

Economic and International Affairs Scrutiny Panel

Small Business Environment: Briefing Paper

Introduction

The Panel has expressed an interest in undertaking a review of the small business environment in Jersey. This paper provides an overview of the publicly available information relating to small businesses including Government policy, statistics, legislative considerations and support services.

The following appendices have been included:

- Oral question (2017) to the Minister for Economic Development regarding measures taken for which a tangible benefit for small businesses in the Island could be demonstrated;
- Oral question (2018) to the Minister for Economic Development regarding grants to small businesses in order that they might comply with the Discrimination (Disability) Regulations

Government Policy

In terms of Government policy regarding the business environment, one of the 5 strategic policies contained in the [Common Strategic Policy](#) is: “We will create a sustainable, vibrant economy and skilled local workforce for the future”. This is underpinned by 2 of the 8 Common Themes:

We will make St Helier a more desirable place to live, work, do business and visit (Creating a sustainable, vibrant economy and skilled local workforce for the future)

We will explore and use the opportunities offered by digital (Shape an attractive business environment to deliver jobs and growth)

How many small businesses are there in Jersey?

The Labour Market (June 2019) [report](#) provides statistics on private sector undertakings (businesses) by the number of employees. In 2019, there were a total of 7,750 private sector businesses (referred to as “undertakings” by Statistics Jersey) in Jersey. Only 190 of these employ more than 50 employees. The majority of private sector undertakings in Jersey employ fewer than 50 employees (7,570 in total). A total of 6,300 employ 5 employees or less.

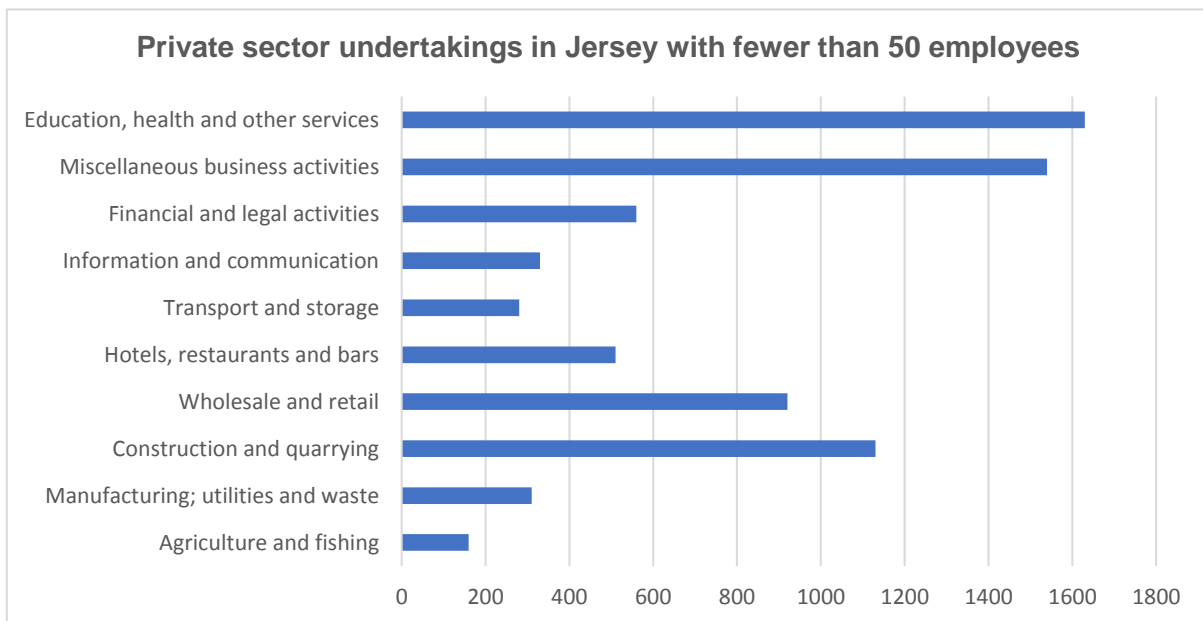
If the Panel is to undertake a review of the small business environment, its starting point should be to confirm what defines a small business. It is noted that Statistics Jersey defines a small business as having fewer than 50 employees within the organisation (latest Business Tendency Report). **It might be worth writing to the Chief Statistician to ask about a further breakdown of statistics on small businesses and to confirm the definition of what a small business is.**

Total number of private undertakings, by sector, with fewer than 50 employees:

