

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 19th NOVEMBER 2013

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[9:33]

The Roll was called and the Deputy Greffier led the Assembly in Prayer.

COMMUNICATIONS BY THE PRESIDING OFFICER

1. The Bailiff:

On behalf of Members may I welcome His Excellency. **[Approbation]** Also, can I just say to Members, the Channel Television have approached us and they would like to get an updated archive picture to reflect the fact that we have the Connétable of Grouville now with us. So, at a suitable meeting, do Members agree they may take an archive picture just at the beginning of the sitting? Thank you very much. No other matters under A.

QUESTIONS

2. Written Questions

2.1 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING TAMIFLU:

Question

With regard to Tamiflu, would the Minister advise how much has been spent on the drug to date, whether stocks are still kept and, if so, how much?

Answer

To date, the Health and Social Services Department has purchased 100,000 courses of the antiviral Tamiflu in order to keep a stockpile in the Island. The price paid was £10.34 per pack making the total cost £1,034,000. This was purchased in 2006 and early 2007 when preparing for a possible pandemic relating to Avian Flu (H5N1). At that time it was considered prudent to stockpile one course of treatment for each individual in Jersey given the known virulence of the H5N1 virus.

The Tamiflu stock remaining after the H1N1 pandemic of 2009 has just expired.

The Health and Social Services Department is now in the process of replacing the stockpile with 25,000 courses of Tamiflu at a cost of €15 per pack. This price is the standard fixed price for governments of developed countries wishing to maintain a stockpile. It represents a discount to the normal retail price and represents best value to the island to achieve the aims of the Pandemic Strategy.

There was significant learning from the 2009 pandemic, both within Jersey and on a more global scale. That learning has been incorporated into the Channel Islands Pandemic Flu Strategy, which has been developed in collaboration with Guernsey colleagues and its principles and recommendations were recently approved by the Council of Ministers.

2.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE ENERGY FROM WASTE PLANT:

Question

With regard to the Energy From Waste Plant, would the Minister advise –

- a) how many tons of waste are currently stockpiled, and why;
- b) the longest period the Plant has run continuously without breakdown at full load;

- c) how many faults the Plant currently has;
- d) why, given the States were persuaded to buy a Plant with excess capacity in order to cover issues such as an increase in waste arising and breakdowns, it has not been possible to cope with our present amount of waste notwithstanding those breakdowns;
- e) whether the crane is automatically operated, how often it has broken down, and why;
- f) why 95% of the contract price has been paid before the Plant has proven to be reliable;
- g) whether he is prepared to accept the Plant from the contractor in its present condition and, if so, whether he will resign should it continue to suffer the unreliability problems that have occurred;
- h) how much the Department has spent (including expenses and man-hours) discussing the possibility of burning Guernsey's waste and whether it is still considering the possibility and, if so, what contingency exists for stockpiling Guernsey's waste during periods of Plant breakdown?

Answer

- (a) There is approximately 6000 tonnes of waste stockpiled awaiting processing. Part of this stockpile is old waste that is being slowly fed back into the plant when required and some of this waste is excess waste accumulated due to maintenance shutdowns and defect repair shutdowns. This waste must be blended with the fresh putrescible waste in the bunker at a controlled rate to ensure that it can be processed within the plants operating parameters.
- (b) The plant has run on full load on many occasions and the reason for reducing load or dropping down to one stream is normally due to bunker management, not to plant reliability. At full load the waste processed is more than the waste delivered thus the bunker level falls quite rapidly. When the bunker levels decrease the load is reduced to match the waste input to the waste delivery rates.
- (c) There are 51 defects that remain on the defect register and are being attended to by the contractor. Not all of these defects have been in existence since the plant takeover as there was a two year period following takeover where defects could still be identified and passed back to the contractor for remedy.
- (d) It is important to properly manage the throughput and type of waste that is processed in the plant. Non putrescible waste is stockpiled from time to time to make space in the bunker for the build-up of putrescible waste due to shutdowns or plant maintenance. This waste is then metered back and mixed with the putrescible waste. This is to ensure that the non-putrescible wastes, containing higher levels of chemical contamination, are not fed into the plant too quickly as doing this would unduly strain the abatement control equipment.
- (e) The crane can and does, operate in fully automatic, semi-automatic or fully manual modes. The mode of operation is chosen depending on the quantity of deliveries and the level of the bunker. The crane has had minor breakdowns and these have been mainly due to the failure of control position sensing devices. There are two cranes which enables the plant to continue running whilst one crane is out of service for maintenance or repair. The most significant problem with the cranes was due to cabling and cable installation. This cabling has been re-routed and replaced by the contractor at the contractors cost.
- (f) Payments are specified in the contract and are made against defined tasks known as milestones. The milestones are certified by an appointed independent expert to ensure that the relevant contractual criteria have been met. This is a standard practice for this scale of contract and ensures that the value of the works delivered to the client is proportional to the

sums of money paid. This method also ensures that the contractor is not placed under undue financial strain which could be a risk to both contractor and client.

The remaining money will be paid when the requisite certificates and approvals have been issued by the independent Project Manager.

- (g) As has been explained in several previous answers, the Energy from Waste plant was achieved takeover and was accepted by the States of Jersey on the 29th July 2011. There are still robust warranties and guarantees in place against plant equipment and the contractors are still fulfilling their commitment to resolve defects. The Minister has no intention of tendering his resignation on the basis of the Deputy's interpretation of reliability.
- (h) The matter of what is happening with Guernsey waste presently rests with Guernsey. Jersey has advised that it is technically possible to utilise some excess plant capacity for a period of time. However, in order for Waste to be imported the principle of waste importation would have to be approved by the States of Jersey and the regulatory requirements for waste importation would have to be satisfied.

With regard to the stockpiling of Guernsey's waste during periods of breakdown there is no intention to offer an open ended commitment to this.

Excluding senior officer time, the department has spent £710 on expenses including travel and meetings, and £4,102 on financial modelling.

2.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING GARDASIL VACCINES:

Question

Further to my recent question of 5th November 2013, regarding the Gardasil vaccine and its known side effects, would the Minister advise –

- (a) how many strains of HPV exist and how many of those the vaccine is supposed to protect women from;
- (b) whether she is aware of the reputation of the vaccine's manufacturer Merck in relation to another drug Vioxx;
- (c) what research, if any, was undertaken by the Health and Social Services Department into the alleged 'fast-tracking' of Gardasil and reports made to the Vaccine Adverse Events Reporting System within two years of its release claiming incidents of death and serious health problems such as strokes, blood clots, cardiac arrests, seizures, fainting, and lupus and, if none, why;
- (d) what research, if any, was undertaken by the Health and Social Services Department into the accuracy of the trials of Gardasil and was the Department made aware whether the trials were financed by Merck; and,
- (e) whether she is aware of and has studied research into Gardasil safety, such as that by the University of Columbia and, if not, why not?

Answer

- a) There are at least 140 HPV types. Of these, some 13 cause cervical cancer and these are known as 'high risk HPV' types. Two high risk types cause 75% of all cervical cancers. The vaccine is over 99% effective at protecting women against these two high risk HPV types.

- b) The Minister is aware that a medicine used to treat arthritis, called Vioxx, was withdrawn from use almost a decade ago by the American pharmaceutical manufacturer called Merck.

The Health and Social Services Department does not purchase its HPV vaccine from the US company, Merck.

The Health and Social Services Department purchases its HPV vaccine from the UK Department of Health Vaccine Supply Team, who in turn are supplied by Sanofi Pasteur, only company in the UK totally dedicated to the manufacture of vaccines.

Merck (USA) is one of the companies which form the Sanofi Pasteur MSD conglomerate. However, it is not involved in the supply of vaccines to the Health and Social Services Department.

The Health and Social Services Department is aware of internet-based allegations of fast-tracking against the American Food and Drug Administration (FDA). The Health and Social Services Department is not, however, the UK medicines/vaccine Regulator. It is not, therefore, engaged in researching allegations, nor investigating reports, made to the American Vaccine Adverse Events Reporting System (VAERS), which is a United States database managed by the American Food and Drug Administration (FDA).

The Health and Social Services Department is not a primary research body and, as such, when making decisions about offering vaccines in Jersey, the Department looks to the professional, primary research bodies, including the UK Joint Committee on Vaccination and Immunisation, the UK Department of Health, the European Medicines Agency and to the highly reputable, independent UK Regulator, the Medicines and Healthcare Products Regulatory Agency (MHRA).

All vaccines undergo rigorous testing before being approved for use and the MHRA monitors all medicines and vaccines after they come into widespread use.

Almost 100 million doses of Gardasil have been given safely in over 120 countries, and the MHRA has confirmed there have been no major safety issues with this vaccine.

- c) /e) The Health and Social Services Department is neither a regulatory nor an investigatory body in the context of medicine/ vaccine data evaluation. It has not, therefore, undertaken investigation of primary research into the efficacy of Gardasil. Nor has it undertaken investigation into any research that may have been conducted by the University of Columbia, or indeed, any other academic institute, about this or any other medicine or vaccine

Research, which critically appraises the accuracy of trials of any medicine/ vaccine, forms part of the UK Regulatory role, a function performed by the UK MHRA.

Employing over 900 people, the MRHA independently and impartially examines clinical trial data, assuring itself of the validity of the trials, the quality of the trials data, and the safety and efficacy of the medicine/vaccine, before granting a licence.

It is both reasonable and appropriate, therefore, that the Health and Social Services Department seeks its expert guidance on approved medicines/vaccine from the official, independent regulator, and not via Google search.

As it has no role in the regulation of vaccine trials, there is no reason why the Health and Social Services Department would know, or need to know, how or where the funding for conducting clinical trials is sourced. Nevertheless, medical academia is well used to contractual collaboration which ensures independence of research findings and few, if any, professional experts would believe that the UK medicines regulator fails to reassure itself of the integrity of research data.

The MHRA advises that Gardasil is a highly effective anti-cancer vaccine.

Fully satisfied by the expert guidance of the MRHA, it is the duty and responsibility of health services to offer the cervical cancer vaccine to girls and young women in the island.

But Jersey doesn't have compulsory vaccination and it is for the individual, together with their parents or guardians, to decide whether they are prepared to take up the offer of protection against two virulent, and potentially fatal, HPVs.

These HPVs are responsible for over 75% of all cervical cancer cases, tragically claiming the lives of women every year.

2.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING ACCESS TO THE 2006 MORI POLL RESULTS:

Question

Given the States recent decision to hold a Referendum relating to the Constables position in the States, could the Chairman advise where the information relating to the result of the Mori poll commissioned by a previous Privileges and Procedures Committee, can be found?

Answer

The results of the Mori poll can be found in the following reports, which are available to view on the States Assembly website:

R.19/2007: Composition and Election of the States - Summary of Responses to Consultation

R.20/2007: Survey on Electoral Reform in Jersey, 2007

2.5 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE TREATMENT BY THE POLICE AND THE COURT OF THE WOMAN KNOWN AS H.G.:

Question

Further to answers given on 5th November 2013, will the Minister inform Members –

1. When and what time the States Police received an allegation of harassment which led to the arrest of a woman known as H.G.?
2. Whether a female officer was present when H.G. was arrested at her flat and, if not why?
3. Was H.G. given time to change from her night attire and into appropriate day clothes and, if not, why not?
4. Was H.G. placed in a police car whilst her flat was searched and, if so, why?
5. Was H.G. charged 11 hours after her arrest and, if so, what was the reason for the delay?
6. Why, given that H.G. was of good character, employed and had a fixed abode, was bail denied after she was charged?

Answer

1. The States of Jersey Police received the allegation of harassment at 09.34 hours on 26 September 2010.

2. No female was present during arrest. There is no requirement for a female officer to be present when a female is arrested; only for search purposes.
3. Both arresting officers and the custody officer have been spoken to and cannot recollect what she was wearing. There is no custody photo from the date of arrest. CCTV in custody is kept only for 90 days. The States of Jersey Police say that it is inconceivable that either they or the Court would have allowed her to appear in Court on 27 September 2010, for the remand hearing wearing night attire. When she arrived at the Prison on 27 September she was wearing a navy blue sweat shirt, a navy blue polo shirt, blue tracksuit bottoms and training shoes. Furthermore, the custody photo taken when H.G. returned from Court awaiting her departure from Jersey on 11 October 2010, shows that she was wearing appropriate clothing including a blue sweat shirt and blue polo shirt.
4. Yes, she was placed in a police car, guarded by a Police Officer, whilst another Police Officer searched for evidence relating to the alleged offence.
5. No. H.G. was in police custody for 9 hours and 25 minutes prior to charge. She arrived at the police station at 10.22 hours and was charged at 19.47 hours. Delays were due to the need for a mental health assessment by a doctor (Force Medical Examiner) in consultation with a consultant psychiatrist and the need to obtain an appropriate adult to support her at interview.
6. Decisions as to whether or not a person should be retained in custody prior to presentation before a court and as to whether bail should be opposed in Court are made by prosecutors and not by the Police. Bail was opposed in Court on 27 September 2010 by a Centenier upon the basis of the risk of re-offending and upon the basis of the protection of H.G. herself.

The Magistrate indicated that the reasons for the refusal of bail were the risk of further offending and also for H.G.'s own protection and he was influenced by information that H.G.'s landlady did not want her to reside at her former accommodation.

2.6 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING A REVIEW OF THE H.G. CASE:

Question

Further to the response given on 5th November 2013 by the Home Affairs Minister that the Chief Minister had commissioned a report from the Jersey Independent Safeguarding Chair into the circumstances leading to the arrest of a woman known as H.G., will the Chief Minister advise –

- (a) whether a review Board has yet been appointed?
- (b) whether the review has begun?
- (c) who has been appointed?
- (d) is anyone assisting and, if so, who?
- (e) what are the review's Terms of Reference?
- (f) has H.G. been interviewed?
- (g) when will the review be completed?
- (h) how much has it cost?
- (i) will the Report be made public?

Answer

Jersey's Independent Safeguarding Chair commenced, in April 2013, a review of the involvement of Jersey agencies with H.G., covering the period from her arrest to her departure from the Island.

In considering whether to commission a Serious Case Review under the Safeguarding Adults Partnership Board, the Chair made initial requests for information from agencies that had been involved with H.G..

Agencies who contributed information were the States of Jersey Police, States of Jersey Prison Service, Autism Jersey and Adult Social Services Department. The Chair also had access to court records (that were in the public domain), spoke to senior officials from the Law Officers' Department and received information from the mental health Advocate.

It was requested that the initial reports include a chronology of events, and address whether appropriate steps were taken to ensure that the individual was appropriately supported and safeguarded. Also, to identify any lessons learned about practice (single or multi-agency) and any recommendations for future practice.

The final decision rests with the Independent Chair, with the advice of the SCR sub-group, as to whether to conduct a Serious Case Review. In this case the decision was made that the case was not appropriate for a Serious Case Review and Terms of Reference were therefore not produced. However, the Independent Chair undertook to prepare a report summarising the key issues and learning arising from this case.

The final report by the Independent Chair will be made public. Before it is published the Independent Chair will ensure that H.G. is provided with the opportunity to meet her, if she so wishes, and to review the report. No date for publication has been set.

The review forms part of the core activity of the Safeguarding Partnership Board; as such, it has not incurred any additional costs.

2.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING H.G. AND HER DEPARTURE FROM THE ISLAND:

Question

Would the Minister advise whether the woman known as H.G. within the Korris report appeared at the Magistrates Court on Monday 11th October 2010, in the night attire she was wearing when arrested at her flat two weeks earlier despite having been held in custody in La Moye Prison for two weeks?

Further to the response given on 5th November 2013, that H.G. was dressed in appropriate clothing when being deposited at Jersey Airport for onward journey to the UK, will the Minister inform members what the appropriate clothing was?

Will the Minister inform Members whether any provision was made for H.G. to collect her personal effects and clothing from her home before being put on the aircraft?

Will the Minister inform Members whether, when agreeing to H.G.'s request to call at her flat to collect some clothing and personal effects, the officers did not allow her out of the police car to collect them herself and, if so, why?

Answer

As I advised Deputy Higgins in my response to his oral question on 5 November 2013, I can confirm, again, that the woman known as H.G. was not wearing night attire when she appeared in Court on 11 October 2010. I have personally seen a custody photograph taken of her on that day

after court and she can clearly be seen to be wearing a navy blue sweat shirt and a navy blue polo shirt. Further, I am advised by the Prison Governor that on H.G.'s arrival at the Prison on 27 September 2010 she was wearing a blue polo shirt, blue sweat shirt, blue tracksuit bottoms and training shoes. These clothes were removed from her on arrival for laundering and placed in her personal property. She was given prison clothes to wear whilst in prison. On exit to attend court, on 11 October 2010 the Prison records confirm that her own clothes were returned to her. Whilst the Prison do not record the fact that she was actually wearing these clothes on departure from the Prison, the custom and practice is for prisoners to change into their own clothes, in the reception area, prior to departure for Court. H.G. did not have any night clothes in her property and prison staff would not have permitted her to leave the prison in night attire in any case.

I am unable to say precisely what H.G. was wearing upon leaving Jersey, although it is reasonable to assume that this included the navy blue sweat shirt, navy blue polo shirt, blue tracksuit bottoms and training shoes.

At H.G.'s request, post sentence, and en route for the airport, the escorting officers called at a St Brelade address in order to collect some of H.G.'s personal property, including clothing. H.G. remained in the car whilst the property was collected for the purposes of police security and in accord with the Court decision that she stay in custody until she left the Island.

2.8 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING CIVIL SERVICES AND PUBLIC SECTOR CODES:

Question

Will the Chief Minister publish the Civil Service and Public Sector Codes that all public sector employees are expected to observe?

Will he explain whether he thinks they are still adequate in relation to current employment practices?

Does he consider that the Codes need to be updated and, if so, what changes, if any, does he proposes to make?

Answer

The States of Jersey Code of Conduct and Disciplinary Rules are being reviewed as part of Policy Terms and Conditions work stream of the Workforce Modernisation programme, in full consultation with Trades Unions.

The main thrust of the policies review has been to ensure that all policies and associated procedures not only reflect current employment practices, but also comply with legislation, statutory codes and employment guidelines endorsed by JACS. The Disciplinary Policy and associated guidelines and codes of conduct are nearing the end of this consultation process and will cover all employee pay groups in the States of Jersey. Any changes are subject to the completion of this process

The revised code of conduct will be made publicly available on completion of the consultation process. The existing code is now available on gov.je

2.9 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE IMPACT OF BULGARIAN AND ROMANIAN IMMIGRATION TO THE ISLAND:

Question

Will the Chief Minister advise members what impact, if any, he considers the free movement of workers from Bulgaria and Romania into the British Isles from January 2014 will have on immigration into Jersey?

Will he also explain what steps, if any, he proposes to take if large numbers of unqualified workers come to the Island at a time when we already have very large numbers of unemployed unqualified workers actively seeking work?

Answer

Jersey has legislation which governs where migrants are able to live and work, namely the Control of Housing and Work (Jersey) Law, 2012.

This legislation applies to anyone wanting to live and work in Jersey and is not focused specifically on any nationality. The law is being used to support the policy agreed in the Strategic Plan: to prioritise established residents for available employment and to permit immigration only where it delivers high economic or social benefits to Jersey.

The compliance team at the Population Office has been strengthened to enforce the new law and to help achieve these objectives.

2.10 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE INVESTIGATIONS INTO THE STARTING PISTOL INCIDENT AT A SECONDARY SCHOOL:

Question

Will the Minister advise –

- (i) how many investigations have taken place in relation to the starting pistol incident at Le Rocquier school;
- (ii) what these were;
- (iii) who conducted them;
- (iv) how many have been concluded and how many are ongoing;
- (v) what the conclusions were?

Will the Minister be publishing these reports, and if not, why not?

Answer

There are five investigations into the incident as follows:

1. An investigation was carried out by States of Jersey Police immediately after the incident. The outcome of that is a matter of public record.
2. An internal disciplinary procedure was then followed in respect of the teacher. This involved an investigation by officers from the Education, Sport and Culture Department and a disciplinary panel hearing chaired by the Director of Education. The Department can confirm appropriate action has been taken.

All matters relating to internal disciplinary proceedings for States of Jersey staff are treated as confidential.

Information was provided to the disciplinary panel on the basis of confidentiality and is therefore exempt under Article 3.2 (b) of the Code of Practice on Public Access to Official Information. In addition, publication is exempt under Article 3a (xiii) of the Code on the

grounds that that it would prejudice employer/employee relationships or the effective conduct of personnel management.

The documents produced for the disciplinary hearing refer directly to the employee so the Data Protection (Jersey) Law 2005 also applies. There is a presumption against disclosure of sensitive personal information.

3. A separate investigation was carried out into health and safety issues and accident reporting processes relating to this incident. This was conducted by an officer from the ESC Department. It was concluded that school sports activities could continue without starting pistols and the firearms were removed from all States schools as a result. Other actions resulting from this review have not yet been concluded.

This is an internal report that contains confidential information relating to a number of individuals and there are no plans for publication.

4. To assist the governing body of the school the ESC Director has commissioned a health and safety review of the school by independent external advisers. This will provide the school with an assessment of specific issues that might need to be addressed in terms of day-to-day policy and practice. There are no plans to publish this review as public disclosure was not part of the remit when it was commissioned.
5. The Health and Safety Inspectorate were informed by the Law Officers of the incident and are reviewing the case with respect to the legal requirements under the Health and Safety at Work (Jersey) Law 1989. Disclosure of information is restricted under this law. A copy of their report will be forwarded to the Attorney General.

2.11 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE NUMBER OF RESIDENTS IN JERSEY WITH ENTITLED STATUS (FORMER (1)(1)(K) STATUS) WHO ARE ALSO FRENCH NATIONALS:

Question

What is the current number of residents with Entitled status under Regulation 2(1)(e) of the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 (formerly known as 1(1)(k) category residents) of French nationality in the Island and, if the Minister does not have this information, will he explain why?

Answer

The Taxes Office does not maintain information on the nationality of individuals who have entitled status under paragraph 2(1)(e) of Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 (formerly known as 1(1)(k) category residents).

An individual's liability to Jersey income tax is primarily determined by whether that individual is "tax resident" in the Island. Under Jersey tax law when determining whether an individual is tax resident in the Island it is necessary to look at factors such as: the amount of time that the individual spends in the Island, whether they have a place of abode in the Island, etc. An individual's nationality is irrelevant to this analysis and hence the Taxes Office does not collect information regarding nationality.

2.12 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING THE PROGRESS ON THE INTRODUCTION OF PENALTIES FOR LITTERING AND DOG FOULING:

Question

Further to the 2011 Education and Home Affairs Scrutiny Panel report on Policing of Beaches and Parks and its recommendation to introduce fixed penalties for littering and dog fouling, will the Minister advise what progress, if any, he has made on this front, whether he intends to introduce fixed penalties and, if so, when and, if not, why not?

Answer

The issue of the possible introduction of a fixed penalty system does not strictly lie within my area of responsibility.

In response to the Scrutiny Panel report SR 10/2011, I accepted that there could be merit in taking the fixed penalty notice system forward in tandem with the Honorary Police, whilst emphasising how fortunate Jersey is to have an honorary system which filters out most minor offending and enables people to be dealt with outside the court system.

When I met with the Education and Home Affairs Scrutiny Panel in February this year, I suggested to the Connétable of St Brelade, who was, at that time a member of the Panel, that he should take the matter of enforcement in respect of littering and dog fouling to the Comité des Connétables so that they could take a view on the Centeniers' powers. I suggested that the Comité could write to me and the Attorney General for the matter to be tabled at a Criminal Justice System Board meeting.

It was suggested at that time that the issue could be dealt with by civil penalty notice which could give rise to a criminal sanction if not paid in line with changes which were envisaged to the branchage Law.

Once the Comité des Connétables have had the opportunity to consider this issue, I would be happy to table the matter at a meeting of the Criminal Justice System Board.

2.13 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING PROCEDURES USED BY INCOME TAX TO ADMINISTER ITIS RATES:

Question

In view of the Minister's stated intention in his Budget Statement for 2013 (page 14) to consider the current year basis as part of his plan for the modernisation and simplification of the personal tax regime, will he explain the processes used by the Income Tax Department to administer the ITIS rates applied to individual taxpayers whose tax is assessed on a current year basis; in particular –

- i) how the basis of the ITIS rate is set ;
- ii) whether this is always based on information supplied by the taxpayer;
- iii) whether the option of individual assessment of married persons is available to this group of taxpayers and whether personal and child allowances are fairly apportioned;
- iv) whether controls are in place in the department to ensure the ITIS rate is calculated fairly and accurately;
- v) the process for dealing with taxpayers' appeals;

- vi) whether refunds of tax are promptly made when mistakes are identified;
- vii) whether there is an independent taxpayer complaints system in place;
- viii) whether the complaints procedure includes power to report common procedural problems underlying taxpayer complaints; and,
- ix) whether there is any intention to move all previous year's taxpayers to current year?

Answer

- i) how the basis of the ITIS rate is set;

A provisional ITIS effective rate notice is issued in November each year. The effective rate notices for 2014 are currently being issued. These are valid from 1st January 2014.

For the majority of current year basis taxpayers, the provisional ITIS effective rate is based on the latest provisional income tax assessment or the last ITIS effective rate issued.

The ITIS effective rate can be adjusted on receipt of a completed income tax return i.e. when a 2013 completed income tax return is received in 2014. It can also be adjusted at any time if a taxpayer advises of a change in circumstance or if other information which the Taxes Office receives indicates that the ITIS effective rate needs to be amended.

For new taxpayers registering, the ITIS effective rate is based on their completed registration form. If a taxpayer does not register, or hand in their ITIS effective rate notice, their employer is under a legal obligation to apply the default ITIS effective rate of 20%.

- ii) whether this is always based on information supplied by the taxpayer;

The effective rate is not always based solely on information supplied by the taxpayer. If data received from the employer is more up to date or accurate, this information would be used to calculate the ITIS effective rate.

- iii) whether the option of individual assessment of married persons is available to this group of taxpayers and whether personal and child allowances are fairly apportioned;

An election for separate assessments is available for married persons and civil partners, whether they are taxed on a current year basis or previous year basis. Any relevant allowances and reliefs are apportioned in accordance with their respective incomes unless the married couple or civil partnership requests that the allowances are apportioned differently.

- iv) whether controls are in place in the department to ensure the ITIS rate is calculated fairly and accurately;

Internal controls are in place to ensure that the ITIS effective rates notices that are issued adhere to the relevant provisions in the Income Tax Law. These controls are subject to internal and external audit on an annual basis.

- v) the process for dealing with taxpayers' appeals;

A taxpayer who is aggrieved by their ITIS effective rate notice, or a notice of assessment, issued by the Taxes Office, may appeal to the Commissioners of Appeal within 40 days from the date when the notice(s) was issued.

The majority of appeals, to date, have been settled between the Case Officer from the Taxes Office and the taxpayer. Where an appeal cannot be resolved, the case will be reviewed by a Senior Officer and if the appeal cannot be settled, the case will be listed for hearing by the Commissioners of Appeal.

- vi) whether refunds of tax are promptly made when mistakes are identified

Where an error has arisen regarding the calculation or application of an ITIS effective rate, any overpayment of tax may be promptly repaid. Alternatively the overpayment may be used to reduce the taxpayer's current ITIS effective rate or it can be carried forward as a credit against the following year's income tax liability.

vii) whether there is an independent taxpayer complaints system in place

Yes. Any formal complaint made by a taxpayer is investigated and dealt with promptly by the Taxes Office. Such complaints can cover a very wide range of issues - the nature of which will determine how the complaints are investigated and resolved.

Any person may take a complaint to the States of Jersey Complaints Board regarding an administrative process or a decision made by the Taxes Office.

viii) whether the complaints procedure includes power to report common procedural problems underlying complaints

Should a common procedural problem come to light, the issues are investigated by a Director at the Taxes Office. Procedures will be reviewed to ensure those underlying problems are addressed appropriately.

ix) whether there is any intention to move all previous year's taxpayers to current year?

In the 2014 Budget Statement the Treasury & Resources Minister confirmed that a long term tax programme would be published alongside the 2015 Budget. The intention is to modernise and simplify Jersey's tax system and indeed a review of the previous year basis / current year basis of assessment is likely to be one of the areas of the current tax system which is considered as part of this longer term programme.

2.14 DEPUTY R.G. LE HÉRISSEUR OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE INDEPENDENT JUDICIAL APPOINTMENTS COMMISSION:

Question

Given the recommendation of the Second Interim Report of the Constitution Review Group calling for a Judicial Appointments Commission (R.64/2013 paragraph 74 refers) and public disquiet over the procedures that applied to the suspension of the former Assistant Magistrate, would the Chief Minister state whether he agrees with the principle of an independent Judicial Appointments Commission and, if so, indicate what steps, if any, he is taking to pursue this?

Answer

As stated in the written answer provided on 23rd October 2012, whilst I have confidence in our system of justice, I am not closed to the system of judicial appointments being considered. The Second Interim Report of the Constitution Review Group (R.64/2008), presented to the States Assembly on 27th June 2008, recommended that consideration should be given to the creation of a Judicial Appointments Commission. Now that responsibility for justice policy and resources within the executive branch of government has been clarified, this recommendation can be taken forward, having due regard for the Latimer House Guidelines regarding judicial appointments. I would expect to be in a position to bring forward a green paper on the possible establishment of a Judicial Services Commission during the first half of 2014.

2.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE NUMBER OF TENANTS RE-CHARGED FOR REPAIRS:

Question

Further to his answer of 5th November 2013, which revealed that the Department recharged tenants £14,294.88 in 2012 for repairs to void properties above and beyond fair wear and tear, will the Minister inform members how many tenants faced these re-charges, what length of tenancy was involved, how much they were charged including the mean or median charge and what proportion of these end of let repair costs were thus recharged?

Answer

The £14,294.88 recharged in 2012 reflects 9 ending tenancies of the 363 managed by the Department. This represents a proportion of only 2.5%.

Tenant	Tenancy Length	Recharge	Proportion of overall costs
1	8 years	£2,757.47	59.3%
2	6 months	£781.53	32.5%
3	9 years 6 months	£3,567.73	69.2%
4	5 years	£1,494.38	52.4%
5	11 years 9 months	£2,003.08	30.8%
6	4 years 5 months	£1,117.74	37.2%
7	2 years 7 months	£1,000.00	25.1%
8	3 years 11 months	£1,382.55	26.2%
9	3 years 2 months	£190.40	5.8%
Mean Average	5 years 5 months	£1,588.32	37.6%

2.16 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE CHANNEL ISLANDS COMPETITION REGULATORY AUTHORITY'S REVIEW OF HEATING OIL PRICES:

Question

What actions, if any, has the Minister taken to implement the recommendation made by the Channel Island Competition Regulatory Authority in 2012 that he should request that Authority to regularly collect heating oil prices and to monitor the operation of the market, pursuant to a formal request under Article 6(4) of the Competition Regulatory Authority (Jersey) Law 2001?

What conclusions, if any, has the Minister come to concerning the operation of the market in domestic heating oil?

Answer

In February 2012, the Channel Islands Competition and Regulatory Authorities (CICRA) published a report entitled 'Review of the supply of heating oil in Jersey' which analysed the market for the supply of heating oil in the Island. One of the recommendations in that report was that the Minister should consider directing CICRA to collect and publish prices of heating oil in Jersey from various suppliers, and to compare them with prices charged by heating oil suppliers in the United Kingdom.

After discussions with the Minister, CICRA began to collect heating oil prices from the Jersey distributors on a quarterly basis in order to monitor the operation of the market, pursuant to a

formal request from the Minister under Article 6(4) of the Competition Regulatory Authority (Jersey) Law 2001. The request did not include publication of prices, as it was considered premature to do so until the basis for the differences in price were better understood. Collection of price data continued until March 2013, when CICRA commissioned further work into the operation of the market, having identified that the price differential between Jersey and the UK could still not be fully explained.

CICRA's investigation in this area is on-going, currently focusing on the operating fees charged by the fuel consortium managing the La Collette fuel terminal. The Minister will draw conclusions once he has been provided with the results of CICRA's monitoring and further review.

2.17 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING A BREAK DOWN OF LONG TERM INCAPACITY ALLOWANCE BENEFITS BY PERCENTAGE:

Question

Following the publication of the breakdown of Long Term Incapacity Allowance benefits by percentage award in Figure 16 of R.134/2013, will the Minister produce for members figures to show the change, if any, in high percentage awards (for example greater than 70%) over the 5 year period 2008 – 2012?

Answer

The number of Long-Term Incapacity Allowance (LTIA) claims with a 70% or higher payment rate is shown in the table below. Across the five year period the total has remained relatively static, with a small decline of 5 claims (1%) between 31 December 2008 and 31 December 2012.

	31 December 2008	31 December 2012	2012 versus 2008	
			Claims	Percentage
Number of Claims with 70% or higher LTIA payment rate	590	585	-5	-1%

2.18 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE CHRONOLOGY OF KEY EVENTS IN RESPECT OF THE PLANNING APPLICATION FOR THE STORAGE OF ASBESTOS:

Question

Will the Minister provide a detailed written chronology of the key events and processes carried out by his Department in responding to the Planning and Environment Department in their consideration of his application relating to the storage of asbestos containing material in engineered pits at la Collette (from the time of the first submission of the application) such chronology to include his own interventions, if any?

