

**WRITTEN QUESTION TO THE CHIEF MINISTER BY
DEPUTY G.P. SOUTHERN OF ST. HEIER**

ANSWER TO BE TABLED ON TUESDAY 17th JUNE 2008

Question

In his response to a question from Deputy Le Hérissier on 3rd June 2008, the Chief Minister stated that there is no restriction on a politically eligible States employee taking holiday entitlement and time off in lieu to pursue any activity, including election campaigning, however should he wish to stand for election, he is forced to take unpaid leave and cannot use up unclaimed holiday entitlement. Notwithstanding the belief expressed in his answer that such regulations are consistent with EU Convention rights, will the Chief Minister seek legal opinion on whether such a restriction constitutes a disproportionate limitation on Article 11 of the first Schedule to the Human Rights (Jersey) Law 2000 and is discriminatory under employment law?

Answer

There are two elements to the Deputy's question:

1. Human Rights (Jersey) Law 2000

The advice I have already received is that a politically eligible employee being required to take unpaid leave from the date of his/her formal nomination as a candidate until, if they are unsuccessful, their return to work no later than 4 weeks after the election results are known, is not incompatible with the rights guaranteed in Articles 10 and 11 of, and Article 3 of the First Protocol to, the ECHR.

2. Employment Law

I am not clear what the Deputy means in the question by "discriminatory under employment law". Nevertheless, I am advised that the restriction to which he refers is compatible with existing legislation.

In view of my responses above, I do not believe it is necessary to seek further legal advice concerning this matter.