

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 17th JANUARY 2017

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[10:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1.1 H.E. The Lieutenant Governor – swearing-in on 13th March 2017

The Bailiff:

First of all, welcome back to all Members after the Christmas break. I would like to give notice to Members of the swearing-in date for the new Lieutenant Governor, which is going to be on Monday, 13th March, if you would please enter that into your diaries. The new Lieutenant Governor will be attending his first States meeting on Tuesday, 14th March, when I think he will be exercising the customary right to speak on the first occasion he is in the States. It is expected that we will then adjourn for a brief half hour or so in order that he can meet Members informally outside. There will be a formal dinner on that evening to welcome the Lieutenant Governor to the Island.

QUESTIONS

2. Written Questions

2.1 THE DEPUTY OF GROUVILLE OF THE CHIEF MINISTER REGARDING THE EXTENSION OF FREEDOM OF INFORMATION LEGISLATION TO STATES-OWNED COMPANIES: [1(1)]

Question

Following the Assembly's adoption on 25th November 2014 of my proposition, P.149/2014, to extend the scope of the Freedom of Information (Jersey) Law 2011 to all companies either wholly owned by the States or where the States own a majority shareholding, will the Chief Minister confirm:

- (a) what progress, if any, has been made in the past two years to achieve that end;
- (b) which companies now comply with the Law and which do not; and
- (c) which exemptions within the Law could be invoked by such companies either to cover commercially sensitive material or where disclosure might prejudice commercial interests?

Answer

- a) The extension of the Freedom of Information (Jersey) Law 2011 (FOI) to cover companies wholly owned by, or controlled by, the States of Jersey, and bodies majority funded by the States of Jersey, remains under review.

This review will be concluded during the first quarter of 2017, and consequent changes brought forward as soon as possible thereafter.

At this juncture, however, it seems valuable to provide some insight into this work:

- A range of issues are relevant, including the impact on companies operating in competitive markets, the impact on investment decisions of private investors, and the implications for trading and contractual relationships, in particular, those with parties outside of Jersey.

- The other precautions that are in place are also relevant, including the fact that FOI requests can be made through the shareholder in relation to the information held by the Treasury and Resources Department and Minister; existing rules, such as the Competition (Jersey) Law 2005; broader rules such as the London Stock Exchange's rules and compliance with international accounting standards; the ability to audit these entities
- The exemptions under the Law, as identified and outlined in part (c) below, are also subject to review as part of the extension of the FOI Law to additional entities, to ensure that the exemptions are appropriate and sufficient.
- Alongside this, consideration is also been given to improving the FOI Law, so as to make it clearer as to which entities are captured, including replacing Schedule 1, which outlines generically the bodies captured by the Law, with a fuller listing of specific bodies captured, which can be added to over time.

This would provide opportunity for case-by-case consideration of additional entities, including the bodies provided for in P149/2014, "Freedom of Information: Extension to companies owned or controlled by the States"; *and* a range of other bodies established to deliver functions on behalf of the public, as opposed to just the companies listed in P149/2014.

- Finally, some consideration is been given to the appropriate extent of inclusion of the bodies outlined in P149/2014, and any limitations that may be wise.

These matters remain under consideration, and will be concluded upon during the first quarter of 2017 in order then to deliver on the decision of the Assembly.

- b) The bodies covered by the Law are governed by Article 1 (which outlines the nature of bodies which could be covered); and Schedule 1 (which outlines the nature of bodies which are covered). This has been updated since the Law was introduced to include specific bodies, including Andium Homes, the States of Jersey Police Force, and the Parishes.
- c) The exemptions are listed in full in FOI (Jersey) Law 2011 (<https://www.jerseylaw.je/laws/revised/Pages/16.330.aspx>), but the most likely exemptions that would be invoked are those related to personal information, noting the volume of such information held by some companies, and commercial interests, noting in particular that a number of the companies outlined in P149/2014 are competing in the market place, including the securing of terms with third parties, including suppliers.

The use of any exemption depends on the information requested and, in the case of the qualified exemptions the balance between exemption and the use of a public interest test.

2.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE MINIMUM WAGE AND A NATIONAL LIVING WAGE: [1(3)]

Question

Given that the Minister for Social Security did not present a report by December 2016 in line with the Assembly's adoption on 20th January 2016 of paragraph (b) of 'Minimum Wage: revised hourly rate from 1st April 2016' (P.150/2015), what action will the Chief Minister take to ensure that an investigation into the impact on the tax and benefit system of a significant rise in the

minimum wage and an assessment of the potential economic impact for Jersey of the U.K. Government's move to a national living wage take place this year?

Furthermore, what assessment has he made of the U.K.'s Low Pay Commission report on the rise of the national living wage to £7.20 in April 2016, published in November 2016; and given that the U.K. has seen little reduction in job numbers or shift and overtime rates, despite the warnings of employers, and

- 1.6 million over 25s on the minimum wage received a 10.8% annual rise;
- A quarter of over 25s (earning up to £9 an hour) received pay rises over the average; and
- Increasing numbers of under 25s were paid at least £7.20,

will he now commit his government to similar action and if not, why not?

Answer

The Minister for Social Security outlined in a response to a States question on 13th September, 2016¹ that the investigation required is underway, inclusive of work undertaken since the adoption of P.150/2015, including:

- Additions to the Statistics Unit's Business Tendency Survey in March 2016 to collect data on the views of business of the impact of a higher minimum wage;
- Work undertaken by the Employment Forum in reaching its 2016 recommendations about the impact in Jersey of the £7.20 UK rate, and views on increasing the minimum wage more significantly and more quickly in the future.
- Additional economic analysis, undertaken by Oxera and overseen by the Economics Unit, looking at the direct and indirect economic and fiscal impacts of a significantly higher minimum wage in Jersey.

The aim is to complete this work in time to support the Employment Forum in their minimum wage review this year (which would have been the same timeline if the investigation had of been finished slightly earlier in December) with the analysis presented to the States as soon as possible in advance. Of course, other people are welcome to make submissions to the Employment Forum, including States' Members.

As to committing to take action similar to the United Kingdom's decision, this is not achievable following the decision of the Assembly to reject a proposition last year that would have permitted the introduction of a higher minimum wage rate for older employees in Jersey (which is the method adopted by the United Kingdom in setting its premium rate for over 25s in April last year).

Nevertheless, we are committing to achieving greater increases in the minimum wage in the future, subject to economic conditions, and aiming to support our overall economic policies, which are focused on productivity growth within the context of limited migration.

¹[www.statesassembly.gov.je/AssemblyQuestions/2016/\(9577\)%20Dep%20Mezec%20to%20SS%20re%20rise%20in%20minimum%20wage.pdf](http://www.statesassembly.gov.je/AssemblyQuestions/2016/(9577)%20Dep%20Mezec%20to%20SS%20re%20rise%20in%20minimum%20wage.pdf)

2.3 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR INFRASTRUCTURE REGARDING THE UNDERTAKING OF DESIGN COMPETITIONS FOR ARCHITECTURE AND LANDSCAPE SCHEMES: [1(4)]

Question

Have the Minister and his Department ever given consideration to conducting design competitions in order to evaluate ideas and proposals for the Island's architecture and landscape schemes; if not, why not; and, if so:

- (a) what weighting, if any, is given to design above cost; and
- (b) what encouragement, if any, is given to local design professionals who pay tax in Jersey and can demonstrate an understanding of the Island's character and uniqueness?

Answer

I am assuming that the Deputy is limiting her question to projects undertaken by the Department for Infrastructure on behalf of the Public rather than those undertaken by the private sector.

When in house resources are not used, the Department does not conduct design competitions but does encourage local architects to tender for projects in their own name or in conjunction with off-Island organisations where the on-Island practice does not have sufficient capacity or experience.

For appointments that exceed the threshold in relevant Financial Directions whereby a competitive process is required, the assessment of submissions will usually consider both 'cost' and 'quality' aspects.

A scheme where design is a key assessment criteria will attract a higher weighting within the overall 'quality' assessment and may impact on the relative weighting between 'cost' and 'quality'. These weightings, together with other procurement assessment criteria, are set out in an approved procurement strategy for the commission.

The 'quality' assessment is likely to include a requirement to provide experience relevant to the commission and any interview process would look to obtain an understanding of the applicant's design credentials and approach to the project.

The procurement process is undertaken using the States e-tendering portal. Expressions of interest and tender submissions are sought from suitably qualified organisations. Applicants will need to demonstrate an appropriate understand and experience of the Jersey design vernacular. Where the tender is not limited to on-Island suppliers, there is no adjustment to the cost submission between on-Island and off-Island submissions.

2.4 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR INFRASTRUCTURE REGARDING THE DEPARTMENT'S PROCUREMENT POLICY FOR LANDSCAPE ARCHITECTS TENDERING FOR STATES WORK: [1(5)]

Question

Will the Minister set out his Department's procurement policy for landscape architects wishing to tender for States work and, in so doing, will he include any restrictions which might be applied, such as minimum annual turnover?

Answer

Procurement of architectural and landscape services is undertaken in accordance with relevant States Financial Directions for the procurement of goods and services – Financial Direction 5.1 and, for larger capital projects, Financial Direction 5.6.

The Financial Directions provide for departure from a competitive process where the anticipated cost is below a designated financial threshold or an alternative approach is proposed and supported through the exemption process as set out in the Financial Directions.

In considering a submission the commissioning officer, or evaluation panel where required, will undertake appropriate financial due diligence. This will include the applicant's ability to provide suitable resources to successfully undertake the commission and such other work in which the applicant is, or may be, engaged.

The applicant will need to be able to satisfy the States standard contract conditions, particularly with regard to providing an appropriate level of insurances.

2.5 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR INFRASTRUCTURE REGARDING THE ARCHITECTURE FIRM SELECTED TO DESIGN THE LANDSCAPE SCHEME AT LA COLLETTE: [1(6)]

Question

Will the Minister advise whether an off-Island landscape architecture firm was picked to design the landscape scheme for Jersey's entrance and gateway at La Collette; and, if so, will he explain how, and why, this firm was selected?

And will he further explain how the employment of U.K. consultants, in circumstances where appropriate local firms also exist, meets the objectives of Financial Directions 5.1 to 5.6?

Answer

I am assuming that the Deputy is referring to the La Collette Headland which is the subject of a current planning application and includes an element of landscape design.

The procurement of services to prepare and submit the planning application and environmental impact assessment was carried out as a fully competitive process and in accordance with Financial Codes of Direction 5.1 and 5.6. The work was tendered to specialist lead consultants who selected their own sub consultants to work alongside them. The landscape architecture was a sub consultant's package of which the successful tenderer ultimately selected an off Island provider.

The procurement package encouraged tenders to use on Island providers where appropriate and the successful tenderer has used a local firm, Nurture Ecology Ltd, who provided ecological advice in the preparation of the planning application.

The objectives of the Financial Directions 5.1 and 5.6 is to ensure public money is spent in the most cost effective transparent way whilst ensuring best practice methods of procurement are followed. The procurement of this package of work met these objectives.

2.6 DEPUTY J.A. HILTON OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING IMPLEMENTATION OF THE RECOMMENDATIONS OF THE 'WILLIAMSON REPORT': [1(7)]

Question

Will the Minister inform Members how many recommendations of 'An Inquiry into Child Protection in Jersey' (the 'Williamson Report') have been implemented in full; what outcomes have

been achieved from those recommendations; and, where recommendations have not been implemented in full, will he give the reasons why this has happened and explain any alternative actions taken to address those recommendations?

Answer

On 4th February 2009, the then HSSD Minister presented the ‘Williamson Report - Implementation Plan - Approval and Funding’ (R.8/2009) to the States. Since then, the HSSD Minister of the time has reported to the Assembly on several occasions in relation to progress, including a detailed answer to a written question (9147) tabled by the Member on 19 January 2016. It is important to stress that the work in relation to the Williamson recommendations (which included other departments as well as Health and Social Services) was largely complete by 2013 when the associated funding ended as agreed.

While the services set out in the response to question 9147 remain in place and are incorporated into business as usual, the agenda has moved on. The Children’s Improvement Board (set up in 2015 and chaired by the Chief Minister) was established to oversee a comprehensive improvement programme for Children’s Services subsuming all existing and new issues affecting the service, with new funding made available. By the end of March 2017, the Independent Jersey Care Inquiry is due to report requiring the States to respond and to formulate and implement an appropriate action plan involving those who work with children across the whole system.

The outcomes from the Williamson implementation plan include:

- Senior political oversight for vulnerable children and young people, with the HSSD Minister having lead responsibility for vulnerable children and young people
- An understanding of the performance of services and impact on children and young people following external scrutiny; an understanding of what’s working well and what requires improvement.
- Independent scrutiny applied to care planning for children with opportunity provided for children and young people to speak/meet the Independent Review Officer.
- Children and young people provided with independent external parties to advocate on their behalf, share views and contribute to safeguarding arrangements.
- Looked After Children stay on-island wherever possible.
- Concerns can be raised by staff in a safe manner without fear of repercussion.
- Children and young people can raise complaints
- A strategic framework in place to support partnership working which sets out to improve outcomes for children and young people.
- Emergency out of hours service in place to respond to vulnerable or at risk children and young people.

2.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING INCOME INEQUALITY: [1(8)]

Question

Given that 'Jersey Household Income Distribution 2014/15' revealed income inequality had increased since 2009/10, what measures, if any, has the Chief Minister and his Department actively pursued to mitigate the increase? In particular, and further to answers provided to oral question 9076 on 17th November 2015, will he inform members what data, if any, has been collected on the impact the policy of 90% rents in social housing has had on such inequality?

Will he further advise why, given their use as measures of income inequality, the 90-10 income ratio, the 90-10 income shares ratio and the Gini coefficient are not included as significant measurable progress indicators in the 'Shaping our Future' policy?

Answer

The Income Distribution Survey analyses income before and after housing costs, and reflects the economic situation during a period of global financial crisis. In recent years, Jersey has, however, shown an improved economic performance, with participation in the workforce having increased considerably, unemployment at a record 6 year low, and earnings growth above inflation.

This is a reflection of the policies being followed by the Council of Ministers - supporting our economy to grow and continuing to focus on the 'back to work' programme - so that we help people into work, and help them to earn more.

At the same time, more needs to be done to improve the position of people across our society, especially the most disadvantaged, which is why the following is critical:

- Prioritising education and focusing on providing children with the best start in life to improve outcomes, for example, the pupil premium will support children with the highest needs.
- Investment in health and social services to improve people's health and well-being, including their mental and physical health.
- Continuing investment in infrastructure, including improving the people's standard of housing, for example - incorporating higher insulation standards to reduce tenant's heating costs; forthcoming legislation to improve private rental standards; and absolutely necessary investment in refurbishing our social housing to meet decent homes standards.

The 90% rent policy is a critical component of the Island being able to afford this additional investment in social housing. However, its introduction is a gradual process; at present 27.5% of Andium Homes' tenants pay 90% rent and the average rent is 77% of market rent. It therefore remains too early to assess the full impact – and instead, the progression of the policy continues to be monitored.

At the same time, low income households are protected from rent increases when they move on to the 90% rents policy through Income Support, as the accommodation component has been adjusted upwards to reflect social housing rents.

These critical issues of standard of living, income, and income equality, are important matters for inclusion in the Long Term Plan. The Plan will mirror international best practise by identifying 'headline' Island Indicators suitable for Jersey, aligned to economic, social and environmental outcomes, and inclusive of appropriate measures for income and equality. Experience elsewhere has shown the value of choosing a small number of these headline indicators, and no performance indicator should ever be interpreted in isolation. They 'indicate', they do not explain. Understanding what trends mean and why they are emerging is key if the indicators are to inform strategy and policy development. That is why each Island Indicator must be supported by a range of other performance information, in order to understand the 'story behind the baseline'.

This is why the suite of indicators outlined in the Long Term Plan related to affordable living in Jersey includes disposable income, relative low income, housing affordability, households in rental stress, and a perception indicator about how households are coping financially. Other indicators in the framework include unemployment and average earnings. Many indicators in the framework can also be interrogated in more detail through the lens of different income groups, pensioners or children.

All these indicators have been selected in discussion with the independent Chief Statistician and all mirror examples used in other places. They naturally lead to supporting evidence such as the 90-10 income ratio, the 90-10 income shares ratio and the Gini coefficient. These remain an integral part of the evidence base. It would be wrong to think otherwise.

2.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE WITHHOLDING OF INCOME SUPPORT: [1(9)]

Question

Further to the answer to oral question 9758, asked on 12th December 2016, will the Minister, as agreed, circulate written notes by 17th January 2017 on the four topics relating to the withholding of Income Support?

Will she further undertake to give a detailed answer to the question and advise how many Income Support claims have been subject to the withholding of benefit paid, and the sums involved, through:

- (a) sanctions;
- (b) overpayment charges;
- (c) Household Medical Account payments; and
- (d) loan repayments on special payments;

and will she provide the total sum withheld in the first quarter of 2016?

Answer

This question asks for a significant amount of information, relating to four very different areas of Income Support administration. It requires detailed analysis of a large number of records to provide a comprehensive answer and a clear explanation of the data. On the 12 December 2016 during the supplementary dialogue following the answer to oral question 9758² the Social Security Minister offered to circulate some written notes on this topic to members prior to the next States sitting. This suggestion was then superseded by Deputy Southern's proposal for the answer to be prepared for

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[http://www.statesassembly.gov.je/AssemblyQuestions/2016/\(9758\)%20Dep%20Southern%20to%20SS%20re%20withholding%20of%20Income%20Support%20payments.pdf](http://www.statesassembly.gov.je/AssemblyQuestions/2016/(9758)%20Dep%20Southern%20to%20SS%20re%20withholding%20of%20Income%20Support%20payments.pdf)

the States sitting on 31st January 2017. I can therefore confirm that work is underway, and has been scheduled to meet this deadline, as agreed.

2.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING A REVIEW IN RESPECT OF PRIMARY HEALTH CARE SERVICES IN THE ISLAND: [1(10)]

Question

Will the Minister inform members of the terms of reference agreed between her Department and Deloittes in the preparation of their review of the provision of, funding of, and access to primary health care services in the Island due in the first quarter of 2017?

In particular, what scope is there in the review to examine:

- (a) the cost of GP consultations and the extent to which this prevents those on low incomes from seeking early intervention;
- (b) the level of co-payment involved;
- (c) the role of health / impairment components and Household Medical Accounts in the Income Support system; and
- (d) the need, or otherwise, to maintain free prescriptions for all?

Answer

The scope of the review, as previously published in the States procurement portal, is shown below. For clarity each of the items above will be considered in the assessment of charging policies and access to service for people with a low income.

Purpose: The Health and Social Services Department and the Department of Social Security wish to commission an independent advisor who can draw on their knowledge of international evidence and offer:

An assessment of the current system of charging policies and government funding and a comparison with other relevant jurisdictions

1. *advice on the design of a government funded scheme to assist low income individuals with the cost of health co-payments in General Practice*
2. *advice on the effect different charging mechanisms can have on patient and practitioner behaviours, specifically associated with General Practice and Pharmacy services. The independent advisor will be asked to identify the strengths and weaknesses of different payment and incentivisation options in other jurisdictions and the impacts these would have in a Jersey context, making recommendations*

Deliverables:

1. An assessment of:

- a. *the current payment and incentivisation systems in Primary Care (focusing on general practice and pharmacy) in Jersey, identifying strengths and weaknesses*
- b. *charging policies and government funding mechanisms in other jurisdictions, that operate similar health systems, with an analysis of their strengths, weaknesses. This assessment should also identify the extent to which the different policies could support the achievement of the vision of P82/2012 and the payment ambition of the Primary Care*

- Strategy, namely to use taxpayers' money more effectively to support Primary Care services, whilst maintaining the strengths of the current system ("the strategic aim")*
- c. the behaviours that could be encouraged in both patients and care providers in Jersey to support the strategic aim*
 - d. areas of impact in which the use of charging policies and government funding on patient and provider behaviour will be limited due to local constraints, such as the need to maintain some services within the new Hospital*
 - e. the methods used in similar jurisdictions to identify patients as requiring additional support with user pay charges in respect of health services*
 - f. different mechanisms for supporting people with a low income to meet user-pay charges in health care*
- 2. Advice on the design of a government funded scheme to assist low income individuals with the cost of health co-payments in General Practice:**
- a. the way in which charges in Primary Care should be structured to minimise the adverse impact of such charges on low income groups*
 - b. the way in which patients or groups of patients should be identified as requiring additional help from government to access Primary Care services*
 - c. the mechanism via which that help should be provided.*
- 3. Advice on changes to payment and incentivisation mechanisms within Primary Care, which have the ability to meet the strategic aim. The options should consider:**
- a. how to maintain the strengths of the current Primary Care system whilst changing the payment and incentivisation systems to improve the cost effectiveness of the health system as a whole*
 - b. elements of models in different jurisdictions that could be adapted for Jersey*
 - c. what blend of these elements would form appropriate options for payment and incentivisation in Jersey given the local context*
 - d. the impact of the proposed payment and incentivisation options on behaviours of practitioners and patients*
 - e. necessary changes to other elements of the health and social care system that would enable the options to be effective, e.g. finance, workforce, legal, administrative, IT, communications, and timeframe*
 - f. highlighting the degree of impact of the proposed changes juxtaposed with the level of necessary change*
 - g. variations in the low income support system recommended in element 2 of this work that would maintain its sustainability following the introduction of changes to payment or incentivisation mechanisms*
- Note: Changes to the GP payment system must continue to include retaining an element of 'users pays', however options must be mindful of addressing access and inequality issues.*

2.10 DEPUTY J.A. HILTON OF ST. HELIER OF THE CHIEF MINISTER REGARDING POPULATION POLICY AND THE WORK OF THE HOUSING AND WORK ADVISORY GROUP: [1(11)]

Question

Further to his answer during questions without notice on 12th December 2016 about proposals for an effective population policy and the indication that he would announce a package of measures to strengthen the existing work of the Housing and Work Advisory Group at the beginning of January 2017, will the Chief Minister confirm exactly what these measures are and when they will be implemented?

Answer

The Housing and Work Advisory Group has just announced a new initiative to remove permissions from larger businesses – as a guide those who employ 30 members of staff or more - who hold more registered permissions than comparable businesses in their sector.

The aim is to support a fairer allocation of permissions and to limit migration in line with our economic and social priorities.

This will involve careful evaluation of up to 100 businesses, which could result in them being either being placed into a “step down” programme to gradually reduce the number of registered permissions they hold, or a work permit type condition requiring them to seek permission for each new registered member of staff they wish to employ. This initiative may be extended in due course to encompass a greater number of businesses.

All this will be undertaken *in addition* to ongoing work to remove permissions and ongoing firmness in the consideration of applications (the 2017 application statistics to be finalised and published before the end of January).

In addition, the Council of Ministers are also considering or advancing other measures, including:

1. Reviewing the fee structure under the Law, including to enhance migration controls and to invest in necessary skills, to be implemented in 2017.
2. Enhanced compliance functions as part of the continuing integration of the Population Office into the Social Security Department, to be implemented in 2017.
3. Establishing a robust system of criminal record checks for new migrants as government becomes increasingly digital, with implementation subject to findings of the work, including evaluating access to records held in different jurisdictions
4. The development of the e-census, which is being established by the Statistics Unit with a due date to be confirmed subject to further evaluation but to be before the next expected census in 2021.
5. Economic analysis of the long-term economic and fiscal implications of different levels of inward migration to support decision and policy making, which will be overseen in the first half of 2017 by the Economics Unit; and
6. The development of a long term plan, inclusive of a population policy, to set a long term direction for Jersey, with the aim of it being finalised before the Summer Recess 2017.

These initiatives need to be progressed sensitively and carefully, considering the needs of businesses and our economy, while seeking to limit migration.

2.11 DEPUTY J.A. HILTON OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING THE FUTURE USE OF THE EXISTING POLICE HEADQUARTERS IN RELATION TO ROUGE BOULLION SCHOOL: [1(12)]

Question

Further to figures contained in 'Jersey Health Profile 2016' which showed that 32% of 10 and 11 year olds are either overweight or obese, will the Minister advise whether he has considered, or discussed with other relevant Ministers, the future use of the existing Police Headquarters with a view to extending and improving the amount of outside space available to the children of Rouge Bouillon School and thereby having a positive impact on the health of those children?

Answer

Additional play space for Rouge Bouillon School would be very much welcomed, and the potential for using the emergency services site has already been recognised. Initial discussions have already taken place between representatives of the Education Department, Jersey Property Holdings, the school and the St Helier parish authorities to start exploring possibilities for future use. In the short term, a piece of land might be made available for the nursery and early years classes.

2.12 DEPUTY S.Y. MÉZEC OF ST. HELIER OF MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING THE RESIGNATION OF THE DEPARTMENT'S CHIEF OFFICER: [1(13)]

Question

Following the resignation of the Chief Officer of the Economic Development, Tourism, Sport and Culture Department, what provisions, if any, have been put in place to ensure that the Department is run effectively whilst the post remains vacant? What timescale, if any, exists for finding a full-time replacement for this post?

Answer

Members received confirmation of the Chief Officer's resignation via an internal communication on Tuesday 3rd January 2017.

As an interim measure the duties of the Chief Executive are being shared by the Deputy Chief Officer and the Assistant Director within the Department, with Accounting Officer responsibility temporarily being assumed by the States Chief Executive.

The Department will now complete its restructuring exercise during January/February, during which time an appointment will be made to lead the Department. I hope we are able to make that appointment from within the public service.

2.13 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING HIGH VALUE RESIDENTS: [1(14)]

Question

Further to the findings of 'Post-Implementation Review of Jersey's High Value Residents Regime Applicable since July 2011' (R.130/2016), what research, if any, has been undertaken to measure exclusively the social contribution to Jersey of High Value Residents (HVRs), including any evidence of individual HVRs providing a negative social contribution?

Furthermore, will the Minister provide statistics to support the claim made in R.130/2016 that new HVRs are more economically active than those admitted to the Island under the previous scheme, including the total number of start-up businesses set up in recent years and the number of businesses relocated to Jersey by an HVR?

Will the Minister also advise how many Islanders are employed by businesses set up by HVRs?

Answer

The most recently-gathered and available statistics are all contained in the Tax Policy Unit's Report from December 2016 (see <http://www.statesassembly.gov.je/AssemblyReports/2016/R.130-2016.pdf>).

The Review Team concluded during their work that it was not feasible to attempt further analysis of the social contribution HVRs make (for example, surveying the HVR community was ruled out as unnecessarily intrusive and at risk of producing under-reporting).

Table 10 on page 38 of the Report (reproduced below) demonstrates growth across the period 2012-2016 in the number of businesses established by HVRs arriving under the post-July 2011 regime; and the number of employees employed in those businesses. This modest growth – over the short time series of data available – is encouraging.

Based on the data available in the Taxes Office, the number of businesses established by those HVRs arriving in the period 2009-2011 (i.e. the years immediately preceding the current regime) and employing individuals is less than six. The Report does also indicate that “the demographics of the HVRs relocating under the post-July 2011 regime indicate that they are likely to be more economically active and less likely to be (solely) living off accumulated capital”. While a subjective assessment, it would be inappropriate for the Taxes Office to publish related demographic information given the small population of taxpayers involved.

The Comptroller advises me that no reliable data is available with regard to the number of Islanders employed in businesses established by those who have come to Jersey over the decades under predecessor HVR regimes.

Extract from ‘Post-Implementation Review of Jersey’s High Value Residents Regime Applicable since July 2011’

Table 10 : Businesses Established by HVRs (New Regime); Other Employment Created; and Additional Tax Contribution

	2012 YOA	2013 YOA	2014 YOA	2015 YOA	2016 YOA
No. of Businesses	Nil	<6	<6	6	6
No of Employees	Nil	<12	<12	32	42
ITIS payments	Nil	<£10,000	£82,000	£564,000	£397,000
Household Staff & ITIS payments	Nil	<12 £2,200	13 £19,700	14 £28,600	13 £23,200

Source: Locate Jersey and the Taxes Office

Notes:

- All tax figures rounded.

2.14 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING THE

INTRODUCTION OF LEGISLATION WHICH HAS HAD AN EFFECT ON PROMOTING ECONOMIC GROWTH: [1(15)]

Question

Will the Minister list all Ministerial Orders, Regulations and other legislation he has been responsible for since taking office which he can demonstrate has had a tangible effect in promoting economic growth?

Answer

In addition to legislative developments, the Department has responsibility for a number of internal (Locate Jersey) and external agencies (e.g. Visit Jersey, Jersey Business, Genuine Jersey) whose sole focus is generating economic growth in Jersey. We also work daily with other Departments and third parties on a wide range of non-legislative developments to create opportunities for Jersey businesses to exploit.

Regulations

- Licensing (No. 18) (Jersey) Regulations 2016

Allowed pubs to open until 1am on Friday 10th and Saturday 11th June 2016 to mark the Queen's official 90th birthday.

Orders

- Tourism (General Provisions) (Amendment No.19) (Jersey) Order 2015

A small-scale red tape removal initiative to provide hotels and guest houses greater flexibility regarding dining provision

- Tourism (General Provisions) (Amendment No. 20) (Jersey) Order 2016

A further small-scale red tape removal initiative to remove a duplicate record keeping requirement affecting tourist accommodation providers

- Shops (Regulation of Opening) (Special Occasions) (Jersey) Order 2015

Specifically designed to build on the success of the existing Fête de Noué and pre-Christmas Sunday trading arrangements and boost the retail industry by allowing all shops to compete unencumbered with internet retailers.

The Deputy may not be aware that my portfolio extends far beyond the direct creation of economic growth and into the area of sectoral regulation, which underpins an efficient and effective economy. I am also responsible for consumer protection and other areas of social and economic benefit. Administrative legislation such as fee Orders are also required –

Laws

- Aircraft (Registration) (Amendment) (Jersey) Law 2016

The amendment to the Aircraft Registration (Jersey) Law 2014 allows for a Qualified Person to be removed from registration where circumstances require. The intention of this amendment is to allow for the JAR to, in due course, accept registrations from Qualified Persons who are not simply Jersey incorporated entities

- Aircraft Registration and Air Navigation (Miscellaneous Provisions) (Jersey) Law 201-

This made provisions related to the Air Navigation (Jersey) Law required as consequence of the establishment of the Jersey Aircraft Registry.

Regulations

- Financial Services Ombudsman (Case-fee and Levy) (Amendment) (Jersey) Regulations 2015
Postponed the end of equal splitting of the Ombudsman costs between Jersey and Guernsey to the end of 2018. Also to ensure the levy scheme can provide for levy notices to be served on representatives of financial service providers in appropriate circumstances.
- Aircraft Registration (Births, Deaths and Missing Persons) (Jersey) Regulations 2015
Required the owner of an aircraft registered in Jersey to inform the Registrar about births or deaths in the aircraft, to meet international standards.
- Shipping (Fishing Vessels Safety Codes of Practice) (Jersey) Regulations 2015
Updated the regime for Safety Provisions on fishing vessels to maintain standards of safety awareness, equipment, training and drills in what is traditionally a dangerous industry.
- Price Indicators (Amendment No. 2) (Jersey) Regulations 2016
Amended the Regulations to allow newspapers to be printed and sold in Jersey without breaking GST rules.
- Policing of Beaches (Amendment No. 11) (Jersey) Regulations 2016
Removed special status of fishing gear under the Regulations – to assist Planning and Environment in controlling fishing to protect bass stocks.

Orders

- Shipping (Fishing Vessels Safety Provisions) (Amendment) Order 2015
Following the passage of the Shipping (Fishing Vessels Safety Codes of Practice) (Jersey) Regulations 2015 the Order was amended to apply only to vessels outside the scope of the Safety Codes.
- Sea Fisheries (Spider Crabs - Restrictions on Fishing) (Jersey) Order 2015
This Order was required under the Sea Fisheries (Miscellaneous Provisions)(Amendment No.6)(Jersey) Regulations 2014 (R&O84/2014) to provide better protection for spider crabs in local waters.
- Air and Sea Ports (Suspension of Licence Requirements) (Jersey) Order 2015
Following the approval of the Air and Sea Ports (Incorporation) (Jersey) Law 2015, any organisation conducting 'port operations' required a licence to do so. The incorporation plan allowed for a grace period in order to allow CICRA to licence the entity.
- Financial Services Ombudsman (Eligible Complaints) (Jersey) Order 2015
This Order makes further provision as to the eligibility of complainants under Article 8 of the Financial Services Ombudsman (Jersey) Law 2014.
- Gambling (Amendment of Law) (Jersey) Order 2015
Pursuant to Article 5(4) of the Gambling (Jersey) Law 2012, an Order was made amending the provisions of Article 5(3)(c) of the 2012 Law to fill an inadvertent lacuna in the current legislative framework.

- Financial Services Ombudsman (Exempt Business) (Amendment) (Jersey) Order 2015
This Order amended Article 3(2)(a) of the Order, which relates to exemption of occupational pension business when carried on by an employer as incidental to the employer's principal business. The effect of the amendment is that such business is not exempt where the employer carries on any other relevant pension business.
- Aircraft Registration (Nationality and Registration Marks) (Jersey) Order 2015
This amendment was intended to broaden the appeal of the Registration Marks available to potential clients considering registering their aircraft on the Jersey Aircraft Registry.
- Economic Development (2016 Fees) (Jersey) Order 2015
This applied an RPI increase to the fees charged in 2016 under EDD legislation
- Economic Development, Tourism, Sport and Culture (2017 Fees) (Jersey) Order 2016
This applied an RPI increase to the fees charged in 2017 under EDTSC legislation.
- Aircraft Registration (Nationality and Registration Marks) (Amendment) (Jersey) Order 2016
Partially derestricted the use of the letters I, O and S in ZJ registration numbers.
- Aircraft Registration (Amendment of Law) (Jersey) Order 2016
This amendment was intended to broaden the appeal of the Registration Marks available to potential clients considering registering their aircraft on the Jersey Aircraft Registry.
- Aircraft Registration (Fees) (Jersey) Order 2015
The Order sets the fees chargeable and payable in respect of registrations, rectifications, cancellations, discharges, copies, extracts and inspections relating to aircraft registration.

2.15 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE IMPACT OF POLICY CHANGES INSPIRED BY THE '1,001 CRITICAL DAYS' MANIFESTO: [1(16)]

Question

Will the Minister list each public service which has seen its quality improved, or the number of Islanders who benefit from it increased, as a direct result of policy changes inspired by the '1,001 Critical Days Manifesto'?

Answer

The goal of the 1001 Critical Days manifesto is for every baby to receive sensitive, appropriate and responsive care from their main caregivers in the first years of life.

As a result of policy changes inspired by the 1001 Critical Days programme in Jersey, all expectant mothers and babies in Jersey have benefitted from the development of a range of services delivered by maternity, education, health visiting and adult mental health. This includes the scaling up of the Coping with Crying programme and the embedding of the MESCH programme (Maternal Early Sustained Child Health Visiting) delivered in partnership with Family Nursing and Home Care. Specialist maternal mental health support is being piloted in the antenatal clinic and perinatal mental health is prioritised by Jersey Talking Therapies.

Partnerships and increased collaborative working between all perinatal services including the many voluntary and community services have improved the experiences of the services for families and expectant mothers.

There has been a considerable amount of publicity in relation to the work of the 1001 Critical Days Taskforce, raising awareness generally with Islanders and particularly with professionals who work in the related environment. Events include presentations to States Members from the NSPCC and NCB about effective 'Better Start' programmes.

To raise awareness amongst the population, a week long publicity campaign was delivered in May – the message to parents was to go home early from work to 'read together, play together, cook together and be together'. The benefits of breastfeeding were promoted through the 'Big Latch' event in June.

To better inform professionals, the Taskforce established a '1001 Reasons to Listen' seminar series where experts talked about the importance of evidence and early intervention to improve outcomes.

In partnership with the UBS Optimus Foundation, the National Children's Bureau have worked with the 1001 Critical Days Taskforce to develop an outcomes framework and to deliver 'Knowledge Makes Change' bulletins to 500 practitioners to expand local knowledge on early childhood development.

The appointment of an independent chair for the Early Years and Childhood Partnership ensures that the progress made by the Taskforce will be maintained and further improvements and progress guided, monitored and evaluated. In addition, plans are under development to introduce new services in this area during the course of 2017.

2.16 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE PROPORTION OF NEW JOBS TAKEN BY WORKERS WITH LESS THAN 5 YEAR'S RESIDENCY: [1(17)]

Question

Will the Minister provide statistics to show what proportion of new jobs created in 2014, 2015 and (if possible) 2016 have gone to workers with less than 5 years' residency in Jersey?

Answer

The Statistics Unit produce a large volume of information on net migration and employment, but this information is focused on net migration and net changes in levels of employment, i.e. the difference between those coming and those leaving, and jobs created less jobs lost. The Statistics Unit do not therefore report new jobs created in isolation, or who gets these jobs.

However, it is clear that Jersey's economy is generating very substantial numbers of jobs – with total employment having reached a record high at the end of December 2015 of 57,720, an annual increase of 1,180 overall, including an additional 300 people classified as "registered" (having completed less than 5 years residence in the Island). This is on top of an increase in total employment in 2014 of 1,220.

As such, to a sizeable extent businesses have needed to import skills as our economic performance has improved and the overall demand for labour has increased so considerably.

However, this is taking place in the context of the lowest unemployment rate for 6 years; and increasingly high levels of participation in the workforce, which has risen from 82% at the time of the census to 86% in 2016. In addition, earnings have risen above inflation for a number of years now.

The Jersey Labour Market Survey and the Jersey population estimates, and other related statistics, can be found in full at <https://www.gov.je/Government/JerseyInFigures/Pages/index.aspx>.

2.17 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR EDUCATION REGARDING THE TURNOVER OF STAFF IN NON-PRIVATE PRIMARY SCHOOLS: [1(18)]

Question

Will the Minister provide a breakdown for the turnover of all staff, including non-teaching staff, at all non-private primary schools in the past 3 years?

Answer

STAFF TURNOVER

States non fee-paying primary schools	% Teaching staff who left	% Non-teaching who left	Total
2013-2014	*	*	11.4%
2014-2015	*	*	14.6%
2015-2016	13.8%	14.9%	14.4%

* The breakdown of the overall percentages into teaching and non-teaching staff was not available in time for this answer to be submitted but can be provided at a later date.

