

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 17th JULY 2019

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[9:30]

The Roll was called and the Dean led the Assembly in Prayer.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

1. The Assistant Minister for Economic Development, Tourism, Sport and Culture made a statement regarding the 2019 Island Games

The Greffier of the States (in the Chair):

The first item of business today is the Draft Criminal Procedure (Jersey) Law 2018 (Appointed Day) Act lodged by the Minister for Home Affairs. No, the Deputy Greffier is quite right. I am jumping ahead of myself. We have 2 statements first, and the first is going to be delivered by Senator Pallett. I think it has been circulated, Senator? Do you want to pause for a second while it is circulated? I thought it had been.

Senator S.W. Pallett:

It is probably better if it is circulated, so people can at least read it while I am speaking it.

Connétable R.A. Buchanan of St. Ouen:

Can I ask the défaut be raised on the Constable of St. Saviour? **[Aside] [Laughter]**

The Greffier of the States (in the Chair):

No. This will take us a few more seconds, just for the benefit of the radio audience, while the statement is handed out. I think we are ready to go.

1.1 Senator S.W. Pallett (Assistant Minister for Economic Development, Tourism, Sport and Culture):

The Chief Minister made a brief statement yesterday around the Island Games that took place last week, but I thought it is important that I added to that this morning with a few thank yous to various people that were involved with the Games. Last weekend saw a momentous weekend for British sport with the England men's cricket team joining their women counterparts as world champions in an epic encounter against New Zealand at Lords and Lewis Hamilton winning a record breaking sixth British Grand Prix at Silverstone. Professional sport often takes the headlines in the media and provides many of the role models that aspiring young athletes look to follow such as Jersey's Serena Guthrie, the England Women's netball captain, who is performing so admirably at the current world cup. **[Approbation]** Many of these high performing athletes would have found it difficult to reach the heights they have in their favoured sport without the help of grass roots sport with all the volunteer coaches, managers, administrators and helpers who are prepared to give up their free time to provide opportunities for young people to try various sports and, hopefully, find a sport that they either excel in, or simply play for enjoyment, or to keep fit. Not only was last weekend so memorable for sport nationally, it also saw the return of our NatWest International Island Games team from Gibraltar after what was, without doubt, an incredibly successful and momentous week for Jersey on the international sporting stage. Last week saw our team top the medal table, winning 93 medals overall, 33 gold, 31 silver and 29 bronze beating our nearest rivals the Isle of Man, Faroe Islands and Guernsey, who won 29, 22 and 19 gold medals respectively. A number of the gold medals won by Jersey athletes achieved by breaking Island Games records with some truly incredible performances, but equally important were the athletes who achieved personal bests in their respective events while representing their Island. Having seen close up so many medal performances, it was abundantly clear that no medal at this international event was easily won and we should thank all our athletes for the dedication and commitment they have shown in both qualifying for the games and for performing so well in Gibraltar. Time and time again I saw Jersey athletes pushing themselves to the absolute limit

in pursuit of success and I had tears in my eyes on a number of occasions as I was filled with pride by our athlete's performances. I hope all Members and Islanders, more generally, are proud of our team's achievements in Gibraltar. I am sure that everyone, including all our athletes, acknowledge the part that managers, coaches, administrators and helpers have played in the development of each and every member of our Island Games team and I thank all those who played their part in making the games in Gibraltar so successful. We are blessed in Jersey that we have so many dedicated volunteers that support sport at all levels and we should thank them all for their efforts. The Island Games Association of Jersey must be applauded for, yet again, doing such a sterling job with the travel and accommodation needs of the team and liaising with each of the sports to ensure they not only had the best possible preparation prior to arrival in Gibraltar, but also the necessary support during the games. We should be extremely grateful to Chairman Steve Jacobs, his organising committee, team manager, medical team and physios for all their hard work and dedication. Those competing in the open air, such as cycling, athletics and triathlon, among others, had to deal with both heat and humidity, so having good medical support was vital. There are always injuries at such a large sporting event, but I am sure we would all wish men's cyclist Sam Firby a quick recovery after his very nasty crash during the men's cycling road race. We must be thankful that Gibraltar stepped in at relatively short notice to host the 18th NatWest International Island Games after another island pulled out. Their commitment to providing high quality, modern facilities was truly impressive with the Government of Gibraltar committing approximately £70 million into new and refurbished facilities. The development of these facilities not only provided the opportunity for athletes in the Island Games to compete in world class venues, but has also given the people of Gibraltar an ongoing legacy that will not only support the development of the next generation of athletes in Gibraltar, but, importantly, give all Gibraltarians greater opportunity to stay fit and healthy, both physically and mentally, an aim that we, as an Island, have committed to within our Common Strategic Plan. This commitment to encourage and support Islanders to stay fit and active means we will also need to invest in facilities in a similar way to Gibraltar, obviously based on evidence and our needs. I have asked our Chief Minister to write to his counterpart in Gibraltar to thank him, the Government of Gibraltar and all Gibraltarians for their generous hospitality to our team and for the well organised and successful games that were held last week. Although there were some remarkable individual performances, I have chosen not to single out any individual. Our athletes left as a team and returned as a stronger team, of which we should be extremely proud. **[Approbation]**

The Greffier of the States (in the Chair):

An opportunity for questions for 15 minutes. Does any Member have a question?

1.1.1 Deputy M.R. Le Hegarat of St. Helier:

I would like to ask the Minister if he would update us in relation to the facility which is being provided for the Netball Association? Everyone has seen how brilliant that Serena Guthrie is playing and even making player of the match. So, please tell us what we are doing and when will they have a new home.

Senator S.W. Pallett:

More than happy to update the Deputy. We are currently carrying out an overall sports facilities review, which originally highlighted the needs of sports in the Island and is now looking in more detail at where those facilities should be sited and what they should look like.

[9:45]

Netball is a high priority within that sports facilities review. The consultant that is carrying out that work has been asked to look at netball as the highest priority. We do need to find a site and a long-term home for netball, but we have liaised with netball very closely over the last year, year and

a half, to comfort netball that they are being taken seriously and that we do need to find a home for netball in the long term.

Deputy M. Tadier of St. Brelade:

I probably should not ask the Minister a question, actually.

The Greffier of the States (in the Chair):

That is a very good point.

1.1.2 Connétable M.K. Jackson of St. Brelade:

I would just like to ask the Senator if he has any idea when Jersey might host the next Island Games?

Senator S.W. Pallett:

That is a very good question. I would love to host it while I am still in politics in Jersey and be part of that process. The next 4 Games have been committed to, so that will take us 10 years forward to 2029. It comes round about every 18 to 20 years. We held it in 2015. My guess is we are probably not going to hold it again until the early 2030s. But, if an opportunity arises for us to step in, if somebody else was to decide that they could not hold it, then I would be more than keen to put Jersey's name forward. But, at the moment, I think we are going to be looking for another probably 10 years before we are going to bid.

1.1.3 Deputy S.G. Luce of St. Martin:

Does the Senator expect by that time that skateboarding would be part of the sports taking part in it and can he update the Assembly on progress with our new skatepark?

Senator S.W. Pallett:

There is a list of sports that Islands that host the Games can put into the list of sports they can put into their Games. There is no intention, at the current time, to include skateboarding within that. The sports that are included are sports that are generally available in the Islands themselves. I am sure skateboarding is available in most of the Islands, but the current situation is I do not think it is likely to be part of the Island Games in the foreseeable future. In terms of locally, I am waiting for an evaluation report on the consultation work that we did after the release of the site suitability report. I expect to have that within the next week to 10 days, with a recommendation as to what we do next, and what recommendation might be in terms of the site; I think that is where we currently are.

1.1.4 Deputy R. Labey of St. Helier:

The Deputy of St. Martin asked my question, but leading on from that, has the Senator put in a bid for funding in the Government Plan for the skate park proposed at Les Quennevais?

Senator S.W. Pallett:

The Government Plan is due out, as we know, this week and to my knowledge there is a funding bid within that Government Plan to include the skate park.

1.1.5 Deputy G.W. Truscott of St. Brelade:

The Deputy of St. Martin beat me to the post, I was going to ask the exact same question. Just thinking on my feet, we are knocking down the Fort Regent swimming pool. Regretfully, when it was originally built, it was built too short to hold international swimming events. Are there any plans for a full-sized Olympic pool to be built in the Senator's plans?

Senator S.W. Pallett:

An evaluation of our current swimming facilities in the Island is currently being carried out by the consultant that is doing the overall sports facilities review. One of the areas he has to consider is

swimming pool provision over the next 2 decades. Nothing is ruled in, nothing is ruled out. I know my own Minister is keen on a 50-metre pool. I think we have to look at the needs and whether it is something that is a viable proposition in Jersey, but that is part of that review.

1.1.6 Deputy M.R. Higgins of St. Helier:

Would the Minister like to make a pitch for more sports facilities generally and including Fort Regent before the Government Plan says they have no money to do it?

The Greffier of the States (in the Chair):

And possibly link that to the Island Games in your answer, because we have departed quite a bit from the actual statement. If you can try and track it back into the subject of the statement at some point.

Deputy M.R. Higgins:

A pitch for greater sports facilities which would be of use in the Island Games, before the Government Plan says we do not have the money and we cannot do these things.

Senator S.W. Pallett:

What I would say around facilities is that, coming back to the Island Games, is that each of the Games has looked to leave a legacy for sport as part of holding the Games. What I would say, looking back at 2015, is prior to that there was an opportunity, I think, to review facilities in 2012 to 2014 and perhaps leave a larger legacy in regards to facilities in Jersey and do some of the work that we are currently doing now, which would have led up to us maybe committing more in terms of funding facilities prior to those Games. There is going to be a need to provide not only refurbished facilities in Jersey around our public sports centres and other sports facilities, but we may have to build new to replace some of the current existing ones. I am not going to comment on Fort Regent, because it is not within my remit. But I think the Fort Regent Steering Group do need to decide what the long-term future for the Fort is. I think sooner than later. But we are working closely with the steering group from the sports facilities review point of view, to make sure that our work works hand in hand with what they are doing.

1.1.7 Deputy K.G. Pamplin of St. Saviour:

I think the Senator was just touching upon the Island Games and part of my question. The point of legacy in 2015, we did hold the Island Games and it was as great success. The Island was alive and sport was at the forefront. The beach volleyball down at the Weighbridge. My question is really about if we are going to do legacy, then we really need to put a plan in place. The reason why the England cricket team won the World Cup was for 4 years they dedicated to a plan that brought them success. Similarly, with Jersey cricket, with their recent success as well. So, if we are going to do legacy then we must do legacy. In London, after the ...

The Greffier of the States (in the Chair):

Is there a question?

Deputy K.G. Pamplin:

There is. I am just getting to it. In London the Olympics was a huge success. They realised that and part of the legacy was to come back and do a legacy games. Does the Senator agree we could do more, looking at an inter-Island Games, to keep momentum going for future bids of the Island Games?

Senator S.W. Pallett:

There is always opportunity to put more sporting events on in the Island and I know myself and the Minister are always looking at opportunities to bring more sporting events to the Island. International events do not come free. You tend to have to pay for them. But in terms of amateur events,

inter-Island events, I think there is already a strong, year in year out, sporting calendar with our sister isle that we look to promote and support. There will be some opportunities that will fall out of the 2021 Games in Guernsey where there are some sports that will not be included. I have spoken to those sports about putting events on in Jersey to assist and help those sports take their profile forward. I will pick one for example, which is judo, which is included in these Games in 2019, it is not included in 2021 and spoken about putting an event on here. So, we are looking at every opportunity that we can to put new events on. But in terms of legacy, as I have said, I think there is an opportunity to have a greater legacy than 2015. But I think the fact that we have still got athletes performing at the level that they currently are shows that the investment we put in has been paying dividends, but we cannot be complacent and I think we do need to invest in facilities in a greater way moving forward.

