



Economic Affairs Panel

Family Friendly Employment Rights

Witness: Chamber of Commerce

Wednesday, 3rd April 2019

Panel:

Deputy K.F. Morel of St. Lawrence (Chairman)

Deputy D. Johnson of St. Mary (Vice-Chairman)

Deputy S.M. Wickenden of St. Helier

Witnesses:

Mr. E. Lincoln, President, Chamber of Commerce

Ms. L. Pestana, Chair, Human Rights Committee, Chamber of Commerce

Mr. M. Norton, Chief Executive, Chamber of Commerce

[11:04]

Deputy K.F. Morel of St. Lawrence (Chairman):

Thank you so much for coming in, all of you. It is really helpful, especially as it is all at very short notice because we are trying to get this review done in a way that still allows this proposal to be debated at the end of the month. Could I direct you to this ... I do not even know how to refer to this piece of paper ... piece of paper, which tells you about the nature of the panel and engagement with it. Before we get started, we will state our names for the record.

Deputy S.M. Wickenden of St. Helier:

Deputy Scott Wickenden, panel member and Deputy of St. Helier District 1.

Deputy K.F. Morel:

Kirsten Morel, Chairman of the panel.

Deputy D. Johnson of St. Mary:

David Johnson, Deputy Chair of the panel and Deputy of St. Mary.

Chair, H.R. Committee, Chamber of Commerce:

Lorna Pestana, Chair of the H.R. (Human Resources) Committee of Chamber.

Chief Executive, Chamber of Commerce:

Murray Norton, Chief Executive of the Chamber of Commerce.

President, Chamber of Commerce:

Eliot Lincoln, President of the Chamber of Commerce.

Deputy K.F. Morel:

Wonderful. Thank you so much for coming in. We are here ... in fact I came up with 3 aims ... to understand the role of Chamber and the consultation process, to understand your Chamber's views on the proposals before us, and ultimately to understand your views on the potential effects of these proposals on your members. That is the overarching aim of what we are looking for. We have a number of questions to get through but I thought we could start, essentially for the record, if you could describe the role of Jersey Chamber of Commerce in general. What does the Chamber do?

Chief Executive, Chamber of Commerce:

The Chamber is there to represent the membership. The membership is made up of some 550 businesses, which encompass 27,000 employees. Each one of those employees, by the membership subscription paid by their employer, becomes a member of the Chamber of Commerce. We therefore represent all of those members, so we represent 27,000, which is more than half the working population. We have been in existence now for 251 years and have been instrumental in most parts of what we now accept as Jersey life. In its modern-day role, it very much is there at the request of Government to give the point of view of its members, to represent the members' interests and the best interests of Jersey and the prosperity of Jersey. We are also there very much as a go-to for the press and the media who very much want our opinion on behalf of business. We represent business, which I would say is generally what makes Jersey tick.

Deputy K.F. Morel:

With 251 years of doing it, it suggests it has been successful, to keep going for that long.

Chief Executive, Chamber of Commerce:

It is the oldest English-speaking Chamber in the world.

Deputy K.F. Morel:

Having read the draft law as proposed by the Minister, could I ask what was the overall reaction of your members to the proposals?

President, Chamber of Commerce:

I think generally some nervousness. It has only been 6 months since the last significant jump in the legislation. We had the legislation that came in on 1st September 2015 that created some new parts of family friendly. 1st September 2018 was quite significant, especially around the 6 weeks of paid maternity and other rights. Our members are still digesting that and at the moment 6 months is not enough to understand what it means in terms of explicit consequences and unintended consequences of the legislation. Although it was part of the consultation, it was always there as going to be 2 steps, the first step is still being digested. Having another change so quickly, we do not know what that is going to mean for our members, so they are nervous.

The Deputy of St. Mary:

The question of small businesses within your group, do you have a separate section to look after them?

Chief Executive, Chamber of Commerce:

No, they come under the membership of Chamber, as with everyone else, although I would say that small business ownership within Chamber is reflective of that in the Island: 70 to 75 per cent of our members are small businesses. Taking on from the president's point of the reaction to it, let us make it perfectly clear there has never, ever, right back from the early consultation, been any pushback on the desirability of family-friendly legislation. I think everyone probably agrees that it is desirable. There is a huge difference between what is desirable and what is practically workable. If something is practically not workable, which is the case of this legislation in certain areas ... is what is being pointed out from our membership ... that is where the concerns are. If it is not workable to a large proportion of business in Jersey, it makes the legislation unwieldy, unworkable and difficult to police in any way. I think that is the problem. We want to make it work. Emphasising the point that was made there, we are talking about family-friendly legislation that came in 6 months ago. Some of that legislation, if you look at the step change between last September and what is being proposed now, they are quantum leaps. They are doubling the effect in some areas, and yet we have only had 6 months. Without over-emphasising the difference between 6 months and 9 months or 18 months, we are talking about family-friendly here and there is an obvious irony that we need something to play out for more than 9 months ... probably a year to 18 months ... before you can measure the effects and see the consequences. It is something that has been consistent that Chamber has said, going back through our records, since 2017. We need a good 18 months to

look, measure, find out what the impacts are, what the unintended consequences could be, what is workable and what is not, before you can make a really intelligent decision.

