

5. Questions to Ministers without notice - The Chief Minister

The Bailiff:

The Chief Minister now has virtually half an hour for questions to the Chief Minister. Deputy Young?

5.1 Deputy J.H. Young:

Could the Chief Minister tell us whether he has had the opportunity to look at the issue of the law in relation to allowing pension sharing, particularly in the matters of divorced couples in later life? This is the issue that I raised with him some time ago in the context of the public sector pension scheme. Could he confirm that this is a matter he is taking forward and tell us when he expects to be able to bring forward some proposals for this to happen?

Senator I.J. Gorst (The Chief Minister):

Unfortunately, while the Deputy raises a very good point with regard to the way that pensions need to change into the future, it is not a piece of work which has moved forward at this time and I cannot today give him the timescale of when it might, but I shall certainly go away and see if it cannot be taken forward. It is difficult as I stand here to think what the appropriate body might be to do so, because it impinges very much on the Treasury and Resources Department, but it might also be something that the Legislation Advisory Panel might wish to consider.

5.1.1 Deputy J.H. Young:

If I could just also ask the Chief Minister to check with the Legislation Advisory Panel because I did write to the Attorney General about this and I had a letter which said that this was something which it was his understanding was on this panel's agenda. I would like to be confident that that is the case and that this matter will be coming forward.

Senator I.J. Gorst:

While that might be a body that can start to undertake this piece of work, and I am not sure that they have, it is far broader and will need to have quite wide public consultation as well.

5.2 Deputy T.A. Vallois:

Could the Chief Minister advise whether there are any plans to restructure and change the role of the States Employment Board?

Senator I.J. Gorst:

Yes. It is being considered by the States Employment Board about whether the current system that we have got in place of politicians who should be dealing with strategy, and to some extent policy, is appropriate in today's world for them also to be pulled directly into human resources issues around recruitment, *et cetera*. No final decision has been taken; it will need to be consulted upon in the first instance with the Council of Ministers, then with the Scrutiny Panel, and with States Members more broadly.

5.3 Deputy J.A. Hilton:

I would like to refer to written question number 13, which was to the Chief Minister. In that question I asked of the Chief Minister's Department, I was informed that the total number of undertakings up to June 2013 was 7,942. When asked what was the number of licences that had been reviewed so far, because in answer to another part of the question I am told that all the licences are reviewed every 3 years, the answer given to the end of June 2013 was 3,873. Could the Chief Minister explain to me why, in fact, all of the licences have not been reviewed in the past 3 years?

Senator I.J. Gorst:

That is a very good question that I do not have the detailed numbers to at this point. What I can say is that under the new law, all licences can be reviewed now in real time, and that is an important change.

[11:00]

The department has not yet got to the point where it has been able to review all those licences, but over the next 6 to 12 months we will see many more licences and I hope we will get to a point where all licences will have been reviewed within that timescale. Reviewing those licences and stripping out non-local positions within those licences is critical to our controlling population.

5.3.1 Deputy J.A. Hilton:

A supplementary? Is the Chief Minister confirming that all those licences will be reviewed within the next 6 months? There are currently 4,000 licences outstanding needing to be reviewed.

Senator I.J. Gorst:

I am just looking at the Minister responsible for this particular area and asking him how long he needs. I did say 6 to 12 months; I would hope that we could undertake it within that period of time, but it may, of course, take slightly longer, as sometimes these things do. But I should say that the Assistant Minister responsible and myself are absolutely committed to doing this piece of work because, as I said, it is fundamental to our policy of controlling migration, it is also fundamental to our policy of getting local people who are unemployed into work.

5.4 Deputy R.G. Le Hérissier:

Building upon Deputy Vallois' question about the future role of the States Employment Board, given the considerable turnover of human resource directors in recent years, could the Chief Minister outline whether he sees any changes to that role and how he will deal with the issues that appear to have been thrown up?

