

STATES OF JERSEY
Corporate Services Scrutiny Panel
Quarterly Hearing

WEDNESDAY, 25th MAY 2011

Panel:

Senator S.C. Ferguson (Chairman)
Senator J.L. Perchard
Deputy D.J. De Sousa of St. Helier

Witnesses:

Senator T.A. Le Sueur (The Chief Minister)
Mr. J. Richardson (The Chief Executive)

Also in attendance:

Mr. M. Haden (Scrutiny Officer)

[9:44]

Senator S.C. Ferguson (Chairman):

Welcome to this quarterly hearing of the Corporate Services Scrutiny Panel. For the sake of the transcribers, I wonder if you could say who you are and what your position is, please.

[9:45]

The Chief Minister:

Yes, I am Senator Terry Le Sueur, the Chief Minister.

The Chief Executive:

John Richardson, Interim Chief Executive.

Senator J.L. Perchard:

Senator Jim Perchard.

Senator S.C. Ferguson:

Sarah Ferguson, Chairman.

Mr. M. Haden:

Mike Haden, Scrutiny Officer.

Senator S.C. Ferguson:

At the last quarterly hearing we asked about the Chief Minister's Department being restructured. You mentioned that it was an ongoing process and that the operational part had not been finalised. You also mentioned that you were currently identifying the problems and seeing what the key areas for restructuring were. Please can we have an update on this and can you tell us about any problems and areas you have identified since we last met.

The Chief Minister:

Right. Thank you. I do not think there are necessarily any new areas or problems since we last met. What has happened since then, clearly, we have lodged a proposition on the review of the ministerial structure and activities and this simply reflects comments in a Public Accounts Committee report and elsewhere that unfortunately the ministerial structure was not implemented in quite the way that Clothier had envisaged. The drawbacks of trying to tinker with those proposals is becoming more evident. The solution to it, however, is something which I feel needs

to be done in a more consensual way involving the Privileges and Procedures Committee and States Members generally, hence the proposition we have lodged and which is due for debate later in this session. I think we around this table now understand quite clearly some of the drawbacks of the current situation and, no doubt, many States Members also appreciate that, but I do not know if there is the same unanimity about a solution to that because the solution envisaged by Clothier was one of much more focused leadership and that is something which some States Members at that time felt uncomfortable with.

Senator S.C. Ferguson:

Yes, the P.A.C. (Public Accounts Committee) report was really focused on financial management and the effects of the current structure on that.

The Chief Minister:

Yes.

Senator S.C. Ferguson:

Now, the Machinery of Government Proposition is very much wider.

The Chief Minister:

It is much wider because I think there is a danger of simply addressing the financial accountability in isolation. You cannot really address it in isolation without looking at the overall structure and that is why we believe that it is important to do that.

Senator S.C. Ferguson:

Yes, but some of the terms of reference of the Electoral Commission seem to overlap because there was a mention of the Machinery of Government in that as well.

The Chief Minister:

Yes.

Senator S.C. Ferguson:

How do you see resolving that?

The Chief Minister:

The proposition I lodged was intended to be the way of overcoming that issue. I think an Electoral Commission, to me, deals primarily with external matters relating to the electorate: constituencies, boundaries, numbers of States Members and the like, rather than the internal workings of the States government machine. I think to try to select the right people to do both jobs is not necessarily easy and not necessarily even the right approach either because, while there needs to be a link between the Electoral Commission's work and the review of the Machinery of Government, they are very different activities.

Senator S.C. Ferguson:

Yes, one being representation and one being organisation. Will the terms of reference of the Electoral Commission have to be re-discussed then?

The Chief Minister:

Certainly I think the whole structure of how these reviews are carried out needs to be discussed but I think, first of all, probably we have got to work through another debate in the States Chamber on the proposition I have lodged. If that were rejected (and I hope it will not be) then we have got this odd situation of having the proposition from the Deputy of St. Mary approved, which calls for an Electoral Commission to do a variety of things, and the recent proposition also approved to ask the Privileges and Procedures Committee to look at various things. I think we are going to get, without my proposition, an unsatisfactory solution to the Electoral Commission working out quite where it extends. I was hoping to give greater focus to the Electoral Commission to do what I think needs to be done in terms of the boundaries and so on and I think that the Deputy of St. Mary's proposition effectively emerged out of concern about the representation within the States Chamber: the number of Senators and where the constituencies should be and so on, and that some of the Machinery of Government matters (it might be unwise for me to put words into his mouth) were added there almost to give a bit of extra weight to the proposition.

Senator S.C. Ferguson:

Yes, going back to restructuring and so on, in the local newspaper last night, it said that the restructuring plans for E.D.D. (Economic Development Department), T.T.S. (Transport and Technical Services) and Housing have now been abandoned. Would this perhaps be an opportunity lost for just, sort of, trimming the size of government?

The Chief Minister:

I think one has to be careful how one interprets what one reads in the media. That ...

Senator S.C. Ferguson:

It depends who wrote it.

The Chief Minister:

Yes, but that article was provided in response to a request under Freedom of Information for details of matters discussed at a Council of Ministers' discussion last year where I think we identified that there were potential opportunities to be gained by a reduction in the number of States departments. To the extent that that has not been pursued as a first line of attack that might be seen as a wasted opportunity but I think what is happening is that those benefits will evolve as the C.S.R. (Comprehensive Spending Review) process itself works through. You spoke with, I think, 3 departments there which were under potential examination. I think, as a matter of C.S.R. policy, you will probably find that efficiencies in terms of collection of taxes and social security and so on, and maybe changes in those taxes, will lead to a greater integration of financial collection and may ultimately give social security a different shape or taxation a different shape. Housing is currently undergoing a significant review of its delivery and policy which may well ultimately lead to the cessation of a need for a Housing Department as such because their activities could be subsumed elsewhere. But that will, I think, arise out of the C.S.R. process rather than directly from a policy of reducing departments for its own sake.

Senator J.L. Perchard:

Chief Minister, what involvement have you and your department got in the C.S.R. process, other than delivering your share of it?

The Chief Minister:

I chair a board which meets every couple of weeks looking at progress across the whole operation. The operation is, one could say, centred under it. People in my department report effectively to the interim Chief Executive but there is political involvement by myself, the Minister for Treasury and Resources and senior officers as well just to make sure that we are on track and that the savings which are suggested in one department do not simply result in increased costs to another department because there is a danger you can simply transfer the costs and you think you are saving money overall.

Senator J.L. Perchard:

Yes. When the Chairman asked about restructuring, she obviously asked about the restructuring of your internal affairs of your department.

The Chief Minister:

Yes.

Senator J.L. Perchard:

I think you have also drifted on to the restructuring of the delivery of the Machinery of Government and the mechanism there.

The Chief Minister:

Yes, sure.

Senator J.L. Perchard:

Is the C.S.R. process just a case of salami-slicing a bit of each department's budget or is there something more core and structural that you are leading, as Chief Minister, in the way we are prioritising a service of one department against a service delivered by another department?