Deputy S.M. Wickenden:

Did the Chamber of Commerce take part in the consultancy by the Employment Forum in 2017? If so, in what manner was it? Was it written, were you interviewed? How did the consultation, if you were involved, take place?

Chair, H.R. Committee, Chamber of Commerce:

I attended the consultation meetings that were held by the Employment Forum. I was invited along to one of them, which was quite a mixed group of people. We followed that up with a survey to our members and we fed back the information from the survey that we received, in a written response formally as part of the consultation.

Chief Executive, Chamber of Commerce:

Eliot, you were at the beginning of your tenureship at around that time?

President, Chamber of Commerce:

Yes, I have the notes that we made in the meeting, but it was interesting that our response did talk about it being only 18 months since the previous legislation had come in. I think you will have that response there. There was a wide variety of people in there, so it was not just Chamber, there were a number of people in there. It was interesting they were talking about how far are we behind the U.K. (United Kingdom). There was that desire at that point. Also, we raised very clearly in there that there was a challenge around the cost to business of what it was that was in there. Even back then it was something that we were raising.

Chief Executive, Chamber of Commerce:

It was interesting ... I was looking back through notes from my predecessor, which I am delighted are there ... and between the president of the time and the C.E.O. (Chief Executive Officer) of the time, which were neither of us, the note was passed over: "It is a pity that we did not have a higher response to the feedback." If you look at the measures of the feedback, it was extremely low. It is difficult to draw conclusions when not many people take part in that feedback.

Deputy S.M. Wickenden:

It was 17 per cent.

President, Chamber of Commerce:

Yes.

Chief Executive, Chamber of Commerce:

I think 14 per cent of Chamber members took part in the survey. It is a very low amount and to a reading of: "That is fine because we consulted" is probably a little bit remiss when there is only 14 per cent of our members took part in it.

The Deputy of St. Mary:

We have seen a copy of that letter; that is useful. Was there any response to your response, as it were? You said you had a fairly small representative section. Did the Employment Forum come back and say: "Do you want more time?"

President, Chamber of Commerce:

I do not believe so.

Chief Executive, Chamber of Commerce:

We do not have anything on record whatsoever that says that they came back to us with any feedback. I think in terms of that consultation ... and I do not think it is the fault of the Employment Forum, I do not think the consultation was in-depth enough. It did not encompass enough people and if you look at 2005 to 2017 and you look at 2019, there are real, serious issues in terms of accommodation, in terms of availability of a labour workforce, that do point to a different world now.

Deputy S.M. Wickenden:

Have you read through the Employment Forum's actual report and do you feel that your views are taken into consideration within that report?

Chair, H.R. Committee, Chamber of Commerce:

I do not feel they are. I think it was very limited. The consultation itself was very limited. What has come out of it, there have been a few surprises.

President, Chamber of Commerce:

I think it is quite clear that there is an undercurrent there of alignment with the U.K. in terms of benefits, as opposed to what is right for Jersey. All the way through the consultation it is: "The U.K. and the European Union do this," but the U.K. is a very different place to us in terms of availability of staff, unemployment, in terms of tax and National Insurance contributions. It is as if we want all this stuff over here but, as an Island, we will leave that to the businesses to pay for as opposed to how would that play out with our tax and social security. We have lower tax than the U.K., lower social security, but it is okay because the businesses will pay for the legislation, whereas in the U.K.

you can reclaim up to 103 per cent of those costs and that sort of stuff. It is all the good stuff without the bad stuff.

[11:15]

Chief Executive, Chamber of Commerce:

It is quite interesting. Obviously that comparison with the U.K. is the desirability, but the practicality, as the president was just saying, is it is really important that it is double the tax in the U.K., it is double the national insurance to our social security in the U.K.. Both the employer and the employee contribute. That makes a wide difference to the affordability of being able to do what you want to do. That is not in any way Chamber advocating that we double our tax and double social security, but it just means the practicality of it is completely different.

Deputy K.F. Morel:

Essentially what you are saying is they are in a position to pay for things. For us, here on lower tax and lower social security ...

Chief Executive, Chamber of Commerce:

You end up comparing apples with oranges. I know that is a well-worn phrase that is used by politicians a great deal, but it is absolutely clear that the desirability to do what the U.K. do is a great desirability in terms of family-friendliness, and we would all like that, but if we are paying much lower taxation and much lower social security and businesses end up having to foot the bill, it is less desirable.

Chair, H.R. Committee, Chamber of Commerce:

Absolutely.

Deputy S.M. Wickenden:

Of course, Chamber has a vast mix of different businesses across the Island, whether retailing and all sorts. When engaging in the consultation, how have you balanced the differing views between small, medium and different types of businesses for the different concerns?

Chair, H.R. Committee, Chamber of Commerce:

We managed to do that through our own survey when we surveyed our members. We got a good mix across all sectors. It was interesting that almost half of those who responded are in the bracket of employing between 6 and 20 employees, so that gives you an idea that we are targeting smaller businesses as well as the larger businesses. We are very conscious of that and also we are very conscious of that on our committees, that we have a really good representation of different industries

and different sizes of businesses. Certainly with the H.R. committee itself, we cover all industries bar one or 2, which we are working on. Yes, we were able to bring a good representation to the table.