Answer

The chronology of the key events and processes between the Ministers for Transport and Technical Services and Planning and Environment since the date of the planning application (No. P2010/1861), in December 2010 are:

Date	Correspondence / Activity
14/12/10	Application was signed by TTS
15/12/10	Application was submitted by Capita on TTS's behalf
11/1/11	Site Notices and confirmation of publication
12/1/11	Health Protection responded to Environmental Impact Assessment (EIA)
13/1/11	Parish of St Helier responded to EIA
28/1/11	TTS submitted Best Available Technology / Alternative disposal options review
28/1/11	TTS (Drainage regulator) responded to EIA
1/2/11 (rec'd 22/2/11)	Marine Resources responded to EIA
9/2/11	Health and Safety Inspectorate responded to EIA
3/3/11	TTS asked the Department of the Environment (DoE) (Planning section) whether all of the Minister for Planning and Environment's concerns had been met by submissions. Planning asked Environment Director for comment
3/3/11	Environment Director responded to Planning that from the environment regulatory perspective the proposal was acceptable if there were no legal or regulatory challenges. The Planning and Environment Minister was keen to take responsibility for and change policy on disposal of asbestos but this was not possible as DoE do not administer waste policy
3/3/11	Environmental Protection (EP) responded to EIA
2/6/11	TTS queried progress with application
12/7/11	TTS again queried progress with application
6/10/11	DoE queried DEFRA (UK Department of Environment, Food, and Rural Affairs) regarding alternative disposal options for asbestos wastes
27/2/12	The Minister for Planning and Environment wrote to the Minister for Transport and Technical Services following discussions and meetings clarifying his requirements. Following meetings with the outgoing TTS Minister on 4/10/11 TTS were to do further work looking into options for treatment of mixed asbestos wastes. The Minister for Planning and Environment was unable to issue a planning decision before it was demonstrated that the solution proposed was the most environmentally appropriate for the waste stream
4/5/12	The Minister for Transport and Technical Services wrote to the Minister for Planning and Environment including Prof Paul Nathaniel's (LQM) asbestos peer review report
31/5/12	The Minister for Transport and Technical Services wrote to the Minister for Planning and Environment expressing concern that the application had taken 18 months so far and explaining the outcome of the LQM review
13/6/12	Chief Officer of Environment asked the department if anything else is required for the decision to be made as the planning and Environment Minister was under

	pressure to determine the application. The Minister claimed that TTS had not done enough
15/6/12	Planning Officer asked Environmental Protection to review the LQM document
9/7/12	Environmental Protection responded
12/7/12	Environmental Protection passed DEFRA advice to Chief Officer of Environment on request
17/7/12	Environmental Protection clarified with Chief Officer of Environment that plasma treatment may be an alternative but would query viability. Environmental Protection agreed with LQM report position that 'off-Island' vitrification not practical at this time. Email sent to DEFRA
19/7/12	DEFRA wrote to Chief Officer of Environment stating that waste prevention was the priority and asbestos could be justified as a departure from the norm as no viable recovery takes place in the UK. Recommended disposal route for asbestos was hazardous waste landfill with daily cover to mitigate against fibres escaping. DEFRA view was that plasma treatment was very energy intensive
20/7/12	Chief Officer of Environment advised Planning Section to recommend application for approval to Minister
21-22/8/12	The Minister for Planning and Environment and Director for Environment visited SPEN (a French waste management company) and St Malo local waste management companies researching potential for vitrification via plasma and / or landfill
28/8/12	Recommendation to approve planning application signed by Planning Section in preparation for Ministerial meeting
4/9/12	The Minister for Planning and Environment received emailed letter from SPEN dated 3rd September saying they would be able to transport and treat wastes depending on regulatory approvals
4/9/12	The Minister for Planning and Environment deferred decision, contrary to advice from department officers, requesting written confirmation from UK and France as to whether it was possible to export for disposal under a 'Duly Reasoned Request' (DRR) procedure. The Minister also requested a Health and Safety report be undertaken to assess the condition of containers
4/9/12	Environmental Protection explain DRR practicalities to Chief Officer of Environment
28/9/12	The Minister for Transport and Technical Services wrote to the Minister for Planning and Environment outlining that TTS had undertaken expert review. Asked for application to be dealt with as soon as possible
9/10/12	The Minister for Planning and Environment met the Minister for Transport and Technical Services to discuss the latest correspondence
25/10/12	The Minister for Transport and Technical Services wrote to the Minister for Planning and Environment noting that no response was received to his last letter and asking the Minister for Planning and Environment to determine the application

31/10/12	The Minister for Transport and Technical Services wrote to the Minister for Planning and Environment referring to the past 2 letters and clarifying his position. He was not applying to export, and wished to store asbestos waste in a hazardous waste cell allowing safe removal at a later date. The letter outlined safety issues and mentioned referring the issue to the Chief Minister and Council of Ministers
19/11/12	The Minister for Planning and Environment wrote to the Minister for Transport and Technical Services stating that it was clear from this and previous correspondence that the Minister for TTS ' <i>would ideally like to see this waste taken off island for treatment and recovery</i> ' and that he shared this aim. He further argued that permitting a permanent asbestos cell at La Collette would make it ' <i>almost impossible to consider</i> ' any subsequent export of the material. Acknowledging the health and safety concerns about the current storage he suggested that he would support a proposal for replacing outworn containers and relocating all the shipping containers to another location in the Island, away from the explosion risk at La Collette, as a temporary measure pending an application from TTS to export the material for treatment. This application would finally determine whether export to other jurisdictions would be feasible, failing which permanent storage (possibly the La Collette option) could be considered. In the meantime he suggested that the current planning application be withdrawn
30/11/12	The Minister for Transport and Technical Services replied querying why, as all correspondence had maintained the intention to allow for later extraction and treatment when a suitable technology became available. He also requested that the Minister for Planning and Environment indicated an approved site for the temporary relocation of the asbestos containers and a budget for the necessary work, as previous tenders for this would be subject to variation owing to the delay and revised quantities. TTS did not have the budget to meet the Minister for Planning and Environment's aspirations for relocation
14/12/12	The Minister for Planning and Environment wrote to the Minister for Transport and Technical Services stating his view that once the Island had a facility to deal with its own asbestos waste, any receiving jurisdiction would be unlikely to allow import of that waste under the terms of the Basel Convention. He declined to find a suitable site for temporary asbestos storage on the grounds that he would have to make the regulatory decision on its suitability, and similarly declined to provide any funding for the work
20/12/12	<p>The Minister for Transport and Technical Services replied to the Minister for Planning and Environment referring to the Minister for Planning and Environment's letter of 14th December, again clarifying his position, stating that the TTS Department has previously received unequivocal advice both from Environment officers and UK authorities that export for disposal would not be permitted, regardless of whether Jersey built a new facility or continued with current storage methods. The letter reiterated that:</p> <ul style="list-style-type: none"> • all of the options had previously been considered and the best site for asbestos waste was at La Collette • the proposed solution allowed for safe removal and treatment of the waste in future

	<ul style="list-style-type: none"> • both Health and Safety Inspectorate and Environment Department officers supported the application • the ongoing risks to health and safety from the current storage were wholly unacceptable • TTS would not be requesting an export licence • TTS would not look at alternative local sites and would not replace worn out containers, as this work had been undertaken previously • The planning application would not be withdrawn <p>The letter finished by requiring an urgent decision from the Minister for Planning and Environment on the original application</p>
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In December 2012 at a meeting with the Chief Minister and Environment Minister, the relevant Senior Civil Servants were asked to visit a vitrification plant in France and assess the viability of this solution for Jersey.

This visit and visits to alternative suppliers resulted in the Report, “Potential solutions for the treatment of Jersey’s asbestos waste” 12 September 2013.

On 4th October 2013 the Transport and Technical Services Minister wrote to the Environment Minister reiterating the conclusions to the latest report and urging the Environment Minister to deal with this planning application as soon as possible.

2.19 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE CHRONOLOGY OF KEY EVENTS IN RESPECT OF AN APPLICATION FOR THE SOTRAGE OF ASBESTOS:

Question

Will the Minister provide a detailed written chronology of the key events and processes carried out by both sections of the Planning and Environment Department in considering the Planning application made by the Transport and Technical Services Minister for the storage of asbestos containing material in engineered pits at la Collette (from the time of first submission of the application) such chronology to include his own interventions in considering the application, if any?

Answer

The table below provides a chronology of the key events relating to the asbestos planning application submitted by the Transport and Technical Services Department.

Date	Correspondence / Activity
14/12/10	Application signed by TTS
15/12/10	Application submitted by Capita on TTS' behalf
11/01/11	Site Notices and confirmation of publication
12/01/11	Health Protection respond to Environmental Impact Assessment (EIA)
13/01/11	Parish of St Helier respond to EIA
28/01/11	TTS submit Best Available Technology / Alternative disposal options review
28/01/11	TTS (Drainage regulator) respond to EIA

01/02/11 (rec'd	Marine Resources respond to EIA
03/02/11	Health and Safety Inspectorate respond to EIA
03/03/11	TTS ask Department of the Environment (DoE) (Planning section) whether all the Minister for Planning and Environment's concerns have been met by submissions. Planning ask Environment Director for comment
03/03/11	Environment Director responds to Planning that from the environment regulatory perspective the proposal is acceptable if there are no legal or regulatory challenges. The Minister is keen to take responsibility for and change policy on disposal of asbestos but this is not possible as DoE do not
03/03/11	Environmental Protection (EP) respond to EIA
02/06/11	TTS query progress with application
12/07/11	TTS again query progress with application.
06/10/11	DoE query DEFRA (UK Department of Environment, Food, and Rural Affairs)
27/02/12	The Minister for Planning and Environment writes to the Minister for Transport and Technical Services following discussions and meetings clarifying his requirements. Following meetings with the outgoing TTS Minister on 4/10/11 TTS were to do further work looking into options for treatment of mixed asbestos wastes. The Minister for Planning and Environment is unable to issue a planning decision before it is demonstrated that the solution
04/05/12	The Minister for Transport and Technical Services writes to the Minister for Planning and Environment including Prof Paul Nathaniel's (LOM) asbestos
31/05/12	The Minister for Transport and Technical Services writes to the Minister for Planning and Environment expressing concern that the application has taken
13/06/12	Chief Officer of Environment asks the department if anything else is required for the decision to be made as the Minister is under pressure to determine the application. The Minister claims that TTS have not done
15/06/12	Planning Officer asks Environmental Protection to review the LQM document
09/07/12	Environmental Protection responds
12/07/12	Environmental Protection passes DEFRA advice to Chief Officer of
17/07/12	Environmental Protection clarifies with Chief Officer of Environment that plasma treatment may be an alternative but would query viability. Environmental Protection agrees with LQM report position that 'off-Island' vitrification not practical at this time. State that clarification on this point will be requested from DEFRA. Email sent to DEFRA
19/07/12	DEFRA writes to Chief Officer of Environment stating that waste prevention is the priority and asbestos can be justified as a departure from the norm as no viable recovery takes place in the UK. Recommended disposal route for asbestos is hazardous waste landfill with daily cover to mitigate against fibres escaping. DEFRA view is that plasma treatment is
20/07/12	Chief Officer of Environment advises Planning Section to recommend
21- 22/08/12	The Minister for Planning and Environment and Director for Environment visit SPEN (a French waste management company) and St. Malo local waste management companies researching potential for vitrification via plasma

28/08/12	Recommendation to approve planning application signed by Planning Section in
04/09/12	The Minister for Planning and Environment receives emailed letter from SPEN
04/09/12	dated 3rd September saying they would be able to transport and treat The Minister for Planning and Environment defers decision, contrary to advice from department officers, requesting written confirmation from UK and France as to whether it is possible to export for disposal under a 'Duly Reasoned Request' (DRR) procedure. The Minister also requests a Health and Safety report be undertaken as a matter of urgency to assess the condition of containers and to stabilise them in the short term
04/09/12	Environmental Protection explain DRR practicalities to Chief Officer of
28/09/12	The Minister for Transport and Technical Services writes to the Minister for
09/10/12	Planning and Environment outlining that TTS have undertaken an expert The Minister for Planning and Environment meets the Minister for Transport and
25/10/12	The Minister for Transport and Technical Services writes to the Minister for
31/10/12	Planning and Environment noting that no response was received to his last letter and asking the Minister for Planning and Environment to The Minister for Transport and Technical Services writes to the Minister for
19/11/12	Planning and Environment referring to the past 2 letters and clarifying his position. He is not applying to export, and wishes to store asbestos waste in a permanent cell at La Collette. The letter The Minister for Planning and Environment writes to the Minister for Transport and Technical Services stating that it was clear from this and previous correspondence that the Minister for TTS ' <i>would ideally like to see this waste taken off island for treatment and recovery</i> ' and that he shares this aim. He further argues that permitting a permanent asbestos cell at La Collette would make it ' <i>almost impossible to consider</i> ' any subsequent export of the material. Acknowledging the health and safety concerns about the current storage he suggests that he would support a proposal for replacing outworn containers and relocating all the shipping containers to another location in the Island, away from the explosion risk at La Collette, as a temporary measure pending an application from TTS to export the
30/11/12	material for treatment. This application would finally determine whether The Minister for Transport and Technical Services replies querying why it is felt that a permanent asbestos cell would make export for treatment and recovery impossible to consider, as all correspondence has maintained the intention to allow for later extraction and treatment when a suitable technology becomes available. He also requests that the Minister for Planning and Environment indicate an approved site for the temporary relocation of the asbestos containers and a budget for the necessary work, as previous tenders for this would be subject to variation owing to the delay and revised quantities. TTS does not have the budget to meet the Minister for Planning and Environment's aspirations for relocation

14/12/12	The Minister for Planning and Environment writes to the Minister for Transport and Technical Services stating his view that once the Island has a facility to deal with its own asbestos waste, any receiving jurisdiction would be unlikely to allow import of that waste under the terms of the Basel Convention He declines to find a suitable site for temporary asbestos storage on the grounds that he would have to make the regulatory decision on its suitability, and similarly declines to provide any funding for the work
20/12/12	<p>The Minister for Transport and Technical Services replies to the Minister for Planning and Environment referring to the Minister for Planning and Environment’s letter of 14th December, again clarifying his position, stating that the TTS Department has previously received unequivocal advice both from Environment officers and UK authorities that export for disposal would not be permitted, regardless of whether Jersey built a new facility or continued with current storage methods. The letter reiterates that:</p> <ul style="list-style-type: none"> • all of the options had previously been considered and the best site for asbestos waste was at La Collette • the proposed solution allowed for safe removal and treatment of the waste in future • both Health and Safety Inspectorate and Environment Department officers supported the application • the on-going risks to health and safety from the current storage were wholly unacceptable • TTS would not be requesting an export licence
18/2/13	Environment Scrutiny Hearing hears from the Minister for Transport and Technical Services that the Minister for Planning and Environment is still considering further options for the asbestos disposal
17.6.13 to 19.6.13	Representatives from the Department of the Environment, Health and Safety Executive, Transport and Technical Services and the Environment Scrutiny Panel to visit France to inspect and assess other disposal options

12.9.13	<p>Joint report issued by representatives of the Department of the Environment, Health and Safety Executive and Transport and Technical Services following visit to France.</p> <p>The report concluded that</p> <ul style="list-style-type: none"> • Determination of the outstanding planning application for the use of Cell 30 should be progressed as a matter of urgency, especially given the seriousness of health and safety concerns • Decisions on the future of the legacy of Asbestos Containing Materials (ACMs) cannot be put off any further owing to serious health and safety concerns about the possible consequences of a major incident at the fuel farm • Post Buncefield land use planning zones would now prohibit the current asbestos storage arrangements, but this cannot be applied retrospectively • There is a short term need to de-stuff the existing containers and provide safe storage for the waste removed, following inventory and repackaging. Cell 30 offers an immediate and practical solution to this problem and should be used for this purpose • Alternatives to permanent disposal in Cell 30 should continue to be sought. The Inertam facility in France provides one potential solution, but at significant cost and with additional concerns about health and safety risks to staff performing manual separation of asbestos materials that would not be permitted locally or in the UK. These concerns would have to be taken into consideration by the Environment Regulator in considering any potential application made to export for recovery at the French site
4.10.13	<p>Letter from Minister for Transport and Technical Services to Minister for Planning and Environment confirming the commitment to utilise the landfill cell at Cell 30 as a temporary storage facility, pending a periodic review of technology to assess formal disposal and recovery options and that the planning application description can be amended accordingly</p>
15.10.13	<p>Description of planning application altered and re-advertised as such by way of a site notice, standard notification in the Jersey Evening Post and at www.gov.je. The planning application although pre-dating the Department of the Environment's recent system of displaying all planning applications electronically on the web site, is now placed on line as well.</p>
11.11.13	<p>Expiry of statutory re-advertising date for the submission of any further comments in respect of the amended application description. No further comments received and as a consequence the application can now be progressed accordingly.</p>

14.11.13	Given the findings of the Joint Report in September and the revised description of the planning application from TTS, The Minister for Planning and Environment is now satisfied that his requirements for a review of potential alternative solutions to the asbestos disposal and recovery have been undertaken and that as a consequence, the application can now be approved. Accordingly, a Ministerial Decision Summary (MDS) is prepared and duly signed, granting permanent planning permission for Cell 30 but with a requirement by conditions that the asbestos waste to be stored therein, shall be for a temporary period of five years only, during which time information has to be submitted to the Minister for Planning and Environment by the Minister for TTS on an annual basis confirming what work has been undertaken to demonstrate that alternative disposal and recovery options are being investigated and
15.11.13	Planning Permission issued to the Minister for Transport and Technical Services as applicant and Press Release issued by the Minister for Planning and Environment accordingly.

In addition, I have had several discussions with the Minister for Transport and Technical Services regarding asbestos disposal and recovery (e.g: during or after States sittings or other States Member events).

I have also provided updates on the matter of asbestos to Scrutiny at the Environment Scrutiny Panel quarterly meetings I attend.

3. Oral Questions:

3.1 Deputy T.A. Vallois of St. Saviour of the Chief Minister regarding the implementation of the Chapman Report of 2009 and employment policies in respect of bullying and harassment:

Could the Chief Minister advise what action, if any, the States Employment Board has taken in respect of the 6 recommendations laid out in the Chapman Report of 2009 and whether the policies and legislation which exist within the public sector in respect of bullying and harassment are in fact collective and understandable to all employees?

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

The States of Jersey Bullying and Harassment Policy applies to all staff. It is readily available to employees via the intranet or through H.R. (Human Resources) staff. The Chapman Report of 2009 made 6 recommendations focusing on how the States as an employer can fulfil its duty of care to its employees. A number of improvements have been made following these recommendations.

[9:45]

The States has increased the number of A.C.A.S. (Advisory, Conciliation and Arbitration Service) investigators. A confidential helpline has been established for staff to use in the event of bullying and harassment. Training courses and awareness sessions about bullying and harassment procedures have been run for managers. There is zero-tolerance when allegations are proved. The Bullying and Harassment Policy was rewritten following the Chapman Report and is currently under review again as part of our Workforce Modernisation Programme.

3.1.1 Deputy T.A. Vallois:

Could the Chief Minister advise how regularly the policies are reviewed and updated?

Senator I.J. Gorst:

Not very. This is why as part of the workforce modernisation proposal something like 75 policies and procedures governing terms and conditions and workforce employment issues are being reviewed and good progress is being made on them.

3.1.2 Senator S.C. Ferguson:

What steps are the States Employment Board taking to ensure that Ministers do not bully and harass their officers?

Senator I.J. Gorst:

This is a difficult area. The Senator is right to raise it because, although it was not officers, the Chapman Report was commissioned in light of what was happening in the blogosphere and things that had been said by a former Minister about the staff in that department and in other departments. As we would expect in the electronic sphere, things have changed even from when that report was issued. We have a contract with Ashridge Management advisers, consultants, they are a leading management consultancy agency, which provides management training for senior management. Part of that is the availability of either one-to-one sessions or training for Ministers who feel that that might be an issue. A Minister's job is to hold his department and senior officers to account. That can be often a very uncomfortable position to find oneself in. But, it is right that Minister's do that.

3.1.3 Senator S.C. Ferguson:

Supplementary? Does the Chief Minister not feel that the updating is going to be somewhat delayed due to the fact that we have now lost our third H.R. director in something like 5 years?

Senator I.J. Gorst:

Not at all. We have excellent staff in that department. The Director and the Deputy Director of Employee Relations, together with their staff, are doing an excellent job in updating and dealing with the workforce modernisation, which is exactly with regards to the terms and conditions I think this Assembly would expect.

3.1.4 Deputy M.R. Higgins of St. Helier:

The Chief Minister's predecessor, when the Chapman Report was being discussed in the States, was challenged on the bullying that former Senator Syvret was alleged to have done. He stated that he would produce chapter and verse for the States evidence to support what he was putting forward. He never did so, which gives credence to the fact that it was perhaps a put-up job. Will the current Chief Minister revisit the Hansard on that and produce the evidence so that we can all see whether it was valid at the time or not.

Senator I.J. Gorst:

I do not think there can be much value gained in going back to consider the issues which the Deputy asks me to. This report was published in 2009. The issues have been ongoing for a number of months, if not years, as far as I am concerned. The way that we deal with blogs and the internet and technology has changed even from 2009. Particularly the first recommendation of that report to me would seem to be out-of-date already.

3.1.5 Deputy M.R. Higgins:

Supplementary? Surely the Chief Minister accepts that we have all these reports that are commissioned at great expense. Accusations are made against people and Ministers get up and state: "Oh, we will produce the evidence. We will produce the report" and never do. Does he not

think that to ensure trust in Ministers and what they say, the evidence should be brought before this House and to the public?

Senator I.J. Gorst:

I think the Chapman Report stands alone. It does not need me to add to it. I was not the independent expert that was commissioned to do it. Not wishing to fall foul of what the Deputy said in his opening remarks to his question just asked, I do not wish to fall into that trap either. So, I maintain my position.

3.1.6 Deputy T.A. Vallois:

The Chief Minister stated in his first answer that there was zero-tolerance when allegations are proved. I have been aware of issues where public sector employees have been worried about reporting incidents and, therefore, feel that they are unable to advise their senior management or further up, due to fear of reprisal or public acknowledgment of the issues. What would the Chief Minister do in respect of these issues and whether there would be any place for the Health and Safety Inspectorate to carry out regular reviews?

Senator I.J. Gorst:

The Chapman Report did suggest that a collective approach, particularly with regard to health and safety, should be undertaken and the Deputy makes a very valid point there. A helpline has already been established. It is not being used particularly frequently. That may mean that there are not many cases which need to be considered. Of course, it may mean that it is not working in the way that we intended it to work. The Deputy knows that we are, as a result of some of her conversations, considering how we might deal with that particular issue in a better way than currently appears to be the case. With regard to the zero-tolerance that she mentioned, what it really means is the complaints that are proven will result in disciplinary action.

3.2 Deputy M. Tadier of St. Brelade of the Minister for Education, Sport and Culture regarding the reinstatement of the Les Quennevais Playing Fields playground:

Further to the Minister's response on 15th July 2013, will he advise what progress, if any, has been made towards the reinstatement of the playground on Les Quennevais Playing Fields which was removed earlier in the year?

Deputy P.J.D. Ryan of St. John (The Minister for Education, Sport and Culture):

Yes, I am delighted to say that the play equipment has been ordered now and is due in the Island this week. Installation, which is being carried out by a local contractor, will take approximately a week once the equipment arrives. A new safety surface will then be laid after that, which will take a further week. The new park should be open in time for the school holidays this Christmas.

3.2.1 Deputy M. Tadier:

Will the Minister comment on the words of his Assistant Minister in August when he told the media that the proposed work to replace the play area was currently out to tender and the park would be set to reopen in October. Clearly this is not the case. Given, the delay, would he advise why no signs were put up on the area and why no signs are still there.

The Deputy of St. John:

I do not really want to make too much of a comment on that. Clearly my Assistant Minister was speaking from the information he had at the time. These things do sometimes take a little time. They have to go out to tender properly. Also, the necessary equipment has to be manufactured in

many cases. People do not necessarily hold these things in stock. There have been a few delays and I am sorry for that, but we are doing our best to reinstate this park as quickly as we can. I would like to thank the Deputy for helping us to understand how important this play area is to the local residents in that area. Thank you.

3.2.2 Deputy J.H. Young of St. Brelade:

I am pleased to hear the Minister recognise how important it is, given how busy that area is and there is no facility for young children. Could he clarify, in view of the fact that it is a very small project and the decision was taken ahead of planning for its replacement to remove it, is it always going to be the case that we take nearly 9 months with such important projects? Is that the norm in minor project procurement?

The Deputy of St. John:

I would say that is not normally the practice. But I think the Deputy, and I am sure the residents, understand that when something happens relatively quickly there are not always the budgets available instantly to deal with them. In this particular case it is a total cost of something approaching £40,000. Although we do have minor capital budgets and we have repairs and renewals budgets, we also have a contingency within the department. It is not always clear early on, particularly early on in a financial year, whether those budgets are going to be available. In fact we have made the budgets available. That is because we are close to the end so we can use monies from things like contingencies, which would not have been clear that we could use early on in the year. I apologise. It is one of those things. We have done it as quickly as we can. As I say, it is good news, it should be open in time for Christmas.

3.2.3 Deputy M. Tadier:

First of all, if I can thank the Minister and his department for the work; it is reassuring that at least it will be done before Christmas and we will keep on monitoring that. We have had a long lead-in period. The decision to remove the area was taken in January. It is only through political pressure it seems that we have reached the point where this is being reinstated within the same 12 months. Will the Minister make sure that in future when any amenities are removed that there is proper consultation, proper signage that goes up - it is not simply the residents, but it is people from all over the Island who use that area - so that they can be fully informed and ultimately get their value as taxpayers?

The Deputy of St. John:

I think the question of the signage is a valid one. I will look into why the signage wasn't there. My understanding was that there was signage. Maybe it was removed prematurely. I do not know. I will undertake to look into that. With regard to removal in January, it was removed for reasons of health and safety, looking after the children and not allowing dangerous equipment to be used. That can happen at pretty short-notice over all of the facilities that the Education, Sport and Culture Department runs throughout the Island. When that happens we have to remove it fairly quickly, for those reasons. We were always going to replace this equipment. Once we knew that it was damaged and unusable, we were always going to replace this equipment in 2014. We have managed to bring it forward. We had not budgeted for this replacement in 2013. It was going to be replaced in 2014 in any case. But, as I say, it is good news we have managed to do it early.

3.2.4 Deputy M. Tadier:

May I seek clarification? It is an important point. The Assistant Minister in a previous answer said that the decision was taken in January, but the equipment was not removed until April. Is he saying that given that it was in such a dangerous and bad state of repair the department had to wait 3 and a half months to remove this?

The Deputy of St. John:

I am not sure, looking back over time, what the exact situation was with its removal. I know that it was closed in January and maybe the equipment was removed a little bit later on. I am not sure of the exact details. I can certainly find out and tell the Deputy later.

3.3 Deputy T.M. Pitman of St. Helier of the Minister for Home Affairs regarding the “binding over” of convicted persons from Jersey to the U.K and the removal of the woman known as H.G. from the Island:

Would the Minister inform Members whether there is a set procedure in place for when courts “bind over” convicted persons from Jersey to the U.K. (United Kingdom) and, if so, was the lady known as H.G.’s removal from the Island within the set procedure?

Senator B.I. Le Marquand (The Minister for Home Affairs):

As this question has been addressed to me, I am assuming that it relates to the action of the police in carrying out the order of the court rather than to the procedures of the court itself. The normal procedures where a criminal court binds a person over to be of good behaviour for 3 years on condition that they leave the Island and do not return are as follows. Firstly, the court normally directs the person be kept in police custody until they leave the Island. Secondly, the States of Jersey Police make travel arrangements at public expense as soon as possible. These may be either by boat or by air. Thirdly, they will normally consult with the defendant as to where they want to travel to. Fourthly, they will seek to collect personal property and possessions, as far as possible, so that the person can travel with them. There will be limits on this, of course, because if a person is travelling on foot, as they normally would be, there is a limit to what they can take. Fifthly, they will ensure that the person then leaves the Island. In general terms that was followed in this case.

3.3.1 Deputy T.M. Pitman:

Perhaps the Minister could enlarge on “in general terms” when he replies, because it does concern me that it offers rather a large area for diversity. Nevertheless, given that the former Deputy of St. Martin, who has been very commendably trying to assist this young woman in this case, appears to have evidence of a rather different perspective.

[10:00]

If it could be arranged, would the Minister be willing to meet with the former Deputy to discuss some of these matters to try and move this issue forward for the victim?

Senator B.I. Le Marquand:

No.

3.3.2 Deputy M.R. Higgins:

In the Minister’s written answer to question 7, I was referring to the H.G. case, which was concerned with binding over. He states in the final paragraph: “At H.G.’s request, post-sentence, and on route to the airport, the escorting officers called at a St. Brelade address in order to collect some of H.G.’s personal property, including clothing. H.G. remained in the car while the property was collected for the purposes of police security. In accord with the court decision she stayed in custody until she left the Island.” Surely it is strange? She was being accompanied by 2 police officers, why could she not have gone into the property and got her own clothing rather than being kept in the car outside with another officer while an officer goes in and picks up 2 bags which were going off to a charity shop and takes that as her clothing. Is that in accordance with the guidance he has just given us?

Senator B.I. Le Marquand:

In my view, the officers could have done that, except that they were aware that the person who occupied the premises did not want H.G. to return to live there and they may have taken that as being an indication they did not want her to return to the premises. In general terms, apart from that consideration, I would tend to agree with the Deputy. It is more practical to take a person into premises to identify their things to help remove them.

3.3.3 Deputy M.R. Higgins:

Supplementary? I thank the Minister for the last comment, because it would be far more appropriate if the person went in. I have to address this question though of the landlord not wanting the person in. I ask the question: did the police officers ask the landlord? Besides, the landlord has stated, and it is on record, that she would have had the lady back had the police told her what she had been arrested for in the first place, and she would not have had to spend 2 weeks at La Moye before trial. Officers did not tell her what she had been charged with. As I say, as far as the landlord was concerned, she could have been arrested for murder or something else. She had no idea what was going on. Can the Minister tell us whether the officers did ask if she could go into the property? Will he confirm again that they did not tell her what it was all about?

Senator B.I. Le Marquand:

The Deputy has indicated this information to me before. It is not to the knowledge of the police. What is to the knowledge of the police is that a police officer made contact at the behest of the court, which was requesting information. As part of the bail application on 27th September a police officer spoke to the lady concerned and then conveyed back to the court their understanding of the situation, which was that the lady did not want H.G. to return. Now, whether there was some misunderstanding on that information with the owner or not, I cannot say. All I have to go on is what is on the court record and what the police have told me.

3.3.4 Deputy M.R. Higgins:

Is it not correct though that the police did not tell the landlady the nature of the offence she had been charged with, why she had been arrested and taken away from the home?

Senator B.I. Le Marquand:

I simply do not know that. That is the version that Deputy Higgins has put to me in the past and is putting to me now. I simply do not know that. It is not within the knowledge of the police.

3.3.5 Deputy R.G. Le Hérissier of St. Saviour:

I wonder if the Minister could define the areas in which there was a departure in general terms and where there has been a departure what steps he has taken to ensure that behaviour returns to the general terms?

Senator B.I. Le Marquand:

I used the term “in general terms”, because I was aware there was a dispute as to whether all her property had been picked up or not. That was simply why I used the term “in general terms”. So, it is wide enough to deal with the possibility of there being a dispute on that. This is a procedure in general terms, because there are variations to the procedure. A person may want to go to a different place. They may not like to fly. So it is a procedure which has a degree of flexibility built within it.

3.3.6 Deputy R.G. Le Hérissier:

If I can have a supplementary? Could the Minister, therefore, confirm that he is absolutely satisfied in all respects with the procedures that were followed in general terms?

Senator B.I. Le Marquand:

Based on the information provided to me by the police, I would be satisfied. I am aware that there are those who seek to dispute that information.

3.3.7 Deputy M. Tadier:

The Minister is on the one hand saying that he is entirely happy with the police order of events that have been recounted, but there are those who dispute that. What steps would the Minister take to find out what the real truth is, to find out whether there has been any abuse or departure from usual practice in this particular case, especially given the very sensitive nature and vulnerable nature of the individual in question?

Senator B.I. Le Marquand:

It is simply not the right procedure in such a case. It is not right for the Minister to be delving down in the details of matters which may involve a potential complaint against the police. The correct procedure if people have a complaint against officers in relation to the handling of particular matter is they make a complaint in relation to that. That is then overseen by the Independent Police Complaints Authority. It would be completely wrong for the Minister to allow himself to be drawn into dealing with investigating such matters.

3.3.8 Deputy T.M. Pitman:

I have to say I do not know how a male officer going to rifle through a young woman's underwear drawer can be seen as a generally acceptable procedure.

Senator B.I. Le Marquand:

I did not hear that, Sir.

Deputy T.M. Pitman:

Sorry, I will repeat. I was saying to the Minister I fail to see how a male officer going into a building and rifling through a vulnerable young woman's underwear drawer is part of generally accepted procedure. Nevertheless, this issue raised by Deputy Higgins of whether H.G. had nowhere to live is of key importance in this, in the fact that she is bound over. Deputy Higgins has raised the issue that were the police to have pursued this properly, she would have had somewhere to live and maybe the binding-over would have been unnecessary. Is the Minister happy with that? Will he try and verify that that is in fact correct?

Senator B.I. Le Marquand:

There are a whole number of different questions and bits of information being put there which I do not agree with. Firstly, the Deputy is assuming that an officer has been rifling through underwear, but for all that we know, the items which belonged to the lady had been put in bags for collection or in a suitcase or something of that nature. I do not know in relation to that. In relation to the issue of binding over, I repeat that it was the lawyer acting for H.G. which invited the court to bind her over on these terms. That was her lawyer who asked for that. The court agreed to that course of action, having considered a psychiatric report which it had before it and having heard the facts.

3.3.9 Deputy T.M. Pitman:

Sorry, a final supplementary. Part of that included the fact she allegedly had nowhere to return to. That did not need to be the case, as we have heard from Deputy Higgins. Is the Minister satisfied with that element of this?

Senator B.I. Le Marquand:

If she had wished to remain in the Island then she would not have instructed her lawyer to invite the court to bind her over in this way.

3.4 Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding benefits and allowances available to carers:

Will the Minister inform Members of the number of carers in receipt of the Income Support Carer's component attached to level 3 impairment, along with the number claiming Invalid Care Allowance (now the Home Carer's Allowance) over the period 2008 to 2012 and state what plans, if any, he has under consideration in conjunction with the Minister for Health and Social Services to better deliver home care in the future?

Senator F. du H. Le Gresley (The Minister for Social Security):

The Income Support Carer's component is paid to a person who qualifies for income support and is the main carer for a person with a serious medical condition or disability. The value of the component is £46.97 per week. The number of income support claimants receiving this additional component has risen from 80 in 2008 to 90 in 2012. Invalid Care Allowance was a standalone tax-funded benefit which provided financial support to working age people spending 35 hours or more each week caring for someone with a serious medical condition or disability. On January of this year this benefit has been replaced by Home Carer's Allowance, which is currently paid at £187.25 per week from the Social Security Fund. The number of carers receiving this benefit has risen from 176 in 2008 to 192 in 2012. Members will be aware that on 10th December we will be debating P.99, which sets out details of the proposed long-term care benefit scheme. If approved the new long-term care benefit will provide financial support to people receiving care in their own homes as well as those living in care homes. A major strand of the Health and Social Services Long-Term Care Project is to encourage and support people to remain in their own homes with appropriate care and support. The Health and Social Services Department are making good progress on a new Regulation of Care Law, which will for the first time provide for registration of home care agencies. This will help to give individuals confidence that they are purchasing care from a reputable agency. The Long-Term Care Scheme is designed to support people with very high ongoing care needs. The Income Support Carer's component and the new Home Carer's Allowance will continue to be made available to assist carers looking after someone with a slightly lower level of personal care needs. I can confirm that the Social Security Department and the Health and Social Services Department are actively working together to support carers throughout the community.

3.4.1 Deputy G.P. Southern:

I thank the Minister for his answer, it is quite comprehensive. Does the Minister accept that some 300 in receipt of support through the benefit system is a rather small proportion of the up to 10,000 unpaid carers reported in the 2008 report, *New Directions Carers Strategy* produced by the Health and Social Services Department?