The Chief Minister:

It is certainly not salami-slicing because you could not salami-slice to provide a solution because of the size of the problem we are talking about, but I would not regard it as being in isolation of individual departments. A lot of the activities will be as a result of changing procedures, changing principles and, in some cases, not limited at all. In my department, for example, we are looking very much, and maybe the Chief Executive can go into more detail on the I.S. (International Service) arrangements in terms of how that might not be a core function of the Chief Minister's Department but could be put out in the private sector.

Senator J.L. Perchard:

Maybe I did not put my question very well but the services provided by a department that is able to deliver its 10 per cent C.S.R. requested savings, are there any services in that department over and above those savings that would be better foregone in favour of a service provided by another department?

The Chief Minister:

Yes.

Senator J.L. Perchard:

What mechanism is there and who is leading the search to identify and prioritise across all services of government rather than just to ask each department to prioritise?

The Chief Minister:

I think much of the saving will come from simple activities and it may be I can ask John to come in a bit more detail on that one.

The Chief Executive:

If I can give you an example of what we have been doing in one area, and I think it runs across many areas in the organisation, is the property holdings. For example, maintenance always used to be carried out by individual departments. By bringing it together and completely reorganising the way in which we go to the local market, we have been able to, firstly, rationalise internally the administration of maintaining all the States property but, secondly, by going to market and tendering that work all of that work has now gone back out to the local market but it has made significant savings for the States. So that is just one example. In H.R. (Human Resources) for example, we are looking at a revised structure where we bring together more of the H.R. functions in terms of leading on change. So instead of a department looking at their own internal change programme, the aim is that the central H.R. Department will provide a more co-ordinated approach so if something is happening in one department which is beneficial, then that same process can be taken forward into another, so there is a balance between bringing it into the centre as opposed to the centre providing that co-ordination and direction. At the States Members' briefing last week on the updated C.S.R., one of the areas we covered was that out of the £65 million C.S.R. savings plan, I think it is £49 million, if I remember correctly, has been identified as

efficiency savings as opposed to the salami-slicing of cuts in service. That can only be brought about through more efficient working, bringing organisations together; as the Chief Minister has identified, 2 or 3 departments currently undertaking a very similar role can look at working together and providing that same service for the 2 departments but in a more efficient way.

Senator S.C. Ferguson:

Yes, one of the things that I think I have nagged you about a couple of years ago was a central portal for payments to the States.

The Chief Minister:

Yes.

Senator S.C. Ferguson:

Also very much a much broader ability to pay not just with a debit card but also with a credit card. That quick payment improves your cash flow. How is that getting along?

The Chief Minister:

I think, certainly, there has been a review of the procedures in income tax, which is our main source of collection of money because, really, if one looks at the main areas where money needs to be collected, we need to ensure that their procedures are understood and are relevant in today's world before you start trying to integrate them with other departments to keep up instrumental activities. So there are 2 issues here: there is what Treasury can do within its own area in terms of better ways of bringing

in cash. One of the things which we have seen in several departments now is the reduction as to dealing in cash or cheques and to work in terms of primarily bank transfers. You talk of debit cards and credit cards which is one way of approaching it, but an even better way is a direct bank transfer from your bank to the States bank.

[10:00]

Senator S.C. Ferguson:

Yes, Internet banking but ...

The Chief Minister:

Yes, Internet banking and that is being developed at the time. You have also got to accept the human reality that there are some people who still cling on to the old traditional methods and you cannot totally eliminate them at one stroke.

Senator S.C. Ferguson:

No, I appreciate that, but it was 2 years ago I was talking about it.

The Chief Minister:

I think it is about 20 years ago since I talked about taking out pension books. These things sometimes take a bit longer than perhaps we would ...

Senator S.C. Ferguson:

Yes, my grandmother decided that she was not going to let the government have her money any longer than necessary so she kept her pension book.

The Chief Minister:

In England, there is a balance being struck between absolute efficiency and human ... anyway, we are providing a service to the people of the Island.

Senator S.C. Ferguson:

Yes, going on to the crosscutting issues, which are obviously part of the general C.S.R. and so on, what is the States Employment Board's role in the terms and conditions of employment and termination of contracts?

The Chief Minister:

There are 2 parts to that question. In relation to the terms and conditions of employment, the States Employment Board is the employer responsible in law for that. Terms and conditions are generally uniform when set out and available on the States website and those terms and conditions are approved by the States Employment Board. Implementation of the terms and conditions within the wording of contracts would be delegated and the States Employment Board has delegated that to the Chief Executive who can then delegate that with authority to other Chief Officers but with the ultimate responsibility remaining with the States Employment Board. But those contracts in the normal course of events are a standard form of contract, the standard clauses including a standard termination clause. There will be occasional instances where you have got senior employees on a particular contract and, where they differ from the norm, then the States Employment Board would need to be consulted and get their approval but they are very much an unusual situation.

Senator S.C. Ferguson:

Yes. You have obviously had problems over the last few months where the information coming to the States Employment Board, whether it is to do with suspended surgeons or whatever, has been insufficient or perhaps not as accurate as it might be. What steps are you taking to deal with things like that?

The Chief Minister:

I do not think there has been any inaccuracy in the information we have been given; there may have been inadequacy on the side of that but I think that is a slightly different issue because any suspension procedures or disciplinary procedures will be dealt with in accordance with the terms and conditions of employment and in accordance with the States disciplinary procedures. The fact that some of these procedures may appear to last an inordinate length of time does not mean that they are not being done in conformity with the terms and conditions of employment. So, yes, I think S.E.B. (States Employment Board) regularly at every meeting ask for an update on people who are suspended or people who are on restricted duties and an explanation of why that is continuing. We had one such meeting yesterday and the reasons why things were ongoing or had not been completed were gone into and either accepted or challenged.

Senator S.C. Ferguson:

Yes, it was just that obviously the flow of information you have had has perhaps, as I say, not been totally accurate over the last year or so. Have you tightened up your procedures?

The Chief Minister:

I think first of all I would need to be satisfied that the flow of information which you allege is inaccurate is inaccurate and I think ...

Senator S.C. Ferguson:

Well, I think there was the difference between suspensions and restricted working; this was the particular one I was thinking about.

The Chief Minister:

I think you were talking about someone on restricted duties.

Senator S.C. Ferguson:

Originally, they were listed as being suspended and then suddenly, miraculously, they were on restricted duties. I understand the people involved with that particular effort have left the Island now but it did seem to be a bit of a hole in the procedures for the S.E.B.