2.18 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING THE PLAY PARK AT LES QUENNEVAIS PLAYING FIELDS: [1(19)]

Question

Will the Minister clarify whether the play park at Les Quennevais playing fields is now under his Department's administration; and, if so, will he agree to make good on the undertakings of the former Minister for Education, Sport and Culture to consult users of the facility and to consider potential improvements for the park?

Answer

I confirm that my Department has taken on the responsibility for the play park at Les Quennevais as part of the wider Sport portfolio.

I understand that officers did historically consult with parents and users, where some ideas about improvements were discussed at a very general level. At the time no budget was available to make improvements, however I am pleased to report that some additional equipment has now been sourced and this will be put into the park when weather conditions allow, sometime in Spring 2017.

Once this addition has been made, a further consultation exercise is proposed with users to identify any further improvements in future.

2.19 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING THE CONDITIONS PLACED ON MR. BRONX AND HIS OWNERS: [1(20)]

Question

Further to the statement released by the Assistant Minister on 21st December 2016, will the Minister provide a full list of the conditions that have been placed on Mr. Bronx and his owners in connection with his release?

Answer

The forfeited property of the pit bull terrier known as “Mr. Bronx” (“the Dog”) was restored to his former owner (Mr. Gomes) subject to conditions under Schedule 3 to the Customs and Excise (Jersey) Law 1999. These conditions balance the interests of Mr. Gomes and his family in having the Dog restored to them and the wider public interest.

Before the Dog was returned to Mr. Gomes a legal agreement was reached between the Assistant Minister and Mr. Gomes which sets out certain conditions designed to ensure that the Dog is kept properly under control by its owners. These include neutering (which has now been performed), muzzling at all times when in public, the stipulation that no one under the age of 16 is to be left unsupervised with the dog, and the fact that it must, again at all times in public, be kept on a lead no longer than two metres.

The Assistant Minister has written to Mr Gomes regarding publication of the full details contained within the agreement and an update will be provided to the Assembly in due course.

2.20 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR EXTERNAL RELATIONS REGARDING THE MUTUAL EXCHANGE AND RECOGNITION OF DRIVING LICENCES BETWEEN ROMANIA AND JERSEY: [1(21)]

Question

Will the Minister explain what progress, if any, has been made on the mutual exchange and recognition of driving licenses between Romania and Jersey?

Answer

An agreement for the mutual recognition of driving licences between Jersey and Romanian was signed during the former Romanian Ambassador’s official visit to Jersey on 16th September 2014. Since the agreement has been in place 297 Romanian driving licences have been exchanged for Jersey licences.

2.21 DEPUTY M. TADIER OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE POPULATION OF EACH PARISH: [1(22)]

Question

Will the Chief Minister provide an up-to-date estimate of the population for each parish, as well as the proportion of the estimated population of the Island which resides in each parish?

Answer

The information can be found on page 6 of the 2011 Census report at:

<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20Chapter1TotalPopulation%2020120808%20SU.pdf>

The total Jersey population was last estimated as 102,700 at the end of 2015. The estimation methodology provides only a total population size and not a breakdown by characteristics such as parish of residence.

2.22 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE SANCTIONS SYSTEM FOR THOSE ON INCOME SUPPORT: [1(23)]

Question

Further to the response to written question 9747 on 12th December 2016 which indicated approximately 1 in 15 of Back to Work clients on Income Support had been sanctioned in 2015 for the first breach of a written warning, whilst approximately 1 in 6 had received a sanction for leaving work without good cause, will the Minister advise what assessment, if any, she has undertaken to determine whether these proportions of sanctions are too high and whether they are caused by administrative problems in the system?

Will the Minister agree to review the sanctions system in place for those on Income Support who are actively seeking work to ensure that it is fairly administered?

Answer

I have full confidence in the operation of the sanctions system, which is designed to create a deterrent for people who claim Income Support but do not do enough to look for work, or for those people who leave employment without a good reason and expect to rely on the benefit system. The majority of Back to Work clients are actively engaged with the services we provide to help them look for work, and are motivated to obtain the financial and social benefits of employment. They are unlikely to be sanctioned. Even amongst those who do not fully engage, receiving a written warning which outlines the potential consequences of not looking for work is usually sufficient to motivate them to engage with us.

The information provided as part of written question 9747 indicated that in 2015, a total of 195 sanctions were issued for the first breach of a written warning and 461 sanctions were issued for leaving work without good cause. It is not correct to describe the latter figure in terms of "1 in 6" Back to Work clients, as many of those sanctions will have been issued to people who were not clients of Back to Work because they were in employment prior to leaving work. Furthermore, sanctions for leaving work without good cause may also be issued to somebody who leaves work and claims Income Support for the first time. This is an important function of the sanctions process, as it is completely unreasonable for working adults to decide they will leave work and rely on a tax-funded benefit system.

Taken together, I do not think these figures indicate that the system is working inappropriately. We cannot expect the taxpayer to support a minority who are able to work but unwilling to do so, and I am strongly committed to doing everything I can to help people into financial independence away from the benefit system. A clear and effective system of financial penalties is a necessary element of the other incentives we provide, such as a generous disregard for earned income and tailored jobseeking support through Back to Work.

The process of financially penalising a person reliant on benefit is never taken lightly, and is constantly under internal review. Determining Officers are reviewed in terms of the way they issue sanctions, and overall the sanctioning process is subject to rigorous quality assurance carried out by a senior member of staff. We also have a robust safeguarding process in order to identify vulnerable clients and to refer them to other agencies where appropriate. Additional steps in the process were initiated by frontline Back to Work staff, in order to be confident of fairness and consistency in the system. In addition, any decision by a Determining Officer is subject to a process of appeal to an independent tribunal. These are strong checks and balances, and I am confident they ensure our system is applied fairly and consistently. I do not see the need for any additional review of the operation of the sanctions process.

2.23 DEPUTY J.A. HILTON OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING WAITING TIMES FOR CONSULTANT APPOINTMENTS: [1(24)]

Question

What are the current waiting times for a consultant appointment, and follow-up treatment where necessary, across all specialities in the Health Department, including Adult Mental Health and Child and Adolescent Mental Health Services?

Answer

Hospital specialities

All referrals to Consultants are graded by clinical need into ‘urgent’, ‘soon’ or ‘routine’ categories in order to give the appointments booking team an appropriate clinical guide for urgency of appointment required.

As a general guide, ‘urgent’ patients are given an appointment within 2 weeks, ‘soon’ patients are given an appointment within 8 weeks and ‘routine’ in chronological order after all graded ‘urgent’ and ‘soon’ are booked.

The same grading is given to a patient when adding them to the waiting list for a procedure/treatment.

The length of time a patient may wait does vary by specialty and varies each week within specialties. The variation is driven by:

Number of available doctors

Number of referrals received

Number of patients being added to the procedure list

Bank Holidays

Time of the year

Number of pre-advised patient cancellations

The patient administration system (TRAK) used to record receipt of referrals and the appointments allocated would ordinarily provide the data to allow us to provide to this question. Unfortunately, since an upgrade to the TRAK system in December there have been issues with the ‘clock’ embedded in the system, which is not allowing us to extract reliable data at this time for hospital-based appointments. This is being rectified by the manufacturer and as soon as data is available this information will be circulated to all States Members.

The last reliable data is from November 2016 and is detailed below in the table. This shows the average number of weeks patients who were seen in November had waited for their appointment or treatment. This includes all three categories of clinical urgency.

Specialty	Average wait in weeks for first out-patient appointment	Average wait in weeks for procedure
Ears Nose and Throat (ENT)	7	7
Cardiology	5	*
Dermatology	13	*

Diabetes medicine	16	*
Gastroenterology	11	5
General Medicine	5	*
General Surgery	6	6
Gynaecology	6	4
Infectious Diseases	7	*
Nephrology	12	*
Neurology	14	*
Ophthalmology	6	11
Oncology	2	*
Oral Surgery	12	3
Orthopaedics	13	12
Paediatrics	12	*
Pain	9	7
Respiratory	10	*
Rheumatology	8	*
Urology	7	5

*These specialties don't have in-patient or day case waiting lists due to the nature of the specialty

CAMHS

Within CAMHS, referrals are made to the service rather than individual practitioners so most referrals are appropriate for assessment by any member of the multi-disciplinary team. Waiting times reported for assessment therefore are for the service as a whole rather than particular clinical disciplines.

During 2016, the average wait from referral to first offered appointment was 16.83 days with the median wait being 15 days.

The target timescale for initial assessments is:

Priority 1 (Urgent, high risk) 2 working days

Priority 2 (Soon, moderate risk) 2 weeks

Priority 3 (Routine, very low or no apparent risk) 4 weeks.

The 2016 Key Performance Indicator reported that these assessment timescale targets were achieved in 89.4% of cases. Where assessment timescales are not met, this may be due to families declining the first appointment offered.

Following initial assessment, the priority rating for allocation to treatment may change to a higher or lower priority based on the clinical findings at assessment.

Target timescales for allocation to treatment are:

- Priority 1: instant allocation to a duty worker to hold the case which could involve daily contact. The case may then be moved on to another worker or workers in the team for ongoing treatment
- Priority 2: allocated within 2 weeks for treatment to commence within 4 weeks.
- Priority 3: allocated within 4 weeks for treatment to commence within 6 weeks.

Waiting times for allocation to treatment are not currently available from informatics, but service level data indicates that targets are generally met for Priority 1 and 2 cases. However, this negatively impacts on the service's ability to meet target timescales for Priority 3 cases. Clinically it is essential to manage the risks associated with Priority 1 and 2 cases meaning that allocation of Priority 3 cases is delayed and these cases can have waits averaging 3 to 6 months. There is seasonal variation in referral rates – for example, referrals usually drop significantly during the school summer holidays – and this enables the service to address the Priority 3 waiting list. However as referrals rise again, the waiting list grows.

On occasion, a referral may indicate that the initial assessment would be most appropriately undertaken by a Consultant Psychiatrist – for example, if a General Practitioner has already commenced prescribing of an SSRI anti-depressant to an under 18. The service aims to follow UK National Institute of Clinical Excellence (NICE) Guidelines, which recommend that such prescribing should only be undertaken under the direction and supervision of Consultant Psychiatrists, so in these cases initial assessment is undertaken by a Consultant. The service currently provides two appointment slots per week for Consultant Psychiatry initial assessments plus a further appointment for an Associate Specialist Doctor per week.

In terms of allocation to a Psychiatrist for treatment, very few cases would be appropriate for only Consultant input as Consultant capacity is most appropriately targeted at the most complex and high risk cases, so the case is usually allocated to a Care Co-ordinator with Consultant input arranged as required. Joint appointments involving Care Co-ordinators can be arranged relatively quickly as required. Similarly, if another practitioner requires a Consultant Psychiatrist assessment or review of a case because of new symptoms or concerns or escalating risk, this can be arranged if required within a few days. Duty workers have daily access to Consultant Psychiatry supervision and if necessary this time is used to jointly see a case. Cases requiring inpatient admission to either Robin Ward or Orchard House also receive same day Consultant Psychiatry input.

Due to the need to address the challenges in being able to provide timely treatment interventions we have appointed two extra psychiatrists who are providing an extra 12 sessions a week between them. They have been appointed for 12 months, which will help to reduce waiting times and improve service provision.

Adult mental health

The adult mental health service receives referrals into the multi-disciplinary team rather than to individual consultants. This is in line with best practice and ensures the presenting problems and needs of the client are matched to the appropriate professional skills.

There is an on-call service which ensures that consultant input is available 24/7, 365 days a year. The service receives three levels of referral:

Emergency Referral

The patient will be seen within 30 minutes by a mental health professional from the liaison mental health team who can contact the on-call consultant at all times.

Urgent Referrals

Urgent referrals will be seen within 24 to 72 hours depending on referral information.

Routine Referrals

A questionnaire opt-in form will be sent to the patient.

In 2016, the average wait from the time the opt-in form was returned to the service to assessment was 16.4 days and the median wait was 15 days.

Once people have been assessed as requiring further treatment and care they will be allocated to one of the three levels described below. As people's needs change, so will the care level they require.

Level 1 – This response is designed to meet the needs of people who have been assessed as having complex or multiple clinical and risk or safety needs which require a range of interventions from the multi-disciplinary team. The person will receive input from the Consultant Psychiatrist, Mental Health Nurses, Staff Grade Doctors, Psychologist, and Occupational Therapists.

This will include people receiving complex home treatment, inpatient care, those subject to an article of the mental health law and people who are at risk of imminent crisis or admission.

Level 2 – This level provides interventions for people with mental health problems whose needs are less complex and have low to moderate associated clinical risks. A non-consultant grade doctor in conjunction with an allied mental health professional will work with the person and their carer in developing and implementing the care package. This may involve a continuation of an episode of care from level 1, be a new referral, or an enhanced level of care from a level 3 (see below).

Level 3A – This level provides care and interventions for people whose needs can be met by a community mental health nurse practitioner or allied mental health professional (Occupational Therapist, Social Worker or Psychologist). They will provide interventions with a moderate degree of clinical complexity and at low to moderate clinical risk. The person may be directed to this level following referral and assessment or when nearing the end of their recovery journey.

Level 3B – This level is for people who are at low level of clinical risk and complexity. Social inclusion and integration interventions are provided by Health Care Assistants who receive clinical and case management supervision from a Mental Health Nurse.

2.24 THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING IMPACT OF FALLING WAGES ON LIVING STANDARDS: [1(25)]

Question

Given that, between 2008 and 2016, average earnings in Jersey in nominal terms have grown at half the rate of the 2000-2007 period, that the growth of real earnings over the 2008-2016 period has been flat, and that forecasts from the Fiscal Policy Panel and the Treasury suggest a fall in real wages over the 2018-2020 period, will the Chief Minister explain how living standards will improve if real wages fall?

Answer

Jersey was not alone in experiencing a fall in real earnings in the initial years after the global financial crisis but real earnings have grown in each of the last four years. An overall measure of living standards is GVA per head of the population which did fall significantly as a result of the global financial crisis and the resultant fall in interest rates. However, the latest data shows it has increased in the last two years and in 2015 was 4% higher than in 2013. In addition, this measure of living standards in Jersey was nearly 60% higher than in the UK.

The uncertainty brought about by the UK referendum result and the rise in inflation likely as a consequence of the fall in sterling does pose a further challenge to our economy going forward. The FPP's economic assumptions in their August Annual Report do suggest that in coming years economic conditions may mean it is difficult for real earnings to continue to grow as they have in recent years but this is also the case in the UK.

If we are to improve living standards in the years to come then the vital ingredient is to increase productivity growth. That is why the Strategic Plan sets out to boost productivity in Jersey by:

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

2.25 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING STRUCTURAL PRESSURES ON THE STATES' FINANCES: [1(26)]

Question

Further to comments made by the Fiscal Policy Panel in respect of 'Future Hospital Funding Strategy' (P.130/2016), will the Minister outline the work that has been undertaken to address the existing structural pressures in States' finances identified by the Panel; and advise how he intends to ensure these are resolved in advance of any further structural pressures arising from Brexit or the 'ageing society'?

Answer

The FPP's advice has been to balance the current budget by 2018/19 as that was the point when the economy was expected to be back at capacity. In doing so that would address any underlying structural pressures. The UK referendum result does add additional uncertainty to the fiscal and economic outlook but the FPP have also been clear in their 2016 Annual Report that the time to address any structural impacts resulting from this is the next MTFP period (although this is contingent on the expectation that the current package of measures set out in the MTFP Addition – or others of equivalent value – are delivered as planned).

The decisions taken in the MTFP Addition and Budget 2017 mean that by 2019 the States are forecasting broadly balanced budgets. This will be achieved by delivering the agreed programme of efficiencies, savings and benefit changes alongside the investment in economic and productivity growth, commercial waste disposal charges and future revenue raising measures to replace the health charge funding. The programme of efficiency savings will continue into the next MTFP period together with options for sustainable funding of health. This is how the States will meet the FPP's advice and address existing structural pressures in States finances.

2.26 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR SOCIAL SECURITY REGARDING EXPENDITURE ON THE HOUSING COMPONENT OF INCOME SUPPORT: [1(27)]

Question

Further to the Assembly's adoption of 'The Reform of Social Housing' (P.33/2013) and the introduction of the new social housing rental policy of 90% market rents, will the Minister provide a breakdown of the amount currently spent on the housing component of Income Support (separated into private and social housing) compared to the levels of such expenditure in the year before the agreement of P.33/2013?

Answer

As explained in the [2015 Social Security Annual Report](#) (page 66), published on 07 October 2016, the value of Income Support paid to a particular household depends not only on the mix of components that it is entitled to, but also on the other income received by the household. Therefore it is not straightforward to report on the value of each component in the total expenditure for Income Support. However, to enable an analysis of the total cost to be undertaken, a method of allocating costs within the various components has been developed. This method divides the actual Income Support benefit received by a household in proportion to the gross value of each of the components that the household is eligible for, to allocate a specific net value to each of the components.

The most recent figures covering the full year of expenditure are for 2015. The changes to the Income Support housing component were approved as part of P.1/2014, coming into force on 07 April 2014 and the 2013 data is provided below as the last full year prior to this change.

The amount spent in 2013 is as follows:

2013, amounts are in £000	Total
States Housing Department	15,064
Trust Rental	2,957
Private Rental	9,054
Other	1,012
Owner Occupier	35
Total	28,123

NB. Due to rounding, individual rows do not reconcile to total.

The amount spent in 2015 is as follows:

2015, amounts are in £000	Total
Andium Homes	15,995
Other Trust Rental	3,399
Private Rental	10,117
Other	848
Owner Occupier	27
Total	30,386

2.27 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR EDUCATION REGARDING A COST BREAKDOWN FOR HIGHLANDS COLLEGE: [1(28)]

Question

Will the Minister provide a current full cost breakdown for Highlands College compared to that of two years ago; and advise whether changes at the College over the last two years have produced higher morale amongst staff and greater take-up of courses?

Answer

Cost breakdown

Budget	2014	2015	2016
Income generated by the College	£2,722,698	£2,903,146	£2,941,450
Grant from the Education Department	£9,888,186	£9,688,734	£8,949,903
Total income	£12,610,884	£12,591,880	£11,891,351
Staff	£10,553,425	£10,522,392	£10,009,489
Non staff	£2,057,459	£2,069,488	£1,881,864
Total expenditure	£12,610,884	£12,591,880	£11,891,351

These figures include £158,000 in 2015 for the ICT strategy, minor works of £50,000 in 2015 and £40,000 in 2016, and £63,798 in 2016 for the teachers' pay award. The figures are for financial (calendar) years rather than for academic years.

Changes and morale

Since 2014 the College has implemented changes to the curriculum and internal organisational structures to improve student outcomes. While it is difficult to accurately measure staff morale, many of the team have been motivated to take on new initiatives and these are reflected in a significant improvement in student success rates for full-time courses. In the 2014-15 academic year, success rates stood at 77% and in 2015-16 these had increased to 89%. (This indicator shows the percentage of all students who started a course who passed it). This improvement raised Highlands from a ranking of 160 out of 216 further education colleges in England to 10th place in just one year.

The College's current strategic plan includes a commitment to staff training and development and best practice interactions between students, staff and customers. Monitoring processes will include appraisal feedback and outcomes and collection of staff feedback.

Student numbers

Take-up of courses remains steady and in line with the size of the cohorts, which fluctuate from year to year. In autumn 2015 there were 914 full-time 16-19 year old students enrolled from a possible island cohort of 2,041 (44.8%) and in autumn 2016, there were 869 full-time 16-19 year old students from a possible island cohort of 1,965 (44.2%). In the autumn of 2015, there were 2,223 adult students on part-time courses and this has increased in autumn 2016 to 2,272 representing a 2.2% growth. There was a 9.2% increase in the number of full-time higher education students from 120 in 2015 to 131 in 2016 under the UCJ (University College Jersey) brand.

2.28 THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING GRIEVANCES FILED BY STATES OF JERSEY EMPLOYEES: [1(29)]

Question

Will the Chief Minister provide the number of grievances filed by States of Jersey employees during 2015 and 2016; and advise what work, if any, he has undertaken to ensure that current policies in this area are fit for purpose?

Answer

Department	2015	2016	Total
Chief Minister's Department (Inc. HR & Information Services)	1	2	3
Comm and Const Affairs (CCA)	6	1	7
Department of the Environment	1		1
Economic Development, Tourism, Sport and Culture		1	1
Education	8	7	15
Health & Social Services	29	12	41
Infrastructure	5	2	7
Non Ministerial States Funded		2	2
Social Security		2	2
Treasury and Resources	1		1
Total	51	29	80

HR policies are regularly reviewed on a two /three year cycle. The policy concerning grievance is currently under review. This is undertaken by the Joint Policy Consultation Group (comprised of Management and Trade Union Representatives). A meeting is due to take place at the end of the month with representatives specifically to discuss improvements that can be made to the informal resolution process.

2.29 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING ZERO-HOUR CONTRACTS WITH NO MINIMUM HOURS GUARANTEED: [1(30)]

Question

Will the Chief Minister advise whether or not the Council of Ministers will ban zero-hour contracts with no minimum hours guaranteed following the example set by the New Zealand Parliament in 2016; and, if not, why not?

Answer

In New Zealand, employers continue to be permitted to provide contracts with no minimum hours of work guaranteed. However, they cannot require such an employee to accept any work that is offered.

In Jersey, a similar position is explained in the Jersey Advisory and Conciliation Service's 'Zero Hour Contracts Guide 2016', which outlines that:

"...in a zero hours contract there should be no obligation on the part of the business to offer work and no obligation on the individual to accept, nor any penalty on for turning down hours of work offered by the employer.

Furthermore any employee working under a contract of employment - regardless of any hours – is protected under the Employment (Jersey) Law 2003...people working under zero hour contracts will generally be employees and will receive the same rights as all other employees, although each case can only be determined by the Tribunal."

2.30 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE TERMINATION AGREEMENT WITH THE FORMER CHIEF OFFICER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE: [1(31)]

Question

Will the Chief Minister, as Chairman of the States Employment Board, explain:

- (a) what rules are in place regarding financial compensation to employees who leave the employment of the States either of their own accord, by mutual consent or at the employer's behest;
- (b) what rules there are, if any, that govern confidentiality in such agreements;
- (c) who negotiated the termination agreement with the former Chief Officer of the Economic Development, Tourism, Sport and Culture Department and who agreed the payment of six-months' salary in lieu of notice; and
- (d) the full role of the States Employment Board in the agreement with that former Chief Officer, giving full details of all formal and informal meetings of the Board that took place in relation to this matter and the members of the Board that took part in them?

Answer

- a) The contractual notice period in an employee's contract covers both the notice the employee is required to give the States Employment Board, the Employer, and the notice the employee is required to give to terminate the contract. The notice period varies with grade and seniority.

Employees who leave the States of their own accord are required to give contractual notice that they wish to leave. The notice period may vary by mutual consent and agreement e.g. if the employee wishes to leave early, or the Employer wishes the employee to remain longer for handover purposes.

The Employer may offer payment in lieu of notice in such circumstances.

If the Employer requires that the employee leaves, then except where an employee is dismissed without notice e.g. by reason of gross misconduct, an employee is given payment in lieu of notice to end the contractual relationship with the employee.

In cases where it is appropriate, the agreed termination of a contract of employment may be accompanied by an associated compromise agreement. These are carried out in line with the Utilisation of Compromise Agreements Report issued by the Comptroller and Auditor General dated March 2012 and follow up Report dated 5th May 2016.

- b) Employment matters involving individuals are normally kept confidential to protect against infringement of personal data under the Data Protection Law. If a formal termination agreement is in place and part of this includes a compromise agreement, then both parties are bound by confidentiality clauses.
- c) This was not a negotiated agreement. The former Chief Officer of the Economic Development, Tourism, Sport and Culture Department tendered his resignation in line with his contractual notice period (i.e. six months). The Employer (i.e. States Employment Board) accepted his resignation in line with their contractual obligations.
- d) The States Employment Board as the Employer, made the majority decision to accept the resignation of the former Chief Officer and the terms attached to his leaving the service, at an electronic meeting dated, pm 23rd December 2016 with the contribution of all members of the Board.

This decision was the culmination of a series of discussions and briefings as follows:

05/12/16 oral briefing provided by the CEO to SEB concerning the request for Voluntary Redundancy from the former Chief Officer of EDTSC. The CEO indicated that the request should be rejected which was endorsed by the SEB.

22/12/2016 electronic brief given by Director of Employment relations to SEB members, Chief Executive and advisor to the SEB in relation to advice and options for the SEB to consider in dealing with the resignation of the former Chief Officer dated 15th December 2016. This brief included potential terms of a settlement agreement and confidentiality agreement.

23/12/2016 AM - A meeting took place between the Chief Minister, Chief Executive, the Minister for Economic Development, Tourism, Sport and Culture, Assistant Ministers for Economic Development, Tourism, Sport and Culture (Connétable Pallett & Deputy Norton) and the Assistant Chief Minister (Senator Routier) and the Law Officers Department to discuss the options when dealing with the resignation of the former Chief Officer of the Economic Development. The consensus view of the meeting recommended the decision to accept the resignation. Subsequently taken by the SEB later on that day.

23/12/2016 PM - Chief Executive provided an electronic brief to SEB members and Advisor to SEB together with the consensus view of the morning meeting.

2.31 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE ROLE AND POWERS OF THE STATES EMPLOYMENT BOARD: [1(32)]

Question

Will the Chief Minister explain the role and powers of the States Employment Board and the powers that Ministers have delegated to officers since the Board's inception, giving details of what these powers are, to whom they have been delegated, and the dates on which they were delegated?

Answer

1. Delegations

Under Article 10(1) of the Employment of States of Jersey Employees Law 2005, (see link below) the States Employment Board (SEB) has the power to delegate its functions to any of its members or to the Chief Executive. Under para 3 of the same Law, the Chief Executive, with the approval of the SEB, can further delegate this power to another person or class of persons.

Such delegations are confirmed following the election of members to the States Employment Board after a public election has taken place and are made to members of the Corporate Management Board.

<https://www.jerseylaw.je/laws/revised/Pages/16.325.aspx>

Regarding the delegation cited at 10(1) of the Law, the States Employment Board acknowledges that this does not absolve it from its ultimate responsibility for ensuring the health, safety and wellbeing of States' employees and other persons visiting States buildings.

2. Codes of Practice – Article 8 Employment of States of Jersey Employees (Jersey) Law 2005

With the approval of and by formal delegation under Article 10 of the Employment of States of Jersey Employees (Jersey) Law 2005, the Chief Executive Officer has issued Codes of Practice concerning employment matters.

These Codes of Practice, as issued, require officers of the States of Jersey to actively comply with their application, implementation and monitoring within their departments.

2.32 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE TERMINATION OF THE CONTRACT OF EMPLOYMENT OF MR. ALWITRY: [1(33)]

Question

Will the Chief Minister set out the role of the States Employment Board in the termination of the contract of employment of Mr. Alwitary and, in particular,:

- (a) set out a complete timeline of the Board's involvement, showing what meetings took place to discuss the termination, when they took place and who was present, or, if telephone or email meetings took place, when they were conducted and which members took part (including who responded to emails) and what decisions were taken;
- (b) explain whether any consultants took part in any discussions with the Board and, if so, who they were and for what purpose they took part;
- (c) explain what actions, if any, the Board took to contact, interview, or ascertain from Mr Alwitary his side of the story and, if no action was taken, explain why that was the case; and
- (d) explain when and why the Board commissioned reports from the former Solicitor General, Mr. P. Beal and Ms. M. Haste of CMP Resolutions?

Answer

- a) The initial consideration of the Health and Social Services Department recommendation to rescind the contract took place via email exchange presented by the previous States Human Resources Director between members (Chief Minister, Housing Minister, Assistant Treasury Minister, Connetable of St Lawrence and Deputy of St Mary) on 21st November 2012. A full chronology can be provided later.
- b) No consultants (whether external consultants or hospital consultants) advised the Board in relation to the Health and Social Services Department recommendation to rescind/withdraw.
- c) The approach taken to communicate by letter (but not to interview) Mr. Alwitary in November 2012 was adopted by Health and Social Services Department. The absence of an interview/appeal mechanism has been commented upon by the States Complaints Board and may be the subject of legal proceedings. Subsequently, Mr. Alwitary was interviewed by all three report authors in order to ensure his evidence was part of their respective reports and conclusions.
- d) The Haste Report was commissioned in January 2013 to determine if a mediated resolution could be achieved.
The Beal Report was commissioned in March 2013 to determine the robustness and integrity of the recruitment process and the decision making process from the offer stage to rescinding the offer of employment.

The report of the former Solicitor General was commissioned in September 2013 to provide a review of all aspects of the case.

The Sharp report was commissioned in September 2013 to provide a fully independent definitive review of all aspects of the case.

2.33 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE PROPERTIES OF THE ‘LE SEELLEUR BEQUEST’: [1(34)]

Question

Will the Minister:

- (a) list the properties which comprise the Le Seelleur bequest;
- (b) advise whether or not they are currently occupied;
- (c) state what the percentage occupancy of each property has been over each of the past 5 years;
- (d) explain what intentions or plans, if any, there are for each property; and
- (e) state what the latest valuations are for each property?

Answer:

- a) list the properties which comprise the Le Seelleur bequest:

No	Property Name	Road	Parish	UPRN	Comment
1	Beau Sejour	Le Mont Millais	St Helier	1513-01-001	
2	Stonecot	Le Mont Millais	St Helier	1514-01-001	
3	Workshop	Oxford Road	St Helier	1515-01-001	
4	Flat 1, Le Boulevard	La Grande Route des Sablons	Grouville	1516-01-001	
5	Flat 2, Le Boulevard	La Grande Route des Sablons	Grouville	1516-01-002	
6	Flat 3, Le Boulevard	La Grande Route des Sablons	Grouville	1516-01-003	
7	Flat 4, Le Boulevard	La Grande Route des Sablons	Grouville	1516-01-004	
8	Flat 5, Le Boulevard	La Grande Route des Sablons	Grouville	1516-01-005	
9	Flat 6, Le Boulevard	La Grande Route des Sablons	Grouville	1516-01-006	
10	No 1, The Denes	Princess Place	St Clement	1517-01-001	This dwelling is subject to a private life enjoyment arrangement
11	No 2, The Denes	Princess Place	St Clement	1517-01-002	
12	No 3, The Denes	Princess Place	St Clement	1517-01-003	
13	No 4, The Denes	Princess Place	St Clement	1517-01-004	This dwelling was subject to a private life enjoyment arrangement until 26 September 2016
14	Sous L'Eglise	La Rue du Presbytere	St Peter	1518-01-001	
15	Flat 1, Claremont	Bagatelle Road	St Saviour	1519-01-001	
16	Flat 2, Claremont	Bagatelle Road	St Saviour	1519-01-002	
17	No 9	Chevalier Road	St Helier	1520-01-001	
18	Flat 1, La Pouclee Lodge	La Pouquelaye	St Helier	1521-01-001	
19	Flat 2, La Pouclee Lodge	La Pouquelaye	St Helier	1521-01-002	

b) advise whether or not they are currently occupied:

Property Name	Occupied/Unoccupied/Comment
Beau Sejour	Unoccupied
Stonecot	Occupied
Workshop	Unoccupied
Flat 1, Le Boulevard	Occupied
Flat 2, Le Boulevard	Occupied
Flat 3, Le Boulevard	Unoccupied
Flat 4, Le Boulevard	Unoccupied
Flat 5, Le Boulevard	Unoccupied
Flat 6, Le Boulevard	Occupied
No 1, The Denes	This dwelling is subject to a private life enjoyment arrangement
No 2, The Denes	Occupied
No 3, The Denes	Unoccupied
No 4, The Denes	Occupied
Sous L'Eglise	Demolished, and the land transferred in 2010 to 'Harbours and Airport' for a consideration
Flat 1, Claremont	Sold in 2016
Flat 2, Claremont	Sold in 2016
No 9 Chevalier Road	Unoccupied
Flat 1, La Pouclee Lodge	Sold in 2015
Flat 2, La Pouclee Lodge	Sold in 2015

c) state what the percentage occupancy of each property has been over each of the past 5 years:

Property Name	2016	2015	2014	2013	2012	Comment
Beau Sejour	0%	0%	45%	59%	51%	Nil occupancy in '15 & '16 due to condition of property and high cost of repair
Stonecot	100%	100%	100%	100%	100%	
Workshop	0%	0%	0%	0%	0%	Nil occupancy due to condition of property and high cost of repair
Flat 1, Le Boulevard	100%	100%	33%	93%	100%	
Flat 2, Le Boulevard	100%	42%	35%	100%	100%	
Flat 3, Le Boulevard	0%	91%	100%	100%	100%	
Flat 4, Le Boulevard	0%	55%	100%	100%	53%	
Flat 5, Le Boulevard	0%	21%	19%	52%	100%	
Flat 6, Le Boulevard	100%	61%	75%	100%	100%	
No 1, The Denes	na	na	na	na	na	Not applicable - the house is subject to a life enjoyment arrangement
No 2, The Denes	100%	100%	100%	100%	100%	
No 3, The Denes	0%	0%	0%	0%	0%	Nil occupancy due to condition of property and high cost of repair
No 4, The Denes	100%	na	na	na	na	100% occupancy has occurred following the close of a life enjoyment arrangement on 26.09.16
Sous L'Eglise	na	na	na	na	na	Not applicable - the property was demolished in 2009
Flat 1, Claremont	na	62%	100%	100%	37%	Sold in 2016
Flat 2, Claremont	na	5%	59%	54%	100%	Sold in 2016
No 9 Chevalier Road	0%	0%	0%	0%	0%	Nil occupancy due to condition of property and high cost of repair
Flat 1, La Pouclee Lodge	na	0%	0%	0%	0%	Sold in 2015. Prior nil occupancy due to condition of property and high cost of repair
Flat 2, La Pouclee Lodge	na	0%	0%	75%	100%	Sold in 2015. Prior nil occupancy due to condition of property and high cost of repair

d) explain what intentions or plans, if any, there are for each property:

Property Name	Occupied/Unoccupied/Comment
Beau Sejour	JPH ¹ has recommended the disposal of this property
Stonecot	JPH has recommended the retention of this property
Workshop	JPH has recommended the disposal of this property. Under offer - MD-PH-2016-0075
Flat 1, Le Boulevard	JPH has recommended the disposal of this property
Flat 2, Le Boulevard	JPH has recommended the disposal of this property
Flat 3, Le Boulevard	JPH has recommended the disposal of this property
Flat 4, Le Boulevard	JPH has recommended the disposal of this property
Flat 5, Le Boulevard	JPH has recommended the disposal of this property
Flat 6, Le Boulevard	JPH has recommended the disposal of this property
No 1, The Denes	This dwelling is subject to a private life enjoyment arrangement
No 2, The Denes	JPH has recommended the retention of this property
No 3, The Denes	JPH has recommended the retention of this property
No 4, The Denes	JPH has recommended the retention of this property
Sous L'Eglise	Demolished, and the land transferred in 2010 to 'Harbours and Airport' for a consideration
Flat 1, Claremont	Sold in 2016
Flat 2, Claremont	Sold in 2016
No 9 Chevalier Road	JPH has recommended the disposal of this property. Under offer - MD-PH-2016-0075
Flat 1, La Pouclee Lodge	Sold in 2015
Flat 2, La Pouclee Lodge	Sold in 2015
	¹ Jersey Property Holdings, Dept for Infrastructure

e) state what the latest valuations are for each property:

Property Name	Latest valuation	Comment
Beau Sejour	£ 465,000	External valuation opinion 2016
Stonecot	£ 275,000	Internal valuation opinion 2016
Workshop	£ 425,000	Valuation based on market interest
No 9 Chevalier Road		
Flat 1, Le Boulevard	£ 1,785,000	External valuation opinion 2016
Flat 2, Le Boulevard		
Flat 3, Le Boulevard		
Flat 4, Le Boulevard		
Flat 5, Le Boulevard		
Flat 6, Le Boulevard		
No 1, The Denes	na	Not applicable - the house is subject to a life enjoyment arrangement
No 2, The Denes	£ 325,000	Internal valuation opinion 2016
No 3, The Denes	£ 325,000	Internal valuation opinion 2016
No 4, The Denes	£ 325,000	Internal valuation opinion 2016
Sous L'Eglise	na	Not applicable - the property was demolished in 2009
Flat 1, Claremont	na	Not applicable - sold in 2016
Flat 2, Claremont	na	Not applicable - sold in 2016
Flat 1, La Pouclee Lodge	na	Not applicable - sold in 2015
Flat 2, La Pouclee Lodge	na	Not applicable - sold in 2015

2.34 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING PLANS TO MOVE PATIENTS FROM ORCHARD HOUSE TO CLINIQUE PINEL: [1(35)]

Question

Will the Minister explain:

- (a) what plans, if any, there are to move patients currently located at Orchard House to Clinique Pinel;
- (b) whether the overall number of beds provided is to be reduced and, if so, why;
- (c) whether it is planned that the psychiatric patients from Orchard House are to be located in the same unit as elderly dementia patients and, if so, why, and whether such a move is in line with professional opinion from the Royal College of Psychiatry;
- (d) what consultations, if any, have been undertaken in relation to this matter, listing with whom such consultations have taken place with a summary of the opinions provided;
- (e) the alternative locations considered, if any, for the relocation of psychiatric patients; and
- (f) what plans there are, if any, for St Saviour's Hospital?

Answer

The Mental Health Strategy, launched in November 2015, identified the need for purpose-built mental health estate and a feasibility study is to commence shortly to examine future long-term requirements. There will be a business case funding bid for capital in the 2020 MTFP.

However, in advance of completing new mental health estate there is a need to improve service provision and reduce risk at our current assessment and treatment in-patient provision. During the consultation process for the Mental Health Strategy, key stakeholder groups including external expert advisors, service users, carers, staff and the citizen's panel expressed concern regarding the current mental health estate.

The proposal to merge Orchard House and Clinique Pinel is therefore aimed at reducing risk and providing enhanced care to people with mental health problems for an interim period.

Orchard House is a standalone unit within the grounds of the original St Saviour's Hospital and is in the shadow of Queens House. Queens House has been empty for a number of years and with no other services on site Orchard House has become isolated.

There are three key risk areas that we are attempting to mitigate by moving out of Orchard House. These include:

Environmental risks

External lighting, roads leading to Orchard House, ongoing problems with the internal nurse alarm system (possibly due to the amount of granite), outside garden areas, limited low stimulus facilities and no enhanced care area, poor sight lines and inadequate windows, and isolation.