Chief Executive, Chamber of Commerce:

I should point out that in the structure of Chamber there are 7 committees in total, including the executive council, which is made up of the chairs of the other committees. Of those other 6 committees, they are sectorally represented. There is the retail and supply committee, a transport and tourism committee, a finance committee, an H.R. committee, a building and development committee, and then there is Chamber Connection, which is made up of under-35s across sector, everything from dairy industry to finance industry and everything in between. There are usually about 10 on each. There are 70 people sitting on committees who then filter out from there. We obviously have a lunch every month. The lunches have 200 members coming to them. Getting that communication up and down to us and the feedback, along with the weekly newsletters, is really important to us. We have to represent them, not just our view.

President, Chamber of Commerce:

Also we are on a daily basis talking to our members, and people will drop us emails, will call us up or drop into the office. We do get that range of participation. I think now the participation has been higher during this period from September 2018 onwards because it is one of those things where everyone is really busy, and especially the smaller businesses do not necessarily have time to put their heads up and see what is going on. "Now this has come in, okay, we need to participate." We have definitely had more interaction with our members during this last 6 months on this.

The Deputy of St. Mary:

I am not sure whether ... it is your question about the earlier consultation. Since this was announced, have you had formal consultation or you have just relied on the ... not just relied but have you taken input from the various committees in formal dialogue? You had no formal consultation with your members since lodging ...

Chief Executive, Chamber of Commerce:

We have not surveyed our members since this. It is something that is probably something that is very much likely to happen. It is really important that we get as much of a measure as we can. Through those 70 people on 7 committees, this has been an agenda item that has been on every committee and has been commented on from every committee.

The Deputy of St. Mary:

Thanks for clarifying. Sorry, that was your question.

Deputy K.F. Morel:

No, it is your question. You asked it.

The Deputy of St. Mary:

Going on to the implementation ... we have already touched on it ... the president put forward in 2 parts, 2018 changes and those for 2019, to give employers more time to prepare for fundamental change. Do you consider there has in fact been sufficient time to prepare?

President, Chamber of Commerce:

No, certainly not. Our members are still putting in place those things that they need to do around the current legislation. To have the next set coming up ... and there are some quite fundamental changes there. Obviously the unpaid portion is 26 weeks at the moment, with a proposal to move to 52, and things like breastfeeding facilities and that sort of thing. Also the paid aspect for surrogacy and adoption does not mirror in the social security legislation in terms of being able to claim that as an employer. You can for maternity, not for paternity, not for surrogacy, not for adoption, but you still have the paid leave aspect. That puts employers at a disadvantage again, so there is a challenge there.

The Deputy of St. Mary:

If it were delayed, which is what you are recommending, what steps would the employers put in place to cover that?

President, Chamber of Commerce:

What we do in the period is we would be looking at ... it is too early right now to be surveying our members to ask what impact has the legislation had since 1st September, because a lot of employers may not have been touched by that or they might just be starting that process. What we would want to see is 12 months after 1st September we would have a detailed survey of our members to say: "How has the last 12 months affected you as a business? What decisions have you made that have been different? How has it affected you financially? How has it affected you and also your teams?" One of the challenges that you will have around losing a member of staff, if you have a team of 4 people, is that it might be that they are off for 3 months then back for 4 months and then away for another 3 months. You are probably not going to be able to find someone to backfill. The team ... we know that this is happening ... is going to have to consolidate and do 4 persons' work with 3 people. That leads on to things like mental health issues and having to put the extra work in. Really we are not going to get any sort of good data until we have seen at least 12 months since the legislation. What we are calling for is to say to delay it 12 months and look at this

in 2020 so we can survey our members in September this year so that we can give you some firm data around how the legislation has affected our members.

Chief Executive, Chamber of Commerce:

I think that point is well made. That delay, while in political terms seems like a very long delay, 12 months, if you look at it as to what it is, childbirth and the effects of maternity leave after a child is born on those parents and therefore on the employers, all we are asking for is to be able to look at the effects once a child is 1½ years old. We cannot measure after 6 months. There has virtually been no effect yet to measure. There is very little comment that can come out, so it is a reasonable timespan.

The Deputy of St. Mary:

Not a question, just to flag it for later, you quite rightly mentioned the team aspect. It is family-friendly legislation but that affects other families whose head is an employee. That is something we will return to again.

Chief Executive, Chamber of Commerce:

Very much so.

Deputy S.M. Wickenden:

There are 2 parts to the law, which is the breastfeeding side and the leave side of it as well. Do you think that it might be more sustainable to bring in maybe the breastfeeding, which does not have the same massive consequences, and then bring in the extra leave later on? Have there been any views?

Deputy K.F. Morel:

Have a split.

Deputy S.M. Wickenden:

Yes, split it down.

Chief Executive, Chamber of Commerce:

I think that has potential. There are some potential grey areas in the breastfeeding and the breastfeeding facilities particularly. I think dignity at work is a really important thing and it is important that facilities are there but I think the question has to be pushed back from business to Government to ask: "How many breastfeeding facilities do Government have?" I do not mean in Government buildings. How many do they provide for the public? How many places could you walk around St. Helier and say there are breastfeeding facilities that our Government have put into place? At the

same time, they are putting the onus to say, where reasonable ... and it is a very grey area when one looks at that. Where is reasonable? The only arbitrator of what is reasonable, and you have made reasonable efforts to do it, is the tribunal. You have to be taken to tribunal first, and the cost of going to tribunal for any employer, as Lorna will probably tell you, is several thousands of pounds, even if it does not get to tribunal. The decision of what is reasonable, what is reasonable for a small shop in town that does not have facilities or might be able to but it is going to cost up to £10,000 to convert something ...

