overpayments of Income Support, and represents a trade-off that is viewed positively by most customers. Benefits that pay in arrears are often criticised for being slower to recognise decreases in income.

The system that pays in advance will always require adjustments where household income has increased after a payment has been made. As Income Support is an in-work benefit increases and decreases in earnings are a daily occurrence.

As stated, these adjustments will often cause small overpayments. The vast majority will be repayable from on-going benefit.

Each sub-question has been answered as follows:

- (a) The total owed by Income Support recipients due to overpayments at the end of each accounting year from 2015 to date:**

Table of total Income Support claimant debt from 2016 – 2020:

As at year end	2020	2019	2018	2017	2016
Income Support Debt	3,782,089	3,121,884	2,721,516	2,388,055	2,240,793

Explanatory note:

- The outstanding figure of overpayments being repaid at the end of each year from open claims.
- The figure is a rolling figure.
- 2015 is not a comparable figure due to debt consolidation implemented from 2016.

- (b) how this total can be broken down:**

- (i) by the actions of the recipient; and**

- (ii) by mistakes or other failures of the department:**

It is not possible to provide this answer as this would require each claim with an overpayment to be looked at manually and potentially over several years' history to ascertain the breakdown requested.

(c) Whether these overpayments are classed as debt owing to the States or otherwise accounted:

Overpayments of Income Support are classed as debt. Article 13 of the Income Support (Jersey) Law 2007 gives the Minister the power to require them to be repaid and allows for proceedings for recovery of the amount overpaid to be instituted by the Treasurer of the States. The powers under Article 13 have been delegated by the Minister to officers of Customer and Local Services.

(d) How the department takes into account that all overpayments are not always the fault of the recipient but can be caused by mistakes or failures of the department in how it handles cases:

Regardless of the cause, in all cases where there has been an overpayment and a household has received more benefit than it is entitled to, it is essential for the overall fairness of a tax-funded benefit system that money is paid back.

In the majority of cases, when earnings increase, many overpayments are paid back immediately and in full, however, where hardship cases are evident the department will work with a claimant on a considered repayment plan to minimise any potential hardship to the household.

(e) How does the department recover overpayments, to what extent does it consider ability to pay, and over what periods does the department recover these sums:

As in (d) payments are recovered in full in the majority of cases, however, the Department's policy of allowing the money to be repaid via a small daily adjustment to ongoing benefit allows for the overpayment to be recovered without causing hardship. Each case is considered individually by an officer, who will set a repayment level that recognizes the household's ability to repay.

Officers will consider the household's current income and whether there are any additional costs they face. Officers will also consider any current overpayment or loan repayment on their claim. Taken together these will determine the period over which the overpayment is recovered.

(f) How many individuals have been taken to Court to recover outstanding overpayments each year since 2015 to date:

Where an Income Support claim has closed (e.g. they have secured full time employment) and the individual has an outstanding overpayment, this is moved to an instalment plan so that it can be repaid. If at some point in the future the individual stops making repayments then, as a last resort, this can be referred to court for recovery. Some cases do get paid before the court date.

Year	Summons issued
2020	2
2019	51
2018	64
2017	106
2016	158
2015	103

(g) How many individuals have been prosecuted each year since 2015 to date for fraud in relation to overpayments:

There has been a total of 9 cases taken to court from 2015 – 2020. Prosecution for fraud is a last resort and not taken lightly, the Department will conduct a public interest test ahead of any prosecution. From 2015 to 2020 the Department has successfully prosecuted 9 fraud cases in the court system.

Year	Prosecutions
2015	2
2016	1
2017	1
2018	1
2019	4
2020	0

(h) What the department’s policy is regarding writing off overpayments, and in what circumstances this applies:

The Department will in all cases, endeavour to recover overpayments of benefit.

(i) What the Ministers discretion is in dealing with overpayments and to what extent has she delegated this discretion:

Under Article 13 of the Income Support (Jersey) Law 2007 the Minister may recover any award of Income Support that was not properly payable. This power is formally delegated to officers of Customer and Local Services, who act on the Minister’s behalf and under guidance approved by her for the administration of the Income Support benefit.

As stated in the answer to (d), it is essential for the fairness of this tax-funded benefit system that households are asked to repay benefit in situations where they are paid more than they are entitled to. According to this principle officers of Customer and Local Services will seek to recover all overpayments of Income Support.

2.39 Deputy M.R. Higgins of St. Helier of the Minister for Treasury and Resources regarding high net worth residents (WQ.79/2021):

Question

Will the Minister advise members of –

- (a) the number of 2(1)(e) High Value Residents in the Island in each of the years 2015 to date, together with their estimated net worth in each of those years;
- (b) the total income tax received in Jersey from these residents for each year of the same period;
- (c) the estimated unearned income generated in the Island for these residents for the years 2015 to date;
- (d) the nationality of these residents (determined by passport or multiple passports); and
- (e) the number of 2(1)(e) residents with fixed or negotiable agreements with the Department, or with agreements that can be varied over time?

Answer

(a & b) The number of HVRs in Jersey in the years 2015 to 2020 (and income tax paid) was as follows.

Year of Assessment	No of HVR Taxpayers	Total Tax Paid
2015	93	c.£10m
2016	106	c.£13m
2017	128	c.£15m
2018	155	c.£17m
2019	169	c.£21m
2020	Information not available	Information not available

The Government does not collect statistics regarding islanders' net worth.

Taxpayer data relating to the 2020 tax year will not be available until after the first quarter of 2022. This response has been prepared based on the latest completed tax year for which audited figures are available (i.e. the 2019 tax year).

(c) Revenue Jersey does not record data at the level of granularity necessary to estimate the unearned income generated in Jersey for these residents.

(d) Current information (which is not held for taxation purposes), based on data about the primary passport used by HVRs at the time of application, indicates the following in respect of approved residents under the High Value Residents Scheme over the period 2013 – 2020 inclusive.

- British 133
- Other 29 (from 14 different jurisdictions)

(e) People who have moved to Jersey since 2005 under the provisions of Jersey's High Value Residents Scheme are entitled to take advantage of the tax regimes set out in Article 135A of the Income Tax (Jersey) Law 1961. As such there are no "agreements" per se: the tax obligations are statutory. There is some scope – set out in the Article – to move from one scheme to another on application. This has seldom occurred. The latest version of the Regime allows the Government to uprate (by inflation) the minimum tax contribution every 5 years.

2.40 Deputy L.M.C Doublet of St. Saviour of the Minister for Health and Social Services regarding risk factors in restrictions on gatherings (WQ.80/2021):

Question

Will the Minister explain what assessment was made of the risk factors in terms of exempting children under the age of 3, versus children under the age of 5, in the restrictions on gatherings?

Answer

The risk factors considered were that, in broad terms, many children under 3 years of age are less independently mobile than children aged 4 to 5 years, making it easier for parents / carers to ensure

safe distancing between the child and others. Furthermore, children aged 4 and 5 years old are more likely to use the toilet independently of parents / carers, which potentially increases the risk of poor hand hygiene. Clearly this can vary from child to child.

2.41 Deputy L.M.C Doublet of St. Saviour of the Minister for Health and Social Services regarding risk assessments of exempting younger children from public health guidance (WQ.81/2021):

Question

Will the Minister state what assessments, if any, were made of the risk of exempting younger children from public health guidance in the home in comparison with public spaces, controlled events and gatherings such as playgroups?

Answer

As it currently stands, there is no limit to the number of children, of any age, who may participate in a gathering associated with a registered day care environment. However, only 10 people may participate in a controlled gathering associated with non-registered children's activity groups, such as a parent and toddler group. This limit includes people of all ages (for example, parents / carers and children), but does not include the activity organiser.

Where a gathering takes place in a private home or garden, the gathering limit of 10 excludes any child under 3 years of age. This is because, despite the risks associated with household mingling in an uncontrolled environment, it was recognised that including under 3s in the limit of 10 in homes and gardens may have a disproportionate effect on some families, depending on the makeup of that family.

It is recognised, however, that participation in controlled children's activity groups is essential to the development of young children and makes a significant contribution to their wellbeing as well as their parents' / carers' wellbeing. I have, therefore, asked the Medical Officer for Health to consider, as a matter of priority, whether it is proportionate to continue to include young children in the limit of 10. Based on the advice received, I will consider whether to bring forward amendments to the Gathering Orders potentially excluding young children from the limit of 10 in relation to children's activity groups. In doing so, consideration will also be given as to whether that should apply to children under 3 years of age or whether the age limit should increase to accommodate children below school age.

2.42 Deputy L.M.C Doublet of St. Saviour of the Minister for Health and Social Services regarding the needs and rights of younger children in relation to the Covid-19 Winter Strategy (WQ.82/2021):

Question

Will the Minister explain what analysis, if any, was undertaken to assess how the needs and rights of younger children would be affected by the Covid-19 Winter Strategy and the Government's subsequent exit strategies; and will he advise Members of where and how any such analysis has been documented?

Answer

The rights and needs of children have been central to decision-making related to both the Covid-19 Winter Strategy and associated exit strategies. This is demonstrated by the priority given to ensuring that schools, including primary schools, have remained open plus the ongoing provision of all registered day care settings and non-registered children's activity groups, albeit with the limit of 10 participants.

3. Oral Questions

3.1 Deputy K.G. Pamplin of St. Saviour of the Minister for Children and Education regarding the impact of the Covid-19 pandemic on the implementation of the recommendations of the Independent Jersey Care Inquiry (OQ.34/2021):

Will the Minister update the Assembly on the impact, if any, that the COVID-19 pandemic has had on the commitment made to address the recommendations of the Independent Jersey Care Inquiry and its follow up report in 2019?

Deputy J.M. Maçon of St. Saviour (The Minister for Children and Education):

I thank the Deputy for his question. The commitment to the recommendation to the Care Inquiry, as laid out in P.08/2017 have not changed and therefore the commitment is still there. Of course various workstreams have been delayed due to the COVID-19 pandemic. However, I am pleased to say that some other workstreams have still managed to progress, despite this. The Deputy will be aware of the progress being made by the Youth Parliament and, of course, I believe last week I was able to announce the e-learning module on the United Nations Convention on the Rights of the Child, which has rolled out across the Government for States Members and for staff. There are other workstreams which will be coming to the Assembly this year, so I hope that gives comfort to the Deputy that the commitment remains.

3.1.1 Deputy K.G. Pamplin:

I thank the new Minister for his answer. I am more interested in what has delayed. Can the Minister address the first part of his answer there and give us an outline of what work has been delayed, what extra work and effort will be put in place to get that back on track?

Deputy J.M. Maçon:

As you know, there are about 8 different workstreams coming from the Care Inquiry as well as the follow-up report. For example, things that will be coming to the Assembly are around things like the Corporate Parenting Board where there will be a framework in order to give duties on the States and Ministers, for example, and establish that in a firm legislative framework. That has been delayed but we are pressing through with that. For example, there are other aspects, such as the indirect incorporation of the U.N.C.R.C. (United Nations Convention on the Rights of the Child), which again has been delayed but we are now getting that back on track. I am happy to write further to the Deputy if he has any specifics which he is concerned about.

[9:45]

3.1.2 Senator S.Y. Mézec:

When it comes to recommendation 7 from the Independent Jersey Care Inquiry, can the Minister tell the Assembly whether he considers the effect of the COVID-19 pandemic a greater risk to fulfilling recommendation 7 or is the greater risk the political commitment to fulfil it from his ministerial colleagues?

Deputy J.M. Maçon:

One of the key ways in addressing recommendation 7, the “Jersey Way”, is to progress the public sector’s ombudsman. We had that debate through an amendment in the Government Plan last year and the amendments were successful. That work is progressing so there is work going forward on that particular recommendation.

3.1.3 Senator S.Y. Mézec:

Of course that was not the only part of recommendation 7, there was substantially more to it than that. Does the Minister feel any confidence that his Government colleagues understand the

seriousness of addressing recommendation 7 and the “Jersey Way” and does he believe he will have the full support of Government Ministers when it comes to implementing its recommendations, not least of course the recommendation on the separation of powers, which is fundamental?

Deputy J.M. Maçon:

There have been several debates in the States Assembly because the Care Inquiry recommended further consideration of these types of matters, and the Assembly itself has continued to consider this particular aspect. I know, for example, previous Chief Ministers have brought propositions to the Assembly, and the current one, which ultimately have been unsuccessful. This matter will continue until the Assembly is able to resolve the matter.

3.1.4 Deputy R.J. Ward of St. Helier:

With regards recommendation 6 around corporate parenting, what is the Minister’s view and what he sees as the notion of corporate parenting and what it means to us? What has progressed in this area to enable this recommendation to be enacted upon?

Deputy J.M. Maçon:

Yes, this manifests itself in the Corporate Parenting Board and the aspect around that will be that there is legislation coming to the Assembly to put that on a statutory footing. Of course that is about putting responsibilities and duties on Members and officers within the government, so things like a duty to disclose; all those types of things will be wrapped up in that legislation, which will be coming forward.

3.1.5 Deputy R.J. Ward:

Does the Minister have a date for that legislation? Can he summarise how that will improve the safety of our children and ensure that our children are genuinely put first, as the Government has claimed to do?

Deputy J.M. Maçon:

I do not have a date with me today but I am happy to respond to the Deputy with those types of more detailed questions.

3.1.6 Deputy M. Tadier of St. Brelade:

The Care Inquiry had quite a lot to say about the lack of affordable housing for children in relation to poverty and creating a precarious situation, which was not helpful for children and families. Despite the States decision in 2018 to end the discrimination against children being able to be part of a family renting private property in Jersey, the decision still has not been brought forward by his colleague, the Minister for Social Security. Will the new Minister for Children and Education be putting pressure on his fellow colleague to make sure that this is brought to fruition so that recommendations can be brought forward in a timely fashion?

Deputy J.M. Maçon:

As he says, I believe this is a workstream which, in the Government Plan, is due to be worked on by the Minister for Social Security this year. I am happy to take the Deputy’s point away and have discussions with my colleague in order to accelerate that, if needed.

3.1.7 Deputy M. Tadier:

Would the new Minister for Children and Education give an undertaking to make sure that this happens? He is the Minister for Children and Education and if, at the end of this term, this piece of work is not done then I think it reflects badly on him and the whole of his Government.

Deputy J.M. Maçon:

I am more than happy to talk to the Minister for Social Security because I believe it is the legislation that sits under her, under the discrimination law. I cannot give a commitment if something is subject to the approval or rejection of the Assembly. But of course I am happy to work with my colleague, Deputy Martin, in order to bring that to the Assembly for debate.

3.1.8 Deputy K.G. Pamplin:

Returning to my original question, the things that are delayed by the pandemic, will the Minister be looking at extra resources and funding to ensure certain things will be achieved in the last year of this political term, including C.A.M.H.S. (Child and Adolescent Mental Health Services), which is part of his remit.

Deputy J.M. Maçon:

There is quite a considerable amount of resource to these various workstreams in the Government Plan. It is about making sure that officers have the time because now that a lot of the pandemic issues are obviously relaxing it just means that there is manpower in order to progress different things, such as the legislation. As for the matter of C.A.M.H.S. I can definitely give the Deputy the assurance that is now a standing item on my Minister for Children and Education agenda. We also now have the Deputy of St. John appointed who specifically has responsibility for C.A.M.H.S. The Deputy is absolutely right, we know that mental health across the board has obviously been largely increased due to the pandemic, *et cetera*, so, yes, this is a big issue which is definitely on one of the highest points of my radar.

3.2 Deputy M.R. Higgins of St. Helier of H.M. Attorney General regarding the legal responsibility for oversight of the States of Jersey Police (OQ.51/2021):

Will H.M. Attorney General advise Members which person or body has legal responsibility for oversight of the States of Jersey Police in cases where claims are made that the police have either failed to undertake an investigation into a criminal allegation, or have failed to investigate it properly; and will he further state who is legally accountable when it is found the police have failed to investigate a crime properly?

Mr. M.H. Temple Q.C., H.M. Attorney General:

Under the States of Jersey Police Force Law, the States of Jersey Police have operational independence and the chief officer of the police is a corporation sole. In those circumstances raised by the Deputy, a complaint could be made against the investigating officer or officers under the Police (Complaints and Discipline) Law 1999 and, if appropriate, disciplinary action could be taken against the officers involved, and the sanctions include dismissal. Secondly, in the U.K. (United Kingdom) it has recently become possible to bring proceedings against a police force under the Human Rights Act where there has been a failure to investigate serious violent crime and that can be shown to amount to a breach of the victim's human rights. The leading case on that is very recent; it is a claim against the Commissioner of Police for the Metropolis and it concerns some victims of John Worboys, who was a black cab driver who raped many women over a period of years. The Supreme Court in that case held that the police have a duty to investigate serious violent crimes, which arguably amount to a breach of a person's Article 3 rights under the E.C.H.R. (European Convention on Human Rights). In areas where Jersey law is similar to English law, such as this one, the Supreme Court decisions are of the highest persuasive authority in Jersey. In theory, therefore, the Human Rights (Jersey) Law 2000 could permit similar claims to be brought here but I would stress that this is a new area of law, both in the U.K. and obviously in Jersey, so it remains to be seen how or whether the principles of this case will be applied in the Jersey courts.

3.2.1 Deputy M.R. Higgins:

Could the Attorney General tell us the role of the Police Authority with regard to overseeing police and whether they have a role in ensuring that investigations are carried out and are investigated properly?

The Attorney General:

Yes, that is correct. The Jersey Police Complaints Authority has duties under the Police (Complaints and Discipline) Law 1999 accompanying regulations to supervise and monitor complaints against the police. It will check whether the investigation has properly been conducted.

3.3 Deputy I. Gardiner of St. Helier of the Chief Minister regarding legislation to address cyber-abuse, cyberbullying and online trolling (OQ.65/2021):

Will the Chief Minister advise what plans, if any, the Government has to introduce or enhance legislation in the Island regarding online safety, including measures to address cyber abuse, cyberbullying and trolling?

Senator J.A.N. Le Fondré (The Chief Minister):

Jersey has legislation in place that addresses cyber abuse including cyberbullying and the police consider they have the powers to prosecute where appropriate. This legislation was updated in 2016 to ensure it remained fit for purpose in light of rapidly evolving technology and consumer behaviour. I hope all Members, however, will join me and everybody in roundly condemning the abuse that has been received by both the Deputy and other Members. The Deputy will also be aware the Deputy of St. Peter has proactively been looking at this area and the preliminary conclusion of his work is that everyone, including the police, potential victims and potential offenders, could benefit from greater clarity regarding what is legal or illegal, the recourse victims have and the consequences perpetrators could face. I am therefore in the process of instructing officers to work in consultation with the police and the relevant department to put in place new guidance designed to offer greater clarity and certainty and therefore greater protection to Islanders. Separately, Members will also be aware of the work commissioned by myself, which is presently being set up and will be led by Deputy Perchard, specifically on social media and young people which will proceed parallel to this area.

3.3.1 Deputy I. Gardiner:

In the cyber world verifiable report of the abuse of bullying exists, which does not always exist in the world of normal conversation or dialogue. Why is it so much more difficult to enforce laws in the virtual world?

Senator J.A.N. Le Fondré:

I think we are getting into a legal area, which is definitely not my area of expertise. I am not too sure I am particularly qualified to answer that question other than I believe - and this is my guess - that may very much depend on the jurisdiction and where the data is held. I would imagine it is at least one area that requires clarity within the laws. As I said, the advice we have had to date, and the piece of work the Deputy of St. Peter has recently undertaken, is that we put in place some greater guidance which does offer greater clarity and certainty to Islanders. In other words, enabling them to understand their rights and the abilities that they can do under our existing laws.

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

Given the disproportionate impact of many of these crimes on women, including revenge pornography which, as I understand, is currently covered by the Telecommunications Law - but not sufficiently covered - but given these disproportionate impacts will the Chief Minister ensure that the work in this area takes a gender sensitive approach please?

Senator J.A.N. Le Fondré:

As far as I am concerned, all bullying in this area is reprehensible therefore all those areas should be treated with the appropriate levels of sensitivity.

3.3.3 Deputy L.M.C. Doublet:

Does the Chief Minister agree that I think he needs to go and look up the term “gender sensitive” because from my point of view it is not acceptable that that response is still being given, given the moving on of understanding of such terms? Would the Chief Minister perhaps look at that term and then come back to me with an answer?

Senator J.A.N. Le Fondré:

The point I am making is that, as far as I am concerned, I do not care what gender, trait or anything else anybody is displaying if they are being bullied.

[10:00]

I am not going to discriminate in that area. As far as I am concerned, bullying in terms of the social media side that we see particularly is reprehensible. I take the point it does not matter who is on the receiving end of it. If it causes the damage that we refer to then it should be condemned. If there are further things we can be doing on that area we should be doing that. What I said, is that it should be treated sensitively according to the individual circumstances. I take the point the Deputy is making. The point I am also making is that I think it is a wide issue that is shared by many members of the community and therefore that is what we need to be focusing on in an appropriately sensitive way. I do accept the point that the Deputy has made but, equally, I am also making the point that - whether it is male or female - the recipient, if the cyberbullying is of such a level that it causes the damage it causes, then we should be looking at overall the damage and harm that it causes. That is it.

3.3.4 Deputy M.R. Higgins:

It is almost following on from my last question to the Attorney General. We have had trolls for years, some vicious, some who have threatened people’s lives, some who have tried to interfere with the employment of people that they have gone after or their family. Yet they have been reported to the States of Jersey Police and the States of Jersey Police have done nothing. One infamous troll claimed that he had protection ...

The Bailiff:

I am sorry, Deputy, you have spent at least 30 seconds setting out general statements and you have not reached a question. There are a number of Members who wish to ask and we are time limited on each question. Will you ask your question please?

Deputy M.R. Higgins:

Will the Chief Minister speak with the police and find out why they have not been using the law that they have and pursuing these individuals up to now?

Senator J.A.N. Le Fondré:

I am very happy to identify where decisions to charge or to prosecute have not been pursued. One option, for example, would be to request the relevant authorities put in place some guidance on the decisions to prosecute for which, for example, I understand there are examples already existing in relation to domestic abuse. There are also some international examples specifically relating to social media, including U.K. Criminal Prosecution Services’ guidance on prosecuting cases involving communications sent by social media. My understanding is officers have consulted the States of Jersey Police and/or officers and who agree that guidance would be a useful and effective approach. I think that is the initial approach that we would like to take. But after that, if there is further work that needs to be done I am very happy to direct, for example, the Deputy of St. Peter to expand the work in that area.

3.3.5 Senator S.Y. Mézec:

Does the Chief Minister agree that in clear cases where online communications are made which contain a clear threat of violence and where there is a police statement from the perpetrator admitting that it was them that a prosecution should take place? If he does not agree with that, could he explain what he thinks the point of the law is?

Senator J.A.N. Le Fondré:

The reason I am pausing is because decisions to prosecute and to charge, which may be a field blindingly obvious to us as politicians, it may be less blindingly obvious to the people who have to carry out those prosecutions and charges in terms of the legal backing they have, which is why I have made reference to the issues around guidance as a starting point. In fact I believe we have a debate coming up around ... I cannot remember the exact Article in the States of Jersey Law - I have 43 in my head but I think it is wrong - which does refer to blackmail and corruption. Essentially on the existing Article in there, which is mainly about people threatening and coercing States Members or officers of the States to carry out certain things. I always felt that that is quite a wide Article, as a non-lawyer, and I have always wondered whether that has ever been used in anger or not because it has been there for a very long time but I think that is where we need then to go into the issues around the guidance. But as a principle, it does seem to me that not only States Members but other members of the public, when they are in receipt of such abuse, the way the Senator has outlined, do not seem to have had very much recourse in the past and there is always this balance we know between freedom of speech but equally bullying and worse that I think we are seeing more and more of within the social media sphere. and that is partly as social media has expanded to fill the virtual world.

3.3.6 Senator S.Y. Mézec:

Would the Chief Minister agree that when there are such clear cases with admissions from the perpetrators but still no prosecution is taking place that it sends out a message that in fact that sort of behaviour is acceptable and public officials will continue to have to put up with unacceptable behaviour and put off good people from going into public service so long as people are not held accountable for their actions?

Senator J.A.N. Le Fondré:

Let us be very clear, I agree vehemently with the second half of what the Senator has just said because I think it does put people off in terms of the level of abuse that is sometimes received by people in public service. As I said, in terms of the first part, the decision to prosecute is obviously not a political one and that is why I am being very cautious about not interfering in that area. But equally, it needs to be very clear that in today's world it is not acceptable.

3.3.7 Deputy R.J. Ward:

Given that we have recently taken on much more online work and people's workplaces have gone into their homes, does he see an increasing issue, for example, for teachers and lecturers who have taken the classroom into their home and have more online contact with parents where they may face abuse or bullying. What does he feel should happen in order to protect that section of the workforce?

Senator J.A.N. Le Fondré:

The reason I pause again, I am a bit loathe to focus specifically on a specific part of the workforce over and above everything else. The principles though, where we already have physical notices around in the physical world where we say that abuse to members of staff is not tolerated, and always the type of signs that people see. I think that means there is an education programme further, which now needs to start going into the virtual world. This is, I think, the first step on that. From officer advice that we have received, is to basically put guidance out that does then start covering these types of areas. But equally, I think what the Deputy has said in terms of the blending between the virtual

and the physical world, i.e. the workplace coming into the home and vice versa, is causing issues particularly in the context of the pandemic and the strains that it is putting on households, relationships and mental health.

3.3.8 Deputy R.J. Ward:

There seems to be a move to more working online and at home and I would just like the Chief Minister to commit to ensuring that any legislation that comes through addresses those issues to protect people who are taking their workplace into their home.

Senator J.A.N. Le Fondré:

As I said, the first starting point for me is to get guidance out in the right place where people know what can and cannot be done in terms of their rights. Hopefully then also reminding people and starting an educational programme, which is pointing out many people would not say to your face what they are very frequently keen to put on the keyboard.

3.3.9 Deputy I. Gardiner:

First, I would like to thank the Chief Minister for him taking it forward to the guidelines and identifying why the complaints are not going to the prosecution because the public perception is extremely important. I would like also to check if an aspect of cyber abuse, cyberbullying and trolling would be included in the hate crime legislation that is currently being drafted?

Senator J.A.N. Le Fondré:

I am not sighted on the hate crime legislation in terms of the specific areas that the Deputy has referred to. I am very happy to go away and determine the position. As I said, the overall view is that apparently the legislation is broadly fit for purpose - it is already in existence - but it is the guidelines in terms of decisions to prosecute, outlining the areas I have already covered in relation for things like the processes that are already in place for areas, for example, like domestic abuse. That is really the starting point. But if it was felt that legislative change needed to be made, very happy to look at that. I do make the point, and it is really difficult this, and I have to keep reminding myself, personally sometimes as well, that we have to make sure we have the balance between genuine and legitimate free speech, at which point some people do get heated versus online abuse. Sometimes those lines can get somewhat blurred but we have to make sure we do not react the other way and be seen to be trampling on people's basic rights of freedom of speech. That is something we have to keep in our minds all the way through, even though it can be really difficult at times. But as I said, first step is look at the guidance and see what else needs to be updated.

3.4 Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding the changes to Income Support components since 2014 (OQ.48/2021):

Is it the Minister's assessment that the response to Written Question 54/2021 shows that the most basic components of income support have not matched inflation of 16 per cent over the period 2014 to 2021; and will she explain how the statement that average claims increased by 18 per cent is consistent with the concept of effective indexing?

Deputy J.A. Martin of St. Helier (The Minister for Social Security):

Written Questions 9 and 54 provide full details of all the income support component raised between 2014 and 2021. These answers show the increase in component rates varies across different components. It is correct that some of the components in this are below 16 per cent. For other components the increase is above 16 per cent. As explained in both written questions, the amount of income support received depends on the level of income disregards as well as component rates. Between 2014 and 2021, income disregards have increased from 20 per cent to 26 per cent. The overall impact of all these changes to income support over this time means that the average income support claim has increased from £218 to £257 per week. This is an increase of 18 per cent in the

value of the average claim. It is the combination of increases in component rates, income disregards that ensures that the income support claim values continue to support low-income families effectively.

3.4.1 Deputy G.P. Southern:

Is it not the case that the 18 per cent increase she quotes is not comparing like with like and therefore is misleading in the fact that what is occurring is that the rental component cap has increased enormously by almost 30 per cent over this period and that is why the level of benefit appears to have increased by so much?

Deputy J.A. Martin:

I am not even sure this does include the rental component, but the Deputy is right. There have been massive increases in rental components, which is all money paid to the income support family.

Deputy G.P. Southern:

Not through, it goes directly to the landlord.

The Bailiff:

I am sorry, Deputy Southern, this cannot be an exchange. We have to allow the Minister the chance to answer.

Deputy J.A. Martin:

I was going to come on to that. Me and the Deputy have a different view on £300 a week that goes directly to the landlord. If it was not being paid by the income support scheme the person would be paying that out of their wages. It is money going to the family that they do not have to find. I really do not understand ... the Deputy is right, we are comparing apples and pears. I am probably apples and he is probably pears.

3.4.2 Deputy R.J. Ward:

Would the Minister concede that the larger proportion of income support increase that goes directly to landlords means that the direct living standards of those who are claiming income support does drop because they are not seeing any of that money? In fact, the only people benefiting from that increase are landlords.

Deputy J.A. Martin:

No, I do not agree with that. From 2014 to 2021 the disregards, and the disregard is not just earned income it is maintenance income and pensionable income.

[10:15]

All have received more money. The reintroduction of the single parent allowance and then the introduction in 2019 of the £10, which was a full payment in 2020 - it was £5 in April 2019 and £5 in October but a full £10 for the first child - which is 22 per cent. The majority of people are better off by the 18 per cent that I have quoted.