Operational risks

Due to its location, staff at Orchard House do not have direct support from other mental health colleagues during times of increased workload or when managing patient distress or challenging behaviours. Merging the units into Clinique Pinel would increase the availability of staff to support each other, particularly during night time shifts and at weekends.

Clinical Risk

The proposed redevelopment of Clinique Pinel would include enhanced care beds that would support the safe care and treatment of people who may present as hostile and aggressive due to their mental ill health. This would reduce potential risk to the patient themselves, their fellow patients and the staff providing the care and treatment. The proposed layout would allow flexibility in how care is provided, dependent on the needs of the patient population at that time.

In relation to the specific questions:

a) A feasibility study has commenced, sponsored by the Health and Social Services Department (HSSD) and being carried out by Jersey Property Holdings (JPH), to see if Clinique Pinel can be remodelled to appropriately accommodate all adult (working age and over 65s) inpatient assessment and treatment services. The outcome of the feasibility study will allow HSSD to make a decision on the appropriateness of relocating the working age assessment and treatment in-patient service from Orchard House to Clinique Pinel. Unless the feasibility study identifies significant restrictions on our requirements, HSSD envisages seeking planning permission before the summer of 2017.

b) If Orchard House is relocated within Clinique Pinel we will be reducing the number of beds provided for assessment and treatment of people with functional mental health problems (psychosis, depression, anxiety) and organic mental health problems (the dementias).

Currently, we have 17 adult and 14 older adult assessment and treatment beds in Orchard House and Cedar Ward respectively. We also have 11 assessment and treatment beds for people with organic mental health conditions on Beech Ward.

We have 300% more older adult assessment and treatment bed numbers than the NHS average for an equivalent population size. One of the reasons for this was because we did not have the community resource within the older adult's mental health team to support community packages of care. This is being addressed due to the significantly increased funding for older people's community mental health care as part of the P82 investment. Furthermore, the long-term care fund introduced in July 2014 supports domiciliary care packages. This will allow us to reduce organic assessment and treatment beds from 11 to 8 and functional assessment and treatment beds from 31 to 25.

c) A remodelled Clinique Pinel will provide separate units for people with functional mental health problems and 'dementia patients', within the same building. Each unit will have its own entrance. It is recognised that it would not be therapeutically appropriate for those people with dementia to share the same environment as people with acute mental illness and the patient groups would not benefit from interacting.

d) In March 2015 a workshop was held to discuss the challenges in continuing to provide in-patient assessment and treatment within Orchard House. Invitees to the workshop included representatives from all the key mental health professional groups including doctors, nurses, social workers and psychologists, senior managers within Community and Social Services as well as the head of governance and the patient advocate from MIND Jersey. The outcome of the workshop was a recommendation to HSSD Corporate Directors that services provided within Orchard House should be co-located within Clinique Pinel. Initial work was carried out by JPH to see if it was possible to co-locate Beech Ward with Rosewood House but this was not feasible. Once the current feasibility study is complete we will be in a position to hold detailed consultation. Arrangements are in hand for a workshop in February to present the proposals following which a staff reference group will be convened.

e) As described above, we explored the possibility of extending Rosewood House to accommodate Beech Ward, but this was not viable. The possible use of The Limes building was also considered, but the environment is not conducive to providing safe mental health in-patient care. We have also explored upgrading Orchard House, but to do so would not address a number of key risks described above.

f) As and when services provided within Orchard House are relocated and the south side of St Saviour's Hospital (which includes Queens House) is no longer accommodating services, the estate will be handed back to Jersey Property Holdings, which will look to utilise or dispose of the site in accordance with the Island Plan.

2.35 SENATOR S.C. FERGUSON OF THE MINISTER FOR SOCIAL SECURITY REGARDING POTENTIAL PLANS TO FREEZE THE ALLOWANCES FOR PATIENTS IN RESIDENTIAL AND CARE HOMES: [1(36)]

Question

Will the Minister explain:

- (a) whether there are plans to freeze the allowances for patients in residential and care homes in 2018 and, if so, how such plans support the policies to care for the ageing population;
- (b) how any patients who leave their residential home as a result of allowances being frozen will be accommodated; and
- (c) how much consultation on this matter, if any, there has been between the Health and Social Services and Social Security Departments?

Answer

Long Term Care (LTC) benefit rates will be increased by 2.67% in April 2017. This includes the benefits paid to both individuals living in care homes and people who receive care in their own home.

LTC benefits are paid from the LTC fund. This fund receives income from a 1% LTC contribution³ paid by taxpayers and a States grant. With the increasing number of older people requiring care, the cost of providing LTC benefits is increasing from year to year. For example, the original policy paper approved by the States Assembly in 2013 (P.99/2013) identified a potential contribution rate of 3% by 2044 in order to maintain the benefits of the scheme.

At the time of the introduction of the scheme, the Social Security Minister committed to aim to hold the contribution rate at 1% for three years, i.e. until the end of 2018, if at all possible. As such, the Social Security Department will be reviewing options for maintaining the cost of the scheme within this existing income until the end of 2018. These options include both the value of the benefits paid out and the financial eligibility criteria used within the scheme.

Care providers have been advised that this work is taking place and they will be advised of any changes for 2018 by the end of June 2017.

The Social Security Department works closely with the Health and Social services Department on all aspects of the long-term care scheme.

³ 1% is maximum rate payable. Most taxpayers pay a reduced percentage.

2.36 SENATOR S.C. FERGUSON OF THE MINISTER FOR THE ENVIRONMENT REGARDING THE APPLICATION OF HERITAGE POLICIES TO RESIDENTIAL PROPERTIES: [1(37)]

Question

Will the Minister explain:

- (a) the rationale for the application of heritage policies to residential properties;
- (b) the method by which the Department designates which era is appropriate for a particular property; and
- (c) how the Department deals with any dichotomy arising from heritage policies pursued by the Department and States' policies to conserve energy in residential housing?

Answer

- a) The rationale for the application of planning policies to heritage assets is set out in the Revised 2011 Island Plan (pp.103-117, Section 3: Historic Environment), which was approved and adopted by the States in July 2014.

In essence, the historic environment of the Island is a finite resource comprising a range of irreplaceable assets ranging from various roadsides features, such as lavoirs, abreuvoirs and road markers; to castles, churches and towers; and also including houses of various styles such as town houses, cottages and farm groups.

All of these physical survivals of our past are to be valued and protected for their own sake, as a central part of our cultural heritage and our sense of Island identity. They are an irreplaceable record which contributes, through formal education and in many other ways, to our understanding of both the present and the past. Their presence adds to the quality of our lives, by enhancing the familiar and cherished local scene and sustaining the sense of local distinctiveness which is so important an aspect of the character and appearance of our Island. The historic environment is also of immense importance for leisure, tourism and the economy. This is also reflected in the outcomes of Island community surveys⁴ where the protection of our heritage is consistently one of the high priorities.

In light of the above, and in accord with generally accepted best practice, policies for the protection and management of change to heritage assets are applied consistently across all types of heritage asset.

It is relevant to note that there are estimated to be around 45,000 households in Jersey of which about 7 % (c 3,000) are listed homes

- b) In general, the older a building the more likely it will have been subject to change as a consequence of which historic buildings tend to have changed and evolved over time. This is set out in the Listing Schedule for each property, giving the likely earliest age of construction, the major phases of change and an assessment of the value of the resulting built form.

⁴ See: Survey on Heritage in Jersey (July 2009)

<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20SurveyOnHeritageInJersey%2020090708%20SU.pdf>

and

'My Jersey' (November 2016) Report on the findings of the public consultation on a future vision for Jersey

<https://www.gov.je/news/2016/pages/longtermvisionsurveyresults.aspx>

In considering further changes to an historic building it is important to properly assess and to understand the significance and value of the existing heritage asset and its constituent features in order to make informed decisions about its future management.

Each case for change to an historic building is thus assessed on its merits having regard to the justification for any such change relative to the context and character of the building and its constituent parts.

- c) As stated above, the planning policies applied by the Department of the Environment to the management of change to heritage assets are set out in the Island Plan, which was approved by the States. Similarly, the States has approved Building Byelaws to improve energy conservation in new buildings as well as in existing buildings where they are subject to change.

In many cases cost-effective and sustainable improvements to the energy efficiency of historic homes can be achieved without damage to their character: specific provision is made in the building byelaws for this to happen.

Heat loss typically occurs in various parts of a building. It is important to take an overall view of energy efficiency measures. It is clear that, even with a notable number of constraints, there are many measures that can be used to improve the energy efficiency of Jersey's listed buildings and the Department of the Environment has published research to identify and assess the efficiency and effectiveness of a range of suitable and feasible measures (see: Historic Buildings Energy Study (2013) <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20Historic%20Buildings%20Energy%20Study%20Jersey%20Report%20July%202013.pdf>)

Officers of the Historic Environment and Building Control Teams will seek to work with owners of listed buildings to find pragmatic solutions to the challenge of improving the energy efficiency of the relatively limited number of historic homes in the Island. Practically the most challenging changes to houses is their subdivision to flats, or the reconfiguration of lodging houses to flats. There are many different approaches to dealing with both energy efficiency, fire safety and noise compartmentalisation – all of which allow the balance between retaining heritage features and meeting modern standards.

2.37 SENATOR S.C. FERGUSON OF THE CHIEF MINISTER REGARDING THE 'OXERA REPORT ON THE JERSEY GAS MARKET' (R.1/2017): [1(38)]

Question

Will the Chief Minister provide the terms of reference used for 'Oxera Report on the Jersey Gas Market' (R.1/2017); and will he explain why the report does not consider the costs of the raw material used for gas supply in Jersey and compare them with the cost of alternative types of gas available in U.K. markets?

Answer

It is important to put the Oxera report in context as it followed CICRA's fuel market review in 2015 (terms of reference attached) which was undertaken at the request of the Assistant Chief Minister responsible for Competition.

The Oxera report shed even more light on the gas market in Jersey and included independent, expert advice and for the first time very detailed information on the performance of the gas market over many years. The terms of reference and methodology agreed with Oxera is attached.

The report does consider the cost of the raw material because in a competitive market, prices are generally expected to move in response to changes in wholesale costs. The report looks at the relationship between wholesale and retail prices since February 2011 and tries to explain why there may be differences in the trends. However, as the review was to look at competition and regulatory issues to understand whether the gas market was working in consumers' interest it was not within scope to consider the costs of alternative types of gas available in the UK.

While the expert analysis in Oxera's and CICRA's reports clearly show that regulation in the gas market is not justified at this time, work will continue to ensure that gas markets work in consumers interests. As set out in the Strategic Plan, the Council of Ministers remain fully committed to achieving best value for consumers in all markets. At this point no future policy is ruled in or out and concerns remain that the costs of heating a home in Jersey with gas are high relative to other fuels.

To establish next steps the Assistant Chief Minister will continue to work with CICRA and Jersey Gas, and support the Consumer Council in championing consumer choice and easily accessible information on energy prices. In addition, the Assistant Chief Minister will consult with the Housing Minister, the Environment Minister and the Assistant Minister for Economic Development to consider how homeowners and tenants can be supported to secure optimal deals on energy costs.

[10:45]

3. Oral Questions

3.1 Deputy K.C. Lewis of St. Saviour of the Chief Minister regarding gas and heating costs: [1(2)]

What steps, if any, is the Chief Minister taking to ensure that the people of Jersey get a fair deal with regard to gas and other heating costs?

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

Could I ask Senator Ozouf to answer this please?

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

I thank the Deputy for his question. As set out in the Strategic Plan it is a key priority for this Council of Ministers to make sure that all markets, and particularly energy markets, work well in consumer interests. The Deputy I hope will have read the Oxera gas market report, which I cover in my written answer to Senator Ferguson. While the expert and independent analysis clearly shows that regulation in the gas market was not justified at the time there are concerns that it is an expensive way to heat one's home. Moving forward, I intend to continue to work with C.I.C.R.A. (Channel Islands Competition Regulatory Authority) and suppliers, including Jersey Gas, and the support of the Consumer Council in championing consumer choice and providing easily accessible information on energy prices. Last Friday I met with the chairman of the Consumer Council and the chief executive, together with Deputy Norton, to understand how we can support them in their valuable work. In addition, we intend to consult the Minister for Housing, the Minister for Environment, the Assistant Minister for Economic Development with responsibility for the Consumer Council to consider how homeowners and tenants can be supported to secure optimal deals on energy costs. At no point in the future are we ruling out regulation, and I will continue to work with C.I.C.R.A. to work out exactly what should be done to empower consumers with information and choice.

3.1.1 Deputy K.C. Lewis:

I thank the Minister for his reply, which is very encouraging. Many families and senior citizens can no longer afford to run a gas central heating system and turn it off unless it is really, really cold, even though they have to pay a connecting charge of approximately £400 a year. As infrastructure costs are met by the consumer if more and more people come off gas, thereby increasing the burden on the remaining, surely there will come a tipping point where gas would no longer be viable and be far too expensive. Does the Minister not agree?

Senator P.F.C. Ozouf:

Absolutely and I understand exactly. That is why I am signalling that with now the good information we can make sound policy decisions. I agree that there is a risk of a tipping point being reached. I absolutely accept, I am just looking through my notes ... I will circulate to Members an informal calculation of what it costs to heat different homes. The Deputy is quite right. I would say that there should be nobody in Jersey that should not be able to put on their heating, but gas is expensive compared to others and it is particularly those on low incomes and tenants, particularly in the town and town areas, that are particularly affected by that. I have had a constructive meeting with the Consumer Council who share my views absolutely, and I thank Deputy Norton for his support. I look forward to engaging with the Deputy. We now have a dataset on which we can move forward, working with the Minister for Housing, Minister for Environment and other authorities.

3.1.2 Senator S.C. Ferguson:

Given the advent of cheap natural gas from the U.S.A. (United States of America), which is a third to half the price of our current L.P.G. (liquefied petroleum gas), will the Minister ask C.I.C.R.A and Oxera to rework their reports to make the comparison?

Senator P.F.C. Ozouf:

Professor Sir John Vickers in his foreword to the competition report that I instigated in taking responsibility for competition, said competition and regulation was hard. That is a matter for both government and the regulator. It is perhaps surprising that it is a government report that Members have had before them in explaining exactly what the facts are, despite our attempts to get the facts from C.I.C.R.A., who were not able apparently to find the information which gives now Members the facts. I do not agree that the comparison is necessarily relevant, or somebody will find out exactly what the relevance is. We cannot have natural gas in Jersey. There is nowhere to plug in a natural gas pipeline. There are also some shipping issues which are also linked. We would have to compare what we can realistically compare. The previous questioner asked, I think, the very important question: what is the future of energy in Jersey? Can we have 3 supply networks or is it better to consider what the long-term implications are? That standing charge for gas customers, the cost is £536, according to my calculations, compared with Jersey Electricity of £68. Oil is of course different. These are the issues that Ministers must address but we must be realistic and not overpromise. We cannot have natural gas. We cannot get it to Jersey cheaply enough.

3.1.3 Senator S.C. Ferguson:

That was not what I was asking. I was asking that the Minister should ask C.I.C.R.A. and Oxera to look at it. They are shipping liquefied natural gas across to Scotland now and there will be more liquefied natural gas being shipped. We need to look to the future. Will the Minister undertake to get the work done?

Senator P.F.C. Ozouf:

The Assistant Minister does not require any encouragement, if I may say so, to get the work done. That is what the Assistant Minister has been trying to do but was not able to get the facts from C.I.C.R.A. We must focus on priorities. We must focus on what we can do and the analysis and

the information I have, I am willing to listen and engage with any Member or any other person discharging this function, will effectively look at the evidence. We must prioritise our time in order to get the best deal for consumers as soon as possible. There has been too much talk of gas pipelines and other potential investments of £80 million or so to bring natural gas or others. If shipping is possible we will look at it, but I have been told it is not, and I wish to deal with expert advice.

The Bailiff:

Minister, can you try and keep your answers more short.

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

Does the Minister not accept that in fact what we are looking at is a prime example of market failure and the Minister once again refuses to act in any way whatsoever and appears to be waiting for the gas company to go belly up before taking any action? Is it not surely time to regulate this market and involve ourselves in this market failure?

Senator P.F.C. Ozouf:

I would remind the Deputy that it was the Council of Ministers at its first meeting who prioritised energy and energy use and energy value for money, as the question relates to Deputy Lewis of St. Saviour. The Council of Ministers needs no encouragement but we need facts and we need to prioritise what we can do. There was no case for regulation. That was effectively a wild goose chase. What needs to happen is we send a very clear message that we may regulate if the case is required. I urge the Member to read Professor Sir John Vickers' report on competition and look at who should do what when. Government and this Assembly have a responsibility to do so. We should not regulate gas at the moment. There is no case but we are engaging constructively with all energy providers to provide best deals for consumers, and I am assisted greatly by the Housing and Economic Development Assistant Minister in finding out proper solutions rather than overpromising.

Deputy G.P. Southern:

Supplementary, if I may, Sir.

The Bailiff:

No, I am sorry, Deputy, we have 17 questions to get through. Deputy Tadier, one question and then final supplementary.

Deputy G.P. Southern:

The priority should be concise answers, Sir, surely.

The Bailiff:

You are absolutely right. The answers need to be concise.

3.1.5 Deputy M. Tadier:

Is the Assistant Minister aware of a practice by Jersey Gas of demanding or requesting a £250 deposit from rental tenants only who have never held a gas account before? If so, does he think this is reasonable and enforceable?

Senator P.F.C. Ozouf:

The answer to the first question is yes. The second question is part of the ongoing discussions that we need to have with Jersey Gas now we have a proper analytical report.

The Bailiff:

You can do it, Minister.

3.2 Deputy J.A.N. Le Fondré of St. Lawrence of the Chief Minister regarding consultation prior to the lodging of the ‘Draft Employment of States of Jersey Employees (Amendment No. 8)(Jersey) Regulations 201- (P.105.2016): [1(45)]

Will the Chief Minister, as chairman of the States Employment Board, advise when the first attempt was made to lodge Amendment No. 8 to the Draft Employment of States of Jersey Employees (Jersey) Regulations 201-; and outline what consultation, if any, had taken place with the Crown officers prior to any such initial attempt?

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

Discussions took place with Crown officers at a number of points last year. Then we lodged this particular legislation. It is perfectly reasonable of course to remain open to constructive input, as we have done through that process. A new and clear way forward on this matter has been arrived at. I have spoken to Crown officers about this and I have also confirmed to the chairman that I will attend upon them at their request and look forward to going into the details of this particular amendment and the proposed solution.

3.2.1 Deputy J.A.N. Le Fondré:

I note the Chief Minister’s response but can he just confirm that on 19th September a document was presented to the Greffe with the intention that it should be approved for lodging? That the document included provisions relating to Crown appointees and that the Crown officers had not been consulted on this.

Senator I.J. Gorst:

It may not be the case that there was consultation on this particular amendment but on the principles, particularly in regard to a Judicial and Legal Services Commission. There was consultation but there is a very detailed timeline that I will provide to the panel and I am more than happy to consider their concerns in bringing forward a new proposed amendment.

3.2.2 Connétable C.H. Taylor of St. John:

Could the Chief Minister also confirm that His Excellency the Lieutenant Governor had not been consulted at this time?

Senator I.J. Gorst:

The amendment as written dealt with Crown appointments, that is the appointment of Crown appointments, not the individual Crown appointees.

[11:00]

3.2.3 Senator S.C. Ferguson:

Would the Chief Minister explain the late amendment lodged on 23rd December of the amendment to the amendment, and outline the thinking which led to that amendment?

Senator I.J. Gorst:

The Senator will know from reading the May proposition what the thinking was. It is a change of remit for the Appointments Commission. It is about the appointment of the new chief executive officer and the involvement with the Appointments Commission for external bodies. At the same time the amendment to the amendment, that the Senator is referring to, deals with Crown appointments. I do not think that there should be any difficulty in understanding why that would be appropriate and why it is appropriate. The question that has been raised is about whether it sits

with this particular piece of legislation or it is better to reserve some of those issues for a further piece of legislation, which will be the Judicial and Legal Services Commission legislation.

3.2.4 Senator S.C. Ferguson:

Why did the Chief Minister consider that it was appropriate to include the Crown appointees in the late amendment posted on 23rd December?

Senator I.J. Gorst:

It was late because conversations were being had about it and concern being raised about it. But it was agreed as in order on that date.

3.2.5 Deputy J.A.N. Le Fondré:

Some might say that the failure to consult with people who are being significantly affected or the posts significantly affected by the amendments shows a level of discourtesy. How would the Chief Minister like to respond to that?

Senator I.J. Gorst:

In politics there is disagreement. Not quite every day but most days there is disagreement. The principle that there should be independent oversight of these appointments is absolutely correct, in my opinion. The question then became about whether that is appropriately dealt with in this piece of legislation or it should be appropriately dealt with in a different way through a different structure. Currently, in statute, there is no provision in place with regard to the Appointments Commission with regard to Crown appointees. There is the matter of previous practice but nothing in statute. That needs to be corrected, in my opinion, but I am prepared, and have said I am prepared to work, and I have already worked on a solution going forward, which I have offered, at their request, to brief the panel on.

3.3 Deputy J.A. Martin of St. Helier of the Chief Minister regarding the appointment of Assistant Ministers: [1(39)]

Following the Assembly's adoption of P.53/2016, will the Chief Minister update Members on how he proposes Assistant Ministers should be elected after the 2018 elections; will he ensure that this information is in the public domain before the Assembly decides whether or not to reduce the number of States Members; and, if not, when will he make it available?

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

Since the agreement of P.53 last year officers in my department, and the Department for Community and Constitutional Affairs, have been developing a number of potential options for improvements to the machinery of government centred around the role and processes for appointing Assistant Ministers. These options focus on refining our current system so that it is more inclusive and are due to be discussed over the coming weeks, including discussions with current Ministers, Assistant Ministers, P.P.C. (Privileges and Procedures Committee), the Chairmen's Committee and with the Deputy herself, before a proposal is brought to this Assembly for debate. That process will take longer than the timeline for debating the change to the composition of this Assembly at the next States sitting.

3.3.1 Deputy J.A. Martin:

It is very relevant because after I asked this question Senator Ozouf lodged an amendment, and it states in my proposition, P.53: "If Members are amenable to adopting new ways we work." Well, a lot of things I am but not psychic and I really think the Chief Minister should let us know what these propositions are before we debate whether we go to 38, 44 or pick another figure out of the air. Does he not agree?

Senator I.J. Gorst:

Back-Benchers, or any Member of this Assembly, are enabled under Standing Orders to lodge any proposition that they wish within this Assembly. The Deputy knows that my officers have been undertaking this work. I have had a brief conversation with the president of the Chairmen's Committee. He was quite clear that he wished for me to consult with them and discuss with them prior to lodging any amendments. It was also recognised that consulting with P.P.C., with other Assistant Ministers and Ministers, prior to lodging of them, was an appropriate way forward.

3.3.2 Deputy M. Tadier:

Ministers currently get to choose who goes on Scrutiny but the Assembly has no say whatsoever in who becomes an Assistant Minister. Arguably there are Assistant Ministers who have more power than some Ministers themselves. Does the Chief Minister accept those statements and does he agree that it would be helpful for future reference in the impending debates to have the information that Deputy Martin is seeking?

Senator I.J. Gorst:

I can see that it would be helpful but without agreement it would not be helpful because it would just be an idea around which many Members may disagree. But the premise of agreeing the proposition of Deputy Martin was that we would do this work and then we would consult and we would deal with the difficult issue of whether Assistant Ministers should be elected by this Assembly to their offices and what is the role of Assistant Ministers and how that can be used to deliver a more inclusive system.

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

Notwithstanding the other changes that the Chief Minister might like to potentially see in the way Assistant Ministers are appointed or elected, could he confirm whether or not he personally remains committed to the principles of the Troy Rule?

Senator I.J. Gorst:

The Deputy knows that you cannot change the remit and function of Assistant Ministers without a change to the Troy Rule, as it is currently written. This Assembly, when it set up the machinery of government subcommittee in the previous Assembly, wrestled with that issue and on balance they decided that they wanted to keep the system as now is. But throughout the period of this Assembly, many Members have said that the system is not inclusive, that they do not feel involved in what Ministers are doing or who is making the decisions. We cannot have both of those. We need to make a decision and that is what the proposal will do and that is what we will consult with Members upon.

3.3.4 Deputy G.P. Southern:

When the Chief Minister says he decided to consult did he have psychic powers himself in that he knew that there would be another proposition coming forward, in this case from a Back-Bencher, for a major reform of the way we elect the body and did he accept in some way that it was okay to wait for this reform while we discuss this new reform, which is a major one?

Senator I.J. Gorst:

No, it was expected that the officers in the 2 departments would do their work. They were also of course we know working together with P.P.C. on the reform of this Assembly. That is what I expected to happen. That P.P.C. would come forward with a proposal to reform this Assembly and that my department would come forward, together with the Deputy of St. Peter's department, with

proposals to change the machinery of government. That has slightly been thrown, that timeline, with Deputy Andrew Lewis lodging his proposal to reform this Assembly.

3.3.5 Deputy C.F. Labey of Grouville:

In the Chief Minister's considerations, clearly with regard to the Troy Rule is he also going to consider the doctrine of collective responsibility because clearly he will not be able to have both? If the Troy Rule goes then the doctrine of collective responsibility will also have to go. Does he appreciate that?

Senator I.J. Gorst:

I appreciate that they are connected and they need to be considered. You could take the other argument, that is that the collective responsibility only applies to Ministers around the table, and not to other Assistant Ministers. But they need to be considered together. The Deputy is absolutely right.

3.3.6 Deputy J.A. Martin:

I am very disappointed. For the last 5 minutes we have been knitting with fog. The Chief Minister says there is a proposal. He knows what the proposal is and so do 10 other people in this Assembly. What the rest of us do not know is what that proposal is or even the bones of it. But we are going to vote in 2 weeks' time to go down to 38 or 44 Members. Will the Chief Minister please call an urgent briefing for States Members to see what it would look like because they must know? If they do not, why would we be debating to change the whole of the way we elect ourselves again?

Senator I.J. Gorst:

Every time we have had a debate on the composition of this Assembly people have said they cannot vote for changes to the composition of the Assembly because they have some idea that they would like to change for the machinery of government. Every time we have brought forward changes to the machinery of government, Members of this Assembly have said they cannot vote for the changes to the machinery of government because we do not know what the Assembly is going to look like. I do not disagree with the Deputy. But it would be far better if there were opportunity to consider what the changes to the machinery of government might look like. But I cannot see that it will be possible to do some consultation, which is right, with the Chairmen's Committee and other Members, prior to a debate on 31st January. If that debate were to be deferred by a fortnight then of course I think there probably would be opportunity to have consultation and to brief. That particular proposal I am prepared to consider with Deputy Andrew Lewis.

3.4 Deputy S.C. Ferguson of the Minister for Health and Social Services regarding the potential closure of Orchard House: [1(47)]

Will the Minister advise whether or not Orchard House is expected to close and, if so, when?

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

As I stated in my written answer to the Senator's written question, number 35 on this subject, my department is intending to move out of Orchard House to mitigate risk, but more importantly to improve the environment and the service which the Acute Mental Health Service and Inpatient Assessment Centre is required. We do not have an expected date for closure as Jersey Property Holdings are currently carrying out a feasibility study to redevelop parts of Clinique Pinel with a view to moving there the services from Orchard House. However we are hopeful that we will be in a position to submit a planning application before the summer.

3.4.1 Senator S.C. Ferguson:

Does the Minister not understand that it will be a fairly capital intensive change at Clinique Pinel because the 2 types of patient should be kept separately, as recommended by the Royal Society. The staff required for dementia have different qualifications to those required for the Orchard House patients. Why is this even being considered? The Royal Society say these 2 types of patients should not be mixed so why is the department even thinking about it?

Senator A.K.F. Green:

The Royal Society do not say that the 2 types of patients should not be in a nearby or the same facility, just that they should not be mixed on the same ward. I wish the Senator would get her facts correct.

3.5 Deputy G.P. Southern of the Chief Minister regarding the quantification of risks relating to the Jersey Innovation Fund: [1(41)]

Following the presentation of R.3/2017, does the Chief Minister or his Assistant Minister accept the criticism at paragraph 4.5 of the report regarding the Ministerial Response to S.R.4/2013, which quantified risks relating to the Jersey Innovation Fund as 20 per cent of loans not securing their objectives and 10 per cent not being repaid, whereas Financial Directions quantified the risk of the latter as 50 per cent; and, if so, does he personally accept political responsibility for the response's shortcomings?

[11:15]

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

I would like to ask Senator Ozouf to answer this question.

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

For the avoidance of doubt I will be answering questions and making a statement, with your consent, after questions without notice. Following approval of P.124 and the subsequent appointment of the chairman and the board the level of risk of failure of loans was considered by the chairman and the figure of 50 per cent established. The conclusions of the C. and A.G. (Comptroller and Auditor General) report under paragraph 15.2 highlight that the objectives of the fund were not translated into clear objectives and there was an insufficient focus on managing risk for the fund as a whole. I am extremely disappointed that the body this Assembly established to manage what was always going to be a high risk endeavour failed from the outset to establish appropriate levels of governance in terms of the implementation and the roles of officials. Throughout the debate of P.124/2013 Members consistently and rightly referred to the risk involved in this type of venture and the need to have external expertise to ensure it was managed appropriately. It is a matter of deep regret that the risks identified by this Assembly in approving the proposition were not acted upon by the board and officials and, until recently, this Assembly was not able to be completely informed.

3.5.1 Deputy G.P. Southern:

Does the Minister accept that the figures of 20 per cent and 10 per cent predated the proposition arriving before this Assembly and therefore the Assembly in effect was misled?

Senator P.F.C. Ozouf:

As far as the proposition of P.124/2013 it needs to be recorded of course there was a proposition, which was effectively overseen by my respected predecessor, Senator Maclean, in discharging Economic Development, and effectively then that was handed over to officials to implement. I think the Auditor General's report, which is not particularly new to me, is absolutely clear in 4.5. The sequencing of that is clear. There is a sequencing of the percentage of risk, which is set out in

the C. and A.G.'s report, and there is a clear disconnect between the original and then the implementation.

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

Does the Assistant Minister believe there was ever sufficient focus given to risk? I would like to draw his attention to the form that was included on page 42 of the original proposition. The risk paragraph is tiny at the top here. I know that there were many documents supplied by applicants but he does believe that there was ever sufficient focus given on the element of risk when this whole idea of the Innovation Fund was first founded and presented to the States under P.124?

Senator P.F.C. Ozouf:

I think there are a number of legitimate questions to be asked, and Deputy Andrew Lewis stands as the chairman of the P.A.C. (Public Accounts Committee) who now receives the Comptroller and Auditor General's report, which is of course the report on the actions of officials and accounting officers, and he no doubt will be calling accounting officers and officials before his panel, rightly, to ask those questions. There are matters which need to be debated and discussed properly, of the responsibilities of Ministers and accounting officers, and I stand ready to assist the P.A.C. and Deputy Brée in terms of his responsibilities, who succeeded the Deputy of St. Martin in having done an oversight and scrutiny of that. There are questions that need to be answered. There must be no doubt in any Member's mind that I had significant concerns about this but, as my statements later on indicate, I found it almost impossible to do that. But yes, was I aware of risk? Do I care about risk? As an ex-internal auditor, as a Minister for Treasury and Resources, absolutely. Am I satisfied? Absolutely not. I am dismayed and disgusted and I share the anxiety of many Members of this Assembly and the public.

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

The question refers to Financial Directions. I understand Financial Directions are the responsibility of the Treasurer, so at time of the Assistant Minister being the Minister for Treasury and Resources, was he aware of this change to 50 per cent made in Financial Directions?

Senator P.F.C. Ozouf:

No, I was not.

3.5.4 Deputy G.P. Southern:

I will come back to my supplementary question, which asked the Minister clearly to identify whether the quantified risk of 20 per cent and 10 per cent predated the proposition concerning the States agreement to it and therefore misled the States.

Senator P.F.C. Ozouf:

I do not think the States was misled. There was a substantial good piece of work which, when I was discharging the administrative functions of the Minister for Treasury and Resources, having taken forward this proposition, was worked on by Economic Development and then scrutinised at length by the then chairman of the Economic Affairs Scrutiny Panel. There is clearly a sequencing of an increase in that percentage which happened, and those matters need to be addressed and further timelines need to be made on that issue. The Comptroller and Auditor General is clear in her remarks, and I became increasingly concerned about those issues, as is obviously, I hope, clear to Members. I do not believe the States was misled.

Deputy M. Tadier:

Sorry to interrupt. May I ask a question of the Chair? I am not sure if it is a point of order, but would it be sensible, and if the mover of the statement is willing to give that now, because it seems

that many of the questions that are being asked may be at least partly answered or helped by what is contained within the statement?

The Bailiff:

I think that it would be appropriate to deal with oral questions, which has a time limit to it. It will get very complicated if we do anything else, and I would proceed in that way. Deputy Higgins?

3.6 Deputy M.R. Higgins of St. Helier of the Minister for Treasury and Resources regarding the Minister's responsibility for addressing any weaknesses in relation to accounting officers identified in 'Jersey Innovation Fund' (R.3/2017): [1(53)]

In light of the report presented by the Comptroller and Auditor General, R.3/2017, in relation to the Jersey Innovation Fund, what responsibility, if any, does the Minister hold for addressing any of the weaknesses in relation to the roles of accounting officers identified in the report, and if none, why not?

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

I am not sure if the Deputy meant to phrase his question exactly in this way but, as far as I am aware, the Comptroller and Auditor General's report makes no criticisms of the roles of accounting officers. An accounting officer for the fund was appointed from its inception, and the functions of the accounting officers are clearly laid out in the Finance Law. The report does contain criticism of how the fund was operated in practice. These criticisms are more about performance than they are about role.

3.6.1 Deputy M.R. Higgins:

The Minister is quite correct; it is not phrased exactly as I put it. It has been modified. What I would ask the Minister is, as the Minister for Treasury and Resources and responsible for and having officers on the Innovation Fund, what responsibility he takes? Since he became the Minister for Treasury and Resources, he must have reviewed the operation of the Innovation Fund, and could he explain, for example, why he made no changes to the working of it when he first reviewed it, which has been heavily criticised by the Comptroller and Auditor General?

Senator A.J.H. Maclean:

I should point out in the early stages, in fact it was my predecessor who put in place in July 2014, and quite rightly so, Financial Direction 1.2, which sought to mitigate risk and improve controls with regard to the operational terms of reference of the Innovation Fund, and that was a point, I noted, that was picked up by the Comptroller and Auditor General and does demonstrate a welcome improvement in those areas. Since that point there have been various statements that have been made. There is an annual governance statement which is made by the accounting officer of the fund, the person responsible for the oversight and management of the fund, and that is reviewed on an annual basis, as the Deputy will know. On top of that, Internal Audit was asked to have a look at the operation of the fund in 2015. That was as a result of part of its programme put in place, or agreed, by the Treasurer and, I might point out, by the chief executive of Economic Development at that time. There were a number of checks and balances put in place to look at the administration of the fund which later resulted in external accountants being brought in, BDO, to look at the post-loan performance and so on. The fund was being managed and it was made absolutely clear when problems began to emerge that no further loans would be made without the precise and exact acceptance and agreement of the Treasurer and the Chief Executive of the States, which is why no new loans were made on this fund in 2016.

3.6.2 Deputy G.P. Southern:

Does the Minister for Treasury and Resources accept the statement made by the Assistant Minister to the Chief Minister that: “The Chief Minister has delegated responsibility for Innovation to me and I am therefore responsible and accountable to this Assembly for the fund, including all ministerial decisions, past, future and present, that are associated with it.” Does he accept that statement and does he feel that that is where responsibility lies?

Senator A.J.H. Maclean:

I have no reason not to accept a statement made by the Assistant Chief Minister. I think the Deputy was quoting directly from the statement made to this Assembly. With regard to responsibilities, the Chief Minister has made it absolutely clear that there is going to be an investigation into the roles and responsibilities of all Ministers involved in the Innovation Fund. The outcome of that review will be published and I think that is the appropriate moment to answer the second part of the Deputy’s question.

3.6.3 Deputy A.D. Lewis:

The Minister for Treasury and Resources will be well aware that one of his officers was appointed to sit on the Innovation Board. Can he comment, though, as to why that officer had voting rights when he was supposed to be maintaining independent oversight for the Treasury? Does he think that was appropriate, and also was that officer ensuring that various elements of Financial Direction 1.2 here, which is a whole document on the Innovation Fund, were being followed and is the Minister content that they were?

Senator A.J.H. Maclean:

I do not wish to go into too much detail around the particulars specific to the question that the Deputy is asking, for the reasons that, as well as a review or investigation into the roles of politicians, the Chief Minister has also stated that the chief executive of the States of Jersey has also commenced an investigation into the roles of officers in relation to the Innovation Fund and, as a result of that, I think it would be unwise for me to make detailed comments about the roles of specific individuals at this stage.

3.6.4 Deputy A.D. Lewis:

The matter was a matter of policy. Does the Minister accept that it is inappropriate when you have independent oversight sitting on that board, that that person has a vote on that board? Does the Minister think that is appropriate? If he did not think so, then why was that allowed to continue?

Senator A.J.H. Maclean:

I believe that it is a difficult point with regard to having voting rights. The Deputy is quite correct; the individual was there to provide and to fulfil a specific function and that function, one could argue, would compromise that particular role. However, it was not picked up and it was not acted upon. I cannot add anything further than that.

3.6.5 Senator S.C. Ferguson:

Given that the problems highlighted by the Auditor General’s report are similar to those highlighted in the Public Accounts Committee reports on the Battle of Flowers grant in 2007, and the Can Be Done grant in 2012, and after each of these the Assembly was assured that lessons had been learned, what does the Minister intend to do to make sure that the lessons learned are being applied, particularly, for instance, with regard to Digital Jersey?

Senator A.J.H. Maclean:

As other Ministers have said, there is a degree of significant dissatisfaction with the fact that the performance of this fund, in particular with regard to its oversight and management, have fallen

short of standards that one would expect. We have checks and balances in place to ensure that funds, and in particular public money, are managed appropriately. In this case, it appears that there have been some failings in that regard and that is completely and utterly unacceptable, as I have stated, and others, in the past. There have been and were improvements put in place with regard to the Innovation Fund compared to others, so lessons, in some respects, have been learned. Then again, the oversight and management and implementation, which is key, is really critical to ensuring the performance and the safety of public money in this way, I think it is in that area that we need to focus our attention in particular.