The Greffier of the States (in the Chair):

I think I need to stop that.

Senator S.W. Pallett:

I will stop there.

1.1.8 Senator K.L. Moore:

This is another legacy question. To ensure that the Island maintains its top spot in the Island Games medals table, what plan does the Senator have to ensure that sports are particularly given a greater focus and a continued effort in our schools and also out there with all the volunteers and different sporting groups that train for the various sports in the Island, so that future sportsmen and women will excel in sports in future?

Senator S.W. Pallett:

Sports development in the Island, as the Senator knows, is very much the remit of Jersey Sport and Jersey Sport have put a very strong programme together both within the clubs and schools themselves to promote sport and provide opportunities for young people to take up sport. I am pleased to say that through the new Fit for the Future strategy, which will be called 'Active Living', or an active strategy for Jersey, which will be the new sports strategy for the Island, that there is funding within that to enhance and provide new programmes, to provide opportunities for all generations, not just for the young, but for those at work and also those that are retired to stay fit and healthy and active in the Island. There will be more funding within that. I think it is part of the Common Strategic Plan. Keeping people fit and healthy is a core element of that plan and I am pleased to say that the Government have realised that we have to commit greater funding to preventative health measures and sport will play its part within that. But I am happy with the level of funding within this Government Plan to provide opportunities for young people, both in school and within clubs in the Island to play sport.

1.1.9 Deputy R.J. Ward of St. Helier:

Given this is about the future involvement in sport, encouraging people to be involved, even into the Island Games, would the Minister agree that it is about day-to-day facilities and involvement of people in exercise that makes them become more involved in sport? A specific example is the development of effective and accessible cycle pathways throughout the Island and, in particular, the eastern pathway, which would mean that more people would be involved in cycling and may be more likely to be involved in sport in the long term.

Senator S.W. Pallett:

The Deputy picked on a very interesting point. Improved cycle networks will have benefits across Government and across the Island. Our cycle networks have improved. Our new cycling network up and through St. Peter's Valley, I think, was a good addition to what we currently have. We have a good cycle network to the west. I know, having spoken and worked with the Deputy of Grouville,

that we do need to look harder and work harder at providing an eastern cycle network that people can feel confident to use, feel safe to use and it needs to be done in a way that is not convoluted and people will find easy to use. That work goes on, but the Deputy is quite right, we do need to work harder in providing cycle routes, because the benefits are not just to keep people fit and active. It will help to reduce car usage. It will have all sorts of other benefits, as well. So, I totally agree with him. We need to work harder and I hope the Minister for Infrastructure will work with me and the Deputy in trying to work towards a network that will work on the east side of the Island.

The Greffier of the States (in the Chair):

That has exhausted the time available for questions. So, we move on to the second statement this morning, which is to be made by Deputy Doublet about the Gender Pay Gap Review Panel's report.

2. The Chairman of the Gender Pay Gap Review Panel made a statement regarding the Panel's report

2.1 Deputy L.M.C. Doublet of St. Saviour (Chairman, Gender Pay Gap Review Panel):

The Gender Pay Gap Review Panel is pleased to have concluded its review of whether there is a gender pay gap in Jersey. Just to be absolutely clear, the gender pay gap is a measure of the difference between men's and women's average earnings across an organisation, or the entire labour market. I highlight this point, because a gender pay gap is sometimes mistaken for equal pay, but they are 2 different things. After an extensive and in-depth, year-long review, which included an exploration of the key issues associated with the gender pay gap, the Panel's overarching finding and recommendation is that there is a gender pay gap in Jersey and the Government should take immediate action to close it. In order to come to this conclusion, the Panel collected mainly qualitative research during its review because, unlike the U.K. (United Kingdom), there is currently no requirement for employers in Jersey to report on their gender pay gap. We can say, for certain, that the public sector has a gender pay gap. Figures provided to the Panel showed that as a median average, men earn 13.6 per cent more than women, despite the fact that women make up 65 per cent of the public sector workforce.

[10:00]

The Government must take action now to close this gap. With a focus on gaining qualitative evidence, we commissioned the company '4insight' to undertake a number of focus groups with Islanders from all different backgrounds to explore their views and perceptions of the gender pay gap in Jersey. Other methods included speaking to members of the public, organisations, academics and Ministers. The Panel asked almost all of its stakeholders whether they thought there was a gender pay gap in Jersey. Most, including the Chief Minister, acknowledge that Jersey does have a gender pay gap. The following themes were identified as contributing factors: gender stereotypes from school age; occupational segregation, stemming from subject choice at school; unconscious bias in the workplace; the glass ceiling, which stops women reaching upper levels in the workplace; more women taking on domestic commitments and more women taking on caring responsibilities. Our report focuses on these factors in particular and it became clear that the issues are complex and difficult to tease apart, because they all interrelate with one another in some way. By looking at the average amount paid to all women versus the average amount paid to all men in any given workplace, or profession or, indeed, across the whole population, we can see the bigger picture that goes beyond the simple concept of equal pay for the same job role. Something is happening to prevent women from reaching the higher levels of many professions and thus they are being paid less overall than men. It is clear from available data that women are just as capable as men, with girls frequently outperforming boys in education, including at degree level. So why are women not reaching the upper levels in proportionate numbers? In the public sector, there is a significantly greater proportion

of women working in jobs that pay less than £80,000 and a greater proportion of men on salaries higher than £80,000. Where are all the educated, capable women that are missing from our public sector? In its report, the Panel makes 36 key findings and 13 recommendations. One of the key recommendations is that the Government collects, analyses and publishes data in relation to the public sector gender pay gap and related issues. The Panel believes this will raise awareness of the underlying issues associated with gender pay gaps, such as social norms, biases and gender stereotypes, which our report has touched on. Rather than recommending statutory measures are introduced, which would make it mandatory for employers to report on their gender pay gap, the Panel has opted to make a number of recommendations in the first instance, which focus on initiating a cultural shift to remove the barriers women face in progressing in their careers. The Panel will follow up on the review once the recommendations, if accepted, have had time to bed in and take effect. If the Panel sees that the Government is not taking the necessary steps to close the gender pay gap, we will explore the possibility of introducing statutory measures to initiate the change required. If there are any members, who have preconceived ideas about the gender pay gap, or who are perhaps a little sceptical about the issues associated with the gender pay gap, then I urge you to read the report in its entirety. I would like to offer thanks to the Review Panel, to the Ministers who came in to talk to us and to the members of the public and organisations who contributed to our review. Without them, this review would not have been possible and we would not have been able to highlight this very important topical issue, or the factors that surround it. I must also add thanks to our officer, Kellie Boydens, who has been extremely capable and has guided us expertly throughout this review.

2.1.1 Deputy M. Tadier:

The Chairman has quoted a 13.6 median average pay gap in the public sector. What are the figures in the private sector?

Deputy L.M.C. Doublet:

Due to the fact that we do not have legislation to collect this information, the Panel was not able to access this data, but I did look at the U.K. figures, where, of course, they do have reporting legislation. If we take Jersey's public sector pay gap, which is 13.6 per cent, the U.K. public sector pay gap is 12.7 per cent. Their private sector pay gap is 14.7 per cent. So, I would expect if we extrapolate from those figures that Jersey's private sector pay gap would be something just above around 15 per cent.

2.1.2 Deputy M. Tadier:

Given the fact that we do not currently have the legislation, would it not be a good idea for Jersey to introduce legislation? Despite the comments in the speech a moment ago, if we did have the legislation and it were mandatory for companies to report their gender pay gaps, then clearly we would know those statistics. Is that not ultimately the way we need to go?

Deputy L.M.C. Doublet:

I believe I covered this in my statement and the Panel will be following up on this work. If we do not see the cultural shifts required to change the situation, then that is something that we would consider in the future.

2.1.3 Senator S.C. Ferguson:

I have a couple of points. Did the Panel examine the effect of bias of careers advisers shifting girls into suitable careers for girls and that sort of thing? Has the Panel considered the effect of taking time off for childbearing and, therefore, losing a considerable length of time, which comprises valuable work experience? They may be of the same generation as an equivalent male, but they are 2 or 3 years behind in work experience, which counts.

Deputy L.M.C. Doublet:

I will start with the first question about careers advisers. We did not specifically talk to any careers advisers, but looking at the education system and our society as a whole, gender stereotypes were highlighted as one of the main contributing factors to the gender pay gap. So, gender stereotyping can be defined as how males and females are expected to act, speak, dress and conduct themselves based upon their sex. I think everybody has some level of unconscious bias, myself included. It is something inherent in all human beings so I would expect that, yes, it probably is present within careers advisory services. The perception of school subjects as masculine, or feminine, is a problem. When we looked at the figures from Highlands College, we saw that, I think, in the computing subjects it was vastly boys and only a few girls. In the childcare qualifications, it was mostly girls, not many boys. So, that is something that we are asking the Minister for Education to assist us with. We have recommended an audit of education settings to try to overcome some of this gender stereotyping and unconscious bias, which I do not think is ever intentional, especially from teachers. Teachers are trained not to show gender stereotypes in their work but, as I said, it is inherent within every human being. It is not something that we can sometimes consciously overcome and we need to put systems in place to assist with that. Could the Senator just repeat her second question, please?

Senator S.C. Ferguson:

Yes. Has the Panel considered the effect of taking time off for childbearing? If you take time off to have a baby, then you lose probably anything from 6 months to 2 or 3 years' work experience. This is at the time that you should be forging ahead in your career and it can hold you back.

Deputy L.M.C. Doublet:

Yes, we did look at this. Some of the data that we examined from other jurisdictions shows that a woman's earnings fall off a cliff around the time she is in her 30s, whether or not she has a child. I think that is the point that needs to be made here. We assume, as a society, that a woman in her 20s is going to have a child soon, when she is in her early 30s. We have to stop making those assumptions about women and we also have to look at child rearing and domestic responsibilities as not just the sole responsibility of women. It is also fathers, men. It is their responsibility, as well.

2.1.4 Deputy C.F. Labey of Grouville:

Does the Deputy have a timeline in mind for waiting for this cultural shift? Because if she wants the Government to take action now, I would have thought, rather than commissioning a review, the best thing is to make it mandatory. So, yes, what timeline?

Deputy L.M.C. Doublet:

If the Government thinks that the best way to achieve this cultural shift is to introduce reporting legislation, then I think that would go a long way to completing lots of the Panel's recommendations. We did not recommend that at this stage, because we felt that the cultural shifts could be made. We are going to stay as a Panel, so that we can follow up. Many of our recommendations have a fairly long timescale attached to them, because we understand that these issues are deeply embedded within our culture. Yes, legislation might have a more immediate change, but if there are other ways to make those changes - and this was something that was felt by the majority of our stakeholders, which is why we have made this recommendation - then we do feel that it is reasonable to try and make that cultural shift first.

2.1.5 Senator S.Y. Mézec:

Does the Deputy consider that the businesses which are most likely to have the worst gender pay gaps are probably also the businesses that are most immune to wider cultural changes? Is it not the case that a legislative requirement to publish the gender pay gap is not unreasonable and it is a perfectly decent first step, rather than a second, third or fourth step?

Deputy L.M.C. Doublet:

Again, I will reiterate what I just said. If the Government feel that reporting legislation is necessary, then I would encourage them to discuss that and think about introducing it. They have our report here to use as evidence and if they disagree with our recommendations and they want to go further, then that is completely up to them.

2.1.6 Deputy R. Labey:

When the new board of Directors General was announced by the Government of Jersey, it was exclusively male. Later one woman was added. I wrote to the Chairman of the Jersey Appointments Commission asking how this could be justified in 2019 and have yet to receive a reply. Has the Panel tackled the Jersey Appointments Commission? Does she share my dwindling confidence in that body?