The Chief Minister:

No, I think it is, in fact, something which S.E.B. has improved upon and partly as a result of one or 2 cases where people were suspended for an inordinate length of time. The policy now is very firmly that people should be suspended for as little time as possible and it may well be that, until the suspension matters have been totally dealt with, the duties that they do have are to be restricted in some way. If I give an example, if there was a teacher accused of something involving children in a school, that would be a matter for suspension but you might say: "While that suspension

review is carrying on, if there is some desk-bound job he can do away from an environment involving children, he may be able to do that.” Because what you do not want to do (and I think this is generally accepted) is to have qualified staff suspended for an inordinate length of time due to either policing activities or an office of the department, receiving a full salary and contributing nothing to the operation of the government. So the policy was, as you say, to transfer people from a suspended process to a restricted-duty situation, but you cannot then move them off restricted duties until any suspension outcome has been dealt with. There are thereafter, particularly in the medical field, some people who are not under suspension but are under restricted duties for retraining requirements and that is because not only has someone got to be fit for employment from a legal point of view but also from a technical and medical point of view they have to be regarded as qualified as well. There you can have difficulty with someone who is contractually fit for work but may not be fit for work in terms of medical capabilities.

Senator S.C. Ferguson:

Yes, I did not want to get into the details of the suspensions, I was just highlighting the fact that when the various departments were asked to report suspensions, suddenly all these people were on restricted working so they were not reported, which was just a bit near the knuckle.

The Chief Minister:

I think as of yesterday we had 3 people who were suspended and 3 or 4 (I think it was 4) on restricted duties; of an accountable workforce of 7,000, it is a pretty small percentage.

Senator J.L. Perchard:

Terry, what is the States Employment Board doing about redrafting standard terms and conditions of new contracts being made with new employees to reflect the modern times that we are living in? Where there have been financial constraints on the States of Jersey, there are lots of high-quality, high-calibre staff available for recruitment from the U.K. (United Kingdom) to fill these positions because of what is happening in the U.K. Are contracts of employment that are being issued or entered into today reflecting the new modern times or are we still regurgitating the same old contracts that are very favourable to the employee?

The Chief Minister:

The general policies of S.E.B. remain the same, getting the people with the right skills to do the job, preferably people with local involvement, but getting the right person for the job. Now, in terms of what the contractual arrangements are, they will be reviewed from time to time but I do not know ... you would need to be more specific in terms of where you think there might be existing contracts which are too generous.

Senator J.L. Perchard:

Well, for example, we have had 2 very high-profile departures: the Chief Officer of the States of Jersey I think is leaving ...

The Chief Minister:

Yes.

Senator J.L. Perchard:

Technically, he is leaving later in June, I think, but he has now left his position, and the Chief Officer at Health and Social Services.

The Chief Minister:

Yes.

Senator J.L. Perchard:

It will not be put in the public domain but these 2 gentlemen have left with very favourable terms and conditions; I think people call it a “golden handshake.” Now why would we not rewrite contracts of employment to say that if we choose to terminate (or in these cases they have resigned) why would they be leaving with £500,000 in one case and £300,000 in another?

The Chief Minister:

I think, basically, because once people are employed on a contract of employment you cannot easily change that contract of employment for that existing employee if you take on someone on that basis. In terms of a new employee today you would not necessarily (in fact, you would not) employ them on the basis of the contract that was entered into 5 or 10 years ago.

Senator J.L. Perchard:

It goes back to my question at the start of this little conversation: what are we doing with contracts of employment that reflect the modern times in which we are living or are we not doing anything?

The Chief Minister:

I think maybe you did not pick up clearly what I said in the first place: that the majority of contracts are in a standard form. There will be particular contracts, rare, but some contracts which differ slightly, in respect of very senior key States employees and the 2 instances that you referred to relate to particular key employees. But that would be an unusual situation and even now it is an unusual situation but the terms and conditions of any such contract will need to reflect the particular circumstances of that particular job at that particular time.

Senator J.L. Perchard:

I understand we have got historical contracts that we must honour but my point is are we really addressing the issue now? Who is taking responsibility for that to ensure that contracts that we are entering into now with new staff, particularly at the top end, reflect the austere times in which we are having to work? Who is taking responsibility for this?

The Chief Minister:

Ultimately, it is the States Employment Board that takes responsibility and, where you had particular instances of unusual contracts, they would have been referred to the States Employment Board for approval before they were signed. What you have got, perhaps more generally, is a situation now where many new staff have been taken on on maybe a relatively short-term, say a 5-year period, with the option then of renewing that contract or reviewing that contract after 5 years rather than necessarily a contract for life.

Senator J.L. Perchard:

Yes, so is that happening as a norm?

The Chief Minister:

Well, you say “as a norm” when the majority of people that we employ would be teachers, nurses, manual workers, cleaners; probably where your concerns are already well-addressed. I suspect that your concerns are really about key higher-paid States employees.

Senator J.L. Perchard:

It is the high-level golden handshakes that are given covertly, taxpayers’ money, that infuriates many States Members and I know most of the general public. I just wonder, does a States Member have to bring a private Member’s proposition to ensure that from now on any settlement with a senior member of staff over a certain figure has to be put in the public domain or will the States Employment Board grasp this nettle and deal with it?

The Chief Minister:

I think there is clearly a concern about the use of public money in payments of termination or salaries but, equally, the States has an obligation as a good employer (and a legal obligation anyway) to honour the terms of a contract. So any payments that have been received by individuals in the case we are talking about would have been in conformity with the terms of a contract.

[10:15]

So if the States Employment Board simply said: “We do not like paying that”, we would simply have a claim for breach of contract and you would go back where you started but worse.

Senator J.L. Perchard:

We are going round in circles, Chief Minister. Are we dealing with the new contracts head-on and who is taking responsibility for that?

The Chief Minister:

Yes, we are dealing with it because any contract which varies from the norm will need to come to the S.E.B. for review.

Senator J.L. Perchard:

So, for example, a contract with the newest Chief Officer working in the States of Jersey, say the Chief Officer of Health and Social Services, will be significantly different to that of her predecessors?

The Chief Minister:

Not necessarily significantly different but there will be differences reflecting modern times. The majority of terms of contract, which are probably 7 or 8 pages, will not have varied much in 20 years. But I think what you are concerned with are salary payments, termination payments, payments maybe in commercial activities for

intellectual know-how, and not being able to compete with the private sector in the future, and those sorts of things would be built into a modern contract.

Senator J.L. Perchard:

So I presume you are concerned that these contracts reflect that as well? You said that I was concerned; are you not?

The Chief Minister:

Yes. I think every States Member is or should be concerned about making sure firstly that our procedures are up to date and secondly that they provide value for money.

Senator J.L. Perchard:

Thank you, yes.

Senator S.C. Ferguson:

Going on from that, regarding Deputy Le Hérisier's proposition, Salaries over £100,000: Notification to the States Assembly. You mentioned during the debate that you would be producing a report to clarify some of the issues raised in the theory. Please could we have an update on this?

The Chief Minister:

Insofar as the States Employment Board have now lodged a proposition reflecting the requirements of Deputy Le Hérisier, and that is now for debate in 2 weeks' time with an amendment from Deputy Le Hérisier (because we were proposing reporting, I

think, on 6-monthly intervals and he is suggesting it should be quarterly intervals) but basically that is up for consideration in 2 weeks.