3.4.3 Deputy R.J. Ward:

How much does the Minister feel is a reasonable amount of increase that goes directly to landlords of public money and would she consider that she would cap rents with income support in some sort of negotiation with landlords so that so much public money is not going directly to them?

Deputy J.A. Martin:

I absolutely would like to have discussions with landlords and try and cut rents. The problem is, I am trying to keep up with what the landlords are charging for the people on income support. That is

what we have tried to do. That is why some of the components in the rent have gone up by 34 per cent over those 6 years, because otherwise people will be taking the money out of the other components that they need to live on each week. There is work to be done. I do not disagree with the Deputy. I would rather not be paying over £30 million a year in rent subsidies but that is what we do.

3.4.4 Deputy M. Tadier:

The Minister said she would like to cap rents in the private sector. What does she mean by that and how would she do it?

Deputy J.A. Martin:

There is the million-dollar question: how would I cap rents in the private sector? I have been in this Assembly over 20 years and one of the big elephants in the room is rent. It is a massive amount of people's income, whether that is earned income or income support income. I can work, and I work very well with the new Minister for Housing and Communities, I do not know how it will be done. Again it comes down to supply and demand.

3.4.5 Deputy M. Tadier:

Does the Minister agree that capping rents is very simple? We have an income support component which we allow for accommodation, and we could simply say that is the cap for the private sector but it takes political will to do that. Is there the political will from this Minister to cap rents in the first place?

Deputy J.A. Martin:

Sorry, the Deputy is asking me would I cap the income support amount paid out to the rent ...

Deputy M. Tadier:

No, that is not the question.

Deputy J.A. Martin:

If I could do tomorrow then ... that is exactly what the Deputy asked me. I can cap the rent paid out tomorrow.

Deputy M. Tadier:

That was not the question.

Deputy J.A. Martin:

Well, I heard that as the question, Sir, and you said we should not be interacting. The Deputy is not letting me finish.

Deputy M. Tadier:

We are getting into Alice in Wonderland here.

The Bailiff:

I am sorry, you have asked a supplementary question, Deputy. The Minister is entitled to answer the question.

Deputy M. Tadier:

She has answered the question completely differently that she has chosen.

The Bailiff:

Well, I am sorry, but we have already passed the time allocated for this question. If the Minister answers in the way the Minister feels that the question has to be answered, the consequence of not answering it in the way you feel it should be must be political in nature. It is up to the Minister how she hears the question and how she answers it. Minister, have you concluded your answer?

Deputy J.A. Martin:

Yes, and I apologise to the Deputy. I thought the Deputy said can I cap the rent payment tomorrow. I can. That does not help the tenants. Sorry, if I misheard the Deputy's question.

Deputy M. Tadier:

That is not the question, Sir. I can ask the question if she wants.

The Bailiff:

No.

Deputy M. Tadier:

Can I have a point of order here?

The Bailiff:

Yes.

Deputy M. Tadier:

There has to be a limit here. If somebody asks the question and says: "What colour is the roof of Fort Regent?" and then someone gives an answer saying: "G.S.T. (goods and services tax) is 5 per cent" it needs an intervention from the Chair because that is not the question and we are wasting all our time here. That happens with a written question. I asked a clear question about whether she would be prepared to cap rents in the private sector that landlords can charge. She did not answer that.

The Bailiff:

Well, if that is your question, I will give the Minister the opportunity to answer that question. The question is: would you be prepared to cap rents in the private sector?

Deputy J.A. Martin:

That is not in my gift. I cannot cap rents in the private sector. The only thing I have control of is what we pay for rents. Sorry if I misheard the Deputy. I thought he said could I cap the payment tomorrow. So it is not in my gift and that is the answer.

3.4.6 Deputy M.R. Higgins:

The Minister said she is paying £30 million a year in rent subsidy. When is she going to be campaigning and getting her colleagues to campaign for a proper living wage to enable people to pay their own rents without having to go to the States cap in hand to get support?

Deputy J.A. Martin:

Well, income support on the living wage would still probably need some subsidy. Again, this is a massive picture of living wage, the minimum wage, how many people would pay it, how many people can pay it. That is always the question. At the moment that is what we pay out and it is a lot of money, a very lot of money. Last year it was £30 million and it has probably gone up.

3.4.7 Deputy M.R. Higgins:

The Minister has been in the States for far longer than I can remember and she has campaigned on these issues. Now she is the Minister, when is she going to do something to try to deal with these problems that she has complained about for years?

Deputy J.A. Martin:

The Deputy has been with me in this Assembly probably not far behind me. It is not as easy as the Deputy says. We go out for consultation on the minimum wage and it goes to lots of industries and they come back and say this industry ... and it has always been proven. Some of the industries that have been asked to put the minimum wage - and that is the minimum wage, not the living wage - have gone out of business or they have stopped doing things that they did do and then they do not employ as many staff. You are not achieving what you want to achieve.

3.4.8 Deputy G.P. Southern:

Will the Minister accept that indexing has not been matching the increase in inflation over this period? Will she act to make sure that proper indexing takes place from now on?

Deputy J.A. Martin:

I do not agree that there is not matched indexing because the Deputy, as I have said, is comparing different aspects of income support. When you take it all together, the actual money in the person's pocket and the average family has gone up.

3.5 Senator S.Y. Mézec of the Chief Minister regarding measures taken by the Government of Jersey to address the impact of a long-term freeze in real-terms earnings (OQ.63/2021):

Will the Chief Minister advise what measures, if any, the Government will propose to ensure that the decade-long freeze in real-terms earnings that Islanders have suffered since the last financial crash does not continue through to the aftermath of the COVID-19 pandemic?

Senator J.A.N. Le Fondré (The Chief Minister):

We must remember that we are still in a pandemic, which has been one of the most seismic shocks the world has suffered in decades, so it has caused unprecedented disruption to our economy, as it has to economies around the world, again emphasising we are not alone. We have hugely supported Islanders' lives and livelihoods through a variety of measures during COVID. In fact, real-terms earnings for the last reported period, which is the last 12 months to June of last year, do show an increase in real-terms earnings. But overall, which I hope answers the Senator's question, as I said, we put a package of measures in place to ensure the economy can recover quickly and to try to reduce any permanent economic impacts. Going forward, the focus will be on supporting increases in productivity and on the wider work of our future economy programme. A lot of that in terms of funding was floated in the Government Plan, so the financing for measures has already been approved by this Assembly.

3.5.1 Senator S.Y. Mézec:

Wow, that answer barely touched upon my question. I thought my question was quite clear. At the last financial crash, a decade afterwards Islanders by and large were not better off than they were beforehand. I am asking if that is going to be the same after this health crisis, not during the crisis, after it. Are we going to plan to end up in a situation after this crisis where we can look forward to 10 years of life getting better in the Island? I hope that would be something the Chief Minister would on principle want to commit to. So will he commit to at least seeking to learn the lessons from the last decade where successive Governments failed to deliver better lives for Islanders? If he does want to commit to that aspiration, could he give us a vague indication, at the very least, of what policies he might want to see enacted so life does get better and people do become more prosperous and able to enjoy their lives rather than see another wasted decade of a real-terms earnings freeze?

Senator J.A.N. Le Fondré:

While I like the fact that the Senator sometimes loves the politics, I did split the answer into 2 parts: one is what we have been doing and the other part is saying we are putting a package of measures in place and that the financing of that has already been approved in the Government Plan. In answer to have we got measures in place to ensure real earnings do increase; yes, on the basis that the big focus, for example, is on improving productivity and the various measures that we have been putting in place. For example, as the Senator should be aware, the reduction in social security rates, which obviously does not affect productivity but does put extra money in people's pockets, has been implemented for a number of months and will continue for a number of months, and it will be 9 months in total. That is a very real and direct impact on people's pockets and making them feel better off already. The future for the economy, which is also about maintaining and hopefully improving people's wages, is partially around infrastructure and support, which obviously as a Government we are putting in place. That is why some of the big capital programmes that are shovel ready, for example the office strategy, can be released hopefully on time, preserving and protecting people's jobs and hopefully maintaining their employment. In overall terms, the reason I made the point that we had the financial crash, as we know, we have had the impact of the pandemic; we are not alone but we are all putting measures in place. The short answer is we do want to see people coming out of this and seeing a return to what I will call better prosperity than they may have seen before. That will probably take some time but, yes, that is the objective of this Government.

3.5.2 Deputy G.P. Southern:

Does the Chief Minister accept that postponing social security contributions for a short while does nothing for productivity?

Senator J.A.N. Le Fondré:

I think I said that in my answer and it is not postponing. On these particular ones for individuals, essentially the rate has been lowered. It is not postponement; it is a permanent payment that has been made to all working Islanders.

3.5.3 Deputy G.P. Southern:

What concrete action will have any impact on productivity that he suggests?

Senator J.A.N. Le Fondré:

I think I made the point that that was not about productivity. I said that was about putting money indirectly into people's pockets.

3.5.4 Deputy R.J. Ward:

Returning to the question of building back after the COVID pandemic, on the debate on recovery the living wage featured throughout for many politicians across the political spectrum. Would the Chief Minister commit to a living wage as we try to rebuild better?

Senator J.A.N. Le Fondré:

The only difference I believe between, as far as I am aware, most of the Council of Ministers and the Deputy is purely around timing. We do want to see a move eventually to the living wage but equally it is making sure that as we allow businesses to come out of the economic shock they have suffered over the past 12 months, it is about the timing and not crippling them in a financial way as they emerge hopefully back into the sunlight of better economic times. But in terms of the principle, I think the Council of Ministers has already made that commitment. It is purely about the timing.

3.5.5 Deputy R.J. Ward:

Would the Chief Minister not agree that what the people of Jersey want after this pandemic is some political leadership that says we will rebuild better and we will not rebuild as a low wage, low skill economy but a skilled, high wage economy where people have their dignity in their work to live the type of lives that will be productive and add back to our economy. Part of that is a living wage and part of that is a political commitment from our Government. I ask the Chief Minister to make that political commitment and not vagaries.

Senator J.A.N. Le Fondré:

I do not like it when people talk about vagaries. What I have always learnt is not to commit to a particular date when we are in the middle of a pandemic and do not know the exact time when we are going to come out of it and, therefore, know the exact economic circumstances that we will be facing. I also rather challenge whether we are a low wage and low skill economy. I think we have a lot of skills on the Island.

[10:30]

But in terms of do the people of the Island want to see from the Government leadership, they have seen leadership. We did not get to this stage in the pandemic by accident and I think we have made that point before. We have put plans in place about long-term thinking and about long-term planning to come out of this. Part of that is around releasing infrastructure projects. That was approved by the Assembly in the last Government Plan. Part of that is around the future economic programme, which Senator Farnham is charged with, and part of that is around new industries, for example the cannabis work that is going on, and part of that is around improving productivity. We are keeping Senator Farnham fairly busy on that front, which he is obviously enjoying immensely. But that is the focus for the Government as we come out of the pandemic and as we recover from the very tough times that we have had.

3.5.6 Senator K.L. Moore:

Following up on the Chief Minister's comment in relation to the potential for major infrastructure projects to benefit jobs and employment, it would be helpful if the Chief Minister could demonstrate what evidence there is that there is a shortage of local jobs at this stage in the local construction industry, as it is well known that in many instances businesses have to bring in people from outside of the Island in order to maintain demand in the construction area. Therefore, in answering the question, he could demonstrate what benefits there will be to wages in this area and in other areas as Senator Mézec asked in his original question.

Senator J.A.N. Le Fondré:

I did not quite get all the ramifications of the Senator's quite wide-ranging question, but in terms of do the infrastructure projects support local businesses and local jobs, obviously there will be times when there is specialism required but in general the construction industry is very comprised of residents and the businesses obviously generate profits on Island. It is about maintaining the confidence in that industry and giving them certainty in providing a chain of construction projects and that is where the Government has a significant role and that is where sometimes delay can issues. I believe indeed at least one of the larger construction firms was talking about the consequence of delays on 2 or 3 of the projects that they originally had planned for. So obviously when construction projects come through and companies bid for those projects, they essentially line up all the local subcontractors and make sure they have them earmarked to start on an approximate date, subject to the usual kind of planning processes and preparation processes. That is where they need a degree of certainty and not sudden changes in projects which have long been in the pipeline. That is what I would like to try and give that industry, that degree of certainty if we can, because otherwise at that point jobs get threatened rather than supported.

3.5.7 Senator K.L. Moore:

I think the answer there does get to the heart of the political point here, which is that the Chief Minister prefers to focus on profit, and the original question is about earnings and wages and how people can live on the earnings and wages that they receive through work. Does the Chief Minister perhaps identify some other industries and areas where specific work could be done to ensure greater profitability and sharing of that profit to increase wages? Does he have any policy ideas that could achieve that?

Senator J.A.N. Le Fondré:

Again, I am afraid there are quite a lot of questions in there. I think the point I would pick up on is I said jobs as well as profits, and I am surprised that the Senator does not realise that if a business does not make a profit it cannot provide the jobs, which obviously the jobs give the earnings that we have all been talking about.

Senator K.L. Moore:

The question was not answered, Sir. It was identifying other areas where greater profitability could help to support jobs and wages.

The Bailiff:

Are you able to answer that question, Chief Minister?

Senator J.A.N. Le Fondré:

I will give a very simple analogy that once interest rates eventually go up, which is obviously completely out of our control, that will generate greater profits and will significantly improve productivity. That is obviously outside of our control, but I hope that is a very simple example for the Senator to understand. But equally, as I have already identified, one area where we are improving what we believe will be productivity, because that will be profits, it will be salaries and relative to the number of employees, will be, for example, the piece of work that Senator Farnham has been working on about cannabis production. That has great potential to bring a new stream of income, both into the Island and into the tax revenues of this Government and, therefore, money for the Assembly to direct at various times. Other than that, there are a variety of measures that we are dealing with, including the fiscal stimulus measures, the first stage of which is going to be announced quite imminently, and obviously the economic support measures which, as I said, come through the future economy programme, which is being worked on at the moment and will be announced later on during the year, the funding for which has been approved in the Government Plan and no doubt was scrutinised by the Senator's panel.

3.5.8 Senator S.Y. Mézec:

The aim of this question will be to try to get the Chief Minister to finally answer with something relevant to the question, because every time this line of questioning is pursued he trots out a lot of things that are, frankly, irrelevant. He spoke about the social security cuts. Unless that is permanent, it does not affect real-terms earnings. He talked about productivity. Unless that comes with wage increases ...

The Bailiff:

Senator, I was going to give guidance to Members at the end of this question because a number of speeches have arisen. But if you can formulate your question straight away that will be helpful.

Senator S.Y. Mézec:

Without context, question time can be close to useless, Sir, but I have given the context I wanted to there. So my question to the Chief Minister is would he endeavour, if at all possible, to enlighten us with something relevant that he will pursue as Chief Minister in terms of policy to ensure that the decade after the pandemic is one in which there is an increase in real-terms earnings as opposed to

the decade beforehand where there was a freeze? How will he do that and what detail on policy can he provide us? If he can keep it to something relevant, that would be great.

Senator J.A.N. Le Fondré:

There are 2 points I have made, which the Senator seems to have forgotten. One is to challenge fractionally his assertion about a decade-long freeze. Yes, there has been a significant impact since the financial crisis of 2009 but I believe we are finally nearly back to the 2008 levels. I would have to go and check the stats exactly but there was a real-term increase in earnings in the 12 months to June of last year. Therefore, his assertion is not quite as bleak as he makes it out. The second point I have said is that while we are coming out of a pandemic, we have been putting measures in place to support the number of Islanders that we have been doing over the last 12 months. At its peak we were assisting one in 4 jobs on the Island, so I refute the assertion he is making that essentially we have been doing nothing to support Islanders to date. Therefore, by saying that, we have put plans in place that as we come out of it, and this is work that is going on at the moment, to then plan for the future recovery. That is why I have made several references to the future economy programme, which Senator Farnham is charged with. The financing for that has been approved by Members in the Government Plan of last year. It is spread over 3 years and in conjunction with that we are putting fiscal stimulus patches in place, the first phase of which will be announced imminently. Those are all geared to enabling the economy to come out of the economic challenges that have come from the last 12 months and, therefore, by supporting businesses we will be supporting Islanders employed by those businesses and supporting their jobs and their earnings. I do not think I can be any clearer than that. Plans are in place and they go through a variety of stages of dealing with what we have been doing through the pandemic, the short-term fiscal stimulus measures and the longer-term economic support. They are all coming together over the next few months.

The Bailiff:

I will add a minute or 2 to the question period as injury time because I wish to give some assistance, I hope, to Members. The Standing Order requires, for a good reason, that questions and answers are succinct. It also requires that answers are relevant to the question. There is a significant leeway in which the answer of a question can address the question and, of course, the longer the question is with the more factual material that is put in, the more it invites a correction if the answerer believes the factual material to be wrong to that factual material. I agree that question time can be meaningless unless there is a context to each question and that applies to supplementary questions. However, that context should be as succinctly stated as possible and should not be used as an opportunity for oratory. I am making no observations about particular questions but it seems to me that that is a feature that is creeping into question time at the moment. Secondly, the answer should be succinct and it has become a practice over many years that ministerial answers should not exceed 1 minute 30 seconds except potentially in extreme circumstances. I have been observing without intervention to see how far we are going along with this and it is quite clear that Ministers are speaking significantly longer on some occasions than 1 minute 30 seconds. It seems to me that it is incumbent upon Members, questioners and answerers alike, to be succinct and careful in the way that they put their questions so that there is a reasonable prospect of canvassing most of the questions on the Order Paper. I observe that we are now an hour into question time with an hour and 20 minutes left and we have only covered 5 questions in the 23 or 25 question list. With those in mind, and I am not singling anyone out, I would be grateful if Members could do their best to comply with Standing Orders and I will from now on ensure the 1 minute 30 seconds is strictly kept to so we can move through as quickly as we may.

3.6 Deputy L.M.C. Doublet of the Minister for Health and Social Services regarding the legal provisions regarding children under the age of 12 and gatherings (OQ.54/2021):

Is it the Minister's intention to revisit the current position within the Gatherings Regulations and Order whereby children under the age of 12 are counted towards the number of people considered as taking part in a gathering? If so, when will he do so and, if not, will he explain why?

Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):

I am grateful to the Deputy for raising this point. As set out in my response to Written Question 81, I have already sought advice from the medical officer of health about exempting children below school age from the gathering limit, which is currently set at 10 people. Recognising that participation in playgroups, such as parent and toddler groups, is very important to the development of children under 5 years of age, as well as being important to their parent or carer's well-being, I propose exempting under-5s from the gatherings order in the very near future. The fine details are still being worked out but I will provide them to the Deputy as soon as possible.

3.6.1 Deputy L.M.C. Doublet:

I thank the Minister for his answer. I am absolutely delighted that the under-5s will soon be exempted from the gatherings regulations. I think that is critical. My supplementary question to the Minister is: would he please consider extending this? Following conversation with experts in the area, I have come to understand that under 7 or under 6 more sufficiently covers the early years stage. So would he please consider under 7 or under 6 but more ideally would he consider under-12s as other jurisdictions, such as Wales and Scotland have done I think throughout serious moments in the pandemic, including quite large spikes in case numbers?

The Deputy of St. Ouen:

We do consider the position of children and the effect of restrictions on them. It is likely that any consideration for children under 12 will be given as part of the reconnection road map.

[10:45]

When we release a road map - shortly, I hope - we will pay special attention to children above 5 who, of course, are at school and still have their connections outside of their immediate households in school and after school clubs where there is no limit to numbers gathering.

3.6.2 Deputy C.S. Alves of St. Helier:

Is the Minister able to inform the Assembly of how many children under 12 have had COVID locally and how many of those were under 5?

The Deputy of St. Ouen:

I do not have those figures to hand but I will get them - they must exist - and I will circulate that to the Members.

3.6.3 Deputy I. Gardiner:

Would the Minister reconsider to include children at key stage 1, which is reception year 1 and year 2, with the exception with children under 5, alongside the statistics that can be produced?

The Deputy of St. Ouen:

We will certainly give consideration to any suggestions. I think the Deputy is suggesting rather than a numerical age group, using the key stage of school. I think the particular emphasis here has been on children who are not yet of school age and understanding the effect of restrictions on them and their parents or carers where they have not been able to meet up except in extremely small groups, with others. A gathering limit of 10 meant that you could have 5 parents and 5 children. If now we say children under 5 are not counted in that, we could have 10 parents bringing along their 10 children. We think we are at a stage where that is safe to do so and would avoid the harm that is

created by the isolation and loneliness that might be felt by those families. That is why we are making this move.

3.6.4 Deputy I. Gardiner:

When I am addressing key stage 1, we are talking about reception, year 1 and year 2, children of 4, 5 and 6, some of them aged 7, and this is a clearer group because they are in bubbles at school. Would the Minister please provide statistics of how many of this group of key stage 1 had COVID so we can really decide if they can be included or not and what the risk there is?

The Deputy of St. Ouen:

I think we will have a record of the ages of patients with COVID or those tested positive, so that should be possible. I will attempt to get those details and circulate it with States Members. So, including those up to 7 years old, that is 5, 6, 7 and onwards up to 12 as requested by Deputy Alves, I believe.

[The following information was subsequently provided from the Department for Health and Social Services]:

COVID Positive Cases in Jersey by Age (Mar 2020 to 1 Mar 2021), children up to age 12

Age at swab	Count
0	9
1	11
2	10
3	10
4	10
5	11
6	11
7	15
8	22
9	30
10	30
11	21
12	16

3.6.5 Deputy L.M.C. Doublet:

Can the Minister outline for us at this point what the additional risk is of exempting children aged 5 to 12?

The Deputy of St. Ouen:

It is about balancing harms and ensuring that there is not a spread of COVID that might develop into a cluster and then an outbreak. We know that among schoolchildren COVID cases have occurred not so much from children spending time together but families passing on COVID to the children.

That seems to have been, in the main, what has happened. So it may be that there is not a great deal of risk in children but, of course, they already have their social contact within their schools and other day care settings, including after school clubs, which are not restricted at all. So their needs are being met there and it is a balance of trying to keep the rates of infection and the scenarios in which it may spread under control, but we are always looking at mitigating measures and the road map will also address that question in children.

3.7 Connétable A.S. Crowcroft of St. Helier of the Minister for Treasury and Resources regarding the review of the provision of public services by the Parishes (OQ.55/2021):

What progress, if any, has the Minister made in implementing the decision of the States Assembly on 16th December 2020, in adopting the tenth amendment to the Government Plan, to review the provision of public services by the parishes?

Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):

The short answer is that there has been little progress to date. This is due to other pressures on the workload of the Treasury and Exchequer Department as well as the other departments, particularly Infrastructure, Housing and Environment, that will need to participate in the review. I am aware that this is an important matter and not just for the Connétable. The Comité des Connétables has also written to me to enquire about progress. I last responded to them on 12th February. I am grateful that the States Assembly approved, in the amended tenth amendment, an expenditure allocation of £50,000 for the department to secure assistance to carry out this review. I have asked the Treasurer to progress this with more urgency once current pressures have abated. I fully expect the Connétable and the Comité to play an active role in the review, beginning with them being consulted on terms of reference when they have been drafted.

3.7.1 The Connétable of St. Helier:

I am grateful to the Minister for her response and her candour. We have now had about a quarter of the time that is available for this review, given that it was to be completed by the end of this year. Is the Minister confident that the timetable she is setting out with her officers can meet this deadline?

Deputy S.J. Pinel:

The amendment to the Connétable's amendment removed the specific time deadline for this. If I can just quickly report what the accompanying C.O.M. (Council of Ministers) amendment stated, it says that: "In order for a proper understanding of all the facts and for all affected parties to have an opportunity to express their views, a thorough review will need to be undertaken. That cannot happen in the timeframe the Connétable has suggested. Therefore this amendment takes out that deadline." It further says: "We will commit to the review and will report back on the outcomes in 2021."

3.8 Deputy M.R. Le Hegarat of St. Helier of the Assistant Chief Minister regarding the health services due to be relocated from Overdale to the former Les Quennevais School building (OQ.46/2021):

What health services, if any, that are due to be relocated from Overdale to the former Les Quennevais School building is it anticipated will not return in their current form on completion of the new hospital?"

Senator L.J. Farnham (Assistant Chief Minister):

In the short time from the States Assembly decision on 17th November 2020 for Overdale as the preferred site for the hospital project, the team has worked at a good pace to find an alternative site, announced on 1st February, for the decant of the Overdale services and since then have undertaken 3 sets of clinical user group meetings to consult with the staff in order to design an appropriate facility at Les Quennevais for services currently at Overdale. All services can be accommodated at the former Les Quennevais School buildings other than the pharmacy store, meals on wheels and

horticulture, the location of which are still a work in progress with further meetings planned this week. As for the services returning to the new hospital, all those will be accommodated in the new hospital in due course. Some have asked not to do that and others will have a split service by design in line with the new care model and in line with the introduction of more community-facing services. I would like to reassure Members and the public that the new hospital will be the pinnacle, the hub and the centre of healthcare in Jersey and will facilitate future models into the future.

The Bailiff:

Bring your answer to a close, please.

3.8.1 Deputy M.R. Le Hagarat:

I am a little concerned, as are the public. The Minister has said that all services, bar a few of those going to Les Quennevais, will be returning. However, this is not shown in the hospital brief. Can he please explain why the hospital brief does not show all the services that are currently at Overdale that are anticipated to return?

Senator L.J. Farnham:

I will have to relook at the hospital brief. I am not sure, unless the Deputy would like to just perhaps contact me separately to just list those that she is talking about and then I can provide a response directly, but I refer to my answer that the vast majority of services going from Overdale to Les Quennevais will be going to the new hospital. That was the question she asked. If she is referring to what services are currently in the total health estate that will not be included or may not be included in the Overdale site; that needs to be a separate question and we can address that. But I will stipulate that the new hospital will be the centre, the hub of all health services for Jersey.

3.8.2 Deputy I. Gardiner:

The functional brief compared to what we have in our hospital currently. and I will just mention a few - a dental department, a hospital hydrotherapy pool, diabetes service, memory assessment service, neurology and neuroscience and others - that are not included in the functional brief. Would the Minister confirm that all these services will be allocated somewhere in the community before you finalise the services within the hospital, so we will not end up building extra buildings around the community without including them in the hospital in the first place?

Senator L.J. Farnham:

I would be happier deferring this to the Minister for Health and Social Services in due course, who has responsibility for what will happen in the new hospital and what will happen in the community. But I can confirm that in line with the new healthcare model, as approved by the States, we will either have services based within the new hospital campus or with more emphasis on services that can be better delivered and more efficiently delivered within the community. I cannot envisage at all any situation where any service provided now will not be fully accommodated in one of those circumstances. In fact, we hope in the new hospital, which will be an exemplar of modern healthcare, to be able to introduce additional services to those we already offer.

3.8.3 Deputy I. Gardiner:

As the Minister who is responsible for the new hospital project, would the Minister ensure that we have infrastructure in place in the community, which I am very doubtful about, to accommodate services that will be taken out from the current hospital?

Senator L.J. Farnham:

Yes. I think I can refer to my previous answer. Every health service we have now will be facilitated and the infrastructure will be provided, whether that is in the new hospital campus or within the community. I can confirm that. Of course, we do not know exactly yet what will be community

facing and what will be split services based at the hospital and in the community and what will move directly to the community. That is a work in progress and that is being led by the Minister for Health and Social Services and his team, but I just want to reiterate that all of the services, and hopefully new services, will be included in either the hospital or within the community infrastructure.

3.8.4 Senator K.L. Moore:

As the Minister with responsibility for this major project, why does the Minister not have a better handle on the services that will be provided within the Future Hospital?

[11:00]

Deputy Gardiner has already highlighted some examples of services that are not identified as returning to the General Hospital in the functional brief.

Senator L.J. Farnham:

I believe I have, together with the oversight group and all of the team, an excellent handle on the development of the new hospital. What I do not have in front of me is an extensive list of every single service offered. That does not relate to the original question asked by Deputy Le Hegarat and I believe supplementaries should be in line with the original question. It was in relation to what services were being transferred to Les Quennevais and back to Overdale. Yes, we have a full and very good grasp of the project but if the Senator would like to ask a more detailed question in a future sitting perhaps, or even engage directly with me outside of the States, we would be very pleased to provide a detailed answer. With the best will in the world, I am afraid I do not have the facts in front of me to list every single type of service on offer.

3.8.5 Deputy M.R. Le Hegarat:

This question relates to a considerable concern from the general public who have seen that services have been moved and do not appear to return. As an example, rehabilitation and the rehabilitation ward theoretically started at Overdale and then it was only moved to the General Hospital at Gloucester Street as a result of COVID-19. That service appears to be nowhere, so if the Minister could answer the question in relation to where the rehabilitation ward will be located, that would be helpful.

Senator L.J. Farnham:

As I said before, the final outcome of placement of services, whether they be totally in the new hospital, split service between the hospital and the community or in the community is still a work in progress. I cannot answer that presently but we will provide that. As the project develops, as the healthcare model develops, we will be very pleased to answer all of those questions and I am sure the Minister for Health and Social Services, who leads that aspect of the project, will also be able to provide clarification as the project develops. I want to reiterate that every single service that is provided now will have new provision in the new health estate, the pinnacle of which will be our new hospital.

3.9 Deputy S.M. Ahier of St. Helier of the Minister for Health and Social Services regarding the restrictions on relatives visiting family members in care homes (OQ.57/2021):

Will the Minister advise the Assembly whether he intends to relax the restrictions on relatives visiting family members in care homes?

