

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY THE DEPUTY OF GROUVILLE
ANSWER TO BE TABLED ON TUESDAY 17th JANUARY 2017**

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.