The total number of private undertakings with fewer than 50 employees is 7,570. The table below provides a breakdown of these undertakings, by sector (June 2019):

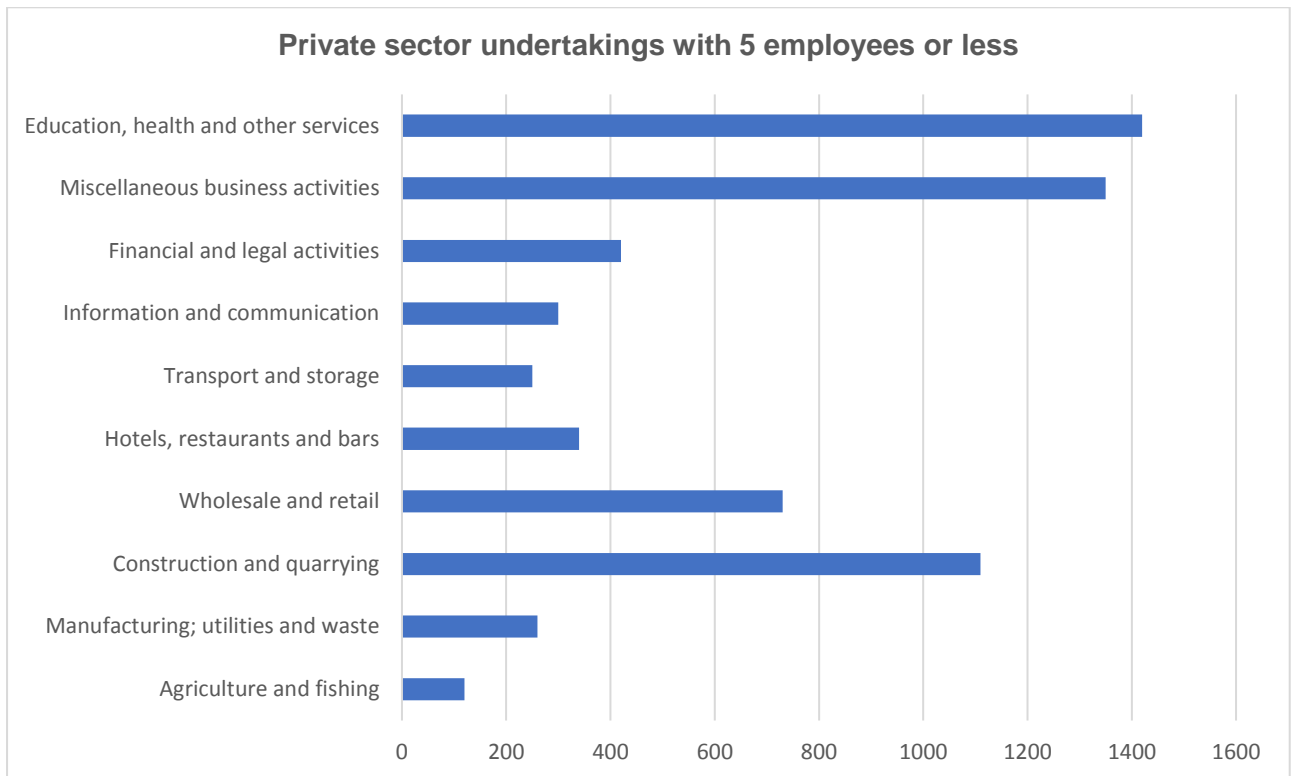
Sector	Number of Employees				
	1	2 to 5	6 to 9	10 to 19	20 to 49
Agriculture and fishing	80	40	10	20	10
Manufacturing; utilities and waste	210	50	30	10	10
Construction and quarrying	720	390	100	70	50
Wholesale and retail	460	270	90	60	40
Hotels, restaurants and bars	150	190	70	70	30
Transport and storage	220	30	10	10	10
Information and communication	220	80	10	10	10
Financial and legal activities	250	170	50	40	50
Miscellaneous business activities¹	1,000	350	80	70	40
Education, health and other services	1,120	300	80	70	60

The graph below shows the total number of private sector undertakings in Jersey with fewer than 50 employees.



¹ The miscellaneous business activities sector includes private sector services usually provided to businesses that aren't classified elsewhere. These include real estate activities, administrative and support service activities, and professional, scientific and technical activities

The graph below shows the total number of private sector undertakings in Jersey with 5 employees or less:



The statistics show that a higher proportion of small businesses are within the education and health related areas. Businesses related to construction and quarrying are the third highest sector with 5 employees or less.