The Deputy of St. Ouen (The Minister for Health and Social Services):

Public health guidance for visiting in care homes is reviewed on a 3-weekly basis, taking into account the latest data and Island context with respect to COVID-19. An update to the guidance published on 23rd February considered feedback from care homes and builds on previous guidance to incorporate bespoke advice for visiting in Jersey hospice care. Following the advice of the deputy

medical officer of health, a cautious approach was maintained regarding the number of named visitors recommended and the frequency of visits, allowing any impact of recent increased activity among the wider community to be assessed while the changes in care home guidance are considered. I will be reviewing the need for any further changes to the guidance, for example considering whether further flexibility can be safely given, ahead of 16th March when the next update is due to be published. This will take into consideration key indicators such as detailed vaccination coverage, data among care home residents and staff, local COVID activity data and the latest medical advice from the deputy medical officer of health, together with further feedback from care homes.

3.9.1 Deputy S.M. Ahier:

The guidance for visiting care homes states that it will be reviewed to ensure it reflects changes to COVID-19 transmission rates in Jersey. With active cases now at 14, is it not time the Minister allowed family members access to their loved ones?

The Deputy of St. Ouen:

It is vitally important that those in care homes do have access to their loved ones, do have access to venues outside their care homes that are safe. That is recognised as something that is so important to their well-being and general mental health and is taken into account and will be taken into account very firmly when the next guidance is released on 16th March.

3.9.2 The Connétable of St. Helier:

I should declare an interest in having a relative in a care home. Could the Minister explain the logic of the current guidelines which restrict visitors to, generally speaking, 3 visits a week for 2 named and tested visitors? Why is it not possible if so preferred for the care home resident to receive a visit on 6 days from a single visitor duly tested and in a healthy state? I personally cannot see why there is any increase in risk. In fact, I would say there is more of an increase in risk in allowing 2 visitors rather than one.

The Deputy of St. Ouen:

It is an interesting question, the issue of trying to balance the risks so these factors are put before the infection control team and the deputy medical officer of health. It is largely their guidance that has been pursued and they decided that that frequency of visits was too great a risk at the moment, so that has not been included in the guidance. But I undertake to put it again when considering the next review.

3.9.3 The Connétable of St. Helier:

Does the Minister not agree with me that there is no increase in frequency if it is one person visiting 6 times than having 2 people visiting 3 times? There is surely less risk involved in it being a single visitor.

The Deputy of St. Ouen:

I can see the argument that the Connétable is putting forward. I do not have a response from infection control of why they might see things differently but I undertake to put the Connétable's argument in our next discussions.

3.9.4 Deputy S.M. Ahier:

The guidance mentions that for visits to residents who are not fully vaccinated there is only a maximum of one named visitor per resident. Parents are having to choose who can visit their child and children are having to decide which one of them can visit their parent. When does the Minister intend to change this prohibitive policy?

The Deputy of St. Ouen:

That may be changed from 16th March if it is deemed safe to do so in terms of controlling the spread and risks of infection from COVID-19. The point made by the Deputy is understood. We will attempt to balance those risks and restore those liberties to care home residents if at all possible in the context we find ourselves in. I am sincerely hoping we will be able to make a further relaxation of restrictions at the next review.

3.10 Deputy C.S. Alves of the Chief Minister regarding the diversity of citizens' panels and juries set up by the Government of Jersey (OQ.58/2021):

In light of the citizens' panels and juries being set up by the Government, will the Chief Minister state how the Government will ensure that the people selected to take part in any such panels are representative of the Island's population, and that all methods of collecting qualitative and quantitative data from these panels and juries are impartial and follow international best practices for market or social research?

Senator J.A.N. Le Fondré (The Chief Minister):

There are currently 2 live projects being undertaken, the Jersey citizens' assembly on climate change and the Jersey assisted dying citizens' jury. I am advised that the process of selection involves 2 rounds of random selection on an anonymous basis. In the first round invites are sent out to a randomly generated list of Jersey addresses with invites to individuals to register their interest to participate in the processes. Relevant demographic and attitudinal information is captured at this stage. In the second round, these expressions of interest are randomly sorted by a specifically designed software programme to produce a group of participants who are broadly demographically representative of the Island. To undertake this process, the Government has engaged the services of the Sortition and Involve Foundations, not-for-profit entities that respectively promote the use of randomly selected groups of people in decision-making and also putting people at the heart of decision-making. More information can be found on their respective websites. I hope that is short enough.

3.10.1 Deputy C.S. Alves:

Can the Chief Minister state how he may have looked at the bias that might be introduced by having fixed predetermined days - I think one of them has Thursdays and Saturdays - as part of the selection process, especially as people have to attend so many of them in order to be fully involved?

Senator J.A.N. Le Fondré:

I have to say I am not sighted on that. I do know that every effort has been made by engaging in this way that essentially it is as unbiased as is possible. My understanding particularly is that by having a sufficiently wide group from which the random selection is taken is one of the ways that the bias is removed. In terms of days, I suspect the problem there is that - and this is an opinion, I will have to go back and verify - by picking a working day, as it were, and a weekend day, one is trying to spread the load. I think the same problem can be identified no matter what days of the week are selected. One has to make a decision somewhere in there and it will impact upon whoever cannot make those particular days.

3.10.2 Deputy L.M.C. Doublet:

Could the Chief Minister please read out the list of demographic criteria that will be used in sorting and selecting the participants?

Senator J.A.N. Le Fondré:

Sorry, I was just referring to the list I have. The criteria used for selecting participants in both examples and the source data are as follows: age, the source is the opendata.gov.je 2018 population estimates; gender, the same source; location, Jersey Opinions and Lifestyle Survey 2020; socioeconomic status, which is the Jersey Opinions and Lifestyle Survey at source; the place of birth,

for which the source is the 2011 census data; and some relevant attitudinal questions, which is different sources. The purpose of the attitudinal questions is to ensure a broad reflection of different opinions on the relevant topics. I am very happy for Members, if they wish to quiz in further detail, for the relevant officers to provide interested Members with a briefing if they should wish.

3.10.3 Deputy L.M.C. Doublet:

The criterion that I am interested in and I believe should be included, especially for the assisted dying consultation, is that of holding a religious belief or a non-religious belief or indeed no particular beliefs. That is a characteristic that is especially relevant to that consultation. I would be grateful if the Chief Minister could go back to his officers and enquire about that, please.

Senator J.A.N. Le Fondré:

I am very happy to do that and arrange a briefing. As I said, the system has been set up to try and get a randomly selected but also as representative a group as possible. I was quite impressed when I was given the information and I hope the Deputy is as well.

3.10.4 Deputy R.J. Ward:

My question has partly been answered. I just would like the Minister to confirm that the Sortition Foundation is involved and it is the same one that helped set up panels around the world and that form of stratified sampling is quite a robust system. Just to confirm that it is the same Sortition Foundation that was used for the Climate Assembly in the U.K. and elsewhere.

Senator J.A.N. Le Fondré:

I have 2 answers. One is I agree absolutely with the Deputy about the difficulty of pronouncing the title of the organisation. Yes, I can confirm that is the case, so it is a very robust process that has been put in place.

[11:15]

3.10.5 Deputy M.R. Higgins:

Will the Chief Minister tell Members whether the same criteria were used in determining who was going to be on the panel that was reviewing the decision to place the hospital at Overdale? If not, what criteria were used to set up that panel?

Senator J.A.N. Le Fondré:

I would have to go away and identify it. What I do know about the panel that was established was that there was certainly no political involvement and it was kept as arm's length as possible in order to avoid influence. But I will have to go away and identify the process that was done. I think it has previously been put into the public domain. We are testing memory here, but I will go and get the information.

3.10.6 Deputy M.R. Higgins:

Could the Chief Minister also check and provide us with the demographics of that panel as well?

Senator J.A.N. Le Fondré:

Yes, willingly.

3.10.7 Deputy C.S. Alves:

Will the Chief Minister confirm whether the Sortition Foundation will be involved throughout the whole duration of the existence of these assemblies and juries when they are collecting data and points of view?

Senator J.A.N. Le Fondré:

My understanding is the whole point of the involvement of Sortition is purely to get the assembly/jury established, that they then do not facilitate or anything along those lines during the deliberations. My understanding is that they are involved in creating the bodies that we are talking about.

3.11 Deputy M. Tadier of the Assistant Chief Minister regarding consultation with the residents of Les Quennevais Park and Clos des Sables regarding the relocation of facilities from Overdale to the former Les Quennevais School site (OQ.61/2021):

Will the Minister advise what consultation, if any, was undertaken with the residents of Les Quennevais Park and Clos des Sables area before the decision was made to relocate Overdale facilities to the old school site?

Senator L.J. Farnham (Assistant Chief Minister):

I will briefly outline the process and the consultation as it has taken place. As we heard in the previous answer, after the decision to select Overdale as the preferred site work began to identify suitable locations for the relocation of services currently offered at Overdale. To do this, clinically-led options and appraisals were undertaken, which looked at a range of potential locations within the current healthcare services and wider Government of Jersey estate. Following this process, a decision was made to relocate by the political oversight group and Council of Ministers, to relocate the services currently on offer at Overdale to the former Les Quennevais School in St. Brelade. At that time, I personally spoke with the Constable and the Deputies in an informal conversation just to let them know that that was what was planned. A presentation was then made to States Members and a public announcement later that day. That same day or the next day letters were hand delivered to approximately 230 neighbouring properties of the former school which informed residents of the relocation decision as well as giving them information about the forthcoming community meetings and relevant contact information from the design and delivery partner. So, following then the first residents' meeting was held on 18th February, at which 16 people attended. Those present at the meeting were given a general project update and an introduction of the engagement strategies.

The Bailiff:

Can I ask you to bring your answer to an end, Senator?

Senator L.J. Farnham:

Yes, Sir. It is quite a bit of information I need to give out, but I will stop there and hopefully I can address the rest in supplementaries.

3.11.1 Deputy M. Tadier:

I thank the Minister for that answer. He could perhaps circulate that written to me. The key point that he has made is that there was no consultation done with residents before the decision was made and that they simply received a letter informing them that a decision had been made after the fact. Does he think that this is satisfactory? I do have other questions, but I think that is the first question.

Senator L.J. Farnham:

The decision in principle was made. There is still a process to go through. I am not sure there was any other way to do it. I cannot see consultation before a favoured site, a favoured option, is chosen. Once we have chosen that favoured option, it is far better then to engage in consultation following that. I do understand the Deputy's point and I also understand that we need to continue to improve the interaction with neighbours. We had a fairly low turnout and I think the consultants have learnt from that that they need to work harder to engage with the Parish authorities and the neighbours to get greater attendance. But we are absolutely committed to delivering a proper and detailed consultation process to ensure all neighbours and stakeholders and, indeed, any other Islanders who wish to participate can do so. I would ask Islanders wishing to participate to make contact with the project team, and they can do that very easily through our website and social media, or even

contacting me or any other members of the political oversight group directly. While I do accept the Deputy's criticisms, I want to reassure him that the work is underway for a thorough consultation process to take place.

3.11.2 Connétable M.K. Jackson of St. Brelade:

I acknowledge the Minister's comments with regard to consultation with the Parish, but would he acknowledge that the correct process might be to consult with the road authority in question with responsibility for the roads in the area, that being the Parish Roads Committee? Because it really is quite crucial and I suggest that failing to do this will result in people not being able to get to the hospital. So I just ask for his acknowledgement of that and perhaps to give a positive timeline as to when that might happen.

Senator L.J. Farnham:

I do acknowledge that, absolutely, and have asked the project team to do that. I will come back directly to the Constable and the Deputy with an update on the project timeline. No matter how long we have all been engaged in these kinds of projects, we do continue to learn. I thank the Constable for the guidance that he has given us throughout the project and I undertake to come back to him with a detailed timeline.

The Connétable of St. Brelade:

I thank the Minister for his answer.

3.11.3 Senator S.W. Pallett:

The Minister used the words "in principle". Has the decision to use Les Quennevais been decided or is it still a decision to be made?

Senator L.J. Farnham:

No, the decision is decided. I say "in principle" because during the consultation process and the next phase of work in preparation for this, if something untoward was to come up or something that indicated that it was not possible, then there might have to be a change of plan. I am pleased to say that nothing has come up to that effect yet, but we always must prepare for that eventuality. So, for the avoidance of doubt, it is very much hoped that the former Les Quennevais School building will be used for the relocation of the important services currently on offer at Overdale. So, I hope that is clear.

3.11.4 Senator S.W. Pallett:

It sounds as if the decision has been made and it is a *fait accompli*. I am not sure what residents are going to be consulted on because the decision has been made. Could the Minister or Deputy Chief Minister ensure that that consultation or those that are spoken to are not just those that are immediately in the vicinity of the school, that it is much more broader than that? The impact of such a move of Overdale to this site will have an impact all across the area on a day-to-day basis far larger than I think the school had when it was situated on the site. So can he ensure that the consultation goes much broader than where it has been so far? To only have 16 at a consultation meeting is, frankly, appalling.

Senator L.J. Farnham:

Yes, I can assure the Senator of that. It was disappointing to have 16 when over 230 letters were hand delivered to neighbours, but the team are going to work harder to engage more residents, not just within the immediate area but within the Parish. Of course, I extend the invitation I made earlier to all Islanders who wish to participate to make contact with the project team via the hospital website. Of course, we will be as inclusive as we need to be to ensure Islanders are properly informed and consulted with.

3.11.5 Deputy M. Tadier:

I am surprised to hear that so few letters have gone out. Knowing the area very well, I know that just Les Quennevais Park and Clos des Sables have over 500 individual residences themselves, and they are the immediate neighbours, without considering the other neighbours that are also adjacent. Would the Minister give an undertaking to have an effective consultation, notwithstanding the difficulties provided by the pandemic, perhaps which could be led by those of us who know the area and have represented it for quite a long time to facilitate his department in that?

Senator L.J. Farnham:

Yes, absolutely. I have asked the team to make sure they engage proactively with the Parish and the Parish representatives. I hope Deputy Truscott and Deputy Tadier will note that I always try to engage directly with them and I will continue to do that. With hindsight, the consultants have realised that it is important to cast the net further and they are doing that for the next meeting of residents, which is planned for 18th March. I undertake myself as well to work with the Parish Deputies and Constable to ensure we include as many stakeholders as we possibly can and who want to be involved.

3.12 Deputy R.J. Ward of the Minister for Social Security regarding the discretion exercised in cases where an adult claimant of Income Support left work without good cause and their household included children (OQ.60/2021):

The U.N.C.R.C. Committee requires the Government of Jersey to ensure that support provided by way of benefits is adequate. However, when an adult claimant leaves work without good cause regulations provide for a sanction period of 91 days, during which income support will be paid at a reduced rate. This applies equally where the claimant is a member of a household which includes a child. Does the Minister exercise discretion when the household includes children?

Deputy J.A. Martin (The Minister for Social Security):

The income support scheme expects working-age adults to take up and remain in work to support themselves and their families as far as possible. Income disregards provide for incentives for claimants to maximise their wages. Financial sanctions are applied if a working-age adult gives up employment without the appropriate reasons. The sanction removes the adult component from the claim but does not affect the components to support rental or household components or any child components on that claim. As Minister, I have discretionary powers under the Income Support Law to make payments in exceptional cases. I exercise this power carefully and each case is considered on its own merits. The giving up work without good cause sanction on an adult in the income support claim would not normally constitute exceptional circumstances. Articles 26 and 7 of the United Nations Convention on the Rights of the Child relate to the financial support for families.

3.12.1 Deputy R.J. Ward:

Having the question repeated back to me did not really help. Does the Minister not understand that if sanctions are applied to an adult in a family with children, they are equally being applied to a child? We have made a commitment to the U.N.C.R.C. and to putting children first, so can I ask the Minister again: does the Minister exercise discretion when the household includes children or does she just stick to the rule regardless?

Deputy J.A. Martin:

I thought I did answer that. I said in exceptional circumstances I can use discretion. I do not normally use discretion on the giving up work sanction. To put this in context, we had 183 giving up work sanctions issued in 2020 out of 637 claims. There are different circumstances. Always speak to the person down at Back to Work and explain why you feel you cannot carry on in your job. There are

exceptions as well that you can leave work, but income support is there to support people and it is an in-work benefit.

3.12.2 Deputy G.P. Southern:

The Minister talked about a certain number of cases of giving up work without due cause.

[11:30]

In how many of those cases was there any children involved in the family grouping?

Deputy J.A. Martin:

Yes, I was reading that and at the same time thinking the same question. I will have to get back to the Deputy and find that one out. I do not know if that is differentiated. That is the total for 2020, but I will check how many of those families had children. I am sorry about that. I should have asked for that information prior.

3.12.3 Deputy G.P. Southern:

In how many cases involving children or not did the Minister use discretion to relieve some of the sanction over the 90 days?

Deputy J.A. Martin:

Again, I would have to check that because there are different sanctions of giving up work and not looking for work. As I say, I do have discretion to make payments. I do not have that number off the top of my head, but it would not be many.

3.12.4 Deputy R.J. Ward:

Forgive me, I just wanted clarity to the answer previously. The Minister had this question in advance and so had the opportunity to find out the answer. I took from your answer that you do not exercise discretion in these cases because you do not exercise discretion in terms of the sanction for those who leave work, regardless of whether there are children there. Can you confirm with a yes or no whether that is the case, i.e. you do not exercise discretion? Thank you. It is just for clarity.

The Bailiff:

If I could just remind you, Deputy, and indeed others to address through the Chair. One does not address the Minister ...

Deputy R.J. Ward:

Sorry, Sir.

The Bailiff:

It is all right, it is just a gentle reminder.

Deputy R.J. Ward:

It was very difficult to word that question, but anyway, carry on.

Deputy J.A. Martin:

I said it would not normally constitute exceptional circumstances, so no, I would not exercise discretion in that case.

3.13 Deputy K.F. Morel of St. Lawrence of the Minister for International Development regarding the actions taken to help people in developing countries to gain access to Covid-19 vaccines (OQ.45/2021):

What actions, if any, is the Minister taking to help people in developing countries gain access to COVID-19 vaccines?

Deputy C.F. Labey of Grouville (The Minister for International Development):

We are incredibly fortunate that Jersey is in such a promising and positive position with our own vaccination programme. During an unprecedented global health emergency, it is vital that Jersey extends its assistance to countries most in need, distributing the COVID vaccine. We recognise that no one is safe until everyone is safe. Jersey Overseas Aid is currently in touch with the main participants in the Covax scheme, which aims to distribute at least 1.3 billion vaccine doses to vulnerable populations worldwide, and commission it for reviewing the most effective way of giving Jersey's support to such vaccine-sharing schemes. This will be in addition to the £1.5 million COVID-related humanitarian assistance we have already provided to some of the world's poorest and most vulnerable people in the world.

3.13.1 Deputy K.F. Morel:

I thank the Minister for her response. Could the Minister confirm that from her answer it sounded as though no action has yet been taken to assist with the Covax vaccine? Also, the W.H.O. (World Health Organization) recently - in fact, yesterday - said that Covax is correcting the glaring inequity which has been an unfortunate hallmark of the global vaccine rollout to date. Would the Minister agree with that statement and can she confirm whether or not we have started helping the Covax rollout?

The Deputy of Grouville:

We are currently in negotiation with Covax and we are seeing which is the best and most effective way for Jersey to give its aid, whether it is directly with the D.E.C. (Disasters Emergency Committee) or whether it is through one of our agencies like U.N.I.C.E.F. (United Nations International Children's Emergency Fund) that we use and we can get stuff on the ground sometimes incredibly quickly. So, we are currently researching that, but it is our intention to very much help in that regard.

Deputy K.F. Morel:

Just quickly, the second part of my question was: does she agree about the glaring inequity of the vaccine rollout, as the W.H.O. said yesterday?

The Deputy of Grouville:

I have not researched that particular issue. All we can do is to ensure that we have monies and we are putting them in the most effective places. As I say, we made a decision last week in a commissioners' meeting that we need to help and research what Covax are doing and the best way that Jersey Overseas Aid can assist.

3.14 Deputy R.J. Ward of the Minister for the Environment regarding the records kept of incidences where a residential rental property had failed to meet fire safety standards (OQ.52/2021):

Will the Minister advise what records, if any, are kept by his department of incidences where residential rental properties have failed fire safety standards and will he provide the number of any such incidences for each of the last 3 years?

Deputy J.H. Young of St. Brelade (The Minister for the Environment):

Fire safety standards in residential rental properties fall within the scope of the Public Health and Safety (Rented Dwellings) Law, building control regulations and those that require fire certificates for houses in multiple occupation. The Rented Dwellings Law and the building control regulations are within my remit as Minister for the Environment. However, the Fire Precautions (Jersey) Law 1977 requiring fire certificates is the responsibility of the Minister for Home Affairs. Records only

exist for properties that the Environmental Health Department know about. This is following the decision of the Assembly to reject the register of such properties to enable the minimum standards. So, those properties comprise registered lodging houses and rented dwellings that came to their attention through either complaint or applications to join the voluntary Rent Safe scheme. In the past 3 years Environmental Health officers have carried out over 3,300 inspections, including 272 registered lodging houses with multiple rented dwellings, and dealt with 491 tenant complaints related to minimum standards under that law. This has resulted in the issue of 74 notices listing multiple hazards which are proscribed within the order. Where officers have any fire safety concerns they will work with the fire service and issue heat detectors. There have been less than 15 cases ...

The Bailiff:

Would you please bring your answer to a ...

Deputy J.H. Young:

A crucial point, Sir: there have been less than 15 cases where they have been issued. There is a lot of information to get across.

3.14.1 Deputy R.J. Ward:

I thank the Minister for his answer, which was detailed. Can I gain from that and ask the Minister: really we are looking at a snapshot there and if you extrapolate across all rental properties, we could have a much bigger problem in terms of fire safety standards unless we have some formal licensing system?

Deputy J.H. Young:

I think the Deputy is right, there is no question fire safety is crucially important. I am very confident that the part of our laws that deal with building by-laws, which set the standards for the construction of new buildings and amendments to buildings, is in a very good shape to ensure that those works do ensure fire safety. However, that law does not deal with existing buildings that do not comply with by-laws. We introduced that law, the Residential Properties Law, to achieve minimum standards and, frankly, I have been very, very disappointed that we were not able to persuade the Assembly of the benefits of having a registration and licensing system to help us follow up. We are having to respond to complaints and I think the level of complaints does seem to be pretty consistent. The last information was the C.A.B. (Citizens Advice Bureau) in 2018, about 128 cases for various hazards, including fire risk.

3.14.2 Senator S.Y. Mézec:

It follows on from the last part of the Minister's answer just then. Could he tell the Assembly whether he is of the view that without the licensing scheme which he proposed earlier there is every likelihood or possibility that there are people out there living in conditions which are unsafe, which his officers currently do not have the tools they need to identify that and then do something about it?

Deputy J.H. Young:

I think the situation is that the law that was passed by the Assembly in 2018 did provide powers for a register to ensure the safety of rented dwellings and health and safety of persons occupying such dwellings. Having brought forward and had several debates, of course, the Assembly knows I was not able to persuade the Assembly that we had such a need, so therefore we use what we have. I can say there is a gap. When I attended the British-Irish Council meeting this week on the question, I discovered that several jurisdictions have such a register in place and they have introduced it because they see this as a problem. I think this is something where I am determined that this will have to be put right at some point. It may have to wait until there is an Assembly that is prepared to adopt those regulations in the future, but nonetheless the officers will carry on doing their best without it.

3.14.3 Senator S.Y. Mézec:

I just want to push the Minister for a more direct answer to how I phrased my question, which is about the possibilities of people out there living in conditions that are unsafe which we do not know about and that we cannot do anything about without that information. So can he confirm that not having the licensing scheme in place poses a greater risk than is necessary to the health and safety of renters out there and that rectifying that problem by introducing the licensing scheme would enable him to make people safer, which I know is what he desperately wants to do?

Deputy J.H. Young:

I am going to try and measure my words clearly. The purpose of the law and the purpose of bringing forward regulations for a register was to enable us to do what the law requires. Had that been approved, we would have been in a much better way to be able to be sure and confident that there were no such circumstances. At the moment, I cannot have that same level of confidence without that register because properties may not be up to date, we may not know about them, but where we do know about them or we get complaints, these are definitely followed up and dealt with.

3.14.4 Deputy M. Tadier:

Where there has been a fire in a rented property and there has been a fire report, is it the case that it is shared with tenants of the property and, if not, why not?

Deputy J.H. Young:

I think there is an overlap here, a very important overlap, because as I said in my answer, the Environmental Health team work with the Minister for Home Affairs, who is the absolute expert. The experts that we have within Environmental Health and Building Control are about the structure of buildings. When fire actually happens, obviously that is a matter of investigation, which I am sure our fire service people do. I cannot answer that. I will undertake to find out from the Minister for Home Affairs. It seems to be sensible that it should but I have to make enquiries about that.

Deputy R.J. Ward:

The Minister really has answered as far as, to be quite frank, he could. I would just like to thank him for his answer. I do not have a supplementary.

3.15 Deputy M.R. Higgins of the Minister for Social Security regarding the discretion available to her in relation to the management of debts owed by Income Support recipients due to overpayments (OQ.52/2021):

Will the Minister advise Members what discretion, if any, she has with regard to the management and cancellation of debts owed by income support recipients due to overpayments, including in which circumstances this discretion has been or may be exercised?

Deputy J.A. Martin (The Minister for Social Security):

I have not exercised discretion for overpayments that are recoverable. It is essential for the fairness of this tax-funded benefit system that households are asked to repay benefits in situations where they are paid more than they were entitled to. According to this principle, officers will seek to recover all payments of income support overpayments.

3.15.1 Deputy M.R. Higgins:

I would like to know if the Minister has exercised the discretion herself rather than delegate it to officers and whether she has exercised a discretion when it is the department's own fault that led to the overpayments which is causing the income recipients hardship at the present time.

[11:45]

Deputy J.A. Martin:

I did clearly say in the first sentence I have not exercised discretion for overpayments that are recoverable, and all payments while people are receiving income support are recoverable. Many of the overpayments are a few hundred pounds in a month and they are paid back straight away. That is the answer.

3.15.2 Deputy R.J. Ward:

Given that some of these overpayments are from 3 or 4 or even further years ago where the Social Security budget has already been spent and accounted for and the repayments may go on for years - I have people I have tried to help whose repayments were going on to 2030 - is there not a situation where discretion would mean that people's lives would be improved and that money has already been spent or recovered? Why are we taking so long to recover that money?

Deputy J.A. Martin:

The Deputy says why are we taking so long to recover that money: because we do look at the family circumstances and we look at the individual circumstances. Often we ask people to pay back at a rate of £3 a day, the problem being that - Deputy Higgins will see in the answer to his written question - outstanding in 2020, a rolling debt admittedly, is £3.78 million. Is the Deputy saying I should write this off? This is more than I would even get to uprate the components where Deputy Southern wants them to be.

3.15.3 Deputy R.J. Ward:

Is it not the case that if a department is that far out in terms of its payments consistently that we need to have a major overhaul of the system? People are having their incomes at the lowest incomes taken away from them over such a long stretch of time that they are trapped in a cycle of poverty because of an overpayment that was not their fault.

Deputy J.A. Martin:

The Deputy says the overpayment was not their fault; that is not always the case. We pay income support in advance, completely different to universal credit where you have to wait a month and borrow your own money and sign up to a repayment scheme before you even have a penny. I cannot explain it any more that people have had the money. Sometimes if people have not informed us of changes, of different circumstances in their household, these monies add up to sometimes a few thousand pounds. That is why we have the discretion to take back at very small amounts.

3.15.4 Deputy G.P. Southern:

Is it not the fact that if you are carrying £3 million of owed money, some of which has been created as overpaid because of the departmental mistake, should you not be encouraging more efficiency in your department by saying that will be lost if you do not correctly assess cases in front of you?

Deputy J.A. Martin:

Again, the Deputy says that the department is not correctly assessing. The department is correctly assessing on the information supplied by the income support family. If this is a week, a month or a few months out, the department makes the overpayment, again because it is always paid in advance. It is not rocket science. We all know what the components are and then the disregards, but it does depend on people telling people if circumstances change in that household. Has somebody moved in? Has somebody started work? Are you doing more hours? That is when the overpayments appear. As I say, the majority of overpayments are paid back that week because the person has earned the £200, they do not need the £200 from income support.

3.15.5 Deputy G.P. Southern:

Does the Minister have an assessment of how many of these overpayments are due to departmental error and how many due to client error?

Deputy J.A. Martin:

I do not because I would have to go back through every single case. That is also in Deputy Higgins' written question, but as I say, the department is very good, Income Support. They assess the claims on the information they are given, then the claim will be changed on the information given. So the majority of people must inform Income Support when circumstances change. I am sorry if that really makes the Deputy cross, but that is what it is.

The Bailiff:

Deputy Alves, I am afraid I had already called final supplementary question when I indicated there was Deputy Southern still to ask, so Deputy Higgins, final supplementary.

3.15.6 Deputy M.R. Higgins:

The department has accumulated debts at least £2 million in 2016 and up to £3.7 million now because of overpayments. Many of those overpayments were by the department and they will not acknowledge and hide behind the law. Will the Minister not accept that the alternative that these people are faced with, some of them are faced with, is to declare themselves bankrupt and then the States will not get the money back? Is the Minister prepared to use her discretion and look at these cases and sort out which ones are genuine errors on the part of the department and not penalise the people?

Deputy J.A. Martin:

This is not the first time this Deputy or other Deputies have asked me to say if it is an error - and if it is an error - of the department would the Minister look at the discretion and write this off. The only way I can put this is we have all been employed. We have all been paid a wage. My boss paid me £400 too much in March; he said to me: "Keep that because you are very good but do not tell anybody else either"? No, he did not, he took the £400 straight out of my wages in April. I really do not understand. This is not my money. The overpayments happen at the department and they only happen, the majority, 99 per cent of the time, when the household has not kept up or told the department quick enough that there has been a change in circumstances.

