

**WRITTEN QUESTION TO THE MINISTER FOR INFRASTRUCTURE
BY THE CONNÉTABLE OF ST. BRELADE
ANSWER TO BE TABLED ON TUESDAY 21st JANUARY 2020**

Question

Will the Minister advise members how, if at all, he proposes to respond to public concerns over the handling of foreshore property transactions, which a Complaints Board found to be “unjust, oppressive and improperly discriminatory” and which has led to the creation of an e-petition on the matter?

Answer

Concerns have also been raised with me in relation to this issue by the Deputy of Grouville. I confirm that I am committed to working with both the Environment, Housing and Infrastructure Scrutiny Panel and with the Deputy of Grouville in relation to the foreshore.

As explained to the Environment, Housing and Infrastructure Scrutiny Panel in 2019, I have implemented two of the findings of the subject Complaints Board’s report which related to clarifying the landside boundary of the foreshore towards private properties.

Accordingly, a project is in-hand to research the line of the foreshore towards private properties around the Island. This is complex and detailed work but I anticipate that it will be completed in three months’ time. Once the work is complete and the various strands of information are available, I will be raising the results of the project and the response to it with the Council of Ministers. At that stage, we will be better placed to decide whether the existing 2017 policy: “Encroachments on the Foreshore” should be revised.

There will be a thorough review and I expect that States Members will be offered a briefing with the results. I also emphasise that I am committed to improving and simplifying the process in relation to property transactions where the Public of the Island’s interests are engaged so that there is greater clarity and certainty for the particular property owners concerned.

Nevertheless, the following points are important.

Firstly, the foreshore exists for the benefit of the community at large. It is not a free resource to be annexed for the benefit of private individuals. The foreshore is central to Jersey’s sea defences, which assume ever more importance in the context of climate change. The foreshore is also an important resource for access for matters such as drainage, navigation, and fishing, as well as access to and enjoyment of our coastline by the public.

Secondly, payments sought by Jersey Property Holdings from landowners holding property which encroaches on the foreshore are not fines. Payments sought are in accordance with a previous resolution of the States Assembly in 2005 in respect of P93/2005 which created Jersey Property Holdings. The report accompanying P93/2005 included the following statement:

“...All organisations, both commercial and ‘not for profit’, must make best use of their property to realise both a financial return and to ensure that services are delivered efficiently and effectively. The States of Jersey is no exception....”

That principle has been applied since 2005 and also prior to that, under the authority of the former Property Services Department set-up in the early 1990s. Payments in respect of encroachments on the foreshore were made in accordance with this principle prior to the gift of the foreshore to the Public of the Island by Her Majesty in 2015. This is not a new process.

In cases where encroachments are permitted to remain and the land / rights sold to third parties, the considerations sought from landowners holding property which encroaches on the foreshore are determined in accordance with valuations by third party surveyors (since 2005) depending on the nature and extent of the encroachment. This was the case in relation to the two contracts with which the Complaints Board was concerned. The payments sought represented very small proportions of the value of the properties.

Finally, ownership of the foreshore and the seabed brings with it all the rights and the responsibilities of ownership. Those responsibilities include how best to protect the public's interest in the foreshore as a valuable amenity for the benefit and enjoyment of all. In other words, ensuring that public access for all Islanders is not unduly impeded by the actions of others. For example, is it fair that some sections of promenade can no longer be accessed by the public due to encroachments? Or, that were it not for encroachments made in the past, additional coastal footpaths could now be provided for the public benefit.

No individual member of the public has any form of personal ownership interest in the land which is owned by the Public. If the Government of Jersey's attitude were one that property belonging to the Public is a free asset for neighbours to help themselves to, such a position would quite rightly attract severe criticism.

Past experience has shown that breaches in Jersey's sea defences have the potential for causing significant damage and adverse effects. The Public of the Island needs to have proper access to and control over the sea defences and the foreshore to ensure that all Islanders are protected.

I have also agreed, following discussion with the Deputy of Grouville, to publish a map of all public accesses, footpaths, and rights of way, to the foreshore.