[11:30]

3.6.6 The Deputy of St. John:

This is the second time that a report has identified that there has not been compliance with Financial Directions. What confidence does the Minister have in the way that Financial Directions work or do not work in the States, and what confidence can we therefore have and we can have assurance that this will not happen again, or it will not be as bad?

Senator A.J.H. Maclean:

As I mentioned earlier, a new Financial Direction was put in place specifically for this fund, Financial Direction 1.2, which was welcomed by the Comptroller and Auditor General's report. Again, it comes back to my point about implementation, management and oversight. It is all very well, as the Deputy was effectively alluding to, that we have Financial Directions and other requirements in place for the proper and effective management of public funds; if these fall short, then it is ultimately ... and that is why we have the role of accounting officer and the responsibilities and liabilities associated with that function of accounting officer, that is exactly why that is in place, to make sure that all functions are undertaken in an appropriate way. If that does not happen, then of course under our system it is appropriate that the accounting officer, and others, are held to account and the person to do that of course would be the chief executive of the States and that shortfall would be ultimately responsible through the Chief Minister to this Assembly.

3.6.7 Deputy M.R. Higgins:

Coming back to my second question, does the Minister for Treasury and Resources take any responsibility for any of the failings in the Innovation Fund, and did he review the fund when he became Treasurer? If he did, what did he do? You mentioned that different Directions were brought in; was it the Minister himself who brought them in, or were they brought in by others?

Senator A.J.H. Maclean:

I, and, I think, many others take responsibility for the Innovation Fund, all the way from the approval from this Assembly to set it up and the Ministers ultimately who are responsible to this Assembly for the performance of the departments for which they have responsibility. With regard to reviewing the Innovation Fund, it is not the role of the Minister for Treasury and Resources to review the fund as such. There are other mechanisms in place, checks and balances which are most appropriate in order to make sure that the fund, or any fund, for that matter, is being managed ... is implemented, first of all, in line with the guidelines put down by the States Assembly when it is approved, and Ministers with regard to their policy contained within it. I can only say to the Deputy that, as far as I am concerned, we have to make absolutely certain in the future that those responsible for such funds fulfil their obligations as we would expect.

3.7 Deputy M. Tadier of the Chief Minister regarding risk-mitigation measures taken in respect of the Jersey Innovation Fund: [1(43)]

Does the Chief Minister accept the findings of the Comptroller and Auditor General in R.3/2017 regarding the Jersey Innovation Fund that provisions relating to the use of royalties were not implemented and that other risk mitigation measures that she identified were not included? Will he accept political responsibility for the weaknesses in risk management which have been identified, and explain what action, if any, he will take to address them?

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

I was naturally very disappointed to read the findings of the Comptroller and Auditor General concerning risk mitigation. The fund's operating terms of reference were clear in that it was the role of the board to recommend that royalty agreements be sought. This was a point that was raised in the Economic Affairs Scrutiny Panel's report on the fund in March 2013. In response, the Executive recognised the panel's concerns and undertook to draft templates that could be used for royalty agreements. Regrettably, neither activity occurred. It was also within the board's remit to recommend that funds be advanced in tranches and that personal guarantees be sought. As the Comptroller and Auditor General's report notes, this was considered in some cases but not applied consistently. As a consequence of the identification of these and other failings, I have directed that 2 internal investigations be undertaken: one to look at the actions of the Ministers involved, and another to examine the role of all officers connected to the fund.

3.7.1 Deputy M. Tadier:

We hear the Chief Minister, like other Ministers and Assistant Ministers, talk about disappointment, and normally one is disappointed when something happens that you do not expect; it comes as a surprise. The question has to be asked: why did the Chief Minister or the Assistant Minister and others involved in the political oversight of this fund not know what was going on under their very noses? Where was the political oversight, and if it was not there, why was it not being done properly?

Senator I.J. Gorst:

Let us go to the report and look at the evidence that the Comptroller and Auditor General presented. I know it is attractive to scapegoat individuals and to always want to do that, but the appropriate response to the report and the failings that the report highlights is to undertake the pieces of work that I have just outlined, together with, as I shall outline in a statement later in this sitting, the work that an accountant will perform, giving confidence around the issues that the Deputy of St. John rightly raised to the Minister for Treasury and Resources. It is right that those questions that the Deputy asks are answered by suitably independent persons, reviews without fear or favour, so that action can be taken once those reviews have been undertaken, together, of course, with the work that Deputy Brée might undertake with his Scrutiny Panel and the work that Deputy Andrew Lewis will undertake as part of P.A.C.

3.7.2 The Connétable of St. John:

In view of the Comptroller and Auditor General's report, in which she said there were serious failings in the governance, will the Chief Minister nail his colours to the mast and either dismiss the person responsible at a political level, or stand by him and eventually fall with him?

Senator I.J. Gorst:

Members will have seen a statement on their desk. That statement will be delivered shortly and maybe the Connétable would then like to ask me the question after that statement.

3.7.3 Deputy J.A.N. Le Fondré:

Last Friday, Senator Ozouf stated on television: "I was asked to take responsibility to sort out the issues to do with the Innovation Fund, and that is what I have done." Could the Chief Minister

confirm that when given the delegated responsibility for the fund, that the Chief Minister and the Senator were already aware that there were issues of governance surrounding the fund, namely back in November or December of 2014?

Senator I.J. Gorst:

The Chief Minister's Department became responsible for the fund in January 2016. One of the first things that happened in January 2016 was an internal audit of the working of the fund, and throughout that period concerns that that report highlighted have been and continue to be addressed. Members should read the full report before jumping to conclusions and conclusions should not be jumped to until the further work has been undertaken.

3.7.4 Deputy J.A.N. Le Fondré:

A point of order. The question was about taking responsibility. The C. and A.G.'s report specifically states that Assistant Chief Minister Senator Ozouf was assigned responsibility for Innovation. The date they have was 6th November 2014. It is not about which department it was in; it was which individual had that responsibility.

Senator I.J. Gorst:

That says for Innovation, not the Innovation Fund. This Assembly ... this is exactly the point. One has to read the detail of the report and the other pieces of work to answer exactly the question which I think the Deputy is trying to drive at: who was responsible during which period for the fund, not just for the political idea of innovation. They are different things. The further work needs to be undertaken so that I can be satisfied, so that this Assembly can be satisfied, and so that the public can be satisfied about where the responsibilities lay, before the election, after the election, and once this Assembly has changed the law, to deliver the responsibility, not only for Innovation but the Innovation Fund, to the Chief Minister's Department.

3.7.5 Deputy J.A. Martin:

Just to bring the Minister back to the answer to the question about the royalties: does the Minister not agree, whether there was a template or not, under the Jersey Innovation Fund, the Finance Law needed to be changed. It was due to be changed within 6 months of the Innovation Fund being started. Who takes responsibility for this? It did not happen. It could not happen; royalties could not happen under the law. Nobody brought it back to this House within the 6 months, or the 18 months after that. Who is responsible? I ask the Chief Minister.

Senator I.J. Gorst:

It would appear, from reading the report, that the officials should have brought it forward, that they were requested to do so, and it did not happen, and that the board had it within their remit to propose that it was brought forward. I fully understand the frustration that Members of this Assembly are ventilating this morning about who was responsible for what and when. That is why I am in the process of finally instructing today or tomorrow, with the law officers and a senior independent Q.C. (Queen's Counsel) to be able to answer some of the questions that Members of this Assembly, that I have, and that the public has.

3.7.6 Deputy R. Labey of St. Helier:

I am interested to hear that from the Chief Minister because this House is not going to have any faith in his administration carrying out the investigation into its own failings, and similarly with the chief executive. The ink is not even dry on the golfing deal whitewash. The chief executive should not be investigating the failings in his own civil service.

The Bailiff:

What is the question? I think the question is in relation to the chief executive.

Senator I.J. Gorst:

I gathered that, Sir, thank you. The reality is that both of those investigations, the one into political responsibility, what the relationship was between the Minister or Assistant Minister and the official, will be undertaken, will be instructed independently; and the piece of work looking at disciplinary processes will also, likewise, be undertaken by an independent person from the United Kingdom, as I believe is appropriate, and I believe this Assembly would think is appropriate.

3.7.7 Deputy A.D. Lewis:

The Chief Minister will be aware that one of the objectives of the fund was to increase its value, to top it up so that it could be reused and recycled. How could that possibly have happened if there was no change in the law to allow equity stakes to be taken? This was a guiding principle of the fund. That was one of the objectives as laid out in P.124, so how could that possibly happen without that change in the law? Why was that change in the law not hurried through so we could have an effective fund rather than just a pot of money that was just dished out when requested? It was supposed to be a fund, it was supposed to be an administered fund; it appears not to have been. Can the Chief Minister explain why?

Senator I.J. Gorst:

I understand the frustration. I feel the frustration of not today being able to give satisfactory answers to some of the questions that I myself have, that Members of this Assembly rightly have, and that members of the public have as well. Royalty agreements are part of a risk mitigation process that it was intended that the fund would have in place, but there were other risk mitigation processes that the fund did have in place, but they were not used. For example, expecting equity to be put in by existing shareholders or directors, expecting monies to be only paid in tranches rather than in lump sum amounts, and to have appropriate ongoing monitoring, and to think about whether there should have been payment holidays or not. There were risk mitigation processes in place, but what this report says is that they were not used consistently and there were not appropriate processes in place to ensure that they were.

[11:45]

3.7.8 Deputy G.P. Southern:

The Chief Minister has just drawn a fine distinction on actions on 6th November 2014 between being given responsibility for Innovation and being given responsibility for the Innovation Fund. Could he turn himself to consider the actions only 2 months later, 12th January 2015? As noted in the Comptroller and Auditor General's report, the board was advised that the Assistant Chief Minister, with the responsibility for Innovation, would have delegated responsibility from the Minister of Economic Development to approve loans from the fund. Is it not clear that as early as the start of 2015 the Assistant Minister had responsibility for approving loans from this fund, not in 2016, as he now pretends?

Senator I.J. Gorst:

If the Deputy reads further down that timeline, he will also see another date in June 2015 where it is reported that formal delegation to approve the loans was actually issued. This is why the other pieces of work need to take place. Members of this Assembly I expect, rightly, have questions, but equally they are rightly responsible and want to have the evidence presented before them which has been independently gathered, based on the report of the Comptroller and Auditor General, in order that their questions can be satisfactorily answered.

3.7.9 Senator S.C. Ferguson:

I thought it would be interesting, since the board was in an advisory capacity and the decisions were being made by the Minister, that I would look up the Ministerial Decisions. The only Ministerial Decisions listed relating to the Innovation Fund were those by Senator Ozouf, and there is no record of the detailed decisions regarding giving of the loans. When will those be available on the Ministerial Decisions site?

Senator I.J. Gorst:

I do not know the answer to that question, but I shall certainly go and find out. The important point about the details that Members have been asking me about this morning and feeling frustrated about is: who was responsible for what, whether it was Innovation, whether it was the Innovation Fund, political responsibility, and whether there is a separation between that political responsibility and the legal responsibility of signing off loans on the Innovation Fund? All of this information will be provided to Deputy Brée and his Scrutiny Panel, together with a whole plethora of emails. This information will be provided to P.A.C. because there are questions which need to be answered in relation to all of these details. Ministers have nothing to hide; they are prepared and want to provide all of this information about where they were engaged, where responsibility lay, who signed what decision, what information they had to base that decision upon, what they were told before they made that decision, the enquiries they made before they made that decision ...

The Bailiff:

I think we have that message, Chief Minister.

Senator I.J. Gorst:

I am not sure that every Member has. These questions will be answered during the course of these further works that need to be rightly undertaken.

3.7.10 The Deputy of St. John:

Does the Chief Minister not accept that in a statement made by his Assistant Minister on 14th June, he stated that he had delegated responsibility for the fund as Assistant Minister for Economic Development before 1st January last year, and that he would take responsibility and accountability for all Ministerial Decisions, past, future and present, that are associated with the Innovation Fund? Is that clearer for the Chief Minister?

Senator I.J. Gorst:

That is recorded in Hansard. As the Assistant Minister said, that was with regard to the Ministerial Decisions that were taken, but Deputy Brée and his Scrutiny Panel, together with P.A.C., are going to have all the information upon which those decisions were based and the evidence and advice that they were provided with prior to making those decisions, so that Members of the Assembly can understand the basis of those decisions, together with the other pieces of work that I have instructed as well.

3.7.11 Deputy M. Tadier:

Does the Minister accept that we can look at the many failures that are pointed to in the report, such as the royalties not being used as a mechanism and other risk mitigation measures not being implemented, but these are all symptomatic of what the Comptroller and Auditor General identifies as a cultural deficiency? On page 28, she talks about there was a culture where good governance was not central to decision making, either at the establishment of the fund or subsequently. The question has to remain: when we talk about the Assistant Minister or somebody else saying: "I am accountable" what does that mean in real terms? Does the Chief Minister take political responsibility for the failures in this fund? We are about to hear a statement, I think, where the

Assistant Minister will offer to resign and it will be pure window dressing and the Chief Minister will say: "I could not possibly accept your resignation."

Senator P.F.C. Ozouf:

May I ask a point of order, Sir? A statement is before Members, designed to enable me to answer questions. I understand that has already been tweeted. There is an unpacking of a conclusion, answering questions properly, and the Deputy, I think, is showing a discourtesy to this Assembly and to you and the rest of us in not allowing proper Parliamentary process to undertake. It may not be a ruling required, but perhaps you could give some guidance?

The Bailiff:

I think, Senator, it is a matter that the Privileges and Procedures Committee may well wish to consider as to whether or not Standing Orders should be buried or guidance given to Members, but certainly it is true that until a statement has been made it has not been made, and the fact that it is circulated is not something that, in my view, ought to be taken advantage of. At the end of the day, one must be realistic: once it has been circulated that risk is there.

The Connétable of St. John:

The Chief Minister referred to it during a response to my question.

3.7.12 Deputy M. Tadier:

The point I was making, and the question will be arrived at, is that in most jurisdictions and most Parliaments, when something of this magnitude has happened, a resignation is virtually automatic and we do not have these shenanigans, by saying: "I am politically accountable, I take responsibility" actually taking no responsibility whatsoever. Will action be taken by the Chief Minister to either tender his resignation as Chief Minister or to ask for the resignation of the Assistant Minister with political responsibility for the fund?

Senator I.J. Gorst:

Action will be taken, and when this independent review, undertaken by an independent Q.C., concludes their report, if it says that action needs to be taken it will be taken. If that review says that I should consider my position, I will do so. We serve at the pleasure of this Assembly. We consider it an honour to serve the Island that we love. **[Approbation]** We put the best interests of the Island always to the fore. We do not cling on; we do what we think is best for Jersey, and in this instance that report will say where responsibility lies, on balance, and action will be taken in light of that report. If that report points the finger at me, so be it. I will take the necessary action.

3.8 The Connétable of St. John of the Chief Minister regarding the 2015 public sector pay award: [1(44)]

Will the Chief Minister confirm whether or not negotiations for the 2014 Public Sector Pay Award have been concluded?

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

I wonder if the Deputy Chief Minister could answer this question for me please.

Senator A.K.F. Green (Deputy Chief Minister - rapporteur):

The employer is pursuing a 2-year agreement, as the Constable referred to, 2015/2016. The pay review has not been concluded.

3.8.1 The Connétable of St. John:

Why has it not been concluded, and can we have a timescale as to when it will be concluded?

Senator A.K.F. Green:

It has not been concluded at the present time because we have not got agreement with all parties. We have agreement with some groups but not with others. It is impossible to put a timeline on. What I will say is that an offer was made on 29th April 2015, 22nd January 2016, and 15th April 2016. The offer takes up the full amount allocated to the pay award in the Medium Term Financial Plan for those years.

3.8.2 Senator S.C. Ferguson:

Were promises not made prior to the election in 2014 about the 2015 pay award, and why were those promises not kept?

Senator A.K.F. Green:

I am not aware of any promises that were made prior to the election. Pay negotiations are always very difficult and it is not appropriate that they are attempted to take place in this Assembly. Pay negotiations take place with the representatives and our professional staff who know what they are doing and I am not going to get into pay negotiations here.

3.8.3 Senator S.C. Ferguson:

Why, on at least one occasion did the S.E.B. (States Employment Board) send the employee relations representatives to meet with the union representatives without giving them a clear mandate to negotiate?

Senator A.K.F. Green:

The S.E.B. have set a clear mandate in discussion with officers all the way along. I am sorry if the Senator has a different view, but that is a fact.

3.8.4 Deputy G.P. Southern:

How many negotiating meetings have there been in the last 3 months over this issue, and at those meetings does any elected representative ever turn up?

Senator A.K.F. Green:

The States Employment Board has professional officers to negotiate a pay agreement. I do not know offhand the number of meetings that have taken place, but they regularly take place. It is not appropriate for elected Members to start to try and intervene in professional pay negotiations.

3.8.5 The Connétable of St. John:

We do not wish to interfere with pay negotiations. What I wish to ensure is that the public sector are paid the wages due to them, in some cases up to 2 years out of date. When are we going to get a result that we can stand up and say: "We are looking after our employees?"

Senator A.K.F. Green:

At least I agree on this point with the Constable. The sooner this is concluded the better, but it has to be concluded appropriately. While I cannot answer when, I hope that we will be able to conclude it fairly soon.

3.9 Deputy S.Y. Mézec of the Chief Minister regarding the Chief Minister's awareness of circumstances surrounding the Jersey Innovation Fund: [1(49)]

Following the presentation of R.3/2017 in respect of the Jersey Innovation Fund, will the Chief Minister explain whether or not he was aware of the circumstances described in the third to sixth bullet points of paragraph 2.8 of that report where arrangements were only partially complied with,

or where the requirements were contested by key players, and what action, if any, will he take as a result?

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

There is a requirement to be very clear about what happened, when, which I have asked myself, for the Chief Minister, to undertake a review, which he has agreed to do. That is in everybody's and in my interest for the truth to come out. I became aware of issues in relation to the Innovation Fund in a partial and bitty way right the way through 2015. I was not aware of the matters highlighted in the section referred to in paragraph 2.8 of the Comptroller and Auditor General's report. It is a matter of principle that any board constituted to administer public funds must operate to the highest standards. For board members to participate in discussions where they have financial interests, as outlined in the report, is unacceptable and is a very regrettable mark of the failure of the governance of this board, and was not envisaged as set out in the terms of the reference and the Nolan principles, which are clearly set out in the report. The allocation of staff with requisite levels of experience is, of course, not a matter for politicians, only advisory. It is a matter for the accounting officer and their respective departments. What I can say to the Deputy and to the Assembly is that I made my views absolutely crystal clear in relation to what I thought of the staff and the level and requisite skills, and I finally made a decision, an unprecedented decision, to ask the accounting officer, for his own best interests, to stand aside and to ask the chief executive of the States to take over accounting responsibilities, because my express requests were not being listened to and not being implemented.

[12:00]

3.9.1 Deputy S.Y. Mézec:

For the third bullet point in that list, the one that Senator Ozouf referred to about members of the board with direct financial interests in the borrowers not recusing themselves from those discussions, could the Assistant Minister be absolutely crystal clear when was the first time he got an inkling that this was something that was happening? Was it at the time the Comptroller and Auditor General report came out, or did he know about this previous to that and, if so, when was it?

Senator P.F.C. Ozouf:

I did not know that, to the best of my knowledge and belief, and I am putting to the P.A.C. and to the reviewers full disposition of all of my emails and everything that I have in relation to the requests that I asked, but I did not know that. The issue that I have is that there were repeated requests by me to get facts and to get information. I had apparently been delegated the issue of Innovation, but I did not have the necessary requisite delegation to sign loans until the middle of 2015. I then did not have other information, despite repeated requests, and I mean repeated requests. Members will know that I am not a shrinking violet. I am in the department for which I am responsible. In fact, it was not even in a department I was responsible for, because part of them were in another building. It was not an acceptable state of affairs, I agree with the Deputy. He is shaking his head. An unacceptable state of affairs that a Minister is not given the full information. When did I know about it? I did not know at all that there was effectively ... at all, as far as, to the best of my knowledge and belief, that there was this unacceptable situation with ... Sir, he keeps on asking me: "When?" I did not know. End of story. I am shocked and I am angry and this is an unacceptable waste of public money.

3.9.2 Deputy G.P. Southern:

The Assistant Minister has just said that he did not know about particular loans or he received information in part from the middle of 2015. Who then signed off the application from Applicant E, which started on 26th March and was drawn down on 9th June; or Applicant B, 1st June, second

application, drawdown in December 2015; or Applicant F, who drew down on 31st July 2015? Who signed off those particular loans?

Senator P.F.C. Ozouf:

I do not think I can go into detail on everything. All this will come out. Everything. You cannot ...

The Bailiff:

Senator, you have been asked a question. How you deal with it is up to you.

Senator P.F.C. Ozouf:

There are numerous questions and there are numerous bits of information.

The Bailiff:

You were asked 3 particular questions in relation to 3 particular loans.

Senator P.F.C. Ozouf:

Particular loans. I have that information. That information can be published immediately. There was absolutely clarity that my colleague, the former Minister for Economic Development was responsible for loans up until the end of his term of office, being advised by his accounting officer. There was a rather strange situation whereby I was given the responsibilities of Innovation but the actual delegation was not signed for me to sign loans. There are all sorts of questions that arise in relation to this, and the Minister for Economic Development sometimes with my awareness, sometimes I do not think I was aware ... I am not criticising him either. There is a fundamental issue of accountability and actually knowing who is in charge. You cannot have 2 bosses. I know how to be an Assistant Minister, and I know how to be a Minister, but what I do know is that the transfers of functions which were designed to give me the ability to be able to do the things was not carried out by this Assembly for 12 months; an impossible position, for not only this portfolio but all the others. Where were the staff to report to? Who were their bosses? They did not know, and this is why we have had the chaos. Members need to think themselves about some of their own roles in delaying matters, which perhaps would have been better dealt with earlier, so that there could be clarity for what this Assembly appointed Ministers to do, and I clearly was not able to do. However, I still am responsible, and I will still be accountable, just as I always have.

3.9.3 Deputy J.A.N. Le Fondré:

Hopefully, a very simple question: did the Assistant Minister, when he was Assistant Minister for Economic Development, sign or recommend for signing any decisions relating to the approval of loans prior to 1st June 2015?

Senator P.F.C. Ozouf:

The first thing is I should have had responsibility from the start, clearly. That is the first thing that is inexplicable. The second thing is that, yes, I did sign some loans, upon advice. Upon proper advice from a board with an advocate, with an accounting officer who I required to put an indication, an initial, something which I have done to ensure that Ministers act upon advice. They do not simply dream up Ministerial Decisions. They are presented with documentation and documentation which complies with the policy. There is a debate to be had, not today, about roles of accounting responsibility and Ministers, and there needs to be clarity about this, because, frankly, at the moment, there is some sort of Salem witch hunt going on where sorcery is being ... and judge, jury and executioner is always being put out on social media, and I regret that. I hope that the facts and the truth can be found out, and that is why I am taking the actions that I am.

The Bailiff:

Can I inform Members that I have 5 Members wanting to ask questions here? There are no doubt other Members who want to ask questions later on in this session, and if we are to have any chance at all of making progress with a number of other questions, frankly, I have to cut this short. Deputy Tadier, final supplementary?

Deputy M. Tadier:

It is not my question, Sir.

The Bailiff:

Sorry, I beg your pardon. Then you are lucky; you are next.

Deputy M. Tadier:

All right, thank you.

The Bailiff:

Deputy Tadier, and then it will be the final supplementary.

3.9.4 Deputy M. Tadier:

Honesty is the best policy, I think. The Assistant Minister stands up with vigorous indignation about the failure of the fund as if he is a casual observer, a third party, but he is the Assistant Minister with delegated responsibility for that fund. He cannot shout at the TV when his football team is not doing well when he is one of the players in that. Does the Assistant Minister agree that an apposite quote for this moment is that: "Success has many fathers; failure is an orphan" and if the fund had been very successful and set up to achieve what it had achieved to do, the Council of Ministers and him would be saying: "Have we not done a great job? We knew this was the right thing to do and it is a great success for us?" Similarly, when it fails, somebody needs to take responsibility. Presumably it is the captain, it is manager of the team, when the team does not succeed as planned. Resignation is surely in order.

Senator P.F.C. Ozouf:

The football analogy is an interesting one because I was not a player on the pitch; I was sitting on the side lines. I was trying to find out exactly what was going on. I am angry, dissatisfied, dismayed, at what has happened. We have been let down. I feel let down, and I have to take responsibility for this Assembly being let down, and the public. The public are rightly angry. There has been mismanagement, maladministration, a failure of governance. I promised the Chief Minister that I would get to the bottom of it, and I have tried, and I can say to Members that I have taken action which largely already has implemented, without the Comptroller and Auditor General's report, most of the actions. The fund was mothballed. I have signed one loan. One additional loan, not a new loan, in 2016, and even then when I was given the responsibilities, I can say to the Assembly that my accounting officer in my own department refused to take the fund because it was a shambles. I do not mind being held accountable and I am going to be making a statement, which has already been tweeted by Reform Jersey. I regret that; I wanted to answer questions properly and then in proper sequence make this Assembly, which is the supreme Parliament of Jersey, aware of my decisions. I accept in full the Comptroller and Auditor General's report. I have tried my best, and I will be judged on to account. Innovation is going well, by the way. That is why we have record employment and fantastic growth in many areas. It is not just about the fund, and it is not only the fund that I have been working on. I was not able to work on the fund and be doing other things.

3.9.5 Deputy S.Y. Mézec:

My first supplementary to this was an incredibly clear question, but Senator Ozouf chose to give a very ambiguous answer, so I am asking for a very clear answer to this. I do not know why I am bothering when he is not even facing to listen. Yes, thank you very much. The question is: the third bullet point talks about private sector members declaring financial interests and not recusing themselves from the work of the board. He has said he did not know about this. I want to know when he became aware of this. I became aware, as a casual observer, at 11.30 on Wednesday morning last week when I read the report. When did he become aware? Was it when he read this report, or did he know beforehand, and if he did know beforehand, when? Days? Weeks? Months? Years? What was it?

Senator P.F.C. Ozouf:

There is going to be a full timeline of everything about it, because there is a lot of detail. I know I did not know. I have been the Minister for Treasury and Resources of this Assembly, at this Assembly's pleasure, on Government. I am an ex-internal auditor. I have been a fraud investigator. What do Members think that I think of somebody not declaring an interest? It is an absolute disgrace and I will not stand for it and I will not stand for other people doing it. I will publish a full timeline, but I want that independently done. The Deputy still gesticulates. I have been absolutely clear. I would never tolerate such a matter, to the best of my knowledge and belief, and that is all I have to say at the moment on this issue. A full timeline. I have no further comments to make. I would never, ever, allow such a thing to happen if I knew about it. I did not even see ... I am being asked: "When, when, when, when, when?" There is a whole detailed set of issues. Is the Deputy and is this Assembly not now aware that I was not told things, that I was excluded from decisions that I was supposed to be doing? There is no huffing. That is the facts, and I stand here saying the truth to this Assembly, which is the Parliament of Jersey.

3.10 Deputy J.A. Martin of the Minister for Housing regarding the stock of housing with more than 3 bedrooms: [1(40)]

Will the Minister advise what, if any, policy decisions she has made in order to ensure that there is sufficient stock of housing with more than 3 bedrooms to meet the current needs of Islanders? Has she communicated this to Andium Homes in order that it desists from selling its stock of housing with more than 3 bedrooms?

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

I am focusing on the delivery of 1,000 new homes by 2020 to meet the demand for affordable housing, be that for rental or for purchase. The Housing Gateway provides evidence of the demand for affordable housing, including the need for any large family homes. Andium and the trusts use evidence to manage their current housing stock and to plan future developments. It is also important to note that supply reflects demand and the largest current demand is for one, 2 and 3-bedroomed homes.

3.10.1 Deputy J.A. Martin:

Do I take that from the Minister for Housing to be a no? The Minister for Housing is not discussing the shortage of anything over 3 bedrooms and is quite happy that Andium keep on selling their stock. I just need a clear answer. Thank you.

The Deputy of Trinity:

It is down in the Housing strategy, the evidence is there. It is through the Gateway, and it goes through to the Housing Trust with a business plan. It is irrefutable that the most demand is for one, 2 and 3-bedroomed homes. If there is a demand for 4-bedroomed homes, some have been built, but also important to use the existing stock ... better use of the existing stock.

The Bailiff:

Minister, I think you are being asked whether you have communicated with Andium Homes to ask it not to sell its stock of housing with more than 3 bedrooms. That is a straightforward answer, is it not?

The Deputy of Trinity:

Sorry, Sir. They have only sold 4 4-bedroomed properties since 2014. Three of those were sold on the open market because the properties were not suitable for social renting, be that because of location, layout or parking, and the fourth property was a deferred payment scheme and could not release the house elsewhere. Yes, I have many discussions with Andium, as I do with the other social housing trusts.

[12:15]

3.10.2 Deputy G.P. Southern:

Is it not the case that 4 sales of such housing is a poor decision? It is 4 too many. Why is the Minister continuing to sell off housing through Andium?

The Deputy of Trinity:

Part of that is that it is affordable to buy. Some of the houses, the one, 2 or 3-bedroomed, can be sold under deferred payment. That is very clear in the Housing strategy, as well as in Andium's business plan. There are not many people waiting for a 4-bedroomed home. I know the incident that Deputy Martin is talking about and we are trying very, very hard, but the most important thing is to use existing housing stock to encourage people who are in 4 bedrooms, who do not perhaps need them, to downsize.

3.10.3 Deputy M. Tadier:

Surely the prime purpose of Andium is as a social rented housing provider? Although it is quite a laudable aspiration to promote affordable purchase housing, that is not the philosophy and the ethos that was envisaged for Andium. Indeed, it was not the case for the old Department for Housing before it was Andium. Does the Minister accept that when we have a waiting list problem in all areas for all categories of housing that we should not be selling off properties? If anything, we should be buying them and buying more than we sell, and we should be selling zero.

The Deputy of Trinity:

Very few homes are being sold. I understand from Andium it is 11. But you raise a very good point: we need supply. I keep thumping on; it is supply, supply, supply. We know that there is a waiting list on the Gateway, and mostly for one, 2 or 3-bedroomed homes, to enable those who are in a 4-bedroomed home have got somewhere to downsize to. There is a plan to put 1,000 new affordable homes up by 2020.

3.10.4 Deputy J.A. Martin:

It is disappointing to hear that the Minister is ploughing on to sell these houses. They are short of 4 bedrooms, 5 bedrooms; very short. To compare them to one, 2 and 3 is wrong. My final supplementary is that the Minister talks about: "We are going to supply X amount by 2020." Will she not then look into and speak to Andium about stopping the selling of the larger homes until they have the supply to meet the demand, and people are sitting there with more than 4, 5, 6 children in unsuitable accommodation for maybe a year or 2, because we are selling to the people who do not have the need. They might have one child, and they are allowed to buy a 4-bedroomed house. It is not what Andium was set up for; it is not what social housing is. Will the Minister agree to start talking about this?

The Deputy of Trinity:

I have had many discussions with Andium but the basic fact is that there is mostly a demand for one, 2 and 3-bedroomed houses and there is that demand. I can give the Deputies the who is waiting on the Gateway. There are 140, I think, people waiting in band 1 for one and 2-bedroomed houses; that is where the greatest need is. If we can, by building one and 2 bedrooms, release over the 4-bedroomed homes to downsize, surely that is the biggest priority because people who do not need 4-bedroomed houses should be able to downsize.

3.11 Deputy K.C. Lewis of the Minister for Economic Development, Tourism, Sport and Culture regarding access to the old cable car station at Fort Regent: [1(52)]

Further to reports that children have gained access to the old cable car station at Fort Regent, will the Minister undertake to tighten up security at the Fort to avoid a fatality?

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

My department views safety issues at Fort Regent as one of its key risks and is urgently taking measures to safeguard the public. Prior to Christmas, officers from the department met with the Council of Ministers to discuss removal of both the cable car station and the footbridge between the Fort and the swimming pool. The Council of Ministers' approval was given and officers are now working with the Treasury to identify the funds for the work. Until demolition is possible, which is hoped to be by the end of this year at the latest, my department will continue to work with Property Holdings to seek security and safety at both sites is maintained.

3.11.1 Deputy K.C. Lewis:

Perhaps I should also be working with his officers on this. After lodging this question regarding Fort Regent last Saturday, I took my dog for a walk up to Glacis Field to see what the problem was and walking down the path again looked behind me, as I was passed by a group of youths who walked through a gap in the fence and proceeded to climb on top of the pool building completely unobstructed. Surely better fencing and C.C.T.V. (closed-circuit television) cameras should be installed as a minimum. Does the Minister not agree?

Senator L.J. Farnham:

We are working with Property Holdings and the department continues to make strong regular efforts to fence off and secure both cable car stations and the footbridge and all other areas where safety is deemed important. But it is difficult because these young people have very ingenious ways of getting in. As one hole is repaired in the fence, another hole appears. But, nevertheless, the department and my department are doing their best to keep on top of it because I am surprised there has not been a serious injury or worse already because these young people are behaving in a very unsafe manner. They are skating on the roof, footbridge and other areas and it is very dangerous. I would urge them to stop in the interest of their own safety. But the Deputy can rest assured that we are doing everything possible to keep up with the security until the final measures have been taken.

The Bailiff:

There will be opportunities for questioning this Minister in questions without notice later. Final supplementary, Deputy Lewis.

3.11.2 Deputy K.C. Lewis:

I am more than happy to send the Minister pictures of a 3-foot gap between a fence and a wall that children do not have to be cunning, they merely walk in. Videos have also appeared online

showing youngsters running across the roof of the dome at Fort Regent. If anybody runs across the glass section north or south of Fort Regent they will go through, and there is a considerable drop. Will the Minister also agree to secure the old cable car station?

Senator L.J. Farnham:

Yes, I would be grateful if the Deputy could forward a picture of the gap, so I can pass it on to officers and they can take action. I would also be pleased to arrange for the Deputy and any other Members interested to visit the Fort and be shown around by the staff. I think they will be astounded to see that young people are scaling buildings that I think Spiderman would have trouble getting up, so it really is quite incredible what they are achieving. But I do assure Members that the department is doing its best to keep it secure.

3.12 Deputy M.R. Higgins of the Chief Minister regarding the holding to account of civil servants by Ministers: [1(54)]

Will the Chief Minister advise how Ministers hold civil servants to account for their actions and state what action, if any, he will take to enhance the means by which Ministers perform this function?

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

Our legislation placed an obligation on chief officers to implement the decisions of their Minister and to follow policy directions. In turn, Ministers are accountable to this Assembly for the actions of their department. However, we have a non-political Civil Service in Jersey, which means it is not Ministers who assess the performance of officers but rather their line managers. In addition, the Public Finances Law places a clear obligation on accounting officers to be personally accountable for the use of public monies, a practice that ensures that clear responsibility always exists for spending. Within this system if a Minister is unhappy with the performance of their chief officer they can raise the matter with the Chief Minister and the Chief Executive. A range of other safeguards exist, including review and appraisal systems, the recruitment of appropriately qualified professionals, internal audit function and, ultimately, the Comptroller and Auditor General, Public Accounts Committee and this Assembly.

3.12.1 Deputy M.R. Higgins:

Can the Chief Minister tell us then when the last time a civil servant's employment was terminated because of failures that he has done in office? More particularly, which civil servants have gone without a payoff before the end?

Senator I.J. Gorst:

We do not normally talk about individual members of staff but members of staff are leaving the employment of the States all the time. Some of those are leaving of their own accord and some of them are leaving as a result of disciplinary measures.

3.12.2 Deputy R. Labey:

Does the Chief Minister think that the present existing legislation is fit for purpose or does it somewhat neuter Ministers in holding civil servants to account?

Senator I.J. Gorst:

One of the issues that this Comptroller and Auditor General's report has highlighted is perhaps a deficiency in the system about when roles, responsibilities, political oversights, legal responsibility moves to Ministers, moves across departments, the role of this Assembly in scrutinising that, the length of time it takes to move those functions and we see that there was confusion in this particular case about who was politically responsible, who was legally responsible, who had the legal

responsibility to sign which loan when and the division between the Minister's responsibility and the accounting officer's responsibility, the Chief Executive's responsibility and the board's responsibility. I am absolutely committed to ensuring that, in light of this report, all of those areas are simplified and clarified so that people can rightly be held to account for their actions.

3.12.3 Deputy M.R. Higgins:

One of the things that has been noticeable is that every time a Member raises concerns or criticisms of civil servants the Ministers back them to the hilt and that the person who is bringing the complaint is wrong. When it comes to a Minister suddenly on the rack because of actions within his department, it is always the civil servants' fault. When are we going to finally deal with the situation of Ministers are responsible for policy and civil servants are responsible for operations? There is not such a clean definitive line between the 2 and Ministers should accept responsibility for the actions that are going on under their nose, otherwise they are not doing their job. Does the Minister not agree?

Senator I.J. Gorst:

Ministers act upon the advice that they are provided and the evidence that is provided with the advice. But I am a little confused about what the Deputy is saying because, as he rightly said then in his question or the preamble to his question, that Ministers are responsible for policy and should be held to account for that policy, and officers are responsible for the implementation of that policy and should be held to account for the implementation of that policy and held to account for the spending of taxpayers' money. I think the Deputy raised the point, there is currently a lack of clarity in that regard and even Members of this Assembly today have asked questions that have crossed that boundary. It has got to be sorted out. It will require legislative change and I am absolutely committed to bringing forward those changes to the Assembly. When I stand in this Assembly, when the next Chief Minister issues letters of instructions to Ministers and Assistant Ministers, this Assembly should know that that responsibility has moved on that letter of instruction and not have the confusion that has arisen because when did it move, did it move, did it not move, was the right decision made? That has got to be clarified so that people, whether it is the political or it is the staff, can be rightly held to account for what they are responsible for.

3.13 Senator S.C. Ferguson of the Minister for Environment regarding planning and building policies applied to historic buildings used for residential purposes: [1(48)]

Will the Minister implement an independent review of the planning and building policies that are currently applied to historic buildings used for residential purposes, in other words family houses and, if so, when?