Senator S.C. Ferguson:

Yes, and what about Zero/Ten? Can we have an update, please? Have we had any further external influences on our policy? Have we had any further meetings of the Code Group?

The Chief Minister:

Certainly, we have not. It is quite difficult for Jersey to have a meeting with the Code Group. We have, in fact, asked to be present at the meeting in September because, as you, I think, are aware the Minister for Treasury and Resources has lodged proposals to do away with deemed distribution and attribution because we believe that that meets the concerns that they have about potentially harmful effects. We will have to wait and see. At the moment, procedures within the Code Group are somewhat arcane, if I can say that without being rude to the E.U. (European Union), first of all, it seems that procedurally the Code Group have to decide that the regime gives rise to harmful effects. If they decide that it does give rise to harmful effects, they say that to Ecofin and Ecofin then has to meet, consider it and then send it back to the Code Group and the Code Group will then look at it and are expected to look at it in September. That is why we would like to be present in September when the Code Group do discuss that, although the indications are that the U.K. and the Chair of the E.U. Code Group accepted the fact that what we have done does address their concerns.

Senator S.C. Ferguson:

Yes, it is a curious thing that their “harmful” seems to be against competition whereas there is great competition in corporate tax rates throughout the world.

The Chief Minister:

I think if I wanted to argue intellectually with the E.U. I could well say that they are inconsistent in their approach to some of these matters. The fact is that it is certainly better simply to accept the fact that it is a subjective view which they take and if there are ways in which we can address their subjective and maybe unrealistic criticisms without serious impediment to the Island then, as good European participants, we should do that (but I think good European participants without saying that we are part of the E.U.) but we are endeavouring, as we have done, to be good responsible players in the international arena.

Senator S.C. Ferguson:

Yes, there is a body of thought that is really getting quite fed up with being bullied by people beyond our shores.

The Chief Minister:

I do not think it is bullying because if it were something which we felt would be significantly detrimental to the Island’s future wellbeing we would oppose it, and we still have that ability to oppose it, but in a situation like this where we understand the concerns of the E.U. (and it is, as I say, a somewhat subjective matter, but it is of little consequence as far as we are concerned) then we are happy to go along that way.

Senator J.L. Perchard:

Chief Minister, once we have presumably approved the Minister for Treasury and Resources' proposition to take away the deemed distribution clause from our tax legislation, how likely then are we to have a tax structure that mirrors that of Guernsey and the Isle of Man? Part 2 of my question: how important is it, or is it important, that we have a tax structure that mirrors that of Guernsey and the Isle of Man or are they our competitors?

The Chief Minister:

It is our objective to have general tax policies across the 3 Crown Dependencies which are similar if not identical and the objective of all 3 Islands is to find ways of achieving tax neutrality. Now, within our objective of attracting neutrality, it may be possible to achieve it in different ways. I would like to think that the way all 3 C.D.s (Crown Dependencies) address it is identical or very similar but it may be because we have different commercial activities in the 3 Crown Dependencies that there will be one aspect which may suit one C.D. slightly better and another which makes another slightly better within the overall objective of tax neutrality. So I would not be dogmatic that each Island has to have absolutely identical legislation but it does have, and I think should continue to have, a similar consistent objective of tax neutrality.

Senator S.C. Ferguson:

When you say "tax neutrality", what do you understand by it?

The Chief Minister:

That tax neutrality does not add an additional tax burden to international transactions because Jersey and the Crown Dependencies are involved in an international marketplace and, in many cases, tax neutrality between international transactions is achieved through a double-taxation agreement where if taxation is charged in one country taxation is not charged in the second country on that same source of revenue. Now, we do not have double-tax treaties with every country around the world and we are unlikely, certainly in the short term, to achieve that but we achieve tax neutrality by simply saying that we do not impose an additional layer of taxation. So there may well still be, and there normally is, taxation in the country where the transaction takes place, we simply do not add a second layer to that. So tax neutrality means that the funds, if you like, pass through Jersey without suffering a second layer of taxation.

Senator J.L. Perchard:

Your definition is interesting and that was a good question, Chairman.

The Chief Minister:

Well, it was a good answer.

Senator J.L. Perchard:

Yes. It is not the answer I expected but, yes, it is a point well made. Yes, I did have another question and I was so ingrained in your answer there ... yes, I was talking about competition. Obviously, it is a competitive world out there and we do identify some competitors. How important is it that we work closely with the other Crown Dependencies or is it not that important?

The Chief Minister:

What is to be important is that we have the highest-possible reputation and the highest standards of financial probity, legislation regulation and service providers because, to me, that is the way in which we have the most competitive advantage. Now, I think we have seen this. If one looks at the Jersey Financial Services Commission which, 10 or 12 years ago, imposed, following Edwards, quite a strict regime which a lot of commercial people in the Island said was too harsh and would lead to business going elsewhere, in fact, what it led to was a raising of standards world-wide across our competitive jurisdictions so that the level of regulation world-wide has improved and have followed the lead that Jersey gave. So, far from losing business, Jersey has enhanced its reputation and gained business, and reputation is critical in terms of competitive ...

Senator J.L. Perchard:

If Guernsey, for example, had a bad reputation, it would reflect on us.

The Chief Minister:

If Guernsey had a bad reputation, it reflects on us because, inevitably, Jersey and Guernsey internationally are regarded as the Channel Islands.

Senator J.L. Perchard:

Chief Minister, my question was perhaps ... I was rather hoping you would inform me: as we are taking more of a leading role in negotiating directly with Europe and not through the U.K. (we are being encouraged to by the U.K. and we are doing that)

are we using this opportunity hand-in-hand with Guernsey and the Isle of Man or are we doing it independently of them?

The Chief Minister:

In terms of Europe, we are clearly working very much hand-in-hand with Guernsey in that we have got a Brussels office now open and up and running, which I hope to go and visit next month or the month after, Isle of Man already has an office in Brussels, as in fact do many other areas of the U.K. and France. One thing I was discussing last week with Normandy is that Normandy also has a representative office at Brussels as well as France. In some cases, that may appear to be just almost departmental activity for the sake of acknowledging the existence of a separate department in the same way that I think the north of England may have an office but, certainly, Scotland, Wales and England all have offices in Brussels. What we have to do is to become an integral part of that network of offices and discussions and communications and it is really being on the ground in Brussels, having people on the ground talking to people from other jurisdictions, which is going to enable Jersey to be recognised as part of that community.

Senator J.L. Perchard:

Just for a point of clarification, really. So we are sharing an office with Guernsey, are we sharing staff or are our own representatives working out of the same office?

The Chief Minister:

No, it is a Channel Islands office with the same staff but there is an agreement between Jersey and Guernsey that we will share costs that they will have a common ...

Senator J.L. Perchard:

Is the cost of this is coming out of your budget, Chief Minister?

The Chief Minister:

The cost comes half out of my Chief Minister's budget and half out of Guernsey's budget, yes.