3.16 Deputy C.S. Alves of the Minister for Health and Social Services regarding workforce testing for Covid-19 (OQ.59/2021):

Are reminders sent to the people taking part in workforce testing, given that such testing is meant to be undertaken at regular intervals?

The Deputy of St. Ouen (The Minister for Health and Social Services):

Islanders who are eligible for workforce testing are required to book in for their first test appointment. Information on this process is provided through the Government website. Once registered, the appointment details are provided by email. Following completion of the first appointments, the process is then automated where follow-up appointments are provided by email with the timings of follow-up appointments being based on the priority group registration.

3.16.1 Deputy C.S. Alves:

Can the Minister state when this automated follow-up testing email system was set up? I have personally signed up for the workforce testing last year and have not had any follow-up email sent. I am also aware of other members of my family and friends who are in the same situation. So could the Minister state when this automatic follow-up appointment system was put into place, please?

The Deputy of St. Ouen:

I will endeavour to find out that other information because I do not have it immediately to hand. I suspect it has been a process that has been developed over the months we have been undertaking workforce testing, but I will come back to the Deputy on that.

3.16.2 Deputy I. Gardiner:

Would the Minister advise if there is any active engagement and encouragement from the health services to the industries such as hospitality or retail to engage with workforce screening?

The Deputy of St. Ouen:

Yes, there have been very significant efforts made. For example, very recently with the opening of hospitality, our COVID teams were out among hospitality venues encouraging the staff there and the owners of hospitality businesses to encourage their staff to undertake testing. That will continue as we move through the pandemic and open up other sectors. Our COVID teams will work with sectors to encourage appropriate testing.

3.16.3 Deputy I. Gardiner:

Back in 2020, in November or December, business owners received an email from the COVID team offering workforce screening for the employees. Since then reminders did not arrive to the business owners. Would the Minister consider resending emails to the business owners encouraging them to send the workforce for screening?

The Deputy of St. Ouen:

Yes, I will ask the team if we can do that. Whatever encouragement we can give will help, though those workers who did go for testing will by now be receiving follow-up reminders if, as stated, the automated process is working correctly.

3.16.4 Deputy C.S. Alves:

Would the Minister consider looking at an online booking system for tests, given that this automated system obviously highlighted by myself and Deputy Gardiner is not working at 100 per cent? I know that when I made the appointment over the phone and when I have made the appointment for other people over the phone things like emails were not taken down. Obviously, phone numbers were but emails were not. Would the Minister consider looking at an online system for booking tests in order to avoid there not being a follow-up?

The Deputy of St. Ouen:

We will look at what an online system might remedy. If it is useful and practical to do so, we will certainly consider that, by all means.

3.17 The Connétable of St. Helier of the Minister for Infrastructure regarding the future use of the former police headquarters site in Rouge Bouillon (OQ.56/2021):

Following my oral question on 30th June 2020 about the Minister's review of the future of the former police headquarters site in Rouge Bouillon and statements during the debate on the Government Plan regarding the temporary relocation of the sea cadets to this site, will the Minister advise the Assembly of the progress on this review?

Deputy K.C. Lewis of St. Saviour (The Minister for Infrastructure):

As the Constable is aware, Rouge Bouillon is the operational headquarters, central base, training centre and emergency response equipment store for the Jersey Fire and Emergency Service. Although a number of alternate uses of the site have been proffered, none of these are feasible without relocating these vital facilities. With that in mind, a thorough review has been undertaken by the Justice and Home Affairs Department to determine the optimum location for the fire and emergency service and the ambulance service, with the key criteria being the imperative to save lives and the

response time. The publication distribution of the Island dictates that the facilities should be in St. Helier and a number of alternative sites were considered within or close to Town, including Warwick Farm, Bellozanne, the Limes and La Collette. However, the review, which has been validated by an external consultant, shows there to be a clear disadvantage and risk to life if the station were to be moved away from its current location. Notwithstanding that and recognising this Government's commitment to young people, my team are working with Education to determine the optimum location for educational establishments in St. Helier. That review is intended ...

The Bailiff:

Could I ask you to bring your answer to an end, please, Deputy?

Deputy K.C. Lewis:

It is coming to an end now, Sir. That review is intended to be completed in the near future, after which the 2 reviews will be compared and a decision taken which best meets their requirements.

[12:00]

3.17.1 The Connétable of St. Helier:

When I asked this question last June, the Minister said that the review was shortly to be completed and he said, and I quote: "As soon as things move forward with the review, the Constable will be the first to know." This clearly is not the case or I would not have to ask a question to the Assembly this morning. How can it be that the Minister has concluded his review with no consultation with the father of the Parish, whom he said would be the first to know what was going on?

Deputy K.C. Lewis:

It is close to completion. There are several reviews which are converging and it will be discussed with the Constable, also the Regeneration Steering Group in the first instance, of which the Constable is a member.

3.17.2 Senator S.Y. Mézec:

I guess I just want to bluntly ask what is going to happen to Rouge Bouillon School. That site being contiguous to it made it obvious that that would be how we would want to support the school either in expanding or providing it with better facilities. It strikes me as a potentially lost opportunity that could leave that school in a position for years of not knowing what its future is going to be. So just bluntly: what is going to happen to Rouge Bouillon School?

Deputy K.C. Lewis:

That is not my decision. That will be part of the review and it will be taken up by the Regeneration Steering Group and the States as a whole.

3.17.3 Senator S.Y. Mézec:

So how long is that going to take? Are we going to face more years of inaction where a school desperately needs support to improve its facilities, improve its access to open space for the many young people who go there? How long is it going to take before they get certainty about their future? Is this not going to be another case where we spend years and years talking about this and nobody is prepared to take the initiative and make commitments to deliver for that school?

Deputy K.C. Lewis:

As I have stated, that will be revealed in the reports which are converging. It is also our intention to deliver the best possible solution for the public good concerning both the school strategy and the fire and emergency service. Simultaneous work is also proceeding to find the sea cadets a permanent home. As I say, this will all come out in the review. I do not have an exact timetable. As soon as it is completed, it will be presented to States Members.

3.17.4 Deputy R.J. Ward:

Given his commitment as a Minister to put children first, what does he say to the children, the parents and the staff of Rouge Bouillon who have inadequate facilities? It looks like now they will not have any solution to this at any time in the foreseeable future. Can he give them some reassurance that he is putting them first?

Deputy K.C. Lewis:

Absolutely. We are putting the safety of the public first, which also includes children. Whether that is the correct place for a school, not my decision. It will come to fruition in the reports.

3.17.5 Deputy I. Gardiner:

What role, if any, is the Corporate Assets Management Board that is responsible for decisions on this currently playing in the review regarding Rouge Bouillon and do they engage with parents and schools as stakeholders?

Deputy K.C. Lewis:

I am not controlling the reviews myself. The 2 reviews are taking place simultaneously and, as I say, their reports will be presented to the States.

The Bailiff:

Very well, that ends the period available for questions with notice.

4. Questions to Ministers without notice - The Minister for External Relations and Financial Services

The Bailiff:

We now move on to 3 question periods without notice. The first is for the Minister for External Relations and Financial Services, and the first is Senator Moore.

4.1 Senator K.L. Moore:

Would the Minister update the Assembly concerning the export of fish and shellfish to both St. Malo and Granville? Are there any indications that anything could prevent Jersey fishermen from not being able to land their catch at this time?

Senator I.J. Gorst (The Minister for External Relations and Financial Services):

Thank you for the question. It is an evolving situation. There were difficulties right at the start of the implementation of the T.E.C.A. (Trade and Economic Co-operation Agreement). There was a period where those problems were alleviated slightly, but it is fair to say over the last number of days difficulties have been encountered again. Some of those difficulties are around produce like whelks, where they are fished from, what categories of waters they are, and the cleaning processes that need to be undertaken. Certainly, they are experiencing those difficulties at Granville. With regard to St. Malo, St. Malo is a large port. Our wholesalers using the Normandy Trader - because, of course, Condor's schedule is much reduced because of COVID - are finding that securing a slot is also a difficulty, but the Government is supporting in all of those cases.

4.1.1 Senator K.L. Moore:

Could the Minister outline how he is engaging with the French authorities to smooth the way on these important matters?

Senator I.J. Gorst:

Yes. There are individual fishermen who have been doing that, but my officials both in the E.U. (European Union) directorate and in the office in Caen are speaking directly with officials on the

harbour side as well as officials in the region, and I am in communication with political colleagues as well in the region.

4.2 Senator S.Y. Mézec:

In yesterday's *J.E.P. (Jersey Evening Post)* in relation to Jersey's relationship with the dictatorship and human rights abuses in the United Arab Emirates, the Minister is quoted as saying: "The Government of Jersey continues to believe that opening up new channels through which people can make connections and do business across borders will help to promote the open, democratic and rights-based approach advocated in Jersey." Could the Minister confirm and provide the details of at least one occasion where either he or somebody on his behalf has directly advocated an open, democratic and rights-based approach as he indicated in his quote yesterday?

Senator I.J. Gorst:

The Senator and I do not agree on this particular issue. I have answered questions in the Assembly and confirm that both I and, of course, together with U.K. officials and Ministers have discussed issues around human rights, around democracy, with interlocutors in the U.A.E. (United Arab Emirates).

4.2.1 Senator S.Y. Mézec:

If that is the case, then we do not disagree and I am pleased to hear it. I am simply asking the Minister if he can provide details about how he goes about doing that. Does he do it directly himself? Do people do it on his behalf? Does Jersey do it unilaterally or only when working with other jurisdictions as well? I would just like to know what it is like in the room when he puts to these dictators and human rights abusers that they need to stop being such dictators and human rights abusers.

Senator I.J. Gorst:

Well, of course, I do not use the undiplomatic language that the Senator is using. It is about forming relationships and having open discussions and, of course, comparing and contrasting systems of democracy and human rights legislation. We follow the U.K. approach in these matters, which is why we followed them in sanctions and putting human rights abusers on our sanctions list and taking action against them. I have relationships with individuals particularly in the U.A.E. and we have open and frank discussions.

4.3 Deputy S.M. Ahier:

Will the Minister considering introducing a ban on scallop dredging by French fishermen within Jersey's 3-mile limit to encourage sustainable fishing?

Senator I.J. Gorst:

As the Deputy knows, that does not fall within my political remit. That is entirely a matter for the Minister for the Environment and a decision for him. However, I would just make one comment, and that is that any decisions that the Minister for the Environment makes under the T.E.C.A. has to be made in a non-discriminatory manner.

4.4 Deputy R.J. Ward:

May I ask the Minister for External Relations and Financial Services what he understands will be needed re visas to work in Jersey following Brexit for non-C.T.A. (Common Travel Area) residents and what costs will these incur?

Senator I.J. Gorst:

Of course, the Deputy knows that that is a matter that falls within the remit of the Minister for Home Affairs and he has answered questions on that matter. He will be aware that there is an alignment

with the policy that is to be discussed and voted upon by the Assembly in this sitting, and that is around the 9-month work permit that the Minister for Home Affairs will need to issue for E.U. citizens in a way that was not required previously.

4.4.1 Deputy R.J. Ward:

I suppose I was asking the Minister for External Relations and Financial Services given the development of trade ties with other jurisdictions. I wonder whether the Minister has clarity as to what that will mean for people coming to work here in terms of their costs as we enter into a migration debate.

Senator I.J. Gorst:

There is no doubt that the bureaucracy that will be and is being put in place to get these working visas will act as a drag to E.U. citizens coming to work in Jersey in a way that it has not previously. It would seem to me that we are more likely to see perhaps the increase in the flow of individuals from the C.T.A. because again individuals in the C.T.A. will find it more difficult to travel and work and settle in Europe than they did before Brexit. The restrictions on those coming from the C.T.A. have to be delivered in, again, a non-discriminatory way. That is what the policy levers which we are discussing in this sitting are all about.

4.5 Deputy M.R. Higgins:

Will the Minister tell Members when the MONEYVAL evaluation is due to take place?

Senator I.J. Gorst:

There is some uncertainty of when exactly it will be, but we expect it sometime in 2023-2024, so probably towards the end of 2023.

4.5.1 Deputy M.R. Higgins:

Can the Minister tell me: if the Island fails to properly investigate fraud in financial services businesses, will that not reflect on our MONEYVAL evaluation?

Senator I.J. Gorst:

There are many factors which the MONEYVAL evaluators will consider in ensuring and reviewing our compliance with the F.A.T.F. (Financial Action Task Force) requirements, one of which, of course, is the appropriate prosecution of money laundering and financing of terrorism offences.

4.6 Deputy K.F. Morel:

Apologies to the Minister if I have missed any announcements about this, but with regard to the T.E.C.A. between the U.K. and the E.U., has the Minister received any clarity as to whether Jersey's 3, 6 and 12-mile limits will be measured from the offshore reefs as well as the Island, the off-shore reefs being Les Écréhous and Les Minquiers, or is this still a matter to be decided?

Senator I.J. Gorst:

As the Deputy knows, in response to his email I confirmed the T.E.C.A. is a trade agreement and does not change the limits that the Deputy has just referred to, nor does it change the access that is enjoyed currently under the G.B.A. (Granville Bay Agreement).

[12:15]

There are questions being raised, and I think this is what the Deputy is referring to, so let us be clear that T.E.C.A. does not deal with sovereignty. The sovereignty of those reefs remain as they were. There are issues around baseline measurements which perhaps need to be addressed in due course, but they are not connected with the T.E.C.A. The access in the T.E.C.A. is the same access that was

available under the G.B.A. arrangement. I know that that is not universally liked; I will use that word.

4.6.1 Deputy K.F. Morel:

I thank the Minister for his response and apologies for using the term “T.E.C.A.” in there. Is the Minister, therefore, confirming that Jersey’s baseline fishing boundaries are measured only from the Island of Jersey and do not include Les Écréhous and Les Minquiers? If so, what is the Minister doing to try to ensure that those offshore reefs are included as part of the baseline calculation of our fishing boundaries?

Senator I.J. Gorst:

At the heart of that question, unfortunately, is a translation of 2 different things, which I know the J.F.A. (Jersey Fishermen’s Association) have been communicating with the public about. The T.E.C.A. is a trade agreement and it transfers access that was available under the G.B.A. into the T.E.C.A. It does not change any baseline measurements. That has been confirmed by official advice. It has been confirmed to the Scrutiny Panel and to the Council of Ministers. Now, there is, of course, a separate issue and those baseline limits are dealt with separately. There are some historical issues about what zones access was given to. They, of course, have been translated and amended over the years with previous agreements. My understanding is, of course, that the Minister for the Environment would be seeking to work with law officers to see if there were a need to update those baseline measurements, but it is not something that would fall directly within the political remit of the Minister for External Relations and Financial Services.

4.7 Senator S.C. Ferguson:

Given the various problems with the E.U. and the increasing animosity for offshore centres that we are seeing, would it not be better to set up double taxation agreements with countries within the E.U. to be able to organise affairs more efficiently and reduce the animosity?

Senator I.J. Gorst:

I make no comment on whether it would reduce the animosity. Of course, it takes 2 to reach an agreement. We have, on numerous previous occasions, made suggestions to some member states that we stand ready and available to sign D.T.A.s (double taxation agreements) with them. That particular proposal has not really found traction with many. We are signing D.T.A.s with other countries around the world but just in low numbers. I think, alongside that of course, we need to remain engaged directly with Brussels and with member state capitals to explain how the Jersey financial services industry operates and the benefits that it can bring to their community and to the European Union as a whole. I accept what the Senator is saying and if parties or member states are willing, we certainly would be willing as well.

Senator S.C. Ferguson:

Can I suggest that ...

The Bailiff:

I am sorry, Senator, that brings time available for questions to the Minister for External Relations and Financial Services to an end.

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

5.1 Deputy R.J. Ward:

May I ask the Minister, given that 10 people can meet at a restaurant table for 2½ hours from separate households, what work is being done to enable bands to rehearse of less than 10 people in what could

be considered controlled environments, particularly electrified bands where there is not wind instruments involved?

The Deputy of St. Ouen (The Minister for Health and Social Services):

We have been engaging with musicians and those representing them and a strategy will be brought forward as part of the reconnection that will allow bands to practice or rehearse together in indoor settings. I presume the Deputy is referring to indoor settings. They would be permitted, at present, to congregate together in an outdoor setting.

5.1.1 Deputy R.J. Ward:

Can I ask the Minister really extend that engagement to musicians across genres, and not just woodwind but our wider bands, to find a way to enable rehearsal indoors that would be distant by the nature of rehearsal and to support the well-being of musicians who have been drawn away from their ability to practice together for a long time now as a matter of urgency and really work on a way in which this can happen?

The Deputy of St. Ouen:

Yes, I would be happy to engage. If the Deputy wished to give me the names of people that he wishes to contribute and then I will pass those on through the public health team.

5.2 Deputy I. Gardiner:

We currently have very few cases of the old variant of COVID, which is to be celebrated. As the pandemic adapts to us, we will need to adapt to it. In respect of this, what new measures are being taken to protect the Island from the new variants of COVID such as Brazil, South Africa and others?

The Deputy of St. Ouen:

We rely, to a significant extent, on the measures in the U.K. because anyone travelling from South America or Southern Africa, for example, will not arrive in Jersey directly but will be likely to come through the U.K. So we have been in touch with the U.K. public health authorities and are very much aware of the restrictions there. If any person travels on to Jersey, having undertaken their quarantine period in a hotel in the U.K., they have to undertake a further period of quarantine and be tested 3 times when arriving in Jersey. In that way, we believe we are monitoring as closely as we can any risks associated with travel in those areas where a concerning variant may arise.

5.2.1 Deputy I. Gardiner:

As it was reported recently, there is an identified case of the Brazil variant that slipped through the system in the U.K. and there are many fears. Would the Minister ensure that our border control and testing will continue to be robust to ensure that a new variant will not come to Jersey?

The Deputy of St. Ouen:

Yes. Our intention is absolutely to maintain a robust and safe border system that does its very best to keep out infection. We pay particular attention to the destinations declared by people so that if it was declared that time was spent in South Africa or other countries of concern, we would pay particular attention to the isolation of those persons.

5.3 Deputy K.F. Morel:

Recently, there were appalling reports in the United Kingdom of COVID patients with learning difficulties having “Do not resuscitate” placed on their medical notes when they were in hospital. I was wondering if the Minister would be able to confirm whether or not such a horrendous practice exists in Jersey and whether or not people with learning disabilities would ordinarily have “Do not resuscitate” placed on their medical notes should they be suffering from COVID and in hospital?

The Deputy of St. Ouen:

I do not believe that would be the case that would ordinarily happen and I have every confidence that our healthcare staff would engage with the patient concerned and their family and not simply apply it without any discussion, thought or engagement with those who would need to be consulted with.

5.3.1 Deputy K.F. Morel:

Would the Minister agree that whether or not someone suffers from a learning disability, it is an irrelevant factor in deciding whether or not they should be resuscitated regardless of what illness they are suffering from? It is only the level of that illness which comes into account and not whether or not they suffer from learning disabilities.

The Deputy of St. Ouen:

I agree with the Deputy. Yes, those are a very precious community of people and absolute respect must be paid to them as individuals and they are individually considered.

5.4 Deputy S.M. Ahier:

A government consultation outlined an ambition to go smoke-free in England by 2030. Does the Minister have a similar ambition for Jersey to make smoking tobacco obsolete?

The Deputy of St. Ouen:

That is very interesting. I cannot say that I have that ambition because that English initiative I am not aware of. 2030 does seem very ambitious but what it does highlight is the need to improve education around well-being and people taking responsibility for their health. Fortunately, in Jersey, smoking rates have reduced in recent years though we still have a legacy of quite a high rate of smoking due to, I think, decades ago when the price of a packet of cigarettes was very cheap and very accessible. We are now seeing that reflected in some of the cancer cases that come forward and are dealt with each year. Especially among children, cigarette smoking is casually seen as a no-no and there is a smaller uptake among children and young people, which I hope will continue through into their adult lives. I will certainly investigate the English initiative that the Deputy has pointed out and see, if it is to happen in the U.K., whether we might join in.

5.5 Deputy M. Tadier:

Would the Minister explain whether it is logical and rational that it is possible and legal to sit down for a meal with, say, 8 other people not from our household for hours on end to have a 3-course meal with lashings of bottles of wine but if you want to just have a quick pint in your local pub at a social distance with one friend for 15 minutes, that is not possible? Does the Minister think those scenarios are rational?

The Deputy of St. Ouen:

It is a difficult task to reconnect our social life and economic life and have a perfectly rational system all the way through because we have to take things cautiously and in step and monitor each step as we move through the process. It has been recognised that opening hospitality venues for the purposes of serving meals, which includes opening cafés, would help people's well-being and mental health which has taken a severe knock throughout this second wave and of course gives a boost to the economy also. So very significant mitigation measures have been put in place such that, for example, diners in a restaurant must be 2 metres apart from each other. They are there for a limited time and they can only be served alcohol with their meal, not before or after. These are controlled environments, whereas I notice the Deputy mentioned going for a pint with a friend at a social distance. The difficulty is I think keeping that social distance when all we have is a glass of beer in our hand.

[12:30]

It is much more difficult to control but, at some stage, these steps will go.

The Bailiff:

I have to ask you to bring your answer to a close please, Minister.

5.5.1 Deputy M. Tadier:

I am not sure if that shed much light on it. I am just concerned we are going to get some really fat alcoholics at the end of this if they have to have a proper meal with every drink that they have. Perhaps more seriously, if the Minister is saying that it is to do with mental health issues and economic growth, then surely the same applies to people socialising irrespective of what they drink and of course they might just be drinking soft drinks in a pub as well. Can he confirm that this is not just a thinly veiled puritanical crusade on alcohol because it clearly does not seem to have been well thought out, if it is indeed to do with promoting mental health and economic stimulus?

The Deputy of St. Ouen:

Certainly, it is not that sort of crusade. It is recognised from public health research and data around the world that those sorts of environments, which we designate as wet pubs where people can gather together closely, are the vectors of spread and, in most jurisdictions, are the last to reopen when coming through and out of a wave. Jersey is no different. We adhere to that advice. That is the advice given to us that these environments are riskier than a restaurant or café and so will be open at the appropriate time but not yet.

5.6 Deputy G.P. Southern:

Would the Minister inform Members how the new scheme to make affordable and accessible access to G.P.s (general practitioners) is going and, in particular, with those cases of chronic, multiple morbidity and whether that is being catered for?

The Deputy of St. Ouen:

I understand from the Minister for Social Security that the scheme has been well received and has had a good take-up. All income support and pension plus recipients have been informed of their entitlement and G.P.s are very well aware and are applying the scheme. It will apply, as the Deputy pointed out, to persons with co-morbidities who are within the eligible groups of income support and pension plus. Thank you.

5.7 Deputy M.R. Higgins:

The Minister, in his answer to Deputy Gardiner, said that he was relying on the U.K. authorities to monitor people come from Brazil, *et cetera*, and the quarantine arrangements there. Is he going to step up the surveillance of private jets coming into the Island because we believe that one individual did break our arrangements and did not get tested and went to visit someone else who was arriving the following day? Are we having all our borders checked?

The Deputy of St. Ouen:

Yes. Every private jet that arrives in the Island is checked. Those persons have to undertake tests, those persons are known to us and I am surprised that the Deputy has just mentioned someone that was not known to us and was not tested but, if the Deputy wanted to give me details, then we could follow that up. We certainly do not omit private travel by jets, planes or yachts and all of that is for Ports and those passengers are subject to the same restrictions as persons arriving on commercial flights or boats.

Deputy M.R. Higgins:

Can I just say that the information was contained either in the *Bailiwick Express* or the *J.E.P.*?

The Bailiff:

I am sorry, Deputy. You cannot use it for a question, if you do not have a supplemental.

5.8 Deputy M.R. Le Hegarat:

Why have the rules changed in relation to children attending schools in the U.K. and the need for their quarantine on their return?

The Deputy of St. Ouen:

It has changed because it is felt that there was not a justification for exempting them from isolation requirements. Given the severity of the second wave in the U.K. and the presence of the variants, I think that is the right decision to have been made.

The Bailiff:

I am afraid that brings the time available for questions to the Minister for Health and Social Services to an end.

6. Questions to Ministers without notice - The Chief Minister

6.1 Deputy K.G. Pamplin:

Will the Chief Minister explain why, at the last press conference announcing the hospital mitigation changes, Dr. Muscat or the chair of S.T.A.C. (Scientific and Technical Advisory Cell) was not in attendance of the press conference?

Senator J.A.N. Le Fondré (The Chief Minister):

From memory, I think he was having a week off.

6.1.1 Deputy K.G. Pamplin:

Thank you, Chief Minister. So the response really is, going forward, does the Chief Minister not agree that any future announcements that changes the rules in our exit strategy, to appear without either Dr. Muscat or somebody relevant does not really help the Island in understanding the science and the medical data of the important messages that led to those decisions?

Senator J.A.N. Le Fondré:

In the ideal world, we do try and appear with either Dr. Muscat or Mr. Armstrong but there are times when according to ... I am trying to avoid using the words "operational reasons" because usually that is literal, i.e. they are operating or performing some form of medical procedure or, alternatively, in this instance where they were not available because of the timing of the press conference, sometimes it is not possible. If we can do it, we do try to have those individuals with us, as the Deputy says, to address any of the medical issues that come forward.

6.2 Deputy L.B.E. Ash of St. Clement:

Could the Chief Minister please confirm if regular updates took place on the Government's headquarters accommodation project and with whom?

Senator J.A.N. Le Fondré:

Thank you. Sorry, I just need to find the right piece of paper which is somewhere around. Yes, essentially, the strategic allied business case was approved by the Council of Ministers in October 2019 and Members were given a briefing in mid-November 2019. The Corporate Services Scrutiny Panel and Public Accounts Committee were also briefed in private on that same day, I understand. Certainly, that is confirmed in their Scrutiny minutes and they also confirmed that in the minute of December 2019 that they would defer consideration of any possible work until it had received - as in the panel received - what is called the S.A.B.C. (strategic allied business case) which was received on 17th December 2019 and is just under 140 pages. So the point is that document was delivered to them roughly a week after that minute, or it might have been 2 weeks, but it was certainly in December 2019. Subsequently, there were briefings that were delivered in June 2020, July 2020 and

October 2020 to Scrutiny and, according to our records, office accommodation papers, as considered by the Council of Ministers, were received by Scrutiny. What I am doing is I am reading off a letter that was sent to all Members on 25th February. Papers were sent by Scrutiny on 16th September 2020, 25th September 2020, 9th December 2020 and also 26th January 2021. It has been through 2 Government Plans. In addition, the full business case was sent to Scrutiny on 10th February. A specific briefing finally ...

The Bailiff:

Could I ask you to bring your answer to a close please?

Senator J.A.N. Le Fondré:

... was provided on 3rd February of this year to both corporate and the Public Health Committee and the Members were updated on 12th February. So there have been many briefings. We are arranging another one towards the end of this week or the beginning of next week as well.

6.2.1 Deputy L.B.E. Ash:

Could the Chief Minister, in his opinion obviously, have done anything differently in that updating process?

Senator J.A.N. Le Fondré:

I think that falls into 2 areas and so I think, from our point of view, we believe we have engaged as much as humanly possible. I do also look at it from the other perspective thinking: "Well, when I was in that position 3½ years ago, or whatever it is, what would I have done as a former president of what was then the Chairmen's Committee?" It is difficult and we do try to look to Scrutiny as it needs to get its job done and we all do things differently. A question I would be anticipating if I was still in that position was why, at any time in the last 14 months, I had not appointed advisers to advise the panel on this, to do a desktop exercise, for example, on all the paperwork, to proactively challenge and/or validate the claim savings, *et cetera*, and then to run through the numbers and the individual details as provided to Scrutiny once they have been through the Council of Ministers. That would have been a different approach from that end and would have avoided delays when one gets to this stage of the project. That is really all I can say is would there have been scope to get that procedure in place at an earlier point? I hope that helps.

The Bailiff:

A point of order. Do you want to raise a point of order, Deputy Le Hegarat?

Deputy M.R. Le Hegarat:

Yes, Sir, and forgive me if I should know the answer to this. This is a very short opportunity for Members to ask questions within a 15-minute spell. Missed opportunities for Back-Benchers, *et cetera*, for those that do not have the opportunity at other times to ask questions. Is it therefore appropriate that an Assistant Minister for Treasury and Resources is asking questions of the Chief Minister which are clearly scripted for him to have a full and open answer?

The Bailiff:

The answer to that is that it is not, generally speaking, appropriate. Ministers are not to ask questions of other Ministers and their own Assistant Ministers are not to ask questions of those Ministers. There is nothing to prevent an Assistant Minister who is not linked to the Minister answering questions to ask a question. That is within Standing Orders and that is within the normal policies of the Assembly. Whether it is appropriate and whether it is the right thing to do and the right use of question time, that, I am afraid, is a political issue which would need to be raised with P.P.C. (Privileges and Procedures Committee) and dealt with in that manner but I understand the point that you raise.

6.3 Deputy S.M. Ahier:

Since many businesses have announced their intention to reduce their office space by up to 40 per cent, will the Chief Minister consider re-evaluating his office accommodation project?