Employment legislation and support for small businesses

Running a business and employing people involves compliance with a range of laws². The Employment (Jersey) Law 2003 covers employer obligations for their employees and includes:

- Written statement of employment
- Minimum rest periods and annual leave
- Minimum wage and payment of wages
- Termination of employment and notice periods
- Redundancy
- Fair and unfair dismissal
- Staff handbooks, internal policies and procedures
- Equal opportunities and discrimination
- Trade unions and staff associations
- Employment Tribunal

² [Employing People: The HR Toolkit for Small Businesses](#) (Jersey Business0

The other main pieces of legislation which employers must comply with are:

- Employment (Jersey) Law 2003
- Employment Relations (Jersey) Law 2007
- Rehabilitation of Offenders (Jersey) Law 2001
- Jersey Advisory and Conciliation (Jersey) Law 2003
- Discrimination (Jersey) Law 2013
- Control of Housing and Work (Jersey) Law 2012
- Employment and Discrimination Tribunal (Procedure) 2016
- Health and Safety at Work (Jersey) Law, 1989
- Data Protection (Jersey) Law 2018
- General Data Protection Regulation (GDPR)

Support services for businesses in Jersey

In 2014, JACS launched an outreach advisory [service](#) to help small businesses comply with the essential requirements of the Employment Law. The service is available at times and places to suit the employer such as out of town workplaces and within or outside normal office hours. The service was launched following discussions with the then Social Security Minister (Senator Francis Le Gresley) about comments made in a [Review of the Jersey Employment Tribunal](#) by Darren Newman LLB.

Mr Newman identified that some of the smaller businesses struggled with the basic principles of employment law and have little in the way of HR support. He also said that smaller employers were less likely to adopt formal procedures on employment matters:

“...it is clear that some small employers in particular are struggling with (or ignoring altogether) some of the basic principles of employment law. Whether anything can be done to improve their capacity or awareness in this area is beyond the scope of this report, but obviously the advice and support available from JACS is key.”

“It is often a feature of very small employers that their relationships with staff are essentially personal and so when those relationships break down the employer struggles to follow a recognisably fair procedure. Disciplinary investigations and hearings can appear to owner-managers to be unnecessarily legalistic or bureaucratic. Balancing this reality with the right of employees to be treated reasonably is a difficult task for employment law to perform.”

“There are several examples in the cases of 2012 in which the Tribunal specifically made allowances for the fact that the respondent was a small employer with little in the way of HR support. Nevertheless, employment law is designed to protect all employees and the fact that an individual happens to be employed by a small business should not make him or her more vulnerable to unfair treatment. Small employers need to be aware of the minimum standards that apply in the workplace. This report is not

the place to consider what more needs to be done to increase knowledge of employment law in the business community but clearly JACS has an important role to play.”

“Small employers in particular are less likely to adopt formal procedures for redundancy selection and consultation – indeed these concepts may not have much meaning in very small workforces of just a handful of employees.”

If the Panel is to undertake a review, it would be worth speaking with JACS about the services they provide, and if they have any statistics on the common challenges smaller employers are seeking advice on.

In terms of other support, it is noted that [Jersey Business](#) provides free, independent, confidential advice to businesses (all types and sizes) in Jersey. Jersey Business is supported by Government but works independently.

The Jersey [Chamber of Commerce](#) also acts as a representative body for businesses in Jersey.

Island Plan 2011

The Island Plan sets out planning policy for Jersey. Work is underway on the Island Plan 2021 to 2030 which will set out and plan for Jersey’s growth over a 10 year period. The current plan was adopted in 2011 but a new plan is required to respond to current economic, environmental and social challenges.

The current 2011 plan provides the following policy area in relation to businesses in Jersey:

Policy SP 5

Economic growth and diversification

A high priority will be given to the maintenance and diversification of the economy and support for new and existing businesses, particularly where development can attract small footprint/high value business from elsewhere and foster innovation, in the following ways:

1. the protection and maintenance of existing employment land and floorspace for employment-related use;
2. the redevelopment of vacant and under-used existing employment land and floorspace for new employment uses;
3. the provision of sufficient land and development opportunities for new and existing employment use.