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

The planning policies for the management of change in historic buildings are set out in the Island Plan, which was approved by this Assembly. They were applied consistently to all heritage assets, including private homes that are of a special architectural and/or historic interest. The process of developing and adopting these policies was the subject of extensive consultation, scrutiny and review, including that of an independent planning inspector. I do not currently plan to review the Island Plan again until the end of the current planned period, which is 2020.

[12:30]

3.13.1 Senator S.C. Ferguson:

Why does the department consider that they should decide into what era a family residence should be tied and why should they prevent a family using modern material where applicable?

The Deputy of St. Martin:

As I just stated, the planning policies applied by the department, my department, to managing change in historic assets are set out in the Island Plan approved by this Assembly, also are our building bylaws that are about energy conservation. I accept the criticism. I acknowledge that there is a tension between the objectives of preserving historic buildings and those that would save our energy. All I can say is where there is a conflict my officers, in both the Historic Environment Department and the Building Control Department, work as hard as they can to reach a compromise that is acceptable to both sides.

3.13.2 Deputy M.R. Higgins:

The Minister said his officers follow a consistent approach but that is not the case. When it comes to plastic windows the department have followed very strange policies. They have prosecuted some people for putting plastic windows in the back of a property, allowed others to put plastic windows in the front; we are talking about historic properties and others in the back. The policy is totally inconsistent and seems to come down to what the historic building officer seems to want. Will the Minister look into this because I can give him plenty of examples where his department's policy is not consistent?

The Deputy of St. Martin:

I did say that I was not going to review the Island Plan before the end of this term. But Members of the Assembly will be aware that I am committed to reducing red tape and I have already instigated quite a lot of work and changes to the permitted development order, which allows people to undertake work without permission from the department. I am currently working on increasing the General Development Order in the area of historic and listed buildings and Members will be aware that in the first 6 months of this year I will be allowing people to do more work on listed buildings without permission. I would ask any Members who wish to engage to speak to me about that. I return to the Deputy's question, which is inconsistency, and I say to the Deputy if he has examples, which he claims, I would be glad to see them.

3.13.3 Senator S.C. Ferguson:

Given the article that I gave to the Minister earlier on about the work that has been done in Scotland, and they are always pretty ahead with things up there, will he look at that article and look at it in the light of using up-to-date materials and not tying residential properties into an era when they were built? This business about windows is quite important because it has come to a choice between restoring your house or freezing to death; you have to do something about it.

The Deputy of St. Martin:

I will commit to reading the article that the Senator has given to me and I will respond to her.

3.14 Deputy S.Y. Mézec of the Chief Minister regarding the provision of information to the States Assembly regarding the Jersey Innovation Fund: [1(14)]

Following the presentation of R.3/2017 by the Comptroller and Auditor General in relation to the Jersey Innovation Fund, will the Chief Minister confirm he accepts the validity of the criticism at paragraphs 3.3 and 3.4 of the report that essential information was not provided to the Assembly to inform its decision making and, if so, will the Chief Minister accept personal responsibility for those shortcomings and, if not, why not?

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

The original proposition set out under the manpower and resources section of the report said that the J.I.F. (Jersey Innovation Fund) was to run within Executive with the support mechanism to the board. The amended proposition, the P.124, after the Scrutiny Panel had implemented their review, maintained the same level of support, despite the fact that the Scrutiny Panel had raised issues in

their report. It is, in hindsight, a matter of regret that the officials did not reconsider and amend what should have been the manpower and resource requirements for the Executive in the light of the Scrutiny Panel recommendations and then reflect this in the amended proposition. The failures of the board and officials to satisfy themselves, that the C. and A.G. speaks about, the oversight was not satisfactory and they did not identify and quantify it at an early stage. That required provision for doubtful debts is, I think, a further example, that the C. and A.G. rightly says and the failures of the Government, which, of course, were issues, as I said earlier, which was not a surprise to me. These were the issues that led to my decisions in the autumn finally of 2016 where, effectively, I had got stronger and stronger in terms of saying, no, I am not satisfied and, ultimately, led me to ask for an accounting officer switch. I do not think that has ever happened before. I also gave advice that I was not satisfied with a recruitment process and that was taken on board, even though much of my other recommendations and suggestions were not.

3.14.1 Deputy S.Y. Mézec:

The findings of the C. and A.G. report make it very clear that the Innovation Fund was deficient right from its very foundations and those foundations, of course, were laid at a time when Senator Ozouf was the Minister for Treasury and Resources. The question is: does he take his share of the responsibility for that or does he have another elaborate excuse to pin it somewhere else?

Senator P.F.C. Ozouf:

I do not think I do have elaborate excuses. I stand before this Assembly and I serve with all Ministers at the pleasure and with the compliments of this Assembly. I put myself before this Assembly at all times, as I have done in 16 years, to be admonished or congratulated or otherwise. There was a difficult situation, which is going to be very clear, I hope, when people understand the reality of what I was faced with and on clarity and I look forward to the reviews. I have attempted to keep, as appropriate, the chairman of the Economic Scrutiny Panel who has taken a very active and welcome role into my areas of responsibility, and it is really going to be for them to comment as to whether or not who did what when from a Scrutiny point of view, which I absolutely respect, and also for the Chief Minister's designated requirement to have an independent review. There are many issues which need to be dealt with but this should not be a personal witch hunt or anything like that. It does feel a bit like that, if I may say.

3.14.2 Deputy J.A.N. Le Fondré:

The C. and A.G. report clearly states: "Information on loan repayments was not provided to the politician responsible for the Jersey Innovation Fund." Given that the terms of P.134/2012 clearly refer to reporting policies, including loan repayments, why did the Assistant Minister not identify those failings at an earlier stage and had he not informed himself by reading the proposition that he originally produced and presented to this Assembly as rapporteur when he was Minister for Treasury and Resources, to identify the information that he was meant to be receiving?

Senator P.F.C. Ozouf:

Deputy Le Fondré used to be an Assistant Minister of mine. I think he knows quite well what I am like. I read things, I ask questions, I am tenacious. I never stop, I never stop asking questions. I have never stopped since I was ... though that behaviour is irritating to some people but I never stop asking questions. But, clearly, as the facts will show, I was not given the information. Despite asking, I was not given the information on which to be able to advise the then Minister for Economic Development and then the Chief Minister who were ... an Assistant Minister acts in the name of a Minister. I know what my job is. I knew what my job as Minister for Treasury and Resources was and that was to take Economic Development's report, get it scrutinised, make all the amendments and make changes. Then with your Minister to check with the Ministerial Decision, whether it complies with the terms of reference and sign it or otherwise. I know exactly what my

job is but I can only do my job if I am able to do so and given accurate information. I can say to the Assembly I was not given accurate information or complete information. It was chaos throughout 2015.

3.14.3 Deputy A.D. Lewis:

There was identified in the C. and A.G.'s report a 6-month period whereby there were 3 minuted examples whereby non-compliance and concerns were expressed by the board. During that 6-month period, did the Assistant Minister not severely question the board and find out exactly what was going on? Was he seeing copies of the minutes and, if he was, why was he not asking if he was not seeing them? He is saying he was not, he is nodding his head, then why was he not asking for those minutes to see exactly what was going on?

Senator P.F.C. Ozouf:

Apparently I have a reputation of speaking too much and asking too many questions. I do not think I am any different in relation to the Innovation Fund. But if you ask and do not get but when there comes a time that there is a breaking point, you break. I would ask the Deputy to recall the difficult situation when this Assembly had not even decided on the movement of ... I was supposed to be appointed for a month, I think, as an Assistant Minister for Economic Development. I did not have the chief officer under my own control. It was not concomitant, in other words, the Minister and the chief officer were not together. I was an Assistant Minister in the department that there was not any assistance and a chief officer that was not mine. How can you do your job in those circumstances? Some Members of this Assembly need to ask themselves exactly what position Ministers put that in. I am not blaming anybody but just the reality of it and maybe there are some lessons learnt but it would be in hindsight. You have to be able to do the job. I was not able to do the job but I still stand ...

Deputy A.D. Lewis:

Sorry, Sir, he has not answered the question.

3.14.4 Deputy R. Labey:

I would say that what is not in doubt is that the Assistant Chief Minister is scrupulously honest and extremely hard working on behalf of this Island. **[Approbation]** We just drill down into the Logfiller case that sparked this all off. Did he sign off on the Logfiller loan or if he did not, who did? At that time, who was officially politically responsible for the fund?

Senator P.F.C. Ozouf:

I apologise to Deputy Lewis. I did not have the minutes. I did not have the minutes but I asked for them lots of times, that is the problem or I was given partial information. It has been a nightmare but that will come out. To Deputy Labey, thank you. I appreciate the Deputy's questions. I am afraid I cannot even remember exactly what it is. Could you just repeat it? I am sorry.

The Bailiff:

The question was whether you signed off the Logfiller loan. If you did not, who did?

Senator P.F.C. Ozouf:

Yes, I am sorry, Sir. This is one of the nightmares that we have had and I have gone back. The Minister for Economic Development signed the Logfiller loan and he did so after consulting me, but I did not have the legal power to do it. I thought I did and I kept on asking questions. Was I given this? Have I not been given this? Because Standing Orders, all this is in the public domain, the actual delegation of functions give me Innovation. It was only when the Chief Minister signed his delegation ...

Deputy M. Tadier:

Sir, point of order, surely that is a satisfactory answer, Sir.

Senator P.F.C. Ozouf:

I was not delegated responsibility to sign loans; that was one of the problems. There are many issues here and that is why the Chief Minister is right to have a proper political inquiry.

3.14.5 Deputy S.Y. Mézec:

I know I am risking opening a can of worms by asking what I hope is a simple question but could the Assistant Chief Minister just clarify in very clear terms what it is that he believes he has done wrong?

Senator P.F.C. Ozouf:

I want somebody else to judge that. I want somebody else to judge that because I do not want to be ... I faced numerous political controversies. It is tough taking on tough things and I know that the Innovation Fund was tough. I am not going to answer the question because it is ...

The Bailiff:

If you are not going to answer it, then sit down.

Senator P.F.C. Ozouf:

It is right and proper and I will stand accountable for whatever a proper person says but not a witch hunt, please. Let us have a proper investigation by proper people.

The Bailiff:

We come to question 15. Can I just say to Members that question time is supposed to end at 12.49 p.m., which is 5 minutes time? What I would propose, if Members agree, is that we continue to finish questions with notice, then take the Assistant Chief Minister's statement and then break for lunch.

3.15 Deputy M. Tadier of the Minister for Environment regarding levels of pollution in the Tunnel: [1(51)]

I apologise for the banality of this question but I think it is important nonetheless. Are levels of pollution in the tunnel monitored and, if so, how often? When was the last testing done and what were the results?

The Deputy of St. Martin (The Minister for Environment):

To my knowledge, it is 20 years since testing was done in the tunnel. At that time the results were averaged as poor but levels of pollution in the tunnel are not routinely monitored.

3.15.1 Deputy M. Tadier:

There used to be a sign on the tunnel that I can remember for pedestrians that said during peak times the air quality in this tunnel is poor; that is no longer there. Does the Minister know when that was removed and why and whether or not the air quality in the tunnel is still poor at peak times?

The Deputy of St. Martin:

I do not know when the sign was removed. I will certainly speak to the Minister for Infrastructure about getting it put back. Members may be aware that the tunnel was built as a traffic tunnel with access to, not necessarily for pedestrians, but more for work to be done.

[12:45]

But, nevertheless, people do use it and have used it in the past. I have no reason to think that the quality of the air in the tunnel at busy times is any worse than it was 20 years ago but certainly I am aware that in other areas of the Island at busy times we do have some issues with air pollution. I would say to the Deputy, to the best of my knowledge, I would think that when traffic is stationary in the tunnel the quality of the air in there is probably still poor.

3.15.2 Deputy M.R. Higgins:

If I can ask the Minister: will he leave the Assembly today and ask his officers to check the quality in the tunnel so we get an up-to-date reading of it? Surely he would think that with the volume of traffic that has increased that the pollution is probably even worse. Will he instruct his officers to do it and come back and report to the Assembly?

The Deputy of St. Martin:

When I said I thought it might be better, that is on the basis that technology these days allows people to drive vehicles with engines that appear to emit far less than they used to certainly 20 years ago. But what I would say to the Deputy is that in the past it has been difficult to get accurate information, certainly not real-time information and any tests that we did in the past were averages, so that you may have an average of poor but you would know during the course of 24 hours that it was probably good during the middle of the night and at times of high congestion it might have been worse than poor. But I would finish by saying this: now that the Environmental Health is into my department we are going to trial in the first 6 months of this year some real-time technology using buses and using the latest technology, so we can allow the public to see what the quality of the air is like in any part of the Island. Certainly I look forward to seeing that data on the internet and, hopefully, if it can be developed in an app. Once the buses have this technology on I think we will be able to see for ourselves in real time where we get issues, when we get issues and certainly if there are issues in the tunnel.

3.15.3 Deputy M. Tadier:

It would be interesting to see what the buses come back with, especially when they are near the coast. But going back to the tunnel: does the Minister accept that while cars may be more efficient the excess of traffic that we have on our roads leads to more stationary vehicles more often, including in the tunnel? If this is causing a danger for people inhaling that at peak times, we need to know about that and signs should be put back on the tunnel to let pedestrians know that the air quality is poor and potentially harmful for them.

The Deputy of St. Martin:

I completely agree. I had not realised that the signs had disappeared and I know the Minister for Infrastructure is nodding. Between the 2 of us we will assure the Members and the public that those signs will be put back. People should not walk through the tunnel at times of high congestion when traffic is stationary, especially if they have respiratory problems and I would urge them to avoid it if they can.

The Bailiff:

That brings the time for questions with notice to an end, so questions 16 and 17 drop off the list.

Deputy G.P. Southern:

Can I ask for a written response to my question 17, Sir, which has failed to meet the deadline today?

The Bailiff:

Assistant Chief Minister, Deputy Southern has asked for a written response to his question 17, Chief Minister, in the light of ...

Deputy M. Tadier:

Sir, may I test the Chair and ask if it would be possible to extend question time to allow 16 and 17 to be asked? I understood that was what the Chair meant when he said we will continue and I would not have asked my question if I had known but that is by the by.

The Bailiff:

The provision is 2 hours, according to Standing Orders, so one would have to lift the Standing Order and I would not have thought you really want to move that.

Deputy M. Tadier:

I would like to propose that we extend to finish the question time and to allow 10 minutes to finish 16 and 17 and to raise Standing Orders or by whichever mechanism the Chair thinks is the best way to do that.

The Bailiff:

The problem is once you have lifted Standing Orders for this purpose there is no control over what Members can or cannot ask, so Standing Orders do not apply.

Deputy M. Tadier:

Sir, with respect, other Parliaments do frequently lift Standing Orders for different reasons and they manage to proceed by mutual agreement of what the course of action will be. What I would like to propose is that we continue for 10 minutes to finish 16 and 17 and if that is not the will of the Assembly I am happy with that as well.

The Bailiff:

I think it is a matter for the Assembly. Would those Members in favour of continuing for a further 10 minutes or so to deal ...

Deputy A.D. Lewis:

Will we then leave Senator Ozouf's statement until after lunch?

The Bailiff:

I have already given an indication that Senator Ozouf's statement be given before lunch. Those Members in favour of Deputy Tadier's proposition can acknowledge that if it is to be adopted there will be no control whatsoever from the Chair about what questions can be asked because Standing Orders will not apply. Those Members in favour, kindly show. Those against. We now come to the statement that the Assistant Chief Minister wishes to make. May I just say at the outset, that although the closing statement says that he will be taking questions on the statement, it is to me a matter of principle? I regard this as a personal statement and not as a statement on a matter of official responsibility ...

Deputy G.P. Southern:

Sir, it is surely a matter of responsibility; the Chief Minister is responsible for Innovation. He is making a statement about Innovation, surely ...

The Bailiff:

Deputy, I regard the statement as a statement for passing away from official responsibility, so I do not think it is a question of official responsibility.

Senator I.J. Gorst:

Sir, could I support Deputy Southern's interjection? The Assistant Minister is, as we stand in the Assembly, I wonder if you could consider this before making a final ruling, stands in the Assembly with those delegated responsibilities until, as Members will see from his statement, the action he intends to take later today.

Deputy M.R. Higgins:

I also stress how this is very much in the public interest and should be allowed to continue.

Deputy E.J. Noel of St. Lawrence:

Sir, if I may add, the statement is headed up as a statement by the Assistant Chief Minister, not by Senator Ozouf in a personal capacity.

The Bailiff:

That is true. If I may just say to Members, this statement, to my mind, indicates that he is going to offer to stand aside from his responsibilities. In those circumstances, the question as to whether or not questions should be permitted of the person doing so is a matter of principle because it is not just one that concerns Senator Ozouf, it will concern any Minister in the future. It would be extremely undesirable to have resignation statements the subject of questions thereafter. The practice has always been if there is to be a resignation statement, the statement is made and that is an end to it. As I say, my reading of the statement is that is what it amounts to. It is true that it is headed Assistant Chief Minister. On the other hand, it was done in a great hurry. The Greffier received it at 10.45 a.m. or something like that this morning and I had to make a quick decision as to whether to allow it to be made today, which I have. But, to my mind, I am afraid it is quite clear that it is a statement that is a personal statement.

Deputy J.A. Martin:

Sir, I was going to raise this and I was of the opinion you are, because if the Assistant Minister is resigning as Assistant Minister, it is a personal statement. The questions we have in this House, the words do not say he is resigning as Assistant Minister. He is saying he is offering to step aside from his responsibilities for the Innovation Fund. There are questions even on that one statement that we need to clarify or he needs to go away and make sure we have a proper personal statement that can be read out and there is no question.

Senator P.F.C. Ozouf:

Sir, can I make my statement? I sought guidance from a number of individuals about this. I am the Assistant Minister with responsibility for a number of different areas and I have not tended my resignation. I have discussed it with the Chief Minister and I will be discussing afterwards from this morning. My intentions are clear, to do what the Chief Minister wishes me to do, but I have not done that yet and I wanted to be accountable to this Assembly, to the Parliament of Jersey to answer questions and that is what I think my obligations are and that is what I thought the right thing is to do. I ask you, if I may, to respect the fact that the Chief Minister and I have a discussion to have about how he is to deal with the consequences of this matter and to make a statement and which I want to answer questions because the Members have them.

The Bailiff:

That is a matter then you must discuss with the Chief Minister over luncheon break because, as it currently stands, I am not prepared to take this as a statement on a matter of official responsibility. To my mind, as I read it, I read it as a statement for stepping aside and that makes it a personal

statement. If that is not what you want to say, then perhaps you have that discussion with the Chief Minister over lunch.

Deputy M. Tadier:

Sir, can I ask for point of order on a separate matter? We obviously have read this statement, many of us. We will go outside, we will be asked by journalists whether we have any comments. In order to be proper and accountable to this Assembly and out of respect, how should we react to questions about the content of the statement?

The Bailiff:

The answer is although I understand it has been tweeted it ought not to have been because it has not been made. **[Approval]** The correct answer to journalists or to anybody else is that no statement has yet been made.

Senator I.J. Gorst:

Sir, can I just ask you to consider your ruling? While you are quite correct no statement has yet been made, a section of that statement has been tweeted. We may wish it had not been tweeted. P.P.C. may consider the appropriateness or not of those actions. It has been tweeted, an actual copy of a sentence in the statement. Therefore it seems, as a matter of fairness, that the Assistant Minister should be enabled to make his statement so that this Assembly continues to be respected and respected by those who have official responsibility, by those who serve at the pleasure of this Assembly. If that tweet had not taken place we cannot act over the lunch adjournment as if something has not happened that has happened. I wonder if you could just consider whether it is not appropriate that the Assistant Minister is allowed now because of that to give his statement of official responsibility in which, Sir, he explains to the Assembly the action that he is going to take later today. Had he already stepped aside from his responsibilities I concur it would be a personal statement. But in this instance, from my view, think he still has those official responsibilities.

The Bailiff:

Chief Minister, I do not think it is open to a Minister to have it both ways; either he is going or he is not going. The statement, if he is going, is one of personal responsibility. If he is not going, then it is a matter of official responsibility and I would have to have time to consider whether or not the statement should be made. But it has been circulated and I have not approved it, other than on the basis it is a statement of personal responsibility. If the Assistant Chief Minister wants to give that statement now he can do so, otherwise we will adjourn until after the luncheon break.

Senator I.J. Gorst:

Sir, I hear what you are saying. With respect, it places the Assistant Chief Minister in an extremely difficult position. He has arrived at this Assembly this morning to be respectful of this Assembly and that is every Minister, despite what some Members think, hold this Assembly in the highest regard. The questions and the debate that we have had this morning are absolutely right. Those are questions that should be asked and addressed by this Assembly. Sir, the Assistant Minister is being placed in the position where, through absolutely no fault of his own, he will have to publish the entire statement, therefore; that was not his intention, showing disrespect to this Assembly, as others have done and that was not his intention. I think it places him in an extremely difficult position, when he came here today with the very, very best of motives.

Deputy A.D. Lewis:

Sir, can I seek some clarification here? I am somewhat confused and I think other Members are. Is the Assistant Minister intending to resign from the Executive or is he intending to step aside from

overseeing the Innovation Fund and matters of Innovation and Digital? That is what I would like to understand, which is it?

[13:00]

The Bailiff:

Can you answer that last question?

Senator P.F.C. Ozouf:

It is being said that I am responsible for quite a lot of things. There is a lot of work to be done and I have to talk to the Chief Minister. This report is about Innovation and I have to talk to the Chief Minister about the modalities of how he is going to deal with, effectively, either a full stepping aside, in other words a full resignation or otherwise. There are matters that must be dealt with but I have not said that. I have said what I am prepared to do for this and I wish to be treated, if I may say, fairly and properly, which I have not been, I think, able to do until now. The Chief Minister has delegated to me tasks. There is a great deal of other work that I need to go and talk to him about to sort it out. Those are the discussions that will happen this afternoon, now I have made my primary duty to report to this Assembly. I know what I want to do but I have the Chief Minister to respect in discharging functions that are legal functions and I am responsible for quite a number of massive portfolios, and there is a proper process that needs to be done if I am to go completely or I am to go partially or what he wants to do. He has not accepted it and we have not yet come to that and that is why I am still, at the moment, responsible for these areas, accountable for them and accountable to answering questions to this Assembly. I would just prefer, if I may, just to be able to make my statement. I will be brief. I hope there is not going to be many questions but if somebody does have something then let them be answered in the full glare of public opinion where I can be held properly to account. That is what, I think, an obligation of a parliamentarian is, Sir.

[Approbation]

Deputy M.R. Higgins:

Sir, is it not possible for the Minister and the Assistant Chief Minister to get together this afternoon over lunch, decide it and then come back and make a statement and we will know if he is resigning from what?

The Bailiff:

I am sorry that Members find themselves in this position. I am sorry the Assistant Chief Minister finds himself in this position. Speaking for myself, I accept it entirely that he has found himself in that way acting *bone fide* and not intending to show disrespect to the Assembly. Nonetheless, the fact is that he has made a statement in which he says: "I shall be writing to the Chief Minister offering to step aside from my responsibilities as Assistant Chief Minister." In my language, that means that he is offering to resign. That makes it a personal statement. You either make it as a personal statement, Senator Ozouf, or if it is to be a statement with official responsibility, then that language has to come out because I do not understand what it means.

Senator P.F.C. Ozouf:

Sir, I want to get this statement out. It is parliamentary and I stand ... if your ruling is that it is a personal statement, I regret that but I will make a personal statement ...

The Bailiff:

I regret that is the ruling.

PERSONAL STATEMENT

4. Personal Statement by Senator P.F.C. Ozouf regarding his position as Assistant Chief Minister

4.1 Senator P.F.C. Ozouf:

I regret that that situation has arisen because this will be the last time, if that is the case, that I am able to answer questions to this Assembly in this regard. I make a personal statement, Sir, on your ruling. I wish to echo the disappointment and dismay of the Chief Minister with the findings of the Comptroller and Auditor General report in respect of the Jersey Innovation Fund. That dismay is, of course, shared by Members of this Assembly and many Islanders. However, while disappointed I was not surprised. The report shared many of my own concerns, concerns that I have expressed on repeated occasions to the J.I.F. accounting officer, the Chief Minister, my own accounting officer and the chief executive of the States and others. As the Comptroller and Auditor General recognised, the Jersey Innovation Fund was and remains a positive idea. Our future economic growth and diversification depends on competition and innovation. The portfolio of Innovation was given to me in November 2014, however, legal responsibility for the Jersey Innovation Fund was not transferred to the Chief Minister by this Assembly and then delegated to the Assistant Chief Minister, i.e. me, until January 2016. This delay has prevented me from being able to discharge the role. That said, as the Assistant Chief Minister with responsibility for Innovation, I accept, without reservation, all the recommendations of the Comptroller and Auditor General in full. I have not been able to comment on the operational charges to the J.I.F. since the C. and A.G. launched her inquiry; to do so would have prejudiced her work. However, I can confirm that many of the recommendations have already been implemented because of the actions taken last year. The Chief Minister last week committed to a review of political involvement with J.I.F. and separately through the chief executive of the States a review of officer involvement. I asked if he would do a review, that is the Chief Minister, and I endorse this approach wholeheartedly. I will fully support and willingly participate in both inquiries as required, in addition to those of Scrutiny. I take little comfort from the absence of personal criticism in the report and it is for those inquiries to further investigate individual actions and to report without fear or favour to the Chief Minister. I will answer for all of the actions during my time of political responsibility but it is for others perhaps to do likewise. The approval of the operating model, review of loan applications, collation and review of due diligence, loan approval and subsequent monitoring involved a large number of individuals, including the Advisory Board, officials and Ministers. Fundamentally, Ministers can only act upon the advice that they are given and when that advice is not comprehensive or potentially misleading, where a timely response to concerns is not forthcoming, then Ministers or Assistant Ministers cannot exercise their duties efficiently. Under the period of my official responsibility for J.I.F., since 1st January 2016, only one further advance, an additional loan was made. That was a second tranche of a loan agreed in 2015 and granted to a borrower that is in compliance with their repayment terms. As confirmed previously, no loans are under consideration and no further drawdowns are pending. Let me make it clear, the board has been disbanded and the fund has been closed with the monies safeguarded for future innovation projects. Members of this Assembly, members of the public deserve to know who did what and when. The Comptroller and Auditor General report already provides much of the detail for those who care to read it fully and objectively. Now all that matters is a full disclosure of the facts to the commissioned reviews and I am always happy to be judged on my own actions. Having said that, I do not and refuse to be a distraction on these reviews. Coverage of the last few days and comments by some Members of this Assembly risk overshadowing the much-needed environment of objectivity for those reviews. I have no wish to be a distraction or a media side show during this review period and so I shall be writing to the Chief Minister offering to step aside from my responsibilities as Assistant Chief Minister. I am prepared to stand up and be counted, as I always said I would. I am prepared to be held to account. I know I can sleep at night safe in the knowledge that I did everything I could to

resolve the issues I found when I eventually inherited the full responsibilities for the Jersey Innovation Fund. I have fully and properly discharged my responsibilities. I wanted to take questions and I will take questions as appropriate from other bodies in another place and I shall be making no further comments or public comments in relation to this until these inquiries have been completed and I thank Members for their time and until this time for the support that they have shown me. [Approbation]

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The States stand adjourned until 2.15 p.m.

[13:10]

LUNCHEON ADJOURNMENT

[14:21]

QUESTIONS - resumption

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

The Bailiff:

We now come to the questions without notice; the first question is the Minister for Health and Social Services. The Deputy of St. Ouen.

5.1 Deputy R.J. Renouf of St. Ouen:

Having heard the news this morning that mental health nurses were to attend with police officers at certain incidents, may I ask the Minister whether these mental health nurses are those employed by his department and how will they be made available to assist the police given the desperate shortage in the recruitment of mental health nurses worldwide, I believe, and in the Island in particular?

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

This is a result of some work carried out by officers in Home Affairs and in my own department where we looked at the number of incidents that police were involved in that were, if you like, truly criminal and others that might have other social or mental health problems. It was quite clear that quite a number of them were purely about supporting people with mental health issues. The suggestion is that we look at - and it is only at this stage we are looking at - the possibility of providing support for police officers, whether that be a mental health nurse going out on patrol, or whether it be one available when the person comes back to police headquarters, is yet to be determined. But the fact is that we know we need to support both police officers and the people in our community that have mental health challenges. When it comes to recruitment, it is a difficulty, but we are, as the Chairman of the Scrutiny Panel knows, we train our own nurses, including a number of mental health nurses.

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

Would the Minister be able to give some advice to people accessing the hospital by car? I have had concerns expressed to me by constituents, both disabled drivers, who find it difficult to get to hospital, and also from nursing staff who find it difficult sometimes to find a space that is close to the hospital, particularly if they are working shifts. Does the Minister have a travel plan for the present hospital and indeed for the future one?

Senator A.K.F. Green:

Picking up on the latter point first; yes, indeed, we will have a travel plan. A travel plan is being worked on for the new hospital and we did initially have a travel plan at one time, it is a bit out of date maybe now, because things have changed in the vicinity of the hospital since the R.B.C. (Royal Bank of Canada) building has opened, a lot more car parking from those offices is taking place in Patriotic Street. It is a problem. It is a challenge. It is something I have been talking to in particular for nursing staff with the Minister for the Department for Infrastructure. We do not have a solution yet, but I thank the Constable because it confirms that we need to look at it.

5.2.1 The Connétable of St. Helier:

Would the Minister accept an offer from me to meet with the Minister for the Department for Infrastructure to see whether we can take forward a travel plan for the hospital and one that meets the needs both of staff at the hospital and also the needs of the disabled?

Senator A.K.F. Green:

I am very grateful to the Constable and I am happy to work with anyone that helps all members of our community.

5.3 The Connétable of St. John:

The adult mental health facility at the General Hospital, or with Overdale, have started a fantastic system called Splash Chat for the Alzheimer's sufferers on the Island. This has won an award and is going to be exhibited at the Kyoto Summit, where over 4,000 delegates from around the world will be assembling. I sincerely hope that your department will find the necessary funding so that the officer, whose brainchild this was, is able to represent the Island at this international conference.

Senator A.K.F. Green:

I think there is a question in there. I thank the Constable for pointing this out. This is a very good news story and this is a result of 2 members of the rehabilitation team working with the Alzheimer's Society. The initiative is called Splash Chat and, as the Constable said, they did win their award locally here for the innovation and improvement in services for people with Alzheimer's. I do not know the answer to the Constable's question as to whether we would fund a trip to Japan as yet, because I only heard about it last night, but I will do all I can to see that the recognition of these members of staff takes place and perhaps the Assembly would like to congratulate them in being recognised worldwide for their work, in being invited to submit their work in Japan. It is outstanding and I will see what I can do, but I certainly want to thank the officers for their initiative, thank the officers for their work, thank the Alzheimer's Society for their support in it. It has made a huge difference. I went to the presentation and you could not help but be moved by what you heard from the users of that service. One lady said: "I have got my husband back, I get him back every time we go in the water, he is his old self and he chats to me." That has to be recognised and I will do my best.

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

Can the Minister tell me whether the last bi-annual inspection of the Children's Service took place? I believe it was probably 2014 and one of the Williamson recommendations was that an independent audit took place every 2 years. Can the Minister inform me when the next audit of the Children's Service is going to take place?

Senator A.K.F. Green:

I do not have the precise dates, but I know that we have been talking at the Children's Improvement Board about an independent Scottish inspection. But I am happy to come back to the Member. It is not forgotten, it is in hand, but I cannot, I have to say, honestly recall the date.

5.5 Deputy A.D. Lewis:

As a former Deputy of the District that I represent, the Minister will be aware of the problem I am about to ask him about and it is disorderly and drunken behaviour in our parks, and in one in particular right opposite the hospital. I was slightly concerned when discussing this with the police officer responsible for this area, community policing, to discover that he believed that very little, if any, consultation had occurred between the police service and Health with regard to some of the conditions of some of those people in the park. Could the Minister give me any assurance that there is some consultation going on between the police and the Health Department regarding this problem?

Senator A.K.F. Green:

I cannot do that because this is clearly at operational level. What I am happy to do is to go and find out if it is taking place and, if not, why not.

5.6 Senator S.C. Ferguson:

Given that no decision has been made as to whether there is going to be a hydrotherapy pool in the new hospital, and given that the prospects for putting 2 top floors on Patriotic Street are highly unlikely, would it not be better to sort these sort of things out before the hospital is put out to tender, as was indicated last week?

Senator A.K.F. Green:

I am afraid I am a bit lost on putting the hospital out to tender last week. That is something I know nothing about. But, in relation to the hydrotherapy pool, let us be quite clear, we are going to have a hydrotherapy pool; we are still working through where that might be. In relation to the car parking, the Minister for the Department for Infrastructure has said that he would like to put 2 more floors on that car park, it is suitable for it, and so I think it is highly probable, not highly unlikely that that work will happen.

[14:30]

5.6.1 Senator S.C. Ferguson:

Perhaps I can follow up on that and say: has he discussed this with the Minister for the Department for Infrastructure, because the 1994 structural report on Patriotic Street would only allow for one extra floor and, given that the building regulations have probably changed considerably since 1994, I would think it is unlikely the foundations will stand up.

Senator A.K.F. Green:

Unlike the Senator, I am not an expert on everything. **[Laughter]** **[Approbation]** I have spoken to the Minister for the Department for Infrastructure and I would say that he has said that he will look at it and construction methods have changed considerably, so I do not know all that the Senator seems to know about building, but I have been assured by the Minister that it is a feasibility.

5.7 Deputy M. Tadier:

Does the Minister agree that sometimes, as a society, we stand by when there is generational apartheid going on and would he consider mechanisms, perhaps, for links and twinning between residential homes for the elderly in the Island with primary schools in the Island and to think of the benefits for that and talk to the Minister for Education about establishing such links to the mutual benefit of both the young pupils and the elderly in our Island?

Senator A.K.F. Green:

I have to say I wondered where the Deputy was coming from at the beginning, but I understand the point of his very serious question and I thank him for it. Yes, I will look at having more formal links, but there are lots of informal links between schools and homes for the elderly, or not necessarily perhaps the Deputy meant homes for the elderly. There are also lots of informal links between youth associations and the elderly. But it is a good point: the closer we work together, the elderly and the young, the more we understand and respect one another, so always happy to look at that.

5.8 Deputy G.P. Southern:

Has the Minister finally agreed a budget with Family Nursing and Home Care Management for 2017 in more detail than the previous one, which says £6 million for services and £1 million for these different services?

Senator A.K.F. Green:

Yes, we have, and I think it is finally agreed by both sides, although it is currently being reviewed because it is a legal document, it is currently being reviewed by Family Nursing and Home Care's legal advisers.

5.9 Deputy J.M. Maçon of St. Saviour:

Following on from Deputy Hilton's question, can I ask: when this review is done on the Children's Service, who will be drawing up the terms of reference? Will there be independent oversight of the terms of reference or, yet again, we will be in the same situation where Health neatly packages up the terms of reference of an independent review and therefore we do not really learn anything?

Senator A.K.F. Green:

The whole purpose, as the Deputy has tried to say, of an independent review is that we learn something from it and I have not given any consideration as to the terms of reference at the moment, but I take on board the suggestion the Deputy makes.

5.10 The Deputy of St. Ouen:

Would the Minister update the Assembly on his recent meeting with the Medical Committee for Organ Transplants, which I was led to believe from a press report has recently taken place?

Senator A.K.F. Green:

I met with the committee recently and in fact it is the subject of a statement I am going to make immediately after questions without notice. But we have agreed an action plan, more of which I will go through later.

5.11 Deputy M. Tadier:

A U.K. study recently found that there was a link between living near a road and dementia and, given my earlier question to the Minister for the Environment about the tunnel and pollutions there, will the Minister for Health and Social Services engage with the Minister for the Environment to do testing first of all in the tunnel, because that is obviously an enclosed area, but more generally for pollution around the Island to give the public relevant warning about where they should and should not be able to go safely and the risks involved with that?

Senator A.K.F. Green:

I think this is the beauty of Environmental Health now being with the Minister for the Environment; he has a certain amount of independence and, of course, I will take notice of the reports. The Minister for the Environment has already said he is going to carry out real-time testing

and, of course, my department will take notice of that and work with the Minister where appropriate.

5.12 Deputy J.A. Hilton:

The Minister will be aware that there is a waiting list currently of approximately 4 months for M.R.I. (magnetic resonance imaging) scans. I know, through previous questions, that a new M.R.I. scanner is being sourced and should be in position by the end of the year. My question to the Minister is: will he consider running the existing scanner alongside with the new scanner in order to get the waiting list down to a more acceptable level?

Senator A.K.F. Green:

Let us be clear: urgent M.R.I. requests are met very quickly. It is not just a case of running 2 M.R.I.s; you then need extra radiographers, you then need extra X-ray technicians. We are intending to keep the second one, so that we have less downtime, because you have to do maintenance and there is always a risk of breakdown, but to run 2 would have significant staffing implications. There is no intention to run full-time, in this hospital, 2.

5.12.1 Deputy J.A. Hilton:

Is the Minister suggesting that there will be 2 M.R.I. scanners being run full-time in the new hospital?

Senator A.K.F. Green:

Yes.

5.13 Deputy M. Tadier:

To follow on from the previous speaker: does the Minister not accept that by using 2 scanners simultaneously it will enable us to pick up on early detection of diseases and illnesses and that prevention being better than cure this would save money in the long term?

Senator A.K.F. Green:

I think we have to allow the clinicians to determine when M.R.I.s are appropriate; it has to be a clinical decision, not one that we make. In terms of running 2 in parallel all the time, that has huge staffing implications. The best thing we can do is get the second one in and ensure that we always have an M.R.I. up and running and that there is no down time.

6. Questions to Ministers without notice - The Minister for Economic Development, Tourism, Sport and Culture

The Bailiff:

On that, Minister, that brings the first question period to an end. We come now to the second question, or questions, for the Minister for Economic Development, Tourism, Sport and Culture. I call on Senator Ferguson.

6.1 Senator S.C. Ferguson:

Given the problems that we have had with the Innovation Fund, what will the Minister be doing regarding Digital Jersey to ensure that the same problems do not recur?

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

I am not sure that ...

The Bailiff:

Are you responsible for Digital Jersey?

Senator L.J. Farnham:

I was technically responsible for it at one stage, but no longer.

The Bailiff:

Are you currently responsible for it?

Senator L.J. Farnham:

No.