Senator J.A.N. Le Fondré:

Just to make 2 points, and I am reading again from the letter that was sent to Scrutiny. In terms of the documentation that has been provide to Scrutiny previously - and this is not a scripted answer but I will still refer to the letter I have sent out - the Scrutiny Panel was given, I understand, the updated documentation that was done in relation to the COVID-19 review of the office accommodation. From memory, I believe that was around September/October and, on that basis, we have done a review and the project still stands. I do emphasise that there are different opinions as to where office accommodation is going and that is the point I would also make. It is absolutely right to have advisers going through onsite, as it were, and on hand to give advice on this but, in essence, we are roughly reducing our accommodation by between 40 per cent and 50 per cent as a result of this scheme. Essentially, if we do not do it, we will be hugely over accommodating what we should be doing and the benefits to the taxpayer of £7 million a year would be lost. What I can also stress is that we are going down to approximately 6 buildings which is the intention, as Members have been informed previously and, therefore, there is still some flexibility if the result of COVID-19 is even more challenging than what we expect but, equally, some of the ...

The Bailiff:

I have to ask you to bring your answer to a close please, Chief Minister

Senator J.A.N. Le Fondré:

I apologise, Sir, yes. We have done the work and it has been provided to Scrutiny.

6.4 Senator S.Y. Mézec:

Could the Chief Minister offer us an explanation as to how it is that a profit-making private sector developer can somehow offer to build a government office on a government-owned site for a better value for money arrangement than the Government's own government-owned developer?

Senator J.A.N. Le Fondré:

The Senator is aware of many of the details because he has been a party to the papers and the decision-making that was made around that time. Equally, Members were also briefed publicly. We had said that the process was that the 2 highest scoring tenderers were the ones that came through to the shortlist.

[12:45]

It was a very, very thorough evaluation process and another is that the entity that Senator Mézec is referring to could not provide a building that was big enough basically for our requirements within the timeframes that we were requiring. It was an open process, there was fair competition and, in this instance, they did not get into the final 2 highest scoring positions.

6.4.1 Senator S.Y. Mézec:

What lessons has the Chief Minister learnt from the P.F.I. (Private Finance Initiative) experience in the U.K. where when what appeared to be similar arrangements that have been used in the past that come with all sorts of add-ons in the contract's maintenance costs and the rest of it, which have been widely regarded even by right-wing conservative chancellors as being bad value for money? How does he justify going with a private sector arrangement when none of those things would apply if we used our own government developer?

Senator J.A.N. Le Fondré:

This is a straightforward contractual arrangement to build a building and then for either us to buy it at the end or to lease it. It is not a P.F.I. setup where the building would be managed, for example, by the developer that has been suggested. Any contractual arrangements will be absolutely, I think I am allowed to use the term “bog standard” tenant/landlord relationships if we went down that line. As I said, the scheme is designed to give the flexibility, taking account of the financing issues we are dealing with in COVID. I make the point that, if we fail to do this, we will be foregoing, yet again, approximately £7 million a year at least because that excludes productivity savings from the point of the taxpayer. If we do nothing, whatever the prices that we have been talking about, it will cost £30 million more to do nothing because that is the state of the infrastructure that our staff are having to work in. So it is not a P.F.I. and, again, the Senator is mixing up his facts, I am afraid.

6.5 Deputy R.J. Ward:

Given that this is all questions without notice on the Order Paper, can I ask the Chief Minister directly: was he given notice of the question from his Council of Ministers colleague in advance of this and could therefore provide such a detailed answer?

Senator J.A.N. Le Fondré:

The answer is straight off the letter that was sent to Members. I have a host of paperwork around me covering different subjects including the previous question that Senator Mézec asked me some time ago and, indeed the anticipated question for the oral question that Deputy Southern was not able to ask me. So I have a variety of questions and, interestingly enough, I was anticipating some questions on the office strategy and, equally, anybody is entitled to ask any questions provided it is not a further Minister or one of my Assistant Ministers.

6.5.1 Deputy R.J. Ward:

Therefore, can the Minister confirm at he did not have prior sight of that question?

Senator J.A.N. Le Fondré:

I am not going to go down that line and the reason I am not going to go down that line is because, at various times, I get told by certain Members at some points: “I might be going to ask you a question” on such-and-such a subject. I also do some question spotting and so, to answer the question in the positive or negative on this one would then prejudice any future people who sometimes want to give me advance warning depending on the technical nature of that question. I would make the point that the same could also be applied to any question from any party member to any Member of their Ministers who were in the Executive at that point and it has never been asked.

6.6 Deputy K.F. Morel:

Would the Minister be able to update the Assembly as to the progress of the integrated technology platform project? Specifically, is it still on time and is it on budget as agreed in the 2021 Government Plan?

Senator J.A.N. Le Fondré:

It is still on time and we are close, I believe, to announcements being made in that area. In terms of budget, I would have to come back to the Member as to exactly where we are. I know there have been some iterations in there partly due to the COVID pandemic.

6.6.1 Deputy K.F. Morel:

Is the Chief Minister able to confirm whether or not the budget, which I believe is about £40 million for the integrated technology platform, is the same as agreed in the Government Plan?

Senator J.A.N. Le Fondré:

I will need to come back to the Member on the details of that. As I said, the focus I have been on is the delivery of it because, again, the failure not to deliver it will lead us in a very dire state but I will come back to the Deputy with the details in due course.

The Bailiff:

It is about one minute of the question period still to go but you have a point of order, Deputy Ward.

Deputy R.J. Ward:

Yes, I am not sure how this works. I was just wondering what a ruling is on questions without notice and whether, as the Chair, if you believe that they have been given in advance, then it negates the question without notice as a principle.

The Bailiff:

Well, the short answer is that there is no way that the Presiding Officer can know whether notice has been given in advance without being told. I really cannot make any other observation than that. It is not for me to form a view if one person says one thing and one person says something else as to what the outcome should be. That is a matter on which Members, I think, have to form their own view and the consequences, if they do not accept the explanation that has been given by the answerer, are political consequences, it seems to me.

Deputy R.J. Ward:

Thank you, Sir.

The Bailiff:

I will allow one minute more of injury time than in that case to cover that particular point of order and that leaves Deputy Higgins. You have about a minute to ask your question and try to get an answer.

6.7 Deputy M.R. Higgins:

A very quick question. I ask every month of the Chief Minister what progress has been made on bringing back to the States by the end of this year the digital register for commercial and residential properties and who is leading it?

Senator J.A.N. Le Fondré:

Very quickly, in my last response, I said it was all going to be played before the end of quarter one. I believe that is still the progress and, if it is not, I will update the Member in due course but I believe that is still on track.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Thank you very much indeed and that does bring the time available for questions to an end. It is now 12.50 p.m. Is the adjournment proposed? [**Seconded**] Very well, the Assembly stands adjourned until 2.15 p.m.

[12:52]

LUNCHEON ADJOURNMENT

[14:16]

The Bailiff:

Before we move on with Public Business, Deputy Doublet has raised by an email a concern over the answer to Written Question 82, which was a question directed the Minister for Health and Social

Services. I have considered that over the luncheon adjournment and the Minister was asked to explain what analysis had been undertaken to assess how the needs and rights of younger children would be affected by the winter strategy and other things, and where and how the analysis had been documented. The answer, although it talks about the placing of children in the decision-making process, does not indicate any analysis - in other words explain what analysis has been done - nor does it indicate where such an analysis, if it has been done, has been documented. It seems to me, therefore, that the answer does not directly address the question and I direct that a revised answer be provided for tomorrow.

PUBLIC BUSINESS

7. Reduction of lodging period

The Bailiff:

Very well, we now move on to Public Business. There is a preliminary matter before we start debates. There is an amendment lodged by Senator Ferguson for which notice has been given that a proposition will be made to lift Standing Order 32 so that it can be listed for debate at this sitting and to reduce the minimum lodging period. Senator, do you wish to make that propositions? Very well, we will have to deal with that, in the absence of the Senator or her inability to communicate anyway, closer to the time.

Senator S.C. Ferguson:

I am sorry, Sir, was that me you were calling?

The Bailiff:

Several times, Senator, yes. I was asking whether you wished to make your proposition to deal with your amendment in order that it be listed for debate and reduce the minimum lodging period to be dealt with at this session. Do you make that proposition?

Senator S.C. Ferguson:

Yes, please.

The Bailiff:

Do you wish to say anything about it?

7.1 Senator S.C. Ferguson:

It goes with the rest of the proposition, it should not take very long and it would make sense to do it all together. I will be very grateful if the States would allow me to cut the lodging period.

The Bailiff:

Is that proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? If no one wishes to speak on that proposition I propose to take that as a standing vote. If anyone wishes a recorded vote on this, would they please indicate now in the chat otherwise I will assume it to be adopted on a standing vote.

Deputy M. Tadier:

Can I ask for a recorded vote, please?

The Bailiff:

Yes, Deputy Tadier, you can, in which case I will ask the Greffier to place a vote in the link. The link is there. I open the voting and ask Members to vote on whether the Senator may be able to deal with that amendment at this sitting. The proposition is a proposition brought by Senator Ferguson to enable her amendment to the road safety matter to be dealt with at this sitting because it was tabled

too late to become automatically listed. The voting is open. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The proposition is adopted:

POUR: 38	CONTRE: 1	ABSTAIN: 1
Senator I.J. Gorst	Senator S.Y. Mézec	Deputy M. Tadier (B)
Senator S.C Ferguson		
Senator J.A.N. Le Fondré		
Senator T.A. Vallois		
Senator S.W. Pallett		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Saviour		
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy S.M. Wickenden (H)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy J.H. Young (B)		
Deputy L.B.E. Ash (C)		
Deputy K.F. Morel (L)		
Deputy G.C.U. Guida (L)		
Deputy of St. Peter		
Deputy of Trinity		
Deputy of St. John		
Deputy M.R. Le Hegarat (H)		
Deputy S.M. Ahier (H)		
Deputy R.J. Ward (H)		
Deputy C.S. Alves (H)		
Deputy K.G. Pamplin (S)		
Deputy I. Gardiner (H)		

Senator S.C. Ferguson:

I thank the House very much for that.

8. Encroachments on the Foreshore: Revised Policy (P.111/2020)

The Bailiff:

We move on to Public Business and I remind Members, and we will shortly reach a point where is no longer necessary to remind, if indeed it is, that there are the usual time limits for speeches and the Greffier will ring a bell when the time is up. The first item of Public Business is the Encroachments on the Foreshore: Revised Policy, P.111, lodged by the Minister for Infrastructure. Before we start I would like to remind Members that Standing Order 106 applies to the current debate on the foreshore that if a Member owns a property which encroaches on the foreshore or which they think may encroach on the foreshore they should declare an interest. Very well, I have already had one indication in the chat from Deputy Pinel. Does anyone else have any declaration that wish to make?

Senator I.J. Gorst:

My computer is playing up slightly so I would like to make the declaration that you have just indicated. I would also like to point out that there is no map, there have been no negotiations to know whether it is right to make a declaration or not but, nonetheless, I have made a declaration previously and therefore I make it again and will not be taking part in this debate.

Senator J.A.N. Le Fondré:

I own a property or, sorry, I am the director of a company that owns a property on the coast. I have previously been advised that there is no encroachment and therefore that I am not conflicted in the discussions we have had at Council of Ministers or in the debates that are projected to take place today. I will just make that note if it becomes a question and anybody wants to challenge that that is the advice I have received.

The Bailiff:

It is not a question whether a member owns a property on the coast, it is a question of whether it might be an encroachment, is the issue, or whether it might be on the foreshore. If you advise it is not on the foreshore then there is no question of a conflict. A number of Members have indicated that they wish to make a declaration in the chat, I am not going to call on anyone to speak. I will assume on the chat those declarations are made and they will be recorded accordingly.

The Deputy of St. Ouen:

It was only to make a declaration that a close family member owns coastal land but we do not believe that there is any encroachment on the foreshore with it. It is a declaration I have made before.

The Bailiff:

Thank you, as I say the issue is whether any property a Member might own or a spouse might own is on the foreshore or might be on the foreshore, not whether it is on the coast. If it is clearly not on the foreshore then no issues arises but thank you for the declaration.

Connétable J.E. Le Maistre of Grouville:

It is a bit of advice, Sir, by virtue of my office. I am president of the Channel's du Fief de la Reine, which owns the golf course, which obviously does border the foreshore. It is Crown land but I thought I should mention it, although I do not see that it prevents me from listening to the debate and taking part.

The Bailiff:

That is Crown land, I believe, Connétable, and I do not think you have a direct interest in it. Thank you for that declaration but it does not disqualify you, in my view. On the assumption that we had done what is necessary by way of declarations and they are now recorded, from the chat and from the comments page on the Assembly, then I ought indicate that the main respondent is the chair of the Environment, Housing and Infrastructure Scrutiny Panel 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 approve a revised policy for encroachments on the foreshore, as set out in the appendix to the report accompanying this proposition.

8.1 Deputy K.C. Lewis (The Minister for Infrastructure):

May I begin by thanking officers for the considerable time and effort that has gone into reviewing the foreshore policy. The reasons for the review are listed in the report and I do not propose to spend time now repeating them all. The review of the policy was comprehensive. Since then we have received the Deputy of Grouville's amendment to P.111 and the Environment, Housing and Infrastructure Scrutiny Panel's own review. The Deputy's amendment and the Scrutiny review has provided a second considered appraisal of this complex and difficult matter. I found most of the Scrutiny Panel's recommendations to be sound and have taken steps to adopt them by way of my amendments to the proposition. I will go into that in more detail when we debate the amendment later on. The 2015 policy and this revised draft have been worked on by officers with knowledge and experience of the nature and extent of foreshore encroachments, and with the fullest understanding of the complexities of the matter and the best options for resolution. Considerable work has gone into both the original policy and this revised draft. As Members will recall, the Solicitor General gave a presentation late last year on the revised policy and said that it was a policy with which his department would be happy to work with in conjunction with Jersey Property Holdings. As Members will have seen, the policy starts by explaining its purpose and then sets out certain key definitions which are later referred in the policy items. These are all fundamentally important definitions, necessary for understanding the implementation of the policy. It goes on to set out the various categories of encroachment ranging from new recent encroachments to historic encroachment, to minor encroachments, and then subdivides into inferring and non-inferring. It also distinguishes between openings, gates, steps and stairs, which is a type of encroachment that has been found to be quite prevalent on the foreshore, and also surface water discharge pipes. The policy then gives a preamble to the background to the principles of the policies.

[14:30]

The public's ownership of the foreshore, prescriptive title, planning permission and the role of Jersey Property Holdings, this background is all very important in the application of the policy items. Finally, the policy sets out what will happen in terms of resolution options in each category of encroachment. These options are clear and allow J.P.H. (Jersey Property Holdings) and the Law Officers' Department to apply them to commence the difficult task of approaching third party owners and seeking to resolve matters. The policy is not an income-generating exercise or any of the other missed statements portrayed in the media regarding foreshore encroachments. The policy is simply intended to provide a formal basis to be able to resolve third party encroachments through a range of options. Certain encroachments will be best resolved through complete removal and reinstatement of the land but our assessment, so far as these cases, will be very, very few. Others will be best resolved through selling the encroached land to the third party at a fair price, thus giving that party good title for the land and enjoyment in perpetuity. This also applies to where a property is being sold and the purchaser is insistent on having good title to all the land comprising the property, including any strips of encroached foreshore. Others can be best resolved through an informal licence

which gives the party the use but not occupancy of the land. It is, without doubt, a highly complex matter and unfortunately can only be dealt with on a case-by-case basis, but with a policy framework under which officers must work. We debated at length the Deputy of Grouville's proposition P.101/2020 towards the end of last year. One item of that proposition being to bring forward a policy. I proposed certain amendments to the Deputy's proposition, which amendments were all approved. I suggest to Members that we do not wish to repeat the debates of many of the complexities and issues surrounding the foreshore which were covered last year, but should focus on this revised draft policy and whether Members are happy for Jersey Property Holdings and the Law Officers' Department to apply the policy going forward. Policies continually need revision and tweaking and it may be that after a further period of application there needs to be further review of this one, but I must stress that I see this debate as being about the policy presented here and not a debate about the foreshore generally. The policy has been prepared by experienced and qualified surveyors and lawyers from J.P.H. and the Law Officers' Department, who have the somewhat difficult task of seeking to resolve many foreshore encroachments, many of which have existed for significant periods of time. It is a complicated matter and a difficult matter. If the States do not support the resolution of encroachment through the policy then nothing is going to succeed and encroachments will simply continue to get worse. I urge Members to approve this proposition and the revised policy and to allow the good work of resolving foreshore encroachments to continue. I make the proposition.

The Bailiff:

Thank you very much, is the proposition seconded? [**Seconded**]

8.2 Encroachments on the Foreshore: Revised Policy: amendment (P.111/2020 Amd.)

The Bailiff:

There is an amendment now lodged by the Deputy of Grouville and I ask the Greffier to read the Deputy's amendment.

The Greffier of the States:

(a) After the words "this proposition", insert the word "; and"; designate the existing paragraph as paragraph (a) and insert a new paragraph (b) as follows - "(b) to request the Minister for Infrastructure to provide a map, setting out the public boundary, as part of the encroachment policy document." (b) On page 2 of the appendix to the report accompanying the proposition, in the section entitled "definitions" - (i) delete the heading and associated definition of "Default boundary line"; (ii) delete the heading and associated definition of "Fair and Proper Price"; (iii) within the definition of "Historic encroachments" delete the words "for more than 10 years" and substitute "prior to 12th June 2015"; (iv) delete the heading and associated definition of "New/recent encroachments"; (v) delete the heading and associated definition of "Title encroachments"; (c) On page 4 of the appendix to the report accompanying the proposition delete entirely the paragraph entitled "Categories of foreshore encroachment"; (d) On page 5 of the appendix to the report accompanying the proposition delete entirely the paragraph entitled "Preamble: The principles of the policies"; (e) On page 5 of the appendix to the report accompanying the proposition delete entirely the paragraph entitled "The public's landside ownership of the foreshore"; (f) On page 7 of the appendix to the report accompanying the proposition delete entirely the paragraph entitled "Jersey Property Holdings"; (g) On page 8 of the appendix to the report accompanying the proposition, after the heading "Policies:" delete the remaining text and substitute the following - "Encroachments occurring after the date upon which the States approved this policy document will be required to be removed and the foreshore restored to its prior state at the cost of the encroaching party. Encroachments occurring prior to the date upon which the States approved this policy document, but after 12th June 2015, will be dealt with as follows - (1) Minor encroachments will be permitted to remain subject to such reasonable conditions as the Minister may specify in a licence agreement. (2) Interfering encroachments will be required to be removed and the foreshore restored to its prior state at the cost of the encroaching

party. (3) Non-interfering encroachments, which are not minor encroachments, may at the discretion of the Minister be permitted to remain subject to such reasonable conditions as he may specify in a licence agreement, including the payment of reasonable compensation. Encroachments which have occurred prior to 12th June 2015 (historic encroachments) will be dealt with as follows – (1) Minor encroachments will be permitted to remain subject to such reasonable conditions as the Minister may specify in a licence agreement. (2) Interfering encroachments may be required to be removed and the encroaching party may be required, depending on the particular circumstances of the case (including the length of time that the encroachment has existed), to contribute appropriately to the cost of such removal. (3) Non-interfering encroachments, which are not minor encroachments, will be permitted to remain subject to such reasonable conditions as the Minister may specify in a licence agreement. Notwithstanding the above policies, if an encroachment at any time affects any duty of the Minister to repair or improve flood defences pursuant to the Drainage (Jersey) Law 2005, he may deal with the matter as he thinks fit.

8.2.1 The Deputy of Grouville:

When we as States Members are writing, agreeing or scrutinising new policies on behalf of the public what is it we are asking for in that policy? What have we been looking for in the many new policies that were brought forward during the COVID crisis, for example? Might I suggest that any new policy made by the States of Jersey first of all has to be necessary, it has to be fair, open and transparent. It has to transmit a message that can easily be understood. The objective of any new policy is therefore to bring clarity to any given situation. Regardless of its complexity it should relay a message to enable the public to know exactly where they stand in a given situation at a given point of time. They should also give clear direction to those who have to work with that policy, including the officers of the department, as to how they can administrate that policy on behalf of the Minister and on behalf of the public, hence the title “Public Administration”. Failure to bring clarity is a failed policy and not worth the paper it is written on. What we have had presented by the Minister for Infrastructure is one such policy. It fails at every level. It fails the public who seek clarity and it fails the officers who have to try and administrate such a policy. Not surprising when one considers how the Minister’s policy came to be. To refresh Members memories I shall try to encapsulate a brief background to this saga. It was 15 years ago in 2006 that the Property Holdings Department were given a directive by the then Minister to extract optimum benefit from property assets. A laudable objective, I suppose. However, no policy was put in place and so the ministerial directive was open to interpretation. On 12th June 2015 the foreshore was gifted to the people of Jersey by the Crown for the purposes of researching renewable energy projects. Up until that point the States had acted as guardians to the sections of the foreshore that were owned by the Crown and therefore the States had or should have had a duty to protect it. During this lease period the States have gone about granting planning permissions and also cashing in on the derived stamp duties when properties were sold. A pragmatic and more general approach was taken to encroachments as it was recognised that the boundary is a moveable feast and can be difficult to determine. However, from the day Government gained ownership of the foreshore it used the opportunity to go about extracting monies from people in a random and inconsistent manner and still no policy or terms in which to do so, although there are some notable exceptions to this extraction directive. For example, St. Aubin and the reclaimed area around the Parish Hall, Ports of Jersey for the reclaimed land they occupy, La Collette, the Waterfront, certain hotels along Havre des Pas, areas up to Sand Street and Pier Road, St. Brelade Bay and what about Greve de Leq? Are we using the high tide mark on the sand dunes that once stood or the more recently constructed seawall as a boundary? So it goes on, because this is not just a matter of steps up on the beach in St. Clement we are talking about. The actions of Jersey Property Holdings became so heavy handed and inconsistent in 2017 when unsuspecting individuals came to sell their homes who were being made to pay independent valuations which they were not permitted to have sight of, where bills were being listed by the department, where one person with a deemed encroachment was being charged, yet their neighbour with an identical encroachment was

not. These 2 individuals that I have been working with decided to take their cases to the Jersey Complaints Panel. The panel's recommendations were published in April 2018 and concluded that the actions of the Jersey Property Holdings, and thereby the Minister, towards the 2 individuals were unjust, oppressive and improperly discriminatory and contrary to the generally accepted principles of natural justice. Their complaints were accordingly upheld. Those complaints, along with the opinions of the Jersey Law Society, the lobby group Save our Shoreline, and every Scrutiny Panel hearing up until my proposition, which was debated last September, have broadly been ignored by the Minister. So in fairness to my constituents I have been working with for over 3 years, in fairness to the public who wish to know where they stand, in fairness to the Jersey Complaints Panel who give their time for nothing in an attempt to better public service, in fairness to officers who have to try and hold the Minister's line, and in fairness to States Members who have to try to justify the situation to the public, in August last year I lodged my previous proposition in an attempt to get some action from the Minister, to bring clarity to the situation in the form of a clear, open and transparent policy, together with a map which sets out the public boundaries he is working to. Alas that is not what we have in front of us today. It was a few days before my debate on 18th September last year, that the Minister published this cobbled together policy ... and I say "cobbled together" not to be unkind but as we only have to read the recent Scrutiny report that looked at his policy and then the Minister's own amendment to his own policy, to appreciate just how utterly inadequate and lacking that policy was, and still is in my opinion. The Minister tries to give the impression that the majority of Scrutiny recommendations are being accepted, no doubt as a bit of a sop to States Members to vote with him. But look again at his responses to Scrutiny's report.

[14:45]

Little is accepted, little actions are forthcoming, there is much agreed in principle together with offers of possible delivery times of some time in the future. I remind Members that the Minister has had years to produce this work, years to produce a coherent policy, years to produce the map and we still do not have it. Just look at the Hansard transcripts which I circulated to States Members this morning, where I was asking the then Minister to produce a policy and a map, the date was September 2017, over 3 years ago. He has also had years to demonstrate how the generosity of the Crown's gift is going to be utilised in the way it was intended. That is, and I quote from the Deed of Transfer: "To encourage and research marine renewable energy projects." Instead he chose this immoral money grab embarrassment we are witnessing. Where is his request for £250,000 to resource and set up the work on renewable energy? Instead of the £250,000 he is suggesting in his proposition which he needs to pursue people for encroachments. The same encroachments that were granted planning permissions. I also wish to address some assumptions that have transpired during this issue. The most disturbing is that people who have properties which the department deems to have encroached the foreshore have knowingly and improperly done so. States Members who attended my briefing on Friday can make their own minds up about that as they were given the opportunity to hear from my constituents. Details of their case are anyway well-documented in the Jersey Complaints Board findings. The other assumption is in the Minister's own policy and that is his default position seems to be that encroached land should be sold off, piecemeal, to anyone who occupies it. Is that what we want? Where is the Ministerial Decision or States Assembly decision saying we ought to be selling off parcels of the foreshore just because it has been encroached? It might be right in some cases but certainly not all. To extract optimum benefit does not entitle the Minister to sell off the family silver. The optimum benefit to the public might not always be in financial terms, it might be amenities based, which the public could benefit from in a more practical way. I have presented a policy that is fair, open and transparent and brings long-awaited clarity to this situation. My policy offers a date to define what is historic or a recent encroachment. It offers ways of dealing with them. My policy acknowledges historical encroachments which came about while the States arguably encouraged them with planning permissions and turned a blind eye for years. It also acknowledges that upon receipt of the gift and to where the deed specified: "Any right of access or exploitation exercised as

a matter of longstanding custom should remain unaffected by the transfer.” Yet the Minister is now seemingly seeking to reverse this agreement and cash in. That is immoral in my book. My policy is about the foreshore, it also acknowledges that the Minister already has the power to maintain the seawall and flood defences in the existing drainage laws. My policy requires a map, a map that sets out what is publicly-owned land. It is a policy that the department should have brought forward years ago. I make my amendment.

The Bailiff:

Is the amendment seconded? **[Seconded]**

8.3 Encroachments on the Foreshore: Revised Policy: amendment (P.111/2020 Amd.): amendment (P111/2020 Amd.Amd.)

The Bailiff:

There is an amendment to the amendment lodged by the Minister for Infrastructure and I ask the Greffier to read that amendment.

The Greffier of the States:

Page 2, paragraph (a), in the proposed new paragraph (b), after the words “Minister for Infrastructure” delete the remaining words and substitute the words “to report back to the Scrutiny Panel with his proposals for setting out, in a map or plan, the public boundary.”

8.3.1 Deputy K.C. Lewis (The Minister for Infrastructure):

I did begin by saying I would not want a re-run of the original debate and I am afraid that is exactly what we have just heard. I will go through the Deputy’s amendments one by one but if I could start by saying that overall I am somewhat surprised at how the Deputy has approached this. In her proposition, P.101/2020, the Deputy put forward various arguments as to why the States should not treat the majority of foreshore encroachments as encroachments and should gift the land to the respective third parties. However, the Deputy, in drafting her amended version of the policy appears to stop short of that and proposes that most encroachments be addressed through licence agreements. While licences can be useful in some situations, they do not give a third party any form of ownership of the land or medium, long-term security. I am concerned, therefore, that such a policy would be detrimental to future transactions of coastal properties as buyers will be very concerned at the prospect of part of their purchases being subject only to informal licence.

The Bailiff:

Minister, could I interrupt you for a moment. At the moment, perhaps the purpose has been misunderstood, you are not required to speak on the Deputy’s amendment but merely to propose your own amendment to that amendment. Obviously you will have the opportunity for a speech on the Deputy’s amendment when that falls to be debated as amended or not by your own amendment. I did not wish you to be in a position of having to make the same speech twice.

Deputy K.C. Lewis:

I will just make the note that I am obliged to sell land, I cannot give it away. That would be illegal. I am obliged by the States of Jersey to sell land. If I give it away I would be prosecuted. Planning permission does not mean that you have good title to the land, it does not mean you own the land and as for extracting money, we are not extracting money at all, we are selling the land ...

The Bailiff:

Minister, I am sorry but I am required to ensure that we are not led down the wrong path in terms of the debate. Please forgive me if I am misunderstanding, you appear to be addressing a number of the points made by the Deputy of Grouville in her speech. You will have the opportunity to do that when

there is a debate on the amendment that she has proposed, at the moment you are simply needing to propose why your amendment, adding those few words relating to a map or a plan, should be attached to her amendment and you will have a more general ability to say what you would like about the Deputy of Grouville's amendment once that part has been resolved by the Assembly. I hope I am not knocking you off your cause but it seems to me you are making general points in a speech that you would wish to make when one comes to discuss the Deputy of Grouville's amendment.

Deputy K.C. Lewis:

Yes, I just make the amendment.

The Bailiff:

You are simply proposing your amendment, which is to deal with the reporting back to the Scrutiny Panel with proposals setting out on a map or plan the public boundary?

Deputy K.C. Lewis:

Indeed, Sir, yes.

The Bailiff:

Very well. Did you wish to say anything about that specific amendment?

Deputy K.C. Lewis:

That will do for now, I will come back to that.

The Bailiff:

Thank you very much, indeed. Is that seconded? **[Seconded]** Does any Member wish to speak on that amendment alone?

8.3.2 The Connétable of St. Brelade:

Just to speak in support of the amendment to the amendment in that it really is in my view a no-brainer in that the Minister is offering principally what is asked for in the way of a map, which is really fundamental to the whole discussion. That is simply all I have to say on the matter at this point. Thank you.