Deputy S.M. Wickenden:

A construction yard.

Chair, H.R. Committee, Chamber of Commerce:

Exactly. Very difficult.

Chief Executive, Chamber of Commerce:

There are challenges to it. I do not say that it is wrong, I just think it has not really been defined. They are leaning on the 2013 discrimination law as what is reasonable and the challenge is the arbitrator is going to be the tribunal, so you may have an employee who does not think that reasonable steps have been taken and therefore takes an employer to tribunal. It will not be until it gets to tribunal, which may be 6 months of work and £3,000 worth of costs and above ...

The Deputy of St. Mary:

To pursue that point, Article 15K of the law does mention "reasonable" as you say, but it does highlight certain aspects to look at and there is flexibility within that. Would it be helpful ... you say the tribunal ... if there were guidelines issued by them in advance?

Chief Executive, Chamber of Commerce:

I think some sort of surveying service that was available ... not at the cost to the business, I might add. If there was a surveying service that came around to be able to say: "You have reasonable opportunity to facilitate and do this here and here," with some advice, whereas somebody can come in and say, "We know you cannot because we can see the limitations of your shop floor and your toileting area." It could do with some help and some guidelines, you are absolutely right. I think if the Government are proposing laws such as this, they have a duty as much as the business to step up to the plate as well and provide some better guidelines and provide better facilities. Employers generally that we spoke to said they would be quite happy if there were breastfeeding facilities that they could give a break for access to.

Deputy S.M. Wickenden:

Half an hour or however long.

Chief Executive, Chamber of Commerce:

Whether it is breastfeeding, whether it is milk expression. If there is an area that they could go to and say: "I am just popping out because there is a facility that I can go to." We know the Town Hall is doing a brilliant job doing what it is doing but it is pretty much standalone on its own. I cannot think there is anywhere else that you can go.

Chair, H.R. Committee, Chamber of Commerce:

No, and it is down one end of town so it might not be as practical.

Chief Executive, Chamber of Commerce:

If there were 4 or 5 centres that you knew that any member ...

Deputy S.M. Wickenden:

Strategically placed, but not just town.

Deputy K.F. Morel:

I was going to say I think parishes as well.

Chief Executive, Chamber of Commerce:

I think there is some work to do with parish halls, which are ideally situated, possibly.

The Deputy of St. Mary:

There is the question that certain employees will never work at their own firm's business, they will all be sent out on errands. How is that covered?

Chief Executive, Chamber of Commerce:

Again, very desirable wishes within this legislation when it comes to breastfeeding. I think it is just the workability of the practicality of it.

Deputy K.F. Morel:

We are speaking to J.A.C.S. (Jersey Advisory and Conciliation Service) later as well, so we will be able to ask them about the idea of the surveyor guideline and things like this as well, to get their view on how they are going to cover that one.

Chief Executive, Chamber of Commerce:

It would be good to know, if you were an employer, whether you have the facilities, even if you do not see them yourself, and for someone to be able to make that decision before you end up possibly being in trouble and breaking the law without knowing it.

Deputy K.F. Morel:

Absolutely. If you do not mind, we will move on to the effects of the law on employers, as you envisage them. From your perspective, what effects do you think the proposals could have on businesses, particularly smaller businesses, because they have been flagged up to us, in terms of the financial and the resource implications?

President, Chamber of Commerce:

I think the 52 weeks in 4 blocks over 3 years is the key challenge, especially to smaller businesses. In smaller businesses obviously you have team size but also you have certain skills, a boilermaker, for example. If you have somebody who is working in that industry, you are not going to be able to find and train up and have an effective member of staff.

[11:30]

In some of these businesses, the person themselves are fee-generators, which means that the business will go into a loss-making position and may not be able to trade. Some smaller businesses. For retailers it is a challenge. In the current employment market, those actively seeking work is as low as it has ever been. These people are not just sat waiting to be invited to come and work in a business for 3 months and then you might have a 4-month break and then come back for another 3. That is just not going to happen. Supporting the unpaid leave and backfilling that person; that is the key challenge that we are seeing in the legislation here.

Chief Executive, Chamber of Commerce:

You may also have ... and this is more anecdotal but I think we are getting this from a lot of businesses. If there is a desirability for a parent, surrogate or otherwise, paternity or maternity, to take time off, the sunnier months are the ones that are the favoured ones, which is the time when people would be going on school holidays. The pressure on a business at that time already is extreme because of trying to work school holidays around. If you have older children and then you are going into maternity leave, the obvious time to do that would be during the summer months. The pressure on particular pinch points of the year would be ...

Deputy S.M. Wickenden:

Christmas.

Chief Executive, Chamber of Commerce:

Christmas is another one, Easter break, bank holidays, around those where the schools are off. You can see that happening, because this might not be their only child. I think that pressure is a very difficult pressure.

The Deputy of St. Mary:

I said earlier on it affects the other employees, who also have children of whatever age.