6.2 Deputy G.P. Southern:

Following on from the report of the C. and A.G., on page 32 it has a flowchart, which suggests that between 6th November 2014 and 1st January 2016 there were applications C, D, E, and a second application from F, signed off during that period. Did the Minister sign those off or did the Assistant Minister sign those off?

Senator L.J. Farnham:

During the time that responsibility was delegated to Senator Ozouf in November 2014 until the States approved the transfer from 1st January 2016, a number of applications were signed off. So prior to that I think Senator Maclean signed 2, I signed 3 and Senator Ozouf signed 2. What I can say is that I did work closely with Senator Ozouf during the first few months, since passing responsibility over to him and, to the best of my knowledge, and after always having careful consideration from Senator Ozouf and discussions with him, I think on 2 occasions I signed approvals, I signed Ministerial Decisions, and can I say, based on very full and detailed reports from the Innovation Board, because Senator Ozouf was unavailable - out of the Island - but I did so by working with him. I believe, I may have to double check, that Senator Maclean signed A and B, I signed C, D, possibly E, and I think Senator Ozouf might have signed the others. But I cannot be absolutely sure looking at the alpha references, but that was generally how it worked out during that period.

6.2.1 Deputy G.P. Southern:

Was the Minister aware, or was he satisfied, that the detail that he had for these loans was adequate and had been totally vetted before he signed?

Senator L.J. Farnham:

Yes, I was, as was Senator Ozouf. We received very detailed reports directly from the chairman of the Innovation Board, together with relevant appendixes containing all of the factual information together with full officer recommendations. I think that is true for all of the applications that were approved by Ministers. So, I was content with the applications that I signed off because of the information that was presented to me: it seemed to be absolutely appropriate. If it turns out that any of that information was incorrect then we will have to deal with that at the time, but I can stress that the information that was presented at the time, when the requests for signing were made, was first class as far as I am concerned.

The Bailiff:

Minister, I may have been too quick in ruling out of order Senator Ferguson's question to you. When you say that you are not currently responsible for Digital, are you talking about legal responsibility, or current political responsibility, or both?

Senator L.J. Farnham:

Both. You see it is a similar situation to the Innovation Fund and C.I.C.R.A. The delegated responsibility was for Innovation, for C.I.C.R.A., and Digital and one or 2 other items were transferred to Senator Ozouf in November 2014 and he led politically on all of those. Technically I was legally responsible until 1st January 2016.

The Bailiff:

So you no longer have technical. Thank you. Deputy Labey.

6.3 Deputy R. Labey:

Did those, who were negotiating the recent departure of the chief officer of Economic Development, have sight of the C. and A.G. report during those negotiations and is there any kind of confidentiality clause that forms part of the severance package, which would prevent the former chief officer from giving evidence to, say for example, the Public Accounts Committee?

Senator L.J. Farnham:

The first part of the Deputy's question is really one for the States Employment Board, but I do not believe they did have sight of the C. and A.G. report because the first we saw of it was when it was released to the States Members. The former chief executive did not receive a severance package; he received contractual notice of 6 months. He was contracted to give 6 months' notice on his resignation after 11 years. Whether he was dismissed or resigned that would have stood, he would have needed 6 months' notice. I do not mind admitting that I supported him going myself with contractual notice immediately, because myself and my Assistant Ministers have large departments to run and we felt it was in everybody's best interests that the former chief executive, if he was to go, went immediately, and so I supported him being paid his 6 months' notice as part of his contract. But that agreement was approved by the States Employment Board. I am sorry, there was one other question, but I have forgotten it.

Deputy R. Labey:

Is there any kind of confidentiality clause preventing him from giving evidence to, say, the Public Accounts Committee?

Senator L.J. Farnham:

I believe there are some conditions attached, but I do not know what they are.

6.4 Deputy A.D. Lewis:

The Minister will be aware that we have had 2 excellent tourism years, largely fuelled by 2 major events: the Island Games and subsequently the Dance World Cup. Does the Minister and his department have any huge ideas for the future, because clearly when you have a mass event it does encourage significant numbers to come to the Island? Does the Minister have some plans for the future to have such large events again because clearly the economy, the tourism economy, and other parts of the economy, benefit significantly from such event-led tourism?

Senator L.J. Farnham:

Can I thank the Deputy for that question and it is fortuitous he did ask at this time, because I am expecting another update from the newly formed Events Jersey. But, yes, we do have plans, not only do we want to build upon our existing events and make more of the Battle of Flowers and the International Air Display and such like, but we have ambitions to bring in larger events, and I am talking about events that bring in hundreds, if not thousands, of people, especially during the shoulder months. It is very high on the Visit Jersey agenda and Events Jersey are working on it

now and I hope to be able to make some announcements to that end in the not-too-distant future. I thank the Deputy for his question.

[14:45]

6.5 The Deputy of Grouville:

Why was the Minister's former chief officer's resignation accepted days before a damning report was due to be released? Would it not have been better to refuse it and dismiss the individual instead? The Minister has just answered a question, which indicated that there is absolutely no difference with somebody resigning or being dismissed in their pay off. Is this correct?

The Bailiff:

Deputy, I am not sure that the Minister can answer for the States Employment Board. If you formulated your question by asking whether he made any representations to the States Employment Board that would be permissible.

The Deputy of Grouville:

Has he made representations of that nature?

Senator L.J. Farnham:

I supported the decision of the States Employment Board and I am not sure that we can decline a resignation when it is tendered. If somebody wants to resign, we cannot say: "No, you have to stay on." To be clear, though, I did not want the former chief executive to work a notice period, because I thought it would have been counterproductive to the work of my department.

6.6 Deputy M. Tadier:

Fascinating stuff; the Minister said that he was responsible for signing off loans C, D and E, which are listed on page 34, appendix 2, of the C. and A.G.'s report. Can the Minister tell us, when he signed those loans off, was he aware that not one of those had any phased drawdown, any personal guarantees, or any royalty agreement included as part of the conditions of the loans?

Senator L.J. Farnham:

I would have been aware of all the conditions, although I cannot remember the detail now without going back and reviewing the decisions. So, I think the answer to that would have had to have been yes, because I based the decision to sign after having detailed talks with my colleague Senator Ozouf, and upon strong recommendations from our officers and the Innovation Board.

6.6.1 Deputy M. Tadier:

So, he said that he would have been aware and we were told by Senator Ozouf, when he was here earlier, that he asked questions, and did at no point an alarm bell ring when the Minister presumably knew that there was the power, within the terms of reference, to ask for royalty agreements, to ask for personal guarantees, which would be sensible things to do in terms of risk management, but he decided that, knowing that information for all 3 loans, that it was not something that he thought was necessary and did he ask any questions in relation to that? Was he comfortable with this added risk, which the C. and A.G. has further pointed out in the publishing of her report?

Senator L.J. Farnham:

I did ask many questions, as did Senator Ozouf, when we were considering these applications. We went into the detail considerably. But I would have to refer back to the detail to remind myself of what the reports and recommendations said. What I was consciously aware of at that time was that I did have absolute confidence in the expertise on the Innovation Fund Board, as did Senator

Ozouf, and I was comfortable at the time with signing each and every one of those agreements, bearing in mind that this is innovation funding and it is a risky business and I understand the element of risk and was prepared to sign it with the support of my colleague, Senator Ozouf, and with the strong support of the board and officers.

6.7 Deputy A.D. Lewis:

In the light of the fact that recently it has been announced that there are several more new international areas coming to Jersey, has the Minister any plans, developed or not, to increase the number of shipping routes coming to Jersey of any kind?

Senator L.J. Farnham:

We have not got any new plans for new shipping routes, although there have been some ideas for independent companies to run smaller ferries between the Channel Islands, but I have not been approached formally. That is just hearsay. I do understand, although I have expressed concern about the drop in numbers, while it is very good news that airport arrival figures are up and we have had the best year there since 2000, it is a concern that our sea arrivals are down, and I have had discussions with the Ports of Jersey about how we can address that and those talks are ongoing. I know there is some work in the Port masterplans that will improve facilities, not just at the airport, but at the ports, because there is some congestion and some logistical challenges. But I am also pleased to announce that Condor have increased their marketing spend by a considerable amount of money and they are going to be focusing a lot of that at driving new business, increasing passenger numbers, especially on the French routes.

6.8 Deputy J.A. Martin:

Just for myself to get a clear picture from this Minister: all morning we heard from Senator Ozouf that he had great concerns, he raised them, he did not get the right answers, and this was this Minister's accounting officer. Did at no time you talk to Senator Ozouf and raise these concerns on his behalf, if he was not getting the right answers? And, if not, why not?

Senator L.J. Farnham:

No, I did not. I did work closely with Senator Ozouf; we worked closely on a number of issues and Senator Ozouf took responsibility for Digital and for the Competition Authority and for Innovation and a number of other items in November. Senator Ozouf is a capable and experienced politician and he ran with those agendas, with my support and help when required. I, at the time, during certainly most of 2015, I left pretty much the day-to-day running of the fund to others and when I did check in with officers I was never made aware that there were any problems. I certainly was not aware that there were any problems until, I would think, at least 2016, at some stage during that period.

6.8.1 Deputy J.A. Martin:

Just for clarification, the Minister was never asked by Senator Ozouf to ask a question on his behalf of his accounting officer, who has now left, who was then in charge of the Innovation Fund; never asked? I just need to be clear on this.

Senator L.J. Farnham:

I do not recall any occasions, but there could have been, so I simply cannot remember. What I do remember is the surprise when we started to hear of the problems with the Innovation Fund. I do accept that Senator Ozouf, I think, was at the heart of unearthing the problems. I think it is down to his good work during that period that we managed to discover eventually what was going on.

The Bailiff:

That brings question time for the Minister for Economic Development, Tourism, Sport and Culture, to an end.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

7. The Chairman of the Corporate Services Scrutiny Panel - statement regarding the work of the Panel in relation to “Future Hospital Funding Strategy” (P.130/2016).

The Bailiff:

We come now to statements on matters of official responsibility and first the Chairman of the Corporate Services Scrutiny Panel will make a statement regarding the work of the panel in relation to future hospital funding strategy.

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

During this sitting, this Assembly will be voting on the proposals set out in P.130/2016, namely the future hospital funding strategy. This is the biggest capital project ever undertaken by the States, with proposals to borrow money that will impact upon generations of Islanders for up to the next 40 years. Therefore, a suitably high level of scrutiny is required and indeed expected from this Assembly by the public. As chairman of the Corporate Services Scrutiny Panel, I would like to have been able to stand up today and state that we have completed a review of the proposals before they are debated. However, this is unfortunately not the case. We were given too short a timeframe to conduct a review effectively. While, technically, the proposal will have been available for just over the minimum official 6 weeks required, this did not take into account the Christmas holiday period and the practicalities in recruiting advisers to work during this time. Highlighting this, we requested a 4-week extension from the Minister for Treasury and Resources and confirmed that we had found an adviser, who could meet this time period. The Minister initially responded by offering an extra 2 weeks, but withdrew this offer on 30th December 2016. Therefore, despite having suitable advisers lined up with a completion date for a review, we were unable to proceed, as we simply could not justify spending taxpayer money on commissioning a report that would ultimately not be received in time to inform today’s debate. In his responses to the panel, the Minister has justified a strict adherence to his timeframe, due to the risk of an increase in financial costs that any delay might cause. His unwillingness to allow a short additional period for scrutiny, despite his initially offering us a 2-week extension, is in stark contrast to the 4 years which it took the Council of Ministers to bring a suitable site to the Assembly for approval. The panel cannot fathom why a 2-week extension was initially acceptable, whereas 4 weeks was not. In the reasons provided to the panel by the Minister for not agreeing to the extension, we have been told that the bond rates will grind higher in 2017, however, we have not been shown to what extent a 2-week delay at that point will lead to additional costs. In addition, the Minister has further suggested that costs of construction are increasing daily, potentially running to millions of pounds every month. Now this seems odd considering that, during a public hearing on 4th November last year, Scrutiny was informed that the hospital’s capital cost had dropped last year from £490 million to £466 million due to lower inflation forecasts. Therefore, it seems that only one month after the financial implications were accepted by the States, the Minister for Treasury and Resources is now talking about the risk of increasing construction costs. In the absence of sufficient time to undertake proper scrutiny and provide Members with detailed findings and recommendations on the proposals, there are certain key safeguards, which the panel considers should be included within the proposition. The Minister’s final response to the panel declining the requested extension did not leave sufficient time to co-ordinate a panel response before the deadline for amendments on 3rd January. Therefore, the Constable of St. John submitted an amendment in his own name with panel input. The panel emphasises that this amendment does not represent the

sum of the concerns of the panel, but rather an initial observation using the time that was available to us between the Minister's response and the deadline for amendments to be lodged. To summarise, the project being debated today is to fund the most expensive capital project that the States has ever entered into and will result in the Island having the highest level of debt in its history. The role of Scrutiny is essential to thoroughly examine such proposals, which takes time. When the 6-week prescribed period encapsulates 2 major public holidays, this becomes exceedingly difficult. Quite reasonably, the panel requested an extension to allow a suitable level of rigor to be applied to their work. This was rejected by the Minister. Members will know that they have the ability to refer this matter to Scrutiny at any time during the debate. In that event, I can confirm that the panel is ready, willing and able, to take on such a review, the advisers are standing by and we can report back within the timeframe permitted under Standing Orders.

The Bailiff:

Are there any questions for the chairman of the panel? Very well.

8. The Minister for Health and Social Services - statement regarding the travel and organ donation policies.

The Bailiff:

Then we come on to the statement to be made by the Minister for Health and Social Services regarding the travel policy and organ donation.

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

At the start of this new year, although it seems a long time after this morning, I am pleased to be able to make a statement on the policy. They relate to patient travel and to organ donation. Living in Jersey means that we have many advantages. However, a less-welcome aspect is that, being a small Island with a relatively small population, it is not always viable, or indeed safe, for the Health and Social Services Department to provide all the services here in Jersey, nor is it always appropriate or feasible to deliver some complex surgery or treatments on the Island. There will always be cases where Islanders need to travel to the U.K. to access certain specialist treatment that are not ...

The Bailiff:

Minister, just a moment please. Can I have a copy of the statement? I have not been shown it yet. Thank you, Minister. You can take up where you left off.

[15:00]

Senator A.K.F. Green:

There will always be cases where Islanders need to travel to the U.K. to access certain specialist treatments that are not available here. In 2016, the department referred nearly 1,600 patients to the U.K. for specialist treatment or care that could not be delivered here in Jersey. In support of those referrals, my department's travel office made over 5,000 bookings on behalf of patients, securing the necessary flight transfers for them and, where appropriate, for their escorts. Currently, access to public funding for such travel is means tested, depending on the gross household income. Different eligibility levels apply depending on whether they are single, or part of a couple, or whether they have children. In summary, if they are a single person with no children they can receive assistance under the current scheme with their travel costs if the income is less than £39,000. If they are a couple with 2 children, then they receive assistance with travel costs if the household income is up to £92,000. The practical impact of this policy is that already approaching 90 per cent of patients

already receive free or subsidised travel. I have always felt somewhat uncomfortable about this approach where travel is linked with essential health care, health care which, in many cases, is lifesaving or life changing. I have been particularly struck by the approaches that I have received from parents of children who have had to travel regularly with their sick young child for regular treatment in the U.K., often leaving siblings at home, but who do not receive any contribution from the department towards their travel costs, because the family is over the income limit, often only just over the income limit. Furthermore, trips made by Islanders are reducing as more procedures are provided here in Jersey. Regular reviews of the policies are undertaken. We looked at sharing the financial costs more equitably with the members of the public but, in so doing, it would have meant that some people who do not pay now would have to pay in the future, it would have made administration much more complex. Our current arrangements cost £40,000 in staff costs to recover £50,000 in income; I do not see this as good use of resources. It is important to note that, while we are removing means testing from travel calculations, the other elements of the policy remain in place, for example around the eligibility of funded escorts to accompany parents. We will continue to closely monitor the number of off-Island visitors and we will seek to reduce them further, particularly with follow-up appointments, where it is sensible and safe to do so, to avoid the requirement for overnight accommodation as far as possible. By requiring all travel to be booked through the specialist staff in the patients' travel office, the department can continue to obtain the best rates with the suppliers for such travel and ensure best value is obtained to all taxpayers. There are some new arrangements for accommodation on overnight stays in Southampton, many of the bookings made by my department's travel office involve patients flying to Southampton for hospital appointments and treatment. I am pleased to be able to tell Members that the new accommodation arrangements are now in place for those who have to stay overnight for their treatment. This move is in response to feedback from patients who stated that their preference was for a more homely alternative to the previous lengthy stays in hotels. Rooms in 5 serviced apartments are now available for Islanders who need accommodation when they are receiving treatment at Southampton General Hospital. Around 170 people from Jersey were referred to Southampton last year: the majority for radiotherapy treatment for cancer involving the need to spend 4 to 6 weeks away from the Island. The apartments, the new apartments, are in the Ocean Village Marina complex, they have kitchen facilities, communal areas, Freeview TV and Wi-Fi. The Ocean Village itself has a range of facilities, including restaurants and retail outlets. The new facilities have been visited and welcomed by the chairman of the Jersey Cancer Trust. Back to the organ donation, which I was questioned on before. This has received much publicity recently and perhaps one of the most important initiatives with regard to organ donation has been in Wales. In December 2015, Wales moved to a system of presumed consent. In other words it is effectively assumed that people will donate their organs, unless they have actively opted for otherwise. Elsewhere in the U.K. the system remains one where they sign up to an organ donation register in advance if they wish to donate their organs. In response to a question in this Assembly about the Welsh initiative, I previously stated that, like other jurisdictions, we were adopting a watch and learn approach. The Scottish Government have just embarked on a 14-week consultation exercise to ask its citizens for its views on organ and tissue donation, including a system akin to the Welsh model. Personally, I support such a change here in Jersey. I do, however, need to be sure that Islanders agree with me. While most of the voices I have heard are supportive of change, I am aware that some doubters feel reluctant to express their reservations. After all, the number of people in Jersey registered as organ donors is 12 per cent, compared to 36 per cent. I intend to gauge Islanders' views on this issue and have agreed with my officers that we will work with the States' Statistics Unit to produce a short questionnaire on the issue of organ donation. This way, a representative sample of Islanders' views can be gained around organ donation. I am hoping this work will be completed by early summer. If Islanders respond and indicate a positive approach to the change, I will then bring a proposition to the Assembly for a new approach based around the

concept of presumed consent with, of course, appropriate safeguards for those who wish to opt out. In the meantime, my department will increase awareness and continue to encourage Islanders to sign up to the organ donation register. I am convinced that we can achieve a significant increase in Jersey's registered donors through greater publicity, awareness and education, around the issues involved and by making sure that people have the conversation about donating with their families, while they are still fit and well. It is far too late, in my view, far too late and entirely unrealistic to leave this until the emotive aftermath of a potentially fatal accident. While the Islanders on the register is lower than the mainland, we can take some solace from the fact that, in terms of organ donations made by Islanders, we are making a fair contribution. In the last 6 months, Jersey has referred 4 possible donors to the U.K. team, one of those was suitable and several organs were successfully used. Recently, and in fact today, one of these operations is happening. Recently we have undertaken the first corneal transplants locally with donor material sourced from both the U.K. and the United States and there is one such procedure happening at the General Hospital in Jersey today. We are looking at the prospect of providing more donor tissues. Losing a loved one can be a very traumatic experience, but for many people the knowledge that organ donation is saving and transforming lives of others can provide comfort at the time of loss. I am hoping that the very fact I am raising this issue today could mean that more families will have conversations around the issue and that people's wishes are, therefore, more likely to be known and acted on, whatever system we ultimately put in place around organ donation. **[Approbation]**

The Bailiff:

Before we have any questions on the statement, I wonder if I might just refer Members to Standing Orders 16 and 17 in connection with making statements. Standing Order 16, which deals with personal statements, says: "A Member of the States, who wishes to make a statement during a meeting to explain a matter of a personal nature, shall seek the leave of the Bailiff no later than 5.00 p.m. on the working day preceding the day the statement is to be made. The content of the statement must be personal in nature." Standing Order 17 deals with matters of official responsibility: "The following office holders may make a statement during a meeting on any matter [which is in the singular] for which he, or she, has responsibility as holder of the office. Any Minister, Chairman of P.P.C., Chairman of P.A.C., Scrutiny Panels [and there are others there]. Any Member of the States may make a statement during a meeting on a public matter for which the Member has an official responsibility." Now, implicit in these Standing Orders is that a copy of the statement should be made available to the Bailiff, where leave is sought, where it is necessary, and under Standing Order 17 a person wishing to make a statement on a matter of official responsibility is to give notice to the Greffier no later than 5.00 p.m. on the working day preceding the day the statement is made. The reason that is important is to ensure that the Greffe, and the Presiding Officer, have an opportunity to consider what statements are being made and to look at any suggestions in the context of the statement that might be relevant. When I said "any matter in the singular" this very full statement from the Minister for Health and Social Services contains 2 quite separate matters and, in theory, and this is why I say this, and I absolutely do not suggest the Minister for Health and Social Services was doing this, in theory one could limit the number of questions by putting completely separate issues into one statement, and I am absolutely resolute that is not going to happen, and that is one of the reasons why I am going to extend question time to half an hour in relation to this particular statement. It probably will not be necessary, but anyway half an hour is what is going to be allowed if needed. Now, Deputy Kevin Lewis.

8.1.1 Deputy K.C. Lewis:

Regarding the second section of the Minister's speech, I fully support organ donation. I have my blue donation card here, and I have informed my wife and family of my wishes should anything happen to me. My question is: this is an N.H.S. (National Health Service) system and one at

present has to register with the N.H.S. Is the Minister happy that local doctors and surgeons have immediate access to the U.K. system so, should someone pass away, the organ will not be lost?

Senator A.K.F. Green:

Yes, in fact there is a misconception around organ donation inasmuch as some people think we have a Jersey register and a U.K. register. In fact, there is only one register, the Deputy will be on the U.K. organ donation register, so there is only one register and I met with the U.K. transplant officer recently, so I am confident of what I am saying in terms of looking at this new policy.

8.1.2 Connétable J.E. Le Maistre of Grouville:

I wonder if the Minister could confirm, or otherwise, if the minibus service from the hotel that is currently running, or did used to run, will still be operational when the new apartments are taken over as opposed to the hotel?

Senator A.K.F. Green:

I am afraid that is one I will have to come back on. I am not aware of that at all. I was aware that there was a minibus service. I did not ask the question when we were looking at the apartments, but I will come back and let the Constable know.

8.1.3 Deputy K.C. Lewis:

I know it is only one system we have, it is N.H.S. printed on my donor card here, but my question was: do local surgeons have immediate access to this information through a computer system, or otherwise, to determine who is, and who is not, on the system in Jersey?

Senator A.K.F. Green:

Yes, I understand the question. Yes, I believe so, from the meeting I had with the Transplant Committee and the U.K. representative, I believe that is the case.

8.1.4 Deputy M. Tadier:

Can the Minister talk about what he envisages would be the process for automatic registration, given that it is the U.K. N.H.S. list that is being used, one centralised list; who would transfer the information to that?

Senator A.K.F. Green:

As I understand it, if you go down the route of a presumed consent then, unless the families say otherwise, donations will be offered to the N.H.S. system, will not necessarily have to be on the donor system as they are now. If there is a presumed consent process going, everybody is presumed, unless they have opted out, or unless the families, and the families do have a right to step in, unless the families say no, then those organs are offered through the N.H.S. system. They are not always suitable. We saw we had 4 offered last year and only one taken up. That is one person, several organs recovered from that one person, but they do not have to be on the register under a presumed consent system.

8.1.5 Deputy M. Tadier:

In order for the presumed consent system to work, so for example it would presumably apply to Jersey residents, and what happens if a Jersey resident travels to the U.K., has an accident over there, and the possibility for their organ use comes up, but they are not on the register? What are the mechanics of it? How would we know? Similarly, if a U.K. person comes to Jersey, who has not registered for their organs to be donated, would they, once they are in Jersey, come under presumed consent?

Senator A.K.F. Green:

All this would have to be worked out when we are developing a system, assuming that the survey comes out the way that I think that it will. All this has to be worked out and all that will be part of the legislation. There will have to be an opt-out register, for example. I am not able to answer in detail at the moment. At the moment it seems to me that we need a policy change and I want to see how people feel about that change.

[15:15]

8.1.6 Deputy M. Tadier:

How do we engage in a public consultation - which some might say is unnecessary, because I think we are pushing on an open door here, we are simply changing the mechanism that there will be organ donation one way or the other - it is just we are changing consent from being not presumed to presumed. But, if the public do not know how it is going to work, and they will ask questions like the ones I have just asked, before being able to say “yes”, “no”, “do not know”, to any of the questions in the consultation. So, will the Minister be providing an example of what his preferred methodology is before embarking on this consultation?

Senator A.K.F. Green:

Yes, that is precisely why I said we would need 6 months of informing people as well as doing the survey, so it will be intense publicity around organ donation, but I think like the Deputy, I do think the majority of the public are in favour of this initiative, but I do want to find out what concerns people may have and that is why I want to use the very good officers of the Independent Statistics Unit to get appropriate questions answered, but I do not want to carry out a full public consultation. It is expensive and unnecessary.

8.1.5 The Deputy of St. Ouen:

With regard to the travel arrangements, can the Minister tell the Assembly what would be the arrangements for a child travelling for treatment? So, in other words, would a parent be funded? Would both parents be funded to accompany that child? Also, adults wishing to travel, who may not feel that they can travel on their own, would a spouse or member of the family be permitted to accompany them? Well, I am sure would be permitted to accompany them, but to what extent would funding take place if that adult feels vulnerable and not able to travel alone?

Senator A.K.F. Green:

In that respect, the policy has not changed. Children under 18 are entitled to have an adult travel with them. Members of the public over 75 are also entitled to have a member of the public travel with them. In all other respects, if there is a medical need for a nurse, or parent, to travel then that will be paid for as well. The Deputy asked a very specific question about the child maybe wanting to take both parents. In the normal event it would only be one parent. That is the policy at the present time. There are one or 2 exceptions for very sick children, but in a normal event, as per the policy today, only one parent is funded.

8.1.6 The Deputy of St. Ouen:

Has that been reviewed, in the course of this recent review, in the light of representations the Minister for Health and Social Services may have received and is it not something that the Minister for Health and Social Services could have considered if not, so that 2 parents might wish to accompany their child, but may not be in a financial position to do so. In the light of the fact that treatment cannot be offered over here, should the whole family be supported in the trip to the U.K.?

Senator A.K.F. Green:

We did look at this and consider it and discuss it at length, but if you do more of that then you have to do less for other people and this way all families get some support. As I say, the policy has not changed in respect of children under 18 are accompanied and adults over 75 are accompanied and in between only when there is a need.

8.1.7 Deputy A.D. Lewis:

I have received, in recent times, some excellent reports on the way that the Hospital Travel Department handle patients and assist them in the same excellent manner. Mindful of that, would the Minister for Health and Social Services be prepared to use his ministerial influence to discuss this matter further with the Council of Ministers with regard to the entire travel and accommodation for the States of Jersey, where we are clearly already significantly doing a very good job internally with one department. Is that something that he considers his department could do for the whole of the States of Jersey and, if so, is it something which he would be prepared to present to the States or either to the Council of Ministers to discuss further?

Senator A.K.F. Green:

It would be very easy for me to stand here and say yes, but I am going to put a caveat on it. Obviously, there is a contractual arrangement at the moment, which will have to be worked through, but when the time is appropriate, I would be prepared to do that, provided I can continue to get a very good rate for patients. That is the understanding with suppliers. If we can continue to get that rate I am happy to explore it, but not while we have a contract in place.

8.1.8 The Deputy of St. Ouen:

As regards to organ donation, the Minister for Health and Social Services says in his statement that he will bring a proposition to the Assembly if Islanders' responses indicate a positive approach. Can the Minister for Health and Social Services give an idea of this timeline and will that proposition be draft legislation? If not, is there a danger, therefore, that we will come up against the end of the present States' term and this item might just fall flat before the next elections? I hope it will not.

Senator A.K.F. Green:

The timeline is that I hope to be in a position to know which way I am going to go on this, whether we are going for the preferred presumed consent, which is what I would like to do. I should know that by about June or July. I will have to seek some advice through law draftsmen as to whether we could come back, because I think this would be a fairly complex piece of law, or whether we could look at Wales, for example, and see whether that could be adapted. I do not know the answer to that, to be honest with you. It is something we will do, as we are working our way through the process over the next few months.

8.1.9 Deputy J.M. Maçon:

Within that, I wonder if the Minister for Health and Social Services could just explain what the process of informing and educating the public is before this consultation is undertaken, because I still think there is a lot of misinformation, a lot of non-understanding out there about whether members of the public feel that they ... the information they need about the rules and whether he would want to opt for a different system or not. So, what public information programme will the Minister for Health and Social Services put in place, if any?

Senator A.K.F. Green:

At this stage all I can say is that we support the small group of clinicians, myself and possible administrators, to ensure that we have a plan to get out there and get that publicity out there and

answer the sort of questions the Deputy is talking about. So, there is a group formed to meet next week for the first time and we will start to progress that.

8.1.10 Deputy M. Tadier:

When giving media statements about organ donation, I think the Minister for Health and Social Services was quoted, I hope correctly, about favouring a soft opt-out option for organ donation. Would the Minister for Health and Social Services explain whether he said that and what he means by that?

Senator A.K.F. Green:

I did use the term “soft opt-out”, because that is what is in a lot of the clinical papers, but I realised straight away, in fact it was the Chief Minister that pointed out to me very quickly, that people do not know what soft opt-out means. What they mean is there a presumed consent, but that the family would have the final say.

8.1.11 Deputy M. Tadier:

Presumably, that is either the Minister for Health and Social Services, or the Chief Minister’s preferred option, but does he think that it is useful to put that on the record before any consultation has taken place? As a supplementary, perhaps, is it right that the family of a deceased person can override the wishes of that person, if that person has not taken the opportunity to opt out during the course of their lifetime?

Senator A.K.F. Green:

These are all matters that we will be consulting on. That is exactly why you cannot just say: “I am going for an opt-out position, or a presumed consent position.” That is exactly the sort of thing we need to ask about.

8.1.12 Deputy M. Tadier:

Will the Minister for Health and Social Services stay away from reinventing the wheel unnecessarily? We know that we have some very close neighbours: France have only just implemented their opt-out organ donation as of 2nd January this year. We know that Wales has already been running for a year. Scotland, as the Minister for Health and Social Services has alluded to, is consulting now. Will the Minister for Health and Social Services engage with these jurisdictions on our doorstep to see how they do it to see if we can learn from their methodology?

Senator A.K.F. Green:

Yes to that, and also, just as important, we are in close consultation with the National Transplant Authority.

The Bailiff:

That brings questions to the Minister for Health and Social Services to an end on his statement. Chief Minister, my understanding is there are 2 statements you wish to make? Both of them I see are urgent matters. You have leave to make them both. I am sorry? I know. Perhaps we will catch up with Standing Orders one day. Chief Minister, perhaps you would like to make your statements?

Senator I.J. Gorst:

Thank you.

The Bailiff:

I am sorry?

Deputy G.P. Southern:

Can we have the statements in front of us?

The Bailiff:

The Usher is circulating it in the usual way.

9. The Chief Minister - statement regarding the Innovation Fund

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

It has been extremely disappointing to see the serious failures highlighted in the Comptroller and Auditor General's report on the Jersey Innovation Fund. While the concept of the fund was a good one and this kind of scheme works well in many countries, we have been let down by inadequate management and governance. Although the fund was established with terms of reference that were reviewed and amended by Scrutiny, then approved by this Assembly, its subsequent operation has lacked vigour. Supporting innovation involves careful weighing up of evidence and ideas and not every start-up or young business will succeed. However, there were not strong enough controls in place for the use of this fund. The Advisory Board was made up of successful entrepreneurs, business professionals and officers. The report identifies issues in translating the States Assembly approval of the terms of reference into robust operating procedures, clear accountabilities, effective monitoring and timely reporting mechanisms. I am sure that all those involved in the day-to-day running of the fund would look back on this period and consider what more could have been done both individually and collectively. Some of the information highlighted in the report is not a surprise. Senator Ozouf brought in an external firm of accountants in February 2016 to look into the existing loans and no new loans have been approved since the end of 2015. The fund's Advisory Board was dissolved last year and we have accepted the report's findings. The Treasury has made provision for bad debt in 2015 and 2016. This is a cautious approach and it does not mean the loans will not be paid back. Subsequent repayments could bring the debt down considerably. I have now initiated 3 reviews into the different aspects of the report's findings to establish how a good idea became a badly managed project. First, the States' Chief Executive has engaged the services of an independent U.K. based former employment lawyer to review the actions of all those civil servants involved in the fund, to assess whether there are any disciplinary issues to deal with. Secondly, the Chief Executive has employed an external accountant for a period of 3 months to review all of the financial arrangements States' departments have with external bodies, to ensure appropriate levels of compliance and governance are in place. This will include all grants, loans and any other kinds of financial arrangements between States' departments and charities, companies or not-for-profit organisations. This work will be carried out with the support of Treasury staff. Finally, I am commissioning an investigation into whether any political involvement contributed to the failings identified. Despite the absence of personal criticism of him in the report, Senator Ozouf has accepted the recommendations of the Comptroller and Auditor General in full and is offering to step aside from his responsibilities as Assistant Chief Minister. This is an honourable offer, to allow this review of political involvement to examine individual actions objectively and report to me without fear or favour. I have approached the Law Officers' Department to identify someone with the appropriate skills to carry out this review. I am grateful to Senator Ozouf for his work on the fund. Since taking full legal responsibility for the fund in January 2016, Senator Ozouf has not approved any new loans. He has brought in external accountants to review the existing loans, and accounting officer responsibility has been transferred to the States' Chief Executive. If any of these 3 reviews uncover information that requires action to be taken, we will take that action. Many of the report's recommendations have already been implemented since the States' Chief Executive took over as accounting officer for the fund in November 2016. We will now consider any further steps that are required to implement the

report's recommendations and we will incorporate the recommendations into any further schemes proposed to support enterprise and innovation.

[15:30]

We are also taking expert advice on how we can improve our wider support for innovation in Jersey and maximise its economic benefits. The Innovation Fund was established to support new business ideas to help boost our economic performance and to create new and exciting jobs for Islanders. Tera Allas pointed out in the Jersey Innovation review that while we have the fundamentals required for a highly successful innovative economy, there are signs this is not translating into economic growth. There is, of course, much more to innovation than securing funding for businesses and we will continue to implement the 33 recommendations from Tera Allas on all aspects of innovation. There is a role for Government to get involved in promoting innovation as they do across the globe, but we must learn from the failings of this fund and reconsider what we should do in Jersey. Supporting new business ideas is never going to be straightforward, but it is essential if we are to maintain a healthy, growing economy that provides rewarding jobs for Islanders.

The Bailiff:

Any questions for the Chief Minister?

9.1.1 Deputy J.A. Martin:

There was some quick action and the board has been disbanded. My question is the loans and recouping these loans were given on the understanding of continued expert and entrepreneurial advice from members of the board. Are we not setting these loans up to fail even more if they are not getting this advice? Who is going to step in and do this?

Senator I.J. Gorst:

I think it is the reverse. The recipients of these loans, and I have been very careful and I know other Ministers as well, we do not want these loans to fail. The new approach to providing for provision for bad debts is cautious. That is the right approach. Alongside that, the external accountants, I think, together with Jersey Business, are continuing to provide support to those recipients of the loans to deliver their products to new markets and to get new agreements into the marketplace into place. So, they are being supported and they are being supported in an appropriate way unlike, perhaps, the support that has been offered in the past.

9.1.2 Deputy M. Tadier:

The Chief Minister said that he would ask anyone who is leading the inquiry to pose the question: did any political involvement contribute to failure of the funds? But would he also ask, perhaps, what is arguably the more pertinent question: did any lack of political involvement contribute to the failure of the Innovation Fund, because it seems to me that we have had from the various Ministers and Assistant Ministers a complete lack of political oversight and that question needs to be asked as well?

Senator I.J. Gorst:

My reading is that by asking that question you are asking both sides of the same coin. Were there times when Ministers should have asked questions and should have raised issues about information in Ministerial Decisions and supporting documentation and conversations with the board as well as was there involvement directly? It is lack of involvement and involvement.

9.1.3 Deputy M. Tadier:

Does the Chief Minister think that maybe some of his Ministers, or even his Assistant Minister, has been given too much to do and bitten off more than he can chew and that is why he did not have the time, or necessarily the energy to devote to the oversight of the fund needed?

Senator I.J. Gorst:

Senator Ozouf is, without doubt, one of, if not the most hardworking Member of this Assembly [Approbation] and I know that Members across this Assembly work many, many hours a day. Senator Ozouf is dynamic, he is creative and he finds solutions to problems and he gets things done. We see from this report that, with his direct legal responsibility from 2016, he got things done. Therefore, I do not accept what the Deputy is trying to suggest.

9.1.4 Deputy G.P. Southern:

Does “stepping aside from my responsibilities” mean “offering my resignation”? Has the Assistant Minister resigned? Has the Chief Minister accepted that resignation and, if not, will he dismiss his Assistant Minister?

Senator I.J. Gorst:

I know Senator Ozouf to be an honourable man. I have worked with him day in, day out, for perhaps more years now than I care to remember, than I am sure that he cares to remember, and we have achieved a lot. It does not surprise me, as it appears to surprise some and some Members of this Assembly, that he would act in an honourable way, as he has done today, because I have seen him acting in that way, as I say, day in day out. He has offered to step aside from his role as Assistant Chief Minister. That means he will no longer be Assistant Chief Minister. That will allow this work to be carried out, without fear or favour.

9.1.5 Deputy G.P. Southern:

Could I ask a supplementary? To be absolutely clear on this, the Assistant Minister to the Chief Minister has resigned his position? He is no longer the Assistant Minister to the Chief Minister?

Senator I.J. Gorst:

The Assistant Minister could not have been clearer this morning that he intends to step aside from being Assistant Minister. When he formally, and we had a little disagreement about that so you will remember before lunch, does that on my acceptance of that stepping aside, he will no longer be Assistant Chief Minister. But it appears to me that some Members continue, as Senator Ozouf said, to want to carry out a witch hunt, rather than to allow the reviews to take their course and then make decisions based on the evidence that those reviews bring forward.