8.3.3 The Deputy of Grouville:

What the Minister - far be it for me to put words into his mouth - is proposing is that he does not have to produce a map at this time. I am saying in my policy that the map goes hand in hand with the policy so people know where they stand. We heard all the declarations at the beginning of this debate, some of who could not decide whether they were conflicted because they did not know whether their land encroached upon the foreshore, yet we have a department that is going to go around charging people for the use of this land. What I am asking for is a map. I think that is fundamental. In the Minister's own proposition, he talks about master schedules that would be "inappropriate to openly publish". It talks about a default boundary line, setting out public land, which it refuses to make public. How can it not be made public if this is public land we are talking of? There is a public registry of land so how can the Minister not publish his default position? Instead he argues that property owners have to go cap in hand to his department to justify their position from his secret master schedule and his secret default boundary, deemed by public servants in a public department but the map or plan they are working to will not be made public. It is a nonsense. It is the Minister who has so far adopted a very hard-line approach against people, expecting them to produce in some cases receipts and documents for alleged encroachments that they might or might not have been responsible for. I am afraid I am taking a hard-line approach too, because he cannot have it both ways. In his own revised policy he states that clearly a map will be important. Well, Minister, I agree so let us have a map please.

8.3.4 Deputy M. Tadier:

It is an interesting situation we have, is it not, where we have 2 Ministers who are at loggerheads and it is a shame this could not have been resolved around the ministerial table because it sounds like the Minister for External Relations ... that is not her title, it is something similar to that, is it not?

The Bailiff:

International Development.

Deputy M. Tadier:

International Development, I always get the 2 muddled up because they are just similar titles. Seems to not have confidence in the Minister for Infrastructure, if that is still his title. That is the first thing to observe. She is effectively saying she does not support the Government's approach on this, which is an observation that needs to be made. Which would be fine if she was an Opposition Member, of course, but she is not. That said, we do have to look at the amendment and the amendment to the amendment on their merit. On the very narrow issue of the map, it sounds reasonable initially to suggest there should be a map but I do think, to be fair to the Minister, he does have to be mindful of privacy, confidentiality and the sensitivities around this. For exactly the same reason, in fact, that the Deputy of Grouville has pointed out, that a lot of these things will be subject to challenge. By simply producing a map, first of all that does not necessarily resolve the issues but it could be inflammatory if a map is made public, which is not simply something which shows the public land but by showing the realms of the public domain, it necessarily will also have to show the areas of privately owned land and presumably the contested areas, which could be, as I have said, still subject to challenge.

[15:00]

Those would be publicly available and I was just thinking if this was not to do with land but it was to do with a different dispute that was going on between Government and individual citizens, how would we feel if a list was effectively produced of all the properties, of all those taxpayers, all those citizens and all the particular disputes they were having. Would we ask for a list to be published of all people from income support who have had an overpayment or an underpayment made to them so that we can all decide who they are and we can all chip in as members of the public to say whether we think that they have been treated correctly or not. I think the consideration that the Minister puts forward, although on first glance the Deputy of Grouville's position might seem the right one, when you examine it in more detail I do have a lot of sympathy for where the Minister is coming from. I think he is doing it for the correct reasons. It is important to treat these issues sensitively and I think publishing a map, for example, may not be the correct way to do that.

The Bailiff:

Thank you very much. Does any other Member wish to speak on the Minister's amendment? If no other Member wishes to speak, then I call on the Minister to respond.

8.3.5 Deputy K.C. Lewis:

I am very obliged to the Constable of St. Brelade and indeed Deputy Tadier for their precise and concise notes. We are not out to get anybody, we are not out to rob anybody, we are trying to fix an age-old problem. Any money that is taken from sales of land goes to Treasury. It does not come to Infrastructure at all or Property Holdings, it goes to Treasury. The old adage that I am jumping up and down rubbing my hands with glee, nothing could be further from the truth. The fact that they have planning permission does not mean they have title to the land and I agree fully that is something that needs tightening up and that is something I need to take up with our colleague, the Minister for the Environment, to make sure that that is really firmed up so we do not have any of these problems in the future. I think it has been a very pragmatic approach that we have taken, that if we adopted

the Deputy of Grouville's amendment then it would be very, very dangerous, in fact that nobody would have title to the land. Often as not people come to Jersey Property Holdings, not the other way around. Normally it happens when somebody is out to buy a house and as they are about to buy a house obviously they employ a solicitor or lawyer and there is a problem here, this land is not yours; you need to sort this out, that is not in the deeds. That is when Jersey Property Holdings and the law officers come into play that we do our best to sort it out pragmatically. No one is being robbed, no one is being charged, no one is being fined. The pragmatic approach is they are sold the land that they occupy, so it is a win-win situation for them. There are occasions where it will be licensed. As we found in the past, we have had several breaches of the sea wall and my team are doing their best to fix those as soon as they occur. But I will say no more on this. I make the amendment.

The Bailiff:

Thank you very much. I would ask the Greffier to place a voting link into the channel. The link has been posted. I open the voting and ask Members to vote in the normal way. The vote is for or against the Minister's amendment to the amendment of the Deputy of Grouville. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting.

The Deputy of Grouville:

I did not receive a voting notice.

The Bailiff:

It arrived in the chat but you have indicated your vote in the chat, so we will accept that. The voting is closed. The amendment has been adopted:

POUR: 24	CONTRE: 18	ABSTAIN: 0
Senator L.J. Farnham	Senator S.C Ferguson	
Senator J.A.N. Le Fondré	Senator T.A. Vallois	
Senator S.Y. Mézec	Senator K.L. Moore	
Connétable of St. Helier	Senator S.W. Pallett	
Connétable of St. Clement	Connétable of Grouville	
Connétable of St. Saviour	Connétable of St. John	
Connétable of St. Brelade	Connétable of Trinity	
Connétable of St. Mary	Connétable of St. Martin	
Connétable of St. Ouen	Deputy of Grouville	
Deputy J.A. Martin (H)	Deputy M.R. Higgins (H)	
Deputy K.C. Lewis (S)	Deputy L.M.C. Doublet (S)	
Deputy M. Tadier (B)	Deputy R. Labey (H)	
Deputy J.M. Maçon (S)	Deputy J.H. Young (B)	
Deputy of St. Martin	Deputy L.B.E. Ash (C)	
Deputy of St. Ouen	Deputy of St. John	
Deputy S.M. Wickenden (H)	Deputy M.R. Le Hegarat (H)	
Deputy G.J. Truscott (B)	Deputy K.G. Pamplin (S)	
Deputy K.F. Morel (L)	Deputy I. Gardiner (H)	
Deputy G.C.U. Guida (L)		
Deputy of St. Peter		
Deputy of Trinity		
Deputy S.M. Ahier (H)		

Deputy R.J. Ward (H)			
Deputy C.S. Alves (H)			

8.4 Encroachments on the Foreshore: Revised Policy: amendment (P.111/2020 Amd.) - as amended

The Bailiff:

We now return to the debate on the Deputy of Grouville's amendment. Does any Member wish to speak on that amendment? Does any Member wish to speak?

8.4.1 Connétable C.H. Taylor of St. John:

This is an excellent amendment by the Deputy of Grouville. Having attended the presentation on Friday, it was clear that this is the correct approach. It is not for Government to bully and push people into a position which they are unhappy with. This is, I believe, the correct way of going about it and I would urge Members to support the Deputy of Grouville's amendment.

8.4.2 Deputy J.H. Young:

I was not planning to speak but I feel there are a couple of points I think I need to make. I have listened to the arguments carefully, I find the whole business pretty unpleasant really. It was a gift and I know very well that in the past there have been people who have made transgressions, some of them deliberate, probably most of them accidental and, of course, with a coastline you are dealing with a moveable feast. I think the points that Deputy Labey made were very well made indeed. I really feel very, very uncomfortable with the history of disregarding a complaints board. The complaints board have obviously looked at this very, very carefully and they have produced a report. I am not familiar with all the issues but I obviously have got the bottom line of what they have said and I feel very uncomfortable with what I think is, potentially, a Big Brother approach. It is not the way you do things. It is not in accordance with Jersey's culture. I am disappointed that we now have an amendment which, effectively, means that we will not be seeing a comprehensive map. I think it is clear, I cannot see any way in which we can help people to be able to make judgments and know where they are unless such a thing is there. I understood what Deputy Tadier says, we have got a situation here with Ministers having a different view but I think there are moral issues here. I feel now because the amendment of the Minister for Infrastructure has now been approved, we will not be having a map and I think it is going to be very, very difficult to have a policy which is clear and achieves all this sort of criteria that spoke. I do need to flag up one thing, I notice that my colleague said that he needed to talk to the Minister for the Environment about sorting out boundaries on planning applications. I have to be very, very, very clear, planning consents do not entitle people to do things. They need to have proper title to the land to do that. For example, one could get it, there is nothing to stop people putting in planning applications for land they do not have title; it happens all the time. But they cannot execute it or implementing it unless they have a legal right to do so. There is absolutely no way the planning system can guarantee land ownership. One relies upon the certificates that people give in making planning applications but it is true that from time to time transgressions do occur. They do not only occur on shorelines, in fact the majority do not; most of them occur on boundaries. Please, whatever vote, I just want it to be clear that the planning system cannot resolve property ownership. It deals with permission and entitlement. If you have the legal rights, then you can do things. It is a matter of private law. I wanted to clear that up. I will be supporting my fellow Minister, Deputy Labey of Grouville. I think, on balance, I just feel very uncomfortable with the whole thing, frankly.

8.4.3 The Connétable of St. Brelade:

I am going to speak in fairly general terms because really the Deputy of Grouville wraps the whole matter up in her amendment. In 2015 the foreshore was gifted from the Crown to the public of Jersey

and since the time of the transfer Jersey Property Holdings, under the ministerial remit of the Minister for Infrastructure, has sought encroachment compensation payments from a number of property owners along the foreshore and this is quite crucial. The sale of a property has typically been the trigger point, the collection of these payments and that word trigger point, once again, it seems to me to be quite fundamental. This is in addition to the planning consent applications or an approach made by a property owner to J.P.H. and the Minister for the Environment has just spoken in regard to that process. In late 2017 complaints regarding the current policy and handling of encroachments of the foreshore came to light. Thereafter the proposition P.101 was lodged in August 2020 by the Deputy of Grouville, as she has previously referred to, requesting that a revised policy be brought forward for debate by January 2021. Subsequently, the Minister for Infrastructure lodged his amendment to P.101 and timing was tight. But although the Minister for Infrastructure largely dismissed the findings of the Complaints Board, it was agreed that a review of the policy would be undertaken to reassess the foreshore encroachments policies and the revised policy would be issued subject to the outcome of the review. A review of the current policy was undertaken by the Minister for Infrastructure over the last 2 years and the proposition P.111, which we are debating today, is in front of us. I think that is enough to explain that. As others have mentioned, it is not straightforward and it has been very convoluted. In consideration of numerous emerging key issues and concerns regarding this proposition on the table today, the panel - this is my Housing, Environment and Infrastructure Scrutiny Panel - agreed to undertake a review of the revised policy. The panel focused its terms of reference on these primary issues, with particular emphasis on the history of the ownership of the foreshore and the issues regarding the definition of its boundary, the establishment of the foreshore boundary, the impact of current encroachments on Jersey sea defences and on the maintenance of them, the approach used to seek compensation payments for encroachments and whether the revised policy is deemed fair, proportionate and fit for purpose. The panel sought to gain a better understanding of what was meant by the foreshore, its boundary and the encroachments of it. The review found that there is much discrepancy surrounding this issue, particularly the definition of the foreshore's boundaries. The panel found that the foreshore was a moveable concept that is impacted by various factors, including the changing high-water mark and, moreover, its uncertainty is amplified due to the structures, including sea walls and the action of reclaiming land over the years. I might put in that it may have been better to consider at the outset using chart datum, such as nautical people do, because it is a much more precise point but that is something for future discussion.

[15:15]

Concerning the ownership of the foreshore, the panel observed a recurring theme throughout the submissions of ambiguity regarding the foreshore land that was initially Crown-owned. The review found that it is disputed that all the foreshore land was indeed Crown-owned to begin with and, therefore, could not all have been gifted to the public by the Crown in 2015. Evidence gathered indicates sustained uncertainty over what land was Crown-owned land. This uncertainty of the boundary line is concerning to the panel, particularly as the boundary line would be pertinent to any revised policy and understanding of whether an encroachment to the foreshore had occurred or would occur in the future. When considering alleged encroachments to the foreshore and how an encroachment is defined, the review found, while open to legal interpretation, a recurring view that clause (ii) of the Deed of Transfer from the Crown to the public implies that any longstanding habitual and recognised custom by the general public should remain unaffected by the transfer of ownership. The panel felt that it was deemed by many that seeking compensation payments for encroachments on what was previously Crown-owned land would not be in keeping with the spirit of the contract. The panel has recommended the Minister for Infrastructure should give further consideration to how encroachments are dealt with in relation to those that predate the gifting of the foreshore from the Crown in 2015 and, specifically, this should consider whether the land in question was Crown-owned land to begin with and a date determined from when alleged encroachments should be considered. The panel noted that that should be considered prior to the adoption of the revised policy. I note that

the Minister, if we get to his second amendment, has agreed to that. As part of the Minister for Infrastructure's review of the current policy, a review of the land-side boundary was undertaken by the Law Officers' Department. The panel found that the master schedule cannot comply to capture all key data, including the extent of encroachments around the Island and a possible resolution. Although a master schedule of encroachments has been provided in the confidence of the panel; there is currently no map showing a defensive boundary line or justification with regards to the public as to how this is being determined. Moreover, the review found that the master schedule would not be made publicly available and the panel observed the notable lack of transparency over where the boundary is and how it is being determined. The panel has recommended, in the interests of greater clarity and transparency, that the Minister should consider further how the boundary line of the foreshore and the basis of evidence for its determination can be made publicly available. Once again, the Minister has conceded to do that in his latest amendment to the amendment. The panel observed that a primary aspect for the Minister for Infrastructure's review of the current policy was to ensure that essential maintenance of sea defences was possible and not inhibited by an encroachment. The review found insufficient evidence that suggested encroachments along the foreshore had significantly affected the Minister's ability to maintain sea defences. Additionally, that other policy mechanisms could be explored to ensure that maintenance and upkeep of sea defences is not compromised. Therefore, the panel questioned whether the revised policy was required to seek compensation payments in the manner it intended. The panel has recommended that the Minister for Infrastructure should consider a separate sea defences maintenance policy, in addition to how planning obligation agreements might satisfactorily be utilised going forward to ensure adequate upkeep and maintenance of sea walls where encroachments are concerned. The Minister has conceded to look further into that. In relation to the seeking of compensation payments for encroachments through evidence-gathering, by meetings and written submissions from members of the public, the panel observed a recurring view regarding concerns with the handling of foreshore encroachments and the current policy. The recurring view is that the approach in which the current policy was being applied was unfair and discriminatory. The review found both conveyancers and lawyers would be aware of the issues and possible ramifications relating to the difficulty in determining the foreshore boundary when an adjoining property is sold and would draw this to the attention of the prospective purchasers during the conveyancing process. Additionally, that property owners seeking planning permission have a legal duty to declare ownership of the land they are seeking planning permission for. Notwithstanding this, the panel found that in some cases planning approval had been granted where already encroachments either may exist or likely to be incurred. Furthermore, that prior to the transfer of ownership from the Crown to the public of Jersey where requests were made for works which would incur on an encroachment under its ownership, the Crown generally acquiesced to these requests. In these instances property owners are still being required to pick up compensation payments for those encroachments. The panel has recommended that the Minister should, in collaboration with the Minister for the Environment, seek to put in place a suitable formal protocol for dealing with permission to seek applications relating to properties along the foreshore. The Minister for the Environment alluded to his views earlier. Additionally, the Minister should seek to apply the policy in a fair and non-discriminatory manner and not solely to those where a trigger event when either the property is transacted, planning permission sought or a direct application made to Jersey Property Holdings by a property owner has occurred. Compensation sought or paid should be reflective of the encroachments and limitations agreed. Moreover, the panel has recommended that this should be reflected in the revised policy prior to its adoption. I think the Minister concedes to that. During its review the panel sought to gain a better understanding regarding whether a varied approach would be undertaken to resolve deliberate as opposed to unintentional encroachments. The review found that there appear to be no clear depotentiation between how a deliberate or unintentional encroachment on the foreshore would be dealt with. The panel has recommended the Minister should seek to differentiate between a deliberate or unintentional encroachment in the revised policy and that this should be incorporated prior to its adoption. I am

aware the Minister is not so enthusiastic about that recommendation and that his suggestion, and I am sure he will cover that, is that the courts are better placed to deal with that situation. The panel found the sliding scale had been previously applied to determine the level of foreshore encroachment payment and that the sliding scale mechanism would continue. However, the review found that the criteria for the sliding scale is not included in the current revised policy. The panel has recommended the Minister should further define and set out the criteria for the sliding scale into the policy and that it is clear and transparent and it should be incorporated prior to its adoption. The review found that much emphasis had been placed on the intention for each encroachment to be considered on its own merit. However, we do question what process is in place to ensure this will occur as intended. We found that there is a lack of information contained in the revised policy as to how the approach will be taken to judge each case by its own merits and what processes will be in place to ensure this happens. We have recommended that the Minister should be explicit in the revised policy as to how each case will be considered on an individual basis and what processes will be in place to ensure this happens. This, once again, should be incorporated into the policy before its adoption. I believe the Minister has acquiesced to that. Observing the development of the revised policy might have impacted upon property transactions and we sought to gain an understanding of the degree of impact the policy development process has had on individuals wishing to sell properties adjoining the foreshore. We found that some degree of impact had been felt in relation to transactions being delayed due to the policy development process for the revised policy, although the actual scale of this impact is uncertain. It is, however, conceivable that the length of time an approach is taken is likely to significantly impact some property owners along the foreshore. When considering previous complaints procedures evidence to the panel and the extensive time taken to arrive at any form of resolution, we raised concern regarding the complaints or appeals process that would be in place regarding the revised policy. The review found that there is currently no suitable complaints or appeals mechanism provided for in either the current or the revised policy to satisfactorily enable individuals to appeal a decision made by the Minister in relation to foreshore encroachment compensation. The only option available to individuals is to make a case to the Jersey Complaints Board. This is particularly concerning to the panel and, consequently, the panel has recommended that the Minister should seek to incorporate a suitable and workable process for dealing with complaints relating to foreshore encroachment compensation payments and, in addition, a clear appeals and arbitration process for dealing with any such complaints. This should certainly be incorporated into the policy before its adoption. In consideration of all the evidence gathered to determine whether the revised policy is fair, proportionate and fit for purpose, the review found an overwhelming and unanimous view that the revised policy remains an unfair approach. Moreover, that it is complicated, unclear and lacks transparency. On 31st December the Deputy of Grouville lodged her amendment and the accompanying report highlights the revised policy remains ambiguous, confusing and open to interpretation. It would not provide comfort to the public. The Minister seems to have failed to give credence to the views or concerns that might have been expressed by States Members as the revised policy was lodged 3 days prior to the September debate of P.101. It highlights the disregard of the views and findings of the Jersey Complaints Panel, and in her accompanying report the Deputy of Grouville highlights that although the public was entitled to establish a different policy towards encroachments, it should ...

The Bailiff:

I am sorry, Connétable, the bell has gone.

The Connétable of St. Brelade:

Right, I shall conclude, Sir.

8.4.4 Deputy K.C. Lewis:

I think it is unfortunate, I do not believe that the Minister for the Environment, Deputy Young, was at my briefing or he would have heard everything that was discussed there. But his second actual comment, I agree absolutely. The fact that one has planning permission does not mean that you have title to the land, which is something that obviously we are trying to sort out now. They have sought to address the matter of a map and its publication in my own amendment. Basically we need more time to do it, to put the map together, and we think it could be a breach of human rights if we published it. We are not into naming and shaming anyone because we would like the people who believe they may have been encroaching to approach a department and we will sort it out on a confidential basis. I will leave it there and I urge Members to reject this amendment.

Senator J.A.N. Le Fondré:

Sir, can I just check a point of clarification from you just in case I have missed the point here? We are on the main amendment here, Sir, are we not?

The Bailiff:

We are on the Deputy of Grouville's amendment to the Minister's proposition.

Senator J.A.N. Le Fondré:

Yes, Sir, exactly, so ...

The Bailiff:

If this is passed then the Minister's proposition will be amended in accordance with the Deputy of Grouville's amendment. If it is passed then the Minister's second ... sorry, have I replied sufficiently for you?

8.4.5 Senator J.A.N. Le Fondré:

It does from my perspective, Sir, thank you. I just wanted to, I think, make a few points in generic terms and just explain why this is important, why it is complicated and, equally, hopefully that will then outline the issues in terms of going forward. I do note the comments that have come through from Scrutiny. But I think we just need to go back to the fundamental point, and I have been involved for a number of years on this. In fact I think in the original time when we had a briefing it quoted something, a decision I had made when I was at Property Holdings back in 2006. The issue around value, which I think is important, is that the States as a landowner wears various hats, as it were, and one is in the capacity, if you like, as land when it is owned by the public, used, for example, on pavements or on roadways particularly. There is also land, owned land effectively, as a private landowner. One of the moral discussions that comes through, which is sometimes difficult to grapple with but is, ultimately, going down a very tried and tested route, is if one gives land and access across land.

[15:30]

Let us say, it is to a developer, if the granting of that access to the developer enables that developer to obviously build a property or properties and, for the sake of argument, generates £1 million profit for that developer, is it unreasonable for the landowner to, therefore, charge that developer, who is doing this for profit, generally a relatively small sum but a sum of money, sometimes relative to the amount of profit that will be charged, for their own benefit? In this instance, if we are holding land on behalf of the taxpayers but in a capacity as a private landowner, ultimately for the benefit of the taxpayer. Because if not, if that is wrong, then there are an awful lot of places around the world which are also doing it wrong. I use that analogy. I definitely recall in my time in Property Holdings, where landowners and councils in the U.K. and all those types of things had strips of land which controlled that sort of access. It is absolutely accepted, including by the R.I.C.S. (Royal Institute of Chartered Surveyors) and other general property valuation entities, it is absolutely standard practice that one charges an appropriate value for access across land which does not belong to the person who

needs that access. I think that is the fundamental one; that is something that we have got to deal with. The other one, it is about having immediate access to land in an emergency and I do know that what used to be called T.T.S. (Transport and Technical Services), now I.H.E. (Infrastructure, Housing and Environment) or previously many years ago Public Services or the Public Works Department, has for many years had issues around access to sea walls, to culverts for future maintenance and sometimes that can be needed in an emergency in the middle of the night because of flooding particularly or damage to drains or whatever it is. That is why having control over that land and being able to then set over a long period of time, this is the other thing to remember in terms of land, it is there generally for ever. Even though one might not need access in 10 or 20-years' time, in 40-years' time one might well need it and the legal title is important. That is particularly germane in these circumstances for things like sea walls and sea defences because water does not respect boundaries. If we had a row of 10 houses where 9 of them have remained and have respected, for example, the set back from behind the sea wall to allow access to that for the purpose of maintenance but one has not or one has in some shape or form through historic measures managed to encroach to the sea wall or acquire the sea wall, build on the sea wall but then does not maintain it, if that sea wall is breached at that point it will then threaten not only just that one house, it will threaten all of the houses. Indeed, that was drawn home to me very, very pertinently in the last, I think, 3 weeks when I received a phone call from an individual representing residents in their particular property who, potentially, would have had to be evacuated that night because the property was built on top of the sea wall and the sea wall was in danger of crumbling. While there are specific and probably complicated circumstances there, it brought home to the fact that under the ... I think it is called the Foreshore and Management Plan and, frankly, 100 to 200 years but, equally, starting in the next 20 to 30 years as global warming comes through and as we have to maintain and increase sea defences, there will be actions that the States will need to take, maybe in our political times, maybe in our lifetime certainly and also beyond, to protect the wider interests of Islanders. But which will, therefore, require issues surrounding individual landowners and particularly, therefore, that is why one needs a policy, which, as I understand matters, has been done very clearly in conjunction with the law officers, with the Attorney General and the Solicitor General, who are very clear as to why this is needed and why it is appropriate. I think the issue for me simplistically, in looking at some of the wording from the Deputy of Grouville, and I have said in the past I absolutely commend her tenacity on this matter. She has been fundamentally trying to support her constituents and I absolutely agree and commend her on that. It is very difficult because I do very much like her and her tenacity on this area but I, unfortunately, do not agree with the stance that has been taken on this. I think one of the things in terms of looking at her amendment, it does make life more difficult for what is referred to as the historic encroachment, as I understand matters; that is certainly the advice, I believe, that we have received. I think that difficulty then lays out problems going forward for the public of the Island, particularly in the context of having to manage the sea defences and global warming. What is also very, very clear with the difficulties of encroachments before and after a particular date ... I think it was January or February last year I walked from the Royal Jersey Golf Club all the way round, I think, to Green Island to look at all of the individual encroachments there. There are some which it will always be difficult and what have you and there are some that are blindingly obvious that there has been an encroachment, and that is why each individual case needs to be considered on its individual merits. But by rule there has to be a policy in place. I think the Minister has ably described it, particularly at the briefing last Thursday, and very much I commend and support him and his officers behind the work they are trying to do. But the fundamental principles for me are that value on this is appropriate, access to it is appropriate from the point of view of dealing with global warming and public access to land, particularly in an emergency and that can be, hopefully not but during storms, it can be immediately the day after storms. One does not have time to then work out the legal niceties of whose land is it and that goes with that. Because generally at that point people's properties are being damaged and, potentially - hopefully an extreme exaggeration - the real extreme, people's lives do get put at risk at this. Of course, individuals do get very excited on these subjects,

particularly if they are the ones who perhaps have been badly advised by their legal advisers or/and not being made aware of a potential encroachment that previously existed. The issue with Crown land is that there is not what we call the 40-year rule. As I understand matters, an encroachment on there is ... essentially, you cannot steal land from the King, for want of a better expression - that is me as a layman using that expression - and, therefore, the clock does not start ticking on the 40-year rule. It did start ticking when the land was transferred across. Encroachments are there, they do need to be resolved. This is a policy that has had a lot of work put into it, particularly an officer who I think, effectively, walked around the entire Island dealing with and identifying all of the encroachments that had taken place and that is why it has taken a long time to get to this point. I am going to stop there because there is an awful lot of complexity but, with regret, I will not be supporting the Deputy's proposition. Sir, is it appropriate for me to be asking a question of the Attorney General or not?

The Bailiff:

Yes, you are entitled to ask a question of the Attorney General, Chief Minister, if it relates to the amendment of course.

Senator J.A.N. Le Fondré:

It is a generic one. Essentially, can you just confirm that what I have just said, when there is an encroachment on Crown land the 40-year rule does not apply but it does start applying when a title is changed to the public in this instance and whether it is acceptable from a legal perspective the value would be obtained from an encroachment over land?

The Bailiff:

Mr. Attorney, are you able to assist the Assembly in answering that question?

The Attorney General:

Yes, I am. In relation to the first part of the Chief Minister's question, yes, he is correct that as against the Crown prescription does not run, so our 40-year rule of prescription in relation to land does not run against the Crown. But it did start running against the Crown in 2015 when the Crown conceded and transferred its interest in the foreshore; so for the Écréhous and the Minquiers to the public of the Island. In relation to the second part of the Chief Minister's question concerning is it appropriate for value to be sought in relation to a public asset. That is a policy matter, I suppose, but in legal terms it certainly is. It is a fairly longstanding principle that has been adopted by the States, certainly since 2005, 2006 and it has been a policy that has been followed when the foreshore was owned by the Crown. The Minister's amendment, I think, sets out at appendix, examples of 10 or 12 contracts where there has been consideration paid when the foreshore was in the ownership of the Crown. On that principle, there is a case that is fairly recent, which does not concern the foreshore but the principle is of relevance and that is the case of *Fogarty*. It was concerned with an encroachment as between neighbours, not on the foreshore. In issue was whether it was appropriate for an encroachment on one neighbour's land to be removed. The court found that while there is that jurisdiction, there is also an equitable jurisdiction toward damages in lieu of requiring the interfering encroachment to be removed. The court considered human rights arguments and, in particular, the right to family and home life under Article 8 of the E.C.H.R. and also Article 1 of Protocol 1, the right to property. The court considered that just requiring an interfering encroachment to be removed was, potentially, inconsistent or was inconsistent with the E.C.H.R. and that an alternative equitable jurisdiction to award damages was far more consistent with E.C.H.R. principles. That is why the Minister's version of the policy keeps in the alternative remedy of seeking a payment from the party who has the interfering encroachment. Whereas in Deputy Labey's version of the policy that is absent, so there would not be that alternative of seeking a payment. In Deputy Labey's version of the policy there is removal, whereas there is allowing it to remain or having a licence, there is no

option of keeping the encroachment but requiring the party to pay consideration for allowing the encroachment to be kept. That is why the Minister's version of the policy is wider. It also allows title encroachments to be dealt with because there are instances where properties have claimed ownership of the foreshore in their title deeds but the Crown or the public of the Island was not a party to those contracts, so its consent has not been obtained. Therefore, that is why the Minister's version of the policy also seeks to keep in a remedy in respect of title encroachments, which is not present in Deputy Labey's version of the policy. I hope that answers the Chief Minister's questions.

Senator J.A.N. Le Fondré:

Sir, can I ask just a clarification?

The Bailiff:

Yes, indeed, Senator, yes.

Senator J.A.N. Le Fondré:

I was listening very intently and it was the very last bit that the Attorney General referred to, which I think would be helpful if he just ... have I understood it properly? Which I think I have, which is basically the wording of the present amendment that we are debating versus the Minister's proposition is that, essentially, is not sufficiently broad enough to give flexibility to the Minister to deal with all the likely circumstances that could arise with encroachments? Therefore, one could end up in the position where the Minister would not be allowed to negotiate a price or something for an encroachment. It would basically have to be removed, i.e. it would tie the hands of the Minister from dealing with individual circumstances. Have I understood that correctly or perhaps if I have not could you perhaps just clarify it?