Chair, H.R. Committee, Chamber of Commerce:

Yes. There is certainly the unknown of how to practically manage these blocks over the 3 years. Putting aside what Eliot was saying about covering those people and bringing those skills in and the cost of recruitment, et cetera, there are the practicalities around the staffing levels at certain times of the year, as we said, to cover school holidays. Also if you refuse that, what happens? Have you suddenly breached law because you have refused that time, which is an entitlement to the individual within law?

Deputy K.F. Morel:

That is an important aspect, because in the law as it stands it is a notice period. There is no discussion.

Chair, H.R. Committee, Chamber of Commerce:

That is right.

Deputy K.F. Morel:

The employee notifies the employer of the times that they want. Do you have any thoughts on that?

Chair, H.R. Committee, Chamber of Commerce:

If the employer practically cannot cover or find somebody to cover, and it will have a real impact on their business at that time of the year, they may have to breach the law by saying no. Then they will find themselves with a discrimination claim.

Chief Executive, Chamber of Commerce:

One point that was made to Chamber from Social Security and the meetings that we have had about this with them is that it is so much easier to find people for maternity cover because they will get a temporary registered-for-work permission in order to do so. On maternity cover you get that. The problem is that those people, firstly, are not in the Island. If they are to come in the Island, you have an accommodation issue problem, you have a migration problem. Certainly accommodation would be the first point. For somebody coming over to cover someone, even if you could get someone for

3 months or 2 months or 5 months or one month ... because there is there is no defined amount of time. It is 4 blocks over 3 years at the discretion of the employee. They give that notification and you then have to find someone. If you are finding someone even from the U.K. ... we are told: "Well, it is easy, you could find someone from somewhere else, you could bring someone in." At this time of the year ... and I do not want to bring up the Brexit word too much ... the unknowns of finding employees is a real strain.

Deputy K.F. Morel:

Would you not have to advertise for them as well? Is there not a cost in finding them?

Chief Executive, Chamber of Commerce:

There is a cost of recruitment. There is a massive cost of recruitment. There is a cost to finding suitable accommodation, non-qualifying accommodation to replace somebody.

Deputy S.M. Wickenden:

Do you think there is also a risk with a 14-day period where you could just change your mind?

Chief Executive, Chamber of Commerce:

As in the employee can change their mind?

Deputy S.M. Wickenden:

The employee can give 14-day notice to the employer that the leave is either moved or changed within 14 days.

The Deputy of St. Mary:

Yes. That is a basic problem as I see it.

Chair, H.R. Committee, Chamber of Commerce:

Yes, absolutely. For employers it is a real concern that they are going to be held to ransom under those circumstances.

Chief Executive, Chamber of Commerce:

You would always hope that that is not the case and that there is a great rapport between employer and employee but that is not what the legislation is ...

Deputy K.F. Morel:

As we can see because the States is an employer and their employees ... there is not always a good rapport between the 2.

Chief Executive, Chamber of Commerce:

There is not always harmony, is there, between employer and employee? I think that they would be the first to acknowledge that so I think that we have to legislate for making sure that it is clear and fair and practically workable for both sides.

Deputy K.F. Morel:

In its submission to the Minister for Social Security the Jersey Retail Association wrote: "That there is clearly an additional cost to businesses which in conjunction with other recent and future planned changes results in a real cumulative impact on business finances." I was wondering, (1) do you agree with that and if so what kind of recent and future changes, policy and real changes are creating this cumulative effect?

President, Chamber of Commerce:

The cost of doing business is significantly more now than it used to be, so the user pays side of things and obviously getting a licence. You have got to pay for each one of those now. Disability legislation; making changes. The cost of doing business is significantly more now. Again, it always feels like: "Business will pay for it. It is a retail tax." Looking at other things like Jersey Infrastructure Levy; that was defeated. De minimis. Looking at waste charges ... and I know that that did not pass but again it is that trend that we are seeing that: "It is okay, "business will pay for this." It is one of those bits of legislation where we can grant all these great bits and the businesses will put their hands in their pockets and so it is a great, very popular piece of legislation, I am sure in the employee/voters side of things, but it is businesses that pay for it so double tick there and that is the thing. That is the feeling that we get as a business representative is that these are things that will come our way and the consequence of that is that businesses will decide that they cannot trade anymore. Businesses who would have come here decide that they do not want to be here anymore. We have seen 2 recent ... one that I can see from through that window, 2 businesses that are in the process of closing up at the moment. If it was a great place to do business the big businesses would be here but the High Street has got more empty shops in it than we have had in a decade. So these are all things that are aligning. There is not one thing that people say: "That is what has caused it." There is a whole heap of things about the cost of doing business and wanting to be in business at the moment.

Deputy S.M. Wickenden:

The Family Friendly Law is about retaining staff because the idea is that you give the flexibility and your dignity at work and the work life balance in that manner. Do you think that it will also have a problem that if you were to be employing somebody you would need to know if they have any outstanding time that they can allocate in the next 3 years because they have had a child and that

the new employer will have to take that into consideration when employing now? Do you think that would be a barrier to employment or it would end up being a choice?

Chief Executive, Chamber of Commerce:

I think that it is fraught with difficulties because legally, of course, they would not be allowed to make those decisions based on those terms that you have mentioned there. In practical terms, do you think it might be in the back of an employer's mind when they are thinking and selecting? Very likely and that would be undesirable. That is not what you would want because that is a negative effect.