The consultation [document](#) for the new plan (2021 – 2030) includes a section on “protection of employment land” and says:

Employment land – land and buildings that are used to support any economic activity including: offices; light industry and warehousing; retailing and the evening economy; the rural economy, including agriculture; and tourism – is vital to the sustainability of the island's economy. However, given the limited size of Jersey and the need to protect our sensitive heritage assets, landscapes and coastline, the supply and availability of land and buildings for economic activity is limited.

In December 2018, there were 7,640 private businesses in Jersey, 81% (6,250) of which employed five or fewer people. Given this, the loss of any size of site in employment use can have a significant impact on our economy and on the welfare of employees.

This is why, when any such land or buildings are to be released from their current economic purpose, it is important that they are made available to other employment-related uses.

The current Island Plan contributes to this objective by seeking to protect and to facilitate the use of land for economic activity. This protection regime does not apply to office or hotels.

It is likely that the increased demand for housing over the next Island Plan period will increase the pressure to release more employment land for new homes.

It then asks people to comment on whether we should continue to protect employment land and buildings from loss to other (non-employment) forms of development. The first stage of the consultation was closed on 4th October 2019. Stages 2 and 3 of the consultation process is to develop a draft Island Plan, with reports and studies published throughout 2020. Stage 4 is to publish a final draft for States approval in 2021.

Review areas

If the Panel decides to undertake a review, the following review areas could be considered:

- Exploring the Minister for Economic Development's approach to supporting small businesses, including any initiatives as a result of the Common Strategic Policy.
- Examining the challenges and opportunities for small businesses in Jersey including:
 - Legislative changes
 - Government-backed schemes
 - Support services
 - Government policy (Island Plan)

**States Greffe Scrutiny Office
November 2019**

2017.01.30

16 Deputy S.Y. Mézec of the Minister for Economic Development, Tourism, Sport and Culture regarding measures taken for which a tangible benefit for small businesses in the Island could be demonstrated: [1(94)]

What individual measures, if any, has the Minister taken since taking office for which a tangible benefit for small businesses in the Island can be demonstrated?

Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):

The strong performance of the small business sector in reality is a team effort. Benefit starts right here in the Assembly and manifests in the departments responsible for the economy, namely the Chief Minister's Department, the Treasury and my department, with other departments and States Members playing a strong supporting role. The majority of individual measures taken to support business flow through our partners, who include Visit Jersey, Digital Jersey, Genuine Jersey and shortly to be joined by Farm Jersey, and, of course, Jersey Business. Jersey Business provides advisory support to a growing number of small businesses across all sectors of our economy on a daily basis. The number of clients they are actively working with today is 211, which is an increase of nearly 60 per cent in the last few years. In addition my department provides support for small business on a case-by-case basis at weekly meetings of the Housing and Work Advisory Group and just last week I launched a full consultation process on a new tourism law that will cut red tape and allow businesses to be much more flexible in that sector. In late September 2016 the Statistics Unit reported that the majority of non-finance sectors of the economy recorded real term growth in G.V.A. (Gross Value Added) and productivity in 2015. Our focus has and will continue to be for these figures to show further growth when the figures for 2016 are released later this year. All this support helps to deliver tangible benefits for small businesses, is provided free of charge and is a key part of our enterprising grant strategy.

4.16.1 Deputy S.Y. Mézec:

Supplementary. When I have spoken to business people in the last few weeks, many of whom are finding it particularly difficult right now, in particular the smallest businesses and those that are just trying to get up on their feet, and I think of one businessperson who is worried that in the next few months he will have to end his business activity because he has not felt like he has had the support getting his business up on its feet. What radical ideas does the Government and, in particular, this Minister have to look at things like our social security contribution system, look at these other elements to see what can be done for those businesses in their starting days that is perhaps thinking a bit outside the box or is not connected purely to setting up a quango or something like that to offer advice but something really radical and tangible? What discussions has he had and what ideas does he think would be worth putting out there to consider that would help those businesses in their early days?

Senator L.J. Farnham:

I have had numerous discussions with various representative bodies of commerce and business sectors, but I would recommend to any business, small, medium or large, that are having difficulties and need help to visit Jersey Business. It is a completely changed and reformed, productive and forward thinking organisation that does provide real, tangible assistance to businesses so any businesses struggling I urge them to go and talk to Jersey Business.