Senator J.L. Perchard:

Yes. Thank you, Chairman?

Senator S.C. Ferguson:

All right. The fulfilment industry, have we had any recent political pressure from Westminster on the fulfilment industry? What has been happening at Chief Minister level?

[10:30]

The Chief Minister:

Certainly, there has been activity insofar as the U.K. budget in March made comment about L.V.C.R. (Low Value Consignment Relief) and their objective of trying to, if you like, restrict L.V.C.R. in some way or other. They have a commercial difficulty

there which they are seeking to address and it will be up to them to see how they can address that in the best possible way. Now, over the years, and particularly recently, the Minister for Economic Development has had good constructive dialogue with his counterpart in the U.K. government and they fully understand Jersey's position and they respect that Jersey has, in recent years, tried to ensure that fulfilment industry activities carried out in Jersey do add value locally and they are not simply a figment of the imagination, effectively, or postal address. But there is an issue politically in the U.K. which the government feels obliged to address even though, in addressing it, they are creating more difficulties for themselves because L.V.C.R. is there for a very simple commercial reason but it is a lot simpler to allow the numerous activities to flow through than to have to spend an enormous amount of time and manpower in collecting pennies. So that balance is going to have to be struck by the U.K. From Jersey's point of view, we are continuing to have dialogue with them on how that can best be achieved but also recognising that the fulfilment industry itself is changing and L.V.C.R., in many cases, plays a relatively small part of the overall competitive activity and it is simply the commercial ability to handle volumes of transactions in an efficient manner which will still continue to flourish. From a Jersey point of view, yes, the marketplace may shift and adapt slightly but I do not see it being the end of the fulfilment industry; it may be the end of the fulfilment industry as people understood it 10 years ago but it is not necessarily the end of the fulfilment industry as it is likely to be in 10 years' time because it is a changing industry.

Senator S.C. Ferguson:

Yes. It is almost, as you say, an industry which is changing and perhaps government should stay out of supporting industries which are changing because otherwise they

will not change as fast; but that is not for us to judge, that is for the people in Westminster.

The Chief Minister:

No. I think we need to be careful what we mean by “supporting.” It is not a case of trying, I think, to interfere or trying to run the fulfilment industry but we do have to set standards to maintain the Island’s reputation and that, I think, is what the Minister for Economic Development is seeking to achieve.

Senator S.C. Ferguson:

Yes, we do not want to be party to that merry-go-round, which is purely cosmetic.

The Chief Minister:

No.

Senator J.L. Perchard:

The fulfilment industry, of course, Chief Minister, does employ a tremendous amount of people, and particularly those that perhaps would not be seeking to work in the financial services industry and it fulfils a very important role locally, I do not need to tell you that.

The Chief Minister:

Absolutely. Yes, I know.

Senator J.L. Perchard:

How aggressively ... or what can we do to resist any outside pressures? What can we do other than engage with those people that are applying the pressure?

The Chief Minister:

I think it is like any commercial activity (and you have been in commercial agricultural activity) you recognise the challenges of the marketplace and you maybe try to assist the industry in responding to those challenges and evolving the way it works. So in the same way as, for example, the potato industry has moved from wholesale depots to supermarket purchasing and our potato industry has reacted accordingly, so the fulfilment industry no doubt is going to evolve over the years. We have got to be able to read the signs, if you like, read the runes. The industry itself has got to be able to read the signs and adjust and we have got to make sure that we do not impede that adjustment but that we assist it, providing it is in the Island's reputational and commercial interest.

Senator J.L. Perchard:

Are you actively involved in supporting the emerging industries like e-gaming, e-commerce, data recovery? What are we doing at Chief-Minister level to assist these new emerging industries?

The Chief Minister:

At Chief Minister level, I do not do a great deal because I have confidence in the Minister for Economic Development to be able to do that and I think, as you yourself said, it is not government's job to interfere in trying to micro-manage or second-guess a lot of these activities. Our job is to make sure that we have proper standards of

operation and delivery and, to the extent that these activities may well generate both profits and employment opportunities, give them our blessing. In matters like e-gaming, which you mentioned, there may also well be other spin-offs in that if that generates increased ability for bandwidth or speeds in terms of telecommunications, that will have a beneficial effect not only on e-gaming but on the financial services industry and on human activities on just watching things on your mobile phone, or whatever, computer or whatever gadgets will be around next year, which rely on high-speed communications for their best effect. So to that extent, yes, a policy which will benefit in one area may also well have a benefit in other areas. Where the Chief Minister's Department has a role is in saying: "Will a policy in one area have a significantly detrimental effect elsewhere?" in which case, while it might be good for one department, it would not be good overall.

Senator S.C. Ferguson:

All right. Now, with the forthcoming departure ... although, has he gone already?

Senator J.L. Perchard:

He effectively is no longer ... but he is still at work; the Chief Minister has not explained that.

Senator S.C. Ferguson:

With the forthcoming departure of the Chief Executive, we understand that Mr. Richardson will be the Interim Chief Executive. Who is running the C.S.R.?

The Chief Minister:

The C.S.R. is run by the Chief Minister's Department with the board which I chair. Mr. Richardson, as interim Chief Executive, has an overall function of reviewing and ensuring that delivery is up to speed, but we have a team in the Chief Minister's Department which is doing that and the process is well underway. I would not like to think that Mr. Richardson, in his previous role, took no interest in the C.S.R. process but, even at that time while he was Deputy Chief Executive, the system itself was bigger than the one man.

Senator S.C. Ferguson:

Yes, with great respect, before Mr. Richardson (I am sorry, we are talking about you) before you took up the post of interim Chief Executive, you were Deputy Chief Executive and Head of Resources. Now, what has happened to that?

The Chief Minister:

That is a slightly different matter than for me, it is the C.S.R. In terms of resources, there will be some restructuring within the organisation and perhaps John can explain how that is taking part. What we really need to make sure of is that those areas of resource function, which perhaps has some difficulties which have been identified, how those difficulties are being addressed and how we have got departments or areas which are going to be more fit-for-purpose than they previously were.

Senator S.C. Ferguson:

Yes. Because the whole set-up is cross-connected because Resources is where you are going to get your biggest savings in the C.S.R so that if you change horses or change leaders midstream, it is quite a difficult operation.

The Chief Minister:

Yes. I do not think we are necessarily changing horses, we are maybe giving the horse an extra few oats or a different-coloured uniform. John?