Senator I.J. Gorst:

Yes, I do. The Deputy is right. It is a very difficult balance, and I think sometimes we, in this Assembly as well, struggle with having appropriate succession planning and what that means and what that looks like within departments and yet, at the same time, wishing positively to bring individuals in from outside of Jersey because of new ideas, new approaches and experiences that they might have had elsewhere that we need to develop our system. We like to think of ourselves as unique and I believe we absolutely are unique; there are some areas where we are like other jurisdictions and there are others that we are completely different from. We have a unique political system, Members in this Assembly like to know operational matters as well as policy and strategy, that is not always helpful, and for some members of staff that causes difficulty. We are quite a highly politicised community, members of staff can say something and find themselves on the front page of a local paper or in the media; that is not what would happen elsewhere. So that transformation from one environment to another can be very difficult and I think that what that really shows us is that we must be much more committed - I know that this is something that the Deputy agrees with - to appropriate succession planning, at the same time acknowledging that we will need to bring people in.

5.5 Connétable S.W. Pallett of St. Brelade:

Could the Chief Minister inform the House what areas we are collaboratively working with Guernsey on at the present time and, specifically, whether he has any more information on collaborative working on the financial service ombudsman?

Senator I.J. Gorst:

I do not have an update from a fortnight ago when the Connétable asked me the same question. The Economic Development Department assure me that they are still on track to deliver in the first quarter of next year, that the law is ... I am just recalling whether it is drafted or in the process of being drafted. As I said, however, in answer to the Connétable, I am personally of the opinion that it must be done and brought forward as a joint ombudsman with Guernsey. I understand from the Economic Development Department that that, at this stage, is not a blockage to bringing forward in that timescale.

5.5.1 The Connétable St. Brelade:

Could I have a supplementary? I believe there was a debate last week in the States of Guernsey in regards the ombudsman. Have you received any information in regards to that to date?

Senator I.J. Gorst:

I do not have any update with me this morning.

5.6 Senator S.C. Ferguson:

How does the currently-constituted States Employment Board enforce its decisions across the States as a whole?

Senator I.J. Gorst:

This is, I think, one of the reasons why there needs to be some change to the States Employment Board. The process that we have started that we use in the Treasury and Resources Department and the Finance Law is to give codes of practice to ensure that all departments are acting in the way that the Treasury and Resources Department and this Assembly wish them to act. I think that is a model that we could usefully use with regard to H.R. (human resources) issues so that you would end up with politicians involved in policy formulation and strategy but very clear codes of practice lying under a law that departments have to comply with. I think that would be far better than the way in which it perhaps currently operates.

5.6.1 Senator S.C. Ferguson:

A supplementary? How will the States Employment Board encourage departments to employ Islanders wanting to return to the Island?

Senator I.J. Gorst:

We already encourage by the way that the departments voluntarily comply with the new Control of Housing and Work Law and previously complied with the Regulation of Undertakings and Development Law. However, there are changes that need to take place and the process that I have just described is a very good way of doing such a thing. You could have a code of practice in regard to that particular issue. We can pass information down across the departments, but currently each department, rightly, makes its own decision, takes the best individual that they think is appropriate for the job within their local or non-local criteria.

5.6.2 Senator S.C. Ferguson:

But how will the Chief Minister enforce the code of conduct?

Senator I.J. Gorst:

Codes of practice. In exactly the same way that the Treasury and Resources Department currently does: if they are breached, then there are penalties for the department and there are implications of a breach.

5.7 Deputy M. Tadier:

Would the Chief Minister advise the Assembly whether all of his Ministers enjoy his confidence?

Senator I.J. Gorst:

I have no reason to say anything other than that.

5.7.1 Deputy M. Tadier:

By extension, the Chief Minister will be aware that there has been a vote of no confidence lodged in one of his Ministers today, the Minister for Planning and Environment. Will he be supporting that move or will he be standing by his Ministers?

Senator I.J. Gorst:

I have not yet seen any such proposition. I was aware that something was due to be lodged; obviously, I will have to consider it carefully, as with every single Member. These are the issues that I raised during the Machinery of Government Review. It lies in the hands of this Assembly which individual Member of the States sits in which Ministerial post. I am not sure that is a satisfactory state of affairs, but it is the one that we currently have to operate under.

The Bailiff:

No, you have had 2 already.