Senator F. du H. Le Gresley:

The Deputy makes a very valid point, although he is quoting from a 5 year-old report. We have to bear in mind that a lot of people care for their partner in their own home setting and are financially able to manage without any recourse to the public purse. We obviously, as a Government, are very grateful for people who provide that very caring role with members of their family. It is not to be underestimated and that is why the Jersey Association for Carers Incorporated receives a lot of support from the States of Jersey.

3.4.2 Deputy M. Tadier:

The Minister said that it should not be underestimated the input that private individuals make when looking after their relatives. In fact, it should not be overestimated the ability that individuals have to survive financially when they are looking after relatives. Does the Minister not agree that it is now time to look at a proper carer's benefit including for pensioners which is statutory, so that those who do care for their relatives should not be penalised simply because they are trying to do the right thing, which ultimately saves us a lot in the long term, because if we had to pay for residential care, it clearly would be a completely different matter.

Senator F. du H. Le Gresley:

It is a principle of Social Security that a person cannot receive more than the maximum benefit, whether that is received by an Old Age Pension or, in this case, it would be Home Carer's Allowance. A person in receipt of Home Carer's Allowance prior to reaching pension age has the choice, on reaching pension age, to continue to receive the Home Carer's Allowance if that amount would be greater than the amount accrued of their pension entitlement. As to whether we should have carer's benefit which is available on top of pension receipt from the Government, that would be of significant cost to the Social Security Fund. That would have to be factored into any other changes we might wish to make to benefits going forward. I do not underestimate, and I repeat that we are immensely grateful for the caring work that goes on in private homes looking after people who have caring needs. The whole purpose of our long-term care benefit is to assist those carers by being able to buy in services which will reduce the burden that they have to cope with at the moment and on the basis of what I have heard from Deputy Southern and Deputy Tadier, I am sure they will be supporting my proposition, P.99/2013, on 10th December.

3.4.3 Deputy M. Tadier:

Supplementary, please. Does the Minister think it is fair to say you cannot receive a carer's payment and receive benefits when we are talking about pensions here which are not benefits *per se*. They are contributory. People have paid into the Social Security scheme. It is a contributory system and if one is otherwise eligible to qualify for carer's allowance, then your pension should not be taken into account. That is the point and can the Minister say whether he would be willing to look into that particular point and bring forward any necessary changes?

[10:15]

Senator F. du H. Le Gresley:

The piece of legislation that would have to be looked at is the Social Security Law, which does not allow for what is known as "overlapping benefits". It is a piece of work that we could undertake but I would rather see the new Long-Term Care Benefit installed and domiciliary care being made available to people to have care in their own home than spend time on looking at the Social Security Law.

3.4.4 Deputy J.G. Reed of St. Ouen:

Following significant increases in the Island population over the last 10 years, can the Minister explain why the number of claims with 70 per cent or higher L.T.I.A. (Long Term Incapacity Allowance) payment rate has reduced by 5 over that period?

Senator F. du H. Le Gresley:

I think the Deputy is referring to a written question that I have responded to from Deputy Southern, which has nothing to do with Home Carer's Allowance or the carer's component. He is asking me now to expand on a written question which I have not prepared for because it was not required. However ...

The Bailiff:

No, if it has nothing to do with this topic. I have to say it would not mean very much to me so I am not clear what it was.

The Deputy of St. Ouen:

I would draw the Minister's attention to oral question 4 that has just been asked which directly relates and is linked to the written answer given on written question 17.

Senator F. du H. Le Gresley:

We are stretching the benefit system to cover all benefits in this question. Long Term Incapacity Allowance, the Deputy is correct. The number of claims has reduced by 5. That is for people with a 70 per cent or higher assessment. The fact is that the Medical Board have had new guidance for some time now from our expert advisers on how to assess claims and if the Deputy wishes me to go into more detail, I would suggest either he contacts me and I can provide him with more information or if he wishes to submit another written question, I could provide more information, but the simple answer is that we perhaps have a tighter procedure on assessing people for the percentage of long-term incapacity.

3.4.5 The Deputy of St. Ouen:

As a supplementary, the Minister, in a previous answer, spoke about various increases in numbers between the same period, December 2008 to December 2012. He has not explained, apart from the fact that they have changed the procedure, why he believes that the demand for 70 per cent plus L.T.I.A. has reduced over the same period, given that we have got an increasing population.

The Bailiff:

Has this anything to do with Income Support Carer's component, Deputy?

Senator F. du H. Le Gresley:

I can perhaps suggest to the Deputy that medical improvements such as successful hip replacements of which I am a recipient have enabled people to continue with their working lives, whereas perhaps 10 or 15 years ago a lot of these sorts of gradual deterioration of joints, *et cetera*, which could lead to high long-term incapacity claims are now being minimised and therefore it is in advances of medicine rather than any withdrawal of the benefit.

The Deputy of St. Ouen:

One final question.

The Bailiff:

You have had 2 and they do not seem to be very much to do with the question. **[Laughter]** Senator Ferguson?

3.4.6 Senator S.C. Ferguson:

Given that these carers will save the Long-Term Care Scheme a substantial amount of money, should that scheme not be planned to cater for the caring cases and should we not be looking holistically in the context of the money saved to include an assessment of the caring part of the community as well as the long-term care? Will the Minister go back and look at his scheme and look at it in conjunction with the carer's side of it?

Senator F. du H. Le Gresley:

That was some question. I do not know if anybody understood it because I did not. I am not prepared to go back and look at the Long-Term Benefit Scheme. It has been nearly 3 years in

production and I am certainly not going to take any attempts to withdraw the debate on 10th December. We have come together with a scheme that is tried, has involved all other States departments, the Treasury and Resources Department, the Health and Social Services Department, and I am really not quite sure what the Senator is trying to get me to say but we will debate the Long-Term Care Scheme on 10th December. **[Approbation]**

3.4.7 Senator S.C. Ferguson:

Supplementary, please. I am not asking the Minister to withdraw the Long-Term Care debate. I am all in favour of it. As somebody who has had experience of caring, I know how much I saved the community by doing it myself. What I am asking is that in the future he should consider the 2 aspects of looking after old people and try and get them working together rather than all in 2 separate systems. Will he not understand that?

Senator F. du H. Le Gresley:

I hope I understand the Senator's question correctly. The 2 systems are basically we have unpaid carers who are mostly family members who, as a duty to their loved ones, look after them and we support them through the Jersey Association of Carers and we have the 2 benefits that were the subject of this initial question. Long-Term Care Benefit for domiciliary care will enable those unpaid carers to have support by buying in care which will relieve some of the burden that they have to share. The 2 go together and, I repeat, we will debate this matter on 10th December.

3.4.8 Deputy G.P. Southern:

The Minister correctly points out that this is a 2008 5 year-old strategy report. What work has he or his fellow Ministers done on updating the information in this report, in particular that one in 5 carers have had to give up work to take on the caring role and find it often increasingly difficult to manage financially? Does he have any updated figures on one in 5?

Senator F. du H. Le Gresley:

What we need to recall is that when we debated the transfer of Invalid Care Allowance into the Social Security Fund to become Home Carer's Allowance, we removed the upper earnings limit, which was a cap on qualification for Invalid Care Allowance. The cap at that time was £62,382 per annum. That is a household income so it is quite possible that there were people then that the Deputy refers to who were carers who had to give up work and were not eligible for Invalid Care Allowance. But the fact that we have removed that upper earnings limit cap under H.C.A. (Home Carer's Allowance) means that more people will be qualifying and that is why the numbers have gone up recently perhaps.

3.4.9 Deputy G.P. Southern:

Could the Minister inform Members how widely he has advertised this fact?

Senator F. du H. Le Gresley:

The Home Carer's Allowance, there is a new leaflet on display in the ground floor of Social Security. There is website information and also the Jersey Association of Carers is well informed about the benefit.

3.5 Connétable A.S. Crowcroft of St. Helier of the Minister for Transport and Technical Services regarding the completion of works and delivery of car parking at Ann Court:

Would the Minister advise the timetable for the completion of the engineering works at Ann Court and for the delivery of underground car parking for shoppers?

Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):

It is planned that the engineering works at Ann Court will be completed by the end of June 2014 under the North of Town Masterplan. The Ann Court site is then to be developed for housing in a scheme which incorporates approximately 200 public shopper parking spaces. The programme for delivering the scheme is a matter for the site developer, the Jersey Homes Trust. However, T.T.S. (Transport and Technical Services) is liaising closely with the delivery team to share experience of the ground conditions and provide information for the specification of the public car park. The Jersey Homes Trust has yet to develop their design to the state where it could be submitted to Planning for approval. However, assuming an application is made early next year and permission is received by the Trust, it is envisaged that works could start in the summer of 2015 with a construction period in the order of 2 years.

The Connétable of St. Helier:

I would just like to thank the Minister for his very comprehensive and helpful answer, which I am sure will be great news for traders in West Centre, Halkett Place and the central markets.

3.5.1 The Deputy of St. Ouen:

Could the Minister confirm who will be paying for the public car park?

Deputy K.C. Lewis:

Yes, that will be a public-private partnership but I can get back to the Deputy with details.

3.6 Deputy J.H. Young of the Minister for Planning and Environment regarding the appointment of a Planning Inspector to conduct an inquiry into the review of the Island Plan:

Will the Minister justify appointing an individual as a Planning Inspector to conduct an inquiry into the review of the Island Plan when a request for review has been submitted to the Complaints Panel in respect of a previous inquiry conducted by this person in September 2012, and would he advise when the statutory record of this inquiry which the inspector is required to produce will be available. I should add the Plémont tapes arrived on my desk this morning.

Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):

There are 2 principal reasons why I think my decision to appoint a particular inspector to carry out the examination of the review of the Island Plan is entirely justified despite the issues raised by the Deputy. The first is that I do not think that there is a case for the inspector to answer. The complaint to the Administrative Review Board to which the Deputy refers concerns my decision to award planning permission for development of 28 homes at the site of the Plémont Bay Holiday Village and it is my decision that would be the subject of any such review. The inspector himself has made no such decision. It is entirely a matter for me in making that decision to determine whether the inspector's report and recommendation was a sound one. I happen to think it was. My decision on Plémont will be tested through the third-party appeal process that is presently in train only after which any Complaints Panel might convene so any action taken now would be wholly unjustified, even were there a case for the inspector to answer which I consider there not to be. My second reason for appointing this inspector is that he was part of the same team that carried out the Island's first Island Plan leading up to the adoption of the 2011 Island Plan, which brings many clear advantages. He, together with the lead inspector, has considerable knowledge of the current Island Plan and the planning issues relevant to it gleaned from their previous work here. This particular inspector also brings a huge wealth of knowledge and experience from his work as an inspector in the U.K. and other islands. I consider all of these factors to be extremely advantageous

in ensuring that the examination into the current review of the Island Plan is robust, thorough and also undertaken as economically as possible. Any other inspector would clearly have to start from a much lower knowledge base, which would necessarily incur additional cost. Finally, in response to the last part of the Deputy's question, the inspector caused an electronic recording of the hearings that were held as part of the public inquiry to be made. I am happy to provide a copy of this recording to the Deputy as soon as possible and he has it on his desk.

3.6.1 Deputy J.H. Young:

I thank the Minister for his very comprehensive answer. I ask him would he not accept that part of the complaint that is before the Complaints Panel concerns a lack of transparency (one of the key requirements of an inspection), lack of access to a transcript and the access to put questions upon it and perhaps he would not mind telling us when the inspector produced this transcript and when he decided to release it?

[10:30]

Deputy R.C. Duhamel:

As mentioned earlier, I am not in a position to say that there is a Complaints Panel case for the inspector to answer because of the outline of the procedures that have to take place as identified in my question, so I should not comment as to the nature of any complainant wanting to have a Complaints Panel at this point in time for obvious legal reasons. The decision to pass over this tape was made substantially a long time ago after the questions that Deputy Young raised in the House as to whether or not such a transcript or a C.D. (Compact Disc) or a tape could be made available and indeed from that point, I gave instructions to the department to provide both. Some of the work has taken a while in order to get the information in the format that Deputy Young has wanted but, as with a number of other issues, when Members ask for things to happen and I give an indication that they are going to happen, then generally that is what happens as soon as possible.

3.6.2 Deputy J.H. Young:

Again I am grateful and the Minister did remind us in his answer that he did say on 15th July in response to an oral question and the A.G. (Attorney General) also advised us on the same day that there was a statutory requirement for the record. Could he perhaps explain why if he decided to release it on that day, which he said he would do, why has it only just arrived? What has happened? Why have the department not done what he has asked or has the inspector not done? It is a material point as to this question of access to a transcript in order to be transparent.

Deputy R.C. Duhamel:

I do not think it is a material point. I am given to understand that in terms of the transcript, it had to be done on the other side of the planet. Apparently a New Zealand firm was involved. In terms of the formatting of the data in a form for the Deputy to be able to read it, I think there was some discussion as to whether or not it should be in a C.D. form, whether it should be on a tape, or whether it should be kind of a long-playing gramophone record but whatever administrative concerns have had to be undertaken, they have been undertaken without influence from me because it is an administrative issue and the officers have endeavoured to get the information to Deputy Young in as short a timeframe as possible and I thank them for it.

3.7 Deputy G.C.L. Baudains of St. Clement of the Chief Minister regarding the Chief Minister's support for all Ministers:

Given that the Council of Ministers gave its unequivocal support for the Minister for Transport and Technical Services in its recent comments on P.129/2013, that is a vote of censure, would the Chief

Minister advise whether such support applies to all his Ministers and if not, which ones does he not support?

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

I asked the Deputy of St. Martin to withdraw his vote of no confidence in the Minister for Planning and Environment. I did that because of the information that has come to light that Ministers need to appropriately consider. It is therefore not appropriate for me to discuss these matters publicly at this time.

3.7.1 Deputy G.C.L. Baudains:

It would seem to me that judging from the rather extraordinary wording of the email that we received last night that the no confidence proposition is being controlled or even instigated by the Council of Ministers. Would the Chief Minister confirm this because there does seem to be some curious business going on here?

Senator I.J. Gorst:

The no confidence vote, which has been withdrawn, is quite clear. It emanates from the individual that lodged it and the 3 of us which signed it. What I am trying to do, and I hope that Members recognise it, is to endeavour to make a system which is not fit for purpose work.

3.7.2 The Connétable of St. Helier:

Given that the vote of censure referred to by the questioner received no seconder and was a waste of States time to say nothing of officer time and any impact on the Member concerned, would the Minister consider asking the Privileges and Procedures Committee to change the bar for the votes of censure propositions so that they have to have the same number of signatories as a vote of no confidence?

Senator I.J. Gorst:

There are lots of changes that need to be made and that is one that sounds perfectly reasonable but perhaps in the interests of the points that the Connétable made in his opening of that question, I would be quite happy to sit down and move to the next question.

The Bailiff:

Well, I do not think you will be able to quite yet. **[Laughter]**

3.7.3 Deputy R.G. Le Hérissier:

Would the Chief Minister not concede that the persons who brought forward the vote brought it forward on a certain set of evidence and does it not seem strange that we should not be discussing it on the evidence they brought forward? Surely it is up to the Chief Minister or the Council to put their evidence in the pot so that we can then judge it in the whole?

Senator I.J. Gorst:

If the Deputy has read his email or listened to my opening answer, I think he will find that is exactly what I am doing.

3.7.4 Deputy J.M. Maçon of St. Saviour:

The Chief Minister's response and email have been fairly vague. Can he tell us what information has come to light or, if not, the nature of that information?

Senator I.J. Gorst:

No, I cannot. It would not be right until I have met with the Minister concerned and other Ministers as well.

3.7.5 Deputy T.M. Pitman:

Will the Chief Minister clarify that the real reason behind the letter that has been going round that he could not get enough signatures and this aborted vote of no confidence all arises from the Minister's refusal to bend the knee over Plémont?

Senator I.J. Gorst:

I was not one of the signatories to the letter so I cannot say whether that influenced their decision, but it was not included as far as I can recall in the rationale included in the main body of the letter itself.

3.7.6 Deputy M. Tadier:

Would the Chief Minister acknowledge that the Minister is not the one that he was landed with but the one that was nominated by the Chief Minister for the position as Minister for Planning and Environment and given that he issued comments in advance in support of his Minister for Transport and Technical Services when he was facing a vote of censure, now we had a much more serious vote of no confidence and the Chief Minister did not even lodge any comments. Will he explain why that is the case, given that he could not possibly have known that the individual bringing the vote of no confidence would withdraw it?

Senator I.J. Gorst:

In answer to the first part of the question, yes, I did and this Assembly approved the appointment of the current Minister and Ministers serve with the confidence of this Assembly so one could argue that the question itself is slightly superfluous. It does not matter whether Ministers have my confidence as such because it is this Assembly that appoints them. That is the problem with the current system which needs to be changed. The vote of no confidence has been withdrawn. There seems little value in lodging comments on a proposition which is now withdrawn.

3.7.7 Deputy G.C.L. Baudains:

The report accompanying my censure motion of the Minister for Transport and Technical Services contained several examples of technical failure but the report accompanying the no confidence motion against the Minister for Planning and Environment is critical of the Minister for Transport and Technical Services, not the Minister for Planning and Environment. Therefore it deals solely with the asbestos issue and we know that the asbestos issue is not the fault of the Minister for Planning and Environment. Therefore could the Chief Minister explain why he gave his unconditional support for the Minister for Transport and Technical Services but appears unable to do so for his Minister for Planning and Environment?

Senator I.J. Gorst:

I do not agree with the Deputy's reading of the report of the Deputy of St. Martin and that the signatories to that report raised many issues. Nor do I agree that the Minister for Transport and Technical Services or his department is at fault with regard to the asbestos issue. Yesterday afternoon, I had the great pleasure of visiting 2 bits of T.T.S. industrial infrastructure. I was very impressed with those pieces of unseen infrastructure that work for the benefit of this Island week in and week out and I was very impressed with those employees that I met and their commitment to delivering those services for Jersey. Perhaps it is time that some Members of this Assembly, rather than criticising our staff, got out, spoke to them, saw the good work that they were doing and gave them their support [**Approbation**] because those staff that I saw yesterday, it is a privilege for me to be able to stand up here this morning and support them.

Deputy M. Tadier:

Does the Chief Minister also support the Environment staff and will he be taking any visits to the Environment Department?

The Bailiff:

Deputy I had not allowed you to ask yet another question. I had called on Deputy Baudains as to the final question.

3.8 Deputy M.R. Higgins of the Chief Minister regarding calls in the U.K. to create a criminal offence of failure to report suspected child abuse:

Would the Chief Minister support calls by the former Director of Public Prosecutions, Keir Starmer Q.C., for a change in the law to make it mandatory for all persons in authority or who have responsibility in relation to children, to report child abuse when they believe that a child has been abused or is about to be abused under a penalty of imprisonment or a fine and if not, why not?

Senator I.J. Gorst:

I would like to ask my Assistant Minister who sits on the Children's Policy Group that deals with these matters to answer this question.

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

I am pleased that the Deputy has asked this question as I am asking the Children's Policy Group to work with the Independent Safeguarding Chair to consider whether legislation of this nature should be introduced in Jersey.

The Bailiff:

Deputy Higgins, do you want a supplementary?

3.8.1 Deputy M.R. Higgins:

Yes, perhaps the Assistant Chief Minister can give us a timetable when he can expect to report back or is it going to be after the next election or a year's time or next week or when, please?

Senator P.F. Routier:

It will be on our next agenda when we meet.

3.8.2 Deputy T.M. Pitman:

Given not only the decades of concealed child abuse at Haut de la Garenne, but in a week which has also seen the *Jersey Evening Post* fail in an attempt to block evidence from the Sharp Report into an abuse cover-up at Victoria College being used as evidence in a court case, does the Assistant Chief Minister feel it is now time for Jersey to really show the world that we have moved on from protecting institutions and, indeed, high-ranking public employees, to show that children are at the forefront of our thoughts and our efforts as they undoubtedly should be and that this would be a great way to do so?

Senator P.F. Routier:

There has been a considerable step-change in the way Jersey organises its safeguarding policies in recent years and I am pleased to be part of that work. Members will be aware that the Council of Ministers has also established an Adult Safeguarding Group as well as the Children's Group and we have appointed an Independent Safeguarding Chair. I think Members can feel hopefully reassured

that things are a lot different now than what they were in the past and that we will be hopefully dealing with things in an appropriate manner.

3.8.3 Deputy R.G. Le Hérissier:

I wonder if the Assistant Chief Minister would inform the House whether he is personally in support of the proposed change to the legislation?

Senator P.F. Routier:

Since the suggestion was made by Mr. Keir Starmer, I have looked at the issues relating to that and I have to say that there is conflicting evidence. Certainly the Chief Executive of Action Aid does not think that it is an appropriate thing to do but that there are more important things like ensuring that child protection is working and in place and to have a mandatory reporting system probably may not be appropriate. But we are going to look at all the evidence that is available across jurisdictions because I know that in Canada and Australia they do have that provision within their legislation, but we will look at all the evidence that we can find to see if it is appropriate for Jersey. I am not in a position today to say whether I support it myself.

3.8.4 Deputy S. Pitman of St. Helier:

Will this legislation apply to Jurats who formerly supported paedophiles in their former jobs and also Bailiffs who have allowed Jurats to sit who have supported paedophiles in their previous jobs?

Senator P.F. Routier:

I would imagine that if such legislation were progressed, that it would apply to all members of our community.

3.8.5 Deputy M. Tadier:

Does the Assistant Chief Minister at least acknowledge that presently there is an expectation that all persons in authority or who have responsibility in relation to children should report child abuse where they believe that a child has been abused or is about to be abused?

[10:45]

Senator P.F. Routier:

Yes, certainly. The people who work within the States bodies currently are expected to report all incidents which are likely to have involved abuse of children and adults. We are currently working on the memorandum of understanding for all States departments to sign up to and I expect that that will be carried out very soon so that all departments will have signed up to a memorandum of understanding.

3.8.6 Deputy M. Tadier:

Supplementary, please. Given the fact that the Assistant Chief Minister agrees with the principle of the question, does he agree that the only bit that needs to be resolved is what kind of punishment or recourse should be taken if somebody does not sign up to this or does not discharge that duty which we all agree is a normal thing to do?

Senator P.F. Routier:

As I said, if legislation is progressed, the penalties would be subject to review by and the advice of the Law Officers' Department as with any legislation which is progressed within our Island. No doubt the appropriate penalties will be assigned to the legislation, but I have to say that is if we progress that legislation. There are other ways of achieving what we all want, which is the protection of children.

3.8.7 Deputy M.R. Higgins:

I must say I am more concerned now than I was before I asked the question and the reason is that the Assistant Chief Minister will not give a commitment. He says he thinks in principle it is a good idea. He thinks that people should be making reports but what penalties are there if they do not make reports at the present time? We know that abuse has gone on in this Island in many of its institutions and we are going to have a Commission of Inquiry to look at many of the issues. There is still abuse going on. There are others who are not caught by the scheme. That is what annoys me. The Assistant Chief Minister talks about the Independent Safeguarding and Standards Panel. I am not even sure I have got any confidence in that panel. I am aware that we have got a written answer from the Chief Minister ...

The Bailiff:

Deputy, could you come to your question, please?

Deputy M.R. Higgins:

Yes, okay. The question is the Independent Safeguarding and Standards Panel he has mentioned has refused 2 serious case reviews that I am aware of, one regarding H.G, which the Chief Minister was putting forward - they did not think it was appropriate - and there is another one where the family should have the case reviewed. We are still failing people. Does the Assistant Chief Minister think that the Independent Safeguarding and Standards Panel is enough and will he answer what existing penalties there are for people who do not report abuse?

Senator P.F. Routier:

I am really disappointed in the approach and the line of questioning and the doubt that is put into people's minds about the ability of the Independent Safeguarding and Standards Panel to operate effectively. I believe that they are working very well and they do have procedures in place to ensure that both children and adults are being protected and they are carrying out their function appropriately. With regard to any penalties or things put in place where people are found to have been carrying out abuse, we have our court procedures which currently are in place but we are always monitoring that to see whether there are any adjustments that need to be made. I will leave it at that.

3.8.8 Deputy M.R. Higgins:

The Assistant Chief Minister has not answered the second part of the question, which is what penalties are in place at the present time for people in authority with responsibility for children who do not report their belief that child abuse is taking place? In other words, they do not report it, they just turn a blind eye.

Senator P.F. Routier:

I find it very difficult to answer that question because I believe that the processes that we have in place currently with all the multi-agency child protection schemes and the current working of our Adult Safeguarding Panel and our Children's Safeguarding Panel are working very well. I know the Deputy may be disappointed that he has not been able to convince them to carry out particular cases but they are independent and they make their judgments which they think are appropriate.

Deputy M.R. Higgins:

With respect, he still has not answered the question. The question was what penalties exist for members of the Civil Services or public service who fail to report child abuse where they believe it is taking place at the present time. What penalties do they face, anything? Will they be fired? Will they be reprimanded? What?

Senator P.F. Routier:

They would no doubt be reported to the States Employment Board and whatever available procedures are in place would be carried out by that board.

3.9 Deputy J.M. Maçon of the Minister for Education, Sport and Culture regarding an internal review into the starting pistol incident at a secondary school:

When will the internal review into a serious incident at Le Rocquier school involving a starting pistol be completed and what access, if any, will States Members have to this report?

The Deputy of St. John (The Minister for Education, Sport and Culture):

This is now the seventh question relating to the incident and the answers remain the same. The review, as the Deputy says in his question, is internal which means that it will not be released. It contains confidential information relating to individual staff and students and therefore will not be made public. With regard to when the internal reviews will be completed, the internal reviews have now been completed. However, I would refer the Deputy to an answer to written question 10, which gives a lot of detail as to the total of 5 investigations into the incident.

3.9.1 Deputy J.M. Maçon:

Can the Minister please outline what the findings of that review were and what action will be ongoing from those findings?

The Deputy of St. John:

The review is internal which means that it will not be released and I will not be talking about it in public. Most of the actions have been carried out from the review. There are a few still to come.

3.9.2 Deputy T.M. Pitman:

Is the Minister still open to his offer that I can meet with his Director, and be informed of this in confidence? All these details so far have left some of us feeling not quite satisfied.

The Deputy of St. John:

I am certainly committed to discussing any policies that might flow out of this but it is policies that we are concerned with. As far as the details of the review are concerned, they are internal and they are not for general publication. The scrutiny process, of course, is also there to review any policies or procedures that need to be carried out.

3.9.3 Deputy T.M. Pitman:

Supplementary, please. The Minister did offer that I could meet his Director. What has changed about that? We had both agreed that it was to be in confidence and not for publication. That is not in issue here. Is that offer now closed from what I am hearing?

The Deputy of St. John:

I will just repeat the answers I made. This is an internal review. We have taken this ...

The Bailiff:

I think the question is whether you have changed your mind from what you said to Deputy Pitman previously.

The Deputy of St. John:

My understanding of what I said to Deputy Pitman previously was that we would certainly be able to discuss any policy changes or details which might have come out of that inspection but there are things which are of a confidential nature and I am directed by 2 laws. One of them is data protection and the other is the Code of Practice on public access to information. There is nothing really here that we need to do other than to move on. The school, the staff, and most importantly, the family involved now need to be ...

The Bailiff:

It was a limited question, Minister, so please ...

The Deputy of St. John:

Sorry, Sir, I am going to continue, the family involved now need to be free to move on.

The Bailiff:

Minister, I have said you have answered long enough on that one. Are there any other questions? Then, Deputy Maçon, do you wish a final question?

3.9.4 Deputy J.M. Maçon:

While it is very difficult to analyse what the policy changes might be without knowing what the findings are of that particular report, can the Minister please outline what policy changes are going to occur from this incident going forward?

The Deputy of St. John:

Again, I would refer the Deputy to the written answer. The question of health and safety policies in the school are going to be reviewed by an independent health and safety adviser. There may be changes of policy there. That will be provided specifically for the school governors and there is also a Health and Safety Inspectorate review perhaps which will inform the Law Officers of the incident and if there are any legal requirements under the Health and Safety at Work (Jersey) Law 1989 that are relevant. Disclosure of information, I am afraid though, is restricted under that law. A copy of their report will be forwarded to the Attorney General. I cannot really add any more.

3.10 Deputy M.R. Higgins of the Attorney General regarding new Crown Prosecution Service guidelines relating to prosecution of child abuse cases:

Will Her Majesty's Attorney General be adopting the new Crown Prosecution Service guidelines relating to the prosecution of very difficult child abuse cases, particularly those that make clear that the focus for the prosecutors must be on the credibility of the allegation being made and underline that the task is to build up strong cases by linking evidence rather than failing to bring cases because of a perceived weakness in the victim?

Mr. H. Sharp Q.C., H.M. Solicitor General:

The Law Officers' Department have been considering these guidelines that were published in final form in October 2013 and I can report that the Attorney General is minded to formally adopt them. These helpful guidelines will assist in reinforcing established and best practices in Jersey in dealing with these types of prosecution cases. For example, the guidelines advocate the use of senior prosecution lawyers and the earliest liaison between those lawyers and investigating police officers. That has happened in Jersey for many years. The guidelines also promote support for complainants and witnesses during the criminal trial process and it is right to say that the Police Witness Support Unit has been doing excellent work in this area. The question put to me this morning specifically focuses on the part of the guidelines that states that the focus in a criminal case is on considering

the credibility of the particular allegation made and, indeed, ascertaining what evidence exists in a particular case. For my part, that has always been best practice. Again it is useful that the guidelines reconfirm that position. May I finally add these observations? Obviously the guidelines cannot and do not change the rules of evidence in a criminal court. These guidelines will not make prosecutions easier. Very often in these difficult child abuse cases there will be the word of the complainant against the word of the defendant, and there will be no other supporting evidence. In those circumstances the credibility of the complainant is, and will remain, an important consideration when the burden is on the Crown to prove an allegation beyond reasonable doubt. These guidelines will help, however, in ensuring that every effort is made to identify all relevant evidence that exists in a particular case. As I say, this is already existing practice in Jersey and the introduction of these important guidelines will reinforce that position.

3.10.1 Deputy M.R. Higgins:

I thank the Solicitor General for his comments. However, he has moved away from what the purpose of the question was. Keir Starmer has said, for example, in his view that by changing the focus from one that is solely victim-specific to one that more critically tests the suspect as well - and he says that they should be exploring patterns of behaviour and, where appropriate, links to other cases - that we could find an answer. This is as a result of the Savile case, Rochdale and others, where similar fact evidence could have led to convictions of people before. This type of evidence has been excluded in Jersey in the past because we are aware of at least 2 people who have had 17 complaints or 11 complaints for either physical or sexual abuse who were never charged. Sorry if I am going on slightly, I am just trying to put it in context for the rest of the Members here. If a person has a drink problem or did not report it or went back to the person who was perpetrating the offence, those were factors that were taken against the victim. But if you do not take into account other victims who come forward with similar allegations and take it in the whole, as Keir Starmer says, in context, then you cannot possibly bring justice to a lot of people. I am asking whether the Attorney General's office will be pursuing that type of guidance, taking similar fact evidence into account.

[11:00]

The Solicitor General:

The principle of similar fact evidence has been around for a very, very long time and the Law Officers' Department have always taken it into account where it is appropriate to do so. The simple fact that there are a lot of complaints about one person does not necessarily mean that similar fact evidence is in play. That is simply not right. But where similar fact evidence principles can be engaged we do use them. May I say finally this, that I agree with the Deputy one of the reasons for the guidelines coming out in the U.K. was because of a public review into a decision not to prosecute Mr. Savile in 2009. The position in respect of that decision had nothing whatsoever to do with similar fact evidence. What happened was that a girl contacted the police and informed them of an allegation of an indecent assault that was highly unusual in the sense that she said that Mr. Savile had committed the assault in the TV room of her care home in the presence of other innocent girls. The police then made inquiries as to other residents in the care home at that time and one of the girls they contacted, who had no knowledge of the allegation or the fact that Mr. Savile was under suspicion, when contacted the girl said: "Is this about Mr. Savile in the TV room?" What you had was the coincidence of 2 highly unusual allegations being made by 2 different witnesses, and it was also shown that the 2 girls had never spoken to each other for many decades, so collusion or putting their heads together simply was not an option. Mr. Savile's defence was that both girls independently must have made it up. So you have to look at the particular facts of each case and to simply say that a lot of complaints equals similar fact evidence is just completely wrong.

3.10.2 Deputy R.G. Le Hérissier:

As an extension of the question, I wonder if the Solicitor General could tell us, given that many of the complaints have arisen because of what might be termed the over-robust cross-examination of children, what precautions are in place to ensure that children are not subject to the kind of cross-examination which may or may not be suitable when dealing with adults?

The Bailiff:

I am sorry, Deputy, that is a very valid question but it is moving too far outside. No doubt it could be the subject of a question on its own.

3.10.3 Deputy M. Tadier:

I hope this is within the remit, Sir, but I will leave that to you to judge. Will the Attorney General advise whether it is also an issue that in Jersey time-barring for evidence works differently to in the U.K., and given the fact that when things happened a long time ago, and the vulnerability of the individuals involved, those individuals would not necessarily have made the allegations at the time, or even if they did they were not believed. Is that an issue when it comes to making viable prosecutions, certainly for cases that happened quite a time ago?

The Solicitor General:

It is well recognised that victims of child abuse very often do not come forward for very long periods of time because they are scared or embarrassed or a mixture of both, and there may be any number of other reasons. So it is not a bar on a prosecution, it is a piece of evidence or a consideration among many, in reaching a view about a prosecution. But the thrust of the guidelines is to ensure that prosecutors acknowledge that victims may not come forward, for whatever personal reasons. But the thrust of the guidelines is to ensure that there is a thorough investigation so that all the evidence that might relate to a particular case is obtained so prosecution decisions can be taken with all the evidence that is available today.

3.10.4 Deputy T.M. Pitman:

Could I ask the Solicitor General - I appreciate obviously he cannot mention names or whatever - but Deputy Higgins has touched on a case which I am familiar with where you have more than a dozen different witnesses making very, in my opinion - and I am not a lawyer - detailed complaints which seem to corroborate that someone has a case to answer. My question I want to ask is this: the Solicitor General has just said often children do not come forward, which of course is true, however, in this case many of those children did come forward, they just were not listened to. Can he explain whether that history is also taken into account when these allegations are, as they have been in Jersey, dismissed leaving more than a dozen people with wrecked lives?