The Bailiff:

Chief Minister, I think the Assembly is entitled to be quite clear about the position, as indeed are the public. As I understand your answer, Senator Ozouf has volunteered to step aside. He has not yet done so and so, at the moment, he remains in place as an Assistant Chief Minister. If he makes that offer to you, you will accept. Is that the position?

Senator I.J. Gorst:

He has been quite clear that he will be doing that and when he does, “yes” is the answer.

9.1.6 Deputy K.C. Lewis:

The first part of my question has been answered. My question is what now for Digital, Financial Services and Innovation and who will be replacing the Senator on the Brexit summit?

Senator I.J. Gorst:

Senator Ozouf works tirelessly for the people of this Island and I do not, this afternoon, try to say filling and taking responsibility back to the Chief Minister for the work that he does is an easy task. It is not because he is able to balance a workload in a way that many cannot. Currently I am proposing that I will take the day-to-day responsibility for financial services, which is extremely important and has changes happening there, and I will give consideration throughout the course of the rest of this week together with Senator Ozouf. There might be some trips that have already been paid for that it would be suitable for him to carry out on behalf of Jersey, but the actual detail of who then the responsibility will move to while Senator Ozouf is no longer Assistant Chief Minister I will be working on during the course of this week.

9.1.7 Deputy J.M. Maçon:

Can I ask the Chief Minister the nature of these reviews, the terms of reference that will be drafted for each of them, will they be made public, when will they be made public, and what allowance is there for States Members to check the robustness of the terms of reference?

Senator I.J. Gorst:

These reviews have to be undertaken forthwith and undertaken very quickly because, otherwise, potential questions remain unanswered over those Ministers who have been involved during the 3 different stages of involvement. As I said this morning, prior to the election of the incoming new Minister for Economic Development, Tourism, Sport and Culture, the transfer then to the Chief Minister's Department at the beginning of 2016. Of course, those terms of reference will be available to P.A.C. and to the Scrutiny Panel, but I have not, at this stage, considered giving them to all States Members.

9.1.8 Deputy R. Labey:

It has not been pleasant to watch this morning's events unfold and Senator Ozouf and I are not political allies, but I have been very uncomfortable with seeing him being hung out to dry in this way. I wonder how comfortable in his position the Chief Minister is sitting at present, and a number of other Ministers. As much as I like him very much personally, did the Chief Minister ever consider resigning *en bloc* and if need be standing again because, as I say, I fear that Senator Ozouf's being thrown to the wolves is a smokescreen.

Senator I.J. Gorst:

There is a reason that I have requested and instructed these reviews to be done so that the Deputy, and other Members of this Assembly, can be satisfied that responsibility is resting in the right place, and that is what these reviews will show and I was quite clear about my position this morning. Senator Ozouf, who has current political responsibility for this area, has done the honourable thing and I hope that the witch hunt now will stop and that reviews will be allowed to carry on, without fear or favour, in answering the questions that Members have.

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

I note in the third paragraph at the bottom of the statement, that the Chief Executive has employed an external accountant for a period of 3 months to review financial arrangements that other States departments have with external bodies. My question to the Chief Minister is: what happens after the 3 months? Who will be responsible for continuing insurance that good governance is in place?

Senator I.J. Gorst:

That is a good question. That accountant, as I said, will be working with Treasury staff. It will depend what that accountant finds. I understand States Members' concern, which mirrors my own concern, about giving confidence in the processes and the governance that we have in place right across the States when it comes to dealing with third parties in this regard. That confidence, that

trust, has to be rebuilt and it will be a slow process to rebuild that. The Treasury Department is in the process of strengthening its arrangements with regard to third party arrangements and I suspect that ultimately, once this 3 months' work is completed, they will consider whether they need a person to continue that work or whether it will roll into the strengthening oversight arrangements that they are putting in place and that they have money in their budget for.

9.1.10 Deputy J.A.N. Le Fondré:

I was not expecting to be this soon in the queue. The Chief Minister made reference to a political review. Could he clarify 2 things? One is: who will be performing that aspect of one of the 3 reviews.

[15:45]

Will it, for example, address statements made, or other questions or reports made to this Assembly, and by way of an example ... and I raise this because I was going to ask it previously and did not get the time and was unable to get the question. A statement was made by Senator Ozouf in June in answering to Deputy Mézec, I think, it was saying: "I have reviewed the way decisions are made and am satisfied that both the board and officials have carried out what this Assembly asked." I think from the point of view of clarity, and I accept the point the Chief Minister made about the honourable thing to do, which I agree, but I think, for clarity, those kind of statements need to be considered because, obviously, there is a perception at the very least that what had been said and now, it has been found out, do not necessary correlate.

Senator I.J. Gorst:

Senator Ozouf was quite clear this morning, as I know that both the Minister for Treasury and Resources and the Minister for Economic Development will do, and are doing, all relevant information - and the information that the Deputy just read out is relevant - all relevant information will be reviewed and I hope that Deputy Brée and the chairman of his panel will do a detailed and thorough review of all the information, as well as the independent review that is being proposed will be carried out by a U.K. Q.C. will do as well.

The Bailiff:

That brings question time to an end, the 15 minutes having expired. There is a second statement by the Chief Minister on the United Kingdom Prime Minister's Brexit speech.

10. The Chief Minister - statement regarding Brexit

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

As Members will be aware, the United Kingdom Prime Minister today outlined her objectives for the U.K.'s new relationship with the European Union after U.K. withdrawal. She said that the U.K. Government would seek a new, positive and constructive partnership with the E.U. (European Union), which would involve a new customs agreement with the E.U. that removes as many barriers to trade as is possible and which gives the U.K. the ability to enter into new trade agreements. The U.K. Prime Minister said that an ambitious free trade agreement could not, however, mean membership of the European single market. Members will recall that on 27th June 2016, shortly after the U.K. referendum on membership of the European Union, the Government of Jersey issued a report setting out our broad objectives with regard to our own future relationships with the U.K. and the E.U. Since that time, we have been working closely with the U.K. Government to ensure that our interests are fully understood and taken into account. Our primary objective was identified as preserving the substance of our relationship with the United Kingdom and Prime Minister May today said that she wanted no barrier to doing business in the United

Kingdom. Our monetary and Customs Union with the U.K., which underpins our prosperity, was not questioned. Indeed, I particularly welcomed the Prime Minister's confirmation today that preservation of the Common Travel Area, which gives us our ability to travel without restriction to the U.K., is also a priority for her government. Prime Minister May made clear this morning the U.K.'s desire to guarantee the rights of E.U. citizens in Britain and British Nationals in E.U. member states as the right and fair thing to do, referring also to broad support for this among European partners. I am, therefore, hopeful that a way forward on this issue can be found. Prime Minister May emphasised the importance of future trade both with the European Union and the rest of the world. She will seek some form of customs agreement with the E.U. Such an agreement would, of course, be of interest to Jersey. This will, of course, be a matter for negotiation and I therefore believe that, as a matter of prudence, the Government of Jersey should plan on the basis that tariffs and non-tariff requirements could be a feature of Jersey's trading goods and agricultural products with the E.U. after Brexit. We will continue our work with the U.K. to ensure that as they pursue the widest agreement possible with the E.U., including the phase transitional deal that allows for the implementation of different aspects of Brexit, we are able to access that agreement where it is advantageous for us to do so. I conclude by reaffirming that the Government of Jersey will continue to work tirelessly to secure the best possible outcome for Jersey in the Brexit negotiations.

The Bailiff:

We now have 15 minutes of question time with the Chief Minister on this statement. Deputy of Grouville.

10.1.1 The Deputy of Grouville:

The Chief Minister stated that the rights of E.U. citizens in Britain and British nationals in the E.U. member states as a right and fair thing to do they will have guaranteed their rights. British nationals in E.U. member states, does that mean Jersey people?

Senator I.J. Gorst:

There are some areas which are not clear, but the designation of "Islanders" is absolutely at the forefront of the Government's mind when negotiating and in conversation with the U.K. Government. But it would seem to me, on first glance of the speech, that if the U.K. is leaving the single market and is not just simply remaining in the Customs Union, as Prime Minister May suggested this morning, but reaching a new customs agreement with the E.U. then all of those issues can be dealt with and we will push to ensure that they deal with those individuals in our community designated as Islanders.

10.1.2 Deputy M.R. Higgins:

Following up on the Chief Minister's answer. The only reason why some members of the Jersey population had restrictions on their movement in Jersey was because of Protocol 3, which will disappear in this case and, therefore, will the Chief Minister confirm that all citizens should be treated exactly the same; there should no longer be a cut-off and that that will be part of any negotiation that we have with them?

Senator I.J. Gorst:

The Deputy is absolutely right and that is the aim of the Jersey Government.

PUBLIC BUSINESS

11. Ann Alice Rayner Fund: alteration of purpose (P.116/2016) - as amended

The Bailiff:

Are there any other questions for the Chief Minister? Very well then that brings the statements to an end. We now come to Public Business, the first item of which is P.116 the Ann Alice Rayner Fund: alteration of purpose lodged by the Minister for Treasury and Resources. Minister, I take it you would like to propose this in amended form?

Senator A.J.H. Maclean:

Yes, Sir, and I would also like to ask my Assistant Minister to be the rapporteur.

The Bailiff:

Do Members agree it should be taken in amended form? Then I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion to amend the Act of the States dated 27th March 2001 concerning the Ann Alice Rayner Fund by inserting as an additional object in sub-paragraph (a) - "(3) the making of grants in support of any charitable institution or charitable home other than one owned and administered by public funds, which has for its object the relief of persons in pecuniary need;".

11.1 Connétable J.M. Refault of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):

I was looking forward to doing the first proposition of the year, to say a very Happy New Year to everybody but I think the events have rather overtaken that today. This proposition is quite a simple one: it is seeking Members' approval to alter the purpose of the Ann Alice Rayner Fund and also, with the leave of this Assembly, which they have now given, propose the proposition as amended by the Minister for Treasury and Resources' amendment. A brief history: in 1949 the States of Jersey accepted the bequest from Ann Alice Blason, née Colclough, to bequeath the residue of her personal estate to the States of Jersey for the creation of the fund to be known as the "Ann Alice Rayner Fund", the fund to be used for such objects and purposes of a charitable or philanthropic nature as the States of Jersey might, at their absolute discretion, determine. The Ann Alice Rayner Fund was for the provision of pecuniary relief to needy persons residing in Jersey and other such objects and purposes of a charitable or philanthropic nature that the States may hereinafter, in their absolute discretion, determine. As of 30th June 2016 the fund stood at £3,467,290 and, under the current objects of the fund it can only award grants to individuals for pecuniary needs. It has been the experience of the delegation of Jurats, who oversee the fund that in recent years, especially since the introduction of income support, the income arising out of the investments has regularly outstripped the distribution of grants to financially needy persons. This has occurred notwithstanding the delegation reminding Parish authorities and other institutions dealing with those in need of financial support of the availability of these funds. In light of the continuing reduction in the number of individual applications to the Ann Alice Rayner Fund, the delegation considers that it would be appropriate to introduce a similar provision to that contained under the terms of the Greville Bathe Fund. This would allow distribution of monies to institutions and organisations that have, as their principal objective, the provision of support and care to needy persons. This would thereby ensure that Ann Alice Rayner's desire to assist and support needy people through her generous bequest would continue to have relevance for many years to come. However, turning to the Minister for Treasury and Resources' amendment and following the lodging of this proposition, P.116, the Deputy of St. Ouen, Deputy Renouf, unfortunately not in the Chamber at this moment, contacted Treasury and suggested an amendment to the wording of the purposes of the fund that clarifies the focus on pecuniary need as opposed to any other needs. The

Deputy's contribution is welcome and ensures that the wishes of the benefactrix continue to be reflected and upheld. The amended proposition reads: "To amend the Act of the States dated 27th March 2001 concerning the Ann Alice Rayner Fund by inserting as an additional object in subparagraph (a) - (3) the making of grants in support of any charitable institution or charitable home other than one owned and administered by public funds, which has, for its object, the relief of persons in pecuniary need." I can confirm that the proposition, as amended, is supported by the Jurats overseeing the fund, so I make the proposition, as amended.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? Connétable of St. Lawrence.

11.1.1 The Connétable of St. Lawrence:

I just want to speak briefly on this because I remember some years ago, I think it was Jurat Peter Morgan, came to address the Comité about this fund and we were concerned at that time, I remember, that the general public are not really aware that these funds are available for use and may be applied for. What I want to know from the rapporteur is how the existence of this fund is made known to the general public, who may ultimately be beneficiaries of it and whether there are any plans to review the way in which it is run. I would be grateful to know, because I think there are other funds of a similar nature which should also be potentially reviewed by Treasury as to how the public are made aware of their existence. Thank you.

11.1.2 Deputy R. Labey:

I think I have got a fairly good grasp of the English language but I cannot remember what pecuniary means. I do not know if you can help me, or somebody?

The Bailiff:

It is to do with money. It comes from the Latin *pecunia pecuniam*.

Deputy R. Labey:

Thank you, Sir. I have had occasion to assist constituents approach the fund and I hope that it will still be available to individuals, who might have fallen through various nets, to approach the fund, not just be swallowed up in larger charitable organisations, is where I am going, rapporteur. The fund used to just be a name on a piece of paper to me, but once you see what it does, it is an absolute lifesaver to some individuals in this Island and the fund is administered by a lady officer who interfaces with the public at Cyril Le Marquand House and she is the most helpful, efficient, kind, sympathetic lady you could ever wish to possibly meet. I wanted to pay public tribute to her for the way she makes people feel incredibly comfortable and the way she carries out her work, I think is absolutely exceptional. As I say, the fund is a really important lifesaver to some individuals, who are slipping through all sorts of nets.

[16:00]

11.1.3 Deputy J.A.N. Le Fondré:

Yes, one query and hopefully the answer will be that it will be in the hands of the Jurats of the delegation to consider matters; this just gives them an option of who they distribute to. But I assume there is no intention at all that the grants, or the making of grants, would not displace grants that already are made by the States; in other words, a grant gets paid by the States, it gets withdrawn on the basis that this particular fund would pick it up but I presume that would be in the hands of the Jurats to keep an eye open for that kind of behaviour. Thank you.

11.1.4 Deputy D. Johnson of St. Mary:

Taking up the point made by the Connétable of St. Lawrence. I believe there are many small charities in existence which have wording no longer appropriate for the current day. For instance, I know that some provide for the poor of the Parish, or those on Parish relief. I simply flag this, suggesting that maybe that aspect could be looked into with a view to passing legislation which would embellish the terms of such trusts. Thank you.

The Bailiff:

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

11.1.5 The Connétable of St. Peter:

I am going to start with the second questioner, Deputy Labey, because it was such a positive response and I thank him very much for that positive response. Certainly, there is a need for wider knowledge. Most to come through the Parish Halls would also be people like yourself who have made the effort ... sorry, through the Chair, Deputy Labey who has made it his mission to find out where these funds are available from. He did ask if there were any other ones and I will just read from the list I have here from the common investment funds. The Estate of Ann Alice Rayner Fund, the Rivington Travelling Scholarship Strategy, Estate of Le Seilleur Investment Strategy, Estate of E.J. Bailhache Investment Strategy, Le Don de Faye Trust Fund, the Greville Bathe Fund, Estate of A.H. Ferguson Bequest Investment Strategy, The Lord Portsea Gift Fund and the Estate of Rosalind Vincent Investment Strategy. There are a number of them, all being managed through the Treasury, through that very willing and able lady in the Treasury Department so, hopefully that has helped some. Again, the similar question from the Constable of St. Lawrence about getting the information out there, and I think probably today and answering these questions this afternoon will inform all Members in this Chamber now of the availability of these funds and the route is via the Treasury office in the first instance. Then, to add that to Deputy Le Fondré's question, it is administered entirely by 4 Jurats for this purpose and equally the proposition, as amended, does demonstrate that it cannot be made available to any organisation which is currently aided, or partly funded, by the State at all, so it will not be used for those purposes. The Deputy of St. Mary, I did not really get a question at the end of your ... I hope I have answered in general terms. Thank you very much.

The Bailiff:

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

12. Television Licence Fee: exemption for Jersey residents aged 75 and over (P.117/2016)

The Bailiff:

We now come to P.117 Television Licence Fee: exemption for Jersey residents aged 75 and over.

12.1 Deputy M. Tadier:

I circulated an email last night; I wish to defer this proposition, given the fact that a statement has been made since I lodged it, which I think changes the position and I wish to consider bringing an amendment or withdrawing it. I need to decide which to do.

13. Draft Opticians (Registration) (Amendment No. 2) (Jersey) Law 201- (P.120/2016) - as amended

The Bailiff:

Very well, it is deferred. We now come to the Draft Opticians (Registration) (Amendment No. 2) (Jersey) Law with an amendment. Minister, would you like to propose it as amended?

Senator A.K.F. Green:

Yes, please, Sir.

The Bailiff:

Do Members agree that should be done? Well then I will ask the Greffier to read the proposition as amended.

The Greffier of the States:

Draft Opticians (Registration) (Amendment No. 2) (Jersey) Law 201-. A Law to amend further the Opticians (Registration) (Jersey) Law 1962.

The Bailiff:

The citation of the draft is quite right. Minister.

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

This is a small amendment to the law, but it is an urgent public health measure to protect Islanders from potential serious injury and harm that can occur from using cosmetic contact lenses. Such lenses are currently available in Jersey and sold by various unregulated retailers such as pop-up stalls, fancy dress and novelty shops. This amendment to the law will bring Jersey into line with the U.K. and other jurisdictions where protective legislation is already in place. Cosmetic contact lenses, also known as zero powered, or plano, lenses, are used to change the appearance, or the colour of the eye. Over recent years these have become more and more fashionable, particularly with young people. However, if they are of poor quality, or not fitted properly, they can cause serious and permanent damage to eyes. There is a popular misconception that because cosmetic lenses can be bought over the counter that they are safe when, in reality, they are not. I am advised of at least 3 people in Jersey who have suffered eye problems after using cosmetic lenses last year. There is no doubt that poor quality contact lenses are risky. Poor quality contact lenses may use dyes that contain toxins, such as heavy metals, including mercury and lead, which can leak into the wearer's eye and find its way to the nervous system. Blackout lenses, for example those that alter the shape of your eye to look like cat's eyes, can reduce the peripheral vision and affect the wearer's mobility and balance and, if worn by a car driver, can make driving extremely dangerous. But it is not just the quality of the lenses that are at issue, but also how they are fitted. Cosmetic lenses, like any contact lens, are not a one size fits all product and if they are not fitted correctly they can, as described by one user in Jersey, stick to the eye like a suction cup. I am advised that the cornea is a very fragile and sensitive tissue; it can be easily damaged and if this happens it can lead to serious eye problems, including corneal ulcers and infections. When the cornea is scratched, it is easy for bacteria and viruses to spread, which can cause irritation, swelling and discharge and life threatening infections and, ultimately, blindness. The proposed draft amendment treats cosmetic contact lenses as being the same as prescription lenses, meaning that only registered opticians or doctors will legally be able to supply them to the public. By adopting this amendment, consumers will be protected from avoidable harm in the future. Opticians will make sure that the contact lenses fit properly and that the wearers receive expert advice on how to use and store them correctly. There are one or 2 other provisions in the amendment. The proposed amendment includes some provisions that might be helpful to give Members context as to why they were added. The current law governing the restriction of opticians is based on a 1958 U.K. law, which was updated in 1989 by the Opticians Act. However, in Jersey, we have remained substantially unchanged as in 1962. Our legislation is essentially a secondary registration regime, relying on opticians to be registered by the General Optical Council in the U.K., and as part of a legislation

reform product it is intended to undertake a comprehensive update of this law and other registration laws and streamline all professional registration under one unifying law. But, in the interim, however, the draft amendment provides an opportunity to make some further minor changes to the Jersey legislation, including the bringing up to date of titles used by opticians, making it possible for trainee opticians to perform eye tests, making it clear that there are no obligations for a consumer to buy optical appliances from the optician following an eye test. The law makes reference to “ophthalmic opticians”; in the draft amendment this has been replaced by “optometrist” in line with the terminology that the U.K. and current professional practices use. This does not in any way change the function of the role. They are trained and qualified to carry out sight tests, to diagnose and treat visual disorders, or diseases, as they arise, as well as providing prescriptions for glasses and contact lenses. But with regard to training, the 1962 law places restrictions on who can lawfully carry out an eye test in Jersey; it permits only opticians and doctors to perform this procedure. By making this minor change to the law this proposed amendment will enable local trainees to perform eye tests, so long as they are being supervised by a registered medical practitioner, or a registered optician, and that the procedure is in accordance with the professional standards and rules laid down by the general council. This is a positive step offering potential for local pre-registration training and opportunities for graduates. The draft amendment also includes a provision providing clarification that the consumer is not obliged to purchase glasses or contact lenses from the person who did the test on their sight. The local Optical Council was consulted about this proposal in the draft amendment and is supportive of the changes, so there are no financial implications other than the fact that the contact lenses, when people wish to buy them, may cost a little bit more for the consumer. To conclude, this amendment is an essential public health measure to protect Islanders from potential serious damage that can arise from using poor quality, or poorly fitted, contact lenses. I make the proposition and ask the Members to support the principles.

The Bailiff:

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

13.1.1 Deputy S.M. Wickenden of St. Helier:

I think this is a great piece of work going in absolutely the right direction. The Minister, in his speech, talked about a number of cases of damage being done by using cosmetic base contact lenses. Does the Minister know if they were bought locally or if they were bought online, because just by looking at one online retailer you can see over 65 pages worth of these cosmetic, unregistered contact lenses that are for fancy dress purposes? Now, of course we can only do what we can do when we can do it. Would the Minister please let the Assembly know what work is being done to possibly restrict the buying of these hazardous items from the internet, as we live in an Island and we do control our borders? Thank you.

13.1.2 Deputy M. Tadier:

Following on from the last speaker, I think there are 2 points that I would like to ask. I think, generally, these sound like sensible provisions that are being brought forward, but has the Minister, or the staff that work with the Minister, gone around to these shops, the local outlets which already sell these cosmetic contact lenses, to see whether or not they are unsafe, or are we legislating for something that is not a problem? It would seem to me that we should be doing that. It may well be that there are some very responsible novelty shops out there, which sell these cosmetic contact lenses, which are perfectly safe and have a quality assurance on them and it may be that there are others who do not do that. One option, of course, rather than saying that the only people who can sell these currently novelty items should be opticians, the other alternative would be to say that we will regulate to make sure that all of these novelty contact lenses are up to certain standards and

anyone can sell them. So that was another option which could have been looked at. Was that looked at and why was that not adopted? Fully taking into account, of course, the fact that opticians and optometrists have a duty of care, which is incumbent on them, which maybe is not so implicit for the novelty retailers, and similarly will one still be able to order these things on the internet and will that resolve the issue and will Customs and Excise time be used to look and scan for these packages coming in? Presumably at the moment if I have a prescription, and I do sometimes wear contact lenses, if I wanted to I could presumably order them from the Far East, let us say, and get them at a fraction of the cost and I am taking the risk myself. I presumably want to make sure that they are correct prescriptions and also meet the basic standards, or I could get them locally from a tried and tested producer, or supplier of those things. But at the moment I think I can do that, I do not think those packages would necessarily get stopped; would it still be the case? Will this particular part of the amendment to the law really change anything, I guess is the question that I am asking?

13.1.3 Connétable M.P.S. Le Troquer of St. Martin:

Just a couple of points really in terms of page 5 regarding the consultation that took place. I wonder if the Minister could answer: it is unusual to read that the body involved in this matter, the Jersey Local Optical Council, had reviewed the draft amendment and its members were generally content with the proposals. It is not quite the resounding endorsement that I would have expected. I know the Minister, a few moments ago, said they were supportive, it was in much stronger terms, and I do not know if the Council had thought it had not reached the level they wanted or that the Minister was being overzealous. The other point I had was on page 4. Was the Minister advising the Assembly that it is likely to be a new piece of legislation in the future although there is quite a considerable number of amendments being brought, not all minor, at this time. So I do not know if the Minister is able to tell us when that new legislation will be brought in. Thank you.

[16:15]

The Bailiff:

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

13.1.4 Senator A.K.F. Green:

Dealing with the 3 patients that we know of that suffered major problems with their eyes after contact lenses; no, we do not know where they were purchased. Dealing with have we visited and contacted those that sell contact lenses? Trading Standards did that at Halloween and did it at our request, although we did not have to push them very hard to do it. But the point I would make is what I was saying about fitting them, even if these contact lenses were of good quality, and it is suggested that many of them are not, if they were of good quality it is not one size fits all. You do need a qualified person to ensure that you get the right one for the shape of your eye and those of us that have worn contact lenses know if they do not get it right it can be very problematic. The Constable of St. Martin asked me a question about consultation. Consultation took place with the Council and the impression I got, although I was not there, from officers is that they were very supportive of doing this, but when I say that they were very supportive, of course, there was some discussion around the principle of changing to allow trainees to do sight tests. But overall that was considered that was the right way to go and trainees will be supervised, as I said in my opening speech. I was asked a question about further legislation coming along. This is to do, really, with the whole method of registration for a whole host of different professional bodies because, as I said in my speech, we are the secondary registration system, we expect people to be registered and that they prove to their general council that they have the appropriate training and qualifications. Providing they provide that proof we accept that. The U.K. has made a huge amount of changes around those sorts of things; we want to bring our legislation into line with that. But I do not know

when that will be; it is a big piece of work. Why I am bringing this forward now is that I did not want to get to another Halloween where we have got our young people at risk of permanent eye damage. My officers in Trading Standards went around this year and did the best they could to prevent young people from obtaining them. I was asked a question about the internet; I cannot control what people buy on the internet any more than I can control people that go out and buy prescription lenses without having a proper prescription or having been tested to make sure those are the ones that they should get. But we can protect the young people from just going into town to a pop-up shop and buying them. With that, I make the proposition.

The Bailiff:

All Members in favour of adopting the principles, kindly show. Those against? The principles are adopted. I will ask the Deputy of St. Ouen, does your panel wish to scrutinise these regulations?

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

No, Sir.

The Bailiff:

Very well. How do you wish to propose, Minister?

13.2 Senator A.K.F. Green:

What I would like to do is to take them *en bloc* with a small explanation for each of the 7 articles.

The Bailiff:

Please proceed.

Senator A.K.F. Green:

OK, Article 1 provides for the primary law to be amended. Article 2 refers to the change in titles and replaces “ophthalmic optician” with the updated “optometrist” where this appears in the law. Article 3 updates and amends the references to the U.K.’s Opticians Act 1958 and its provisions to the U.K. Opticians Act 1989 and the equivalent provisions. Article 4 enables a trainee to undertake eye tests in accordance with professional standards and rules set out by the General Optical Council. Article 5 extends the range of optical appliances that can only be supplied by registered opticians or medical practitioners to include zero powered cosmetic lenses. Article 6 clarifies that a person who has his or her sight tested would not be obliged to buy optical appliances that the test shows is required. With that I make the proposition.

The Bailiff:

The consequential amendments to enshrine the amendments. Seconded? **[Seconded]** Does any Member wish to speak? Deputy Tadier.

13.2.1 Deputy M. Tadier:

Just an observation: with the adoption of Article 4 which says that the eye tests may in future be performed by a trainee optometrist, rather than a fully qualified one, it would be my hope that we see a proportional reduction in the costs charged for eye tests and hope that it increases competition in the market because I know that, for some individuals, the cost of going for eye tests, whether it be for contact lenses, or for glasses, can be slightly prohibitive especially when in the U.K., not simply on the N.H.S., but many of the big supermarkets, or opticians, provide them for free or heavily discounted. So, I am sure we can all expect the cost of a visit to the optician to come down because we are passing this amendment today and I look forward to that.

The Bailiff:

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

13.2.2 Senator A.K.F. Green:

In the market setting prices for opticians one could argue that it might cost more to do that because they need to be properly supervised. That is not the intention; the intention is to allow young people, who are in their training, to get the appropriate experience - because these are very often graduates - to complete their training. It is a matter for the opticians what their charging scales are. With that, I make the Articles and ask for the *appel*.

The Bailiff:

You have called for the *appel*, Minister, did you not?

Senator A.K.F. Green:

Please, Sir.

The Bailiff:

The *appel* is called for. I invite Members to return to their seats. The vote is on the detailed Articles of the amendment legislation. I ask the Greffier to open the voting.

POUR: 35		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy M.J. Norton (B)				

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

Do you propose the Bill in Third Reading, Minister?

Senator A.K.F. Green:

Yes, please, Sir.

The Bailiff:

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

14. Jersey Overseas Aid Commission: reappointment of Commissioner (P.121/2016)

The Bailiff:

We now come to P.121, the Jersey Overseas Aid Commission: reappointment of Commissioner lodged by the Deputy of Grouville and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion to appoint Mr. Douglas Melville as a non-States Commissioner of the Jersey Overseas Aid Commission until 4th March 2020, in accordance with clause 7.6 of the Constitution of the Jersey Overseas Aid Commission, as set out in Schedule 1 to the Jersey Overseas Aid Commission (Jersey) Law 2005.

14.1 The Deputy of Grouville:

I would like to propose the reappointment of Douglas Melville as non-States Commissioner of the Jersey Overseas Aid. Mr. Melville has already served on the Commission for 17 months, completing the term of Geoffrey Crill. As you will see from the report accompanying the proposition he brings some extremely useful professional experience to Jersey Overseas Aid having worked with the Canadian International Development Agency, the World Bank and the O.E.C.D. (Organisation for Economic Co-operation and Development). He also served on the board of Oxfam in Canada and has worked on development issues in several developing countries. Mr. Melville's specialist skills and knowledge have already proved a very useful addition to the Commission as we move to introduce more safeguards on where our grants go and take a more scientific approach to increasing and measuring the impact of our aid. We are using the O.E.C.D. agreed principles and aid effectiveness, and aligning our grant-making programme with international principles of good donorship, and concentrating on fewer countries such as Rwanda and the Jersey Cow Project Members may have seen **[Approbation]** - thank you - in the media last week. I would also like to take this opportunity to thank Mr. Melville, the other 4 commissioners including the Connétable of St. Martin and Deputy Martin and others who have helped us where we are today. I think the Jersey Overseas Aid Commission has a very bright future and is rightly a considerable source of pride of our Island. **[Approbation]** I make the proposition.

The Bailiff:

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

14.1.1 Senator L.J. Farnham:

Just briefly. Having worked with Mr. Melville as Financial Services Ombudsman I just thoroughly endorse this appointment and I think he is a very valuable member and will continue to be so.

The Bailiff:

Does any other Member wish to speak? Deputy, do you wish to reply?

14.1.2 The Deputy of Grouville:

No, Sir. Could I ask for the *appel*? Thank you.

The Bailiff:

The *appel* is called for. I invite Members to return to their seats. The vote is on whether to reappoint Mr. Douglas Melville as the non-States Commissioner to the Jersey Overseas Aid Commission. I will ask the Greffier to open the voting.

POUR: 33		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

15. Draft Public Elections (Amendment No. 7) (Jersey) Law (P.124/2016)

The Bailiff:

We now come to the Draft Public Elections (Amendment No. 7) (Jersey) Law, lodged by the Privileges and Procedures Committee. I will now ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Public Elections (Amendment No. 7) (Jersey) Law 201-. A Law to amend further the Public Elections (Jersey) Law 2002. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

The Bailiff:

Mr. Chairman, you propose the principles?

15.1 Connétable L. Norman of St. Clement (Chairman, Privileges and Procedures Committee):

Yes. Jersey is one of 2 jurisdictions in the British Isles, the other being the United Kingdom, which is in breach of the European Convention in this area. The Committee did look at the possibility of introducing voting for prisoners back in 2012, but decided at that time to take no action. More recently, the Legislation Advisory Panel came to the Committee and persuaded us that we should relook at this situation, because we are in breach of the European Convention on Human Rights and that is not a good position to be in. So, after some discussion, the Committee considered the matter and decided that they should put matters in order by putting in an amendment to this Law by allowing prisoners who have sentences of under 4 years to have the franchise if they so wish. Unlike the other places in the British Isles, Guernsey and the Isle of Man, who give the vote to all prisoners, we felt that it was more appropriate to restrict it to prisoners who have been convicted for less than 4 years and we chose that number because persons to be convicted for over 4 years have to be sentenced by the Superior Number of the Royal Court and, therefore, would be for extremely serious crimes. So prisoners, if the States agree to this, would be permitted to vote by post, or by having their votes collected by the *Autorisé* at La Moye. So, we do realise that this can be quite an emotive subject, but I would ask Members to consider the proportionality involved. If we approve this today, we are doing it voluntarily and we are doing it on our own terms. If we do not do it, one day the U.K. will put their house in order and bring in appropriate legislation and that time, if we still have not put our own house in order, they will require us to do so, perhaps on their terms rather than ours. I also ask Members to consider this: currently there are 27 prisoners in La Moye who could qualify for the franchise under this proposed legislation; probably very few of them will, but 27 would be able to. I do not think that can be disproportionate in putting our house in order to make sure we are compliant with the European Convention on Human Rights. I propose the principles.

The Bailiff:

Is the proposition seconded? **[Seconded]** Chairman, can I just ask you to clarify one of the statements you made a moment ago and I only ask this in the light of my obligations to the Assembly as a whole? When you were describing the possibility of the United Kingdom wanting to put pressure on the Island, you were referring to political pressure rather than any form of constitutional right, were you not?

[16:30]

The Connétable of St. Clement:

Yes, absolutely.

The Bailiff:

Does any Member wish to speak? Deputy Kevin Lewis.

15.1.1 Deputy K.C. Lewis:

I might be a bit unpopular today; I am not supporting this proposition. I believe the U.K. are not even going to look at it until 2020 and then it may take a few years after that. It is also my opinion that there are other rights involved and that is the right to liberty, and if somebody is convicted and sent to prison that liberty is suspended and it is my belief the right to vote should, likewise, be suspended. So, I will be voting against this proposition and I urge Members to do likewise.

15.1.2 Deputy J.M. Maçon:

When it was looked at we looked at the Guernsey system and I wonder if the chairman of P.P.C. can explain, with regards to the registration of prisoners, will it be at their address at time of conviction, or will it be in the electoral district in which Her Majesty's Prison La Moye falls? I wonder if you could just clarify that. Thank you.

15.1.3 Deputy J.A. Hilton:

In a similar vein to Deputy Kevin Lewis, I will not be supporting this proposition. When I read the proposition, and I have just listened to the proposer who explained that the reason they chose 4 years was that anybody, who was convicted of an offence over 4 years had to be convicted by the Superior Court, therefore, it would have to be a serious crime. I accept that, but the question I asked myself was, okay, well, what sort of individuals get convicted and receive sentences of 4 years and less, because it is 4 years and less? A quick Google brought up a man who was jailed recently for 4 years for the indecent assault against a young girl over a period of 3 years who was aged 8 to 10 years at the time. I, for one, as a States Member, do not want to make it easy for individuals like this to be able to vote. Like Deputy Kevin Lewis, I think that if you are imprisoned for an offence like this, of such a serious nature, then, as far as I am concerned, you lose your right to the vote. Also, while I was Googling we recently had a well-known public servant who was imprisoned for 15 months for a fraud crime of £100,000 committed against an elderly lady. I think for the victims of some of these crimes to know that they may be in a position to be taken from the prison, or whether they have their vote taken at the prison, I personally do not think it is right. I cannot support this proposition for that reason. I think the crimes that we are talking about for 4 years, or less, are very serious crimes. Thank you.

15.1.4 Deputy J.A.N. Le Fondré:

It is a bit worrying when I think 3 speakers will leap up at the same time of a like mind. Yes, I too will not be supporting this proposal. In essence, if you are in jail, you have committed a crime, I think you should, therefore, be paying the full penalty. It is ironic that Deputy Hilton referred to the fraudster, because that was the one that was going through my mind. Where is the justice for the victims of that? The fact that it is a low number of votes is irrelevant. I recall, and it will be one of Deputy Hilton's former colleagues, who won in St. Helier No. 4 by one vote and I am sorry, I know we would never know but, therefore, the vote of a convicted fraudster potentially would make a difference. On that basis they have - what is the expression, I cannot remember - they have done the crime and they do the time. Thanks very much.

15.1.5 Deputy S.Y. Mézec:

I will be supporting this proposition. Before us we have a vote, which is essentially a vote to say do we want to abide by the European Convention on Human Rights, or do we not? It is a blanket issue like that. The European Court of Human Rights has said that it is not in accordance with the principles of the convention to have a blanket ban on all prisoners voting and I say to Members, who are uncomfortable with this: well, that is human rights, sometimes they are uncomfortable, sometimes it means that we are not automatically entitled to act purely on the basis of emotionally how we feel, but sometimes people who have done bad things need the protection of the law to ensure that their rights are not abused either. and I would say that to allow a small number of prisoners, who have not been sentenced for longer than electoral term the right to vote is not some

sort of moral outrage; it is a way of saying that we recognise that the prisoners of today will one day be free people on our streets, who we want to be fully rehabilitated and able to contribute to society and not commit crime again and end up back in prison where they cost us more in the long run anyway. So, I would say to Members that if you consider, like I do, that the European Convention on Human Rights is the single most important piece of legislation in existence in Jersey and in the wider continent, then you must surely have to vote in favour of this proposition because to vote against it is to say we are happy for Jersey to breach the E.C.H.R. (European Convention on Human Rights) and I think that would send all the wrong signals out there to the rest of the world. We should be at the forefront of implementing the highest standard human rights regulations and I believe that the chairman, everything he said in his opening speech, was right and I hope Members will support this.

15.1.6 The Connétable of St. John:

I love this banging of the human rights drum. With human rights come human responsibilities; only rather a lot of people happen to be rather silent on the responsibilities of the public to other members of society. The reason why somebody is in jail is because they have failed their responsibilities to be law abiding and, therefore, for that reason, they have themselves elected to be disenfranchised. The second issue, and I think that this is also a very important issue, this Assembly makes the laws of this land, how can somebody who breaches those laws and is in jail as a result, so he has not breached them in a minor manner, he has breached them in a fairly serious manner and a manner serious enough to go to jail; how can he then elect those people who create the laws that put him there in the first place? It is not right for that to happen. Coming back to the subject of human rights, it is very interesting that E.C.H.R., whoever they are, the European Court of Human Rights, have ruled that it is acceptable in Italy that people serving a jail sentence of more than 3 years can be disenfranchised and not vote, but those serving less than 3 years can vote. It is black and white and the moment you start blurring that line then you are in deep water. They have accepted the principle that somebody in jail should not vote. If we start introducing a distinction as to one, 2, 3, 4 years in jail then you are blurring that line. It is quite distinct; you have gone to jail because you have failed society and you have broken the law, and with that you lose the right to vote. I would urge Members to vote against this proposition. Thank you.