Deputy M. Tadier:

To confirm, the Chief Minister said he does have confidence ... I think Senator Ferguson had at least 2 supplementaries.

The Bailiff:

You have had 2, Deputy, I am sorry.

5.8 The Deputy of St. Ouen:

What actions have been taken by the Chief Minister to co-ordinate policies across all States departments and is he satisfied with the progress to date?

Senator I.J. Gorst:

I am never satisfied, I always think that we can do better, that is why I am in this job. My Assistant Minister now has a very strong role when it comes to social policy and co-ordinating that; we now have a new Social Policy Unit in the Chief Minister's Department with probably 3 individuals, and their role is to co-ordinate policy right across departments. They have done some very good work in some areas and there are other areas which, if I am going to be frank with the Deputy, we are finding more difficult to build consensus across departments where perhaps there are different desired outcomes, but good progress is being made. One of those particular areas is with regard to the alcohol and licensing strategy, and I am pleased to say that in very short order, we will be producing a consultation on that. That has taken many months to develop a co-ordinated approach, which is absolutely fundamental so that we get the strategy right.

5.9 Senator L.J. Farnham:

I just wondered if the Chief Minister could confirm what action has been taken following the recent support of his proposal to establish political accountability for justice. Could he confirm that the process is underway within his department and explain what has happened to date?

Senator I.J. Gorst:

Yes, I can, and an earlier question on notice was in regard to the very first piece of work arising from that proposition.

5.10 The Deputy of St. Martin:

Given the reports in the media yesterday that Guernsey representatives have been meeting M.P.s (Member of Parliament) in England and are potentially weeks away from an agreement over L.V.C.R. (Low Value Consignment Relief) in relation to home-grown items, specifically

horticultural products, can I ask the Chief Minister if Jersey has been making similar representations on behalf of Island growers?

Senator I.J. Gorst:

We have been watching very closely the work that our colleagues in Guernsey have been undertaking in this regard and we will continue to watch very closely.

5.10.1 The Deputy of St. Martin:

Would the Chief Minister expect Jersey to be treated in exactly the same way as Guernsey if they managed to reach an agreement?

Senator I.J. Gorst:

If there is to be any change, and I cannot say that word clearly enough, then I see no reason why we should be treated in any way different from our colleagues in Guernsey.

5.11 Deputy J.A. Hilton:

Has the Chief Minister concerns that our present system of granting senior civil servants extensions to their 5-year contracts inhibits their attempts to bring about change in culture across the Civil Service for fear of losing their jobs?

Senator I.J. Gorst:

I am not sure which particular contracts the Deputy is referring to. Of course, there is always that concern that change is not comfortable and sometimes we can take up a job which involves change but find that job comfortable. Perhaps that is one of the reasons why this Assembly has struggled to reform itself and therefore I do not think any other job or individual might be any different. I am not sure that it is necessarily to do with the length of the contract, but one thing I would say, I think now that we have got momentum going in the reform programme, yes, we have still got one or 2 important milestones to achieve in the next month or so, but I think we have gained such momentum now that there is no going back. Those departments that are rolling out 'Lean' and a whole-systems approach to their operations, like the Social Security Department and the Health and Social Services Department, I do not think they want to go back to the old way of operating. They are looking to the future because they recognise it is better for them as staff and it is better for the customers that they are in business to provide a service to.

5.11.1 Deputy J.A. Hilton:

A supplementary? Does the Minister not agree with me that if those senior civil servants had been brought from the U.K. on fixed contracts and so were going to have to relocate back to the U.K. after 5 years, might be more prepared to put their heads above the parapet because they have not got anything to lose?

Senator I.J. Gorst:

The reverse argument is that an individual coming to live in our community and bringing their family and is absolutely committed to Jersey's future, because that is where they see their future, might be more persuaded to make the difficult decisions to improve the service to redesign what we are offering so that it is better for their future and family's future as well.

5.12 Deputy M. Tadier:

Will the Chief Minister advise whether there are any plans or if there are currently being lessons given to the Council of Ministers in the Chinese language?