Chair, H.R. Committee, Chamber of Commerce:

Yes, I would agree with that because I think we are yet to see that and that is one of the reasons why we have asked for the delay because we have yet to see the result of the increase in leave from last year, last September, and we have only got a small window so that is a difficult question but it is certainly one I think will be a consequence of, yes.

Deputy K.F. Morel:

Yes. It is going to be interesting. I am not sure where the law sits on carrying leave between employers but I guess it stays with the parent. Just picking up on the Government getting business to pay for it. I mean obviously we have in this law 6 weeks paid leave paid by the employer. Despite the Employment Forum recommending that the Government also add its own 6 weeks of paid leave on to that the Government declined to take up that part of the recommendation. There were only 2 parts in the recommendation they changed and that was one of them. What do you think of that decision not to fund it and from your perspective, or from your members' perspective, is fairness an issue in that respect?

Chief Executive, Chamber of Commerce:

From a political perspective this is very much a free ride. It is a vote-winning free ride and I am sure it has not been designed in that way and I think that there is a great deal of sincerity and desirability to what they want to do. I think we all agree with that but I think that this is a way of saying: "No cost implication to us" but businesses will individually pick it out and: "Will it not look great but we are not going to be putting our hand in our pocket" and I go back to facilities that Government may or may not have provided while they want everyone else to provide. They want them to provide paid maternity leave, which is very desirable, but do not want Government to have any responsibility to pay any of that. I think that there has to be some sharing of the burden and I fully understand that anything that Government pays comes from taxpayers' money but businesses can only keep paying so much for so many different taxes and they are very important. Businesses, the tax revenue of our Island, over and above personal tax.

President, Chamber of Commerce:

The benefits of this legislation and to reiterate again, the sentiment of what we are trying to achieve here is very good. You look at the 1001 Days and what it says about caring for new-born children. The benefit to having parents who are able to spend time with their children and children who grow up in those sort of households it is massive but that benefit accrues to the whole Island. It is not just to the businesses so that is something that we want to be able to see now. If the Island has this benefit then the Island should be paying for it not just for the businesses who are employing the people in those businesses. Yes, absolutely, there should be a sharing of the burden there across the whole Island.

Deputy K.F. Morel:

Out of interest do you have any views on how the Government could fund it? You do not have to have any views on that. It is not your job to but I was just wondering if you did.

President, Chamber of Commerce:

There are things like having a break on the employer side of the social security contribution. Where employers pay 6.5 per cent potentially that could be something that we could look at. In terms of being able to support the costs to the employers of finding and employing and training that temporary resource maybe in terms of accommodating and travel. So the tax system being able to recoup some of those costs. In the U.K. it is 103 per cent that you can recoup in terms of some of those benefits. Those are a couple of the ideas that we have had.

Chair, H.R. Committee, Chamber of Commerce:

I think the immediate quick win, to call it something, would be to align the social security benefit system. That is such a bugbear of mine that it is just way out of line that unless legislation comes in the only person that can claim any benefit for a period of time is a female who has given birth and this legislation covers a lot more than that. So that is way out of line and what happens there is if she is employed, her employer can claim back that social security benefit from her for that 6 weeks of paid leave but that is the only category that that falls into. So if the partner or father, for example, took parental leave there is no opportunity for the employer to claim any benefit back.

Deputy S.M. Wickenden:

It is called qualifying relationship in the law, is it not, and it is quite broad on how that works?

Chief Executive, Chamber of Commerce:

But it is very specific to who can claim back.

Chair, H.R. Committee, Chamber of Commerce:

It is very specific to this.

Chief Executive, Chamber of Commerce:

It is only the mother and child.

Deputy K.F. Morel:

Do your members talk about the qualifying relationship? We were asking the Minister ... and it would be interesting to know whether your members have any concerns in this area ... especially on the father side in the sense that a father potentially could have a qualifying relationship with a number of mothers giving birth and we do not really understand through the law how their leave would kind of rack up so to speak. Has that been something raised by the members?

Chief Executive, Chamber of Commerce:

It has not been raised but, yes, you make a good point and I think it just adds to the complication of the law which was always going to be difficult. I think just going back to areas which are cost and issue; I think ... I am not sure if we are coming back to it, the 4 blocks over 3 years is certainly ... it was first 11:44:42 (inaudible) I think the biggest gasp from most employers in terms of how they were going to cope with that. How they were going to deal with 4 blocks over 3 years because that really does hit a business very hard. I think we had ranges of: "Well, 2 blocks over 2 years might be something" because at least if you have got a 6 month block and a 6 month block over 52 weeks to offer someone a 6-month contract you are more likely to get that than if you were to offer somebody 2 months, 3 months, 12 weeks, 18 weeks, whatever it might be, that the employer wants for that time up to 52 weeks that they will use over 4 years.

[11:45]

So: "I have still got 15 weeks left that I can use in the third year." I think from that perspective it would ease employers a great deal if they could offer 6 month blocks or longer because I think that that would give ...

Deputy S.M. Wickenden:

The 3 years is obviously about the 1001 Days by the sound of that. So maybe 2 blocks in 3 years so that you get 2 6 months over the 3 years and that can be bridged on that level.