Deputy L.M.C. Doublet:

We did have the Chair of the Jersey Appointments Commission in to speak to us and it was very revealing some of the answers to the questions that we posed. In this instance, some of the issues are wider issues in Jersey; for example, married women's tax affairs and a partner of somebody who comes for a job in Jersey not being able to work themselves. Those were quoted as being reasons why very capable, educated women, who came over to be interviewed for these posts - and in some instances were offered a post - declined to take the post, because of some of these wider cultural issues. That is one of the reasons why the Panel is not just focusing in on the legislation, although I get the feeling that it is something that perhaps the Assembly would like to consider. It is not just as simple as that one piece of legislation. There are so many interrelated factors and, again, I will encourage Members to read the report. We have a digital version of the report as well, which if you have less time I would encourage you to read that, because it does sum up all of these complex issues. I would hope that, as an Assembly, we can gain a wider understanding of these interrelated issues and start tackling them one by one. It is work that is already well under way, I think, in some areas, but we do need to work as a body, as a States Assembly, together to tackle these issues.

2.1.7 Deputy J.M. Maçon of St. Saviour:

Having only received the report last night, I have not been able to read it all, but just skimming the recommendations, recommendation 7: 'The Minister for Education should instruct the Curriculum Council to introduce measures to reduce gender segregation in subject choices.' Can the Chairman explain does she mean by things that have been done recently by Skills Jersey, for example, exposing more females students to the D.E.C. (Design Engineer Construct) programme, which has more engineering within it, or does she mean something else? I wonder if she could just elaborate on that particular recommendation.

Deputy L.M.C. Doublet:

I thank the Deputy for his question. We are aware that there is some work that has been initiated in this area and the Panel applauds that work.

[10:15]

There is a lot more still to be done and it needs to be filtering down, not just at the secondary school level when teenagers are making subject choices, but we have also recommended that it go earlier. It starts almost from birth. Toys and clothes are segregated by gender in our culture and that segregation, that pink and blue and the different language that we use to talk to and about girls and boys, we need to have conversations as a society about that gender stereotyping. We have recommended that work be done from childcare and preschool settings onwards. Yes, within a secondary school, or in the college, I would say that exposing girls to role models who are doing traditionally male subjects like engineering, for example, that is something that can go a very long way. Because if a young girl sees somebody doing the job that she might like to do, it can really benefit her in terms of her feeling that she can go for that profession. Likewise, for boys as well; it

is not just about girls making different choices. Personally, I would really like to see more boys in childcare and in teaching.

2.1.8 Deputy J.H. Young of St. Brelade:

Like Deputy Labey of St. Helier, I am concerned about the possibility there may be bias in our public service recruitment process, not just at the D.G. (Director General) level but right the way throughout the whole civil service, particularly as we are going through a massive change and everybody has to apply for their jobs. Did the Panel have any evidence on applicants for jobs and any statistics, or figures? Did they find evidence for that and if they did is there not a case for giving instructions to our Chief Executive Officer, at least, in the public sector for some positive discrimination?

Deputy L.M.C. Doublet:

Is the Deputy asking do we have data around how many men and women are applying for roles?

Deputy J.H. Young:

Data, or evidence, other than just anecdotal evidence from speaking to the Employment Commission, as in answer to your earlier question. Did you have any detailed information to illustrate that there is bias going on?

Deputy L.M.C. Doublet:

I do not have those exact figures to hand. They might be within the report. I am sure the Deputy is going to be reading it cover to cover. We did focus on qualitative evidence and we did hear some really worrying stories from women, who had been employed within the public sector and, for example, were being discouraged from taking flexible working and women who were being passed over for promotions. In terms of recruitment practices, we have recommended blind C.V.s (*curriculum vitae*), so C.V.s that are blind not just to gender, but to other types of diversity. The evidence shows that that makes a difference in terms of equalising things at the recruitment stage.

2.1.9 Connétable C.H. Taylor of St. John:

I would like to first say that I hope the Panel agree that everyone, regardless of gender, should have equal opportunity. That to me is a fundamental. The question I have is that when a post is advertised the best person, regardless of gender, is taken on for that post. I hope they are not advocating that there should be gender discrimination, one way or another, simply in order to balance figures.

Deputy L.M.C. Doublet:

I am not sure if the Constable was listening to my opening statement [**Members: Oh!**] when I stated that the Panel would never recommend discrimination one way or the other. What is happening at the moment is we do not have equal opportunities. If you look at the data from schools and universities, girls are outperforming boys. So, they are just as capable, if not maybe more so, than boys. When we get to the other end of it, for example, in the teaching profession, you have twice as many women as men entering the teaching profession, but somehow they are filtered out before they get to head teacher level. So, we are losing all of that talent. It is not about giving anybody an unfair advantage. It is about giving equal opportunities to all.

The Greffier of the States (in the Chair):

I have 10 more Members who wish to ask questions, 8 of them for the first time, but we have expired the 15-minute period, unless somebody wishes to propose that we have an extra 15 minutes, which is permitted.

Deputy R. Labey:

Yes, I would like to propose that we have an extra 15 minutes ...

The Greffier of the States (in the Chair):

You do not need to speak on it. Is that seconded? **[Laughter]** **[Seconded]** All those in favour kindly show. Thank you very much.

2.1.10 Deputy K.G. Pamplin:

Yesterday, in the House of Commons, a Conservative M.P. (Member of Parliament) introduced a flexible working Bill, saying that flexible working should be the default position for all employees, rather than being up to individuals to request. The 40-hour, 5-day working week that made sense in an era of single-earner households is not relevant. On this topical subject here in the Island, I would be keen to hear the Chair's thoughts on introducing such legislation.

Deputy L.M.C. Doublet:

I am just looking through our recommendations, to see if we touched on flexible working. I know that we did examine the concept of flexible working. In recommendation 10 we have recommended that a head of diversity should be appointed within the public sector and they should implement strategies and policies to ensure a gender neutral and gender sensitive public sector. In terms of flexible working, at the moment if we had a flexible working policy across the States of Jersey, for example, that every single job was flexible by default, which is what I think you described that Bill to be; personally, I think that would make a huge difference. I think the evidence points to the fact it would make a huge difference towards removing some of those barriers. Because, some of the negative bias that comes in is when a woman becomes pregnant, an assumption is made that she is either going to leave, or she is going to want to work part-time, which, of course, is absolutely fine and you can still perform your responsibilities well working part-time. But if this was the default for everybody, it might perhaps remove some of those negative biases. We might not be looking at a woman and thinking she is going to be going part-time soon, because she is 30 and surely she will be having a child. Also, everybody, all human beings, have their own home lives, whether they have children, or not. I cannot speak for the Panel on this one, but personally I would get behind something like that. I think it would help our public sector to be more efficient, because if people were well rested and they were attending to their home lives and they had more time for that, I think that we would see greater productivity. Yes, I look forward to the Deputy bringing proposals.

The Greffier of the States (in the Chair):

The time limit we have cannot be extended any further and I would ask Deputy Doublet, in particular, just to be a bit quicker with the answers. I want to try and get as many Members in as possible.

Deputy G.C. Guida of St. Lawrence:

Sorry, my question was answered.

2.1.11 Deputy S.M. Wickenden of St. Helier:

It does not go far to really see how the gender pay gap in our organisation goes. I pulled up the 2018 financial accounts and reports and you can see 2 Group Directors, one male, one female. In 2017 there was £30,000 difference in their wages, being the male £30,000 more. Then, in 2018, the male Group Director was £70,000 a year more paid than the female person. My question is: during your review you have obviously identified these. Have you seen our organisation make steps right now to change this behaviour?

Deputy L.M.C. Doublet:

To some extent, yes. I think within H.R. (human resources) there are some initiatives that are beginning in terms of C.V.s, making the C.V.s blind. It is not quite enough and I think the reason why it is not enough is because there is no single person that is overseeing this work. I think sometimes when we talk about diversity, inclusion, equality, it is seen as a 'nice to have' that somebody can do off the side of their desk, but it needs to be prioritised. The Deputy has just quoted some figures. We do need to do a little bit more work and one of our recommendations is that the

Government collects some further data and brings out figures like this. I think that is really important. We need to tackle it.

2.1.12 Deputy R.J. Ward:

Firstly, I would like to thank the Chairwoman for bringing this issue to the Assembly. It is so important. Recommendation 9 is about the collection of data with the economic value of work done in the home, including childcare, which is so important. Does the Chairwoman believe that one of the biggest obstacles is simply the economic factors that get in the way and one might say the patriarchy of the economic theory that we use?

Deputy L.M.C. Doublet:

This calls to mind an article that I saw recently which said if you are a male ally for women's equality, the biggest thing you can do is do the housework at home. Statistics locally show that women are doing the vast majority of the housework and the childcare and other caring responsibilities. Yes, I think that is something that can be tackled at a micro level. I forget the rest of the question, I am sorry.

Deputy R.J. Ward:

The level of economic theory that is based around men being dominant.

Deputy L.M.C. Doublet:

Yes, absolutely. The Panel were perplexed to discover that the official term used for women who are working in the home and looking after the home was economically inactive. We have taken issue with this, because it is simply not true. If you have a couple with a more traditional set-up where, perhaps, there is a mother and a father and some children and the mother stays home to look after the children, she is absolutely contributing to the economy, because how does that worker, the father, have his meals cooked and his clothes washed and his children raised for him? That work has value and it has economic value.

2.1.13 Deputy K.F. Morel of St. Lawrence:

With regard to Deputy Labey's question about the Jersey Appointments Commission, I wondered if the Chair has any views on the difficulties Jersey has with regard to appointments at the top level of government over here, because of the culture in the U.K., or elsewhere? Because it is interesting that while some female candidates declined to take the role because their presumably male partners were unable to work over here, it has not stopped many male candidates taking roles because their female partners were unwilling, which is clearly a cultural issue outside of this Island. I am sure it exists in this Island, as well, but I was just wondering your thoughts on that.

Deputy L.M.C. Doublet:

Thank you to the Deputy. I think this links to the previous question. I can only make assumptions about people's individual circumstances, but if women are more likely to be supporting the man to go out to work, then at interview level the wife is perhaps less likely to have a high-profile job already, whereas if a woman is interviewing for a high-level job, her husband - and this was echoed in the evidence from the Appointments Commission - is more likely to have a high-profile job also that he might be reluctant to then leave. Yes, it does demonstrate how all of these factors are interrelated and quite hard to overcome.

2.1.14 Senator T.A. Vallois:

In recognising that this is particularly a cultural and unconscious bias issue, there is only so much that education and the public sector can do. My question is: what would the Panel suggest for those persons who wish to call out a gender pay gap within their own workplace without any form of fear of reprisal?

Deputy L.M.C. Doublet:

That is an interesting question. I think every workplace should have a whistleblowing policy. Although we did not touch this in the review, it has been my feeling, for some time, that we should have salary transparency in Jersey. Anecdotally, I know of some companies that have made it a disciplinary offence to discuss salaries. I do think that is something that, perhaps, the Government could look at when they are following the recommendations. It is a step beyond looking at the public sector pay gap and it is a conversation that needs to be had. That, to me, does not feel right, that people cannot discuss their salaries. There are some countries where people's salaries are published and people are very open about their salaries. I think there are solutions to consider there.

2.1.15 The Connétable of St. Ouen:

I would just like to press the Deputy on a point. She covered a bit of it in her last answer. Having come from a commercial background, I have seen gender bias in action. My firm view is that the only way to stop this is to press for publication of statistics. I just would ask the Panel to reconsider their position on this and push hard to get this into legislation, because, otherwise, basically, we can have all the fine discussions we want, but unless companies feel under public pressure to do something, it is just not going to happen.