4.16.2 Deputy M. Tadier:

One of the tangible benchmarks that residents and businesses in my constituency use is the number of empty shops there are and it has to be said that in the Le Quennevais area, and Le Quennevais precinct in particular, the number of empty shops, about 5 or 6, has not gone down significantly in the last year since I raised it previously with the Minister here. Could the Minister clarify what steps, if any, he thinks he could or has used to address this issue of high rents, particularly in the St. Helier semi-urban or urban areas?

Senator L.J. Farnham:

I think one of the best things Government can do to support small business is stay out of the way and, of course, these shops are often empty not because of Government economic policies but simply because the way the marketplace is performing at the moment in terms of competition. We are working with retailers to develop a new retail strategy and will be supporting them in establishing their own retail group aligned to a similar group in the U.K. which will enable them to drive their own policies and grow their own business sector. As I said, I cannot be held responsible for empty shops but I will say that I will be prepared to sit down with the Deputies in any constituency where there is concern about the way local companies are performing and discuss ideas that might improve the situation. I would be really keen to help where I can and do everything I can to help that particular area.

4.16.3 Deputy M. Tadier:

The Minister says the best thing that Government can do to help small businesses is to stay out of the way. If only the Minister and his Council of Ministers had adopted those wise words when it came to the Innovation Fund then perhaps we would be a couple of million pounds the richer and that money could have been put to much better use. Does the Minister agree that perhaps the statement from another free market liberal essentially which says as much market as possible but as much state as necessary is the way forward here, certainly for people of his own political disposition. The Minister has let down small businesses because on the one hand it has blown away millions of pounds worth of money in a high-risk gamble to businesses that do not even exist yet and are not yet established. Yet when it comes to pre-existing, long-established Jersey businesses that are going through a hard patch there does seem to be enough being done for that. Would the Minister comment on that last part that we should be doing more for local businesses that are long-established, maybe going through a tough patch, facing the wall and that help needs to be given to those?

Senator L.J. Farnham:

I am not sure I really understand the question and I did not expect to receive a lecture on helping the economy from a member of the Reform Jersey party. I would love to ask them exactly, other than protest just about at everything we do, what they have ever done for small business. I would think the Deputy could write on the back of a stamp what he knows about small business. But anyway, the innovation support and funding, notwithstanding the current situation of the Innovation Fund, remains incredibly important and this Government and this Assembly must continue to support small business with innovation in the future. The Deputy's speech was quite rambling. I am not sure what the question was.

The Deputy Bailiff:

As I understood it, what more could be done for small businesses in this difficult economic climate?

Deputy M. Tadier:

May I just clarify that the Minister seems to want to have it both ways, saying on the one hand Government should stay out of the way but ...

The Deputy Bailiff:

Could you either ask a question in terms of: "Will the Minister?" Otherwise we are going to get nowhere there. Deputy Andrew Lewis.

4.16.4 Deputy A.D. Lewis:

The Minister will be aware that small businesses are the engine room of our economy. We have over 4,000 of them, if not more than that. Their greatest raw material is people. That is their only raw material and if you talk to many small businesses at the moment they will complain they do not have enough of them, those that are highly skilled; those that are essential to the progress of their business to grow that business, to create more jobs and to grow the economy. That is where the growth is going to come from. What is the Minister doing to work with the Minister responsible for population control to ensure that small businesses get their fair crack of the whip for licences, because I am consistently being asked by small businesses: "What can you do for me because I cannot employ the skills that I need to make my business a success?" What is the Minister doing about that?

Senator L.J. Farnham:

That is a good question and it is a difficult question answer because we have a number of policies that are clashing here. We have population policy versus the interests of business and our department through the efforts of Deputy Murray Norton, who represents the department on the Housing and Work Advisory Group, is fighting the corner of small business on a case-by-case basis, on an often more than weekly basis to try to make sure small businesses especially are properly staffed. We will continue to do that but it is difficult when you have a number of policies clashing against each other but I am sure, as the Assistant Chief Minister will testify and other members of the Housing and Work Advisory Group, my department through Deputy Norton and myself occasionally provides strong support and back-up for small businesses and we fight their corner as best we can, always and we always will do.

4.16.5 Deputy A.D. Lewis:

Does the Minister, though, accept that many of the larger businesses get licences and the smaller businesses do not? The higher value jobs get more licences. If I could just finish, does he not accept that unless you have a service sector that is supporting those larger businesses the people that cut the hair, dig the gardens and do other things, if you do not have those you do not have those high value jobs as well? One has to support the other so what is the Minister doing to balance that?