[15:45]

The Attorney General:

Yes, that is correct. Deputy Labey's version of the policy does not have the alternative option of a payment or the alternative option of dealing with title encroachments or the alternative option of agreeing a boundary line. All of those options are not available under Deputy Labey's version of the policy, whereas they are available under the Minister's version of the policy.

Senator J.A.N. Le Fondré:

Okay, thank you. That has definitely concluded my position on the speeches and that is also why I am not supporting the amendment.

8.4.6 The Deputy of St. Ouen:

I would like to make the point, as somebody who has practised as a lawyer in this area in a previous life, that the problems associated with the foreshore was well-known to lawyers who were engaged in conveyancing work. Of course we would warn clients who were buying a property adjacent to the foreshore about the problems and the sometimes indistinct boundary because the property deeds would not record a precise boundary in terms of measurements. They would generally simply say: "Bordering on the south or east or west, the *rivage de la mer* or the seashore." Quite where the seashore might have been before a sea wall had been built was open to question. Therefore, it was important for clients thinking of buying a property to make a decision: would they want that clarified by the Crown at the time or was the building that they were buying sufficiently far from the sea wall that they did not think that there was a risk and it was clear that the public still enjoyed its rights over land behind the sea wall? In many cases, not necessarily in many cases but on occasions the Crown was approached to reach some sort of agreement and I wish really to make that point, that it is not the case that the Crown acquiesced in allowing people to encroach upon foreshores. In fact the experience of lawyers was that the Crown was often astute to assert its rights of ownership and

prevent blatant encroachments on what it considered to be the foreshore. I do not agree with the view that might be expressed that the Crown had a rather laidback attitude and was content for neighbouring properties to make use of the foreshore. Because that was not always the case and particularly where there was something that very blatantly had been constructed on the foreshore, perhaps to add value to private property using public land, the Crown quite rightly would have objected to that or would have pointed out what had happened. In appropriate cases would have acted accordingly, either to seek to remove the encroachment or to seek compensation for it which reflected the value added to private land. It seems to me that the Minister's policy accords with maintaining the public interest over private interests in land, which was formerly the Crown's and which has now been given to the public. It is important to have distinctions, to talk about the distinctions, as recently mentioned, is that in dealing with the Crown a lapse of time on the part of the Crown could never prevent the Crown reclaiming the foreshore or acting to remove encroachments. But now that the foreshore has moved into public ownership, time is of the essence and though there is a prescription limit of 40 years, which is a long time in which claims can be made, nevertheless the longer encroachments are left the more difficult it is to secure a removal, to bring cases to court, to find sufficient evidence. It is right that with that pressure of time it is right that action is taken to deal with the motivating encroachments that may exist or people may try to put on to public land. I think it is absolutely correct that the Minister for Infrastructure should be proactive in this respect if encroachments are known about. He must ensure that land is not being taken for private purposes and accruing value to neighbouring landowners who would one day realise that value upon a sale possibly. It is right that the Minister for Infrastructure should also ensure continuing access for sea defence purposes and drainage works. I find that I am trusting these 2 alternative policies we have. This a complex area. It appears to me that the Minister's policy shows a greater flexibility, where it is sometimes appropriate to recover land that has been encroached upon and restore it to full public use. But on other times the encroachment can remain and either land be transferred, and that could be with or without a compensatory payment to the public, but it will depend on all the circumstances of the case. Sometimes encroachments can be permitted to continue on a licence basis, such that it will allow the neighbouring owner still to have the benefit of an encroachment but not prejudice the public's interest in the ownership of the land or the ability to act quickly to deal with sea defences and the like. In this matter, my view is that I do not see too great a difference between the previous Crown policy and the policy the Minister is now seeking to put forward. I, accordingly, would be pleased to support the Minister's policy as the one with the greater flexibility here.

8.4.7 Senator K.L. Moore:

Members will be pleased to know that I will not speak for long, however, I did feel it important to comment upon the previous speaker, who outlined that clearly there have been known difficulties and issues with this matter for a considerable number of years. In reaching the conclusion that the Minister did just then, he expressed his view that it was right to support the Minister for Infrastructure on this matter. I take the very opposite view because we must also remember the views of the Complaints Panel and their findings and I am sure that the Deputy of Grouville will remind us of that when she sums up. But in my view, the Deputy of Grouville should be applauded for representing her constituents in this way and for doing exactly what we are all here in this Assembly to do, which is to represent the people of the Island with common sense and with compassion and to try to drive resolution to thorny issues in a reasonable and practical way. I feel that she is doing exactly that and will be supporting her vigorously when we move to the vote.

The Bailiff:

Thank you very much, Senator. Does any other Member wish to speak on the amendment? If no other Member wishes to speak on the amendment, then I close the debate and call upon the Deputy of Grouville to respond.

8.4.8 The Deputy of Grouville:

I would like to probably address Deputy Tadier's remarks that he made, which were a little unrelated to the actual debate but, nonetheless, he made them. I had toyed with the idea of saying something before I started my debate. This debate has undoubtedly put me in a difficult position with my colleagues on the Council of Ministers and I regret that. While I bring my amendment forward as the Deputy of Grouville, I am, nonetheless, a Minister and it is not the done thing to go up against another Minister. However, I was not a Minister when I took up the work on behalf of my constituents and I was not going to give up on their cause, just because I became a Minister. But to be clear, I have been put in this position because I have pursued this issue, as I would. As I have just said, I was not going to give up on them but I have pursued this issue. But I am in this position, frankly, because of the extraordinary amount of time it has taken to get some action or any workable policy tabled and debated. I hope that satisfies Deputy Tadier's curiosity into why a Minister is doing this to another Minister. But, as Senator Moore has just reminded us, we are here to serve our constituents. There were a couple of remarks, Senator Le Fondré was speaking quite a bit about the rising tides and global warming but, as I reminded Members in my opening remarks, that the Minister for Infrastructure has all the powers and the authority that he needs in the drainage 2005 laws. He has everything there in order to access, maintain, remove and clear whatever he needs to give him the right to upkeep his sea defences. I would as well, I am afraid, disagree with the Attorney General. He drew some conclusions to say that my policy does not allow for any payment whatsoever. I disagree with him and I invite Members to read my policy: "Requiring interfering encroachments to be removed or subject to reasonable conditions, as the Minister specifies in a licence agreement." It is up to him what he puts in that licence agreement. It is up to him what he agrees and that could very well include payment. I would like to thank everyone who attended my briefing last Friday and I would also like to thank the Greffe for drawing up the 2 policies for ease of reference side by side and to enable Members to compare them. Because I appreciate with all the amendments it is not an easy thing to follow. But I will go back to where I started in this debate and I asked what we, as States Members, seek in a policy; a policy has got to be necessary, fair, open, transparent and convey a clear message. I believe my policy offers all of those things. It is crystal clear and it is easy to understand, unlike the Minister's policy.

[16:00]

My policy identifies 3 different scenarios and has clear rules for dealing with 3 types of encroachment. It allows for flexibility so that each case can be considered on its own merits but within a clear and fixed parameter. My policy honours the agreement that was made in the Deed of Transfer gifting the foreshore and yet seeks fairness to the public where the foreshore has been encroached. My policy was tabled after I recognised that the Minister's own long-awaited policy was so lacking and did not advance the situation one bit. Even his own amendments to his own policy, frankly, renders it unfit for purpose and requires us to wait even longer for a resolve, as he has demonstrated in his responses to the Scrutiny report. My policy offers the clarity of a date, what is deemed as historic or a recent encroachment and seeks ways to define them. It defines the foreshore. It acknowledges the Minister already holds the power to maintain sea and flood defences in the existing drainage laws and it requires a map. At least the Minister admits in his own policy that a map is necessary. I would like to make my amendment and in so doing I would urge Members to think about voting with my clear, concise policy that conveys clarity and brings resolve to this situation.

The Bailiff:

Chief Minister, do you have a question of the speaker?

Senator J.A.N. Le Fondré:

Is the Deputy prepared to do a separate vote for part (a), which has been amended, and then a separate vote for the rest, assuming that is practical?

The Bailiff:

It is entirely a matter for the mover of the amendment to determine how the vote is to be taken. It is not a matter about which Members can ask, so Deputy Grouville, do you have any preference?

The Deputy of Grouville:

The first vote is policy and the second vote is on the map so I am quite happy to take them separately.

The Bailiff:

The first vote will be on paragraph (a), to approve a revised policy for encroachments on the foreshore as set out in the appendix to the report accompanying this proposition. Hopefully Members have that. The second vote will be to request the Minister for Infrastructure to report back to the Scrutiny Panel with its proposals for setting out in a map or plan the public boundary. That is the amended proposition the Assembly adopted earlier. The answer is yes. It is possible to take paragraph (a) first and we will take paragraph (a) now. I ask the Greffier to put a vote into the link. The vote is on paragraph (a) to approve a revised policy of encroachments on the foreshore as set out in the appendix to the report accompanying this proposition. If Members have had the opportunity to vote I ask the Greffier to close the voting. Paragraph (a) of the amendment has been adopted:

POUR: 30	CONTRE: 15	ABSTAIN: 1
Senator S.C Ferguson	Senator L.J. Farnham	Deputy G.P. Southern (H)
Senator T.A. Vallois	Senator J.A.N. Le Fondré	
Senator K.L. Moore	Senator S.Y. Mézec	
Senator S.W. Pallett	Connétable of St. Lawrence	
Connétable of St. Helier	Connétable of St. Ouen	
Connétable of St. Clement	Deputy M. Tadier (B)	
Connétable of St. Saviour	Deputy of St. Ouen	
Connétable of St. Brelade	Deputy G.J. Truscott (B)	
Connétable of Grouville	Deputy K.F. Morel (L)	
Connétable of St. John	Deputy G.C.U. Guida (L)	
Connétable of Trinity	Deputy of St. Peter	
Connétable of St. Peter	Deputy of Trinity	
Connétable of St. Mary	Deputy S.M. Ahier (H)	
Connétable of St. Martin	Deputy R.J. Ward (H)	
Deputy J.A. Martin (H)	Deputy C.S. Alves (H)	
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy of St. Martin		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy of St. Mary		

Deputy J.H. Young (B)			
Deputy L.B.E. Ash (C)			
Deputy of St. John			
Deputy M.R. Le Hegarat (H)			
Deputy K.G. Pamplin (S)			
Deputy I. Gardiner (H)			

The Bailiff:

I will now ask the Greffier to post the second link to vote on paragraph (b), requesting the Minister to report back to the Scrutiny Panel with his proposals for setting out in a map or plan the public boundary. The link has been posted and I ask Members to vote in the normal way. If Members have had the opportunity to cast their votes I ask the Greffier to close the voting. Part (b) of the amendment has been adopted:

POUR: 41	CONTRE: 2	ABSTAIN: 0
Senator L.J. Farnham	Deputy K.C. Lewis (S)	
Senator S.C Ferguson	Deputy of Trinity	
Senator J.A.N. Le Fondré		
Senator T.A. Vallois		
Senator K.L. Moore		
Senator S.W. Pallett		
Senator S.Y. Mézec		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Saviour		
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy M. Tadier (B)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy of St. Mary		

Deputy G.J. Truscott (B)			
Deputy J.H. Young (B)			
Deputy L.B.E. Ash (C)			
Deputy K.F. Morel (L)			
Deputy of St. Peter			
Deputy of St. John			
Deputy M.R. Le Hegarat (H)			
Deputy S.M. Ahier (H)			
Deputy R.J. Ward (H)			
Deputy C.S. Alves (H)			
Deputy K.G. Pamplin (S)			
Deputy I. Gardiner (H)			

8.5 Encroachments on the Foreshore: Revised Policy (P.111/2020) - as amended

The Bailiff:

As the Deputy of Grouville's amendment has been adopted the second amendment from the Minister falls way and we now move back to debating the Minister's proposition as amended. Does any Member wish to speak on the proposition as amended?

8.5.1 The Connétable of St. Brelade:

It has been suggested that some property owners have exploited the public of the Island by developing their properties to which they had a contractual right, whereas they may suggest that it is purely the result of lack of clarity in the definition of the foreshore and particularly the high-water mark. A contributing factor in determining this illusive foreshore is the extraordinary tidal range we experience added to by variations protected by weather and atmospheric pressure, so we find ourselves in a juxtaposition whereby its position is largely defined by nature. But we have those hard commercial considerations such as land and property values to consider, and I conclude by saying those Members who happen to look out of their windows at the foreshore this morning at 8.30 or last night to see the effect of a 38-foot tide and how far up the walls it came, it is quite an eye opener and could serve to inform this debate. I am pleased we are moving to a conclusion in a direction that may not be satisfactory to all but will certainly be moving in the right direction.

8.5.2 Deputy J.H. Young:

To say briefly, echoing the Connétable's comments, this is such a difficult and complicated issue. I trust we have ended up with something workable. The principles and the policies proposed in the amendment and a map that is going to be extremely difficult, but there is no question in my mind we need a map, but I cannot see it will ever be a definitive map for all the reasons people have said but I will support where we have finished up. I am left with a feeling of whether this painful process was really worth it. Sorry, but that is how I feel.

The Bailiff:

Does any other Member wish to speak on the proposition as amended? No other Member wishes to speak on the proposition as amended. I close the debate and call upon the Minister to respond.

8.5.3 Deputy K.C. Lewis:

I thank everyone who has spoken. This will be very hard to put into play. I think a lot of people were confused regarding (a) and (b) on the amendment but we are where we are. Regrettably not every encroachment can be resolved amicably. It is therefore crucial that in these negotiations both

parties can work with the policy to ensure a fair and reasonable outcome. It will be very difficult now this amendment has gone through exactly how that would come about. We are where we are and I ask for the *appel*.

The Bailiff:

The *appel* is called for. The vote is on the adoption of the Minister’s proposition as amended and I ask the Greffier to put a link in the chat. I open the voting and ask Members to vote in the normal way. If Members have had the opportunity of casting their votes I ask the Greffier to close the voting. The proposition has been adopted as amended:

POUR: 37	CONTRE: 7	ABSTAIN: 0
Senator L.J. Farnham	Senator J.A.N. Le Fondré	
Senator S.C Ferguson	Connétable of St. Mary	
Senator T.A. Vallois	Connétable of St. Ouen	
Senator K.L. Moore	Deputy J.A. Martin (H)	
Senator S.W. Pallett	Deputy of St. Ouen	
Senator S.Y. Mézec	Deputy K.F. Morel (L)	
Connétable of St. Helier	Deputy of St. Peter	
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Saviour		
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of St. John		
Connétable of St. Peter		
Connétable of St. Martin		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy J.H. Young (B)		
Deputy L.B.E. Ash (C)		
Deputy G.C.U. Guida (L)		
Deputy of Trinity		
Deputy of St. John		
Deputy M.R. Le Hegarat (H)		

Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

9. Migration Control Policy (P.137/2020)

The Bailiff:

The next item of Public Business is the Migration Control Policy (P.137/2020) lodged by the Chief Minister. For the purpose of this debate, the main respondent is the chair of the Corporate Services Scrutiny Panel and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of the opinion (a) to agree that action should be taken to provide more responsive controls on the number of migrants who acquire the right to settle permanently in Jersey and to remove the automatic “graduation” from one C.H.W.L. (Control of Housing and Work Law) permission to another; (b) to request the Chief Minister to bring forward amendments to the States of Jersey Law 2005 to require the Council of Ministers to develop a common policy on population; (c) to request the Chief Minister to bring forward the following amendments to the Control of Housing and Work (Jersey) Law 2012 (C.H.W.L.): (i) to introduce a 9 month C.H.W.L. permission that does not lead to permanent residential status; (ii) to introduce a 4 year C.H.W.L. permission that does not lead to permanent residential status; (iii) to introduce a 10 year C.H.W.L. permission that may lead to permanent residential status; (iv) to introduce a long-term C.H.W.L. permission that does provide permanent residential status; (v) to require the applicant for a new permit to make a declaration of any unspent criminal convictions; (vi) to introduce enhanced identity requirements for all C.H.W.L. cards issued to new residents; (vii) to provide for an independent, statutory, expert panel to research and advise on population matters; and (viii) to provide for a committee of States members to hold responsibility for determining applications under the C.H.W. law that fall outside formal guidelines.

[16:15]

Senator J.A.N. Le Fondré:

The Deputy of St. Peter is acting as *rapporteur* on this.

9.1 Deputy R.E. Huelin of St. Peter (Assistant Chief Minister - *rapporteur*):

The number of people living within our Island has been an ongoing subject for discussion over many decades while our population has continued to expand, despite a range of laws and policies designed to control that growth. Today I hope we will take an important step forward in addressing this issue and start to solve one of the most challenging dilemmas we face as Jersey politicians. It is easy to confuse migration controls, immigration and population as separate subjects. They are interlinked. However, I must emphasise that without migration controls we will not be able to manage whatever population policy is agreed. Quite simply, we must have the means to stop poorly targeted growth or we will find ourselves on a path to 137,000 or more by 2035. Today’s debate is about these migration controls. However, we will look at all 3 areas as we go through this year. In summary, the debate today is on the principles of improved migration controls. I will then seek an in-committee debate on general population policy issues at the next States sitting. Using the output from this committee debate we will draw up initial themes for further development with Ministers, the Scrutiny Panel and interested States Members. I will return to the States Assembly in summer with a detailed Control of Housing and Work Regulations that will flesh out the principles of migration controls,

obviously subject to Members' approval today or tomorrow. We will undertake a public consultation over the summer over the content of the first common population policy. We will pay particular attention to the Island's recovery from COVID-19 and the immigration situation following Brexit in drawing up a final population policy document. Then I will return to the States Assembly before the end of the year to debate that common population policy. I know the issue of migration controls is of great importance to Members but I am very grateful for the large number of Members who attended the briefing session last week. I would also like to extend my thanks and appreciation to the Scrutiny Panel who have conducted a considered and thoughtful review. I am particularly encouraged by their full acknowledgement of the significant challenge and complexity of the work that lies ahead of us and I am fully confident that we can work collaboratively during the rest of this year and beyond. The panel published their phase one report last Thursday setting out the results of their investigation into P.137/2020 and I am pleased to say we have already accepted the first 2 recommendations of the Scrutiny review. A report, providing details on the relationship between the Control of Housing and Work Law and the immigration laws has been circulated together with details of the associated themes. While the relationship between immigration and migration is important, I must emphasise again that the debate today is just about migration controls. The immigration system works closely with the Control of Housing and Work system where an individual seeking immigration permission to work in Jersey will still need Control of Housing and Work permission. The Control of Housing and Work Law we put forward will apply to everyone seeking to move to Jersey and take up work in the future. I can also confirm I will accept all 3 of the Scrutiny Panel's recommendations to publish information. As the Scrutiny Panel has identified, collecting and publishing detailed information will be a key factor in the overall success of any population policy. In line with the panel's fourth recommendation, I am also confirming that I will consult with all affected business sectors over the next few months, updating and building on the detailed interviews undertaken by the Migration Policy Development Board during the course of 2019. Looking at the proposition in more detail, there are 2 main themes to the decisions in front of Members. The first theme is to create clear and effective migration controls on access to the Jersey job market. The proposition seeks to remove the ability of migrants to automatically acquire the right to take up any job after 5 years. This is sometimes referred to as graduation. Today a new migrant worker can take up registered employment for 5 years and then move into the wider job market, hence freeing up the resident employment permission for an employer to use again for a new inward migrant. This means the total number of workers in the Island continues to increase even if no new registered permissions are granted to businesses. The Government is therefore unable to control this expansion of the job market using the current controls available. Part (a) of the proposition seeks an endorsement of the principle of removing this automatic flow. Part (c)(i) to (iv) replaces the current set of Control of Housing and Work employment permissions with a new set that allow for short, medium and long-term permissions but with only the long-term permission able to lead directly to permanent residence. (c)(v) provides for improving identity requirements and creates a new criminal record check that does not currently exist in respect of British and Irish residents seeking to move to Jersey. (c)(vii) provides a strengthened decision-making process with an elected committee of States Members determining difficult cases. The second theme of the proposition is to provide the political framework with which a common population policy can be developed. Part (b) of the proposition proposes the States of Jersey Law should be amended to create a formal requirement of the Council of Ministers to develop a common policy on population. This is backed by (c)(vi), which calls for an independent expert panel to be created to support that population policy. This should be formed of a small group, maybe 3 or 4, who are proven experts in this field. This is aimed at bringing in expertise from around the world with the sole aim of providing analysis and knowledge gained from other jurisdictions to enhance and inform the political decision-making process. The final part of Deputy Perchard's amendment adds an extra part to this proposition to ensure the extra panel draws on local consultation and we will accept that part of our amendment. A key challenge to this proposition is the big question: how can Members be asked to agree with migration controls when they have not yet

discussed the population policy itself? This is an important question but the answer is clear. The current Control of Housing and Work Law does not give the Government the migration controls it needs to implement an effective population policy. Using the analogy of a tap, the current controls act like a leaky tap. The automatic graduation of registered workers into the local job market makes it difficult to limit population growth. P.137/2020 can be thought of as replacing the leaky tap with a new tap that can be turned up or down without leaking. The migration controls set up with P.137/2020 do not make any judgment as to the number or type of businesses who will be granted these permissions. These controls can be used to increase or decrease the level of inward migration, to expand or restrict activity in any business sector. Developing the population will, as I have explained, take time. I will request an in-committee debate at the next meeting and then draft proposals will be drawn up to form the basis of public consultation over the summer with final recommendations published in the autumn for debate before the end of the year. If we leave the leaky tap of current control of housing and work laws and controls in place now, we will then need to bring changes to the Control of Housing and Work Law back to the Assembly next year. This will create a significant delay. It will lead to more effective controls and being able to fully implement the population policy itself. Implementing the new migration policy will mean changes to I.T. (information technology) systems and customer-facing services. The States is donating £1 million to build a new I.T. system during 2021. The I.T. system will need to reflect the type of controls within the Control of Housing and Work Law. Delaying decisions on the type of controls until 2022 will create a further significant delay in developing and implementing the operational systems needed. Members have also asked how the new controls will affect migrants' rights. The report in P.137/2020 addresses these issues and sets out details of 2 reviews that will be undertaken as part of the overall project to develop a population policy. Today migrants are subject to a range of restrictions across different government services that are confusing and can be difficult to navigate. Today, a relationship breakdown can lead to difficult housing and employment issues for migrant families. I am determined to address these important issues but these solutions do not fall within migration control principles that we are discussing today. Access to government services will be addressed as part of the development of a broader population policy. The treatment of families within the Control of Housing and Work Law will be included in the detailed law drafting proposals that will come back for debate in the summer, subject to Members' approval today. In particular we will prepare a full children's rights impact assessment to accompany those legal amendments to the Control of Housing and Work Law. To sum up, the debate today on migration controls is the first step in a number of actions to help us get to a position where we will have effective migration controls, detailed evidence on migration and population drawn from reliable data and informed consultations, agreement on a high-level population policy, a political structure that can implement the policy and the controls and clear guidelines with simple application processes to support businesses and migrant workers. Senator Pallett in his foreword to the Scrutiny report identified the urgency of needing to control migration and genuinely it is accepted that new migration controls are both necessary and long overdue. The proposals put to you today provide a clear step to creating those long overdue migration controls and I urge Members to support the proposition. I maintain the proposition.

The Bailiff:

Thank you very much, Deputy of St. Peter. Senator Moore, you asked to confirm the identity of the responder. Do you wish to do that?

Senator K.L. Moore:

I did, thank you. If I may just confirm, I may have misheard you but Senator Pallett, who is the chair of the review panel that has been looking at this piece of work, will I assume be the main respondent. I believe that is set out in the Order Paper.

The Bailiff:

Yes, you are correct. It is Senator Pallett. Thank you very much indeed for that clarification. Is the proposition seconded? **[Seconded]**.

9.2 Migration Control Policy (P.137/2020): second amendment (P.137/2020 Amd.(2))

There are 2 amendments for the main proposition; one from Deputy Perchard and one from the Migration and Population Review Panel. There is also an amendment by the Chief Minister to Deputy Perchard's amendment. Deputy Doublet, I believe you are acting as *rapporteur* for Deputy Perchard's amendment in accordance with Standing Order 71A.

Deputy L.M.C. Doublet:

I am indeed, thank you, Sir.

The Bailiff:

Are you able to indicate whether you are minded to accept the Chief Minister's amendment to Deputy Perchard's amendment?

Deputy L.M.C. Doublet:

The amendment is not acceptable to Deputy Perchard.

The Bailiff:

Then I ask the Greffier to read the amendment unamended.

The Deputy Greffier of the States:

Page 2, paragraph (b) – For the words “a common policy on population” substitute the words “, by the end of December 2021, a common policy on population (as outlined in ‘Migration and Population Data’ (P.120/2020), adopted as amended by the Assembly on 4th November 2020) that is reviewed and updated annually based on the prior year's population growth and that includes annually updated infrastructural, educational, health-related, environmental and social requirements of any projected population growth”. Page 2, paragraph (c) – For sub-paragraph (vii) substitute the following sub-paragraph – “(vii) to provide for an independent statutory, expert, gender-balanced panel, the members of which are actively sought from across the globe and who have proven expertise in small island populations (defined as populations of 500,000 or less), to research and advise on population matters;”. Page 2, paragraph (c) – Before sub-paragraph (viii) insert the following new sub-paragraph and redesignate subsequent sub-paragraphs accordingly – “(viii) to ensure that the panel established in accordance with subparagraph (vii), as one aspect of its wider research, will engage with a representative sample (that is, reflecting the common characteristics of the Jersey population) by way of consultation;”.

[16:30]

9.2.1 Deputy L.M.C. Doublet (*rapporteur*):

The purpose of the expert panel is to provide expert advice on the development and implementation of migration controls. Since the adoption of Deputy Perchard's proposition calling for a complete population policy to be brought to the Assembly during this political term it has become apparent that this Assembly wants a clear vision from Government of the future of our Island's population size and management for their long-term future. Part 1 of this amendment makes explicit the definition of the common population policy, aligning it with that outlined in P.120/2020, Migration and Population Data, and as adopted by an overwhelming majority of this Assembly on 4th November 2020. The effect of this is to ensure that the data referred to as sustainability data in P.120 is required not just in the policy approved for the end of this year but must also feature in subsequent population policies. Part 2 of this amendment asks that Assembly approves 2 important criteria for the overall makeup of the expert advisory panel. Gender balance and small-island expertise. To

address the first point, gender equity, it is widely accepted that, in order to improve diversity in any context, whether an expert panel, board, organisation or other group, targeted intervention is required. The meritocratic best person for the job line, often used to object to these targeted interventions, has been widely debunked as nonsense. This argument is unsurprisingly often used by those who have themselves benefited from centuries of positive discrimination towards their own characteristics. It is understandable that some find the idea of redressing this imbalance threatening. But we have to be honest with ourselves about the real reasons for unequal representations at the most senior levels. We need to address them so that we no longer positively discriminate against any particular group at the expense of others. When it comes to an expert panel advising on the future of the population of our Island, we need a panel who are, to some degree, representative of the community. Deputy Perchard has already agreed a change from her original lodged amendment to reduce the restrictions she had placed in terms of the diversity of the panel. This is as far as the Deputy could go with the compromise sought by Government. Any less than this would not have been a compromise at all, but a complete abandonment of her attempts to improve diversity. She has settled for the bare minimum and yet the Assistant Minister still intends to fight the amendment. This is neither collaborative nor demonstrates any willingness to compromise. We are already woefully behind the business community and the corporate world when it comes to addressing diversity at senior levels. When it comes to gender parity, we should be leading, not dragging our feet. To address the second point, small-island expertise. Jersey, along with other small-island communities around the world, faces unique challenges when it comes to managing the space, people, size and resources that we have. We need to have a position on the number of people the Island can hold, not just in terms of housing, but in terms of the demand for schools, road usage, amenities, land resources, cars, the natural environment. What we also need are controls that are appropriate to the vision that comes with the population policy. Therefore, it is essential that those advising on such controls have a particular understanding of the specific challenges of managing the population of a small-island community. Therefore, it is Deputy Perchard's view, and my own, that the members of the expert advisory panel should have proven expertise in small-island population controls. For the purposes of this proposal, the Deputy has used 500,000 people or less as a benchmark for what constitutes a small-island population. This is based on the population size used by the Commonwealth Parliamentary Association to define small branch jurisdiction in their 2021 to 2023 Strategic Plan. Part 3 of this proposition calls for the expert panel to consult, as part of the research they will be undertaking, with a representative sample of the population. That being a sample whose characteristics proportionately reflect those of the wider population. The rationale for this is obvious. The views of the population on matters pertaining to migration controls need to be captured in such a way so as not to favour, nor discriminate, against any particular characteristic or group. I make this proposition on behalf of Deputy Perchard.

The Bailiff:

Thank you very much. Is the proposition for the amendment seconded? [**Seconded**]

9.3 Migration Control Policy (P.137/2020): second amendment (P.137/2020 Amd.(2)): amendment (P.137/2020 Amd.(2)Amd.)

The Bailiff:

There is an amendment to that amendment proposed by the Chief Minister and I ask the Greffier to read that amendment.

The Deputy Greffier of the States:

Page 2, part 2 2 – In the new sub-paragraph (vii), for the words “, gender-balanced panel,” substitute the words “panel appointed subject to the oversight of the Jersey Appointments Commission,”. Page 2, part 2 – In the new sub-paragraph (vii), for the words “who have proven expertise” substitute the

words “at least one member of which has proven expertise”. 3 Page 2, part 2 – In the new subparagraph (vii), for the word “island” substitute the word “country”.

The Bailiff:

Is this also the Deputy of St. Peter?