Deputy L.M.C. Doublet:

It is interesting that the mood in the Assembly seems to be slightly different to the mood of our stakeholders and the evidence that we gathered. I thank the Assistant Chief Minister for his views there and I would urge him, if he has a belief that gender pay gap reporting would be a more effective way to achieve this cultural shift and other Ministers agree with him, then please bring that legislation forward and the Panel will support it.

[10:30]

The Deputy Greffier of the States (in the Chair):

I do have 3 other Members who have asked previous questions, so the next one is Deputy Tadier.

2.1.16 Deputy M. Tadier:

I will touch on the Jersey omertà and I will wait for the groans. The Chairman mentioned the fact of the glass ceiling existing. She also mentioned the importance of role models. Does she agree that when we have a top position in Jersey society, which for the last thousand years has only been filled by men and that we have a deputy position for that position, which has only ever been filled by men, and if I recall correctly - someone might correct me - for the Attorney General which has only ever been held by a man, does the glass ceiling at the very top in our society also need to be smashed? How does her Panel propose we do that?

Deputy L.M.C. Doublet:

I would agree with the Deputy. It seems that there is a glass ceiling in that area and I would welcome the Deputy's views on how to tackle that specific area, because it is a very specific area. Maybe he could discuss that with me.

2.1.17 The Deputy of Grouville:

I have so many questions I do not know which one to ask. Did the Panel go to other jurisdictions to get evidence that formed their recommendations? Not just the usual Scandinavian jurisdictions that we expect to be the forerunners, but also places like Rwanda, who are leading in a lot of aspects of equality with women?

Deputy L.M.C. Doublet:

No. I perhaps would have liked to, but given that the length of time was being extended on this review, because of the complexity of the issues, we did not. If the Deputy feels that that is something the Panel should take on as part of its follow-up work, then I would be interested in hearing about areas that she would like us to look at.

2.1.18 Senator S.C. Ferguson:

Did the Panel consider the actual fact that it is no use having statutory legislation when everybody has grown up, we need to start young? Did the Panel go and look at the work that is being done in the primary schools with computer classes where the primary schools are being supplied with free computers and coding classes for the 8 and 9 year-olds? At that age, there is no vestige of acknowledging male superiority and, in actual fact, the girls are doing a great deal better than the boys. St. John is an absolute acme of how they are doing this. Has the panel looked at dealing with the cultural shift with the young, which is where we are going to have to do it? You have to catch them young. Did the Panel do any work on that?

Deputy L.M.C. Doublet:

Yes and I believe that I touched on this in my answer to Deputy Maçon's question. We have recommended an audit be carried out at secondary level, at primary level and before that age as well. I agree with the Senator that the changes necessary need to happen even before children get to primary school, so we have recommended that it also be extended to preschool and to childcare settings as well.

The Deputy Greffier of the States (in the Chair):

We have less than one minute left if anybody still has a burning question that has not been answered.

2.1.19 Deputy M. Tadier:

I will never refuse the offer. It is just to focus on the last point. Does the Deputy agree that we will not be able to measure whether a cultural shift has happened unless we have a mechanism by which to measure that cultural shift, especially when it comes to private sector statistics?

Deputy L.M.C. Doublet:

I believe the Government has committed to reporting on their gender pay gap, so we will certainly be able to measure that. I believe that the Government employs a third of the actively employed people in the Island, so that will, of course, be an indication. As I have just said, if the Deputy feels that pay gap reporting is the best method necessary for getting data and making the cultural shift in the private sector, then the Panel would support that.

PUBLIC BUSINESS - resumption

3. Draft Criminal Procedure (Jersey) Law 2018 (Appointed Day) Act 201- (P.62/2019)

The Deputy Greffier of the States (in the Chair):

That draws to an end question time following statements and we return to the Order Paper and the items of business remaining. The first item is the Draft Criminal Procedure (Jersey) Law 2018 (Appointed Day) Act lodged by the Minister for Home Affairs, and I ask the Greffier to read the proposition.

The Assistant Greffier of the States:

Draft Criminal Procedure (Jersey) Law 2018 (Appointed Day) Act 201-. The States make this Act under Article 119 of the Criminal Procedure (Jersey) Law 2018.

3.1 Connétable L. Norman of St. Clement (The Minister for Home Affairs):

This Appointed Day Act is the first step in bringing into force the Criminal Procedure (Jersey) Law that the Assembly approved last year. This particular Act does 2 things. It allows for the establishment of the Criminal Procedure Rules Committee, to allow the rules governing court procedures to be made in advance of the main body of the law being brought into force later in the year. I have also taken the opportunity to bring one other provision into effect, by activating Article 48 of the law to allow trials on mixed indictments. This will resolve a current gap in the law where a person charged with offences across both customary and statutory law must be tried twice, by a jury for the customary law and by Jurats for the statutory offence. Article 48 coming into force will allow trials on such mixed indictments to be tried at one hearing. I move the Act.

The Deputy Greffier of the States (in the Chair):

Is the Proposition seconded? [**Seconded**] Does any Member wish to speak on the Proposition? Very well, if no other Members wish to speak, I call on the Minister to reply.

The Connétable of St. Clement:

Nothing to reply to.

The Deputy Greffier of the States (in the Chair):

Those Members who are in favour of adopting the Proposition kindly show. Those against? The Proposition is adopted.

4. Draft Criminal Procedure (Bail) (Jersey) Law 2017 (Appointed Day) Act 201- (P.63/2019)

The Deputy Greffier of the States (in the Chair):

The next item is the Draft Criminal Procedure (Bail) (Jersey) Law 2017 (Appointed Day) Act 201- lodged by the Minister for Home Affairs. I ask the Greffier to read the Proposition.

The Assistant Greffier of the States:

Draft Criminal Procedure (Bail) (Jersey) Law 2017 (Appointed Day) Act 201-. The States make this Act under Article 24 of the Criminal Procedure (Bail) (Jersey) Law 2017.

4.1 The Connétable of St. Clement (The Minister for Home Affairs):

This Appointed Day Act will bring the bail law into force in 7 days, giving effect to the decision of the States in July 2017 to approve that law. Together with the associated amendments in the Police Procedures and Criminal Evidence Law, it sets out a new framework for bail arrangements. The most notable changes to the current arrangements are introduction of a pre-charge bail system, which is an effect of the introduction of the amended part 5 of P.P.C.E. (Police Procedures and Criminal Evidence), which we will debate next. This Act makes reference to a substituted provision, which will not come into force. This refers to the amendment to P.P.C.E. contained within Schedule 2 of the Bail Law. As drafted, it suggests that where an application is made by a suspect to vary their pre-charge bail conditions, the Magistrate can choose to overturn a person's bail and remand the person into custody. Clearly, the difficulty here is that a decision to overturn bail and remand a person in custody can be perfectly reasonable - to protect the public, for instance - where a person is charged and awaiting trial, but a person cannot be remanded without being charged. The provision, therefore, should not have been included in the law and cannot have effect. Therefore, the Act does not bring this particular Article into force. I propose the Act.

The Deputy Greffier of the States (in the Chair):

Is the Proposition seconded? [**Seconded**] Does any Member wish to speak on the Proposition? Very well, those Members who are in favour of adopting the Proposition kindly show. Those against? The Proposition is adopted.

5. Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 6) Act 201- (P.64/2001)

The Deputy Greffier of the States (in the Chair):

We now move on to the Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 6) Act 201- lodged by the Minister for Home Affairs. I ask the Greffier to read the Proposition.

The Assistant Greffier of the States (in the Chair):

Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 6) Act 201-. The States make this Act under Article 114(2) of the Police Procedures and Criminal Evidence (Jersey) Law 2003.

5.1 The Connétable of St. Clement (The Minister for Home Affairs):

This Appointed Day Act will bring in part 5 from Article 108 of the Police Procedures and Criminal Evidence (Jersey) Law. It will come into force 7 days immediately after the Bail Law. This sets up a framework within which the States of Jersey Police must act when they have taken a person into custody. It has not been brought into force in the past and, in its absence, the police have applied U.K. guidance arising from the Police and Criminal Evidence Act of 1984. The most significant change, as I mentioned just now, is that this will introduce a scheme of pre-charge bail, which will provide the police with the powers to impose conditions when releasing a suspect before they are charged. The intention behind this change is to allow people to be released from police custody overnight, or at the weekend, with appropriate conditions, rather than be detained until the first available court hearing. Otherwise, the arrangements for custody and detention will remain much the same as they are now, but will be underpinned by domestic legislation, rather than U.K. practice. I move the Act.

The Deputy Greffier of the States (in the Chair):

Is the Proposition seconded? [**Seconded**] Does any Member wish to speak on the Proposition? Very well, those Members who are in favour of adopting the Proposition kindly show. Those against? The Proposition is adopted.

6. “Higher sentences for paedophiles” (e-petition)

The Deputy Greffier of the States (in the Chair):

We now come to the in-committee debate on the e-petition “Higher sentences for paedophiles.” Can I remind Members that it is an in-committee debate, which means that Members are able to speak more than once, although there is no obligation to do so? I think it would be appropriate ... I do not know if anybody wants to start, but normally the Minister for Home Affairs we would be expecting.

The Connétable of St. Clement:

Sorry, ma'am?

The Deputy Greffier of the States (in the Chair):

For the in-committee debate. Did you want to start the proceedings?

The Connétable of St. Clement:

If it is the will of the House, I think it might be appropriate if I open the discussion.

The Deputy Greffier of the States (in the Chair):

The floor is yours then, Minister.

6.1 The Connétable of St. Clement (The Minister for Home Affairs):

This is clearly an important and sensitive topic and I really am pleased that the States have agreed to allow time to have the discussion. I think I can start by saying - and I know I can speak for all Members when I say - that we completely deplore the actions of paedophiles and the consequential harm that is caused by them to our children. Sentencing is a complicated area and I hope we can have a robust and respectful debate on this issue. The wording of the e-petition is very clear. It would like us to consider implementing 3-year mandatory minimum prison terms for sexual offences involving children. It would like us to consider putting convicted sex offenders on the sex offenders register for life. I will address both of these issues in a moment. First, I would like to explain more about the work the Government has done to introduce the new Sexual Offences (Jersey) Law 2018. There is a lot to say about how the courts determine sentences in Jersey, but I believe that that is more appropriate for the Attorney General to explain these aspects to the Assembly and I know he will be doing that later in this discussion. The Assembly considered and adopted the new Sexual Offences Law, which came into force late last year. This law has greatly enhanced the protection of children, by modernising the framework of sexual offences. I have no doubt it is one of the most advanced laws in this area when compared with other jurisdictions and I am aware that other jurisdictions are looking closely at this law, with the intent of using it as a model for their own legislation. For example, our law expands the treatment of grooming offences. It recognises that sexualised communication with a child is an offence in itself, where previously the offence had arisen only from an attempt to meet a child for sexual purposes. This allows the police to intervene at an earlier stage and will, no doubt, be of interest to those who signed the petition. Furthermore, the law has allowed Jersey to jump ahead of the U.K. in relation to the treatment of various offences. For example, the law provides more comprehensive protection against the abuse of trusting relationships other than the equivalent in the U.K. law. The definition of trusting relationships is broader than in the U.K. and now includes sports coaches, for example. Our law also addresses upskirting offences, which the U.K. has since recognised as a serious issue, requiring action. This law has been accompanied by training for teachers, safeguarding staff, youth workers and other agency staff.