The Chief Executive:

Thank you. Just to pick up on the Comprehensive Spending Review. Certainly, the role I had in my previous role was about bringing together the process we were going to use to work with departments to manage (1) identifying the savings but then tracking them to deliver. As the Chief Minister has already said on a couple of occasions this morning we set up a fairly rigid system of governance and control at different levels so that there is oversight and control. So the amount of day-to-day input I have on it is probably lower now than it was when we first started the process off to design it and get the structure in place. But clearly, as Deputy Chief Executive/interim Chief Executive, or whoever the new Chief Executive is, if he is one of the key planks at the moment for the Council of Ministers and for the States to deliver on C.S.R. so any of those people I have just mentioned will have a key role in making sure that the governance and control is there to (1) make sure we deliver but (2) help departments because, as I have said before, there is a lot of transformation going on about changing the way we deliver service in order to generate the saving. In terms of the Resources Department, as the Chief Minister said, certainly in the 2 years I have been doing the job, there has been quite a significant amount of reviewing the function and providing assistance to maybe reshape it a little bit and get it more fit for a modern organisation, especially having to face up to the challenges we now face with delivering C.S.R. efficiency change, et cetera, and I am confident

that we have now achieved most of those changes that needed to be made so I would like to think that the Resources Department, or the functions within Resources, are now better fitted or better positioned to help in delivering a modern government and a modern public service. So, as we move forward into the new structure, subject to a new Chief Executive being appointed (whoever that is and however that person decides to finalise) then I would like to think that those functions are now ready to sit wherever they need to sit to continue providing that support to departments.

Senator S.C. Ferguson:

But in your position as Deputy Chief Executive, you were Accounting Officer as well for the Resources Department. Now, are you still Accounting Officer for the Resources Department?

The Chief Executive:

In my interim role, yes.

Senator S.C. Ferguson:

So you have got a much broader mandate but you have also got specific duties to do. How are you going to combine them?

The Chief Executive:

Well, the interim role at the moment is relatively short because the advertisement has already been placed for the Chief Executive, so we are only talking a period of a few weeks or a month or 2 at the most, in order to resolve the position of the Chief Executive. Once that is resolved then, clearly, the split of responsibilities and

accountabilities from an accounting officer perspective need to go with the respective chief executive and whichever area the Resources functions sit.

Senator S.C. Ferguson:

So the position of Chief Executive has already been filled?

The Chief Executive:

No.

Senator S.C. Ferguson:

Sorry.

The Chief Minister:

No. The advertisement for Chief Executive has been placed, applications have been received, interviews will be held in a couple of weeks' time and the process is a continuing process. At the moment, Mr. Richardson is acting as the interim Chief Executive pending the appointment of a chief executive.

Senator S.C. Ferguson:

Sorry, I misunderstood.

Senator J.L. Perchard:

Just talking about the process of recruitment. Advertisements have been placed, Chief Minister, you said. Where?

The Chief Minister:

Locally, in the *Evening Post* and on the States website.

Senator J.L. Perchard:

Right. Anywhere else?

The Chief Minister:

Not at this stage. The view expressed by the States Employment Board is that it would prefer to appoint a local person if at all possible.

[10:45]

This is expected, in relation to a proposition I have lodged, to be a 3-year appointment. While this review, the restructure, is ongoing we believe that a local person is best suited to do that post for this period. If a local person of sufficient ability cannot be found, then we would have to widen the net.

Senator J.L. Perchard:

Can you describe the process, then? The advert has gone in, applications have been received. What happens now and who is undertaking the process?

The Chief Minister:

The process is undertaken, effectively, by the States Employment Board who will set up an interview panel to the process which will have various aspects to it in terms of assessing capabilities and a recruitment panel will make a recommendation to the

S.E.B. and, effectively, to me as Chief Minister and Chairman of the S.E.B., as to the name of the successful appointee or otherwise.

Senator J.L. Perchard:

What political involvement will there be in the short-listing and selection of candidates and the recommendation of the successful candidate to the States Employment Board; what political involvement and who particularly is involved in that?

The Chief Minister:

This is a matter where, as we said earlier in the day, the States Employment Board is the one ultimately responsible in law for the employment of an employee and it is for the States Employment Board if they consider the need to have a broader-based recruitment panel and they could ask for States Members to be on it. But, realistically, for any senior position, the people you want on a recruitment panel are people with particular knowledge and expertise in the appointments process so that we will have, obviously, someone from the Appointments Commission playing a key role, someone with knowledge of these sorts of activities on a national basis as well as people like myself as Chief Minister.

Senator J.L. Perchard:

We have not got a candidate brief out ... well, you must have a candidate brief out so the applicants know exactly what they are applying for and what hoops they will have to jump through in order to get the position.

The Chief Minister:

Yes.

Senator J.L. Perchard:

Is that candidate brief available publicly for us?

The Chief Minister:

Yes, probably.

Senator J.L. Perchard:

Then that will describe as to who will be on the interview panel.

The Chief Minister:

No. You would not normally describe on a job advertisement who would make up the interview panel but you would clearly say that candidates would be expected to face an interview-selection process.

Senator J.L. Perchard:

But the candidates will have received more information than in an advertisement; once they have applied, they will get a briefing pack, surely?

The Chief Minister:

Once the candidates have applied and if they are short-listed, then the interviewer will give them full information about what they can expect to be faced with at their selection process.

Senator J.L. Perchard:

Right. Will you be able to share that with us, that briefing pack to the successful candidates who are short-listed?

The Chief Minister:

The briefing pack is the job description, it does not contain information about the assessment centre process. It is just the information that is provided to all candidates: the briefing pack and background information about working for Jersey, employment in Jersey, it is not about the assessment centre, the actual interview process.

Senator J.L. Perchard:

Fine. Then I will find it easy to comprehend when you share it with us. Thank you.

The Chief Minister:

Yes. Effectively, anyone who is applying for the job should have a fairly good knowledge of modern assessment processes.

Senator J.L. Perchard:

Yes. Okay. I think it is vitally important that we do see that as the Corporate Services Chairmen. Thank you. So what is the timescale? When do you think we will have the new Chief Executive in place?

The Chief Minister:

Well, I am always loathe to give predictions but the interview process, the assessment process will take place the week after next. Assuming that that could be completed at that time, a decision should be made shortly thereafter as to whether one of the candidates has been successful in the appointment or whether, indeed, the selection panel needed to obtain further information.

Senator J.L. Perchard:

You are unable to tell us who is on the selection panel, or you are not prepared to tell us?

The Chief Minister:

At this stage, it has not been finalised.

Senator J.L. Perchard:

Right. Okay.

The Chief Minister:

I can certainly tell you that I am and I can certainly tell you that a representative of the Appointments Commission, probably the Chairman, also will be. We are endeavouring to get a senior member of one of the U.K. Government bodies. I do not know if he has yet said yes, so I am not going to disclose names there. Then there will be, no doubt, technical panellists, but that is something which will be resolved over the next week or so as we identify what needs to be done.

Senator S.C. Ferguson:

Can we have an update on the implementation of the Freedom of Information Law, please? We have passed the law, now what?