15.1.7 Deputy G.P. Southern:

The previous speaker has engaged with a juxtaposition of human rights with human responsibilities which is, in my opinion, completely wrong. You do not lose your human rights, for example the right not to be tortured or in fact the right to vote necessarily because you do not properly fulfil your obligations. That is not the situation we are in, so that false analogy does not work. The fact is that human rights are exactly what they say, they are rights, they belong to you on capacity of being human full stop. There is no precondition in that, there is no: "Oh, yes, but"; they are rights. It is one of those occasions where you think that you have been around long enough, because I remember discussing this on a previous P.P.C., or some such body, along with Deputy Martin a considerable number of years ago, maybe 8, 10 years ago, and deciding that it was so unpopular then we could not possibly bring it to the States, because it was going to get kicked out. I sincerely hope that this time, just by the passage of time, that this body of representatives, of Members, has more wisdom than that previous body which rejected it out of hand, or so it seemed was about to reject it. I sincerely hope and fully support that we attune ourselves to the E.C.H.R. and vote for this proposition.

15.1.8 Deputy M. Tadier:

I forgot who it was that said to me - I think it may be an Assembly Member who said - that prisoners are some of the most honest people you will ever meet and it is strange that we have this

juxtaposition where we say we could not possibly give prisoners the vote to elect the people who sit in our esteemed Assembly because, obviously, you would not want criminals, liars and thieves selecting who gets to sit in this Assembly because we might end up with criminals, liars and thieves in this Assembly, with all sorts of public money going astray. That is just an observation I was thinking about, but certainly I know when I went up to the prison as part of the review to do with the Board of Visitors they were very forthcoming to the point where I think you could trust what they were saying on a whole host of issues. There seems to be some kind of idea that this is a punishment by saying that taking away prisoners' vote in Jersey, which already has one of the lowest turnouts for elections anyway, it is down to 35 per cent across the Island, but it is down to less than 20 per cent in certain elections and by-elections even for Senator in the whole Island and certainly in St. Helier. "Take away their vote. That will teach them, will it not, to be responsible citizens and not to break the law in future?" The way I look at it, I remember watching a *Question Time* in my formative years as a student over here at secondary school and there was a Liberal Democrat speaking, probably with a similar tie to what I am wearing to today, similar colour, and he was saying: "I am a Democrat" and it might lead to some uncomfortable conclusions, they were debating the old chestnut of prisoners' rights. He said: "I am a Democrat, I believe that voting is a human right." I think we cannot be selective about who we give our human rights to. We do punish prisoners once they have been convicted of a crime and we do that in this case by putting them in prison. That is the punishment for their crime. We cut them off from the rest of society. We say that: "We take away your freedom, your liberty: that is your punishment." Now, we could ask about what else we could take away from them. The individuals who stand up and say: "I am not going to be very popular in saying this, but I do not think that prisoners should have a vote" is a very populist position to take because I think there is no shortage of members of the public out there who think you cannot possibly give prisoners the vote, because they are criminals. I think that is a slightly short-sighted view. I think that, probably, in the first case they are already disenfranchised anyway; the people who end up in a life of crime is not because I think people are inherently evil necessarily; it is because they have made bad and often marginal life choices which end them up in difficult circumstances. I think there is another philosophical problem, though, with this. It is the one to do with the subjectivity and the relativity of what is considered criminal now will not be the case in the future. That was certainly the case in the past. I mean there were crimes in the past, which were considered prisonable offences, which are no longer the case today. We can look at one issue is that of homosexuality which, not even that far back in the past, people could end up being put into prison or into mental asylums. Some very high and well-known cases of that; of course the Enigma film which came out not so long ago, you had one of the greatest minds, a national hero, somebody who should have been a national treasure and honoured for his work in breaking the Enigma code ended up being put in a mental institution when there was nothing wrong with him and his vote presumably would have been taken away from him.

[16:45]

We have individuals today who are locked at the prison for things which many people in society, who are law abiding normally, believe should not be criminal matters. One example of those is drugs offences. How many people locked up at La Moye Prison are there for, you could argue, relatively minor drug offences because we, as a Government, you could argue, have failed to come to grips with a modern approach to drug regulation and enforcement. There are other countries where it is possible to walk down the street, or sit in a café, with a marijuana cigarette, pure or otherwise rolled, and that is perfectly legal and I have no doubt that in Jersey that will also be the case certainly within the next 50 years if not in the next 20 years and I would, but if those individuals who are in prison for those kinds of offences want to get up and vote for somebody who is saying: "These things should not be a crime", they should be able to vote either from their prison cell or wherever, or the individual who stands up and says: "I do not think you should be in prison.

I do not think we should be wasting money on these kinds of offences when we should be tackling the other issues”, things which I hope will always remain criminal to do with violations of the physical space, assaults, murders, *et cetera*, and assaults on young people in particular. I would hope that those kinds of crimes would always remain objectionable to all right-thinking people. But I think the point remains that societies do change and, by all means, if we think that penalties are not tough, and I perhaps look at Deputy Hilton in saying this, I certainly agree when you read through the newspapers - although we are not always subject to all the information that is made in the deliberations of the courts - it does seem that some crimes get overly punished, which are perhaps quite harsh sentences compared to others which seem on the surface to be deeply objectionable where people get away with a relatively light sentence. I think there are issues there that need to be looked at but, of course, I think it is completely misguided when we say by simply taking a vote away from an individual that is punishment which is proportionate. I do not think that is the case. I think you cannot choose, as a society, who we give the vote to and who we do not. I think crime is a societal issue and we all have to take responsibility for that and so I am quite comfortable in supporting this proposition today.

15.1.9 Senator L.J. Farnham:

A few years ago I would have said no, but since working as an Assistant Minister at Home Affairs and with the prison authorities I learnt a lot. Of course, it is not so much about all the future behaviour of our society, it is about making sure in most cases, and I accept Deputy Hilton’s point that when certain offences have been committed perhaps some prisoners are beyond redemption, but it is important that we help to rehabilitate and bring prisoners back into society, or we even keep them in society in the first place. I think I am going to support this although I will draw the line at having a senatorial husting at the prison.

15.1.10 The Connétable of St. Martin:

It is one of those debates that maybe Members might be persuaded to change their view after they have heard the debate, I do not know. But I thought it was one of those debates that did not need to be debated, it is something that we have to do because of the human rights issue, a “no option” debate. I do not think we should be picking parts of the human rights legislation that we agree with and other parts that we do not. I do not think we are allowed to do that, really. I am not sure how the U.K. can ignore it since 2004 the *Hirst v the United Kingdom* breach of Article 3, Protocol 1. It seems that P.P.C. were split on this matter when they debated it, and the chairman may be able to tell us, after it had come to them from the Legislation Advisory Panel in May last year, and it has only come to us today, I think, because of a majority vote on P.P.C. Maybe the chairman will do that in his summing up. Also, whether the chairman knows why the U.K. have not endorsed it and followed and why they should be waiting so long, he might be able to tell us that. I reviewed the States minutes of a debate in 2001 when the new Elections Law was approved and there were no notes in it that related to Article 4 and the disqualification of people in prison when convicted persons were legally incapable of voting in a public election. I assumed, maybe, it was because of practicalities; it was not in the notes of that debate. Maybe it is just a copy of a previous Elections Law and it was just that prisoners would be barred and those were the facts. The chairman has explained the 4-year period that they have used, he has explained why they have picked the 4-year period, and I know that has confused - or not confused - but upset some Members as well today. This is better than nothing, I think. The proposition today is better than nothing. We are the ones elected to make decisions and we should do that. In October 2016, we debated things to do with the prison in this Assembly: the Prison Board of Visitors; changes in the prison chaplain; these people in La Moye Prison that are up there now that we are making decisions for, but they would not be allowed to cast a vote, the people. I think it was Deputy Maçon who mentioned some of the practicalities and I think the hustings is quite an interesting one and what districts as well. Finally,

I think if a person is entitled to vote on the Island in an election then I believe they should be able to vote, whether they are in prison or not. I do not think we, as Members, should be imposing an additional sanction, an additional type of sentence to that person just because they happen to be in prison. I am going to support the proposition today and it may be at some future stage that we will be looking at increasing the 4-year period that is recommended today.

15.1.11 Deputy P.D. McLinton of St. Saviour:

I do not imagine for the life of me that anybody currently incarcerated has on the top of their shopping list of things that they would like to do to vote in the next election. Really, they have other things to attend to in their life. My instinct tells me that if you have been imprisoned, you have been removed from society, therefore, how is it possible to have any say over the direction society takes? It just seems wrong to me. When you are imprisoned, you do not take part in society. Upon release, you get back your right to vote, and on you go. So, I am not minded to support this amendment. As regards the human rights issue, I think that is a bridge that we should cross as and when we reach it, if indeed we reach it, but right now if you are not an active member of society, you get no rights or say over the direction of society; that is my belief. Thank you.

Deputy M. Tadier:

Sir, may I ask a question of the Attorney General?

The Bailiff:

Yes, Deputy.

Deputy M. Tadier:

It is just to clarify. I am not sure of the answer but I think I know it. When someone is in prison, are they still liable to pay tax if they are a Jersey-registered taxpayer?

Mr. R.J. MacRae, H.M. Attorney General:

I believe that they are obliged to do so. While I am on my feet, perhaps I could say a few words about this proposition. As has been said, the European Convention on Human Rights in plain terms holds that the parties must hold free elections at reasonable intervals by secret ballot under conditions which will ensure the free expression of the opinion of the people in the choice of the Legislature. The position is - although contracting parties have a margin of appreciation in terms of their domestic discretion, - it has been held that it is not proportionate for there to be a blanket ban on prisoner voting. That being the case, if someone at La Moye were to issue a challenge in the Royal Court under the Human Rights Law, then there would be a finding on the case law that our domestic law is not compatible with this jurisdiction's human rights obligations. Most countries in Europe allow wholly, or in part, prisoner voting and this proposal would be compatible with the Island's human rights obligations, because it ties in with our ancient system of the Superior Number recognising grave crimes warranting a sentence of more than 4 years. On the European Case Law this amendment would put Jersey, like our sister Crown Dependencies, in the position where they were compliant with our convention obligations.

15.1.12 Deputy M.J. Norton of St. Brelade:

An interesting debate and one where, I daresay, everyone will have their own personal thoughts and feelings. I have listened with interest and with an open mind to this. I take note of what the Connétable of St. John has to say with regard to those who have chosen to disenfranchise themselves from society and have lost their liberty. By the very follow-through of that then they are, if we are not to allow them the vote, continuing that disenfranchising and exacerbating it. The word "rehabilitation" comes to mind. Do we believe in rehabilitation, do we believe in people making amends for their misdemeanours, do we truly believe that we should rehabilitate people so

that they can become members of society again, or do we believe that we lock them up and throw away the key and, if you said yes to that, they should no longer partake in society ever again? They have got rights. A right to clean water, a right to heating, a right to choose a religion, a right to some education, a right to rehabilitate themselves and to be assisted in that rehabilitation because they were not able to assist themselves when they were part of society. Once I followed that through, and followed that through to the end, there is no way that I cannot support this. I understand that people will have frustrations for those that may be incarcerated because they committed a crime which, although it is under 4 years of sentence, is serious, and there have been some serious examples. But, if you believe in any form of re-education, in any form of rehabilitation, in any form of former prisoners becoming part of society again, then I would suggest that you might want to consider your thoughts on this. I personally will be supporting this. Thank you.

15.1.13 The Deputy of St. Ouen:

I find it interesting that those who wish to maintain the blanket ban on prisoner voting adopt a view which is not shared across the continents. All the signatories of the European Convention on Human Rights, except the Westminster Parliament and Jersey, have accepted prisoner voting. Guernsey has done so without difficulty. I am not holding Guernsey up as some sort of paragon but it has not caused them problems, our sister Island. The Isle of Man similarly. Somebody has said these people have removed themselves from society. No, I maintain that they are still part of our society. We have determined that they should be deprived of their liberty for a period, but they are still our society and they are not to be deprived of their civil rights: that is the whole ethos of the convention. So, they are still entitled to maintain contact with their families, they are still entitled to medical care, they are still entitled to the enjoyment of possessions. They are not removed from society and we are talking about a group of prisoners here who will have been at least 2 years' resident in the Island, some perhaps for much longer than that, some perhaps from birth. So it is not those prisoners who arrive at the harbour carrying drugs and are committed to La Moye, because they will not have built up the normal 2-year residence in order to achieve the qualifying period for voting. So, these prisoners will have been paying tax perhaps, they will have been paying social security, they would have been employed, they would have been playing their part in the life of this Island and when they are released they are still going to be doing so. They will join the community once again and start working. We want to rehabilitate those. We want to make sure that the risks that they would re-offend are minimised and allowing them, should they wish, to join in and participate in the way that all other members of their society do can surely be only a good thing.

[17:00]

It may be that the prison governor will say to them: "Do you want to exercise a vote in the forthcoming elections?" and that will be the first time they have been forced to address themselves to voting. They may have never thought of voting before. They will get help and they will be provided with whatever literature is available and they can consider whether they wish to vote as part of a rehabilitative process. Furthermore, I would not be proud if this Assembly remained in breach of the European Convention on Human Rights. We live in a global world and the progress that has been made in establishing those rights over the last couple of generations is something to be applauded and in which the United Kingdom was a principal player. Given our links to the United Kingdom, I think it is shameful that the Westminster Parliament has not yet addressed this and I would not want to follow on its coattails and be part of a Legislature that has decided to remain in breach of the convention. It would send the wrong message and, I think as the Attorney General has said, would open up claims that could be made to the Royal Court here for the Island not having provided the human rights that the convention requires. Such claims have been made in

England and the courts in England so far have said: “Wait” and they do not give any remedy because it has been said that the Westminster Parliament is considering the question, but the Westminster Parliament is kicking it into the long grass. So it is very likely that those sorts of claims will be made once again and it could be that the courts would start awarding damages to people who have been deprived of their human rights because, of course, the courts cannot give a vote but the courts can impose damages. It would be a shameful situation if an application was brought before our Royal Court and the Royal Court found itself in the position of having to declare that this Island was in breach of its obligations internationally and having to award a prisoner a sum of money for a refusal to enact a civil right. We do not want to get into that situation, I suggest. We want to comply with our obligations and sometimes because we live in a democracy and we have this experience in our States Assembly, we sometimes have to accept that the majority view should prevail and the majority we must accept through a democracy reflects the considered view of the whole. In the community of nations, the considered view is that prisoners should have a right to vote, or at least proportionately be allowed. So a blanket ban indiscriminately without considering whether or not it is appropriate, a blanket ban is inappropriate. The proportionate measures that have been proposed by P.P.C. I think are sensible and could not be questioned internationally, because they build upon an established verified procedure we have in the Island of referring serious cases to the Royal Court for sentencing of more than 4 years. So I would urge all Members to adopt this proposition which I think is the only sensible route to proceed, otherwise we will find ourselves in a few years to come in a much greater mess. Thank you.

15.1.14 Senator S.C. Ferguson:

Just a sort of query. First of all, perhaps the proposer will confirm that I am correct in thinking that the position pre-the Human Rights Law, there was no vote for prisoners anywhere. I do wonder, perhaps the Attorney General can explain, is the acceptance by the continent because their law is derived from Roman law, and the Romans were not terribly hot on human rights, and the U.K. law is derived from Magna Carta, Bill of Rights, with dashes of Levellers, Chartists and so on thrown in. The U.K. also had *habeas corpus*, which did not exist in Europe. I wonder if the Attorney General could just put my mind straight on that one.

The Attorney General:

Well it might be a very long answer to deal with all those points. But in relation to the first question, I think that it is right to say that in some countries, prisoner voting has never been banned, notwithstanding the fact that the European Convention is a post-war convention. I think it is right that in one of our sister Crown Dependencies there has never been a rule against prisoner voting. I am not sure which one, but I will find out today, or first thing tomorrow, and let you know. But the position is, as you say, that the origin of the laws of England and Wales is common law; Jersey is customary law, which is largely traditionally based on the custom of Normandy, which itself is in part Roman-law based. But in relation to the European Convention on Human Rights, that was drafted principally by British lawyers for the purpose of ensuring that there was human rights compliance, particularly in the Eastern European countries, the newly-dependent countries at the end of the Second World War. I hope that answers some of your questions.

The Bailiff:

Senator, have you finished your speech?

Senator S.C. Ferguson:

Yes, I think so. I find this one quite a difficult one, but I presume it is a bit like when they passed the laws to rescind slavery. It is a new concept, a new idea, and perhaps one is wrong in clinging to the old.

The Bailiff:

I think you have finished your speech as you are sitting down. The Deputy of St. Peter.

15.1.15 Deputy K.L. Moore of St. Peter:

I rise to speak on this proposition, given that I have political responsibility for the prison. I am very pleased that P.P.C. have brought forward this amendment to the Public Elections Law. I think it is well researched, considered and balanced and I am glad to be able to join those who have expressed their support for the proposition today. If I could just deal with the human rights element of the subject also. Whatever people's views may be on the principle of the matter, legal advice is clear that Jersey is currently in breach of Article 3, Protocol 1 of the European Convention on Human Rights and that is a convention which the Island is signed up to. As the Minister for Home Affairs, it is simply not possible for me to vote in a manner that would lead to the Island continuing to be in breach of an international agreement to which we are signed up. This is reason enough for me to support the proposition, although it is just one of a number of reasons and arguments that lead to me voting in favour today. As Members are also aware, the European Court of Human Rights does not require that all prisoners be given the vote. It has been made clear that human rights notes accompany the proposition. The notes make reference to the Italian approach of linking disenfranchisement of prisoners to the gravity of offences and therefore I commend P.P.C. for arriving at a very reasonable balance in their proposition by extending the vote only to prisoners who are sentenced to less than 4 years. The logic is clear: any sentence of more than 4 years can only be issued by the Superior Number of the Royal Court which the Deputy of St. Ouen has reminded us. This indicates a serious crime and justifies the individual being sentenced losing their right to vote for the duration of their sentence. This is not to say that crimes sentenced to a period in prison of less than 4 years are not serious. All crimes are serious, but given our international obligation, this represents a clear and coherent direction. I think that many Islanders will also be reassured that only those individuals sentenced to less than 4 years, who are already entitled to vote, will be enfranchised, another reasonable criterion to have in place. I think we should also give consideration to the general manner in which we treat those members of our community who are in prison. Under the leadership of the current prison governor, who has done an excellent job, and indeed I would like just to mention to the Assembly today that in the New Year's honours list he was recognised for his hard work [**Approbation**] and will this year receive an M.B.E. (Member of the most Excellent Order of the British Empire). Under his leadership great progress has been made, and continues to be made, towards focusing on rehabilitation of offenders. It is increasingly being seen that to deprive someone of their liberty for an offence they have caused against society is in most cases punishment enough. The objective of prison should be to release an individual who, by the end of their sentence, is ready to form a constructive part of society once more. I think it is generally fair to state that anyone who is sentenced to less than 4 years in prison is far from beyond the potential of being rehabilitated. Equally, I am not trying to argue that giving those individuals the right to vote will make the critical difference in whether they end up being properly rehabilitated, or not, but it is also part of the overall manner in which such individuals are treated. Making this change would mean that they were not excluded from a key civic practice and sends the message that society still cares for their view. So it is, therefore, for 3 main reasons: the human rights argument, the balanced and logical approach of the proposition and the contribution that we will be making to assisting their rehabilitation that I will be supporting this proposition today and I urge other Members to do so.

15.1.16 Senator P.F.C. Ozouf:

I am still and was a member of P.P.C., a ministerial appointment, and I would just like to clarify, because I think it is an important point, the situation with probation and parole. It is an offence that is only for 4 years and it has to have the requisite qualifications as wisely said by the Deputy of

St. Ouen and the Constable of St. Martin. But can I just confirm what the situation is with somebody that is convicted for an offence of 4 years but then gets parole? If they are on parole they can vote, if they are incarcerated they cannot vote, can I just first of all clarify that?

The Attorney General:

Presumably the question is in relation to prisoners who receive a sentence of more than 4 years and are released before the end of that sentence. The position is that under the amended Article 4, a convicted person during the time that he, or she, is detained in prison in pursuance of a sentence of imprisonment for a period exceeding 4 years. So accordingly, when a long-term prisoner, so a prisoner sentenced to let us say 12 years' imprisonment, is released on licence, then that person would be eligible to vote on their release, looking at the wording of Article 4 as it will read after amendment. As at that stage they will no longer be detained in prison.

Senator P.F.C. Ozouf:

May I just, a point of important information, is that in the United Kingdom there is parole that is normally, I will not say it is automatic, but it is different to that in Jersey in that it is 50 per cent of a sentence. In Jersey, after two-thirds you can be eligible for parole subject to appropriate arrangements or 50 per cent in the United Kingdom. May I just confirm that is correct?

The Attorney General:

Generally speaking, that is correct. There are specific provisions for earlier release in certain circumstances but generally one serves one half of the sentence in the United Kingdom for most offences and two-thirds in Jersey, certainly for short-term prisoners. I think in England and Wales for long-term prisoners they may serve closer to two-thirds.

Senator P.F.C. Ozouf:

Thank you for that clarification. You were shaking your head, Sir.

The Bailiff:

Well it is the use of your word "parole" which is something we do not have over here as far as I am aware and that was what was troubling me.

The Attorney General:

Licence; releases on licence.

Senator P.F.C. Ozouf:

Release on licence.

The Attorney General:

I should clarify as well that it is a release on licence and any offending during the course of a licence makes any prisoner liable to recall to prison for the balance of their sentence.

[17:15]

The Bailiff:

Perhaps, Attorney, you could go on to address the question of remission for good conduct, and therefore the two-thirds rule, which is not a remission thereafter on licence.

The Attorney General:

Yes, Sir. I did not want to be very long on that.

The Bailiff:

No, it is just there is a confusion in the question and I think Members are entitled to know what the position is.

The Attorney General:

Well, the position is that generally prisoners are released on licence, having served two-thirds of their sentence, but there are provisions for earlier release under home detention in Jersey and release subject to curfew ... there are provisions for earlier release than that but they are quite complicated. If the Senator wants further details, then I can provide them tomorrow morning but generally release on licence occurs after two-thirds of sentence.

Senator P.F.C. Ozouf:

If there is a difference between the United Kingdom and Jersey in the vocabulary, then fine, but the spirit of what I am saying is correct, that you are released subject to provisions: licence in Jersey, parole in the United Kingdom. I think that I am right in saying that that is similar. First of all, I absolutely support the proposal brought by P.P.C. The reason why I asked that question is because it shows that if you have been on licence in Jersey, then you can vote. If you are not on licence, you cannot vote. Now, licence is equivalent to prison in many ways because you have to undertake probation, *et cetera*, and you are being integrated back into society and that is, I think, the right thing. So, therefore, it must follow then if you are on the liberal side, and I welcome the statistics that I see from the prison where there are now less people in our Jersey jail than there used to be, there was a statistic that said that Jersey had the highest incarceration of any jurisdiction anywhere in Europe apart from Romania at the height of Ceau, escu. That was something I was always uncomfortable with; that was a fact. It seems that there has been work done in order to change that for whatever reason, either lack of criminality, *et cetera*. So the point remains that this is the right thing to do and I offer Members the additional point of information that there is a disconnect between apparently you are not let out if you are on licence, you are still serving a sentence and you are free to be recalled to prison if you do a misdemeanour or anything else, but you can vote. So just because you have been let out and if you have behaved well and you continue to do your probation and improve your life, it takes longer in Jersey to get there, it seems, I think, then it must be right, surely, that the wise words of the Constable of St. Martin and the Deputy of St. Ouen about liberty and what is right and wrong, and one is not proud to say that the United Kingdom has not done this, it must be right, surely, if those arrangements are made. It is just really showing the sort of hue, the tableau of incremental arrangements that have been put in place. At the end of the day I believe in reform; I believe in not getting people into prison and if people do err then they should be given help and rehabilitation which there is excellent work going on in the prison governor and excellent work in the Probation Service and excellent oversight of that. We should be proud of that and I think that if anything it is going to get members back into society feeling proud. Many people in prison are failed risk-takers, they have no self-worth. Well, giving them the vote is giving them self-worth in some sense and it should not be the sort of “flog them, hang them and throw away the key” approach, it should be rehabilitation. Everybody can be rehabilitated normally and they should be so. This is a step in the right way. I urge Members to support the proposition of the Privileges and Procedures Committee.

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

We have heard some very sensible and well-phrased arguments on both sides of this particular issue but I think, possibly, we need to step back a bit and try and distil down what we are talking about. I think it falls into 3 areas: ideology, principle and message. Now to explain what I mean. Ideology: great store has been placed on the ruling of the European Court of Human Rights in the case of *Hirst v the United Kingdom* in 2004. The proposer of this proposition would have us believe that unless we adhere to the ruling basically we will be forced into doing something. Since 2004 the

U.K. Government has not done anything about this ruling and, therefore, the U.K. Government is essentially in breach of the European Convention on Human Rights, yet no evidence is given to us to understand, well, what has happened since 2004? So, I think we should more look at, while we all support the basic principles and rights provided under the European Convention on Human Rights, we also have to ask ourselves the question: are we a self-determining Assembly or not? How do we want our society to be run for the benefit of law-abiding citizens? So then we move on to the question of principle and by principle I mean: what is a law? Well, a law really is a set of rules that people live by, that have been accepted over probably countless hundreds of years, developed, honed, changed, but it is the set of rules by which we as a society wish to live. Now, those rules give us rights within the society that we choose to live in. So what is a criminal sentenced to prison for? Essentially, breaking that set of rules. Now I know I am probably simplifying the law exceedingly, and I apologise for that, but I think it is essential to looking at this particular debate. Now, if you break a rule or a law, you are sentenced to a custodial sentence, which means you lose your liberty. But surely, by losing your liberty, you should also lose the right to vote on how that society continues to operate while you are in custody. Why should a convicted criminal, who is serving a prison sentence, have the right to vote and possibly change the nature of the society which he or she has wronged against? I am afraid I find that a very, very difficult concept to agree with. Also by principle, it is a question of: do we believe that the law or rules should be adhered to? I think we all do. We, effectively, are law makers here. So, should somebody who has broken the law and received a custodial sentence be able to elect somebody who might change laws? I say no; not certainly for the period while that person is in custody. Now, we have heard the argument very well put that somehow to deny prisoners the right to vote will impact on their rehabilitation. I am sorry, I cannot see how that will happen. Rehabilitation is a very important part of any custodial system, or prison system, but not having the right to vote, I cannot really see how that impacts on that particular prisoner's rehabilitation. Therefore, I am afraid I do not adhere to the argument to rehabilitate they must have the right to vote. Finally, I think the last part of what I wish to say is message. Message: 2 parts of a message, one is if in this society you break the law to such an extent that you receive a custodial sentence, there are certain rights and liberties that you will lose. It is as simple as that. One of those, I believe, is that you will lose the right to vote in that society to determine how that society continues and develops into the future. Once you have served your sentence and your conviction is spent and hopefully you have been rehabilitated, then you will regain the rights, the same as any other member of the society that you live in. The second message is really, I think, to the population of the Island that there are 2 sides to it. You have the convicted person and, on the other hand, you have the law-abiding reasonable member of our society. If we say to that part of our society: "Well we believe that people, who break the laws which you agreed to live by, still have basically the same voting right as you do" I do not think that is the right message we are giving out because we are lawmakers here. All of us have the right to vote in debates that determine the law under which we live. Therefore, the right to elect us as Members of this Assembly, I believe, to be a very important part of the freedoms of the society we live in and that is what it is about. If you break the rules of the society you live in, then you must forfeit certain rights. Therefore, I would urge Members to think very seriously about this. There is, of course, the argument that we are going to be contravening the European Convention on Human Rights. There is the argument that we are going to be somehow damaging the chance that a convicted man or woman, who is serving a custodial sentence, may have for rehabilitation. I am afraid I do not agree with that. Therefore, I would ask Members to seriously think about this and I will not be supporting this proposition even though I am a member of the Privileges and Procedures Committee. Thank you.

The Bailiff:

It is just coming up to 5.30 p.m., I have had notice that one other Member wishes to speak. I do not know if any more do. Do you wish to continue on the principles until we finish those tonight? Then I call on Deputy Truscott.

The Attorney General:

Could I clarify one or 2 things I mentioned earlier on just to assist before the next Member speaks? Firstly, in relation to the question Senator Ferguson asked about other jurisdictions, I indicated one Crown Dependency had never prevented prisoner voting and that was Guernsey where it was never prevented, and the law there in 1996 was parcelled off in order to make the process easier in terms of the voting procedure. Secondly, in relation to the question that Senator Ozouf asked about early release, I need to clarify what I said there, because there the position is that so long as a prisoner has demonstrated industry and good conduct, he will be granted remission of a portion of his sentence not exceeding one-third of the whole and, at that stage, be released unconditionally, and temporary release prior to that is possible for the purpose of a prisoner engaging in employment or receiving instruction or training, and that is only done in certain circumstances after a risk assessment. I hope that clarification is of assistance.

[17:30]

The Bailiff:

Thank you. Deputy Truscott.

15.1.18 Deputy G.J. Truscott of St. Brelade:

It will not be a long speech. I totally concur with Deputy Brée, so if anybody is looking at Hansard, refer to what he said and that is pretty much how I feel. **[Laughter]** It is a question for the Attorney General, if I may. It is just that the Prime Minister of the United Kingdom will be pressing Article 50 sometime in March. Constitutionally they are going to totally divorce themselves; it seems like it is going to be a hard Brexit. So, constitutionally, legally, I do not believe it is going to be a complete divorce from the United Kingdom. How does that leave us with regard to aligning our laws and various other things with the European Court of Human Rights? Thank you.

The Attorney General:

That will not be relevant, because the departure of the U.K. from the European Union has no impact on the U.K.'s membership as a signatory to the European Convention on Human Rights. They are separate institutions and the obligations that the U.K. has, and indeed Jersey has, under the European Commission on Human Rights will remain exactly as they are today, notwithstanding the Article 50 notice and the U.K.'s departure from the European Union.

15.1.19 Senator P.F. Routier:

I will be brief. I wanted to speak because of the previous 2 speakers and their questioning of the convention and our status with regard to that. This Assembly, many years ago, voluntarily became a signatory to the convention. We recognised it was something which we thought was an appropriate set of rules and guidelines for us to aim for our community and I do believe that what is in the convention is appropriate. We have had some very, very good speeches putting forward the reasons for allowing this to go through regarding rehabilitation and of people being a member of our society and I think those are all very valid comments. So, I would suggest to Members that with regard to the human rights' obligations that we freely signed up to we understand from the Attorney General they will not be affected by the U.K.'s decision to come away from the European Union. I do not know if Members are aware of how the convention operates, because on a regular basis we, as an Island, have to make reports to the convention to say how our standing is with that

convention; and this has been identified to us as something which we are failing on and we need to put this right. The Attorney General in his earlier comments made an observation that it would be quite possible for someone to challenge that in our Royal Court and it would be found against us is his advice to us. So, I do not think that we should take it lightly to think that it is something that we should not be supporting. I would urge Members that for all the very, very good reasons, we have had very good speeches about rehabilitation and making people part of our community that we should ignore that. I urge Members to support this proposition.

15.1.20 The Deputy of St. Martin:

I have got 3 things to say and I will be as brief as I possibly can. The first one starts on the first line of the report where it says here, and I quote: “Most European countries have no form of electoral ban” and I would not want Members to think that it is just Jersey and the U.K. that do not allow prisoners the right to vote and I have a list here. Unless I am very much mistaken, Estonia, who will be taking over the presidency at the E.U. this year, do not allow prisoners the right to vote. The second thing I would like to say is that I always try, where possible, to be as consistent as I possibly can. I took very much to heart the points made by the Constable of St. John over the blurring of lines and how areas become grey and how you tell the difference between 4 years, 4 and a half years, 3 years. I refer back again to the P.P.C. report where they tell us that initially people said it is more than 5 years of disenfranchised belie those sentenced between 3 and 5 lose the right to vote for 5 years, and below that you can continue the enjoyment. I think to myself around the European countries alone we have different legal systems that mean different sentences and how we can pick a number, which means the same in different countries I do not know because I think I believe that in different countries, say number 4, a 4-year sentence, might mean different things for different crimes. Finally, the point I would like to make is that I have worked for 6 years inside the legal system in Jersey where I know through personal experience that every effort is made not to sentence people to custodial sentences. We have a wonderful system in Jersey that works really, really hard to do everything possible to avoid sending people to jail, but occasionally it does happen and these people do suffer custodial sentences, and I cannot disagree with Deputy Truscott or Deputy Brée and Deputy Hilton: people who get sentenced and are incarcerated for long periods of time, 4 years, some of them know full well what they are doing and I cannot accept, I am afraid, that those people should not have the right to vote taken away from them if they find themselves in prison.

The Bailiff:

Does anyone wish to speak? If not, then I call on the Chairman to reply.

15.1.21 The Connétable of St. Clement:

Deputy Maçon asked if the vote were to be given to prisoners in this limited way that we are suggesting today, where would they be registered. That would be a matter of timing, but once they have moved permanently to St. Brelade they clearly would be voters at St. Brelade No. 2. The Constable of St. Martin asked why it was that the committee were split and a minority voted against bringing this proposition. I cannot tell him exactly why, because I was not at the meeting where this legislation was approved; I was out of the Island at the time and the vice-chairman was in the chair. But I can tell him that the Constable of St. John and Deputy Brée are members of the committee; therefore, they might give him a clue as to why the committee were not exactly unanimous. But, as I said at the beginning of this debate, I recognise that this is an emotive subject; it is an uncomfortable subject and for some it is a difficult subject, and I respect the feelings and views that have been articulated particularly by Deputy Hilton, Deputy Le Fondré, the Constable of St. John and others. The Constable of St. John has definite views on the European Convention on Human Rights, but whatever his views, my views or anybody else’s views, we are signatories to the

European Court of Human Rights and we do have obligations. It was Deputy Brée who asked the question: “Are we a self-determining society?” and of course we are, and we determined in this place that we would become signatories to the European Court of Human Rights and, therefore, it is our duty to abide by that decision. He castigates or suggested that perhaps those who break the rules and are in La Moye should have the sanction of not having their vote removed from them, their franchise removed from them, but he encourages us to break the rules of the convention that we are voluntarily signed up to. So it is one standard for the prisoners in La Moye and one standard for us. That is wrong. What we have to try and remember I think, is that prisoners are people and despite whatever they may have done, whatever Deputy McLinton might say, they are also part of our society. Perhaps they walk in a different part of society than Deputy McLinton and the rest of us walk in at the current time, but they are part of our society. We have a duty in this place; we have a duty as individual States Members to represent all the people of this Island, and I say that includes people who have been sentenced to La Moye, because anyone who has been incarcerated in prison, any decision we make in this place has an effect on them as much as anybody else. Whether it is about the prison itself, whether it is about prison visitors, whether it is about financing Home Affairs, or whatever we decide at the end of the day, it affects everybody and it affects the people who have fallen and who have received prison sentences. Many of those who we are recommending should be enfranchised – those who have been sentenced to less than 4 years - may have voted before they have been convicted. They may be released early as we have heard from the Attorney General during their sentence and have become go-to-works, start paying taxes. But in the meanwhile we have said that they cannot vote. We are trying to encourage them to work and to contribute to society. In my view, going to prison or being sent to prison is not simply about punishment. It is not just about revenge. It is about rehabilitation, as we have heard. It is about education. It is about encouraging those who have fallen on these difficult times to become members of our society as Deputy McLinton recognises that society, which is the whole society. The Deputy of St. Martin made a very strange speech. I mean, I do not know if he wants us to be like every other nation in Europe who has ever signed up to the European Convention. But as I said at the beginning: we decided on 4 years because that is the most appropriate sentence for Jersey, because only the Superior Number of the Royal Court can sentence individuals to more than 4 years. Therefore that is the most serious of crimes. Of course, anyone who goes to prison has committed a serious crime, but what we are saying is that those who have committed lesser crimes have got more chance of being rehabilitated and we should be doing all that we can to encourage them. I maintain the principles.

The Bailiff:

The *appel* is called for. I invite all Members to return to their seats. The vote is on whether to approve the principles of the Draft Public Elections (Amendment No. 7) Law and I ask the Greffier to open the voting.

POUR: 30		CONTRE: 14		ABSTAIN: 0
Senator P.F. Routier		Senator A.J.H. Maclean		
Senator P.F.C. Ozouf		Connétable of St. John		
Senator L.J. Farnham		Deputy J.A. Hilton (H)		
Senator A.K.F. Green		Deputy J.A.N. Le Fondré (L)		
Senator S.C. Ferguson		Deputy of Trinity		
Connétable of St. Helier		Deputy K.C. Lewis (S)		
Connétable of St. Clement		Deputy E.J. Noel (L)		
Connétable of St. Peter		Deputy J.M. Maçon (S)		
Connétable of St. Lawrence		Deputy S.J. Pinel (C)		
Connétable of St. Mary		Deputy of St. Martin		
Connétable of St. Ouen		Deputy S.M. Bree (C)		

Connétable of St. Martin		Deputy of St. Mary		
Connétable of St. Saviour		Deputy G.J. Truscott (B)		
Connétable of Grouville		Deputy P.D. McLinton (S)		
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy M. Tadier (B)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				

ADJOURNMENT

Deputy G.P. Southern:

If I may, before we adjourn, could I inform Members that I wish to withdraw, even at this late time, the Taxation of High Value Residents, Proposition P.127. I do not want people staying up all night writing their speeches, or rehearsing their speeches, because there is barely a gnat's whisker between myself and the Minister for Treasury and Resources himself. **[Approbation]**

Senator A.J.H. Maclean:

Could I just thank the Deputy for that and just say that, unfortunately, I spent all last night preparing **[Laughter]** and it is a great disappointment that Members will not have the opportunity to listen to my speech. But I thank him nevertheless.

Deputy G.P. Southern:

That has greatly cheered me.

The Bailiff:

There is no safe thing for the Chair to say at that stage except to move that P.127 has been withdrawn. The States now stand adjourned until 9:30 tomorrow.

[17:43]