The Solicitor General:

The Attorney General took a number of prosecution decisions in 2008 and 2009 as a result of the historic child abuse inquiry. The Attorney General took the decision to publish the reasons for certain decisions not to prosecute and those reasons were made public. Whatever has been said since in the many years that have followed, nothing has been said in a way that we at the Law Officers' Department can understand, that will ever assist us in understanding what, if any, part of the reasons for those decisions is said to be wrong. In fact, so far as I am aware, there has never ever been any occasion when anyone has said that this statement by the Attorney General is wrong, and for this reason. It just has never, ever happened. If I may add, in 2011 I was an advocate in judicial review proceedings in which a former Senator sought to review those Attorney General decisions. That is to say, decisions not to prosecute in respect of child abuse cases. The judge who heard that case is now a Law Lord in the Supreme Court of England and Wales. What the judge

concluded was as follows: that the Senator “had provided no grounds either in his order of justice or in his evidence for believing that the Attorney General and his advisers were wrong in the view that they took of the available evidence.” I entirely accept of course that complainants in these cases will be understandably upset and frustrated if their particular case does not go to court. I quite accept that. But at the end of the day the Attorney General has to take a decision based on the evidence in a particular case. In these cases that we are talking about - the historic child abuse cases - reasons have been published and no one really has ever come up with a sensible reason why they are wrong.

3.10.5 Deputy M.R. Higgins:

I listened with interest to what the Solicitor General just said there. We know that decisions have been made in the past based on the prevailing view of how to deal with these cases. We now have seen this year an increasing number of concerns expressed following the Savile affair, the Rochdale affair, the Wrexham Care Home affair, and so on, and about the procedures and decision on whether to bring a prosecution or not. We know that cases have to be determined in court and it is one way of giving closure. If the evidence does not stack up the person will be found not guilty. But would the Solicitor General say that they will review the cases they have not decided to go ahead with, in light of a new standard for assessing evidence and bringing cases before the court?

The Solicitor General:

The whole point about the Savile case that I spoke about a few moments ago is that he should have been prosecuted in 2009. There is just no doubt about that, and it is unfortunate that he was not. The purpose of the guidelines is to ensure there is no repeat of that situation. For my part, for the reasons I have just given in my last answer, there is no reason in fact to review any previous decision so far as I am aware. If one looks at the detailed reasons that were given in 2008/2009 one can clearly see that every effort was made by both the police and the lawyers to ascertain what available evidence there was, and a decision was made on that basis.

3.10.6 Deputy M.R. Higgins:

It was not just the Savile case that I was referring to, obviously the Yewtree case which was Savile, but there is Rochdale and the others. It was the fact that other evidence should have been taken into account. They are now reviewing many historic cases in the U.K. Will the Solicitor General say that if, for example, information comes to light during the Committee of Inquiry which throws more evidence on what has gone on and so on, will they then revisit the decision whether to prosecute or not certain individuals?

The Solicitor General:

Yes, I think I agree with the Deputy. But the point is the Rochdale case is the same principle as Savile, what was the additional evidence beyond the complaint itself, it is the same principle. The point is at the moment I am satisfied that all the evidence was taken into account. If some new evidence emerges at some point in the future then no doubt someone will refer that to the Law Officers’ Department. But it is important to stress that there is a basic principle that prosecution decisions should have a degree of finality to them and they should not be subject to repeated review many years after the event. But obviously if some new evidence comes up we will look at it.

3.11 Deputy T.M. Pitman of the Minister for External Relations regarding the challenging of the Chinese Government in relation to alleged human rights abuses:

With increased financial business with China can the Minister clarify what measures, if any, are being undertaken to challenge the Chinese Government on its continuing record of human rights abuses and if none, why not?

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

Jersey's external relations policy is generally aligned with the overall British foreign policy approach to human rights in China. This policy is one of constructive engagement to sustain a long-term relationship that covers a wide range of interests in order to bring about positive change. The promotion of prosperity and human rights are mutually supportive priorities and the trade interests of Jersey and the U.K. are indivisible from our enduring British values.

3.11.1 Deputy T.M. Pitman:

I would have to say I question the Minister's statement that prosperity and human rights are even remotely linked in this world. However, surely a key part of what is effectively a Minister for External Relations' role is to try and influence trading partners, whoever they may be, that if their human rights record is not as it should be then perhaps it would be to the benefit of all if they improved it. When Senator Ozouf was travelling the world I asked this question and he said that the best was to actively talk to them, which seems to be what the Minister for External Relations is suggesting. Have any such discussions between himself and the Chinese equivalents of his office taken place, and have there been any tangible outcomes?

Senator P.M. Bailhache:

I think the Deputy is right, that one tries to influence the conduct of other countries in any way that one reasonably can. We received a visit quite recently from a Chinese delegation from one of the large Chinese cities, and there was an opportunity at the time of that visit for mutual discussions about the way in which Jersey operates and our political system and so on. One likes to think that those contacts do play a small part in influencing the development of policies in China. It certainly seems to be true that the overall British policy has been influential because the 2012 *Foreign and Commonwealth Office of the Annual Human Rights and Democracy Report* notes that China continues to make changes in regard to legislative and judicial reforms, including a major revision of the criminal procedure law, the passage of China's first ever mental health law, the publication of the first ever White Paper on judicial reform, and the issuing of a Chinese national human rights action plan. So these things do seem to be happening under the policy of constructive engagement.

[11:15]

3.11.2 Deputy R.G. Le Hérissier:

Although the Minister quite rightly outlines certain steps, ultimately as we know - despite being economically very successful - China is a totalitarian state. Has he reached the point where he feels that the behaviour of the Chinese Government is such that it is not prudent, and indeed not wise, to trade with them at this point in time?

Senator P.M. Bailhache:

No, I do not think we have. As I have indicated in my answer to the previous question, there does seem to be a progressive change in the approach of China to human rights issues, which is positive, and that seems to me to be something which ought to be encouraged.

3.11.3 Deputy M. Tadier:

Would the Minister advise whether there are countries with whom we would not do business, and what bar would there need to be in place for a country such as China for us to decide it is not worth our while engaging with them, for whatever reason?

Senator P.M. Bailhache:

That is a very difficult question to answer because of course there must arise circumstances where the events in a foreign country are such that it would not be appropriate to engage in trade with them. Insofar as China is concerned, I do not think that situation has arisen.

3.11.4 Deputy T.M. Pitman:

Could the Minister confirm - and I am sure he will - that this relationship would be a 2-way street, so if China were to criticise Jersey's own human rights failings, which are endemic to our justice system, that he would be willing to listen and see what improvements could be made?

Senator P.M. Bailhache:

As the Deputy will know, I do not share his views on the criminal justice system, or indeed the justice system in Jersey.

Deputy T.M. Pitman:

But would he be willing to listen if the Chinese raised it? That is the real issue.

Senator P.M. Bailhache:

This is a highly hypothetical question which seems to me is out of order.

3.12 Deputy J.H. Young of the Minister for Planning and Environment regarding applications for the development of the Esplanade car park site:

Will the Minister confirm whether the 2 latest applications for the development of the Esplanade car park site by the States of Jersey Development Company are required to comply with every aspect of the Hopkins Masterplan, as amended by its predecessor, including lowering the road, public domains improvements, and elements other than offices and, if so, what measures will he be taking to ensure that such applications comply fully?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

The Deputy will be aware that the 2 applications to which he refers, P.2013/0993 and P.2013/1209, are both current proposals and, as live applications - which I have called in for my determination - I do not want to prejudice their proper determination in a formal forum in due course. However, within this context I can refer the Deputy to my answer to his question, 1240/5780 in October this year, when I confirmed that Policy BE2 of the Jersey Island Plan requires that the Esplanade Quarter Masterplan, the Waterfront S.P.G. (Supplementary Planning Guidance) will be the principal considerations in the determination of relevant planning applications. To demonstrate these considerations I can also refer the Deputy to my determination earlier this year of the first application for an office building on the Esplanade car park site, P.2012/1141. In that determination I carefully examined the relationship with the Hopkins Masterplan, including the amendment which dealt with the potential for the road to be in a later phase. In issuing my approval I required a full understanding of the commercial and practical realities of delivering the Masterplan. The early application contained a phasing plan for the Esplanade car park element of the project, and I applied specific conditions to consider if the timetable for the delivery of the wider Esplanade Quarter beyond the car park site. The Deputy will also be aware from my answer to his question 1240/5780 in October this year that permission already exists for residential development on some of the Masterplan site, P.2009/1462. I am also aware that one of the current applications does contain significant public ground works, creating a landscaped public park as part of the subterranean car park works. These applications do, therefore, show that the broader elements of the Masterplan, other than offices, are being brought forward.

3.12.1 Deputy J.H. Young:

I thank the Minister for reminding me of the written answer on 8th October. Would he not accept that, in effect, he is in a situation of having to rely on conditions in order to see the Masterplan completed? Would he not accept that there is the risk, since the States of Jersey Development Company is effectively ourselves, that if the profit from that development - if it goes ahead - is not made that we will never see the Masterplan implemented. Is that not the reality?

Deputy R.C. Duhamel:

I obviously will take into account Deputy Young's comments when I come to determine the applications. But I do not think I should prejudice the determination, as I mentioned earlier, with any comments to his questions at this stage.

3.12.2 The Connétable of St. Helier:

I would like to ask the Minister a question which is based on comments I made at a recent presentation by the States of Jersey Jersey Development Company about the scheme, so that they are on the record of the States. Would the Minister confirm that if the scheme proceeds that there should be no restaurants or significant retail space on the Esplanade Quarter as this would detract from such facilities elsewhere in town? That water features should not be compromised by spurious concerns over health and safety - and that does not mean that all health and safety is spurious but that the concerns about deep water probably are. Finally, that the underground parking on the site is fit for purpose.

Deputy R.C. Duhamel:

Again, all I can do is to answer in the same way as I answered Deputy Young. All those points will be taken into account indeed when I come to determine the application, and comments in this forum should not be made to indicate which way I will be going. But all I can say is that the comments having been made will be listened to and weighed up.

3.12.3 Deputy J.H. Young:

I appreciate the Minister's difficult position since he has the decision to make. Would the Minister tell us, has he got a closed mind to ordering a planning inquiry in order to establish with certainty whether these matters that he has just referred can be assured? If he finds that there are conflicting views and all the information is not available when he comes to make that decision, is his mind closed to hold an inquiry to answer these questions definitively?

Deputy R.C. Duhamel:

The Deputy has already been in conversation with myself and the Planning and Environment Department requesting that such an inquiry be undertaken now. In that respect my mind has been made up somewhat; obviously in due consideration of the item when it lands on my desk all of these things will be weighed up in due course.

3.13 Deputy M. Tadier of the Minister for Transport and Technical Services regarding the possibility of Liberty Bus introducing a transfer fee:

Will the Minister advise whether a transfer fare will be introduced by Liberty Bus so that passengers needing to change bus in St. Helier will not be required to pay 2 fares, and if not, why not?

Deputy K.C. Lewis (The Minister for Transport and Technical Services):

I can confirm that although such an initiative has been trialled in the form of the rugby special on match days, Liberty Bus do not have any current plans to permanently introduce a transfer fare. Instead the company is developing a range of ticket products based around the Avanchi electronic smart-card system which is currently being rolled out. Once fully implemented, regular Avanchi users will benefit from either unlimited travel season tickets for a fixed price, offering a significant saving for frequent travellers, or a pay-as-you-go fare which will represent a discount relative to the standard cash fare. The Avanchi system aids passengers and drivers by reducing the need to handle cash transactions on board the bus, helping to speed up journey times by ensuring that buses are stationary for shorter periods while passengers board. It also allows lost or stolen season tickets to be cancelled and reissued with remaining credit preserved.

3.13.1 Deputy M. Tadier:

I thank the Minister for the very detailed explanation of how the Avanchi card system works, which I already know about, but which was not related to the question. The question was simply about transfer fares. Will the Minister explain why it is that a passenger, perhaps somebody with mobility issues, would have to pay 2 fares to get from Le Mont Felard, let us say, to Georgetown, so they will be paying £3.40, where someone travelling from L'Étacq into St. Helier - which is probably a longer distance, maybe even twice the distance - gets to do that journey for only £1.70. Does he think that is fair and if not will he make representations to the bus company so that they can introduce a transfer fare, which would sit very well with their Avanchi card system?

Deputy K.C. Lewis:

Although established on some transport networks in other countries, transfer tickets are rarely available in U.K. towns and cities. The concept can be prone to abuse and cause difficulties for the operator in accurately gathering passenger journey data. The U.K. bus industry has largely adopted unlimited travel day, week, month, and yearly tickets rather than promoting transfer or return tickets. The rugby special available on match days, for those people who need 2 buses to travel to the rugby club the cost is £2 compared to £2.40, and £3.40 for separate journeys. Avanchi is now available from Liberation Station, Liberty Bus have introduced an online top-up facility so that users do not need to make repeat visits to the bus station. They are rolling out the Avanchi to help visually impaired persons and people with mobility problems. That is the whole point.

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

Deputy Tadier mentioned Mont Felard and I would like to know whether the Minister is aware of the impact on Liberty Bus services with the current traffic delays on Mont Felard?

The Bailiff:

A good attempt to bring in Mont Felard. [Laughter]

Deputy K.C. Lewis:

May I congratulate the Constable of St. Lawrence, very nicely woven in there. Liberty Bus and T.T.S. are well aware of the problems on Mont Felard. It is a private area that has crumbled and has dropped into the road. The road is restricted on health and safety grounds and the owner of the land assures me that everything is being done to remediate the problem as soon as possible. I have asked the land owner to communicate directly with the Constable of St. Lawrence regarding its progress.

3.13.3 Deputy G.P. Southern:

Why oh why is it always either/or, and never both? Will the Minister explain exactly why he is referring to his Avanchi system instead of introducing through ticketing which obviously has advantages for many travellers?

Deputy K.C. Lewis:

The system is not mine. Liberty Bus is a completely independent company, but we do liaise with them and they are bringing in lots of initiatives to make it more convenient and cost effective for passengers.

3.13.4 Deputy M. Tadier:

I think the Minister is making heavy weather out of the Avanchi card system. Does the Minister not accept that rather than being an obstacle to transfer ticketing, that the Avanchi card facilitates and makes transfer ticketing possible and therefore, does he first of all see the advantage and the fairness in having transfer tickets, and will he simply ask the bus company if they would be willing to bring this forward. If not, I will do that myself.

Deputy K.C. Lewis:

The Deputy is free to speak to whomever he wishes. Liberty Bus is gradually revising their ticket product range to be more appealing to bus users. The commuter pass, permitting one return journey per day, costs £50.40 per month. Liberty Bus are now offering the Avanchi card for £52 a month which allows the holder an unlimited number of journeys on the bus network.

[11:30]

3.14 Deputy G.P. Southern of the Minister for Economic Development regarding pricing of domestic heating oil:

Will the Minister inform Members what has happened to the price of domestic heating oil to date since the report of the Jersey Competition Regulatory Authority in February 2012 in which the price of oil was reported to have risen over the period of 2009 to 2011 by 40 per cent, and the margin over U.K. prices tripled over the decade to 2011 and advise what action, if any, he has taken to mitigate these rises?

Senator A.J.H. Maclean (The Minister for Economic Development):

Following the publication of the J.C.R.A. (Jersey Competition Regulatory Authority) report on the domestic heating oil market, which indicated possible excessive profit margins, I issued a request under Article 6.4 of the Competition Regulatory Authority (Jersey) Law 2001 to enable detailed ongoing monitoring of the local heating oil market. The price differential identified in the report has remained broadly steady during the monitoring period over the last 15 months at 8 pence to 9 pence per litre more expensive in Jersey than in the U.K. The impact of the extra cost on Jersey consumers amounts to approximately £70 per 900 litre tank. The fact that the situation has got no worse since 2011 will be of little comfort to hard-pressed local consumers. But the Jersey Competition Regulatory Authority has dedicated considerable resources to this work and the simple fact is that studies of this size and complexity take time to complete. Both the Jersey Competition Regulatory Authority - which will publish its further report soon - and I are determined to get to the bottom of this issue about the apparently high cost of heating oil in Jersey compared to the U.K. We will take whatever action is possible, practical, or indeed necessary, to help ensure local consumers are being charged a fair price for their heating oil.

3.14.1 Deputy G.P. Southern:

Could the Minister please answer the central question: what has happened to heating oil prices over the 18 or 20 months since that report was published?

Senator A.J.H. Maclean:

I thought I did. I suggested that the figures are broadly steady since that period. There has not been a great deal of change since the monitoring period of 15 months was undertaken.

3.14.2 Deputy G.P. Southern:

A clarification, if I may. The price differential between us and the U.K. has stayed steady, what has happened to prices overall in the last 20 months?

Senator A.J.H. Maclean:

The same applies. Prices are broadly steady, I have made that point clear, 65 pence per litre is the average price chargeable, and that is broadly the same.

3.14.3 Senator S.C. Ferguson:

Given the significant fall in the cost of oil in the U.S. (United States) following the improved technological extraction processes, is it not time and would it not perhaps spur the local companies on if the Minister encouraged or brought in tax measures to encourage people to prospect for sources of oil for oil fracking locally?

Senator A.J.H. Maclean:

I really do not think the concept and prospect of fracking locally is going to be particularly appealing. I would suggest there are many other mechanisms that we could deploy in order to ensure a fair and reasonable domestic oil heating price within the Island, and those are the ones we are going to concentrate on.

3.14.4 Senator S.C. Ferguson:

In that case will the Minister look at the possibility of importing oil from the U.S. because it is a great deal cheaper than oil coming from the European sources?

Senator A.J.H. Maclean:

I would suggest to the Senator that we probably do not have the quantum to justify importing directly from the U.S. We do import our oil from primarily the U.K. market; that is the area we want to concentrate on. There is a price differential that is unsatisfactory at the moment, which suggests that local consumers are being charged too much. That is the issue we want to address and we believe there are grounds with the impending report from the J.C.R.A. to tackle that issue with their recommendations.

3.14.5 Deputy G.P. Southern:

The Minister mentioned that he would act in every way possible, practical, and indeed necessary; will he legislate to bring margins down to the level that they were 10 years ago, i.e. a third of the margin currently being charged?

Senator A.J.H. Maclean:

That is certainly an option that could be considered. Price regulation is one option that would be available. We need to consider first of all the further report that we are awaiting from the Jersey Competition Regulatory Authority. We need to consider the recommendations contained within that report and look at the appropriate actions necessary to take. I point out though, regulation of markets is not necessarily the most efficient or effective way in which one deals with price differentials, but it is certainly one option to consider.

3.14.6 Deputy G.P. Southern:

Does the Minister consider that regulation, nonetheless, in small economies is the way forward?

Senator A.J.H. Maclean:

That is a very general question. There can be occasions when regulation is appropriate, whether it is a small jurisdiction or otherwise and we will consider the most appropriate way in which we can deal with what appears to be excessive profit margins in the domestic heating oil market locally.

3.15 The Connétable of St. Helier of the Minister for Treasury and Resources regarding the future of the Central and Beresford markets:

Would the Minister explain his strategy for the future of the Central and Beresford markets, including any proposals in relation to traders' leases?

Deputy E.J. Noel of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):

The broad strategy for the markets is to work with the traders and other stakeholders to improve the facilities, develop opportunities to increase footfall, and maintain the markets as vibrant destinations. A programme of works is planned for both the fish market and the central market, which is being developed in consultation with the market tenants. The current 9-year lease has 4 tenants in the central and fish markets, it expires on 24th December of this year. New forms of leases for a further 9 years have been sent to all tenants. Rents based on primary, secondary storage, and external areas occupied have been calculated and tenants will receive the rent proposals for their individual units this week. Specific terms will be agreed with the individual tenants that recognise the nature of their businesses and the future investment that the tenants will be making.

3.15.1 The Connétable of St. Helier:

I am very grateful to the Assistant Minister and to his department for the work they are doing on the markets, which are the jewel in the crown of our retail offer in St. Helier. But it sounds to me rather late to be talking about new leases when we are already halfway through November and the leases expire at the end of the year. Can he assure the Assembly that the traders' views about their leases will be fully taken on board and that no one will be forced out of business because of the changing leases?

Deputy E.J. Noel:

No one is going to be forced out of business by the changing leases. This has been an ongoing dialogue between the department and the traders for the best part of a year now. The Constable may recall that we originally wanted to do a bigger piece of work and extend the current leases for a further 2 years while that work was undertaken. That was not received well by the tenants. We listened to them and that is why they are having new 9-year leases being offered. Those leases, in draft form, were sent to them earlier this year and we are just working through the final details now up to their renewal.

3.15.2 Deputy G.P. Southern:

Does the Assistant Minister have a new leaseholder for the relatively large space immediately on the left as you go into the fish market from this end, which has been empty for something like the last 15 months?

Deputy E.J. Noel:

That particular space we are working with the traders in the fish market, we are still looking at proposals of possibly utilising that space and knocking through to the western wall into Castle Street and using maybe an alfresco area in that area. But without setting any hares running, we are yet to discuss any plans with the current occupiers of that space, being Jersey Telecom, they use it

for van parking. But we are working closely with a group of tenants from the fish market to produce a fish market that is going to be vibrant and sustainable for the foreseeable future.

3.15.3 Deputy G.P. Southern:

That sounds like to me plans which are half made a month from the renewal date for leases. Does the Minister not consider that is inadequate planning?

Deputy E.J. Noel:

I can inform the good Deputy that we opened these discussions with these proposals with the market tenants back in the spring of this year, and we have been working closely with them throughout the summer developing those plans. But we want to get it right the first time so we are taking the time to make sure that what we do with the fish market works for the traders and the public.

3.15.4 Deputy M. Tadier:

Would the Assistant Minister advise whether there is to be any increase in the rents, if so what are they, and are they R.P.I. (Retail Price Index) based or are they above R.P.I. or below?

Deputy E.J. Noel:

The rents for all market tenants will be based on the square footage areas of their prime space, their storage space, any space that is being used, for example alfresco eating, *et cetera*. This has been done by an independent professional from outside of Property Holdings and we have been able to give assurances to the traders that their rents will not be increasing substantially. But the overall mix they pay will determine on what type of premises that they are occupying.

3.15.5 Deputy M. Tadier:

He said the rents will not be increasing substantially, presumably as an average they will not be but is it likely that some stallholders will see a sharp increase in their rent and others may not?

Deputy E.J. Noel:

No, I can confirm that tenants will not be receiving a sharp increase. Some will be paying slightly more for prime space, slightly less for less prime space, but we are managing to keep that within reasonable limits.

3.15.6 Deputy J.A. Martin of St. Helier:

Firstly, can the Assistant Minister obviously confirm - which I think they are - that Property Holdings are the owners or manage the markets? Can he also confirm that there has in the last year been no overall strategy for the markets, no consultation with the Constable, the Tourism Department, the town centre management? Would he not agree that beginning just before a new 9-year lease signing, all this should have been sorted out many months ago because they are going to hobble along exactly how they are now and probably still close on a Thursday afternoon and plead poverty.

Deputy E.J. Noel:

Unfortunately the Deputy is not sufficiently well informed. We have been having extensive consultation with other parties apart from the tenants. We have been consulting with the Chamber of Commerce, we have in fact been consulting through the town centre team with the Parish of St. Helier. We are working in partnership with a number of bodies, but particularly we are working in partnership with the tenants and the traders and we are ensuring that they have a vibrant place to work and their livelihood.

3.15.7 Deputy J.A. Martin:

Can the Assistant Minister confirm apart from the rising rent is there going to be any change in terms and conditions? Are they going to be uniformed? Are the markets going to open on a Thursday afternoon?

Deputy E.J. Noel:

I can confirm that core hours are being set out in the terms and they are for all the units to be open for 6 hours a day for 6 days a week. I will have to come back to the Deputy on that because I do not want to give misinformation, but there are core hours of 6 hours per day, 6 days a week.

3.15.8 The Connétable of St. Helier:

I am grateful to the Assistant Minister for the information he has supplied us with and I hope that his confidence is borne out in terms of the leases. Could he in closing agree with me perhaps that our central markets and fish market are extremely important to the Island, as well as to St. Helier, and that he will work as far as possible with the Minister for Economic Development to ensure that they are promoted and made a very central part of our tourism offer?

Deputy E.J. Noel:

I am happy to confirm that but it is not only the Minister for Economic Development, we are also working with other Ministerial colleagues, such as the Minister for Transport and Technical Services to improve parking and drop-off and pick-up facilities in the area as well.

4. Questions to Ministers without notice - The Minister for Economic Development

The Bailiff:

Before we move to questions without notice can I just inform Members that Deputy Young has lodged a fourth amendment to the Budget Statement and Deputy Tadier has lodged an amendment to the Draft Social Security (Amendment of Law No. 6) (Jersey) Regulations. In addition, the Public Accounts Committee has presented its support on the Car Parks Trading Fund. We will come now to questions without notice and the first period is to the Minister for Economic Development.

4.1 The Connétable of St. Helier:

As a former Deputy for St. Helier No. 2 District the Minister will be aware of the deleterious impact on the residential areas of town by people coming back late at night inebriated and often very noisy from clubs and pubs. Would the Minister agree to think very carefully before suggesting an extension to the opening of nightclubs, which would effectively soon be seeing residents - and I have to declare an interest here because I was myself on Friday night awoken by a brawl at 2.30 a.m. in my street - would he agree to be very careful before he pursues the later opening of clubs as has been suggested in recent months?

[11:45]

Senator A.J.H. Maclean (The Minister for Economic Development):

Yes, I can say to the Connétable and Members that the department has a White Paper prepared to be published on the subject. Within that White Paper is not a consideration for extending the opening hours, but during the course of that consultation paper being published, we will listen to the views of all parties and I have taken on board what the Connétable has said.

4.1.1 The Connétable of St. Helier:

Can I just clarify with a supplementary question? I believe one of the proposals is to allow club goers to stay on the premises for a longer period after alcohol had stopped being served at 2.00

a.m. Would the Minister not consider that it would be better to stop serving alcohol earlier so that we could keep to the current time when people make their way home?

Senator A.J.H. Maclean:

Yes, and there is no intention currently to extend the hours any further. But indeed there are a number of variations as to how we can deal with ensuring that residents within St. Helier around the areas which are closest to the clubs are not inconvenienced by those that are leaving on their way home.

4.2 Deputy M. Tadier:

I thought there were provisions in the law not to sell alcohol to drunk people, but presumably that is not being enforced in our pubs and bars. The question is perhaps related and I suspect the 2 who were arguing in the street may have done so because they could not get any takeaway food in the evening and they were still hungry. Will the Minister for Economic Development look into the folly and red-tape bureaucracy which is stopping perfectly legitimate and well behaved takeaway restaurants in that area from having to close early and, therefore, not provide the needs of clubbers when they leave at 2.00 a.m.?

Senator A.J.H. Maclean:

That particular issue is being considered. I understand the point raised by the Deputy. Clearly, there are 2 sides to the argument. Both have to be considered in equal and a balanced position arrived at.

4.3 Deputy J.A. Martin:

Following on from that, when this was introduced, the Minister may remember, I think it was the former Minister for Economic Development, when the licensing hours were allowed to go later and the drinking-up time, was it not envisaged that many of the nightclubs would provide coffee and maybe sandwiches as well or something hot, and to keep the people onsite and sobered up a bit and waiting for a taxi in the warm to stop the brawling on the streets. Are we not going to do a U-turn very quickly if we start closing takeaways at 1.00 a.m. 2 years after this?

Senator A.J.H. Maclean:

Clearly I cannot speak on behalf of the former Minister for Economic Development and his rationale, but I can say that my view is it seems perfectly sensible and practical to allow facilities on the premises for people. Having said that, I suppose it is also difficult to ascertain as to how likely it is individuals are going to remain behind on premises to drink coffee or other refreshments. But, again, to trial an opportunity like that is something that seems to me to be perfectly sensible and reasonable.

4.4 Connétable P.J. Rondel of St. John:

Would the Minister look back a little way in history, I am going back maybe 30 or 40 years. [Laughter]

The Bailiff:

Just a little bit then, Deputy?

The Connétable of St. John:

Just a little bit. In my time in St. Helier we had an earlier closing time but we had an hour and a half after that where people could wander into the town and have a meal but they had to be off those licensed premises by 1.30 a.m. That way we kept taxis able to keep up with the flow without having to increase the taxis. Back in the 1990s when we altered the licensing law on several

occasions, and early 2000, things changed, but there was sufficient capacity by having this gap where they left a nightclub or whatever it was at midnight, for instance, but the rest was open until 1.30 a.m. and we could manage the problem policing wise. Sometimes it is good to look backwards and see where we have made the mistakes coming forward.

Senator A.J.H. Maclean:

I do not have the advantage of the Connétable to be able to look back quite as far as that but, nevertheless, he does raise the point we can learn lessons in the past where systems did work efficiently. All I can say is that we have, as I pointed out, a White Paper for the new licensing law about to be published hopefully, and there are many views contained already that have been considered through the consultation process and so on. We would expect to get further as a result of this particular publication, and these ideas are certainly worthy of consideration.

4.5 Deputy J.H. Young:

I wonder if the Minister could offer us his opinion on the relative importance of what is euphemistically called I think in English towns our evening economy in comparison to the rest of our economy. Is he able to offer an estimate what proportion of our G.V.A. (Gross Value Added) the evening economy represents?

Senator A.J.H. Maclean:

As far as I am aware the statistics do not break down the night-time economy, as it is more usually described. Having said that, if we look across at the total contribution from the hospitality sector, including restaurants, bars, hotels and so on, that is estimated to be at a maximum of around about 9 per cent of the economy. So a proportion of that clearly will be capturing the element that the Deputy is referring to. It is without doubt important to the Island and we will continue to work with businesses, traders, and consumers for that matter, to ensure that we have a balanced and fair response in terms of any legislative changes that might impact upon that economy and do all we can to improve it.

4.6 Deputy J.A. Martin:

Previously we were talking about central markets and how good they are for St. Helier and tourism. Are there any plans for tourism to bring back the food festival to St. Helier where it used to be and both markets were open on a Sunday and the whole of that part of St. Helier was closed? It has not been moved to St. Aubin which I find - and I know from others - it is very difficult to get to, you have to park a long way away, 2 buses on a non-transferrable fare. Is there any thought of bringing it back? We seem to miss out, everything bad goes on in St. Helier, not a lot of good at the moment.

Senator A.J.H. Maclean:

I would not agree with the Deputy on that. I think there are quite a number of events; there was a very recent festival that St. Helier successfully ran, and there are quite a number that occur during the course of the year and I am very supportive of those. I think they add a great deal. Clearly there are other elements and areas of the Island that also need support, St. Aubin is one of those. I am sure the Deputy would agree. We continually look at opportunities that we can support in order to encourage greater vibrancy within St. Helier and festivals and suchlike are clearly part of that.

4.7 The Connétable of St. Helier:

During last year's budget debate the Minister very kindly voted for an amendment which would have brought the impôts increases, particularly on alcohol, down to a cost of living increase rather than swinging increase proposed by the Minister for Treasury and Resources. Will he this year also

be supporting an amendment to keep the impôts increases to cost of living, and will he, this year as well, speak in favour of it during the debate?

Senator A.J.H. Maclean:

The Connétable will have to wait for the debate until he finds out exactly how I am going to address that particular issue. What I can tell him this - and he knows this - I have been meeting with the industry, I have met with the Hospitality Association. I met, together with the Minister for Treasury and Resources, with other members of the trade to understand their concerns and ways in which we can assist them in developing their businesses in a safe way, taking into consideration the other priorities that the Council of Ministers have with regard to harm reduction with alcohol.

4.8 The Connétable of St. Lawrence:

Will the Minister advise us what endeavours are being made to re-establish a Heathrow link?

Senator A.J.H. Maclean:

There is nothing specific with regard to Heathrow at the moment. Clearly I have been a supporter in the past and we made significant investment, as the Connétable will know, many years ago in establishing a Heathrow connection. Having said that, we have a very impressive network of air routes and I am particularly pleased that with the recent announcement by Flybe to withdraw from Gatwick, we have been able to replace - as Members will know - it by easyJet. This will increase the number of seats on that particular route by more than 200,000 a year which is fantastic news for both local Islanders, the business and leisure sectors of the economy. We continue to work on developing new routes as and when we can.

4.9 Deputy M. Tadier:

Relating to shop opening times in general, does the Minister think it is appropriate in our day and age to tell shops that there is one day a week that they cannot open? If it is appropriate should it not be the choice that all shops should choose which day they can close, thereby being given a 6-day licence per week and it is up to them to choose which day of rest they want to have?

Senator A.J.H. Maclean:

Generally I am supportive of less regulation and allowing businesses to control their own destiny to a greater extent. Of course one has to balance that with other issues in terms of protecting the rights of workers and protecting the rights of other individuals within the Island. I do, however, wait for a report of a retail development group that has been established, looking at ways in which we can stimulate the retail high street, not only as a result of the current recession but generally the impact of the internet. Sunday trading is one of those aspects that the group are considering.

4.9.1 Deputy M. Tadier:

Would the Minister also consider relaying that many individuals, I believe, do not necessarily want to shop on a Sunday but would love to be able to shop after work because they cannot shop while they are at work, and that is another way of stimulating the evening, if not night time, economy?

Senator A.J.H. Maclean:

That is absolutely right. I thoroughly agree with the Deputy. I can say that a trial was run this summer to extend opening hours. I would like to see it extended much further. We would perhaps recall back - and I am sure the Connétable of St. John would recall this - in the 1970s and 1980s that shops were open typically until 10.00 p.m. at night. There is no reason why we cannot have longer opening hours. We have a large proportion of the population working in St. Helier and that is an opportunity I think should be developed and I am hoping the retail development group will pick up on it.

4.10 Deputy G.P. Southern:

Has the Minister had time to pay attention to the latest Chamber of Commerce survey which suggests that Sunday opening would not increase turnover but would increase costs in the majority of opinion of the Chamber of Commerce?

Senator A.J.H. Maclean:

I have not had an opportunity to look in detail at the research, I have just received it. From a quick glance I noted that particular point was clearly made, but also it pointed out a fairly split view as to whether Sunday opening was going to be beneficial or not for local traders. That I am sure is reflected in the community, although I attended a breakfast event on the very subject only the other day. At that event everybody in the room was asked: "Would you support Sunday opening?" and 100 per cent put their hand up, there were about 60 people present, which I thought was interesting, but not necessarily indicative.

4.11 Connétable M.J. Paddock of St. Ouen:

Could I ask the Minister: does he think with regards to the merger of Harbours and Airport and the tremendous amount of work that is involved in this, whether the timetable being suggested is feasible?

Senator A.J.H. Maclean:

I certainly hope it is. There is a tight timetable that has been set, there is a considerable amount of work to be undertaken, much of it is progressing well. Currently, we are on schedule but, clearly, it is going to be a challenge.

4.12 Connétable J.E. Le Maistre of Grouville:

It is on the same subject. I am a non-active member of St. Catherine's Sailing Club, it is a non-profit-making organisation that, apart from providing dinghy sailing for adults, also provides facilities for dinghy sailing training for children and teenagers. The club has invested over the years in the premises that they lease from the present Harbours Department, or from the States through the Harbours Department. Could the Minister advise what safeguards there will be once incorporation takes place to ensure that clubs like this can continue to exist and not be replaced by perhaps what are more commercial enterprises?

