

3.6 Deputy M.R. Higgins of the Chief Minister regarding the introduction of the Freedom of Information (Jersey) Law 2011 in the Island from January 2015:

Does the Chief Minister consider that adequate progress is being made by States departments to introduce the Freedom of Information (Jersey) Law 2011 in the Island from January 2015, and is he satisfied that it, together with the proposed amendments to the Data Protection (Jersey) Law 2005, will lead to greater transparency in the public sector?

Senator B.I. Le Marquand (Deputy Chief Minister - rapporteur):

Very good progress is being made and both the Chief Minister's Department and various States departments are treating this as a high priority and are reasonably confident that the January 2015 date will be achievable for most of the bodies set out in the first schedule. However, it is right that I indicate to the Members of the States that it is not going to be possible to achieve that for all the bodies set out in the first schedule and that the Chief Minister will fairly shortly be bringing Regulations to the States to remove certain items from that schedule, for the time being, so that the January 2015 date can be achieved for the vast majority. I am happy to take further questions and go into details on that. I am expecting that there will be greater transparency in accordance with the law, partly because departments are likely in the future to put much more information which they have into the public domain and partly because members of the public are likely to be more aware of their rights to obtain information.

3.6.1 Deputy M.R. Higgins:

I would like the Minister to give us a bit more detail about what is going to be omitted, or suggest it be omitted in a moment, but is the Minister aware of the fact that some departments are shredding data and that advice is being given: "If you do not want it going out there, get rid of it." Recently, at a meeting of Deputies in St. Helier, we were advised that this is the information that some departments had been advised to do. In other words, go through their information, get rid of it. Is that a way of achieving transparency or is it just hiding some of the problems of the past?

Senator B.I. Le Marquand:

There is no secret of the fact that the records of many departments are not in very good order and that they are having to get their records into proper order. In so doing, decisions have been made as to what will be kept and what will not be kept. Now, the method that has been adopted has been by means of what are called retention schedules which are agreed with the archivist as to which documents should be retained. That is the process which has been adopted in relation to that. There is nothing wrong with that. My own former department of Judicial Greffe had huge amounts of information going back to the year dot, in the times when I was Greffier, all over the place. I know things have much improved since then but, in reality, you have to concentrate on what you need to keep and what is important to keep. In relation to the first half of the question, schedule 1 deals with the following matters ...

The Bailiff:

Minister, I am sorry, but how long is this? I think probably it would be better to circulate it in writing. Would you be happy for that?

Senator B.I. Le Marquand:

I would be very happy to do that, yes, Sir.

3.6.2 Deputy J.H. Young:

Would the Minister remind us whether or not there is a responsibility for government departments under the Public Records Law to ensure that records do get safeguarded for the long term, and is he satisfied that we are fully meeting that obligation and there is no danger of stuff disappearing before it gets there?

Senator B.I. Le Marquand:

I am afraid that the Public Records Law is one of those laws which the States passed in a moment of enthusiasm without providing the necessary resources to put it into effect. I think that all Members know that, in fact, it has never effectively been put into effect, but what is now happening as part of the Freedom of Information process, is departments are now determining what it is appropriate for them to keep in consultation, as I say, with the archivist. I think that will be very much of an improvement. There is no point in having masses of information you have no idea where it is, or you cannot access it.

Deputy J.H. Young:

Sir, can I clarify: does that answer mean that we can, as it were, kiss goodbye to public records, as what he has said in the future for history purposes?

Senator B.I. Le Marquand:

No, that is the whole point of ensuring that that which should be kept, is being kept.

3.6.3 Deputy M. Tadier:

Does the Minister accept that, if we are having a judgment call as to what information will be kept and not, then the issue is that we do not know, in the future when we have a full Freedom of Information Act, what information will be requested. Simply for someone to turn up and say: "I am afraid that bit of information was shredded 5 years ago because someone took the decision that it was not relevant" is not really satisfactory, especially if you are being told to shred things by somebody higher up the command chain. So will the Minister really look at the issue and find out... nowadays in the electronic era, we should really be able to put most things in an electronic format; unless, of course, they really are pieces of information which are very unlikely to be called upon in the future.

Senator B.I. Le Marquand:

I am perfectly happy with the arrangements which are being proposed but, again, I am very happy to pass on the concerns of the Deputy to the Chief Minister.

3.6.4 Connétable J. Gallichan of St. Mary:

The Minister said that the Public Records Law was brought in without being followed up properly. Is he aware that, as long ago as 10 years ago, the Archive Department was working with Parishes and other authorities already building retention schedules and examining carefully, not haphazardly as some Members have said, what needs to be retained and what does not, and that this good guidance has been followed through to this day?

Senator B.I. Le Marquand:

No, I was not aware of that and I am very grateful to the Connétable for providing Members with that information.

3.6.5 Deputy M.R. Higgins:

Can the Minister tell us what safeguards are in place and what betting there is going on to make sure that inappropriate material is not being shredded? By "inappropriate" I mean things that could be potentially embarrassing for Ministers or departments. Who is

safeguarding the process of destruction of documents to make sure that inappropriate documents are not shredded?

Senator B.I. Le Marquand:

My understanding is that matters have been agreed with the archivist; it is therefore up to departments to ensure that they are going to deal with matters in accordance with the retention schedules. Obviously, if there was information in any individual department that that was not happening, that information should be passed to senior officers, or indeed to the responsible Minister in order that they may ensure that what is happening is in accordance with the arrangements agreed.

3.6.6 Deputy M.R. Higgins:

Can I follow up to ask if there is any auditing of this process going on to make sure it is not happening, or are you just relying on people to whistleblow?

Senator B.I. Le Marquand:

I am afraid I do not know the answer to that question. As I say, I was unaware of the process in detail until I was briefed in relation to this. What I can say is that a number of members of staff have been engaged in this process centrally, including a former Deputy Greffier of the States, to work specifically on the project.

[10:30]

In addition to that, there have been a number of posts advertised in different departments, altogether my understanding is 22 posts offering 18 months fixed term contracts, in various different departments to ensure the process is completed properly. But if the Deputy is asking, because I think he is, what is the central process for checking that departments are acting in accordance with that, I have no issue, and it is indeed the officers who are appointed within the Chief Minister's Department to oversee the programme.