[10:45]

Relevant lawyers and the judiciary have received detailed training by field-leading experts. The States of Jersey Police ran a high-profile campaign in the latter half of 2018, to coincide with the introduction of the law. The campaign aimed, among other things, to raise awareness of the new sexual offences law. I would like to commend the Assembly for adopting the law, which I believe we can all be proud of. I pay tribute, once again, to my predecessor who led the campaign to have this law introduced. I will now turn to address the e-petition's first request, to consider implementing 3-year mandatory minimum prison sentences for sexual offences involving children. Jersey does not currently impose minimum sentences on any offence that I can find. This allows the courts the freedom to try cases as they see fit. The situation in some other jurisdictions is quite different and the options available to a court in sentencing are in some cases quite restrictive. All sexual offences can occur in a very wide range of circumstances and this is catered for in the new Sexual Offences Law. For example, any adult touching a child with a sexual purpose in mind commits an offence and the maximum penalty for that activity is 10 years in prison. That same offence is used to address any offence that does not include penetration, from horrific acts of sexual abuse down to a sexually motivated stroke, or caress, on any part of the body. It can include touching that would be otherwise innocuous were it not that the offender gained sexual gratification. The strength of our law is that one single provision can deal appropriately with that entire range of activity, but in order to do so the law relies on the capacity of the court to calculate the right sentence. If the court cannot hand down a sentence below 3 years in prison, then there is no appropriate tool in the armoury to deal with low-level offending. A minimum sentence could also lead to difficulties in dealing with cases where

2 young people are involved. The courts in Jersey have consistently held that young people are entitled to protection from themselves, but the proposal to implement minimum sentences would cause real difficulties in achieving justice when 2 young people are in what they consider to be a genuine relationship, but the law sees it otherwise. For instance, where a 15 year-old, who perhaps is nearly 16, has a partner who has just turned 17, a sexual offence can technically result from their sleeping together. Although it would not normally be in the public interest to prosecute, there may be some other troubling aspect of the relationship that provokes a prosecution. In this case, any conviction would result in an unavoidable 3-year term for the 17 year-old. This might be quite correct, in some circumstances, but certainly not in all. In any case, with minimum sentencing, the hands of the court would be tied and no judgment, or nuance, could be applied. The use of minimum sentencing would also mean in many cases there would be no reduction in the length of sentence for a guilty plea, which the court would normally take into account. This means that there would be no incentive for a defendant to avoid trial, which would result in more victims of sexual offences being put through a trial process. While courts do their utmost to make those trials as bearable as possible for the victims, this will always be a harrowing experience and one that is best avoided, if at all possible. The petition also mentions downloading indecent images. I can say, with absolute certainty, that the courts in Jersey take a much harsher approach to offences involving those images than those in the U.K., or other comparable jurisdictions and that is not a position that seems likely to change. However, once again, I believe it is not wise to remove the discretion of the court to deal with offences as they see fit. Image offences in the Protection of Children Law are crimes that can be committed by children themselves. If a search of a computer owned by a 15 year-old, perhaps in connection with some other offence, were to reveal a haul of pornography, including some indecent images of underage people, the offender's own age, perhaps, then that child will be liable to the 3-year minimum sentence. Again, constraining the discretion of the courts would be a path, or could be a path, to injustice. Minimum sentences may also reduce the reporting of offences. If an individual was aware that reporting some unacceptable contact between an adult and a child - and I do emphasise that such activity is always unacceptable in all circumstances - would result in a 3-year minimum sentence, they may feel the punishment would be disproportionate and, therefore, remain silent. Where a sexual offence is tried by a jury, they will likewise take the minimum sentence into account and we may see cases where they feel that the sentence is sufficiently disproportionate to be unjust and acquit on that basis, even perhaps against the evidence. This, as I said earlier, is an emotive subject. If my child, or my grandchild, was sexually assaulted, then there would be no punishment too severe for the perpetrator, in my view. However, it is the job of the law and the courts to take a dispassionate and rational approach to sentencing. I have no intention of criticising any other jurisdiction for its administration of justice and it has been said that where other legislatures have set minimum sentences, this has resulted in damage to fair and proportionate justice, as minimum sentences must be applied even to marginal cases. Criticism has also been levelled at political interventions in sentencing policy, which can be seen as allowing political sentiment to overrule judicial independence. We are talking here, perhaps, about the separation of powers between ourselves and the courts. For these reasons, I believe that sentencing and especially minimum sentencing, is a matter that should be left to the courts. Turning to the sex offenders register, this is the second part of the petitioners' request, to consider putting convicted sex offenders on the register for life. Jersey's current process of removing offenders from the sex offenders register in many ways is much more stringent than in England and in Wales. In Jersey, no registered sex offender can have their status on the register removed, without appearing before a court and satisfying the court that they pose no risk of further harm through sexual offending. This can only be done by the offender engaging with a multi-agency assessment process led by the police and probation service and the application itself must be initiated by the offender. As such, should a registered sex offender never apply to the court to be removed, they will remain on the register for the rest of their life. For example, J.M.A.P.P.A, the Jersey Multi-Agency Public Protection Arrangements, in the report published earlier this year it showed that at the end of 2018 there were 27 individuals who were

eligible to apply to be removed from the register, but had chosen not to do so, so they remain on the register. I am convinced that our current arrangements are appropriate. Mandatory periods of registration would be counterproductive, as they would introduce a new resourcing problem. With an average of 25 new individuals subject to notification requirements every year, unless offenders are appropriately removed from the register - and I stress appropriately removed from the register - the number of individuals being managed would increase every year, restricting the level of monitoring and intervention that could be applied in each individual case. The application of a professional assessment-led removal process through the courts is the safest way to ensure resources are targeted at the right individuals, thereby protecting the people of Jersey from this most serious of offending behaviour. I believe that the work the Government has done on introducing the Sexual Offences Law has made Jersey one of the most advanced compared to other comparable jurisdictions. I also believe that our current arrangements around sentencing and the sex offenders register are correct. I hope that these initial remarks have been helpful and I look forward to hearing what colleagues in this Assembly have to say on this matter.

6.1.1 Connétable J. Le Bailly of St. Mary:

I find it very strange that we are debating this today, when only 2 weeks ago we were trying to remove judiciary and political within this Assembly. This is not a job for us to do. This is for the lawmakers to decide. We could have a simple yes, or no, on do we increase sentencing, or not. That is not for us to decide. It is a very difficult situation. All these offences are different. They all require different sentencing. My personal view would be for the serious offences to have them hung, drawn and quartered, cremated and their ashes thrown on an offshore wind, but that is not going to happen. Political correctness will see that that does not. However, I still maintain that that would be a very good deterrent because, for one, you would not have any reoffending. It varies considerably the amount of sexual nature of the offence. We cannot decide that in this Assembly. This is definitely something for the Law Officers to decide, because it affects all other sentencing, whether they are sexual offences, or not. You will find that if we increase one you have to increase the rest and that is not our job to do.

6.1.2 Deputy R.J. Ward:

I want to speak early in the debate in order to try and set out some possible concerns and positives that could come from this discussion that is often a very difficult subject. I speak on behalf of the Home Affairs Scrutiny Panel with members of the Panel's consent. To begin, this must be seen as an opportunity for us to have an informed debate on the current situation with sentencing of those convicted of these crimes and to look at the application of the current law and where further changes may be necessary. It is important that we recognise that there have been recent changes to the Sex Offences Law in November 2018, as detailed earlier. This law makes new provision on sexual offences, replacing most, if not all, of the existing statutory and customary law offences and creating new offences as well as amending provisions, I think as has been through earlier. I would like to ask the Attorney General - and give time for him to answer - to outline the current processes for deciding on sentencing, both for the benefit of those in the Chamber and the wider members of the public who signed the petition, so that this process is clear to us all. Perhaps I can finish and give him time to do that. I was going to mention also about the sex offenders register, but I think that was answered. I reiterate the point that it is my belief - and please correct me if I am wrong - that people will stay on the offenders register until they go to court to be removed from it and there has to be good evidence to remove people from it. I would ask Members to take great care if mentioning any situation that could be identified in a current case. We do not want to jeopardise any possible conviction, or charges. We must remember that sentencing comes after conviction for an offence. The key point here is that we have to work harder to prevent the crimes in the first place and the subsequent damage to the lives that is created. I want to state publicly that we must never try to make excuses for the abusive behaviour we are discussing here, nor should we ever be seen, by implication, to suggest

blame for victims. I do not accept that children are becoming sexualised by modern society, because of fashion, music or change in social mores. Those who prey on children will, at some point, make a conscious decision to do so. That is where the blame lies and where we must intervene at the earliest opportunity. This is particularly true of the crime of grooming where the perpetrator may well intend to create this forced feeling of responsibility in the victim. We must be certain to refute this and support the victims of this type of abuse.

[11:00]

Perhaps we need to treat this as a public health issue. If we did, there would be wider public education in recognising symptoms, greater discussion of the reality of any threat and much greater opportunity to prevent offending behaviour, before any damaging action is taken. This approach is far more proactive than retrospective mandatory sentencing. I am slightly concerned about the nature of the petition for one reason. I am sure that those who signed it will share my concerns over action, or lack of action, in prevention of the behaviour that leads to offending. We must not lose sight of this in the process of punishing those who have offended both now and in the past. If our processes of sentencing and law surrounding this are seen as needing to be improved, then that is a particular issue, but this is a separate issue from the prevention of offending behaviour and exploitation of children. We must ensure that our children's services are fully resourced to support children who are at risk. It is clear that this has not been the case in the past. In terms of the issue of sentencing, we have had the petition wording read to us. The Panel received detailed information on the new Sex Offences Law and see a significant move forward in the banding of offences and the addition of the offence of grooming a child, with the important addition of the adult not needing to travel to meet the child to commit the offence. This is stronger protection in the modern world of communication. The question of whether mandatory sentencing deters offenders does not have a simple answer. The purpose of sentence in sexual offences must surely be public protection, punishment, acknowledgement of the harm and seriousness of the offence and, in some cases, to provide a *locus* for treatment and rehabilitation, while ensuring repeating offending cannot occur. We must ask whether mandatory sentences create a sense of adequate redress, but may fail these crucial tests for the victim. The debate must be extended to ensure that these crucial tests are key to successful sentencing. Throughout this process, we must give primacy to the care and well-being of the person that suffered from the crime committed. Other sentencing options, such as restriction orders, whereby the offender can have no contact with the victims, or young people, for example, should only be an additional component to the sentence following release after a custodial sentence and not as an alternative to custody. The key is victim support and protection of wider society. This requires a multi-faceted approach, including sentencing that is seen as appropriate, in particular by the victim, ongoing support for abuse survivors and wider understanding which means the offending behaviour can be ended. Would I support mandatory sentencing as proposed by the petition? The honest answer is that I am unsure. We have to be certain of the impact of the significant changes in the 2018 law. We have to have evidence that mandatory sentences would have the effect suggested, if this was shown to protect children, genuinely deter and change behaviour and not allow an excuse to let key areas of support for survivors be underfunded and subsequently eroded, because we believe we have dealt with the problem. I am sure that we need to improve the resources available for those who monitor and continue to work to prevent offending behaviour from those released after sentences are completed. Even with mandatory sentences, offenders will be released. We must have a funded and supported system of monitoring, in order to protect us all. The question I ask is: do we have this? I believe we need to review the support, funding and powers of the offender management unit, which is at the front line of protection release. We also need to grasp the difficult issue of treatment of offenders, while they are in prison. Are there effective programmes to change offending behaviour, which is a vital part of the societal change we need if we are to be more proactive in prevention of these damaging crimes? I will finish by reminding us that we have committed to putting children first. The ongoing protection of our children in our society goes beyond mandatory sentencing and

requires an informed discussion, genuine backing and resourcing for those in the front line and a cultural change that would ensure we are open and forthright in our dealings with this incredibly difficult topic. How can we create a society where children are not abused in the first place and ensure we understand and intervene to stop those who show this behaviour? We must learn, act and protect our society.