The Chief Minister:

We have passed the law, the next stage, as we know that in order to implement the law properly, it will need time and money. If the money is coming at the right times, the law should be in place by 2015 but if the law is going to operate and be used effectively, then there has to be the resources in place in order to achieve that. I think the last couple of days the reports have come out from the Jersey Archive Service of the Archive Service's performance last year, which showed that the Archive Service had been operating very well and it had got a 4-star rating for the first time (for which they deserve to be congratulated) but they also point out that if they are going to bring their records up to date they require additional manpower, at least in the short term. It is a question of in these times of not only competing demands but reducing budgets, what is the amount of resource that can be applied to a new activity such as Freedom of Information.

Senator S.C. Ferguson:

Yes. The concept of the law has been, sort of, bumping around in the background for quite some time. It did seem during the debate that if you have got a good system of record management, then you can cope with it fairly easily. Have you looked from the Chief Minister's view at the record management throughout the various departments that you have got responsibility for, if you have not got the authority? What is the sort of feedback you are getting as to what state they are in?

The Chief Minister:

The feedback we are getting is that some departments are quite well equipped, other departments are rather more poorly equipped but, in any such law, you need to have consistency across departments and be able to have a uniformly-high standard otherwise there is going to be criticism that the law is not working well in many cases and then the law itself comes into disrepute. We saw this with the Public Records Law where that law was alleged to have no financial implications, so no one spent any money on implementing the Public Records Law. Now, 10 years later, we wonder why we have got a Business(?) Relations Law which we cannot implement because the records are not properly in place.

Senator S.C. Ferguson:

Yes. Because, looking at the Archive, the Archive is the sort of dumping ground for a lot of old files and information from various departments and from external bodies.

The Chief Minister:

I think I would be more polite than call it a “dumping ground” but it is ...

Senator S.C. Ferguson:

Or a depository of last resort.

The Chief Minister:

It is hopefully a repository of almost first resort where you would have a proper records management system across the States departments and across the archive system as well.

Senator S.C. Ferguson:

Yes. But should they not be able to charge the departments and to charge the outside bodies? Because, in effect, they are doing quite a lot of storage for these people of old files.

The Chief Minister:

Yes. Certainly. That is a matter of States policy. To the extent that, yes, you can certainly charge the public for file storage and I do not think that, in itself, is going to be sufficient (and it may be, indeed, counter-productive) because if you are going to charge the public for storing files, to use your expression, as a “dumping ground” people may well say: “Well, look, I am not going to have to pay to keep them there, I might just as well take them to Bellozanne.”

Senator S.C. Ferguson:

Yes. I am sorry, I should not perhaps have said “dumping ground” but there are certain records and so on that organisations have to keep statutorily and they give them to the Archive because there may be information in them that is useful there. You know, it is an alternative to taking them to Bellozanne.

The Chief Minister:

I think we are now talking about a general approved government policy that there are many records which, for historical comparative reasons, are worth keeping for a considerable period of time and making sure that they are kept in the best possible conditions.

Senator S.C. Ferguson:

Yes. But is it one of these things that ... I mean, it is not a free service because in the end we are paying for it; should we be bringing the payment up front so people know how much it costs?

The Chief Minister:

Yes. I think in terms of the policy of having a cost centre so we know where the costs occur, that is a policy which I would encourage but, of course, within the States organisation, it does not really help a great deal if you say that, for example, the census records which are stored in the Archive for, let us say, 200 years, coming under the responsibility of the Chief Minister's Department so: "Chief Minister's Department, would you now pay us £20,000 a year for keeping the census records?" I then have to find another £20,000 a year in my budget so I go back to the States and say: "I now need to pay that money" and they could hand me the money to pay the Archives to keep the census records. It is going round in a circle, effectively. It is more transparent because it shows where the costs are being incurred. It might be that the census records cost £20,000 to store and Health records cost £50,000 to store and so on. But it is really, to that extent, moving funds around the system.

Senator S.C. Ferguson:

Yes. Which is something which should perhaps be ... I mean, should the Archive be located where it is in the organisation of the States? Should it, in fact, be part of the Chief Minister's Office?

The Chief Minister:

It could be but it is, effectively, a stand-alone function. Which department has responsibility for it is perhaps immaterial; it does not reduce the cost either way.

Senator S.C. Ferguson:

No. It takes a lot of files and so on from places like the J.F.S.C. (Jersey Financial Services Commission) where old company files are stored there. I do not know where else the records come from, but ...

The Chief Minister:

Well, off hand, I am afraid, I cannot give you any categorical answer on those matters. All I was saying ... we were talking about Freedom of Information here and I was just saying that we need to have proper record management.

Senator S.C. Ferguson:

Yes. But, obviously, record management costs money.

The Chief Minister:

Yes.

Senator S.C. Ferguson:

We have heard there is a proposed new format for the Strategic Plan. Has that got any further? Can you advise us of what is happening?

[11:00]

The Chief Minister:

Well, I think I did raise this with you at a previous meeting at some stage and there was a discussion with States Members some while ago and I think I would say the feedback from States Members, perhaps not surprisingly, was mixed: there were some who felt that they wanted a very simple streamlined Strategic Plan process, there were others who wanted to know all the ins and outs and wanted to go down to the last detail. I am still of the view (and I think the view is shared by this Scrutiny Panel) that less is better and we should not go into too much detail and we are trying to see, really, how that can be achieved within the overall existing States of Jersey Law because, at the present time, we are focusing very much on the Public Finances Law and making sure that the budgeting process is fit for purpose for the next 3 or 4 years.

Senator J.L. Perchard:

I understand what you are saying, less is more in the sense of strategic initiatives, if you drill down too deeply ... and sometimes one can do 2 things, I would think: tie us up in a knot and restrict your ability to shift sideways as the year unrolls or the 3 years unroll, and of course, States debates could go on ad infinitum with amendments to detail. But, having said that, how do you feel that the Council of Ministers with their Strategic Plan could be inclusive of the States wishes without some detail, a certain level of detail in the Strategic Plan?

The Chief Minister:

Yes. I think, where you have got the concerns, in my view, if you have got a general overview of the general sense of policy (which might be, we will say, an expansionist

policy, a status quo policy, a very inward-looking policy) then you could say that that is your general shape of a strategic plan. How much detail you would then want to go into as to how much you would implement, we will say, an expansionist policy, will vary from States Member to States Member and there will be some that wanted to see every last detail and there will be some who will say: “No, that is the general thrust.” If we do not like the way that the Council of Ministers are going about that, we will bring a proposition that we no longer have confidence in the Council of Ministers that they are delivering a strategic plan along the lines that we want to do. There are going to be 53 variations on that theme, or maybe 51 next year, and you are never going to please everyone.

Deputy D.J. De Sousa of St. Helier:

Sorry. I came in late, I was at the Planning Meeting for the Island Plan. Following on from that, would you not think it would be possibly better for the Chief Minister and the Council of Ministers to come forward with the Strategic Plan and, if you are saying that maybe there should not be so many amendments and changes to it, that the Council of Ministers should stand and fall on that, then?

