

**WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES
BY THE DEPUTY OF ST. MARY
ANSWER TO BE TABLED ON TUESDAY 17th NOVEMBER 2009**

Question

“Can the Minister give the Assembly full details of the ‘review of regulatory requirements’ of data protection which have led to his putting forward P.147/2009 (‘Draft Data Protection (Amendment No.2) (Jersey) Law 200-)?”

Answer

Regulatory requirements are reviewed on an ongoing basis, in line with experience from specific investigations (in Jersey) and policy development (in Jersey and other comparative jurisdictions).

Appointment of a President of the Data Protection Tribunal

P147/2009 removes the requirement for the appointee to the above office to be an advocate or solicitor of seven years' standing, although the requirement to be an advocate or solicitor is retained. This is intended to provide greater latitude in relation to any future recruitment process.

Widening the provisions - information notices

Whilst the information notice provisions in P147/2009 are not reflected in the current UK Coroners and Justice Bill, there are a number of valid policy reasons which underpin them:

- other countries (e.g. Ireland) have taken the line reflected in the draft Amendment Law.
- the UK Information Commissioner's Office ("UK ICO") has repeatedly requested for equivalent wording to that contained in the draft Amendment Law.
- The Office of the Data Protection Commissioner ("ODPC") has encountered difficulties in the course of investigations when applying the existing Law e.g. where refusal by an individual to release relevant information results in an investigation being hampered.
- External commentators have added their support to similar proposals.
- The Amendment will result in a more effective and proportionate regulatory environment and whilst more robust powers would be conferred to the ODPC, it will result in more limited recourse to the more forceful powers under the Data Protection (Jersey) Law 2005 (e.g. involvement of police, obtaining of a warrant).
- The measure is not viewed as disproportionate and is subject to an ECHR-friendly appeals procedure.