6.1.3 Deputy R. Labey:

If the Attorney General is going to speak in this in-committee debate, I just wanted to ask a question of him, which I can do now. The scale of sentences in the U.K. are decided by Parliament, I think, on recommendation from the Sentencing Council, which is an independent, non-departmental body of the Ministry of Justice. If I have that correct, could the Attorney General tell us the difference between that mechanism in the U.K. and what is in place in Jersey and whether the U.K. Sentencing Council gives sentencing policy some kind of public accountability that is possibly missing in Jersey? I am asking this from a point of ignorance and genuine interest.

6.1.4 Deputy J.H. Perchard of St. Saviour:

I think that whenever we have a debate that is the result of a petition, we should take the time to consider the motivation for such petitions and take time to truly understand the underlying assumptions, or concerns, that individuals have. In this particular case, we have to ask ourselves several questions about the motivation. Is it the case that the public think that those who commit such heinous crimes are not punished enough? Is it the case that the public believe that rehabilitation is not appropriately carried out and, therefore, extending sentences is the way to solve the problem? Is it the case that the public believe that people carrying out these acts are not getting caught? Is it the case that we need to look at how people eventually are caught by the justice system? How does it happen? In the kinds of crimes that we are talking about, it happens through disclosure and observation. It happens through a child making a disclosure to an adult. It happens through an adult observing a behaviour in another person and reporting it. Of course, there will be a whole set of mechanisms to catch cyber-based crimes that are based on observation in other forms. The actions of those who prey on children are deplorable. To wilfully commit harm to a child, to wilfully commit an act that society has deemed not just a crime, but an act of the most contemptible kind, should be subject to punitive measures. However, punishment for punishment's sake is not enough to alter a behaviour, to prevent a re-offence, or to recalibrate a person's own sense of moral propriety. We have to have difficult conversations about prevention and rehabilitation on top of our assessment of what an appropriate punishment for punishment's sake is. What is the purpose of imprisoning a person? Is it simply to punish them? Is it to keep society safe? Of course, it is both, but is it also to ensure that that person leaves that time of confinement with a better understanding of what is acceptable and what is not and what is moral and what is immoral and what is right and what is wrong. For, if that is the case, then I would suggest that we must put more of our resources and attention into the latter, but we already keep people safe by imprisoning others and we already punish people for the crimes they commit. Do we successfully rehabilitate people so they do not reoffend? Because, the logical alternative is to keep people in prison for the whole of their lives. If we are not going to rehabilitate them properly so that people remain safe, then should we be keeping them in prison for ever? Of course, we say no, that is not appropriate. We give prison lengths based on severity of crime and the Minister is absolutely right, this has to be done in as objective and dispassionate a way as possible. Therefore, the logical conclusion is we have to keep people safe after the fact. We have to keep people safe when people re-enter society. We have to keep those who have committed offences safe, but we also have to keep the rest of society safe. I have heard from people who work at the prison, a phrase that has been used to describe some people who end up there and they refer to their situation as a revolving door. I am sure the Minister has heard this, as well. I am not talking specifically about these kinds of crimes, but, in general, there is a level of reoffending that happens. It is because when people are released back into society, it is done so with

good intention and with some support, but perhaps not enough and perhaps not enough effort is made to separate people from those who are an unfortunate influence upon their behaviour, or to help them out of a circumstance which means they resort to behaviours, or actions, that they would otherwise avoid if they were better off, if they had a home, if they had a job and so on. Now, of course, we are talking about a very particular set of crimes, that relies on a person to wilfully choose to do something that I think we all know is wrong, but again I think we have to have unpalatable conversations about what motivates people to do the things they do. Because it is unimaginable to commit harm to a child, particularly of a sexual nature. It is unimaginable, it is deplorable, it is abominable, it is contemptible, but people do it. I have to ask: are these people well? The people who do these crimes, are they well? If the answer is no, what is our duty of care? Where does it start and where does it end? On top of that, by carrying out our duty of care, what is the subsequent impact on others? I would suggest that it is keeping other people safer to carry out their duty of care well.

6.1.5 Mr. R.J. MacRae, H.M. Attorney General:

I am going to first talk about consistency in sentencing, if I may and perhaps to answer part of the question of Deputy Labey that he asked moments ago. It is right to observe that, in relation to sentencing as a whole, the framework is set by this Assembly as the U.K. Parliament would set the framework for England and Wales in respect of maximum sentences and the like for sexual offences. Of course, beyond statutory offences, there are common law in England - or customary law in Jersey - sexual offences, for which there is no maximum. We have retained indecent assault for various reasons, notwithstanding the passing of the new law. Jersey does not have a Sentencing Guidelines Council, which England and Wales do have and that Council, in England and Wales, is designed to ensure consistency in sentencing. Of course, there is a need for such a Council in England and Wales owing to the size and complexity of the system in that jurisdiction. In England and Wales there are over 400 Crown Court judges and over 16,000 magistrates. Plainly, consistency might be difficult to achieve but for a Council. In Jersey, there are far fewer criminal courts and judges than in England and Wales or, indeed, Scotland. Jersey, in effect, has 3 criminal courts: the Magistrate's Court, with a maximum jurisdiction of 12 months' imprisonment, or a £10,000 fine, presided over by 2 legally qualified magistrates and a number of legally qualified relief magistrates, who sit alone; a Youth Court with similar powers, presided over by a magistrate and 2 members of the youth panel, which consists of a total of 12 members; and, finally, the Royal Court, dealing with offences carrying more than 12 months' imprisonment, sent to trial on the grounds of seriousness, presided over by the Bailiff, the Deputy Bailiff, or a Commissioner. When passing sentence, the Royal Court judge will sit with Jurats, 2 where the Crown is seeking a sentence of less than 4 years' imprisonment and 5, or more, Jurats when the Crown is seeking a sentence of 4 years' imprisonment or more.

[11:15]

With fewer courts and judges, it is not necessary for Jersey to resort to more complex mechanisms in order to achieve consistency in sentencing. However, Jersey's system does enable consistency in sentencing to be achieved and I will now explain why. In the Magistrate's Court, or the Youth Court, the responsibility for sentencing policy rests with the magistrate. For most cases dealt with in that court, the magistrate will have regard to the sentencing guidelines issued by her for that court, which are published on the jerseylaw.je website. These guidelines do not cover sentencing in respect of sexual offences; cases involving sexual offences against children, or relating to indecent images, are normally not dealt with in that court, because of the insufficient powers available on sentence, the maximum being 12 months. That said, where they are retained by that court, the magistrate will have regard to the sentencing approach in principle set out in sentencing judgments from the Royal Court. The Attorney General plays no active role in sentencing in the Magistrate's Court in the sense that no conclusions are presented by the prosecution to that court, but in the Royal Court the Attorney General plays a central role in achieving consistency and has for a long time. In particular, he, or a Crown Advocate acting on his behalf, will assist the Royal Court by providing sentencing guidance

in the form of conclusions as to sentence. In every criminal case presented in the Royal Court for sentence, the sentencing bundle consists, first, of a detailed summary of the facts and then, quite separately, conclusions, which have been - even if presented by someone else - reviewed personally by the Attorney or the Solicitor General. Those conclusions will cite not merely the relevant statute, but relevant, previous decided, cases and principles derived from decisions of the Jersey Court of Appeal and indeed any academic comments that might be appropriate. We are fortunate in this jurisdiction in that the law reporting regime is quite different from most other jurisdictions in that all Royal Court sentencing is reported, sometimes redacted in the court in relation to victims' names to preserve anonymity. But every single Royal Court sentencing case is reported and, therefore, all relevant cases are available to the Crown Advocate conducting research for the purpose of inviting the court to pass the appropriate sentence. Now, it is right to observe that there can be changes in sentencing policy. Where appropriate, the Attorney General may invite the court to depart from existing policy in a particular area. This may involve inviting the court to impose longer sentences in respect of a particular category of offences, where it is justified to do so. It is relevant to note that the responsibility for sentencing rests exclusively with the Jurats. They determine sentence, not the judge. As the Court of Appeal said in *Styles*: "The unwritten constitution of Jersey vests the determination of sentencing in serious criminal cases in the Jurats." The court went on to say: "One of the Attorney General's functions is to represent the public interest. If he were to conclude the guidelines set by this court have become outdated, we would expect him to draw this to the attention of the Court of Appeal." The court went on to say that although they accepted that the Court of Appeal had a power to embark on the provision of guidelines off its own bat, they accepted that: "In the absence of a supporting signal from either the Attorney General, or the Royal Court, that is something this court should be slow to do." It is important to appreciate that, unlike in England and Wales where there is very much a top-down approach to sentencing, in Jersey the Jurats are the voice of the community and they are unlikely to change sentencing policy unless they themselves think that it is wrong, or the Attorney invites them to do so. Now, I recently gave some answers to Deputy Higgins in relation to sexual offences, analysing those sentences imposed over a 5-year period. In relation to sexual offence cases, it has long been Jersey court policy that in the absence of exceptional circumstances a custodial sentence is inevitable in cases involving contact sexual offences with children. Jersey is an independent jurisdiction and the courts are entitled to fix their own sentencing levels, appropriate to the Island. However, that does not mean that the courts of Jersey do not take into account the sentencing practice in other jurisdictions, particularly in the jurisdictions of the British Isles. In the case of sexual offences, the Attorney General, in moving conclusions, will often refer to English guidelines for assistance when assessing the seriousness of sexual offences against both adults and children. In the case of *Attorney General v K*, in 2016, I invited the Royal Court to impose sentences in respect of 2 serious sexual offences of indecent assault against a child when she was 7 and 9 years old at a higher level than was consistent with existing Jersey sentencing practice. I did so in part by reference to the English guidelines, as guideline sentences for equivalent offences in England and Wales had recently significantly increased. I invited, in that case, the court to sentence the defendant with the English guidelines firmly in mind, although accepting the Jersey courts were not bound by them. The Jurats accepted that invitation and sentenced the defendant on a guilty plea to a total of 10 years' imprisonment. The defendant appealed his sentence and the Court of Appeal rejected the appeal, accepting that the Jurats were entitled to sentence the defendant accordingly. While the Court of Appeal made it clear that the sentencing starting points and ranges set out in the English guidelines are not applicable in Jersey, the court recognised that it was appropriate to have regard to the factors which, according to the guidelines, would assist an English court to categorise the seriousness of an offence, the aggravating and mitigating factors. The court also went on to comment, at the end of its judgment, that the Royal Court may wish to review upwards sentences for indecent assault of children in other cases. Since *K* and a connected case called *F* in 2016, the Royal Court has recognised: "The court has started a process of review of sentencing levels imposed for sexual offences by reference to the guidelines", by which they mean the English