Senator A.J.H. Maclean:

There is no intention whatsoever to allow any changes to the existing arrangements that were in place prior to incorporation, so the Connétable should rest assured that that example will remain as is the case following incorporation, but that is a matter for the States ultimately to debate here in this Assembly.

[12:00]

4.13 Deputy J.H. Young:

Jersey has got a wealth of skills in the arts and in the sports arena particularly and we have had in the past major programmes of international festivals attracting people to the Island. Can the Minister advise us whether he is satisfied the arrangements are in place to provide the advanced support and co-ordination necessary to ensure that we maximise on that programme for the future?

Senator A.J.H. Maclean:

It is very difficult without detail to help the Deputy but, yes, good events are supported where budgets are available, certainly the infrastructure is there. I am pleased to say there is a new power-

boating event that has just been agreed for June of next year, which is very encouraging, and many sporting events add a great deal to the local visitor economy and economy generally.

4.14 The Connétable of St. John:

I noticed a 2 or 3-page spread on the Harbours and the Harbour Master last weekend. Could the Minister tell us what age does a civil servant retire? Because they mentioned the age of the Harbour Master in the headline, so can he tell us what age our Harbour Masters retire, please?

Senator A.J.H. Maclean:

From the Connétable, this seems an almost ageist comment. I am sure we should encourage the experience from our older citizens who wish to work to be allowed to work. **[Approbation]** Providing the capability is there, there is no reason that anybody should be forced to retire providing, as I said, they can fulfil their functions.

The Connétable of St. John:

The question was: what age are they expected to retire in the civil service, please?

Senator A.J.H. Maclean:

The retirement age is clearly stated, but people can go on beyond retirement age, they do not have to stay or retire at that stated time.

5. Questions to Ministers without notice - The Minister for Planning and Environment

The Bailiff:

That completes Questions without notice to the Minister for Economic Development. Can I just mention one matter, because I received one or 2 slightly questioning looks from Members. Just to be clear on the system the Chair applies, which is that obviously I invite Members to ask questions in the order in which I see their lights. They can ask one supplementary. If they then show their lights again, showing they want to ask another question, I put them down but they may find themselves being leapfrogged by any new Member who has not asked any questions so far of the Minister, who shows up his light, because the Chair feels it fairest to give the widest selection possible to Members. That is why some Members I may have indicated I have seen them, but they keep being leapfrogged by new Members who have not asked questions so far. Very well, we then come to the questions to the Minister for Planning and Environment. Connétable of St. John?

5.1 The Connétable of St. John:

Could the Minister let Members know the secret of having 9 lives, as he has been able to kick out yet another vote of no confidence?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

I wish I knew but, as long as I have got several left, I will share the secret with the Connétable when the 9 comes to an end.

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

Would the Minister give the Assembly an update on the proposed development of the old J.C.G. (Jersey College for Girls) site, together with the total number of proposed units to be built and advise the Assembly of the number of social-rented units and affordable homes to purchase and when their delivery may be achieved?

Deputy R.C. Duhamel:

Again, I have to be careful because this is a live application and it has been amended following decisions that have been taken at the Council of Ministers to allow the former Jersey College for Girls' site to be used for affordable housing. The original application was only to provide 40 social housing units for one of our housing providers and the remainder of the site to be used for first-time buyer developments. A Supplementary Planning Guidance note was issued by myself as part of the master planning for the area which indicated that, in line with the proposals that are coming forward for the Island Plan, all States-owned sites, wherever possible, should be reconsidered in terms of their ability to bring forward the affordable homes project, and the former Jersey College for Girls' site is one of those sites. Subsequent to those discussions and papers being written, we are at a position where the States bodies looking after the application are amending their point of view. I think the latest suggestion is perhaps that out of the potential 180 units that are able to be built on the site of the former Jersey College for Girls' site, and to the rear, some perhaps 70 units might well now be offered for social-rented purposes, but I have yet to see anything, any application, that suggests that any of the units will be offered for affordable purchase, which is part-and-parcel of the Affordable Homes programme.

5.3 Deputy T.M. Pitman:

Given the embarrassing, but frankly abortive, vote of no confidence, will the Minister be sticking to his long-term vision for the future of trying to make Planning fit within Environment cohesively, or will he be selling out and joining the short-term group think beliefs of all his colleagues?

Deputy R.C. Duhamel:

When I was appointed to the position of Minister by this House following the nomination by our Chief Minister, it was on the basis of my long standing in politics; I am the senior Deputy of the House, and those persons who have been in the House for that length of time, or indeed shorter periods, will know that this leopard does not change his spots. It was on that basis that I think I did have the confidence of the Chief Minister to be proposed for this particularly difficult job in trying to bring environmentalism into the planning process. It is not something that I will back down on in any event but, that said, the position of the Minister for Planning and Environment is not a bloody-minded one in that he has to only promote the environmental issues. As Members know in the States Chamber the planning process requires and encourages the Minister for Planning and Environment to achieve balanced consensus, and that is inevitably what usually happens. So this Minister will not be giving up his environmental credentials to join any particular organisation that the Deputy was referring to.

5.4 Deputy M. Tadier:

Does the Minister have confidence in the Council of Ministers and, in particular, would he state whether there are elements within the Council of Ministers who find it difficult to tolerate alternative viewpoints?

Deputy R.C. Duhamel:

I feel that if I answer this openly and honestly I may not just lose one of my lives, I will probably lose several of them. **[Laughter]** Perhaps all I can say is that I am one of the longstanding Members who did not vote for Ministerial government, who agrees still that perhaps the better way of governing this Island resides in a system that allows the talents of all Members to be party to our government system, and that inevitably means that perhaps my viewpoint is at loggerheads with some of my other Ministerial colleagues. Notwithstanding that, he did ask if I have got the confidence of all colleagues on the Council of Ministers. All I can say is that I have probably got more confidence in them at this point in time than they have got in me, but we will see. I did ask for any particular reservations that Ministers had at a Council of Ministers meeting to be made openly available to me in written form and signed but as yet I have only received one partial reply.

5.5 Deputy J.H. Young:

I am sure the Minister will be reflecting on his 2-year reign, having been given a new lease of life. Could he advise the Assembly if he has formed a view whether the role performed by the Planning and Environment Department in terms of land-use applications should be more of a process facilitator and a helper or whether or not it should be that of a regulator? Could he share his views about that and whether or not, in his continued lease of life, he will be changing direction?

Deputy R.C. Duhamel:

Indeed, that is one of my stated aims and the Deputy will know, because it is being referred to in the media at the moment, that I have made substantial changes to the pre-application service within the department in order to allow a certain level of certainty to be applied to the comments that are coming from my offices, and I have received from the Chamber of Commerce website in an article that appeared in their October version a recommendation by themselves that this is a sensible way forward and a full endorsement of that scheme. Everyone who has taken the time to speak to me over the years will know that long-term strategic planning is a particular key aim of mine and I do not, and never have, considered the planning job as being one of just form-filling and regulation.

5.6 Deputy J.M. Le Bailly of St. Mary:

Could the Minister indicate if there has been any progress with regard to defining a criteria of persons who will be eligible to access the truly affordable housing units envisaged in the £200,000 bracket?

Deputy R.C. Duhamel:

There has; indeed, I have been in discussion with the Deputy on this very point. As Members will know, there is an inspection in public for the Island Plan review and all colleagues of this Assembly have been invited to attend a meeting at lunchtime to put forward any further ideas, or whatever, into the mix for the inspector to take on board before he advises me. That said, the Island Plan amendment review was mainly called for on behalf of the previous States in terms of the H3 and H1 policies. It is essentially a housing issue and the definition of “affordability” has been clearly defined, and that is one of the things that we will have an opportunity to consult on and to debate in the States Chamber next year when it comes back. For those Members who have not read it, and I am sure everybody has, the suggestion is that affordability for purchase must be for those on median incomes.

The Bailiff:

Minister, if you do not mind, if you could give concise answers otherwise we will run out of time.
Deputy Hilton?

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

Has the Minister been involved in any discussions with the J.E.C. (Jersey Electric Company) on the siting of the proposed substation west of St. Helier and does he agree with the recommendation the Parish of St. Helier is now supporting that the quarry site is, in fact, the best site?

Deputy R.C. Duhamel:

The Minister has been in consultation with the J.E.C. with officers, he has also been in consultation with the Connétable of St. Helier and others. In terms of the recommendation, I only heard that this morning from the Parish Assembly. In essence, this is a parochial matter which will be decided upon by the Parish representatives who take the time and trouble to attend the Parish Assembly meeting. Once a decision has been taken as to the acceptance or not of whatever is being offered by the J.E.C. to the Parish of St. Helier, then the usual planning application process will be put into

practice. No application has been received as yet and, indeed, cannot do until the Parish has decided that indeed it is happy to release the land which is owned by the public.

5.7.1 Deputy J.A. Hilton:

A supplemental question please? Does the Minister agree that this matter is indeed very urgent and that he will afford it the time that it requires and deliver the consent in a timely fashion?

Deputy R.C. Duhamel:

It goes without saying that this Minister adopts that approach on all applications that come forward and, indeed, the criticisms that I have received, and perhaps due to receive at a future time and place, to the effect that I am unaccountable for delays in the system is not a valid one and Members should look at the details of the applications and bear in mind that the Minister makes very few decisions these days under a system that was implemented and promoted by myself.

5.8 Senator L.J. Farnham:

Just for the avoidance of any doubt, is the Minister for Planning and Environment intending to resign any time soon?

Deputy R.C. Duhamel:

The Minister for Planning and Environment is not intending to resign but, then again, he has not received any requests for him to do so as yet.

5.9 Deputy J.A. Martin:

All States Members received an email at 5.28 p.m. last night to say that the Chief Minister had asked the Deputy of St. Martin and others to withdraw the vote of no confidence. Could the Minister inform the House when he was informed and if he has been informed of the matters that have come up that need discussing with other Ministers, which has stopped this debate?

[12:15]

Deputy R.C. Duhamel:

I think it was late on Sunday, about 8.00 p.m. I did have a note both from the Chief Minister and another separate note from Deputy Luce saying that he would be withdrawing his proposition. That came later.

5.10 The Connétable of St. Ouen:

Could the Minister tell the Assembly what his vision is for the future of contribution to art and developments, bearing in mind I have recently heard a rumour that it might be scrapped?

Deputy R.C. Duhamel:

I do not know about being scrapped, it is certainly an area that I have my officers working on at the moment. There is good work being undertaken with the Education, Sport and Culture Department to ascertain whether or not the Percentage for Art scheme that was set up by my predecessor can have its terms of remit widened in order to allow those voluntary-offered monies to be spent on a wider remit than the, perhaps in some instances, narrow art schemes that have characterised the scheme to date.

5.11 Deputy T.M. Pitman:

I think it is probably fair to say that one of the smokescreen issues behind the attempted political assassination of the Minister is the issue of housing and what might be called the Uplands issue. Does the Minister feel able to tell Members the truth about that saga?

Deputy R.C. Duhamel:

I do not know, that is going back quite a while. We did have a previous Homebuy scheme which was not particularly well applied and was part-and-parcel of the request by this House during the Island Plan debate for whoever the Minister was going to be, to bring forward amendments to that proposed policy, and H1 as well, and were based on the non-successful outcome of the Homebuy scheme. I think, at the end of the day, those persons who were placed on a list by the Constable working with the Dean, managed to get what they had been promised by other bodies who did not own the property at the time. I think a successful conclusion to those negotiations was undertaken by myself whereby the Treasury and Resources Department was called upon to accept any monies on the first time of resale. I am not sure that it is an issue, and it is the real issue that the Deputy is thinking that is perhaps the missing piece of information that people have been alluding to.

The Bailiff:

Very well, that concludes questions to the Minister. Senator Routier, do I correctly understand it was your phone we heard as you left the Chamber?

Senator P.F. Routier:

No, Sir, I was going to investigate whose phone it was in the coat outside and I have identified whose coat it was. I am reliably informed it was Deputy Trevor Pitman's phone. **[Laughter]**

The Bailiff:

Very well. No doubt the Deputy will be making a contribution to the Greffier's ...

Deputy T.M. Pitman:

I think I will wait until after my court case.

6. Urgent Oral Question

The Bailiff:

I have given leave for an urgent question to be asked by Deputy Southern of the Minister for Economic Development, I think is. Hopefully Members have a copy of it but, Deputy, would you like to ask your question?

6.1 Deputy G.P. Southern of the Minister for Economic Development regarding the maintenance of essential flights following an announcement by Flybe of staff reductions:

In the light of the announcement by Flybe to cut its staff by almost 20 per cent, including 35 in Jersey, has the Minister sought assurances from Flybe of the maintenance of essential flights to and from the Island and, if not, will he do so as a matter of urgency?

Senator A.J.H. Maclean (The Minister for Economic Development):

Jersey Airport received a communication from Flybe last Friday, 15th November, of its likely intention to close its Jersey base at the end of March 2014, affecting up to 35 local Flybe employees. However, despite the loss of the Gatwick service, the airline has indicated to our officials that it remains fully committed to continuing to provide its excellent network of services to and from the Island. The Port of Jersey Group Executive and the Route Development Team for Jersey Airport remain in regular contact with Flybe and continue to analyse its network, evaluating what current routes, if any, could be affected in the longer term. If Flybe decides to reduce or relinquish any of its other routes in due course, then Jersey Airport will engage with other competing or alternative operators to take over those services in the same successful manner as it has done when securing easyJet to take over the Gatwick services from March 2014.

6.1.1 Deputy G.P. Southern:

I heard the word “destinations”, I think, but I did not hear about the number of services. Does the Minister anticipate that, with such a large-scale cut and the closure of Jersey as a local base, that the number of services will, in fact, be affected?

Senator A.J.H. Maclean:

As I have stated, we have no indication from Flybe that they are intending to close any further routes or cease any further routes other than Gatwick, which has already been announced. For the Deputy’s information and for Members’ information, there are currently 7 year-round destinations that are served by Flybe from Jersey, 4 of those they fly alone, the remaining 3 are served by other operators at the same time. But, as I say, there is no indication at the moment that any changes to that, or indeed the summer-only services of 12, are going to be affected.

6.1.2 The Connétable of St. Lawrence:

In order to continue the maintenance of essential flights to the Island and, indeed, to encourage additional flights, what consideration is being given to reducing landing fees?

Senator A.J.H. Maclean:

The landing fee regime at Jersey Airport is not believed to be a barrier to entry or sustaining the current routes we have got. We have seen routes grow, and the fact that we are able to secure the services of companies like easyJet demonstrates that the package we offer is competitive in the marketplace.

6.1.3 The Connétable of St. Lawrence:

A supplementary? If reducing landing fees will not be conducive to encouraging other flights, what further incentives may we offer?

Senator A.J.H. Maclean:

We are competitive with regard to the package that we can offer to airlines considering flying to the Island. It is to do with additionality principally and we are looking at an economic model that drives more business to Jersey and the value that that brings to our local economy. It is quite a complex economic model that we consider and, on that basis, support can be either through new route incentives or, indeed, further than that, as we did previously with the Heathrow route that the Connétable mentioned. One other point I should make is that one area in which we are particularly competitive is that we do not have airport departure duty here in Jersey which many of the airports in the U.K. do.

6.1.4 Deputy J.H. Young:

In their public statement, Flybe said that they would be withdrawing their base in Jersey in March 2014. Does the Minister consider it likely that this means we will lose our early morning and evening red-eye flights which overnight in Jersey, both to Gatwick and Southampton, reducing us down to one single operator to Gatwick? If so, what contingency plans has the Minister in place to ensure that we replace those?

Senator A.J.H. Maclean:

We have already dealt, with the greatest respect to the Deputy, with Gatwick, where easyJet have agreed to take on the Gatwick route from March next year when Flybe cease to operate that service, and in fact, because they have larger aircraft, they are going to add an extra 200,000 seats per annum on that service. That is a big plus for leisure and business travellers to and from the Island. There are other airports affected by Flybe’s decision, Jersey is not alone: Guernsey, Isle of Man,

Newcastle, Aberdeen, Inverness are all impacted in a similar way but we do not believe the fact that they are reducing the staff on-Island is going to have any impact on the early morning flight, for example to Southampton. I should point out that British Airways and other airlines do not have engineering staff based in the Island and so Flybe are simply coming in line with many of those models.

6.1.5 Deputy G.C.L. Baudains:

Bearing in mind that obviously a reduction in flights may well have a knock-on effect on our tourism, is the Minister comfortable that the number of flights, especially to Gatwick, will be maintained? For example, does it envisage that easyJet will take over all the present Flybe flights in and out of Gatwick?

Senator A.J.H. Maclean:

With regard to Gatwick, as I have stated, we are going to have 200,000 more seats available for the Gatwick/Jersey route. British Airways have added another service later in the evening, which is a big plus, easyJet have larger aircraft. We are very satisfied with the spread we have got and the fact we have got 2 very strong brands arguably, the easyJet brand and the British Airways brand, connecting us all over the world from here in Jersey I think has worked out very well for the Island.

6.1.6 The Deputy of St. Ouen:

What plans, if any, are in place to help those people who have lost their jobs to find alternative employment?

Senator A.J.H. Maclean:

At this stage, it is a matter for the company because the jobs have been put at risk; there is now a matter of consultation which is being undertaken and staff are being engaged by the company through that process. Clearly, at the end of that, the Social Security Department is available to provide support and assistance to any on-Island staff who may require their assistance.

6.1.7 The Deputy of St. Ouen:

Sir, can I respond to the Minister? Does that mean that there will be no opportunities for the staff to be re-employed by another airline provider?

Senator A.J.H. Maclean:

Of course; there are, I believe, about 14 pilots. I am sure that other airlines servicing the Island will find it attractive having fully-qualified pilots available to their services, so I am sure there are opportunities there.

6.1.8 Deputy M.R. Higgins:

Just following on from the Minister's answers. The arrangement with easyJet, can he tell us how long the arrangement will last for? Is there a finite term or is it open-ended? Have they guaranteed all those flights for one year, 2 years, or whatever? What is the actual arrangement you have got with easyJet?

Senator A.J.H. Maclean:

It is not a fixed, guaranteed arrangement, as is the case with any airline but, nevertheless, the relationship with easyJet is building. I am very encouraged to see that they have added, since the Gatwick route, an additional Belfast route, and they are making plans we understand to consider other development routes from Jersey. It is a relationship that is building. Certainly, every destination they fly to they seek to be the number 1 or number 2. As from March, they are going to be the second-largest operator in Jersey behind British Airways. British Airways, incidentally, will

have about 33 per cent of the market, easyJet about 27 per cent and Flybe, after March, is down to about 14 per cent; similar, by the way, to Blue Island's. We have a good spread of operators serving Jersey and a fantastic network of routes.

6.1.9 Deputy G.P. Southern:

The Minister mentioned his examination of the 6, I think it was, all-year routes and the 12 summer routes. Is he confirming that all of these routes are viable and he anticipates no changes on these particular routes?

Senator A.J.H. Maclean:

What I said was that Flybe had indicated that there was no intention at the moment to make any changes; clearly, I cannot stand here and guarantee there are not going to be any in due course when they have finished going through their process of looking at all the routes that they serve, not just from Jersey but across their network. There are certainly some routes we can see from the statistics that do not have large usage and large numbers, and those potentially are going to be runnable. I have said we will work with other operators serving Jersey Airport to see if any are interested in seeking opportunities to develop those routes should Flybe decide to let any of them go.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

7. The Chief Minister made a statement about public sector pay

The Bailiff:

That concludes that question. I can tell Members that Deputy Southern has lodged a fifth amendment to the Budget statement, and that should be in Members' pigeon holes. There are no personal statements, so we come to K, Statements on Matters of Official Responsibility, and the Chief Minister will make a statement about public sector pay. Chief Minister?

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

I would like to update Members on the 2012 to 2014 public sector pay award. As Members will be aware, the States Employment Board's final pay offer was implemented in December 2012. That offer was a 1 per cent lump sum in 2012, a 1 per cent consolidated pay award plus 1 per cent lump sum in 2013 and a consolidated pay award of 4 per cent from January 2014 in return for a modernisation agreement. Since that final offer was implemented, significant progress has been made on workforce modernisation and on the reform of the public sector.

[12:30]

For example, Lean working is now embedded in the first 2 departments to train their staff to use this management tool. At the Health and Social Services Department, this model has been used to reduce waiting times at the General Hospital's Accident and Emergency Department and to turn the Bon Santé restaurant from needing a subsidy to making a modest profit, and that has been achieved in just over 6 months. At the Social Security Department a number of projects are underway. We will soon see an online application form for the new Long-Term Care Scheme and the ability to receive e-payments. Pay progression for prison officers, staff in the Law Officers' Department and the Fire and Rescue service is now based on skills, knowledge and experience acquired rather than time served. A harmonised maternity policy has been introduced and another dozen amended policies are ready for launch before the end of the year. A new performance management system is being finalised which will be adapted for use in different areas. In view of this progress and in view of the hard work by employees, trade unions and management, I would like to inform

Members that the States Employment Board agreed at its last meeting that the 4 per cent consolidated pay award should be paid to all staff from January 2014. This decision was based on the following factors: there has been significant engagement from all pay groups in the workforce modernisation programme, representatives and staff have worked together and made good progress towards all the criteria set by S.E.B. (States Employment Board) for the 4 per cent pay award. This award is the final part of a 3-year deal which led to significant Comprehensive Spending Review savings which will flow through into future years. There has been a positive change in approach from our trade unions. Representatives have been working in partnership with employee relations staff to redesign public sector terms and conditions and I would like to thank them for their co-operation and encourage them to continue this good work in 2014 and beyond. The States Employment Board believes paying the final part of a 3-year award in January is a visible demonstration of trust by the employer in its workforce. This will support the reform programme and reinforce the constructive approach to employee relations which has been developed in recent months. As a result, the States Employment Board agreed the following requirements would be met before the award goes into January pay. Following a recommendation from a joint trade union and employer working party, the functions of the Manual Workers Joint Council will be fulfilled by a new collective bargaining and consultation framework for all recognised trade unions. This framework is now being developed and its structure will be completed before January. There will be an opportunity for a partnership between the teaching unions, the Education, Sport and Culture Department and employee relations. This partnership will work on teachers' terms and conditions and on the professional contribution teachers can make to the continuing development of a successful education system for Jersey. New contracts of employment for new staff will be in place from 1st January 2014 and a delivery timetable for the remaining aspects of workforce modernisation will be agreed with the unions for 2014 prior to the end of the year. To conclude, the 4 per cent pay award for 2014 is part of a package. States Employment Board members have acknowledged the progress made on reshaping how our public sector employees work together for the benefit of Islanders. States Employment Board members support the partnership working between our offices and trade union representatives from every pay group as we work towards achieving a modern, efficient and sustainable public sector.

The Bailiff:

There are 10 minutes for questions. Deputy Southern?

7.1.1 Deputy G.P. Southern:

One of the problems, it seems to me, over the past few years has been that the States Employment Board turns up with officers who have not got any power to alter what is on the table. In future, will Ministers on the States Employment Board guarantee that they will assure us that they will turn up with appropriate power to change any offer on the table and therefore negotiate genuinely? Because genuine negotiation has not happened.

Senator I.J. Gorst:

I disagree with that entirely; genuine negotiations have happened. Members will be aware, if they look through their written questions in recent history that detailed chronologies of meetings which have taken place with staff representatives number many tens of meetings. Politicians set the policy within a mandate agreed by this Assembly and then officers go away and work to the policy that has been agreed by the States Employment Board. When agreement cannot be reached, officers come back to the States Employment Board and we consider amendments to that policy. That is exactly how it should be and that is exactly how I envisage it continuing into the future.

7.1.2 Senator S.C. Ferguson:

Given that the 2 main leaders of reform are leaving the States employment, how will the reform programme continue and under whose leadership?

Senator I.J. Gorst:

I think I answered this question when the Senator asked it earlier this morning. As the Senator will be aware from the statement that I have just read out, when it comes to workforce modernisation, that is being led by the employee relations sector and they are making excellent progress. Yes, we say there is more to do, but we have agreed to this implementation of this final year of this 3-year award, because of the great progress that we have been undertaking. But be in no doubt, the redesign and reform of the public sector at large is already taking place right across departments, as I have just indicated with some examples. If Members go out and visit departments like the Health and Social Services Department and the Social Security Department, they too, I think, will be impressed by the work that is being undertaken right across the department. Yes, of course, we will find replacements for those people who are leaving, but there are already people underneath them who are doing that work.

7.1.3 Senator S.C. Ferguson:

A supplementary? When can we expect the reform of the pensions scheme to come to the States?

Senator I.J. Gorst:

In due course.

The Bailiff:

Suitably concise. Deputy Tadier?

7.1.4 Deputy M. Tadier:

Can the Chief Minister confirm that the 4 per cent consolidated pay award is not dependent on and not conditional on modernisation?

Senator I.J. Gorst:

I have been quite clear in my statement that the States Employment Board acknowledges we have not got to where we might like to have been at this point, but we have made excellent progress. The co-operation and the partnership working which is already taking place has led the States Employment Board to agree to implement the final year of this 3-year deal. We are pleased that substantial savings from the pay element of States vending have been made. The 4 conditions that we did set down, and we mentioned those to employee representatives yesterday and they seem perfectly satisfied with them, are as I have just read out in the statement.

7.1.5 Deputy M. Tadier:

In order to ask a sensible supplementary, I simply wanted yes or no from the Chief Minister. So is the 4 per cent consolidated pay conditional? Then I would like to ask my supplementary on the basis of a yes or no.

Senator I.J. Gorst:

The Deputy knows that very few questions that are asked in this place can be answered with a straightforward yes or no. I have answered it fully and I have answered it completely, as he would wish.

7.1.6 Deputy M. Tadier:

I will ask it anyway. My understanding is that this is not conditional, which I think is a good thing, and why has it taken the Chief Minister and S.E.B. so long when I have been telling them several

times in this Assembly that it is important that you decouple terms and conditions and modernisation from the current pay negotiations? Why did it take the Chief Minister so long in order to get that point across?

Senator I.J. Gorst:

I do not wish to be impolite in this Assembly, but I think the statement that I have just made proves the States Employment Board strategy has been correct and the comments made by the Deputy have proven to be incorrect.

7.1.7 The Deputy of St. Ouen:

I ask the Chief Minister: how confident is he in the States Employment Board that the conditions attached to the pay award that will be issued in January will be met and enable the States Employment Board to pay that 4 per cent increase?

Senator I.J. Gorst:

The States Employment Board is very confident. As I said, we met with employee representatives yesterday. Those 4 elements that we wished to see completed before the end of the year they seem to accept and did not question that good progress was being made and that they could be met. But let us be in no doubt, we are in a position now which is unprecedented in employee relations in this Island. Employee representatives and their members are working in a partnership way, which we know happens in other jurisdictions, because we believe that we should all have an interest in the future public service of this Island, and that is what partnership working will deliver. So the States Employment Board is extremely confident, they are grateful for the work that Employee Side have undertaken together with management, and we believe that we are in a very good place.

7.1.8 The Deputy of St. Ouen:

Could the Minister confirm whether the States Employment Board has achieved a modernisation agreement with all the public sector pay groups?

Senator I.J. Gorst:

All public sector pay groups are involved in this partnership working and engagement with regard to modernisation. That is not quite the same when it comes to the pay award, as the Deputy will know, but we have already made good progress; lots of the things that we asked to be undertaken and started have started, and the important thing is that we continue to work in a partnership way, rather than the confrontation that we have had historically.

7.1.9 Deputy G.C.L. Baudains:

Could the Chief Minister inform us whether final salary pensions that exist in the new contract he mentioned will be enforced from next year? With regard to the reform of pensions, could he give a timeframe for his statement in due course?

Senator I.J. Gorst:

A contract of employment would not go into the type of pension; it would simply have an overlay of the pension that might from time to time be in existence provided to States employees. The Deputy will know from all the documents that are in the public domain and the consultation that the Treasury and Resources Department and the Employee Relations Department have undertaken with Members that it is proposed to move to a career average pension scheme not a final salary one. I do not have the detailed timetable of when further announcements are going to be made in that regard.

7.1.10 Deputy G.P. Southern:

Could the Chief Minister take the opportunity to explain a little about the harmonised maternity policy that he says has been introduced?

Senator I.J. Gorst:

I would like to be able to do so but I do not have the details with me this morning.

Deputy G.P. Southern:

Will he bring them to the House shortly?

Senator I.J. Gorst:

So far as I am aware they have already been agreed. I see no need to bring them to the Assembly. If Members wish to have a copy of them, I will see if that can be arranged.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

That concludes questions to the Chief Minister. The adjournment is proposed then, so we will reconvene at 2.15 p.m.

[12:43]

LUNCHEON ADJOURNMENT

[14:16]

PUBLIC BUSINESS

8. Public Sector Reform (P.91/2013)

The Bailiff:

We now come to Public Business. The first matter on the Order Paper is Projet 91, Public Sector Reform, lodged by Deputy Baudains, and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide (a) whether they are of opinion to agree that a working party should be established to review how best to deliver the services the public expect in the most efficient manner and to report back to the States with its findings within one year and (b) to request the Chief Minister to appoint Members to the working party which would include 2 Members of the States and either a current or a recently-retired chief officer with comprehensive knowledge of Jersey's public sector and be supported by expert advice.

8.1 Deputy G.C.L. Baudains:

Just before I start, I would like to apologise to Members for deferring this proposition the 2 or 3 times that I have, because I can appreciate it is irritating for Members when they are preparing for something. Members will no doubt be aware that the Minister for Economic Development has recently taken political responsibility for the Public Sector Reform Programme, and I was anxious to ensure that what I was proposing did not hinder or duplicate the work that they are doing. That required 2 or 3 meetings both with the Minister and the people doing it, so a deferment was the best solution in the circumstances. I am bringing this proposition because for some considerable time I have been exasperated over our apparent inability to control public spending. We have had the Fundamental Spending Review, we have got the Comprehensive Spending Review, frontline services have been cut. User pays charges have either been introduced or raised to offset the savings that some departments have been required to make, which means, of course, they were not savings at all. From that, one might conclude that our spending on public services has gone down,

but of course, we all know it has not. Our civil service headcount continued to grow; I think, 150 in the last year? Our expenditure continues to rise above inflation year-on-year. I am very concerned, not only about the present situation, but if we carry on like this, we will end up running a deficit. Just imagine if we did not have to supply public services, but of course we do, there would not be a need for taxes of any sort, of G.S.T. (Goods and Services Tax) or whatever, think how competitive we would be. Obviously, there is a balance to be struck: do we supply an endless amount of services? Would the public be prepared to pay more tax in order to achieve that or do they want greater efficiency? Our public services, as evidenced by the continual rising costs and manpower year-on-year, has evolved over decades, apparently without direction or control, and clearly something has to be done. Of course, I am fully aware other work is already in progress on public sector reform, so what I want to do is make it clear exactly what it is I am trying to achieve; there would be no point in duplicating work already done. Members will recall the presentation made by our Chief Minister at the beginning of this term, which I referred to in my report, where work has been commissioned and is now under way on public sector reform. It is scheduled to take 6 years, which I consider to be rather a long timeframe, and the budget is somewhere near £4.5 million. There are basically 2 pieces of work being done: one is making greater use of electronic communication to enable departments to be more efficient and their databases hopefully will communicate with each other with less time wasted searching for information. That will also make it easier for business to deal with bureaucracy. The second is a modernisation of the workforce, making departments as lean as possible. You cannot escape the fact these are all very laudable aims, but I do have concerns that the savings achieved may not match the expectations, that there is also a piece of the jigsaw that is missing, and that is what my proposition hopefully will address. It is simply this: what services should we be providing to the public, or perhaps that could be? What services do the public want? There is a choice here, a trade-off between what people want versus what they are prepared to pay. Having identified that, how best do we provide those services in the most economical way? Making our public services more efficient, for example by reforming structure so we maybe have less chiefs and more Indians, is more commendable. It is only part of the story. What if some of those services we are providing are not necessarily “nice to have” as opposed to “must have”? Too often I see work being done which strikes me to be more about creating employment than providing a service the public needs, and there have been many examples; I will not bore Members with those. I recall going back a few years, a comment that a previous Constable of St. Helier used to make, and he used to ask the question: “What is yellow and sleeps 4?” and, according to him, it was a public services lorry. There are many examples of waste where I simply would not know where to start. Any public sector business would regularly monitor what it is doing, what it needs to do and the most efficient way of achieving that end. The trouble is that our public sector has for decades evolved without any direction or oversight so an evaluation of what we are doing and how we are doing it is long overdue, and I suggest that is where real savings will be made. I would also at this point like to remake a statement I have often made, because a previous Chief Minister used to chide me for running down the public servants. I do not do that; there are many public servants who, frankly, when they retire - I hope the Deputy of St. Ouen can recover - I am not quite sure what we are going to do. They are really needed and many of them work very hard. What I am concerned about is the structure in which they work, it is not efficient and it cannot be very inspiring for the people working in it. The private sector has to be lean to survive but, as Government, we have the luxury of no competition and, sadly, the subsequent inefficiency is paid for by taxpayers, which would be an unnecessary overhead for any business. You may recall that not so long ago, some leading businessman said at the beginning of the recession, that if they were running the Island, they would cut costs by 30 per cent. That was not an idle figure plucked out of the air. Just consider that, in terms of our public service, that would mean a reduction in cost of £200 million per annum. If I had a magic wand, I would bring over someone of the calibre of the late Sir John Harvey-Jones to tell us what services we should be

providing and the most economical way of achieving that. As I said, there is a balance between how much we provide; too little and the public are not satisfied, too much and they are still not satisfied because it is necessary to raise the taxes to afford that. One of the comparisons I have drawn between Central Government efficiency and private sector is to compare ourselves with the Parish administration, which I believe from my own personal observation, is infinitely more economical. **[Approbation]** I am not trying to get the Constables on my side. **[Laughter]** It is a genuine belief. One of my concerns about the new income support is that quite a number of people are not getting the support they need. There are people who are getting support who do not need it, and I am sure that both those entities would not have slipped through the old welfare system. It is often said that government is not business and, to an extent, that is true, because certainly government has no place in driving competitors out of business in order to be more profitable. It is not even about making profit. But that does not mean that what we do should not be run like the private sector with regard to accountability and efficiency because, as in the private sector, administration is an overhead, it is a liability and requires tight control. In the private sector, if overheads are left unchecked, it will result in a firm going out of business. In government, it means higher taxes and a higher cost base which in turn damages the economy. What we need to do is identify what is necessary, what is nice to have or, even worse, what is a job creation scheme that is not necessary at all. The work I want to be done is in addition to, not a duplication of, the work presently underway, because the work underway is concentrating on efficiency, making departments as lean as possible, but the question I am asking is: what if those services we are providing are not vital? Are we doing things that the public would rather us not do and thereby reduce their tax bill? What if we could provide more efficient services by some other means? What if we reshuffled the services required across departments and discovered, for example, we only needed half a dozen departments instead of the current 10? No one is asking whether all the services each department provides is necessary or whether, in fact, that particular department is required at all. That is the area I want investigated. At the present time, as I have said, there are 2 issues being looked at: better use of electronic communication and also a lean public service, but my concern is if you have 10 departments, you can make them as lean as possible, but if they are still doing work which is not necessary or if those departments could be amalgamated, you are not achieving the greatest efficiency that you could. So, in seeking the best way to achieve that evaluation, it might even transpire that the team currently working on private sector reform could carry out this extra work but, in my view, this extra work is a vital piece of the jigsaw. I would have thought it should have preceded the public sector reform work that is taking place. Certainly, it can run in parallel with it, and I think it would be a missed opportunity if we did not do that. In my view, it should not cost much, in fact, I think it should be quite capable of being done within the current budget for private sector reform, so I make the proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any other Member wish to speak? Deputy Higgins?