Chair, H.R. Committee, Chamber of Commerce:

Yes. I think the 4 blocks is causing concern. You could have a child and take your 6 weeks paid and then you have got a good opportunity to take the blocks over the rest of the time which is going to cause the employer a real issue.

Deputy S.M. Wickenden:

Though it is unpaid so it is something that just anyone can just jump through in their financial ...

Deputy K.F. Morel:

That basis, as I suggested, also creates other social issues, not necessarily in the preserve of the Chamber but you will have some who can afford to spend 1001 days with their kids and have those who can afford 6 weeks and that is it. That is a social issue in itself.

Chair, H.R. Committee, Chamber of Commerce:

One industry that raised real concerns about it is hospitality because they do employ a lot of couples and it does mean that both parents will have the opportunity to take that amount of leave. They are quite horrified on that thought.

The Deputy of St. Mary:

It is interesting. I heard of such on Radio 4 yesterday, a U.K. situation, where the employee was a chef and it was about taking children away from school and of course being a chef his pride and worktime is during school holidays and he cannot do it and there are going to be ... there is just going to be situations like that where businesses cannot afford to lose them and ...

Deputy S.M. Wickenden:

Now that the second tranche is coming closer of course your membership is a bit more engaged now because it is getting closer and that is always the way; you are very busy and only when it gets closer. Now that there is more engagement how much engagement is the Chamber having with the Minister for Economic Development and his department to start bringing those forward so that they can bring the views from their point of view into the discussion?

Chief Executive, Chamber of Commerce:

We have had engagement and we do have regular engagement with what was termed Economic Development, Tourism, Sport and Culture at one point, Growth, Housing and ...

Deputy K.F. Morel:

No, it is just the big ... he is still Minister for Economic Development, Tourism, Sport and Culture.

Chief Executive, Chamber of Commerce:

You will excuse our confusion.

Deputy K.F. Morel:

Yes, that is all right. The confusion is also on this side of the table.

Chief Executive, Chamber of Commerce:

I am delighted to hear it. We have had engagement. I think we have had so much engagement about so many other issues from retail strategy to ... this is only surfacing as it is becoming more apparent and it is certainly an area we will take up with him because it is important that we do have that discussion.

President, Chamber of Commerce:

Yes, we have. Retail strategy and Brexit have been the 2 key ... I mean we have had more engagement with that Ministry than any other at the moment but those are the 2 key things. So this is a worry to businesses but we have got this big unknown thing that could coalesce in the next few weeks or the next few months. We just do not know when it is. So that is, I would say, a bigger worry right now. For a majority of businesses this is something that we are getting engagement on but as soon as we understand what is going to happen with the legislation ... if we can find a way of getting this moved back somewhat then we can have that engagement with our members and really go to town on that and give you some real data back.

Deputy K.F. Morel:

Can I just ask as you talked about the consultation, back in 2017, if you can remember, do you know how much time Chamber had to provide a response during that consultation process?

Chair, H.R. Committee, Chamber of Commerce:

It is normally about 3 to 4 weeks for a consultation. I attended one of the sessions and then I think the consultation came to an end probably about 2 weeks after that engagement session.

Deputy K.F. Morel:

I am just thinking because from your own submission, as you said, it was only 14 per cent of members that engaged with your survey but I was just wondering whether 3 to 4 weeks is a sufficient amount of time to get to all your members.

Chair, H.R. Committee, Chamber of Commerce:

It is not, yes. It is not really.

Deputy K.F. Morel:

Yes, and to encourage them. That is interesting, thank you.

The Deputy of St. Mary:

Can I go back to the question of parental leave? Now, the law specifies a framework when you should agree the first set. Now, leaving that aside for the moment, it is the changes that perhaps cause more concern because an employee can change it on 2 weeks' notice only without any contra views being able to put by the employer and also without regard to the nature of the business. Do you have views on that?

Chief Executive, Chamber of Commerce:

Yes. It just exacerbates that situation of worry for businesses. Businesses ... and I talk very generally ... but if you talk particularly about small businesses, small businesses have an effect, as you rightly said, on other families, the businesses' owners' families, and the other employers and their families around that. So around each employer there could be 4 or 5 people who are reliant on that business being successful in order that they have a wage or they have a profit share or whatever it might be. The effect of all of those on what could be 25 per cent or 30 per cent of that business workforce in one person is huge. So to have that inflexibility as an employer and to have something put on to you with 14 days' notice ... I do not know what experience we have all had around this table of trying to employ people but not only is it difficult in the labour markets, we have already said, to find people but to find people from this Island or elsewhere within 14 days' notice, to have them up and running, trained and in your employ so that you do not notice any damage to your business is just not workable.

The Deputy of St. Mary:

Leaving aside the recruitment of extra people to cover I mean it has an effect on ... there is a short period then, you know, the other 3 will muck in to take up the slack. Is there a general theme within Chamber members as to how much notice they would normally have to give for employees having to book their summer holidays within the firm or Christmas holidays?

Chair, H.R. Committee, Chamber of Commerce:

There is no real data around it and every organisation is very individual but certainly in my line of work I come across a lot of organisations that would expect at least 6 weeks' notice before someone is hoping to go on annual leave and that could range from 6 weeks to 6 months, depending on the business, and the reason for that is for planning. It is as simple as that.