Senator L.J. Farnham:

I do wholeheartedly agree and fight that corner on a regular basis but it is simply not true that businesses are treated differently because of their size. In fact, I know that the department is working very closely with a number of larger businesses to help them reduce their reliance on non-qualified people. I wish at this stage I could delegate the answer to Deputy Norton who works on a daily basis with some of these people but I can assure Deputy Lewis we are doing all we can and businesses are treated fairly across the piece.

4.16.6 Deputy S.Y. Mézec:

The Minister says the best thing the Government can do is to stay out of the way but there are obviously clear examples where the opposite is true because the very nature of the free market is

that bigger businesses can sometimes use their dominance to act in an anti-competitive way that is unfair on small businesses and forces them out of their position in the market, which is why government intervention can be essential to secure those small businesses' ability to operate. I want to know what sort of government intervention could be considered as a good way forward to helping those small businesses when they are struggling with things like, as Deputy Tadier referred to, the cost of commercial rents where there probably is not enough regulation to ensure those businesses are able to feel secure in the long-term future of their premises and they can operate so they can invest in what they are trying to do. What thinking is the Minister having on those lines of positive government intervention to help those small businesses? If it is possible to answer in such a way that does not include a childish snide at another Member who has quite a good business record I would be most grateful for that.

Senator L.J. Farnham:

It seems that the Deputy can give out plenty of childish snides but does not like to receive them.

The Deputy Bailiff:

Is there an answer to the question?

Senator L.J. Farnham:

Yes, Sir. It reminds me of the scene from the famous Monty Python film, "The Life of Brian": "What have the Romans ever done for us?" How about 211 live cases of support from Jersey Business? Weekly case-by-case support for small businesses at the Housing and Work Advisory Group, a new tourism law, a new rural economy strategy, excellent inward investment support and job creation by Locate Jersey, Visit Jersey supported by Events Jersey, increase of its visitor numbers and growing the economy. The Tourism Development Fund working to support innovation in that sector, Digital Jersey the Digital Hub providing essential support and facilities for the digital sector; all of this growing the economy and providing more business for more small businesses and we are going to continue to do more of that.

2018.04.09

2 Deputy K.C. Lewis of St. Saviour of the Minister for Economic Development, Sport and Culture regarding grants to small businesses in order that they might comply with the Discrimination (Disability) Regulations: [OQ.63/2018]

Given the Discrimination (Disability) Regulations will come into effect from September 2018, will the Minister be awarding grants to small businesses to help them upgrade their premises in order to comply with the regulations?

Senator L.J. Farnham (The Minister for Economic Development, Sport and Culture):

In short, there are no plans currently to provide such assistance. Having said that, the regulations do not contain a specific requirement to upgrade premises to achieve compliance with the law until September 2020 so there is time to work with business to ensure that they can meet their commitments. I would say that I am inclined, and whoever is in the new Assembly, I hope will feel comfortable in offering support for businesses, not just with this but other areas of social responsibility we are putting upon them.

3.2.1 Deputy K.C. Lewis:

While I fully support the disability regulations, is the Minister aware ... also I must declare that I am a board member of EYECAN, the Jersey Blind Society. I fully support the new regulations coming in but is the Minister aware of how much a cost and the burden of this is going to be on small businesses and does he think there should be assistance in the future?

Senator L.J. Farnham:

I thought I alluded to that but, just to be clear, businesses will simply be expected to do more than what is reasonable improving the accessibility of buildings. It is important but many reasonable adjustments can be inexpensive and relatively easy to implement and it is expected that the majority of changes will be relatively straightforward. Having said that, there are some that will not be and I do support, in principle, support for businesses to help to achieve these standards.

3.2.2 Deputy G.P. Southern of St. Helier:

On a wider base does the Minister have a budget for assisting with industries' adjustments in the light of the Discrimination Law?

Senator L.J. Farnham:

Not in the current budget but, of course, that will be a matter for the next Minister and the next Assembly during the process, but I would also refer the Deputy to the finance and manpower statement that was part of the regs when they were approved and he will see that some money has been put aside to help businesses in an advisory capacity.

3.2.3 Deputy K.C. Lewis:

I thank the Minister for his reply which is very constructive. Will he also come down on businesses that are refusing access to guide and other assistance dogs under the Discrimination Act?

Senator L.J. Farnham:

I think the law will do that but I think many forward-thinking businessmen and women realise that by adhering to these rules they are creating business opportunities for themselves.