8.1.1 Deputy M.R. Higgins:

I must admit, originally, I was not going to support this, but I have changed my mind and the reason why is that I do feel that although we are doing lots of reviews at the present time, the reviews we are carrying out are, I think, political reviews in some cases. There are certain people within the Council of Ministers who have a particular political agenda for what they are trying to achieve in the reforms.

[14:30]

I believe that they are also being financially or economically-driven rather than needs-based driven. For example, this morning we had questions to Senator Le Gresley on social security, and I know that some of the families that I have been dealing with seem to be falling through the cracks with assistance. I have come across recently a number of families with children with cystic fibrosis, or major autistic problems, and these families are falling through the cracks; they are not getting the support and financial assistance they need, and we just seem to let these people fall by the wayside. So when we go through our States reform and look at what we are doing, these people are forgotten. I really do think there is a need for a holistic look at the States; as I say, not driven by politics, not driven by economics, looking at where we are going to be in a number of years' time and the problems we are facing and how we can address them. It does not have to be political, it does not have to be part of that. And I would like to see the public sector workforce involved in this as well because many people on the shop floor have some brilliant ideas. But if you are trying to say to them: "We want this change otherwise you are not going to get any pay", then that type of reform, to my mind, is not going to achieve it. What I would like them to do is to be involved in saying: "What are our problems? How can we go about doing it?" Forgetting the pay side of it and just looking at the problems we have, how we are addressing them, who we are helping and who we are failing and then try and go forward in that way. I have not heard anything. I see some of the Council of Ministers smirking over there, saying: "Oh, we are already doing it." They are not. You are failing people at the present time and I do not believe that some of the reforms you are going to do will change things. So I am quite happy to support the idea of someone coming in who is not political, who is not looking at it from a purely economic point of view trying to make savings but is looking at the services that we provide and how we provide them. As I say, I was not going to support it but I am and it is because of the cases and the people that we are failing at the present time. There is no prospect, as I can see, for helping some of these people with the way that we are going at the moment.

8.1.2 Senator S.C. Ferguson:

I think Members will be aware of my interest in improving the efficiency of the public sector. In actual fact, if we drive out the waste and make the public sector work more efficiently by analysing what we do, then costs will fall. [Approbation] [Laughter] At least somebody believes me, Sir. [Laughter]

Senator L.J. Farnham:

I just wondered how the Senator managed to stamp her feet while she was standing up. [Laughter]

Senator S.C. Ferguson:

It is so simple; even a man could do it. [Laughter] We can make costs fall by analysing what we do and how we do it. I say this on the basis of evidence. It is not just a pious hope. My Corporate Services Panel is just organising commencing a review of the reform programme and we shall no doubt be skewering the Minister for Economic Development in due course, to quote a former Bailiff. We would be more than happy for Deputy Baudains to join the group and this would certainly be the efficient approach. I would suggest that we should be looking at what is being done before we set up yet another review group with another review of a review of a review. Let us keep it simple. Let us get on with the job.

8.1.3 Deputy R.G. Le Hérisier:

I do agree with some of the sentiments expressed by Senator Ferguson but I think it has to be made clear, the Chief Minister's Department has embarked upon a very long review and I think it was Douglas Hurd who said, when Margaret Thatcher embarked upon civil service reform, that it appeared to have been a process of continuous revolution in that, in a negative sense, it was going on forever. In another sense, what was needed was substantial changes when you dealt with the

Civil Service because it was such a slow moving oil tanker that it was very difficult to keep any energy and oomph in the process. I do agree with the Deputy there. I think this thing is going on. We heard the very positive statement from the Chief Minister this morning where he talked of all sorts of things like lean management and so forth and essentially why he is justifying the 4 per cent pay rise. He has to be praised for having tackled issues which others have essentially avoided but, to me, the one thing missing, despite this excellent work, is oomph. You just do not get change in big organisations unless you have people at the top who can really drive it with a sense of vision, appear to be fair-minded in the way they are approaching it - and maybe that is where Thatcher went off the rails because ultimately you have to carry the organisation along with you even though you are going to create a lot of pain for the people within it. But where it is done in a slow, nebulous fashion, I think people lose energy, they lose track and they lose faith in the process. I think this is what Deputy Baudains is getting at. If you are going to bring about change, you really have to drive it with a degree of energy, which is very, very hard in a system like ours. You only have to see what a mess we have made of reform to realise, (a) our ability to preach to others is rather limited in the circumstances and (b) where you have a whole lot of small but nevertheless effective vested and blocking interests at play that you can basically bring the process into a cul-de-sac very quickly. I think we have shown ourselves to be expert at that. I hear this a lot at Parish meetings: "If only the States were run like the Parishes." **[Approbation]** You have to remember, there are some major differences. First of all, there is a personal control. Constables have a grasp often of the details, they are involved in its day-to-day management and they can see in a very visual way and a very quick feedback way where money is being wasted and where it could be wasted. So it is much easier to run a small, tight organisation where you are, in a sense, the Chief Executive on-the-spot than it is to run a large, massive organisation. The other thing that has to be remembered is that when the going did get rough, for example, when the big bills started to loom about residential care - particularly in the smaller Parishes - who ended up carrying the burden? The States. The issue was referred back very quickly to the States and we now have hopefully a more equitable solution coming up in a couple of weeks. It has to be remembered that if you run a campaign on the basis of keeping the rates as low as possible and you then divert some of the potentially and exponentially expensive items to another government agency, it is not just a question then of being a prudent manager whose skills can then be used in the States. I think the States operate in a very different environment so I am not sure that can be used. The other thing I would like to see in a study, and it could either be done by the Chief Minister's work or it could be helped along by Deputy Baudains, is this eternal question: "What is the right sized administration for a small jurisdiction?" A lot of people keep raising this issue and keep vaguely tilting their head in the direction of other apparently similar jurisdictions. There is no doubt, in a small jurisdiction, particularly one that is semi-autonomous, you have to run a whole lot of services which you would not run if you were a county council in England, for example. You would not have to run foreign affairs. You would not have to run hospital services, which are obviously run by the Health Service, although a lot of that is being pushed back, particularly in the community area, to the local authorities. You would not run police, for example. You would not run the fire service, except by making a contribution. So there are major differences. Whether you can strip out the factors that apply to what you might call our national government role versus our local government role and therefore come to proper comparators, I suppose, is the issue. To conclude, what I do like about this is that I think it gives the move focus. I think it gives it, to use a phrase, a bit of oomph, which I think it needs because there is a real danger with these studies that they go on for ever, the vested interests take over or people lose the will to live. So from that point of view, I think it is a highly commendable proposition.

8.1.4 Deputy J.H. Young:

The Island is fortunate that we have such a high quality of public services generally **[Approbation]** much more so than a community of this size could expect and it is something we take for granted. I certainly have always worried over the years that our government processes only know how to do one thing and that is to increase the size of the public sector. We do not have mechanisms for systematically reviewing it, making decisions on priorities, and looking to see whether there are some things that are no longer necessary and we should not do. Equally, where there are other things that are more important where we should divert those resources. So over the years we have become much less open to change. If you look at the board statistics, spending now £750 million on revenue expenditure and taking tax out of the system of £550 million. I remember when I first came to the Island in 1979; I was a civil servant then. I came to join the Civil Service and we spent about £50 million. Just check the figures: in 1981 we were spending £103 million. We were charging people £50 million for services and taking £80 million of tax. I do not know whether or not that is in line with the 30-year inflation, but certainly from where I have been sitting over the many years as a public servant and then 8 years in the private sector and then 2 years here as a States Member, it seems to be that it has really grown without any systematic process review mechanisms. When I was at a senior level in the public service from 1991 to 2004, I can recall many attempts to try and work out processes to achieve that review mechanism that other Members have spoken of. Endless service reviews conducted by bringing in expensive consultants, huge amounts of reports and effort. I think one of the things that has occurred to me is that Jersey has seen enormous growth in both the things that happen in our community and the size of the community and the population and the service we provide them, and during that phase that growth was unquestionably necessary. For example, our hospital services and so on all had to be built up. Of course now we cannot meet all these costs on an open-ended basis and we have to make those choices. I looked back and saw: “Well, what did the previous attempts to undertake public sector reform have to say?” The Policy and Resources Committee in 2004 came out with a set of symptoms in their report. It was a 5-year vision in 2004 and the issues they said were important were that we put the customer first, reduce what was described as “chronic departmentalism”, encourage joined up policy and strategy, reduce duplication through consolidation and efficiency, develop a flexible workforce, develop an agile organisation that makes timely and effective decisions, enable a horizontal flow of information, implement one way of doing things and deliver better services at lower costs. I do not think that there would be many people who would not see that as a very valid set of objectives which are still as pertinent, if not more so, today. Now, in those days, the excitement with new I.T. (Information Technology) opportunities was a way of delivering that. But I think that we have found, while I.T. enables new processes, it really misses the point because it is about having processes that join people up to work together co-operatively in the spirit of engagement towards a mutual goal. It is about people. There does need to be some process reorganisation, but that is really subordinate to the way in which we gauge our people. Our people are our vital tool to deliver the public services. Without them nothing could happen so I praise them absolutely as much as I can. But they are working within a structure that is seriously hinders those objectives being achieved. I support very much the Council of Ministers objective. I attended the March presentation this year.

[14:45]

I was a bit disappointed to hear that it is going to take another 5 to 6 years. I was thinking: “How is this going to be different to what has gone before?” Because I was worried about some of the damaging processes that we had where we had processes described as “salami slicing”, “death by 1,000 cuts”, “cuts at the margin” and so on, where what happens is that the frontline troops, the frontline services, are the ones that take the hit. Having worked in the private sector, it is important to look at the overheads the business has and look at de-layering. That includes the management overhead. The test should be that every management and administrative structure within an

organisation is: "Is this role adding value?" If not, it is either re-deployment or that role should not be there. This is about recognising the limits of our Island to cope with that degree of cost to the future and being competitive. I, like Deputy Baudains, am very much a fan of the late Sir Harvey-Jones. I recommend his books; I have read them all. What has Deputy Baudains proposition offered which is new? Like him, I do not want to take away from what is happening now. I think though there is a need to have some body which is not controlling because you cannot control this. This process that is already in place by the Council of Ministers has to be allowed to run but it does need a monitoring, reporting role to ensure that if it does need adjustments or political decisions to be made as we go through, that those things are given support. I think that is why I see in the proposition of Deputy Baudains that it adds to what we already have and I shall therefore be supporting it.

8.1.5 Senator A.J.H. Maclean:

I noted there seems to be a little reluctance for anybody else to stand up but I hope there is nothing in that. Reform of the public sector is clearly essential if we are to deliver affordable, efficient and cost-effective public services into the future. I share the passion therefore that Deputy Baudains has for reform and indeed I support the sentiment behind this particular proposition. In fact, we have met to discuss his concerns about the current reform programme and areas that he feels around which we are perhaps acting too slowly and not going far enough. He has also been in, I am pleased to say, to see and meet and interrogate - if I can put it that way - the reform team. I believe that they had some very meaningful and constructive conversations. I was asked to take the lead politically on reform by the Chief Minister back in May of this year. Hopefully it is not a poisoned chalice, many have tried before. It is certainly a challenge but, as I have already alluded to, this time, more than ever before, it is absolutely essential that we succeed. I have to say that I am delighted with the progress that has been made. It has been slow but it has been put together in a sustainable way, in my view, which will lead to a long-term change in the way the public services are put together, but importantly, the way in which they are delivered. I, like Deputy Baudains, asked the question when I first started to look at reform. Why is this going to take so long and I know Deputy Young also asked the same question. Why is this appearing to take as long as it is? The fact of the matter is that the States of Jersey is a large and complex organisation and change in any organisation is difficult but in a public sector organisation it has to be managed to accommodate not only the slowest element but to ensure that the change is positive and, importantly, that it is sustainable. Unlike many programmes that have run in the past which have been nothing short of cutting costs, they have been short term and we have seen those costs built back in again over a period of time. That is not the purpose and that is one of the biggest differences here. This is about making a sustainable, long-term change in the way in which we deal with our public services all together. The reform programme has been designed to ensure that we take people with us. Essentially, that includes staff. Quite naturally, you might say, but sometimes in the past one gets the feeling that has not always been the case. We have to take people with us; it is the only way that we are going to deliver on the sustainable objective. There has to be an appropriate batting order when considering how we put together a reform programme. The first thing is to ensure that the current delivery of services is as efficient and as cost effective as they possibly can be. That is why Members who came along to the presentation that we gave on the reform programme progress to date will have heard terms mentioned like "lean." The lean principle is key to this and has been trialled already across a small number of departments and already delivered some impressive results. It is a trial. Many Members will not have heard about what it has delivered and indeed, many members of the public will not yet have heard what it has delivered. I will come on to that a little bit later. "Lean", what does it mean? It trains staff to think differently and is essentially about getting the right things to the right place, at the right time, while minimising or eliminating waste, by empowering staff and putting the customer at the heart of the

process. It is almost a bit of a mouthful but it is very straightforward and, you could argue, it is business as usual. Why have we not been doing it before? We should have been but we are doing it now. I think that is the important thing. It is where we are now and looking forward is absolutely key. As more staff and more departments become trained with the lean principles, greater benefits will clearly flow in terms of better services for Islanders, delivering much better value for money for every taxpayer pound that is invested. The other reform work streams currently running include the development of - and this is in my mind a key work-stream - e-government. Currently, the States of Jersey, and this is to me a shocking statistic, is only able to facilitate less than 8 per cent of all its transactions with the public electronically. Less than 8 per cent. The realistic target, and what we are aiming for through the change, is 75 per cent. That still allows for and deals with clearly members of the community who are not computer literate and still like to use the traditional methods of mail, but it moves us dramatically from less than 8 per cent to 75 per cent and, of course, as a result will drive efficiencies and cost reductions. It means departments working much more closely together in order to deliver on this, to provide the services that Islanders want, when they want them and in the most, as I have said, cost effective manner. In an Island, and we should not forget this, that is aspiring to be a digital centre of excellence, it is essential that Government can lead the way and as I have said, it will reduce costs and be more efficient. Another work-stream involves staff, workforce modernisation: ensuring a modern workforce incentivised to succeed with flexible training and development opportunities. It involves ensuring that a new culture is embedded to ensure proper engagement, leadership development and effective performance management. Performance management, you would think, is something that we already do but we do not do it nearly as well as we should and it will make a big difference to the delivery of services and what the public ultimately get to see. So where are we now? The reform team and the various work-streams, each one is led by a chief officer, are overseen by a Political Oversight Group, a group that I chair. The Political Oversight Group includes the Chief Minister, the Minister for Treasury and Resources, and Deputy Bryans. As well as the Political Oversight Group to reform, we are also establishing a private sector advisory panel. It is being established and will sit alongside the Political Oversight Group to advise and to guide the programme. Members of this group are, on the whole, in fact completely involved in reform of both public sector and indeed private sector large organisations in the U.K., have extensive experience and I am confident will add significantly to the value of oversight that is required for a programme with this complexity. Deputy Baudains is asking for this proposition and quite frankly when we look at what his proposition is asking us to do and we look at what is already happening with the reform programme, much of it is already there. It is simply a question of timing and perhaps methodology that differs between what we are doing and what Deputy Baudains would like through this proposition to achieve. If Members do accept Deputy Baudains' proposition, what concerns me most is that it is likely to divert important resources away from what we are seeking to do at the moment and that is moving now into the implementation stage. A lot of the basic groundwork, the foundation has been set. We are now moving over the next few months into implementation, having run the trials. What I do not want to see happening is resource having to be diverted to look at another stream of work at this stage which is going to be dealt with later on anyway. It is absolutely essential that we ensure that we keep the right order. It has taken a long time to get this proprietary work done, to get to this stage, to create the foundations. Importantly, it has taken time to get the broad support of departments, of staff and of unions, all aligned and all pointing in the same direction to this well thought through, carefully measured public sector reform programme. We have been, as I have already pointed out, successful in terms of testing Lean in 2 departments, the Health and Social Services Department and the Social Security Department. Over the coming months, this and other programmes, such as e-government, will be rolled out across all States departments as we move into the implementation stage that I have just referred to. That said, to meet our objective of developing a modern and affordable public sector, there are some other

essential measures that can and must be taken in short order. Although it is a sensitive issue, Members will have noted that the recent announcement that the public sector hedge account grew by 152 last year was clearly not welcome. I think it is a point that Deputy Baudains himself, when he was referring to the continued growth and the cost to the public sector, is something that he is rightly concerned about. I think Deputy Young was as well. We have to be realistic, there has been a requirement and there will continue to be a requirement, to bring in specialist staff and specific staff to fulfil programmes in, for example, the Social Security Department in relation to the various very good programmes to mitigate the impact of unemployment. It has been necessary to have staff brought in and that is completely understood. What we are not doing is managing very effectively the staff that are moving out of the organisation at the same time that we are bringing some in. So we are just seeing a continual increase in the head-count and the associated costs that that brings. We have, after all, a work force of something like 6,700 and among that work force, we have natural turnover of staff. That is people leaving for retirement, for their own reasons and that figure is around about 7 per cent. 7 per cent natural turnover of staff within our organisation and so there should be no need, in my view, to grow the work force any further. We should be able to manage with proper and effective vacancy management systems. We should be able to manage those going out with the ones we need to bring in for essential reasons. What it does mean is that any department who has a member of staff leaving the job has to be properly re-evaluated and we have to say: "Do we need to still carry on that function? Do we still need that particular role or could we do it another way?" Central or some form of better control of vacancy management is fundamental and a fundamental part of reform, in my opinion, and it is one reason why I am asking Ministerial colleagues and Chief Officers to look at and advise on and implement on improved vacancy management controls within departments to ensure that the headcount is contained at current levels.

[15:00]

Can this be achieved? Well, yes, I believe it can. I think we have perhaps demonstrated in some respects within my own Economic Development Department that we have already been following a similar format, every requirement for a replaced role is fully scrutinised and we have taken opportunities in the past, which has resulted in the change to the ports when the airport director announced he was leaving a few years ago, rather than just a straight replacement, we looked at whether indeed we needed to replace that role or whether we could do it a different way. We took the 2 ports together, the Harbour and the Airport. We put a Group Chief Executive across the top, we changed the management system and we realised there was duplication. We took out that duplication, we had dual finance functions, dual marketing functions, dual H.R. functions and so on and £1 million of cost was taken out from the top as we merged and integrated the 2 ports together. That it is possible because they sat within one department. We could make the decision to do it and we got on and we did it. We need to have that type of rigour in other departments and indeed departments looking across at others that are perhaps fulfilling similar functions and saying: "Well, if we work together can we do this in a different and more affordable and more efficient way?" I feel that unfortunately, although I have sympathy with what Deputy Baudains is seeking to achieve with this proposition, I would encourage Members to reject it. As I have hopefully laid out, we have done a lot of work; we are at the implementation stage now. We need to move forward with this unimpeded without the distraction that it would bring. What he is seeking to ask us to do I broadly believe we have done with the Political Oversight Group that we have set up. We have States Members on it. There are 3 Ministers on it; Deputy Bryans is on it. That is what he is asking effectively us to do. We have the Independent Advisory Panel that we are setting up with private sector expertise. That is bringing in the expertise necessary to advise further and scrutinise the programme as it rolls out and we have chief officers. Again he talked about a retired Chief Officer being on the panel or group he wanted to set up. We have Chief Officers leading on the

mainstream works anyway. I feel we are largely doing what he is after. The batting order is slightly different. I do not want to distract from where we are. I have already given a briefing statement to Members; many attended. I have given an undertaking that in the spring of next year we will have a repeat session and update on reform. The door is always open anyway for any Member to come and get an update on what is happening with reform, or indeed as Deputy Baudains has done, to come in and meet the reform team and understand in more granular detail exactly where we are and how the programmes are working out as we move forward. That is all I would like to say, but I would encourage Members not to support unfortunately this proposition on this occasion and allow us to continue the essential work to reform the public sector that is already started and is about to move to implementation.

8.1.6 Deputy T.A. Vallois:

I share the frustrations of Deputy Baudains because although I have only been in the States for 5 years, this is not the first time we have talked about public sector reform. As many Members who were here in the last session will know, we went through the Comprehensive Spending Review where a lot of this public sector reform was promised. In actual fact I was on the Scrutiny Panel for Corporate Services who reviewed the first phase of that theatre. On paragraph 7.29 on their report it stated that: "Overall the panel has observed that the Ministers are frequently sheltering behind reviews commissioned to examine savings or provision of service, the option to take bold moves towards a vision of how things could or should be used being missed. There is concern that many of the reviews will result in an inertia for things to stay the same." Although I have the same frustration as Deputy Baudains, I do not believe that yet another review is needed. I think we have plenty of reports, plenty of reviews. There are plenty of other jurisdictions in the world that have done similar research and reviews, and have examples of successful change management. I have met with Senator Maclean and the reform group regularly throughout the last year or so, with regards to public sector reform because I have a particular concern because I was promised with the Corporate Services Panel that with the C.S.R. (Comprehensive Spending Review) all this public sector reform would happen; we would have efficiency savings; and unfortunately I do not feel like it came to fruition. I feel like we basically made the cuts and now we are doing the efficiency savings, which is a little worrying in terms of the sustainability of the savings that have been made; and I say "how" very cautiously because that needs to be evidenced of course. There are only a few more things I would say about public sector reform because time and time again it is assumed that public sector reform never goes anywhere because it is always the States Members that make the Civil Services feel bad or criticise them unnecessarily. From the majority of States Members I know, talk to and work with, I would not think that is the case. It may be put across that way in the public form, but I do not believe that is the case. But one problem that we do have in the States is culture and the behaviour which stems from 30 years of issues and not being able to work properly together and not being able to encourage or base our results on targeted evidence or being able to measure and benchmark the services that we provide. Productivity in the States is one example. How do we measure the productivity in the States? You can ask that question. We cannot, and as far as I know we have not yet, and whether that will be something that comes out of this public sector reform implementation would be in my view one of the very successful things for the States going forward. I also say what we need to do more, because we do not know everything. We have experiences or we are able to research and understand. But the most important thing that we need to be able to do is to listen to those on the frontline; to listen to those who do the work day in, day out. More importantly lead and in order to lead you need to act upon the issues or the problems that come forward and be able to move and drive things forward without making people feel inferior, and be able to encourage the change that we all want going forward. Individuals are the drive for this public sector change and it will not happen overnight. It will not happen in the next year. It is time; it takes every step. Every day something is changing. We may not be able to see it all in one

big bang, but it will happen if we carry on encouraging and working together to try and make it happen. So I cannot support Deputy Baudains in doing yet another review, because I have been part of so many in my small 5 years in the States. I want the Council of Ministers; I support the Strategic Plan; I support Senator Maclean and Senator Gorst in trying to get public sector reform change. Yes, I am chair of P.A.C. (Public Accounts Committee), but as far as I am concerned when I look at work in the public sector it is not about criticising for the sake of criticising. It is trying to be constructive and trying to help and move forward with the public sector, and I hope that all States Members and the public sector employees understand that and will take encouragement forward and enable us to change for the sake of the customer who is the taxpayer.

8.1.7 The Connétable of St. Lawrence:

I rise to speak as a member of S.E.B. elected by the Assembly and not appointed by the Chief Minister. Deputy Baudains has not convinced me that his proposition can add value in any way to the current programme of reform; or indeed he has tried to convince us that his proposition is somehow separate to the aims that we are managing at the moment. I wondered if Members really believe that we should encourage the oomph referred to by Deputy Le Hérissier, because to me that is reminiscent of slash and burn, of kneejerk reaction to crisis situations. Rather, I encourage Members to consider that we should be more prudent and support our current programme of evolutionary change, which is designed to deliver long-term sustainable improvements in service delivery and performance. Speaking of service delivery, I agree that there should be consideration given to some sort of change in that area, but as I understand it, consideration towards that, such as social enterprise initiatives, is already contained in the existing reform programme, and will be considered in due course. I believe that if this is accepted, we would be forced to move on to the next stage of reform before the essential groundwork has been completed; and that really cannot be the right way to manage successful long-term sustainable change, change which we all agree is necessary. As Senator Maclean has told us, change is already being delivered; but it is change that is being delivered through consensus and by the employer working very closely with the Unions and staff associations. As a member of S.E.B, I know that the Unions and their members have recognised that that change is necessary and they are the people working towards it. I do not want to speak for too long on this. I think Senator Maclean spoke very well about it, and I am hoping the Chief Minister is also going to add a few words to this; no doubt he will. But I think what we need to do is recognise what Deputy Vallois has also just reminded us, which is that change takes time. We must have groundwork in place. That is what is happening now. Because when change happens it must be right because otherwise it is wrong. [Laughter] You are absolutely right, Sir, and I think I will finish there.

8.1.8 Deputy R.G. Bryans of St. Helier:

Rather like Deputy Higgins, I was not going to rise to speak, but I thought it was important as the other politician involved in this that I did say a couple of things. First of all, I know it is questioned as to why I was on the team in the first place, and that was simply because I asked for it. I asked for it because I thought it was really important. I think public sector reform is probably one of the most important things this Assembly does. But with regard to Deputy Baudains' proposition, I think there is a confusion of ideas. He has mixed-up the idea to reduce public spending with a public sector reform and redesign. I agree we need to look in a wider context as to how we reduce public spending, but I do not believe the public sector reform is the right context to do this in. At least, it is not what the Assembly voted on. Through this reform or redesign we hope to create a leaner, more efficient public sector, both through modernisation of the workforce and the creation of a strong one-stop approach in government. We are some way down the road to achieving that. We believe we have created the right vehicle to deliver the right result. To change the concept we have created, it could potentially unbalance the good work already achieved. When the public

sector first heard of these reforms they must have genuinely thought: “Not again. We have been here before.” But since the rollout a considerable amount has been achieved and the mindset has changed. We are changing the culture. People have become engaged with the Lean concept and a vast majority now believe this is a real opportunity to create change. They believe in the process and they believe in the people leading this reform. To introduce a new element at this stage could create the notion of tinkering and political interference, and could derail the process. It is early days. The public sector is now showing faith in the reform. As Senator Ferguson said, let us continue with what we have. But Deputy Baudains can accept her invitation, join her panel and we can move on.

[15:15]

This is a profound reform and it needs time and respect for its ambitions to be realised. This will provide a public sector that will stand head and shoulders above similar jurisdictions. Deputy Young spoke with praise about his past colleagues, and rightly so. He spoke of cross-departmental schemes and collaboration. It is happening. We have results. Both Senator Maclean and myself came into this with our eyes wide open. We have been pleased with the progress, but we believe we can achieve more. We have the opportunity. We need the time and space. We welcome the scrutiny, but we cannot at this stage bolt on anything that would take us off track. I cannot support this proposition.

8.1.9 Deputy A.K.F. Green of St. Helier:

I pick up on a few points that Members have raised and expand on them a little bit. I am probably in a unique position. I did something like 40 years’ public sector service; so I have seen it from the coalface and I see it from this side as well. I will chuck in a couple of comments before I get into detail. I led the change for the introduction of new technology in 1984 which resulted in halving the staff in the Catering Department, introducing new technology and a week’s strike. So in fact, Sir, I met your father during that strike when he assisted me in sorting out the arrangements in the car park. **[Laughter]** I worked for a number of years in the U.K., I had been in the Army and I came in very strong and I imposed my change. We had a week’s strike and I got my change. But what I did not get but was so sorely needed was the goodwill of the workforce and I needed to introduce cultural change. You cannot impose cultural change. Successful cultural change is not done to the staff; it is created by the staff, with the staff. That is exactly where we are today. I, as a member of S.E.B. and the Constable of St. Lawrence, Deputy Noel, Deputy Le Bailly and the Chief Minister, we sat down with the union representatives yesterday. I have had many years of industrial relations’ experience. We have just been through a very difficult year with threats of industrial action and so on, and there we were at the table yesterday singing from one hymn sheet. They are there, they are keen, and I think if we continue with the work that we are doing, we will have a job to keep up with the pace of the change that the staff will want to bring in. That is my experience when I have done it before. I can remember when I changed from confrontational style of management to including the staff, I struggled to hold the staff back because the changes were happening too quickly; I could not keep up with it. So we are in a position we have never been in before. You could throw it away if you want to and support this proposition. You could threaten the staff with privatisation. You can undo it all. But I am not going to be part of that. So I am not going to support this. I am going to support our staff, their union reps, the work that they have done in the last year - very difficult work. Sometimes those union reps have been criticised by the staff they represent for coming to the table when they did. We have got there. We are working well. Let us see that change through. Let us make a difference to the public. Let us not get too hung up sometimes about staff numbers as well. Let me give you one example. I can remember staff numbers at the prison being kept artificially low. It cost a fortune in extra overtime. So let us be realistic when we look at staff numbers. If we have a gap in service provision and we need to

provide more staff, such as perhaps - and I just say perhaps - mental health nurses or teachers or whatever, then look at that. Provide that. Make savings somewhere else. But do it with the staff; do not do it on your own; and let us do it in conjunction with our trade union reps who have worked very hard over the last year. I am not going to support this proposition.

8.1.10 Senator I.J. Gorst:

Unfortunately it appeared to me, and I do not take any pleasure in saying that, but perhaps Deputy Baudains was a little confused in his opening comment about exactly what it is that he would like to achieve with his proposal today. Because on the one hand, I understood him to be very supportive of the process that we are doing with redesign, modernisation, which we all know may in due course lead to changes to the departmental structure. Yet, at the same time he said he wanted this piece of work to be about the services that we were providing. Then he went on to say that he felt that changing the structure would enable us to know which services we should provide and which we should not. So I have to say that I think I am not overly sure that Deputy Baudains is quite clear in what it is that he would want to deliver through his proposition anyway. I enjoy the job that this Assembly has given me to do. Yesterday I was walking in the drains under St. Helier. A week or perhaps a fortnight ago, not quite bonfire night, I was at a hotel in town taking part, as were you, Sir, with the Health Awards. I mention the latter because there were a number of programmes being undertaken by Health staff which really arose out of the Lean process which is part of this reform and redesign. This is not just a plan of action that we are talking about today. This is not just something that is going to happen in the future. This is something that has happened, is happening, and is now going to continue to happen because of the momentum that we have already delivered. I say that because in the Health and Social Services Department, as I said this morning in my statement, they have a restaurant. That restaurant has needed to be subsidised by the Health and Social Services Department for many years. Their manager and various individuals went on the Lean course; they are going to go on and do future training, so that they can train others. They went on the Lean course and they realised that they thought they were giving a good service to members of the public and to hospital staff that accessed their restaurant, and they were. But they realised that probably for about 10 years they had not asked themselves: "What does the customer want who uses this restaurant?" So they thought: "Okay. Let us ask what the customer wants." They did just that. They went and asked the customer what do they want "day in and day out from this service that we are providing." When they understood what the customer wanted it enabled them as a result of knowing what the customer wanted to provide what the customer wanted; and it ties in very much with what Senator Ferguson said. They knew what the customer wanted. They started to provide what the customer wanted. What happened? The costs went down. The costs of purchasing what was required, provide that service, went down. At the very same time that they were managing, in the words of Deputy Baudains, their overheads that cause businesses to collapse, as they managed that and reduced their overhead costs, at the very same time their sales increased. They had more customers through the door because they were providing what those customers wanted, and at the very same time their profits rose. That is an excellent example of what public sector reform and redesign is all about. It is about staff on the front line looking at the service they are providing and seeing how they can provide it differently. It saves costs, it improves service to the public, and in that instance it also increased their profit. Something they had never seen before. Another example at the hospital was the Accident and Emergency Department. They started looking at their waiting times and the service that they were providing to individuals who were coming through their door, and they realised that they could do things differently, that they could redirect patients to the best place for them to receive the health care that they needed for what was wrong with them. What happened? Their waiting lists and waiting times went down. That is fantastic. That means that the people of Jersey when they go through that door, they do not have to wait as long to get the health service and the care that they

want. Another excellent example of what is already happening as a result of the work that we have been doing and that Senator Maclean is now heading up with public sector reform and redesign. So perhaps I could ask you a question. I know it is potentially not permitted under Standing Orders, but it is a rhetorical question. If you had a project that you felt was running behind schedule, that you felt was missing the target, that you felt was taking too long and you said to yourself: “What this project needs is a bit of energy. It needs a bit of focus. It needs a bit of oomph”, do you think for a minute you would say to yourself: “The way I can deliver energy, the way I can deliver focus, the way I can deliver oomph to this project is to select 2 States Members and retired civil servant to do just that”? [Laughter]

The Bailiff:

Do not answer that. At least that is a rhetorical question.

Senator I.J. Gorst:

I am not going to answer it either. I think you get the drift of what I am saying. I do not believe for a minute that it is, in the words of Deputy Le Hérisier, that the proposal in this proposition would deliver what he thinks needs to be delivered. In his opening comments he said it is about carrying people with you, and that is exactly right at the centre of why I was able to make that statement about public sector pay in the Assembly this morning. Because for one of the first times in the history of the relationship between employer and employees, we are carrying people with us and it is already delivering saving and transforming the public sector. Deputy Young suggested that we did not do change very well, or we did not like change. I am not sure what the ultimate outcome of his comments was. But he should be in no doubt that we in this Assembly, when we accepted the Strategic Plan, said that we were going to embark on a programme of change like we have never seen before in the public sector; and we have started. We are starting to deliver on that unprecedented change; and yes, it does need the continuing support of Ministers, of this Assembly, to ensure that it continues to move forward. Do we need challenging as Deputy Vallois said? Yes. We are grateful for the challenge that she brings, not only as a Back-Bencher, but also as chairman of P.A.C. So perhaps I could just mention Deputy Higgins as well, who said he arrived today not wanting to support this proposition; but he was now going to support it on the basis that he appeared not to have listened to the mover's comments in opening this proposition, because the mover's comments were about cutting back services and saving costs. But Deputy Higgins was concerned that we were not providing enough services; that we were not spending enough on public services. So I asked him to perhaps change his mind and not to support this proposition. Public sector reform and redesign is about a fundamental root and branch redesign of the service to ensure it is appropriate to the population size and can deliver the services needed in an affordable and sustainable way. Successful change of that magnitude does not happen overnight. It happens in a planned and considered way, and it needs to take all the stakeholders with it. Deputy Green was absolutely right. If we continue in the way that we started I have no doubt that we will find the challenge will be that we in this Assembly cannot keep up with the change that staff want to bring forward and want us to approve, and the management in the departments will struggle with that as well. Deputy Bryans is not an accountant; he is a creative individual and he talks often about harnessing innovation. That is what this programme will do.