Chief Executive, Chamber of Commerce:

But there is also the backstop that the employer has the right, because of the nature of the business, and because it is not available that you could not do that. If you have already got employees who have already booked their holiday who are not taking maternity leave and then you have someone within 2 weeks' notice putting in: "I will be going off at this time" and you have already got 2 people

on holiday that time, you are stretched. You suddenly end up with 3 people away in a 4-man business.

Deputy K.F. Morel:

I was going to say if you are 4-man business.

Deputy S.M. Wickenden:

In a small business the employer themselves might have booked a holiday for their family and then suddenly get notification that somebody is going to take their maternity leave. They have paid, their children are ready to go on holiday and that might end up being cancelled.

President, Chamber of Commerce:

I think it is worth saying, every employer on the Island wants to be a good employer. The employees are the lifeblood of the business. We want to be as flexible as possible. Sometimes that is not possible but you do not want to find yourself in breach of legislation and being sent to the tribunal because of something that physically you cannot accommodate as a business. So we would want to be able to see some notice period and some flexibility that the employer has the ability to say: "Within reason, yes or no, that is possible." Obviously if something happens; people are sick, these things happen and businesses deal with that. Maybe they close their doors because they cannot physically trade but to have something that is legislatively in there is a real challenge so we want to see the flexibility, being able to be a good employer but also be a good employee at the same time and to work with ... it is a symbiotic relationship.

Deputy K.F. Morel:

It is interesting. I do not know why but this was the second piece that the Minister for Social Security changed from the original recommendation. It was the 6 weeks that States do not want to pay and their recommendation was 4 weeks but there is 28 days' notice ...

The Deputy of St. Mary:

Which is still below your benchmark.

Chair, H.R. Committee, Chamber of Commerce:

Yes, still very much below. I do think having a criteria in place for refusal is something that should be considered, for example ...

Deputy K.F. Morel:

Or at least consideration, discussion and that sort of thing.

Chair, H.R. Committee, Chamber of Commerce:

Yes, absolutely. If you look at flexible working requests in the law there are 7 reasons for refusal, or 6 now, but some kind of reason for refusal I think is something they could certainly consider.

The Deputy of St. Mary:

Leading on from that and not wanting to put words into your mouth, I touched on earlier about the breastfeeding arrangements. There is a reasonableness test. I mean something similar to that to be built in would be presumably amenable to you.

Chief Executive, Chamber of Commerce:

I think it would just enhance good employer/employee relationships and that is something we all want. What you want is someone to have a happy and successful maternity/paternity leave and to be able to come back feeling that they are wanted and valued and the same the other way round from employer and employee and a reasonable test, whatever you want to call it, and you just mentioned the 7 steps or 6 steps that are now ...

Chair, H.R. Committee, Chamber of Commerce:

On flexible working.

Chief Executive, Chamber of Commerce:

... on flexible working. That is really good. I mean the flexible working has got some flexibility in it itself, rightly so, and I think there are lessons to be learnt from that but again I think these are all things that can be worked on and can be engaged on to find exactly the right formula but they are going to take more time than 6 months since we have had that and we do not even know what that is costing at the moment. I think there would be some surprise from some people that 12 months from September would be a long delay but it is not at all.

Deputy K.F. Morel:

This is me speaking for somebody else in this case, the Minister and the Employment Forum, I think it is because they do not see this ... it is really an adaptation period. I think for them the choice was, bring it all in, the 52 weeks in one go, back in 2018 or just give some element of bringing it in slowly but they want to do it as quickly as possible so that is why they did one year. So really it is rather than 2 separate laws with an adaptation in-between it is really one law. Always the intention was 52 weeks and they just think that delays are unnecessary I guess. It is strange or it is an unusual stance I think because it is not clearly just around adaptations.

Chief Executive, Chamber of Commerce:

I think that does go back rightly, as you know, back to the 2017 consultation and the period from 2015 to 2017 and even though at that time the Chamber found that too soon to be able to really comment on the effect.

Deputy K.F. Morel:

Are there any other questions? Are there any other aspects that you would like to comment on?

President, Chamber of Commerce:

We talked about qualifying periods. That is one of those things that obviously is disappearing which we feel is probably a bit too much. I think that is in the current ...

Deputy K.F. Morel:

So they want ...

President, Chamber of Commerce:

Yes, so that is something that maybe would affect employment and the process of interviewing ...

Deputy K.F. Morel:

Do you have a sense of how long the qualifying period should be if one was to be introduced?

President, Chamber of Commerce:

We were talking about 26 weeks but obviously we are all ready with the legislation ... do not have a qualifying period ... but if we are going to be looking at the significant amount and whether we would have no qualifying period for this bit but there is for that bit so really having a look at that from an employer's position. We should certainly not have gotten all the way to no qualifying period.

Deputy S.M. Wickenden:

Yes, qualifying periods give everyone a right to plan so the employer can plan and also somebody that is looking for a job can plan.

Chief Executive, Chamber of Commerce:

And somebody who is planning to have a family can plan but if they have already planned to have a family and they are just about to have a family and the request was about disclosure on that as well but it is about reasonableness on all sides. The unfortunate problem with most legislation is that you have to take reasonableness out of it and define something and in these matters it is quite difficult.

Deputy K.F. Morel:

That is it from us. Thank you so much for coming in. It has been really good.

[11:59]