guidelines. That was the case of *T* in 2017. In the same year, in the case of *S*, the Superior Number of the Royal Court commented: “We think the time has come to recognise that following the *K* case, sentences for sexual offending against children are likely to attract higher sentences than would previously have been the case.” Sentencing policy can also from time to time ... and it is clear that sentencing imposed for cases involving sexual offences, particularly those involving the abuse of children, have been more severe since the Court of Appeal of Jersey reached that decision I have referred to in 2016. A brief review of recent cases of sexual assault involving child victims has proved that to be the case. In the case of *T*, a defendant abused a child when she was aged between 8 and 14. He was found guilty of indecent assaults, the most serious of which involved digital penetration of the victim’s vagina. There were no offences of rape; nonetheless he was sentenced to 8 years’ imprisonment. In the case of *S*, the defendant sexually abused a child between 3 and 7 years. He was found guilty of 10 counts of procuring acts of gross indecency and indecent assault and was sentenced to 11 years’ imprisonment. In the case of *W* last year, the defendant was found guilty of 11 counts of sexual offences against 2 girls aged between 9 and 15. The offences ranged from procuring acts of gross indecency to one count of rape. He was sentenced to 13 years’ imprisonment. In the case of *D* last year, the defendant pleaded guilty to 12 counts of historic indecent assaults and acts of gross indecency on 4 children aged between 4 and 14. The Crown’s conclusions of 13 years were granted in that case. Very recently, in the last couple of weeks, you will have seen a defendant convicted of procuring acts of gross indecency and indecent assaults against an 8 year-old girl being sentenced to 9 years’ imprisonment. Another recent case, this year, resulted in an 8-year sentence imposed where the victim was 16. There is another very significant case now proceeding to sentence. In relation to indecent images of children, there are 3 areas to consider for offences relating to indecent images of children when compared to the approach taken in England and Wales: firstly, the length of sentence; secondly, the characterisation of offences; and, thirdly, the notification and restrictive orders that follow conviction in every case. The statutory provision in Jersey is similar to England and Wales in that the Protection of Children (Jersey) Law 1994 allows a maximum of 10 years’ imprisonment for taking, or making, images, or permitting them to be taken, or made; secondly, distributing, or showing images; thirdly, possessing images with intent to distribute; and, fourthly, advertising those images to others. Possession only carries a sentence of 5 years’ imprisonment. In 2012, the Guernsey Court of Appeal laid down guidelines that were followed in the case of *Godson* in Jersey in 2013. The upshot of those guidelines is that sentencing for offences involving indecent images is either the same, or generally much higher and heavier than that which pertains in England and Wales. I do not want to go through the detail, because it is very extensive, but we have analysed the 14, or so, cases that have come before the Royal Court of seriousness in relation to images since the *Godson* guidelines were set out in 2013. In every single case, the defendant was subject to an immediate prison sentence and our analysis is that approximately one half of those defendants would not have been subject to an immediate prison sentence had they been sentenced in England and Wales. Indeed, in some cases, the sentences have been very heavy indeed. There was a recent case involving the making of several thousand images that attracted a sentence of 7 years’ imprisonment. There are other cases where very significant sentences have been passed - 7 years, 8½ years in one case - where there had been breaches of previous orders and a complex investigation. Those are exceptional cases, but in England and Wales the sentences imposed would have been much less than those imposed by the courts in Jersey. I mentioned notification and restriction orders, which I will come to in a moment, at the end of my brief address. I want to touch on the Sexual Offences (Jersey) Law 2018, which the Minister has mentioned and has commended and I would agree with everything he said about that law and its efficacy. The purpose was to consolidate most of the sexual offences under Jersey law and customary law into a single enactment and to address various deficiencies. Firstly, while Jersey law already provided extensive protection from sexual offending, there were a few specific offences, types of behaviour, that did not amount to an offence and needed to be criminalised. The Minister has touched on upskirting. Certain offences were archaic, in that they were limited to behaviour towards one gender only, or relied on terminology

that was no longer appropriate to use. Certain offences had inappropriate maximum sentences. That was particularly in relation to any prostitution offences involving coercion. The definition of consent needed to be updated, to ensure that it provided appropriate and clear protection to victims, including those who may have been incapable of consent through alcohol. Also, the issue of reasonable belief in consent was put on a far better basis so far as victims are concerned. I can, of course, give more detail about these matters if need be.

[11:30]

The new law codified rape and put other offences, that depend upon absence of consent, on a statutory footing. Offences by adults against children aged 12, or younger, were dealt with separately, as were offences by adults against children aged 13, 14 and 15 where the adult does not reasonably believe the child is aged 16, or over. Other offences against children aged 15, or younger, were set out in a particular section, including grooming and offences involving abuse of trust, prostitution offences and female genital mutilation, conscious that the new law needed to comply with 2 international conventions affecting Jersey. In relation to grooming, it is Article 15 of the new law that provides for a redefined offence of grooming. It widened the scope of the existing offence under the 2007 law and, in particular, under the new law, an adult only needs to have met, or communicated, with a child on one occasion, instead of at least 2 occasions under the old law, to commit the offence. The offence of grooming can now be committed without the adult and child meeting, or even planning to meet, by an adult simply communicating sexually with the victim. That new offence is created by Article 15(4) of the law and an adult is liable to imprisonment if he, or she, intentionally communicates with a child for the purpose of obtaining sexual gratification. I should pause to indicate that in relation to any new law that imposes criminal sanctions that there is a penalty review conducted by the Attorney General prior to a draft law being put before the Assembly for consideration, to make sure that the sentences give the court appropriate powers in relation to any particular new offence. As I said, the main grooming offence is subject to a maximum 10-year term, the same as applies in England and Wales. Of course, if a groomer goes on to meet a child and carries out a contact offence, that will be a separate offence. In relation to this new offence, this communication-only offence, with no question of meeting, for the purpose of the review I was shown the equivalent England and Wales provision, which was inserted in their law in 2015 and that contained a maximum sentence of 2 years, which I thought was inadequate and, accordingly, the Assembly passed the law with a maximum sentence of 5 years for this new offence, which was greater than the equivalent in England and Wales. Finally, if I can briefly touch on notification and restriction or restrictive orders, particularly the latter. While the length of the prison sentence is the focus of public attention, since the Sex Offenders (Jersey) Law 2010 came into force the courts have been able to impose notification and restrictive orders on offenders and they have proved extremely useful in regulating the behaviour of offenders and protecting the public and their victims after those offenders are released from custody. Now, we have all probably heard about notification orders, which require the subject to inform the authority of change of address, travel plans, holidays, which are automatically imposed on conviction for a sexual offence. As we have heard from the Minister, such orders potentially apply indefinitely, although the court will set a minimum period that must elapse before the offender may apply to the court for them to be removed. I confirm, in answer to a question posed by Deputy Ward, that those applications to discharge the order are always made in open court, they are made in public and the burden is, in effect, on the applicant to show that he no longer is a risk, if I can summarise what the statute says in that way. But I also want to mention - it has not been mentioned before - the terms of the restrictive, or restriction orders, or restraining orders as they are sometimes called, under Article 10 of the law, which can be made where the Crown can prove to the court that a person poses a threat of serious sexual harm to the public, or any particular person, or persons. Those orders are commonly made for 5, 10 or even 15 years and they are tailored to the specific offender and can involve many restrictions on the life of the offender in order to prevent reoffending. These orders are managed by the Offender Management Unit of the States of

Jersey Police. If I can give you an idea of the contents of a recent restriction order imposed by the Royal Court, that restriction order, in addition to the notification requirements, said the following: “(1) The defendant is prohibited from being alone with any female he knows, or believes, to be under the age of 18 years. He shall be considered to be alone if there is not present an adult over the age of 21, who is aware of his offending history. The adult over the age of 21, who is aware of his convictions, must be in the same room. It shall not be sufficient if the adult is merely in the same dwelling. (2) In the circumstances where he finds himself alone with any females under the age of 18, accidentally, or inadvertently, he has a positive duty to remove himself from that situation as soon as reasonably possible. (3) The defendant must not have any contact, direct, or indirect, with those persons listed in appendix A. [Those could be persons who were witnesses in the case, or a victim.] (4) The defendant must not approach within 50 metres of any place he knows, or suspects, to be the accommodation, or place of employment of those persons listed in appendix A. (5) If the defendant finds himself in contact with any of those persons listed in appendix A, he has a positive duty to remove himself from that situation as soon as reasonably possible. [Obviously there was an element of computer misuse in this case.] (6) The defendant is prohibited from possessing any device capable of accessing the internet, unless he has registered the device with the Offender Management Unit of the States of Jersey Police; accessing the internet on any device, unless the history of that access is recorded and he takes no steps to disguise, delete, or otherwise conceal, that history.” As I have said, we have recently had examples of those orders lasting for 15 years in the Royal Court and they amount to a continual restriction on the defendant’s liberty and are certainly designed to control and minimise any risk of further offending. Finally and perhaps impressively, bearing in mind the resource implications of doing so, the 2010 law also allows that those convicted prior to 2010 to be retrospectively placed on the register. That, of course, is a process that involves identifying those persons, who previously have been found guilty of sexual offending and going to court and making an application and putting them on the register too. That process has recently been concluded following the release of the longest-serving offender who was imprisoned prior to the law coming into force, who has been placed under both a notification and restriction order. In summary, Deputy Ward is absolutely right to say that in dealing with these cases there is never any room for complacency and I would like to express my gratitude to those who have signed this petition and allowed us to debate this very important issue. But I would like to give the Assembly my advice and view that I regard the sentencing regime that currently applies in Jersey to be appropriate in these cases.

The Greffier of the States (in the Chair):

P.P.C. (Privileges and Procedures Committee) indicated that this debate would last around about 2 hours, which would take us up to lunchtime. I have on my list, at the moment, the Deputy of St. John, Senator Vallois, Deputy Doublet, the Deputy of St. Martin and Deputy Higgins. I am minded to ask the Minister to respond to the debate around about 12.30 p.m., so if people can bear that in mind, that would allow us to finish in time for lunch.

Deputy M.R. Higgins:

Sir, can I ask the Attorney General a question following on his ...

The Greffier of the States (in the Chair):

Did you want to do that rather than speak?

Deputy M.R. Higgins:

I would rather ask the question now and speak later. I appreciated the Attorney General going through what he has said. I am just wondering if he can explain to me ... I have just been doing some reading, and it mentions that: “To strengthen supervision of all offenders at release, a working group has been established to examine how post-release supervision can be delivered to suit Jersey’s needs.

This will allow all prisoners, including sex offenders, to be monitored on licence after release for a period of time to further reduce reoffending rates.” Could the Attorney General explain how the licence arrangements differ from what he has mentioned?

The Attorney General:

I am not sure I can. The position, currently, is that offenders are not released on licence. They are generally released at the end of meeting two-thirds of their sentence in most cases and not subject to licence but, of course, they are subject to these obligations under the 2010 law in relation to notification and generally also restriction orders. I am not sufficiently acquainted with the extent to which there is additional probation supervision. I should imagine that that is what a licensing regime would offer, but I do not think I can give a comprehensive answer to the question in the way that the questioner seeks, because I am not familiar with the document from which he read an extract.

6.1.6 Deputy T. Pointon of St. John:

I am going to try and do what Deputy Pamplin does quite successfully and that is read from my computer. In March 2018, when the Draft Sexual Offences (Jersey) Law P.18 was being debated by the then States Assembly, the previous occupant of this desk, Deputy Simon Brée, was speaking to a Scrutiny amendment that he disagreed with. He said the following, and I quote from Hansard: “The debate raised this question in my head that what we are talking about here is what is the purpose of an effective criminal justice system? Is it to get high conviction rates, or is it to ensure that justice is done? It is, of course, the latter. It is to ensure that justice is done.” This was a very astute observation and one that lends itself well to the debate at hand. The adoption of P.18 gave much greater clarity to the position of children under the age of 15 and absolute clarity in relation to the position of children under the age of 12 within the Sexual Offences (Jersey) Law. We are all very grateful for the work of the previous Assembly in ensuring that a sea change associated with sexual offences law was initiated and firmly established in the latter days of that Assembly. I have to thank the previous occupant of this desk for his wise words and attempt to do them justice as I explain why simply introducing longer sentences will not protect vulnerable children from paedophile predators. The work done by the last Assembly demonstrated a clear intention to tackle a cancer in our society, especially as it related to historical child abuse revelations. I have been working with the Education and Home Affairs Scrutiny Panel and the Children’s Review Panel over this last year. I am encouraged that we exist in a different, much more informed society, that cherishes the lives of children. Unfortunately, I am also disappointed that there are people out there both present in our society and also present in the world of the web and social media, people who would subject a small number of our children to forms of sexual abuse that will leave them damaged for the remainder of their lives. Most people would find the idea of being sexually attracted to children abhorrent, but worldwide there are many men and women who find sexual gratification from actual physical sexual contact with children, or are stimulated sexually by images of children, from children at normal play and in the extremes images of children being subjected to serious sexual abuse.