[11:15]

Senator I.J. Gorst:

Not that I am aware of currently. Of course, Ministers that do visit China on business have a briefing with a local individual who understands China well and also speaks that language, but

the Deputy's suggestion that perhaps we should have a little bit of language tuition prior to a visit as well is a very good idea, although perhaps it fills me with dread personally.

5.13 Deputy G.P. Southern:

I have just glimpsed through my answers to questions and I find the phrase: "Interim population policy." Does the Chief Minister not consider that an interim population policy is an oxymoron?

Senator I.J. Gorst:

Absolutely not.

5.13.1 Deputy G.P. Southern:

Can the Minister explain to me how an interim population policy is designed to work and effectively control any population?

Senator I.J. Gorst:

As excited as the Deputy appears to be about the subject, perhaps if he waits a few more weeks, he will be able to see.

5.14 Deputy T.A. Vallois:

Could the Chief Minister advise, in his role of co-ordinating the Ministers' portfolios, what priority he has given to licensing laws?

Senator I.J. Gorst:

That is a piece of work that we have been co-ordinating. I think it is extremely important that licensing law needs to come with alcohol strategy so that Members of this Assembly and members of the community understand what the implications might be and what we are trying to achieve by changing any licensing law. The consultation document is dated November, there are quite a few days still to run in November prior to it being published, but I hope that it will be published in very short order; I think it is going to the Council of Ministers on 13th November, so it should be published shortly thereafter.

5.14.1 Deputy T.A. Vallois:

A supplementary? Does the Chief Minister believe it is appropriate that, considering the Green Paper was produced in 2009, we are only now, in November 2013, producing another consultation paper?

Senator I.J. Gorst:

That is a good question and perhaps I felt that I had answered it when I answered the Deputy of St. Ouen in what I thought was a candid manner, in that this is an area which has been more difficult to co-ordinate than I would have liked, but we are now finally seeing that co-ordination and perhaps that difficulty is one of the reasons why so much time has elapsed.

5.15 Deputy G.P. Southern:

Given the Chief Minister's commitment to transparency and co-operation, does the Chief Minister have a view on the Minister for Social Security's decision to withhold policy in preparation until after the date it is due to be making savings in 2014, and does he accept that this effectively does not mean transparency, it means secrecy?

Senator I.J. Gorst:

I do not accept that at all and I have nothing further to add to the Minister for Social Security's comments in answer to a similar question earlier this morning.

5.15.1 Deputy G.P. Southern:

Is it his intention to treat that as a precedent and encourage other Ministers not to reveal their policies until well after they are in place?

Senator I.J. Gorst:

The Deputy accused me of using a term which he described as an oxymoron. I am not sure how a policy can be in place if it has not been developed.

5.16 Deputy R.G. Le Hérisier:

Apropos an earlier question from Deputy Hilton, would the Chief Minister not acknowledge that the rate of withdrawing permissions of job licences is very slow and, in the report on her question, for example sites where only just over 200 have been withdrawn, would he not say in the current economic situation that this is appalling slowness?

Senator I.J. Gorst:

Staff are going through in an appropriate fashion. Would I like to see them doing it faster, yes, of course, I would. When I say that, they are going to say they are working as fast as they can, and I know that the Assistant Minister is ensuring that they are working as fast as they can. If they need extra resources to help with this piece of work then perhaps that is something that we will need to consider.

5.17 Deputy T.M. Pitman:

I will have to get a bigger light, Sir. Data Protection; I think it still comes under the Chief Minister. Can I therefore ask him is he not concerned to see a U.K. M.P. again speaking out this week about what has been described as the abuse of our Data Protection Law in the case against former Senator S. Syvret, and does the Chief Minister intend to engage with our U.K. cousins to see if we can iron out any different interpretations on this important law?

Senator I.J. Gorst:

I have answered many questions on this particular subject and I stand by the answers that I have previously given in this place. I am not aware of the particular M.P. who has made these comments, but if I might take a gamble and guess who it is, I suspect it is the same M.P. that criticises his own judicial system in many regards.

5.18 Deputy G.P. Southern:

Does the Chief Minister have any information on when the J.F.S.C. (Jersey Financial Services Commission) may produce its report on the activities of HSBC Middle East, as promised earlier in the year?