[15:30]

It is about harnessing the innovation of our staff who, like us, have the best interests of Jersey and the community at heart. They want to serve, they want to provide a good and valuable service, they want to see inefficiency driven out and they want to see improvement, because they are themselves taxpayers as well and they recognise the service is delivered at a cost. So while I felt that Deputy Baudains was slightly unclear, I imagine he is going to clarify that in his summing up, I ask that

Members, yes, rightly challenge, yes, rightly inquire, but I ask that Members who are not yet committed to this process, who still have concerns about it, get out there, speak to the Minister for Social Security, go and see his staff, speak to the Minister for Health and Social Services, go and see her staff, and see for themselves the great work that is already started and which I believe will gain such momentum that it cannot stop. I ask that Members today overwhelmingly reject this proposition and show their support for the work that is already undertaken because I think it is vitally important to Jersey's future. It is vitally important to providing the services that we know our community need and deserves.

8.1.11 Deputy M. Tadier:

I have been listening to this and I am concerned that some speakers, certainly on the Ministerial side, seem to be painting this as an either/or, is that we cannot have Deputy Baudains' proposition, either parts (a) or (b), because we are already doing something which is moving towards a reform of the public sector. But I think that is a false dichotomy to pursue. The first thing I would say is that if we were to adopt Deputy Baudains' proposition it talks about the services that the public expect and we have never really had a proper debate in modern times, about what are the services that the public expect. Then, how should they be delivered, who is the best body to deliver those and then how should they be paid for? But those 3 are consequential and they have to go in that order. Currently we are not asking the public what level of services they expect. We are telling them and we are telling the private sector. We can talk about sitting the unions around a table, in fact they have been demanding to have meetings for ages and it is our politicians who have been dragging their feet, but we have got there to that point. It is a bit like telling the Christians in Roman times how they are going to die. You can just chuck them into the lions or you can sit them down and give them a briefing and say: "This is how you will be proceeding in battle against the gladiators and the lions." Ultimately you will die of course but at least they will be well briefed about the way they will do it. Deputy Baudains is a lot more positive. It does give the opportunity for the public to give feedback and there will of course be a need for a public consultation on the service level agreement that we have with the public, and the public may say to us: "Well, as a public, as taxpayers and as social security contributors, we expect to be able to go and see the doctor for free." We expect that in a civilised society because if we are ill it should not depend on your ability to pay. Therefore you should not have to be worried about paying to go and see the doctor. These things have never been debated in the public in Jersey. We never give them the opportunity because we are scared of what they might come back and tell us, so we simply do not give them that opportunity. Deputy Baudains would give us that opportunity. When you establish what kind of service level the public would expect you enter into a mutual contract with the public and then we decide the next thing, which we still need to debate I think very urgently, is who provides the services. We have never really had a high level debate about which services are best provided by centralised government, the States, which services are best provided by the Parish and which services are best provided by the private sector or a private-public partnership. We do not have those debates. We do not have the party systems around that allow us to have those debates. Simply at election time you have some individuals who say: "We need a more efficient public sector." Of course who would disagree with that? Nobody would disagree with the fact that we need a more efficient public sector. There are some of us who believe that in order to have a more efficient public sector you need to spend more money in certain areas because when you do not spend enough you have a counterproductive system and you have false economies. That can be the same in any walk of life. These debates do not happen either. Again, Deputy Baudains' proposition would give us the ability to have that debate. Then you talk about the funding of them. If it is decided that we need X level, which is higher levels of service in certain areas which have an immediate cost consequence, which may, nonetheless, lead to long-term savings, we need to decide who pays for that. When you have a long-term care scheme, for example, do you put a proportional

charge on to it? We will be talking about that in a few weeks. Or do you insulate the most wealthy and say: "We will not make the most wealthy in our society pay, we will make the lower earners pay." Again those debates very rarely happen and when they do happen they happen in this Chamber not in wider society. I think Deputy Baudains' proposition is a very valid one. It is clearly a nettle which most Members do not want to grasp because we do not want to give the public their say, which is the old-school way of doing politics: "We know best what to do for you." I think this is a very laudable proposition. Not because I come from the same political background as Deputy Baudains, it has to be said. My conclusions or certainly the areas that I would draw the conclusions I might draw will probably be very different to his but nonetheless you get a group of people who are hopefully objective, who are willing to sit down, do the work as we know often happens very well on committees. You get the public involved, you get the former officers involved, you get politicians involved, and then you hopefully get a better idea of what the problem is because we need to establish what the problems are if we come up with the conclusions. But I would encourage the Deputy, given the fact that this will not go through today, the Ministers have an inbuilt majority clearly, that he should nonetheless consider working on this himself and get other Members involved. But certainly we need to engage with the public more on what level of services they require because we are facing unprecedented austerity and I know from the workload that I get from all across the Island nowadays, it is always to do with housing, to do with health and to do with social security issues. People, rightly or wrongly, do not seem to feel that they have the sufficient social networks in place to cope with their daily lives.

The Bailiff:

Does any other Member wish to speak? Then I call upon Deputy Baudains to reply.

8.1.12 Deputy G.C.L Baudains:

I thank Members for their contribution. I would like first of all to touch upon the issues raised by Deputy Tadier, the last speaker, because I was slightly concerned by speeches of several people that fall into the category - Deputy Bryans, the Constable of St. Lawrence, Deputy Vallois, Senator Maclean and the Chief Minister - that it seems to me they have not understood what it is I am trying to achieve. I notice the Chief Minister started out by saying he thought I was confused. I certainly was after listening to him because he seems to believe that the current reform programme covers all the issues but I think, as Senator Maclean understands because I have had several meetings with him, it does not. The terms of reference and the work that the present team are doing basically falls into 2 categories. It is making a leaner, more efficient public sector and improving the direct electronic communications and ability of our computers to speak to each other. I think we still use Amstrads in some departments. This is a serious matter because I am not trying to modify the present public sector review. I am not trying to interfere in the excellent work that they are doing. What they are doing is vital and it will bring a benefit. But I come back to the point: what is the point of having a department working as efficiently as possible, as lean as possible? You have got the least number of people working in there, and they are all getting 8 hours out of each day and they are not paid a great deal. It is really performing. But half the work they are doing is not necessary and the public do not want it. What is the point? That is exactly what I am driving at. That piece of work is not being done. I would have thought that the public sector reform would have started with that piece of work before they moved on to what they are doing now. I do not want in any way to interfere in the work they are doing. This is a separate piece of work, which I believe is just as important and will produce just as much, if not greater, savings than we are going to get from the greater efficiency that will flow from the present review. I am concerned because over the years - I joined the States in 1998 - and we have had comprehensive spending reviews. I remember at one time we slashed the budget of housing, of course that cut off maintenance so it cost us more in the long term. We have not really made any progress at all because, as Deputy

Tadier so rightly said, we have never had the debate on what services the public want. Maybe they are quite satisfied with what we have got at the moment and the tax that provides that service is just right. Maybe they would like less. Perhaps they would like more. We do not know. As he said also, which I think I covered in my opening speech, what kind of service do the public expect and by whom? Should Central Government be providing it? Should the Parish be providing it? Should the private sector be providing it? As he rightly said, my proposition allows that information to come out. At the present time it does not. As I said, departments have been required to make savings but this Assembly is also to blame in several aspects because every time we pass legislation somebody has to administer, which means an increase in our workforce. I get concerned about the no financial manpower statements at the bottom of some propositions. There is a good example at the last sitting: animal welfare. As far as I am concerned one paragraph could probably have summed up what needed to be done to make sure that animals did not suffer in any way. We had pages and pages of incredible detail and still with holes in it. How much manpower is going to be taken to enforce that to what benefit? I believe we are becoming complacent. Deputy Young referred to it earlier on. This is a small Island, 45 square miles. We are spending about £2 million a day servicing this Island. On the infrastructure we are providing that is unsustainable. We have to seriously look and have a debate with the public as to what services we need to provide because in some ways, I think Deputy Young referred to that as well when he started, that despite having an excellent public service the first job of the public service is to make sure that it grows. It seems to be anyway. I know our pay policy encourages increasing employment within the public service. What I am trying to achieve with this proposition is to cut out the “nice to have” and the frivolous work. Things that have evolved within departments and you need 2 or 3 people to do it, and next year you need 5. For work which the public do not want, do not need, basically unnecessary. What is the point of making that work efficient if you do not need it? If you want the taxpayer to have value for money this is a good way of achieving it. I would reiterate, my proposition is not about efficiency in terms of doing things for the least cost. It is not even about reducing the number of people doing that work, delivering the public services. It is about getting a truly independent analysis of what services we should be providing and how best to deliver those, and that is not within the current remit of the public sector review that is taking place.

[15:45]

The present reform is not looking at what we are delivering. It is only looking at the efficiency regardless of whether or not it is necessary or, as Deputy Tadier said, whether services currently provided for the public could be done better by the Parish, by the private sector. Until we have that information nothing much, in my view, is going to change, so I make the proposition and ask for the appel.

The Bailiff:

The appel is called for in relation to the proposition of Deputy Baudains. I invite Members to return to their seats and the Greffier will open the voting.

Deputy M. Tadier:

Can I ask if the proposer will be taking these separately, (a) and (b)?

The Bailiff:

We can vote on the first one separately. Obviously if that fails then the other one will fail. Start again, the first vote is on paragraph (a) of Deputy Baudains’ proposition and the Greffier will open the voting.

POUR: 11		CONTRE: 36		ABSTAIN: 0
Senator A. Breckon		Senator P.F. Routier		

Connétable of St. John		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator S.C. Ferguson		
Deputy R.G. Le Hérissier (S)		Senator A.J.H. Maclean		
Deputy J.A. Hilton (H)		Senator B.I. Le Marquand		
Deputy S. Pitman (H)		Senator F.du H. Le Gresley		
Deputy M. Tadier (B)		Senator I.J. Gorst		
Deputy T.M. Pitman (H)		Senator L.J. Farnham		
Deputy M.R. Higgins (H)		Senator P.M. Bailhache		
Deputy J.M. Maçon (S)		Connétable of St. Helier		
Deputy G.C.L. Baudains (C)		Connétable of Trinity		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Ouen		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of Grouville		
		Deputy J.A. Martin (H)		
		Deputy G.P. Southern (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		
		Deputy of St. John		
		Deputy J.P.G. Baker (H)		
		Deputy J.H. Young (B)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		

9. The Law Society of Jersey Disciplinary Panel: appointment of lay members (P.103/2013)

The Bailiff:

Then we come to the next matter on the Order Paper is Projet 104, the Law Society of Jersey Disciplinary Panel: appointment of lay members, lodged by the Chief Minister. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether of opinion in accordance with Article 18(2) of the Law Society of Jersey Law 2005, to appoint the following persons as lay members of the Disciplinary Panel of the Law Society of Jersey for a period of 5 years – Mr. Paul John Battrick, M.B.E., Mr. Ian Berry, Mrs. Annette Cullen, Mr. (Patrick) David McGrath, Professor Edward Sallis, O.B.E., Mrs. Deborah Ann Thompson

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

This is a proposition which does as it says and appoints the members to the Disciplinary Panel of the Law Society of Jersey for 5 years as just read out by the Greffier, and I maintain the proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition?

9.1.1 Deputy J.H. Young:

I just want to ask: I very much like Mr. Sallis but I am troubled with how many positions an individual member of the public should hold because, unless I am mistaken, this is now the fourth and I think we do need to broaden out, as it were, rather than just what I would call the great and the good, to more ordinary citizens. I am not going to vote against this because I really like him, he is an excellent chap, but as a principle I do think people should decide on what is their main interest and not, as it were, build up a career of a large number of bodies. So it is not a criticism, it is just a fact that our system does not encourage a broad enough approach to get new people on to these bodies.

9.1.2 Deputy T.M. Pitman:

Very short, if not sweet. I just want to make the same points as Deputy Young, nothing against the people involved, but it has to be highlighted that this goes to the core of what is really wrong with Jersey. It is the reason we have not got a functioning justice system because we keep going for the same people. It is not about getting something that is representative of the Island as a whole. As Deputy Young has said, it is one of the reasons you do not get a fair and reflective picture because we keep going back ... shall I sit down while the Constable chunders, Sir? He is putting me off.

The Connétable of St. John:

Am I allowed to breathe with the Deputy?

Deputy T.M. Pitman:

Breathe, but not muttering and mumbling. It is one of the reasons that we do get warped, lopsided decisions and opinions because we keep going back to the same people. Mr. Sallis is a very nice man but he does seem to get on an awful lot of committees and boards, as do others. I will just flag that up for the Chief Minister and hope that he considers it in the future with his Ministerial colleagues.

9.1.3 Deputy M.R. Higgins:

It sounds like a broken record but I happen to agree. I have mentioned this on numerous occasions about ... those of you if you study Pareto's *Circle of the Elite*. Basically it is a very small number of people who are on all sorts of boards and bodies and unfortunately with every appointment we make, we keep on seeing the same names and so on. It is the same circle of the elite and we do need to widen it. I just endorse what everyone else is saying on this. It is about time we did.

9.1.4 Deputy R.G. Le Hérissier:

I agree on the back of Deputy Higgins. The one thing though, in defence of the Chief Minister, is I have been involved in various behind-the-scenes discussions on this very issue and the one thing that should be said, it was felt that in order to have an open and transparent appointments process it would be literally that. It would be open to people. There would be no positive discrimination, for example, in putting more women on, in-putting more people from immigrant communities, and indeed moving, as Deputy Pitman has said, out of the traditional groups. That is why the system is as it is but given that, and it is getting a bit embarrassing that certain names are appearing with monotonous regularity - fine though those people be, although that individual is - given that I

would ask the Chief Minister if he can bring about a review. I think we are at a crossroads here and I think we have to see whether we can adopt a different approach to how we staff these bodies because they are not reflecting Jersey society in the fullness of the term.

9.1.5 Deputy M. Tadier:

I do not think we should be too harsh on Professor Sallis. We must remember that he did contribute to the very excellent report of the Electoral Commission with their coherent and sound findings, which was then widely accepted by the public in their enthusiastic turnout for the referendum. There is another issue about the Jersey Appointments Commission and when you have a member of the Jersey Appointments Commission appointing effectively themselves to another body, that does again ring the same alarm-bells that have been, I think, rung by my fellow campanologists here insofar as surely it is not simply a case of the same people being selected, it is the people who are doing the selecting which are selecting themselves. You have essentially got intellectual inbreeding going on, which cannot be healthy, even in a small community as our own. I think ideally you would want people appointing from the Appointments Commission who are not necessarily always appointing themselves, it does not seem to be particularly healthy and does not allow for the cross-fertilisation that we would necessarily want.

9.1.6 The Connétable of St. John:

I cannot agree with what has been said by previous speakers. I recognise one or 2 names but I see a number of other names, and I am looking at the person at the top, Mr. Battrick. I do not recall him on any other committee in the past - I am not saying he has not been - and other names there. I just wonder, is it not good to have one or 2 experienced members who know how it all works and some new blood and that is what I am seeing here. **[Approbation]** I am getting so many negative vibes from the Deputies benches. Once they have been in the House a bit longer, and some of them have been in long enough to no better, then they may realise that these people are doing the Island a great service in passing on their knowledge to newer members.

9.1.7 The Connétable of St. Helier:

I would like to continue in the vein of the previous speaker. It is a pity that when people do put themselves forward to serve the community they have to put up with, I think in some cases today, some disparaging comments. The fact is, as they say, if you want something doing ask a busy person, and that I am afraid is what happens with these posts. That people who are good at their job get asked to serve on other committees. I think it is sad that some Members have to ride their hobby horses around the Chamber at every opportunity and I welcome the Chief Minister's list, and I wish the candidates every success.

Deputy T.M. Pitman:

Could I seek a point of clarification from the last speaker because I certainly did not detect any disparaging comments from anyone? We are not criticising these people, as I understood. They were saying it is just the same people, that was the problem. I have nothing bad to say about any of those people put forward and does the Constable understand or appreciate that?

The Connétable of St. Helier:

I also referred to riding hobby horses around the Chamber.

The Bailiff:

Does any other Member wish to speak? I invite the Chief Minister to reply.

9.1.8 Senator I.J. Gorst:

Perhaps another rhetorical question: is there any wonder that others outside of those who are used to the process do not put their names forward when they have to be subjected to such comments, which, albeit in some cases are meant to be constructive. But I am not sure that those who are the recipient of such comments will necessarily see it as such. I would have thought that there are a number of names in those being put forward which are sitting on no other or very few other panels, and therefore I think most of the comments made could be disassociated from these individuals. This is a panel which the members being put on to the panel do not necessarily sit. What happens is a particular disciplinary committee is set up to deal with any given need and I think they have sat twice so far in 2013, so it is not an onerous task with regard to time commitments. So members who are sat on a number of other boards and panels would be able to deal with what is required to sit on this particular panel. Deputy Le Hérissier makes an interesting point in that there was a change to an open process overseen by the Jersey Appointments Commission with adverts in the public domain, and he now seems to be suggesting that perhaps we should move to a closed process where people are tapped on the shoulder. I think that would cause as many problems as issues that it might solve. I think those Members who have put their names forward and been selected. I think Deputy Le Hérissier wishes to have a conversation which is probably better for another time, and I maintain the proposition.

Deputy R.G. Le Hérissier:

I wonder if I could raise a point with the Chief Minister. Could he indicate where I said we should move to a closed system?

Senator I.J. Gorst:

By the fact that he said he did not think an open system was working.

The Bailiff:

The appel is called for in relation to the proposition of the Chief Minister. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 43		CONTRE: 2		ABSTAIN: 1
Senator P.F. Routier		Deputy S. Pitman (H)		Deputy M. Tadier (B)
Senator P.F.C. Ozouf		Deputy G.C.L. Baudains (C)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				

Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

10. Commissioner for Standards: establishment (P.107/2013)

The Bailiff:

We come next to Projet 107, Commissioner for Standards: establishment, lodged by the Privileges and Procedures Committee. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether of opinion (a) to agree that a new position of Commissioner for Standards should be established in Jersey to investigate alleged breaches of the Code of Conduct for elected Members and make recommendations to the Privileges and Procedures Committee following any such investigation; (b) to agree that the Commissioner for Standards should be made responsible for keeping the operation of the Code of Conduct and associated procedures under review and for making recommendations for change as necessary; (c) to request the Privileges and Procedures Committee to bring forward for approval the necessary legislation to give effect to the proposal.

10.1 Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee):

Where to begin. Members will note this report and the underlying consultation document that some time ago the Privileges and Procedures Committee put forward 2 States Members. Anyone who has been a member of P.P.C. in recent years will understand the difficulties associated with the current procedures for investigating alleged breaches of the Code of Conduct. The main problem that successive P.P.C.s have found is that it is extremely hard to investigate the circumstances associated with an alleged breach and then to determine in a totally objective way whether a breach or not has occurred, and if it has what action should be taken. The difficulties associated with the investigation stage are particularly practical. Many investigations of alleged breaches of the Code involve conflicting evidence from different parties. Some are disputes about factual matters and there is often a need to read a variety of documents and get information from a number of people to ascertain the precise facts, if indeed at all that can be achieved.

[16:00]

The structure of a political committee meeting is simply not the best way to undertake an investigation of this nature. As a result, P.P.C. risks finding itself in a position of simply not having a full and accurate factual background when it has to determine whether or not a breach has occurred. The second problem is that with the current system it is extremely difficult for the same body, P.P.C., to undertake all stages of an investigation and determination. The stages that the committee is required to follow under Standing Orders are (1) to decide whether or not circumstances of a complaint justify an investigation, (2) if they do, conduct the investigation, and (3) following the investigation determine whether or not a breach has occurred and if it has, decide what sanction is or are appropriate. In practice it is virtually impossible to undertake the 3 stages in isolation of each other. When discussing whether the circumstances justify an investigation or when conducting that investigation the Committee inevitably strays into the discussion about whether the breach has occurred and how serious a matter it is. This is clearly an unsatisfactory and unfair way to deal with alleged breaches. In addition, although successive P.P.C.s have tried to ensure that political views and differences do not influence the process, it is in practice almost impossible for a group of politicians to do that at all times. Having researched the position of other jurisdictions as set out in the appendix to this proposition, P.P.C. is convinced that the new position of Commissioner for Standards is appropriate and necessary as set out in the report. The position of Commissioner works extremely well elsewhere and P.P.C. sees no reason to believe that it would not also be the case in Jersey. The real advantage of having a Commissioner will be that an independent person will be able to assess whether a complaint received is worthy of investigation and if so, conduct that initial investigation. It will in practice be much easier for one person to interview all of those involved, to call forth necessary documentation and to make all other inquiries as necessary. The investigation will allow the Commissioner to assess the facts in an objective way as happens in other jurisdictions and then to make recommendations to P.P.C. For example, if the facts emerge from an interview or a document that appear to contradict something discovered from an earlier stage of the process, the Commissioner can easily initiate further inquiries to ensure that he or she can ascertain the accurate facts. After completing the investigation the Commissioner will forward a report to P.P.C. and to the Member concerned as happens in other jurisdictions. P.P.C. will then need to meet, will give the Member concerned an opportunity to comment on the findings, but this will not be an opportunity to reopen the entire investigation undertaken by the Commissioner. If the Commissioner is of the opinion that there has been a breach, he or she will recommend an appropriate sanction and it will be for P.P.C. to decide whether or not it agrees with the findings. Some Members may feel that it is wrong that P.P.C. remain involved at the last stage in the process but it is a fundamental principle of parliamentary privilege that the Assembly itself, or a committee of the Assembly, should make the final determination on matters of discipline involving States Members. If the Commissioner or another outside the body or person has the power to determine whether a Member of the States has breached the code and what sanctions were necessary, that person's decision should become subject to a review by the courts and therefore breach the principle that proceedings of the Assembly and its committees are not subject to interference or review by the courts. P.P.C.'s research into other jurisdictions nevertheless showed that in practice there is no need for Members to unduly be concerned about the involvement of parliamentary committee in the final determination once the Commissioner is in place. In practice the Commissioner will present P.P.C. a clear and evidence-based report with their investigation, together with recommendations. If the experience of other places is to be repeated in Jersey, it is extremely difficult for P.P.C. to do anything other than follow the recommendation of the Commissioner. In practice in other places, the principles of parliamentary autonomy are respected by allowing the committee to adjudicate but in practice that adjudication is based almost entirely on the recommendation of the independent Commissioner. Paragraph (b) of the proposition refers to the role of the Commissioner in keeping the operation of

the Code of Conduct and associated procedures under review. In practice it is likely that once the Commissioner has been in post for a certain period, he or she will become aware of the changes that would be desirable in either the text of the code or in the procedure used to investigate alleged breaches. P.P.C. therefore thinks it is entirely logical to allow the Commissioner to be able to recommend any changes that he or she sees as desirable and if they require Standing Order changes, of course they will come back to the Assembly. If this proposition is adopted, legislation will be needed to establish the post and in particular to ensure that the Commissioner has adequate powers and legal protection to undertake his or her work. This is the purpose of paragraph (c). P.P.C. believes that it is necessary to pay a daily rate for the work to ensure that the person of appropriate experience and ability is attracted to apply for the post. It also protects against a person who might have a particular axe to grind against States Members and therefore we hope will attract someone of a more impartial basis. I am informed that the costs can be absorbed within the current States Assembly budget. There are 2 other matters to mention in closing. Members will know that the proposition was initially lodged by the previous P.P.C. and then withdrawn. This was done because inquiries were being made with the States of Guernsey to ascertain whether or not they wished to have a joint Channel Islands' Commissioner. To date the States of Guernsey Assembly and Constitutional Committee is still considering this matter and P.P.C. does not believe it is right to delay it further. It will still be possible to work together with Guernsey at a later date if the position changed. I was very keen to get a decision on this so at least it would allow us to break the deadlock about whether we were going to proceed or not. Therefore, that is why P.P.C. has brought this proposition forward for States Members to consider. In addition to this, Members may or may not be aware that the Council of Ministers inquired with the potential of bringing an amendment to this proposition to consider whether the Ministerial code might also fall into this proposition. After consideration the Council of Ministers decided that at this time this is not how they wish to proceed. I understand that a review of the Ministerial Code of Conduct is underway as there is some duplication between both codes and before anything is received on that matter that that review needs to occur. I believe that the underlying report explains well this proposition and what P.P.C. is trying to do and therefore I would like to make this proposition.

The Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?

10.1.1 The Deputy of St. Ouen:

On face value, the idea of setting up a Commissioner for Standards seems like a good idea. However, I have concerns that it will just be setting up yet another body that ultimately Members can choose to ignore. I say that bearing in mind that we are later on, perhaps tomorrow now, going to be debating our remuneration, a proposed increase, that is being proposed by a body that we set up and agreed would determine the remuneration of the States because at the time we said it was not relevant and we could not deal with it ourselves. We now have to prove to the Privileges and Procedures Committee who were elected to do a job saying: "Well this part, we find this a bit difficult. It is a little bit political and therefore we are going to create a Commissioner for Standard's role" but the Privileges and Procedures Committee are going to make the final formal decision. So it still falls back to the Privileges and Procedures Committee to determine the outcome. So the Commissioner for Standard's hands in part are going to be tied. Furthermore, the question has got to be: will the Privileges and Procedures Committee or will the Commissioner for Standards or both have all the tools for the job? Because if there is going to be a breach of Code of Conduct, if there is going to be a case that is upheld by the Commissioner for Standards, the Privileges and Procedures Committee are going to need to implement sanctions. Well, certainly while I have been in the States I have not seen that resulting in anything much based on what we currently have in the framework that the Privileges and Procedures Committee can operate in. So, I

suppose the question is: do we create something now that looks great on the surface but will do nothing or do we need to create a more robust framework that allows the Privileges and Procedures Committee first of all to implement real sanctions if the Code of Conduct is broken and then consider whether or not a Commissioner would help in that process? I leave it to Members to decide. Thank you.

10.1.2 Deputy S. Pitman:

It was just a question to the Chairman. I wondered why he and his Committee did not consider also applying this to the Bailiff, the Deputy Bailiff, Presiding Officers and the Attorney and Solicitor Generals.

10.1.3 Deputy M. Tadier:

There is not much to add I think for the case for a Commissioner for Standards. All I can say is that having been on P.P.C. essentially for the last 5 years under 3 different Chairmen, one of whom was a woman - so they were not all men; that is what I am trying to say and be P.C. (Politically Correct) at the same time - it is absolutely essential I think that we have a Commissioner for Standards for the reasons that have been outlined. It is not because as the Deputy of St. Owen has suggested or implied that it is too much of a prickly pear or a hot potato that we do not want to handle, it is because it is completely inappropriate to the conduct of good administration of internal justice that politicians do that. It is not something I think is sustainable and so it is quite right. So long as Members are ultimately confident of the independence of the Commissioner for Standards, and that will obviously come back to the States for approval, that should be where we are directing our energies to make sure that that process is robust in the same way you would want to with any individual who is supposed to be independent. I guess an analogy, it is not necessarily a direct analogy, but in the same way that the Privileges and Procedures Committee requires constitutionally to present the Complaint Board's findings that comes to our panel, we do not edit them *per se*. We look at them, read them and then we present them to the States because that is the job of P.P.C. to do it and I think it would be very strange if the Commissioner for Standards were to go away or to conduct his or her independent investigation then find out that there was wrongdoing. But ultimately the sanction must be administered by P.P.C. and there is a process there, there is an audit trail, if you like. So if P.P.C. seem to override or it seems to be overriding sanctions, either conveying an overly-harsh sanction or an underly-harsh sanction which is not consistent with the Commissioner for Standards' findings, then there will be questions to be asked and ultimately P.P.C. will be accountable to the Assembly and will have to stand or fall by their decisions. I think we are making slightly too heavy weather of it. All I will say is that we do have robust debates on P.P.C., we are all in support I think unanimously of the Commissioner for Standards for the reasons that have been outlined, but certainly I will continue to ask that the code for the Council of Ministers should also come under the Commissioner for Standards at some point. It is not a reason now not to do this but there is absolutely no reason why the Chief Minister, the Council of Ministers should not automatically refer and defer to the Commissioner for Standards. Because for the very same reasons, perhaps even more urgently because of the public perception, it is not right for Ministers to be conducting their own inquiries when a member of the public potentially, or a Member of this Assembly, has made a complaint about another Minister. So I think that will develop. We do not need to worry about that but we should be I think sending also a message directly now to the Council of Ministers and we will continue to do that. I will certainly be behind the scenes. But this is a good proposition, it is constructive, and it will lead to a more efficient use of States Members' time.

10.1.4 Senator L.J. Farnham:

I had one or 2 concerns but was reassured a minute ago by Senator Bailhache who reminded me that it was a good way to split up the investigative work from the actual decision of what was going to happen.

[16:15]

I know it is difficult for P.P.C. members to sit in judgment of their peers but it will not remove that because P.P.C. may well still have to do that. I only hope that it does not lead to a plethora of complaints of being very minor. Because when there is a Commissioner for Standards or somebody focused on a certain issue it makes it a lot easier and attractive sometimes for people to make these complaints. So I hope it does not by default cause a lot more volume of disciplinary work but as we are all so well behaved I should not think that would be the case.

10.1.5 The Deputy of St. Martin:

When I first read this report a couple of weeks back I was surprised to see that consultation had been done back in March 2012, surprised inasmuch as I do not remember it and I did not give a submission. But then looking back I probably thought that I had not been experienced in P.P.C. matters or, for that matter, witnessed anything that needed to be complained about. Notwithstanding that, I think this proposition is a very good idea and I particularly like (b) where the Commissioner for Standards would be given the opportunity to make recommendations and make changes as he sees fit. I would like to agree with previous speakers who said that the sanction should be a deterrent because it is desperately important that any sanction is a deterrent otherwise there would be no point in having it at all. I agree with Senator Farnham. I think it is important that P.P.C., who do find themselves between a rock and a hard place, divorce themselves from the initial stages so they do not become the judge and the jury. Finally, I particularly like the idea of the informal resolution option as opposed to the strictly formal process. My experience of that in the past is that it works very well. I shall be supporting this proposition.

10.1.6 Senator B.I. Le Marquand:

I rise as somebody who has done some parallel work in this area on behalf of the Council of Ministers. I was on the whole of the last P.P.C. for 3 years and now have returned to that committee. I was also on the Council of Ministers during the whole of the last 5 years. What was apparent to me during all these periods was that both P.P.C. and the Council of Ministers seriously struggled in relation to determining fact. There are 2 separate issues: there is the issue of investigation and investigatory process. That could create difficulties as well because that can eventually be dealt with by officers and that can create problems. But then determining fact is a serious problem. Neither body is really very good at that. I have to say with no criticism of my colleagues or myself, I think we stumbled our way through various different matters. The great advantage of this that there will be then somebody external and independent to conduct investigation and to make findings of fact. It then will present those findings of fact to the P.P.C. and the P.P.C. can then decide as to what it thinks is the appropriate way forward in terms of some possible sanctions. The ultimate heavy-handed sanctions lie with this Assembly in terms of suspending a person from the Assembly for a period of time; P.P.C. brings a proposition. I had thought for a time that there being a parallel problem within the Council of Ministers, and indeed I was conscious that there was a serious risk that the same incident might lead to there being a complaint against a Minister, both as a Member and also as a Minister. Therefore, you could end up finding 2 different groups: the Chief Minister on the one hand initially and the P.P.C. on the other. Now what would happen if they came to different views on the facts? So I thought for a time it might be useful for the Council of Ministers to tuck into the process and to the procedure, and indeed I prefer to draft amendments upon that basis. But when it went to my colleagues they accepted that there is an issue. They accepted there is a need in the Council of Ministers where

there are complaints against individual Ministers for an investigative process and for an objective fact-finding process but felt it would cause confusion if they were in the same place. So essentially what will virtually be proposed by the Council of Ministers as part of a revised disciplinary code will be setting up a parallel structure. Now it may be that on occasion, and particularly on occasions where it is the same incident, the same set of facts, the Council of Ministers might choose, but this would be their choice, to use the Commissioner for the same purpose to avoid the difficulty of 2 different bodies or 2 different individuals coming to different views on the same facts, so I mention all this. I support the proposition wholly; it is very necessary. I am afraid that we as politicians are not very good at determining fact, we are not very good at judging our peers. In reality, it is quite a difficult task and we need to move forward in this way.

10.1.7 Deputy G.P. Southern:

May I say before I start how refreshing it is to meet a politician who says: "We politicians are not very good at determining facts." How true that is perhaps. I speak as one who has had experience of the system in that recently I brought a complaint against the Social Security Department and Minister for Social Security. Some months later I achieved a result, as Members would have seen, last week or the week before, by taking the complaint to a Complaints Board and they have ruled in favour of a member of the public. However, that was the decision of the department which turned out to be wrong. "Unjust" was the word that was used. At the same time there was a problem, I believed, with the behaviour of the Minister. In attempting to resolve that I first of all had to go to the Chief Minister who investigated, I would say not very effectively, and has ruled that the incident could not be proven. He did not say yes; did not say no. Could not decide. Very unsatisfactory. The member of the public who complained was not given access to the statement from the Minister, does not know how and neither have I. I have never seen that statement. So I took it to P.P.C. and here you see the problem that we have got at the moment: Minister, Chief Minister, P.P.C. both doing the same job, so I have taken the same complaint to the P.P.C. P.P.C., without all of its members because they were conflicted in some ways, decided that it too could not rule. So here we are, we are in the position where a member of the public has not got justice, does not believe he has been really heard, does not believe the investigation has been thorough and it has certainly lacked transparency in that we do not know what evidence was brought before those 2 bodies. So my experience of what happens with a complaint against a Member or a Minister in particular is that we must make a change. While I accept that this move is far from perfect, I would believe that the Ministerial Code of Conduct should be involved from the very beginning. For example, while it is far from perfect, we must make a move to change what we have got because it does not work. It is not transparent, it is not efficient, it is not effective. It simply does not work. So we must make a move and I will be voting in favour of this change as a first step along the way to getting it right.