The Chief Minister:

Effectively, yes. I think there has got to be sufficient detail for States Members to make an informed judgment about whether they like the direction in which the Council of Ministers is going, but prior to this, the sufficient level of detail for that, then if States Members say: “No, we think you are going in the wrong direction” and the Council of Ministers say: “No, we think we are going in the right direction” then, clearly, that is a situation which is probably better resolved at the overall level rather

than simply saying: “We can solve this simply by telling the Council of Ministers to make a minor tweak here and hopefully it will all be right thereafter.”

Senator J.L. Perchard:

So are there any proposals for changes in process, as outlined by Deputy De Sousa just now, for the next Strategic Plan debate?

The Chief Minister:

That is still for discussion at the Council of Ministers, we have got another discussion on that this coming Thursday, so it is ongoing. We are of the view that the last 2 Strategic Plan debates have had failings and we have tried to address that to reduce the size of the discomfort for the next debate.

Senator S.C. Ferguson:

Super. Bearing in mind the forthcoming elections, what advice do Ministers get given regarding their role? Are the guidelines or Code of Practice ... well there is a Code of Practice, certainly, but are Ministers properly briefed on what is required of them and how? Because we get Ministers saying: “My employees” well, the Ministers do not employ the employees, so what guidance is there for them?

The Chief Minister:

Well, there is guidance insofar as the first couple of meetings with the Council of Ministers will go into general details about their duties and responsibilities, and discussions with the Chief Officer and senior management team should give them departmental guidance as well. In terms of what Ministers will say publicly, if they

speak of: “My employees” they might be implying that they are employees of their department, more likely they are just using a general phrase and saying: “The staff in my department”, constrained in the latter to: “My employees” which, perhaps, the speaker means the same thing, even though it conveys a misleading message. So I think, going back to the thrust of the question: “What training do Ministers get?” at the start of the 3-year session they tend to get a reasonable induction process. Where there will be a potential hiccup in that process is where Ministers are appointed mid-term, and there it is more a question of a one-to-one meeting with the Chief Minister and their chief officer, whichever department they have been appointed Minister to. But, to be honest, I probably would not go into a great amount of detail on the interpretation, as I say, of the Code of Practice, I would just say that: “This is the Code of Practice for Ministers” and so on. There is always scope for further development of what training Ministers might receive, a lot of it tends to be on-the-job training and responding to particular activities and also, I suppose yes, you tend to learn by experience and if you have got a particular concern, then you should not be afraid to ask questions of your ...

Senator J.L. Perchard:

But you agree that some Ministers handle themselves differently with regards to being a Minister (or the Minister) than others in the sense of their definition of their role?

The Chief Minister:

Yes.

Senator J.L. Perchard:

Would you agree that the Minister is the, sort of, titular head of the body corporate rather than an individual who goes off and makes decisions on his own?

The Chief Minister:

Well, he is not the titular head, he is the corporation's soul and he is the person with the legal responsibility. The Chief Officer is the accounting officer and has accounting responsibility. We have rather come round in a full circle here to this question of the structure of government where you have got Ministers who do have authority and power in respect of their own department.

Senator J.L. Perchard:

What does that mean though, Terry? When the States of Jersey Law said: "It will be at the discretion of the Minister" or referred to the Minister, does that literally mean (as some Ministers do think): "Well, I will go home and ponder this on my own" or does it mean that they will represent their department's view?

The Chief Minister:

To the extent that Ministers make decisions (and you will know because you have been a Minister in the past) Ministers take a decision having received officer advice. Whether they then follow that officer advice or not is entirely up to the Minister.

Senator J.L. Perchard:

You have put your finger on it here, of the anomaly, you have put your finger exactly on it. Does it concern you, because it concerns many of us?

The Chief Minister:

Well, it is a concern but, equally, Ministers are obliged to act within the law.

Senator S.C. Ferguson:

If the Chief Officer does not agree or feels that the Minister is acting totally out on a limb, then he does have the facility to write a letter of direction, I think it is called, is he not?

The Chief Minister:

If there is an accounting-officer involvement, then an accounting officer who is placed in a difficult position is entitled to demand that his Minister puts in writing, effectively, an order making him do that.

Senator J.L. Perchard:

Terry, can I give you an example of concerns of a Minister acting independently and outside the body corporate of which he represents, and that is the planning permission granted to the hotel at Portelet. All the officer advice, all the departmental advice was: "No, this is not appropriate" but the Minister chose to not refer the application to the Application's Panel, but to determine it himself. Are you satisfied that that is a correct process or does this need addressing?

The Chief Minister:

It is a very tricky sort of thing if it needs addressing; on the other hand, if the Minister has no latitude whatsoever then, effectively, you have got a decision that is being made by your chief officer and that is a situation where it is difficult to see how a

Minister has legal responsibility as the corporation's soul but cannot make up his own mind and he is just going to do what his chief officer tells him. So it is not as simple ... I accept the difficulties which you highlight there, Senator, but I am saying that the solution you are suggesting is not necessarily a solution either. That is why, I think, the Review of the Machinery of Government in that respect is important in that, if there are ways in which we can achieve a better outcome for the problem you are suggesting, then maybe we ought to look at that. But at the present time, the way things are where each Minister of each department has this autonomy and the ability to do what he or she thinks right (effectively with no sanction from the Chief Minister or Chief Executive) you are going to have this freedom which some people will say ... and I think at the time of the original Clothier debate it was good we gave the Ministers independence, but it was felt that independence also comes with responsibility.

Senator S.C. Ferguson:

Right. Is there anything else?

Senator J.L. Perchard:

No. That is good. I maybe just wanted to touch on the progress of the S.o.J.D.C. (States of Jersey Development Company) and the proposal of ... did we want to go there?

Senator S.C. Ferguson:

No. I do not think so. We are waiting for your report to come out.

Senator J.L. Perchard:

No, but on 7th June we will be debating the proposition lodged to appoint an interim chairman. Chief Minister, do you think it is that urgent that we need to put an interim chairman in place rather than start the process again?

The Chief Minister:

Yes. I think it is, really. To start the process again is not going to see an outcome probably much before the end of this term of office of the States by the time you have advertised and gone through the selection process and everything. Realistically, to have what has been acknowledged by everybody as an unsatisfactory solution of the Water and Enterprise Board continuing for that length of time after the States have specifically said: “No, replace W.E.B. (Waterfront Enterprise Board) by S.o.J.D.C., and do it as soon as you can” I think I would be failing my duties if I did not try to implement that decision as soon as I can. The fact that now I have the chairman that we would have preferred is water under the bridge, but what we have got to do is to make sure that, nonetheless, I implement the States decision in the best possible way.

Senator J.L. Perchard:

There is not a problem with the interim nomination being also the Chair of the Jersey Competition Regulatory Authority with regards to conflict of interest, in your opinion?

The Chief Minister:

No.

Senator J.L. Perchard:

Thank you, Chairman.

Senator S.C. Ferguson:

Right. Thank you very much indeed, Chief Minister. Thank you Interim Chief Executive.

The Chief Minister:

Thank you. We seem to have done remarkably well on timekeeping.

[11:15]