Senator I.J. Gorst:

No, I do not, but I can take that issue up. Sir, perhaps I could ask a point of order ...

The Bailiff:

Chief Minister, I am afraid, because so few questions were asked of the Minister for Housing, you are in for up to half an hour. **[Laughter]** For the rest of us, it seems it has only just started.

Senator I.J. Gorst:

You are very kind, Sir. **[Laughter]**

5.19 Deputy J.M. Maçon:

Will the Chief Minister confirm his ongoing support for the Data Protection Office for the hard work that it does and also what conversations he has had in order to motivate that particular team, who sometimes feel that they do not get the support that they deserve?

Senator I.J. Gorst:

The Deputy makes a very good point. Although the Data Protection Commissioner is an appointment not a staff member as such, we sometimes forget that our staff look to us as politicians as their employer and therefore I believe that we do have a duty of care in that regard. We have seen over the last week a Member of this Assembly writing in the media, in terms which I found extremely distasteful, about members of staff, and I can only think that, if the shoe was on the other foot and I was the employee and I saw such terms being written about me by the individual that I consider to be an employer, I would be extremely disappointed. The Data Protection Commissioner is doing a sterling job on behalf of this community, is it extremely difficult, it is one of those jobs, Sir, much like your own, that 100 per cent of the time, 50 per cent of people are going to be disappointed with the decision that you make.

5.20 Deputy M. Tadier:

The question relates to the Rehabilitation of Offenders Law. Has the Chief Minister been asked or approached by the Data Protection Department to bring forward amendments that would deal with current inadequacies in that law to do with spent convictions?

Senator I.J. Gorst:

I am not aware of such. That is not to say that such correspondence has not been undertaken with my officers and is finding its way up to my desk through the usual process.

5.20.1 Deputy M. Tadier:

As a supplementary: if, for whatever reason, that is not forthcoming, will the Chief Minister make a point to speak to the Data Protection Commissioner on that issue? I know it is something which she feels strongly about and has approached in the past the Jersey Human Rights Group on, and it is an issue which I think is important for consideration?

Senator I.J. Gorst:

I thank the Deputy for raising it and I will do just that.

5.21 Deputy T.M. Pitman:

Data Protection again. When you highlight faults or failings, it does not mean you are attacking a member of staff, *per se*, or highlighting that for no reason, I would like to ask the Chief Minister, does he not at least find it a concern - and I am not here to defend the gentleman - that we have one individual in prison as a result of use of the Data Protection Law, and yet we have another gentleman who, it is evidenced, if he cares to go down to the police station, is the subject of multiple complaints for cyber bullying, and he has been given more than £100,000, if you work at the ratio of States money, taxpayers' money, to bring that prosecution against former Senator Syvret. Syvret is in court, this man is running free still spreading hate. Does the Chief Minister not think that is a concern? Because it surely should be, whoever you want to consider in this. It does not matter who it is, if it is Mr. Syvret or anyone else, the law has got to apply to everyone.

Senator I.J. Gorst:

As I understand it, an individual was sentenced to 3 months for contempt of court, not an issue for me to deal with but an issue which the court has dealt with. As I have said before to the Deputy, if he has got concerns about the way that the Data Protection Law is framed, then let us have that debate and that discussion in this Assembly. We are a Legislature, we should be changing the law if we think it is not fit for purpose or we think, with respect, that the interpretation given by the judiciary when reaching its decisions is one that we have not anticipated. We should then come forward and amend the law. That is what our job is. If we have concerns about it, let us do that.

5.21.1 Deputy T.M. Pitman:

A supplementary. I sometimes wonder if the Chief Minister deliberately misunderstands questions. The problem here is not with changing the law, it is that the law is being abused. Even lawyers will tell him that. The law must be applied equally to whoever that person is. In this case, the evidence, the facts, which are rather important, show quite clearly that it has not been. Is that not a concern? Does that not need looking into as Data Protection comes under his stewardship?

Senator I.J. Gorst:

I really have nothing further to add. If the law is capable of being abused in a fashion from the way that it is framed, then we should change the way that it is framed.

The Bailiff:

I am sorry, Deputy, but now time has run out on us.