10.1.8 Deputy T.M. Pitman:

Only briefly, I think a lot of the way things have been looked at and examined is really dependent on how good and what the makeup was of P.P.C. I do not know how many P.P.C.s have come and gone while I have been here but I know I sat on one for a year after about the third go at trying, and that was under the Constable of St. Mary, and it was very good. Not because I was sitting on it but it was a good cross-section of the Assembly, a good cross-section of views and opinions which is what I was referring to earlier. I think this seems to be a good idea but what does concern me though is that consistently P.P.C. have always run with secrecy. When you have got often completely vexatious complaints made, then that Member, whoever he or she may be, should have the right to have that all heard in public if they so wish. I know that in the past that has been denied. That has got to be something that is just as important, I suggest to the Chairman, as getting this Commissioner for Standards up and running. So I think I probably will support it. I do not

think it is an ideal situation but that openness, particularly if a Member has had a complaint made against them, wants that to be known to the public instead of these secret kangaroo courts, then that should be taken on board as well. I hope that is something you will move towards with this committee.

10.1.9 Deputy T.A. Vallois:

I welcome this proposition, Commissioner for Standards, and the reason why I do so is an experience I have had in terms of having to take complaints. What I would urge the Council of Ministers from this point is that they would consider having the Commissioner for Standards to investigate but report to the Chief Minister going forward to make the decision rather than the investigation taken under the Chief Minister's Department. Not because I do not trust or believe in the Chief Minister's Department but I think they have got a big enough job to do in terms of public sector reform and other public sector requirements in the States. I would also like to ask that P.P.C. ensure that when this legislation does come forward they take into consideration the ability to interpret the Code of Conduct so that an investigation and a complaint can be upheld whether proving or not proving that there has been an issue with a Member. Because what I find as Chair of P.A.C. when you come across particular issues - not that I am saying particular Members' issues but any issues within the States - is the clarity of that Code of Conduct or the statutory provisions that sit behind that particular work process so it has to be clear and precise. I think also the expectations of the public need to be considered in terms of a Code of Conduct, not just for Members of this Assembly but the Council of Ministers as well ensuring that we are upholding our role in this Assembly to the highest standards for the Island as a whole.

The Bailiff:

Does any other Member wish to speak? Very well, I invite the Chairman of P.P.C. to reply.

10.1.10 Deputy J.M. Maçon:

The advantage of being on a committee is that some of my members have already tackled some of the points that I have been asked. I thank Members who contributed to this debate. The Deputy of St. Ouen asked some very valid questions. What I would respond to the Deputy of St. Ouen is the role in investigation that we would want the Commissioner for Standards to undertake. The Commissioner for Standards would, first of all, do a lot of the underlying work which, given our particular structure, is very difficult to do in a timely manner. Justice delayed is justice denied and that is not fair on anyone. Being able to have someone in order to tackle this and get on with it is much more efficient and is a much better service to Members than we currently have. The Deputy of St. Ouen asked whether P.P.C. has the tools for the job and talked about sanctions. While that is another debate for another day, the point is P.P.C. in the past has brought several propositions to the Assembly in order to approve different sanctions against Members within the Assembly but for various reasons the Assembly has been reluctant to approve these sanctions in order to give P.P.C. the tools. So the problem very much lies within the Assembly, and P.P.C. can only work with the tools that the Assembly has approved it to have and the Commissioner for Standards would be in the same boat. But until the Assembly was minded to change that, that unfortunately is where we are whether we have the Commissioner for Standards or not. Therefore, it seems to make more sense to me to have this than to not. Deputy S. Pitman asked about why effectively the unelected Members of the States were not included within this proposition. At the present time there is not a code by definition for their conduct and therefore P.P.C. could not rule on them and therefore the Commissioner for Standards could not rule on that.

[16:30]

If that were to change then the Commissioner for Standards could in theory be able to do that but that is the present time at the moment, and it did not come up during the consultation response

when the document went out. You could have knocked me down with a feather when Deputy Southern spoke. I was expecting him to be very against this but it turns out that he is supportive. I am thankful for that. I am also thankful for the comments of Deputy Pitman. Deputy Pitman asked however about the process of whether the hearings should be in public or not. I think to begin with we have to understand that effectively this is a personnel matter to deal with States Members and therefore the presumption of privacy when dealing with a personnel matter should be there to begin with. It is also important noting that no other parliament in the U.K. deals with complaints matters and that if a breach is arrived at then a document in public is produced and sent to this Assembly. In saying that, however, part (b) of this proposition asks for the Commissioner for Standards to look at the processes that go on and if the Commissioner for Standards was to decide that that would be an appropriate way forward, perhaps to give Members that option, then that is for the Commissioner for Standards to decide. At the same time, it is difficult when having hearings with different Members to have them in public; you would not want to be in the situation whereby you did have trial by media, it was already presumed, until the P.P.C. had been able ... the Commissioner for Standards had been able to come to their conclusions about where they felt the merits of the matter were. Therefore, at the moment P.P.C. is not minded to change its stance. Finally, Deputy Vallois did also raise the very important point about the clarity of the Code of Conduct, the ability to interpret the Code of Conduct and while this is formulated, I appreciate the fact that more work will need to be done. But I can give her the assurance I have made a note of it and it is something which I will consider later on. Senator Farnham made an interesting point about whether this would lead to more complaints against States Members. We do not envisage that to happen but what we would hope is where there is merit and where there is a case against a States Member, it is appropriate that that is brought forward for our attention. Therefore, I think I have dealt with the matters raised and I will ask for the appel.

The Bailiff:

The appel is called for then in relation to the proposition of the Privileges and Procedures Committee. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 44	CONTRE: 1	ABSTAIN: 0
Senator P.F. Routier	Deputy of St. Ouen	
Senator P.F.C. Ozouf		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F.du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. John		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérissier (S)		

Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

11. Draft Shipping (Safety Code - Yachts and Small Ships) (Jersey) Regulations 201-(P.118/2013)

The Bailiff:

Very well, we now come to the Draft Shipping (Safety Code -Yachts and Small Ships) (Jersey) Regulations, P.118, lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Shipping (Safety Code - Yachts and Small Ships) (Jersey) Regulations. The States, in pursuance of Articles 49 and 196 of the Shipping (Jersey) Law 2002, have made the following Regulations.

The Bailiff:

Minister, do you wish to propose the Principles?

Senator A.J.H. Maclean:

If I may, I would like to ask my Assistant Minister, Deputy Baker to be rapporteur for this item.

11.1 Deputy J.P.G. Baker of St. Helier (Assistant Minister for Economic Development - rapporteur):

In June this year the United Kingdom introduced a new Order in Council known as a Categorisation of Registries Order. This amends the existing one, which has been in force since 2005, and acts to allow Jersey to register larger commercial vessels than is currently permissible. The new order is the culmination of 3 years' extensive work locally. The original consultation started as far back 2002 and it was seen that there were clearly new opportunities for registering larger yachts and these opportunities would not be available to the Island unless it changes the restrictions under which it currently works. The regulations before the States today will replace the

existing Jersey Safety Codes Order 2005 and in doing so will raise the current tonnage limit from 150 to 400 gross weight of tons. This will be the same as the current limit for private leisure yachts and will, therefore, make available to existing and new customers the opportunity to run larger commercial charter yachts under the Jersey flag. There is also a new category known as a Passenger Yacht. This is for owners who wish to carry more than 12 and less than 36 passengers and the regulations include explicit reference to this category of vessel, therefore, opening Jersey to this market as well. The current order has provided a good safety regime for small commercial ships and larger pleasure craft for the last 8 years. It was introduced to provide an appropriate code against which surveyors could certify pleasure craft on charter and small work boats. The concept of a Code of Practice will continue under these new regulations. Although it is not a matter for debate today, Members may wish to note that subject to these regulations being passed, the Minister for Economic Development will go on and sign 2 orders. The first is a fees order to ensure that fees can be charged for the related survey and certification work. The second order will update the survey and certification regime of ships not covered by the Safety Code Regulations, such as local passenger craft and potentially small cargo and work boats. There are 9 regulations and they are interrelated; I shall run through them briefly. Regulation 1 clarifies the definition and expands the Code into these larger yachts. The second regulation ensures that the yachts operating in Jersey waters ...

The Bailiff:

Do you want to do this at this stage or do you want to do it when proposing the individual regulations?

Deputy J.P.G. Baker:

I may well do it later.

The Bailiff:

You have spoken to the principles and explained generally what has been done. Are the principles seconded then? **[Seconded]** Does anyone wish to speak on the principles?

11.1.1 Senator S.C. Ferguson:

Just a question, is this a piece of U.K. law? Is this a piece that we are bringing to Jersey? Is this a piece of E.U. (European Union) law that we are bringing to Jersey or is this a piece of United Nations law that we are bringing to Jersey?

The Bailiff:

Does any Member wish to speak? Then I invite Deputy Baker to reply.

11.1.2 Deputy J.P.G. Baker:

It is a piece of legislation that sits under the International Maritime Convention and it is a convention that allows vessels registered in different flag States to be recognised by other flag States. What we are doing is increasing our ability to cater for a different size of vessel which until now we have not been able to do. Our Marine Register goes back to around the late 1800s, I am not quite sure of the correct year, but the tonnage limit is a new improvement enabling us to compete and certainly have a presence in a wider maritime arena.

Senator S.C. Ferguson:

I wonder if the rapporteur could answer it completely. Does this mean this is a global quasi-United Nations piece of legislation?

The Bailiff:

He said it is an International Maritime Convention so it is an international treaty. Very well, all those in favour of adopting the principles kindly show. Those against? The principles are adopted. The Deputy of St. Martin, do you wish this matter to be referred to your Scrutiny Panel?

The Deputy of St. Martin (Chairman, Economic Affairs Scrutiny Panel):

No, thank you.

The Bailiff:

Very well. Now, in terms of both the individual regulations, Deputy, do you wish to propose them *en bloc* and simply take questions?

11.2 Deputy J.P.G. Baker:

Yes, please.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on any of the individual regulations?

11.2.1 Senator L.J. Farnham:

I wonder if the Deputy could just remind the Assembly of the increase in the size of tonnages and the advantages we get due to that.

The Bailiff:

Does any Member wish to speak? Very well, I invite the rapporteur to reply.

11.2.2 Deputy J.P.G. Baker:

The current limit for leisure craft is 400 tonnes and all we are doing is maintain the same tonnage limit but allowing vessels up to that size to be commercially coded. The limit currently for commercial vessels is 150 tonnes and that is moving to 400 tonnes, which is the same as the current leisure craft limit.

The Bailiff:

All those in favour of adopting the regulations kindly show. Those against? They are adopted. Do you wish to propose the regulations for Third Reading, Minister?

11.3 Deputy J.P.G. Baker:

Yes, Sir.

The Bailiff:

Is it seconded? **[Seconded]** Does any Member wish to speak in Third Reading?

11.3.1 The Connétable of St. John:

As a former yacht charter operator, the regulations are common sense. In fact I went through my folder and I put a tick against all items so it was not necessary to speak, but this is the commonsense way forward.

The Bailiff:

Does any other Member wish to speak at Third Reading? Very well, all those in favour of adopting the regulations at Third Reading please show. Those against? The appel is called for in relation to the Third Reading of the regulations. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

12. Jersey Heritage Trust: amendments to Constitution (P.119/2013)

The Bailiff:

We come next to Jersey Heritage Trust: amendments to Constitution, P.119, lodged by the Minister for Education, Sport and Culture. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act, dated 25th May 1999, in which they approved a revised Constitution for the Jersey Heritage Trust and to their Act, dated 8th July 2003, in which they agreed that responsibility for the Trust should pass from the Finance and Economics Committee to the Education, Sport and Culture Committee and to agree, in accordance with clause 11.2 of the Constitution of the Trust that it be permitted to amend its Constitution so that (a) references in clause 4.2 and 5.3.1 to the Education, Sport and Culture

Committee be changed to ‘the Minister for Education, Sport and Culture’; and (b) clause 5.3.3 be deleted with consequential renumbering of the clauses which follow; (c) the words ‘three’ be changed to ‘five’, and ‘seven’ be changed to ‘nine’ in the existing clause 5.3.5; (d) in existing clauses 5.4. and 5.5 the word ‘seven’ be changed to ‘eight’.

The Deputy of St. John:

Deputy Bryans will act as rapporteur for this project.

12.1 Deputy R.G. Bryans (Assistant Minister for Education, Sport and Culture - rapporteur):

I will be brief because I think this is a simple straightforward matter. This is a case of getting the right accountability structure in place for the bodies we fund, in particular, this one applies to Jersey Heritage Trust which receives £2.8 million per annum. At the moment States Members sit on the board, one from the Education, Sport and Culture Department. and another elected by the States Assembly, currently that is the Constable of St. Helier. That left the Education, Sport and Culture Department in a potentially difficult position regarding conflict. In short, the board would retain the same number of trustees but there will be no automatic inclusion of nominated States Members, so the board is essentially more independent but also more accountable. Although Jersey Heritage has freedom to change some of the aspects of its constitution, a change of membership requires the approval of the States and that is all I need to say on it.

The Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?

12.1.1 The Deputy of St. Ouen:

I would just like to stand to say that I absolutely support this proposition. My only disappointment is that it has taken nearly 3 years to deal with this matter. I think that it is something that all Ministers need to start paying attention to. Some of these minor and smaller matters need to be dealt with in a far more timely fashion which will enable the individuals, such as the Jersey Heritage Trust and the board, to fulfil their obligations as required under the service level agreements that are in place.

12.1.2 Deputy J.H. Young:

Obviously very important in a housekeeping matter, I am just puzzled why we have still got references to the Education, Sport and Culture Department on the back page, 10.1 and 11.1, under the issue of Constitution and Accountability. Is that an oversight or what? If we have tidied these things up, you really ought to do it in full.

Deputy M. Tadier:

Just to declare an interest in this as far as I am a member of Jersey Heritage. There may be other members but I have got no interest financially.

The Bailiff:

It is all right, Deputy, I do not think so. Does any other Member wish to speak? Then I call upon Deputy Bryans to reply.

12.1.3 Deputy R.G. Bryans:

With regard to Deputy Reed, I completely understand his chagrin at having to wait this length of time because it was he that proposed this in the first place when he was Minister for Education, Sport and Culture.

[16:45]

I can only apologise and say that we did look at it for some time. I know it was pulled at some point and went back through the Council of Ministers just to look at the widening area of responsibility. But, at least we have got there at last. With reference to Deputy Young, I think it probably is an oversight so I am sure we can deal with that in short order.

The Bailiff:

Very well, all those in favour of adopting the proposition kindly show. Those against? The proposition is adopted.

13. Lord Portsea Gift Fund: revised rules and conditions (P.126/2013)

The Bailiff:

We then come to the Lord Portsea Gift Fund: revised rules and conditions, P.126, lodged also by the Minister for Education, Sport and Culture. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of the opinion - to refer to their Act dated 25th May 1971 in which they established rules and conditions with regard to the administration of The Lord Portsea Gift Fund ("the Fund"), and to their Acts dated 3rd February 1981 and 13th May 1997 in which they amended the said rules and conditions; and to agree that (a) subject to the grant of the applications referred to in (b), the rules and conditions of the Fund be modified so as to be effective in accordance with the draft Constitution contained in Appendix 1 to the Report herein; (b) the Minister for Education, Sport and Culture be requested to apply to the Royal Court – (i) for an act of incorporation in respect of the Fund, pursuant to Article 4 of the *Loi (1862) sur les teneures en fidéicommiss et l'incorporation d'associations*; (ii) for orders pursuant to Articles 10 and 17 of that Law authorising the modification of the rules and conditions applying to the Fund so that the whole is effective in accordance with the terms of the said draft Constitution.

The Deputy of St. John:

Deputy Le Hérissier will act as rapporteur for this project.

13.1 Deputy R.G. Le Hérissier (Assistant Minister for Education, Sport and Culture - rapporteur):

This fits in very much with the reform ethos that was spoken about at great length earlier as a result of Deputy Baudains' proposition and also by way of an explanation, because the former Minister for Education, Sport and Culture may raise this issue, why has it taken so long. I know he and his team were again very upset. It took so long simply because it was a backburner issue; it was not a law drafting issue, even though the Law Drafting Department very kindly stepped in and did a lot of the preparatory work, along with one of the senior Crown officers, and so we are mightily relieved it has got this far. This involves a gift fund which was founded in 1971, even though the benefactor in question had died in about 1957. It involved the sum of £17,000 which has now escalated to a sum of approximately £108,000. It involves management by 4 Jurats and 4 members of the Education, Sport and Culture Department, with the Royal Court as a trustee of the fund. It was, in all senses of the term, a bit of an over-managed fund, even though it has been very well managed, and the need has become more and more obvious to rationalise the whole process and to reform it and to place it on a sound legal footing. In other words, if the House approves, to place the fund under the 1862 *fidéicommiss* law, as opposed to a succession of State Acts which currently are all that govern the fund and which make it quite unsatisfactory. As Members will see, from having been composed of 8 people representing the joint management of the Court and the States, it will reduce itself to a 3-person panel and there will be strict provisions put in term for alternates so

that not 2, not one, can turn up and that the business can be transacted. There is still work to do, in terms of the extent of the fund. The previous trustees have expanded its remit but essentially it is confined to people who join the U.K. services, who join the U.K. Civil Service, join the Jersey Civil Service and Guernsey equivalents, and join the Parish authorities. Only last week, as part of the reform approach, we had our first Guernsey applicant and that did go through, which was very nice to say, and that is where we stand. I ask the House's approval so that we can now apply to the Royal Court for proper incorporation with the attached constitution.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? Deputy of St. Ouen.

13.1.1 The Deputy of St. Ouen:

Just to say I fully support this proposition and I would like to extend thanks to all those involved or who have been involved in administering this fund over many years because I have certainly had first-hand experience of their efforts and the way that they consider matters which I believe is beyond question.

The Bailiff:

Does any Member wish to speak? Very well, do you wish to reply, Deputy Le Hérissier?

13.1.2 Deputy R.G. Le Hérissier:

Yes, I would like to echo those thanks and I would, as I mentioned briefly, like to thank ... we have had excellent help from the Law Drafting Department and, in particular, a senior Crown officer, a man well-famed for his knowledge of the historical side of Jersey law (some people will probably know who I mean), he has done an enormous job in trying to pull this together and rationalise it. So, on that basis, I put it to the House.

The Bailiff:

Very well, those in favour of adopting the proposition kindly show. Those against? The proposition is adopted.

14. Dental Health Services: improvements (P.127/2013)

The Bailiff:

We come next to Dental Health Services: improvements, P.127, lodged by Deputy Southern. I will ask the Deputy Greffier to read the proposition, unless Members wish to take it as read. You would like it read out? Very well.

The Deputy Greffier of the States:

The States are asked whether they are of the opinion - to request the Minister for Health and Social Services and the Minister for Social Security to work together to improve the dental health of the Island by undertaking the following actions by the end of 2014 – (a) to transfer the funding of the Jersey Dental Fitness Scheme from the budgets of the Health and Social Services and Social Security Departments to the Health Insurance Fund with the Fund also being used to fund the other measures below as required; (b) to uprate the monthly payment to dentists to bring children to, and then maintain, dental fitness and to ensure that the value of the payment is index linked in future;

(c) to raise the upper earnings limit for qualification for the Jersey Dental Fitness Scheme to the upper boundary of the 4th quintile of annual household income and to ensure that this is index linked in future; (d) to undertake a publicity campaign to promote dental health services provided in

Jersey; (e) to ensure that that the need for upfront payments for dental treatment required by the Westfield scheme is eliminated; (f) to ensure that adequate training is provided by the States to all carers working in public or private residential care so that they are properly trained in the delivery of oral hygiene, including training in relation to the benefits of the use of high-dose fluoride toothpaste for those in residential care; (g) to examine the potential of expanding the range of those eligible to partake in the Jersey Dental Fitness Scheme and to report back to the States with recommendations.

14.1 Deputy G.P. Southern:

Thank you and I thank the Deputy Greffier for having done that reading. The first question to ask is where did this start? It did not come to me in a dream or overnight, it came to me as a result of a piece of Scrutiny work that we did way back in 2010 and these recommendations here were the recommendations made back then. Not one of them has been enacted. In fact, not one of the 21 changes has been enacted, this is just a selection. It has also come on the back of a plea from those involved in dental services on the Island and I will just read the email I got today from the Community Dental Health Director. It says: "I have read your submission and also the reply from the Minister. As you say, they are back-heeling this one and they have completely ignored one of the major issues in this debate." It goes on: "The private dentists who provide the treatment are very concerned that the fees paid to them have not been increased since 1991 and many are getting fed up and will withdraw from providing client care under the J.D.F.S. (Jersey Dental Fitness Scheme) unless this is addressed, as suggested by your submission, to bring it up-to-date with current costs and to index-link it." The fact is, back in 1991-1992 we had an excellent scheme for providing young people with affordable dental health care and that scheme has been neglected, left to wither away, left to rot, it has not been updated since. It has just been ignored by the Social Security Department, the Minister for Social Security, and the Minister for Health and Social Services. But it is a perfectly good scheme, it just needs reviving. Before I go any further, I would like to point out that I believe that Members can, if they wish, vote for any one of those 7 options, they are all of them separate. So there are 7 ways of improving dental health on the Island contained in those paragraphs (a) to (g), and I will be proposing to take each paragraph separately when we come to the end of this. Yet what we are advised today, States Members are strongly urged by the Minister for Social Security and the Minister for Health and Social Services to reject this proposition and one has to ask why. Both Ministers acknowledge that this is an area of genuine public concern and that positive action needs to be taken. To that end, the Minister for Social Security and the Minister for Health and Social Services will incorporate the following actions into their 2014 business plans: "(1) Commission a dental health survey; (2) develop a business case; (3) undertake a review; (4) prepare an implementation plan." The review was done 3 years ago. It was this Scrutiny Panel review. The actions they propose are barely actions at all: "Commission a dental health in-school survey to provide up-to-date information on the current status of dental health among school and pre-school children." That should have been done anyway. If Members turn to page 2 of the comments of the department, they will see a little chart there which compares Jersey dental health in primary schools with U.K. dental health. If Members examine it they will see the dates of those surveys went from Jersey 1987 to Jersey 2008, similarly for the U.K. survey. The first question to ask surely is why no data since 2008? The answer is simple, because they stopped doing the survey. We have no idea what the dental health of our young people is today because we have stopped doing that survey. Again, another sign of neglect and the Minister for Social Security upbraided me earlier for using a 2008 report and here we have 2008 latest figures. They then say: "Develop a business case for developing and implementing a dental health education programme to increase awareness of good oral hygiene and dental health among children and their parents and carers." Again, that should be done now and if that business case and that awareness is improved, that is all well and good but it should have happened anyway and does not

detract from any of the measures that I propose in my proposal. “(3) Undertake a review [another review] of current State spending on dental health services benefits and identify if and how existing spending could be utilised more effectively.” The most effective way to utilise the spending is to upgrade it. It started life back in 1992 as £6 a month. It has stayed there for nearly 20 years, for over 20 years. That is neglect. “Prepare an implementation plan for the delivery of enhanced publicly funded dental care services benefits in Jersey.” Prepare an implementation plan when you have got a perfectly good scheme in front of you now. It was good in 1992; it is good now. All you need to do is revive it by giving it an injection of money.

[17:00]

Dental health is not the top of anybody’s list. It does not compare with cancer operations, it does not compare with cardiovascular operations, it does not compare with stroke. When it comes to the fight for who gets what budget, dental health comes way behind: “Yes, we have to but it is not a priority.” So (a) says: “Take that out of the competition.” For what priority? What is the most important thing in terms of delivering health services? It says: “Put it in the Health Insurance Fund.” This is primary health care. The Health Insurance Fund is designed to assist with primary health care costs and it could, relatively straightforwardly, be used to deliver this particular package without that competition over: “Is this priority, is this not? No, this is priority, do not spend here.” So a list of 4 things, 4 actions, which are not really actions, they are a holding situation: “Let us do some research,” and again using this argument that these proposals do not address the areas of greatest need. As to those promises, I refer Members to the promises made in 2011 by this current Minister for Health and Social Services and the then Minister for Social Security where it says, on page 4 of my proposition: “However, it is accepted that a review of the J.D.F.S. should be undertaken at an appropriate time. This will be before the end of 2012.” Now, just in case anybody does not recognise that, “this will be” not “could be” or “try to”: “... will be before the end of 2012. No additional funding is available for this scheme [hence my option (a)] at present and any enhancements to the scheme will need to be achieved within the current funding envelope.” They were not very keen on spending any money, were they, on people’s dental health, on young people’s dental health? “The review will include the eligibility conditions for the benefit and investigate the reasons given for parents leaving the scheme,” and I put there what happened. I answer that question: “Nothing.” On a different occasion in 2011 Senator Le Gresley, the Minister at the time, says: “I have recently met with Senator Breckon to discuss the proposition P.170 which seeks to improve access to dental services for local residents. After a positive discussion, Senator Breckon has agreed to withdraw his proposition on the basis that I will undertake to ensure that the 2 issues identified by the Scrutiny Panel review of Dental Health Services will be prioritised within my departmental business plan for 2012.” Here we go again, promises. “Will be prioritised within my departmental plan for 2012,” and here we have that exact same promise today except replace 2012 with 2014. It should not be happening. Senator Gresley said: “I am pleased that one of my first acts as Minister has been to make this agreement in the spirit of co-operation, confirming the importance of the Scrutiny function and that of independent Back-Benchers. The Dental Health Services review was undertaken by Health, Social Security and Housing Scrutiny Panel under the chairmanship of former Deputy de Sousa.” So he is pleased to be responding to Scrutiny 2 years go. Nothing happened. “The report S.R.12/2010 was published on 8th November 2010. A joint response from the Ministers for Health and Social Services and Social Security was published on 20th December 2010. The review noted that support with dental costs was available to teenagers through the Dental Fitness Scheme and to pensioners through the 65-plus Health Scheme. However, neither of these schemes has been reviewed for a number of years.” Those are the 2 thrusts that I have put in my proposition today; (1) the Dental Fitness Scheme for young people and (2) the Westfield scheme for access to dental services for the elderly. “I will undertake to review the provision of assistance with dental costs under both these schemes during 2012. The reviews

will also consider the administration of the 2 schemes. Senator Breckon has agreed to play an active part in the 2 reviews that will take place in 2012 and I look forward to working with him during the New Year.” You could not get a more certain and definite promise for action back then. I recently asked Senator Breckon what had happened and he replied: “Absolutely nothing.” So here we are, we have a perfectly good scheme which has been neglected for years, 2 decades, and on which a Scrutiny Report was made, which suggested a way forward. It was a good Scrutiny Report, it was concise, considered itself, it was a nice tight area and made absolutely doable, practical recommendations. Nothing has happened. How many people use the scheme? What is its reach? If Members turn to page 8 of my report, you can see what has happened to Dental scheme members. Remember that this is aimed at 11-plus, it is secondary school people up to 18 and nowadays up to 21 if they stay in higher education, which is quite significant. So it is 10 years’ worth of young people, or more. That is around 10,000 young people. On the first of the little charts there you can see in 2001 it had reached 1,600 members. What is happening today? It is down at 1,230. It is getting to around only 10 per cent of young people. Yet it is perfectly viable, nothing wrong with it, it should be reaching more people. In the spend, a nominal £140,000 a year is due to be spent by the scheme in order to deliver it at £6 a month. Back in 2001 the spend was already short, it was only £100,000. It started going up and then come 2010, the latest figures I have got, it is back down to £88,000. So we are not even spending the money that is already allocated for it. If nothing else, if we had a nice good publicity drive to say this is what we do, then perhaps we could double those numbers and still not breach £140,000 which is already allocated for it. It is sitting there waiting to be revived. I refer to the Consultant in Restorative Dentistry who back in 2010 said: “£6 a month is what the States provide and that £6 a month comes from the £140,000 held by the Social Security Department.” Worryingly, he went on to say: “I think what is more noticed by the providing dentist is the £6 per capita which was introduced in 1992. The States pay the dentists £6 a month for the child enrolled by that dentist and that has not gone up.” That is the bit where there is a level of concern and disquiet by the providing dentists. That was 3 years ago, now it is more than a little disquiet and concern, it is dentists saying: “This is working for charity. That is not what the scheme is designed to do. Please update it and let us deliver a better scheme to more people.” Turning to dental health for older people, if I may? Under the Westfield scheme, under dental services, the scheme provides up to £22 towards a dental check-up for elderly people and every year up to £250 towards dental treatments or dentures and that usually rounds up to £500 in any 2 years. If you need some major work, you have got up to £500 every 2 years. How does an elderly person make that claim? (1) visit the dentist; (2) receive treatment; (3) pay for your treatment; (4) obtain a receipt; (5) forward this receipt plus the completed claim form to Westfield. The key there, and Members will recognise that for many of the elderly finding the sum required for your dental work and then applying to get £500 of it back is not viable. Not every household has £500 or £750 or whatever the cost of the work is, before they get it back. That is not the people on income support who can receive a special payment towards their dental treatment, but for many people in the middle area of pensionable age and middle incomes of pensionable age, finding £500 and waiting to get it back is just not on. This says: “Put that £500, get the estimate of the cost, and pay it” so that the person receiving the treatment does not have to fork that out and then claim it back, because for many people that will not work. The other areas in which we found serious weaknesses, back in 2010, was in the care homes, and this is going to become increasingly important as time goes on, as we see more and more people in care homes requiring dental treatment. The problem back then was that the word was going around and it was in management and some of the carers that cleaning the inside of the mouth for someone who could not do it for themselves, whose mental impairment and capacity, meant they were not able to take that responsibility, it was considered invasive. The consultant had this to say: “Yes, I came into conflict with a manager of one of the homes over that precise issue when a carer brought a patient in to see me at the hospital, and I was frankly appalled at the poor oral hygiene. It was not the patient’s

fault; the patient does not know what to do, they cannot do it. The patient has lost their self-awareness, and it is the responsibility of the carer to take good dental care of those in their care. This is a very simple thing to do if it is done regularly, and those carers are trained.” Again, that should be happening now, and it is not to the extent that it might be. That problem will become increasingly a problem and in terms of improving dental health for the elderly, it is very simple, says the consultant. You simply use high-dose fluoride and you can protect people’s teeth; they will go on for quite a while. A very simple step. Not that expensive, but we have to re-kick start these schemes and make sure they can deliver.

[17:15]

I am then told that we could not possibly deliver this by the end of 2014. The Health Insurance Fund is set up and can be, by regulation, made to deliver a health benefit, but we are told it may need some tweaking in terms of the law in order to do so. We could not possibly do that by the end of 2014, which is my target, could we? Yes, we could. Even if it requires a tweak to the law, then that can go to the Council and come back from the U.K. and be accepted and still we could deliver by the end of 2014 a revived and workable, practical scheme. Then we are told that we do not have the money to spend on this. I say that is very short-sighted. One of the reasons why I put article (a) in, to transfer it to the H.I.F. (Health Insurance Fund) is to make sure there is money there. The Health Insurance Fund is healthy, and every Member in this room knows how healthy it is because for the last 2 years we have voted £6 million to come out of the Health Insurance Fund and be spent directly on primary care services at the services that the hospital is responsible for administering, that the Minister for Health and Social Services is responsible for. Paid directly into primary care that no one is responsible for. **[Laughter]** I will not quote the Minister for Health and Social Services from 2010 when she said: “Well, I have got no idea what happens in dentistry” or words to that effect. Nonetheless, it is healthy, it has got £77 million in it, it is still going up, and for the last 2 years we have taken £6 million out of it and put it in a different pot, so it could be made to work. It is not impossible. Finally, what I am saying is that what we should do is get a nice publicity campaign going and make sure that our young people are aware of what is available, and let us see if we cannot raise that 10 per cent of a population which are currently partaking in the scheme and raise that at least double as a starting point. Let us raise it and make sure that we get our young people’s dental health back up to where it should be. Finally, I will just quote from the comments made by the Minister for Health and Social Services, probably: “Despite the problems identified above in respect of Deputy Southern’s specific proposals, both Ministers are committed to improving existing dental services. Inevitably, the primary care review will have a part to play. I accept that they are busy. But with that review proving to be a considerably more complex and difficult project than originally anticipated, both Ministers recognise that immediate steps can be taken in advance of the completion of the new model of primary care to improve the dental health in key areas.” So, despite this mass of work that is going on to review the delivery of primary care, they are saying steps can be taken. I am arguing that those steps and specific actions will be included in 2014. I am saying that those specific actions should be just that: actions. Revive this scheme, improve the Westfield scheme, deliver good dental health to our residents. That is far better than doing another review, than doing nothing or simply working towards some target that may disappear in the rest of the priorities that health quite rightly has. I urge Members to vote, as I say, individually for each and every one of these propositions, but if they are taken by some of the arguments presented against doing this, because we were urged not to support this by the Ministers, then it is possible to vote for some and not all, because you will at least be doing some good.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition?

14.1.1 Deputy R.G. Bryans:

I am really pleased Deputy Southern has raised this issue, because it highlights something I have been looking at for some time, not necessarily dental health but early intervention, since last year when Deputy Martin and Deputy Moore and I attended a NorPIP (Northamptonshire Parent Infant Partnership) conference in the U.K. It focused all of our attentions, I think, on this need for early intervention, and it just highlights how things like the British-Irish Council are so important to us, because at that conference I was able to talk with the Scottish Culture Minister who is partly responsible for what they call a “Child Smile Campaign” which is an early intervention from the age of 3 months, when they get in and start to discuss oral health with the children. This campaign has been running for about 6 years now and has produced fantastic results. I am not saying the state of our children’s teeth is as bad as that of Scotland, but the quicker we get in there, the end result will always be that we end up with something that is less costly in the long run, which is what the evidence provided in Scotland. Currently in Scotland they go into nurseries and they teach the children on a daily basis how to brush their teeth. The evidence she provided to me, and I will provide to anybody who wants to discuss it further, it was just amazing what the end result has been, and the diminution of numbers in terms of people having fillings and the like. Equally, it allows me to mention the fact that I have been currently investigating the notion of Finnish birth boxes with the Executive Director of the Jersey Childcare Trust. I do not know if anybody knows, but one of them was given to Prince George, and what they do at the point of birth is to give one of these boxes which accommodates a lot of materials that will help parents in the future, both in the natural upbringing of the children, it will educate them about how to look after the children. It also is like a kick-starter box in terms of providing them with the materials to begin the progress of looking after the health and welfare of their children. I thank the Deputy for bringing this to our attention. I will not be supporting all of it. I am very pleased that he has separated it out piece by piece, but I think it is an important thing that we get in and deal with the dental health of our children. Thank you.

Senator P.F. Routier:

I just sense that there might be some long speeches about to start and I was just going to propose the adjournment.

The Bailiff:

Very well, the Assembly will adjourn and reconvene at 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:23]