9.3.1 The Deputy of St. Peter (Assistant Chief Minister - *rapporteur*):

Yes. I have discussed Deputy Perchard’s original amendment with her and I am grateful to her for some of the changes she has incorporated into her second amendment. However, we were not able to come to agreement on a few issues and, as such, the Chief Minister has lodged this amendment. This amendment relates to the composition of the expert panel that would provide advice to the Government in developing and maintaining a population policy. The expert panel being proposed is likely to comprise 3 or 4 members, with each panel member providing advice in a specialist area to help the Council of Minister to develop and maintain a common population policy. Experts will be drawn from around the world and will bring experience in areas such as labour, market economics, skills, policies and population modelling. Deputy Perchard’s amendment specifically requires the panel to be recruited to create a gender balance. This amendment removes this restriction and places it with an explicit reference to the Jersey Appointments Commission. Quoting directly from the Deputy’s report, as previously quoted by Deputy Doublet, she suggests that: “The meritocratic best person for the job line often used to object to targeted interventions has been widely debunked as a nonsense.” This is directly at odds with the current policy of the commission. The commission was set up by the Assembly to ensure that senior appointments receive independent oversight and are subject to a strong commitment to diversity within the recruitment process. The commission’s recruitment guidelines commit to advertising each role in such a way as to encourage applicants from all sectors and groups and that selection techniques are reliable, guard against bias, and are in line with discrimination legislation. The commission’s current framework is, however, very clear that appointments should be made on the basis of an individual merit, regardless of race, gender, age or any other personal factor. So, until the States Assembly decides to change the remit of the Appointments Commission, I do not believe that it is appropriate to include gender requirements as part of the recruitment process for a panel of population experts. The Chief Minister has also proposed 2 other minor changes to the wording. Deputy Perchard’s wording requires every member of the panel to have experience with small-island populations. The amendment from the Chief Minister amends this so that at least one member of the panel should have this type of expert knowledge and the requirement is widened to “small-country experience” rather than “small-island experience”. I ask Members to support these changes and I maintain the amendment.

The Bailiff:

Is the amendment seconded? [**Seconded**] Does any Member wish to speak on the amendment.

9.3.2 Connétable R.A. Buchanan of St. Ouen:

I need to speak now because if this amendment is approved it will amend Deputy Perchard’s amendment and amend the bit that I have a concern with. This is a speech I did not really want to make. I have the greatest respect and admiration for Deputy Perchard’s views and beliefs when it comes to achieving gender diversity. Not least because I share many of her views on this subject and I am particularly sorry that she is not in the Assembly today. If she is not well, I do not know that is the case, I hope she makes a speedy recovery. Indeed, during my working life prior to becoming a States Member, gender balance is something I have worked very hard to achieve in the teams and organisations I have managed and led. For 2 reasons: firstly and most importantly, it is the right thing to do. In my view, nobody should be excluded from succeeding because of their gender. Secondly, from a purely practical perspective, gender-balanced teams are more rounded and as a result, in my experience, are generally higher performers and achieve better results. In the world I

work in, results and performance are everything if you want to succeed. We come to the first of the Deputy's statements in her report that give me concern. To quote her directly: "The meritocratic best person for the job line often used to object to targeted interventions has been widely debunked as a nonsense." To which I would respond, appointment on merit is the only game in town. To do anything else is in itself a flawed argument, which does not stand up to examination. The real answer is to do the work to ensure that everyone has an equal opportunity to be appointed to these roles. I will cover that in a bit more detail later on. Let us look at a hypothetical example of how this amendment might work in practice. A possible scenario might play out as follows. The selection team have chosen all but one of the new proposed panel. They have achieved gender balance in the best-qualified so far. However, for the last position, they have a choice between 2 candidates, one who is better qualified but the wrong gender to achieve the required balance, and one who is appointable but of lesser ability but the right gender. If Deputy Perchard's amendment is approved or not amended by this amendment, then they would be in the position of having to possibly appoint the lesser candidate simply because the person is of the right gender. I accept that this is a simplistic argument, which any intelligent panel, if they use their nous, could avoid. However, it is the principle behind this that sticks in my throat. To follow this up, and very emotively I accept, the challenge is simple. How would the Deputy feel if it was her in this position and that a man of lesser ability than her was appointed to the panel simply to make up the gender diversity numbers? This smacks of taking a shortcut to get to the desired result; a shortcut. It also flies in the face of all the diversity legislation this Assembly has passed, which has, as its guiding principle, it is illegal to discriminate against anyone because of their race, gender, age or ability. So let us look at the second comment the Deputy makes in her report, and I am paraphrasing her comments: "This argument, referring to the earlier comment on meritocracy, is unsurprisingly often used by those who themselves have benefited from centuries of positive discrimination towards their own characteristics. It is understandable that some find the idea of redressing this imbalance threatening. We have to be honest with ourselves about the real reasons for unequal representation at most senior levels. We need to address them so that we no longer positively discriminate against any particular group at the expense of others." However, I make the point, if this proposition is accepted, this could exactly be what would happen to achieve the desired gender balance. That said, the bulk of her comment is entirely correct in that for centuries we have seen the world dominated by men to the exclusion of very-talented women. I have seen this for myself in the finance industry where the management teams were made up exclusively of men in my early years in the 1970s, with a few exceptions. Whereas women largely managed the cash tills, typed and made tea. Furthermore, many of the male management appointments were made on the basis of which school you went to, which club you were a member of, or whether you had any aristocratic connections. Talent and ability were merely afterthoughts. Thank goodness those days are behind us and we live in an age where ability is, in most cases, the key quality employers look for. However, as the Deputy knows, there remains much to do to ensure women are given exactly the same opportunities to succeed and attain the most senior levels in business and indeed in all fields, including public service.

[16:45]

This work has made good progress, including our own public service. But there remains a long way to go to achieve parity. Diversity will only be achieved by ensuring access to appropriate talent such as the I Will initiative run in the public service workforce. It also includes such initiatives as opportunities to shadow existing directors and senior management in work, educational opportunities, family-friendly H.R. (human resources) policies, which encourage both partners to share equally in parental responsibilities, and the elimination of the gender pay gap. These, in my mind, are all examples of the ways to help break the glass ceiling and will help to achieve equal opportunities for both genders. In my view, it would be perhaps a better way forward had Deputy Perchard suggested that the application process for this panel was as gender-neutral as possible by insisting on the use of blind C.V.s (curriculum vitae), ensuring the selection panel must undergo or

have undergone unconscious bias training, to ensure a balanced field of candidates for this board. The point that I am trying to make is that there is no shortcut to achieving the aim of ensuring both genders have equal opportunity to representation at the highest level. We need to do the work and put in place mechanisms that ensure that women have as good a chance of being appointed to a higher office as men. Let us not take tempting shortcuts, which in my view compromise our diversity principles and may hinder the ultimate goal of diversity. The Jersey Appointments Commission guidelines in this amendment state that, among other things, appointment on merit must be the overriding principle governing the appointments process. Applicants must be considered equally on merit at each stage of the selection process. The principle of equal opportunity and diversity must also be inherent within the process. This, to me, seems the appropriate way to make these amendments to this panel and not as suggested by this amendment. So I cannot support Deputy Perchard's particular paragraph, not because I am opposed to gender diversity, quite the reverse. I just do not believe that to force the issue is the way forward and will have longer-term consequences to real progress in that area.

9.3.3 Deputy K.F. Morel:

I am going to speak against this amendment to the amendment. But I want to make it quite clear, and I will speak strongly about this in the main proposition. This aspect of the proposition about appointing a panel is, in my view, a very dangerous road to go down full stop. So Deputy Perchard's amendment is a good way forward should that part of the main proposition pass. But I hope and I am asking now that when we get to the main proposition we divide it so we can vote on different parts of it separately. Because I believe appointing a panel full stop is the wrong thing to do. But, turning to Deputy Perchard's amendment and specifically this amendment to the amendment. Having listened to the Constable of St. Ouen, it raises a few issues for me. First of all, I have to address the issue of shortcuts. When I hear the Connétable of St. Ouen talk about there being no shortcuts, all I have to say to that is, believe me, women know there is no shortcut. They have been waiting millennia for gender equality and they are still waiting. So I do not think the Connétable of St. Ouen lecturing them on shortcuts to gender equality is particularly effective. Also, the Connétable of St. Ouen said that we should no longer positively discriminate against any particular group. I have to ask there, when has the Government discriminated positively against any particular group? If there is any positive discrimination, I would suggest, as we have seen in the almost 3 years I have been in the Assembly, the only positive discrimination is towards men, as many more men have been appointed to boards than women over the course of the last 2½ to 3 years. This attempt at positive discrimination that is being described by the Connétable of St. Ouen is spurious. Indeed, I would argue that asking for a gender-balanced board or panel is not positive discrimination, it is treating men, women, and other genders, equally. It is saying just balanced please. It is not saying one or the other; it is saying: "We want an equal number of genders on the board." I would then say, if we look into other parts of the amendment to the amendment, there are problems here as well. The amendment asks that we do not look for people with expertise in small islands, rather it asks for people with expertise in small countries. That is a ridiculous road to go down. Small countries do not have in any way the same population dynamics as small islands. Take a small country like Switzerland. Many people who work in Geneva live in France. So Geneva has a working population, many of whom do not live in the country of Switzerland. That is how small countries can operate. That is an option that is never open to a small island like ours. So it is a completely wrong road to go down to suggest an amendment that says expertise in the population of small countries. That person may not be on the panel because their expertise would not be relevant to that of a small island. Also, the panel being appointed subject to the oversight of the Jersey Appointments Commission. Here I have to raise the issue of the Jersey Appointments Commission, which in many of the past 3 years I have been in the Assembly has been the elephant in the room. As we have seen people appointed to positions in the executive who have previous experience with the chief executive, for example. They are making many Members of this Assembly question what it is the Appointments

Commission is signing off on in terms of regulating the appointments process. I believe, and I stand to be corrected, there are many Members of this Assembly who do not believe the Jersey Appointments Commission is a body that should be regulating this sort of thing because it needs an overhaul. Because we have not seen, over the past 3 years, fairness in appointments to the executive. So, this is a very brief speech, and sorry it is fairly stilted, but I am responding to the Connétable of St. Ouen. I ask Members to look at this amendment to the amendment and understand that it does not work. It does not work in terms of getting rid of the gender-balanced approach, which is a perfectly reasonable approach. There are approximately 50 per cent women to approximately 50 per cent men, and I apologise to non-binary people for excluding them in that calculation. As a gender-balanced population, why should we not have a gender-balanced panel? Small countries are not small islands. They have completely different dynamics. The experience from a small country is irrelevant to the experience of a small island. Sadly, I cannot endorse the oversight of the Jersey Appointments Commission for the many reasons that many Members of this Assembly will understand. So I ask Members not to support this amendment to the amendment.

9.3.4 Deputy L.M.C. Doublet:

I am pleased to follow the previous speaker. I too would like to respond to certain things that the Constable of St. Ouen mentioned in his speech. The Constable has been a welcome ally in diversity work in the past, so some of the things that he said in his speech I was quite surprised by. There was a phrase that he used, he was talking about inequality and experiences that he had from his days in the corporate world. He said that those days are behind us. I was so surprised to hear that. I might ask the Assembly more generally, not just the Constable, but the Assembly more generally to have a look at the gender pay gap reports, which this work has been delayed like so many things in the last 12 months by COVID, but we must return to that work. Because those days are not behind us. Those days are very much still upon us. I have just seen Deputy Higgins in the chat asking if I am speaking on behalf of Deputy Perchard or myself. I am speaking for myself here. We are far from being an equal society. The concept of unconscious bias in fact is something, not that we have addressed and it is behind us, it is something we are only just beginning to address ourselves here in the Assembly. It is very much not resolved in wider society. At the current rate, it is going to be several decades before we achieve true equality between men and women. The Constable also mentioned that perhaps a gender-neutral application process would be something he would have preferred. While I can see that would be better than a gender-blind process, which is a process that does not consider gender at all, a gender-neutral application process is not the ideal. A gender-sensitive approach is the ideal and that is an approach that takes into account the differences in the way that our society impacts on men and women. This is the approach that Deputy Perchard is taking. It is an approach that would be erased if this amendment to the amendment were accepted. So I am speaking against the amendment to this amendment. I want to address briefly the concept of meritocracy. Deputy Perchard, in her report to her proposition, mentions meritocracy. I did some research on this myself and this is something that, when Deputy Perchard joins my review panel into gender pay gap, even though I was an equality campaigner myself already, there are always things that we can learn from each other. Especially Members who have been around a bit longer can learn from newer Members. We had some fascinating discussions on the concept of meritocracy. It was Deputy Perchard who introduced the new thinking to me around meritocracy. Anyone who does a quick Google search around this can uncover a wide range of research and academic commentary on this. The recent thinking is that meritocracy is now widely understood to be a concept that ingrains privilege. So we do need to be careful that, while we are advocating for things that we believe to be fair, and I do believe that there are good intentions because Members generally do want to do what is best. But the idea behind what is best for equality is evolving. Meritocracy is no longer the ideal. Because merit, so factors that indicate merit in a particular society, are likely to be set by the people in that society who hold power and who themselves are in senior positions. That is the way in which it can ingrain privilege. So really we should not be aiming for meritocracy. What I want to also address is

the Jersey Appointments Commission. Deputy Morel made some excellent points on this. Nobody wants to disparage the work of the commission because they do excellent work. But there are always improvements to be made for any of the work that we are doing. We must be able to reflect on this. The commission was set up I believe nearly 20 years ago. I do wonder if it is time for a review of those processes to see whether they are the ideal and whether they are helping us to aim as high as we would like to aim in terms of equality and diversity. Because I do feel that sometimes we use the Appointments Commission as something to hide behind when we end up with boards and committees that are not diverse. We like to think that we have done all we can to strive for diversity because the appointments have gone through the Commission and that box is ticked and let us not think about that anymore.

[17:00]

But the way that I see it is the Jersey Appointments Commission processes, those are the bare minimum. They are not the entirety of all we can and should do in this respect. I have to disagree with what has been put forward by the proposer of this amendment to Deputy Perchard's amendment. Because Deputy Perchard's amendment in no way subverts or overrides the Appointments Commission. The usual processes can take place but what we will have, if we approve the Deputy's amendment unamended by this amendment, is something that goes above and beyond and will add to the Appointments Commission's processes. As an example of when we have maybe done this in the past, and Deputy Morel was one of the other Members who was the driving factor behind this, as well as Deputy Perchard and myself and Deputy Ward. Several Members of this Assembly, in recent months, requested additional information on potential trustees when several appointments came before us. These appointments had gone through the Appointments Commission but we felt that we wanted additional information. This was accommodated by Ministers. We have started to see, I think it was Senator Farnham, who is showing increasing interest in these issues. Senator Farnham has brought forward additional information since those discussions. So there is already a precedent whereby senior Ministers are showing that there is sometimes a need to go above and beyond to achieve diversity. What is the subject that we are talking about today, the subject of the main debate today? It is migration. The amendment that Deputy Perchard has lodged, and which I have proposed on her behalf today, will have a hugely positive impact on this policy area if it is passed in its original form. Issues around population and migration are possibly the most critically important to our Island. Many Islanders would say this is the most important piece of work that will be carried out by Government. So I do think that we should be going above and beyond the established processes of the Appointments Commission because of the importance of this subject. Just a quick note to finish on, and this is something that Deputy Perchard flagged up to me. She recalled a public hearing that we had at the time of the Gender Pay Gap Review. We had the Appointments Commission, the chair of the Appointments Commission, in for a public hearing. We were discussing meritocracy and Dame Janet, and this is a quote, said: "If you are looking for the most meritorious candidates, then diversity is part of that. There will be many jobs where, if you were looking at a member of the team, one of the strengths you may well want is a diverse range of experience. If you are looking for the merit that will come with that range of experience, you will automatically look for somebody who can bring that different range of experience to the team." In a separate answer to a question by Deputy Perchard in that hearing, Dame Janet also said: "The greater the diversity, the richer the outcome." So I believe that it is absolutely the best thing to do to approve the amendment unamended. I believe that Members, if they do want to strive for the highest standards of equality of diversity for this extremely important policy, they should vote against the amendment to this amendment and for Deputy Perchard's amendment.

The Bailiff:

Senator Vallois, you have indicated you have a question for the Attorney General?

Senator T.A. Vallois:

Yes, thank you. My question surrounds the Employment of States of Jersey Employees Law under which the Jersey Appointments Commission are governed. On the amendment to the amendment, it refers to an independent panel. So the first question is whether that comes under the definition of the law under Article 1 as an independent body. Therefore, if so, my second question is: what impact does Article 15 therefore have on the guidelines and the independence of that body whereby the States Employment Board can overrule an agreed list under paragraph 1 or 3 of that said Article 15?

The Bailiff:

Mr. Attorney, do you need time to consider your answer to that or can you assist the Assembly?

Mr. M. Jowitt., H.M. Solicitor General:

It is the Solicitor General. I will need some more time. I wonder if I could trouble the Senator to repeat the second question please?

Senator T.A. Vallois:

My first question was around the independent body. So my second question followed that up by the Article 15, which references the ability for the States Employment Board opinion to prevail over an agreed list under paragraph 1 or 3 of that said Article. So I wonder whether that has an impact on the ability to appoint under the said amendment that we are discussing at the moment in terms of statutory compliance, and whether it is the role of the States Employment Board or whether it is the role of the Jersey Appointments Commission.

The Bailiff:

I note, Deputy Tadier, you also have a question for the Solicitor General.

Deputy M. Tadier:

My question relates to the wording in the amendment, specifically the wording that I find slightly strange, but it may be that it has a natural meaning that is understood, about members of the panel being actively sought from across the globe. What does the Solicitor General think that would bind us to do as an Assembly?

The Bailiff:

Mr. Solicitor, I am assuming you would like the opportunity to reflect on both of those, as you have indicated you want to reflect on the first one?

The Solicitor General:

Yes please.

The Bailiff:

I am not sure how fast we will move, but it seems to be there is a significant amount of the debate still to go, so it is likely that you may well have the overnight adjournment to consider it. But we will have to see how the Assembly wishes to continue.

9.3.5 Deputy L.B.E. Ash:

In that short break I was just reflecting on Deputy Tadier's amusing comment this morning when he was talking about answering questions, when you ask a question on the colour of the roof at Fort Regent and someone answers with an answer on G.S.T. One way or another, we seem to have done pretty much similar on this debate. We have moved from a debate on migration to diversity and the Jersey Appointments Commission. So we cover a fairly wide canvass when we do these debates. What do we need to look at in this? With migration, we should surely be looking at the strain on our services, hospitals, schools, bin collections; it is a massive list. So we really should be looking at that. Should we be looking at the needs of business, hotels, restaurants, pubs, shops, finance? All

needing staff. Agriculture: get that wrong, as we did with finance licences some 20 years ago, and the consequences are far-reaching. For those of you who do not remember that, it became very difficult for banks and finance institutions to get licences, which forced up salaries, particularly support-staff salaries, to levels that were in excess, in some cases, of the City of London and, to my mind, is responsible for the dwindling number of banks that we now have operating in Jersey. So should we be looking at those things? Or should we be looking at the diversity of a panel? I tend to agree with Deputy Morel. I do not really believe we need a panel. We should sit down among ourselves, work out what we need to address, and address it with perhaps a little bit of help from others. But to get down to the nitty-gritty - and I believe we can now use that expression, if we cannot I apologise - of the diversity manual, which is being put to us. I think the Constable of St. Ouen summed it up really well when he said that we do not any longer look for the best person for the job. What are we looking for then, the most mediocre person for the job? The worst person for the job? Surely we have to look forward to getting the best person we possibly can in Jersey for the job, for any vacancy. At the risk of sounding like a member of the 1960s pop group, the Monkees, I am a believer in getting the best people for the job, for any vacancy we have. I am also a believer in having a diverse selection policy in getting that and having diverse appointments panels to find those best people. I am a believer that the J.A.C. (Jersey Appointments Commission) follows the principles of equality in their selection process. So that this amendment, in my opinion, is unnecessary. If people do not think the J.A.C. are doing that job, someone needs to bring something to the States Assembly and we will change it. But, for the moment, we have to accept that is the correct procedure and one that is working. Not only though this time have we been given the diversity panel dilemma that we seem to get every time when we appoint a panel, we also have the other assertion that every member should have experience of small-island populations. Every member, not one, every member. What is that going to achieve? Many islands are now faced with the problems of dwindling populations. Is that relevant to us? Many will have no major finance industry, which needs to be staffed. Or indeed an agricultural sector that will need to be staffed. Or a tourism sector that will need to be staffed. So is that relevant to us? Many will have very poor connectivity or be in remote jurisdiction. Is that relevant to us? To put these broad swathes of, yes, we must do this, is populism at its worst and it needs to be stopped. We must go down finding the right people to do these jobs, these panels. But people who really know what they are doing, what they talk about and, more importantly, what is relevant to this Island. Let us close this debate as soon as we can and let us get on with sorting out a migration and an immigration policy that this Island has been long, long overdue.

9.3.6 Deputy M. Tadier:

It does seem slightly strange that we find ourselves in a position of trying to identify what kind of statutory panel we might like to have before deciding whether we would like to have that panel. It is beginning to get a little bit like angels on pinheads. How many angels can you fit on a pinhead? Let us decide first whether angels exist before we decide what size they might be and whether they can fit on the head of a pin. While I probably come to a different conclusion from the normal reactionaries in the Assembly who might have expounded up until now, I do think the thought process is still one worth looking at. Because we are a debating chamber after all. Let us work on the basis that we are going to have this panel for now and so talk about what it might look like. We are being asked for some particularly interesting things. So it has to be a statutory panel, it has to be independent, and it also has to be comprised of experts. I do not know exactly what the market is like for experts on this kind of thing throughout the world. I do not know whether the field of experts is gender-balanced, for example. So I do not know if the great minds on this happen to be male or female or what the proportion and distribution of those experts are.

[17:15]

So, technically, it could be an issue if it turns out that 90 per cent of the experts that are well-known and on the market to put themselves forward for this kind of work happen to be female, then it might

be difficult to get a gender balance because we find out that there might not be very many men who offer those services. It could well likely be the other way around. There will be different reasons for that. Then it says we want a gender-balanced panel. I do believe we need a gender-balanced panel, probably, but for different reasons, for example, to what Deputy Morel might have said. Deputy Morel said that because half of the population are female it must therefore follow that half of this panel should also be female. But if we used that logic we could say that for other traits of the population, for example we could say that half of the population have an I.Q. (intelligence quotient) of less than 100. That axiomatically must be true, because obviously I.Q. is based on 100 being the mean as well as the median. Therefore, half of the population will have an I.Q. of less than 100. So we could say that we want half of the people on this panel to be perhaps less well-off in the intelligence quotient department, although they may have other skills to make up for it. But we would not do that necessarily because it is supposed to be an expert panel. We could say, for example, we want half, or not half, but a proportion of the panel needs to be racist because certainly in my view there is no shortage of some quite choice and neanderthal and racist views in the population, and so at a guess we might say 30 per cent of the population are racist, therefore we should have 30 per cent of this panel who are racist, especially if we are dealing with things like immigration. But of course that is a non sequitur because there are other reasons. You get into again there could be conflicting areas here about expertise versus other qualities that we are looking for specifically. A good reason though for having a gender balance is not because half the population happens to be one gender or the other or one sex or the other but rather I see it in terms of building a house. So, for example, you say: "I need to build a house and will need an electrician for that, I will need a carpenter and I will need somebody to do the roofing", just for want of a few examples. We do not say to them: "But that is discriminating because of course what happens if the 3 best work-persons that come forward all happen to be electricians. It should be a meritocracy, should it not? You should employ the 3 electricians to come and do your house for you because they are the 3 most qualified and the electrician is more qualified than the carpenter. But we do not do that if you are building a house because you need to get people with the requisite skills. It recognises the fact that different genders do bring something different to the table, both in terms of their approach, their problem-solving. If you want to get to the point of course where we do have in-built gender diversity, and it should not just be about gender of course, we could have looked at this in terms of race or in terms of other traits, which we think are beneficial. Then we could have put those in. But the reason I asked my question about the wording "from across the globe" is that we are asking to recruit actively people from across the globe and also the bit about small-island populations. I am trying to cram a lot in here so I am going to talk about the small-island populations. The point is here, that is the wrong test, is that Jersey is not simply a small Island. It is an Island that is not sovereign and which is attached to a much bigger sovereign nation. Also it has to adopt at least part of that nation's immigration policy. So it is bound by that immigration policy necessarily in a way that other countries or islands with a population of less than 500,000 are not necessarily bound. So, for example, it could be that Vanuatu, for example, Samoa, that those islands would have less in common in Jersey in terms of trying to find an appropriate population policy than Scotland might. Even though Scotland has a much larger population than 500,000, I think it has a few million, they probably share some of the similar problems that Jersey has. Although not right across the board. They have much more space. But they are a semiautonomous country that can make some of its own decisions but not all of them, because they remain a British island. So I would question whether that test that has been put in for people having expertise in small-island populations is necessarily correct, given the fact that we do not have all the mechanisms at our disposal in order to deal with the population pressures that other islands, which are completely independent or sovereign, may have. It also stands to reason that, if we are actively recruiting from around the globe, not all the people who put themselves forward may be entitled to work in Jersey, which again could be seen as a paradox or an irony when it comes to appointing an expert panel to tell us what to do on population issues, when they themselves may not be allowed to work here and we might have to change the rules to even

constitute that. Again, there might be people closer to home who can provide that expertise. I apologise for a slightly rambling speech and you may say it is no different to usual. But just some thoughts about why I think I can support some of this but the rest of it is maybe more nuanced.

The Bailiff:

Mr. Solicitor General, you have indicated you are ready to advise the Assembly.

The Solicitor General:

Yes. Can I deal with Senator Vallois' question first? Under Article 1 of the States of Jersey Employment Law, a panel of the kind that is envisaged in this amendment, it seems to me, would constitute an independent body for the purposes of that law. If we then look at Article 15, which the Senator asked about specifically, under paragraph 3 or Article 15, the States Employment Board and the Jersey Appointments Commission are able to agree or not agree, as the case may be, to a list of appointments, which constitute independent appointments for the purposes of Article 1. So they could agree that appointments of members to such a panel should be on the list for the purposes of Article 15. If they cannot agree that such a panel should be on the list, then it is right to say that the view of the States Employment Board trumps the view of the Jersey Appointments Commission, which is to say it would then be for the States Employment Board to decide whether members of such a panel and such a panel should either be on the list or not. The effect either way, as I understand it, is this: if the panel is an independent body consistent with the law, then appointments to it will be overseen by the Jersey Appointments Commission. If it is not on the list, then appointments to that panel would be determined by presumably whatever structure is put in place in any amendment to the Control of Housing and Work Law. I hope that is helpful. I wonder if I can then turn to Deputy Tadier's question. For my own part, I find the meaning of the phrase "actively sought from across the globe" is sufficiently vague that it is really not susceptible to any legal definition in terms of what it commits anyone to. It seems to me it is much more really a matter of an expression of policy, which it will be if it is given effect to for those making the decisions to decide how best to honour it. But it is a phrase that is too vague for legal definition. I hope those answers are helpful.

9.3.7 Deputy R. Labey:

I will keep it short because this debate is already in danger of being incredibly repetitious. The States of Jersey should be constituting committees and panels and boards that are diverse and gender-balanced, period. We should not have to be explicit on certain committees and panels. Secondly, from my experience attending C.P.A. (Commonwealth Parliamentary Association) conferences in both Canada and the South Pacific, the biggest problem for the majority of small-island nations is dwindling population, not the other way around, which I think Deputy Ash said. So I am going to keep it that short because I might have just repeated what other speakers have said.

9.3.8 Deputy R.J. Ward:

I will speak briefly, and I do not think Deputy Doublet will mind what I am about to say. I want to deal with one particular issue. That is the issue of this myth of meritocracy that was spoken about. I feel it does need to be addressed and some understanding of it needs to be understood. The argument is that discrimination is integral to the merit-based system and the myth of meritocracy. It discriminates on how much merit a person has. But it must assume a precondition that everyone has equal opportunity to acquire this merit. That is the key. Let us be honest, we do not have in our society equal opportunity to acquire the type of merit that we are talking about. In addition to that, what defines merit is often inaccurate and defined by those who hold power. For example, there is a paradox in the meritocracy argument. Studies have shown that when merit is used as a basis for a performance appraisal, men had higher salaries increases compared to equally merited women. The reason is that merit as a criteria is directly related to gender stereotypes and unconscious bias. Both of these factors exert influence on decision-making and any merit-based decisions. The masquerade

on merit can have the reverse effect on creating diversity. This demonstrates why we need to address our unconscious bias. That is something that I do not think that we have done successfully or even attempted to do successfully so far. We must remember that the focus on merit does not make us immune from unconscious bias or gender stereotyping. The more aware that we are, however difficult it is, and sometimes we have to accept the simple principle, in the words of the goddess of pop, it is better the devil you know. So I would urge people to reject the amendment of the amendment and move on from the myth of meritocracy, which has been spoken about. If you believe that you are impartial it gives you permission to act on biases. When people themselves view themselves as unbiased, then they are less likely to self-scrutinise. So it is very important that we write in gender balance to these panels, as with other diversity balance, if we are genuinely to make the decisions that will be successful in the long term. Particularly around the area of migration.

The Bailiff:

We have almost reached 5.30 p.m. when I am required to ask if the Assembly wishes to proceed. I have seen both Deputy Higgins and Senator Farnham seek to propose the adjournment. I will take Deputy Higgins' proposition for the adjournment. The adjournment is proposed. **[Seconded]** It is seconded. In which case the Assembly stands adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:29]