[11:45]

We must and can protect our children from threats that exist beyond the 4 walls of our homes by being in charge of their access to the web and social media, by knowing where our children are, who their friends are and by risk assessing their activities. Sex offenders are members of our community. They span all ages and demonstrate a continuum of behaviour from opportunistic, unsophisticated offending to planned targeting of vulnerable people. The existential threat to our children is there, but we should be very much more concerned about the threat from within. It is a normal and an essential fact of life that our children are exposed to many experiences, some of them risky and, as parents, we try to ameliorate risk, always mindful of the fact that from risk and the experience of risky situations comes learning, the building blocks of our children’s personality development and resilience. We need now to turn this discussion on its head. The talk is of existential threat and the

headlines point to a small number of people who are actively predatory and not known to the intended victim of sexual abuse. The main threat to our children, however, is not outside the home, but inside and in the near vicinity. It is when the risks are intrinsic to the family, extended family, close neighbours and people who have a close supervisory role in a child's life. Most abusers are known to the child and there is a trust component that allows the abuse to begin. Scary headlines emanate from a small number of stranger incidents involving assault, rape, murder and abuse stories that dominate the media because they are shocking and parents are reminded by the reports that they should be vigilant and be protecting their child. The largely unreported accounts of close family and friends of sexual abuse of children leaves the public with a distorted view of what child sexual abuse is really about. The abuser is not necessarily around the next corner, or waiting in the bushes, but is probably very much closer to home. If you are a parent, please be conscious of the developing relationship your child has with - and this, of course, is the difficult one - perhaps your partner, extended family, friends of the family, near neighbours and those people supervising your child, especially in relation to out-of-school activities. So how does it work? The perpetrator seeks out a child known to them and with whom they have already established a degree of trust. The victim will be unaware of the unnatural series of mental, physical, touching experiences they are party to and quite possibly see the advances as normal positive expressions of affection. Latterly, as part of the coercive process, the victim has been groomed into believing that they are responsible for the abuse and additionally convinced by the perpetrator that they, the victim, will be responsible for ruining the life of the perpetrator if they do not keep the abuse a secret. I think we have established that the whole business of paedophilia is an anathema to most. We all subscribe to the ideal that children come first and are cherished within our society and the nuclear family. So, where does this take us? We have a group of people who do not fit with society's norms to the degree that they break the law and offend against children. The answer, of course, is lock them up and throw away the key. Well, not quite so simple. There are a vast number of people out there, who have sexualised thoughts about children, but who never act on those thoughts by becoming involved in paedophile activities. The clinical community, therefore, is right to seek an involvement with both groups of people, those who offend and those who are expressing an awareness of the need to find rehabilitation. People, who are experiencing paedophile thoughts, respond very positively when they engage with individual psychotherapeutic treatment. The nature of those thoughts is such, however, that individuals experience a high degree of shame, given that society vilifies those who admit to harbouring such thoughts, making it difficult for individuals, who are not offenders, to seek help. However, some do and society becomes a safer place for children as a result. The probation service takes referrals from members of the public, who have become concerned about their thought patterns and offers skilled therapeutic interventions. That is, as I say, to non-offenders. Unfortunately, the people we see in the press, those that have been convicted of sexual and grooming offences, are those who did not seek help and who acted on their impulses in a manner that damages children and people of our society. The damage done, as we know, is deep reaching and often intractable for individual victims and their families. The latter group deserves to be reminded by our society that their paedophile behaviour is wrong and it is absolutely proper for our courts to determine appropriate sentences when these damaged and damaging men and women offend and are convicted. When the courts sentence, an element of the sentence is always considered to be punishment and so it should be, but punishment alone will not create an end product that is no longer a threat to our children. If all our society does is to remove a person from the community, the threat only goes away for the period of confinement. It is essential that, when resident in Her Majesty's penal institution, inmates are offered the opportunity to access psychotherapeutic treatments and in Jersey a small team of forensic psychologists make that offer to sex offenders. I refer to making an offer, because not all offenders will be motivated to engage with a process that will challenge their belief systems. Engagement to increase an individual's motivation is part of a pre-treatment process. The programme is tailored to the individual, rather than being a group work-based process. All sex offenders are listed on the offender register, of course, as we have heard from the Attorney General, when sentenced. Close to

completion of sentence, the prison will work with the probation service to design an intervention plan that will help prepare the offender for release. All offenders are offered voluntary contact with the probation service with several choosing to do so, in order to continue treatment and to receive assistance in reintegrating into the community. The probation service was instrumental in creating the Jersey Multi-Agency Public Protection Arrangements, commonly known as J.M.A.P.P.A., and currently second a probation officer to co-ordinate that process. J.M.A.P.P.A. was implemented in 2011, when the Sex Offenders (Jersey) Law 2010 came into force. In pursuance of Article 28 of that law, arrangements to assess and manage sexual offenders and violent offenders and other dangerous offenders, together with potentially dangerous persons, were made the subject of J.M.A.P.P.A. monitoring. In 2018 the total number of offenders subject to a sex offender notification order in Jersey was 147. There were 20 new registrations in 2018, 28 of the people were in custody, 85 in the community and 34 residing outside Jersey on a temporary, or permanent, basis. The majority of these individuals were being managed by a single agency, while 21 were being managed through partnership arrangements. Reoffending rates are low and since 2017 to date there have been just 3 reoffending sex offenders, one for breach of a restraining order and downloading indecent images, one for breaching a restraining order and one for malicious damage. I would suggest that we have adopted a robust approach to protecting children in our society and our greatest results will come from an increase in our commitment to therapeutic interventions for those who harbour sexual fantasies about children and would subject our children to sexual abuse. Sometimes kneejerk reactions are understandable in this emotional area, but kneejerk reactions seldom lead to effective policy.

6.1.7 Senator T.A. Vallois:

I am grateful for going after the Deputy of St. John, because I think he has just cut my speech in half, so I will just refer to the areas that I feel I need to add to the debate. I was going to open up by asking when you look at the actual petition, that is basically demanding us to implement mandatory minimum prison terms for such offences.

The Greffier of the States (in the Chair):

Sorry, Senator, but we are without a *quorum* at the moment, so if I could ask Members who are in the coffee room or outside of the Chamber to come in, please. Thank you very much. I think that brings us back up. My maths has failed me. Thank you very much.

Senator T.A. Vallois:

It states on the petition that there is a belief that introducing such prison terms would be the only way to deter paedophiles. I open up that question as to whether that is really the case. I think the Deputy of St. John gave us a perfect glimpse into why that is possibly not correct. I applaud him for his speech and the view from the health-based application of supporting not just the victims in these particular cases, but often the perpetrators in these cases are victims themselves and recognising how we can apply a health-based approach rather than just purely punishment in terms of applying a prison sentence. The reason why I wanted to speak was referring to if we look across the water to the United States of America where they apply mandatory prison sentences, particularly in the time of Reagan, when there was a battle against the drugs. A war against drugs in America has come to America becoming one of the places in the world that has the most people in prison and not necessarily people who have committed the crimes. So, it does not fall on the eyes of what we, I suppose, have to answer: what is justice? I have heard it mentioned many times and I thank the Attorney General for providing us with further information around sentencing guidelines. We bandy around the word 'justice', as if we all recognise and agree with the same meaning behind it. Looking it up, justice is what we, as a society, regard as a right based on our moral concepts of ethics, rationality, law, religion, equity and fairness. So, why did I refer to the U.S. (United States) and the Reagan times with regard to the drugs epidemic? Well, I refer to that because there was a view and there is a view

- and that is why I believe in particular this petition came forward in the first instance - that the way that we apply justice in Jersey is recognise that a drugs offence is more abhorrent than a potential sexual offence. Maybe it is not understanding the system in which justice is played out in our courts that gives the perception that that may be the case, because we have also got to recognise that having a mandatory prison sentence does not provide the individualisation and proportionality to the particular case in hand, which the Attorney General was referring to before, the particular facts of a case. I was on the Scrutiny Panel last term and scrutinised the new Sexual Offences (Jersey) Law and believe we have come a long way in terms of our legislation and how we will continue to apply that in the future. Well, the court system will apply that in the future, not us. But there is a question about the way that we do apply those sentencings in our laws and whether we have the maximum sentence right within the Sexual Offences (Jersey) Law, compared to, maybe, those drugs offences and the laws around drugs. Maybe there is a bigger conversation about how that is dealt with in terms of justice and the way the public interest test maybe is applied.

[12:00]

I believe that the recognition of us having this debate today ... and I thank those petitioners that signed this, because this is an extremely important debate, especially at a time when Government is putting children first. What we should be asking ourselves is what are the solutions and what are the ways to assist and support our community where that damage can be reduced, or ultimately stopped, from harming our children, particularly in cases so abhorrent as paedophilia. I do not believe any of us would want to see somebody getting away, or doing something as awful as some of the cases that may have gone through our courts, or we have heard of across the waters, but the question is whether that has stopped them from doing it in the future and once they have come out of prison whether that prevents them from doing it again. I think this gives us the opportunity to have that bigger conversation, that bigger discussion about what we can be doing, what we should be doing, where we should be applying our resources and the questions around our laws, as a whole, because if the perception of the public is that the sentences being applied to drugs offences is much worse than ... well, in their eyes, better than an offence with regards to paedophilia, sexual offences, then we seriously need to ask whether we are open and transparent enough. I believe that, as the Attorney General stated, it is in the public eye with regards to the court system, but whether our justice system is understood in the way that it should be and whether our laws are as up to date as the people that we represent, the very people we represent, believe that they should be. The Deputy of St. John referred to - and Deputy Perchard referred to - this health-based solution and I think if there is a way to stop this type of behaviour from moving underground ... that was one of the arguments around the reasoning behind having things like impôts duty and having legalised smoking so that you did not have that underground movement. I think it is the same type of thing; we have to have an open conversation around how we can support not just the victim, but the offender as well.

6.1.8 Deputy L.M.C. Doublet:

Like the Senator before me, my speech will be a lot shorter because of her speech and that of Deputy Pointon. I wanted to reiterate thanks to those who signed the petition, but also to the lady that started the petition. I think, sometimes, her methods can be quite controversial, but I think everybody would agree that she has campaigned tirelessly in this area and we should be thankful to her for raising awareness of this issue in Jersey. Also, thank you to any victims that come forward and report this, because that is an exceptionally difficult thing to do. I hope that if there are any victims that have not come forward, they might feel the confidence to do so after listening to this debate. I do not think anybody has thanked the police officers and the police detectives, because they have the task of sometimes having to be exposed to some of the evidence involved in these cases, which I can imagine is a horrible job to have to do and they do that on behalf of our society, to bring these people to justice. I think they do an absolutely magnificent job, so I want to thank them today, as well. I want to ask the Minister could he go back to his department and just check that those officers are receiving

the support that they need with that, especially because most of the officers, I think, involved in this are men and men, as we know, are less likely to ask for help with their own mental health. So, I just wondered if the Minister could just go back and check and see if there is anything more he could do for his officers in that regard. It seems to me from the speeches that have come before me that there is a general consensus that we are not going to introduce these mandatory minimum sentences, for many good reasons, but I think everybody who spoke agrees that we do need to do more to keep the focus on this issue. The previous 2 speakers and I think Deputy Perchard - unfortunately I missed her speech - have focused on prevention. We have made some steps forward in this area and when we had the childcare inquiry I called on the then Chief Minister to fund a campaign in the Island, which is the N.S.P.C.C. (National Society for the Prevention of Cruelty to Children) PANTS campaign and the funding was granted. That campaign has been running for some time now and I believe that every primary school has had that campaign in the schools and that is becoming embedded within our culture. So, I would just encourage parents and teachers to keep those resources highlighted within schools and homes, because I think if we can empower our children to know what is OK and what is not OK and to protect themselves and to speak up if anything untoward does happen at the earliest stages, then we can very much prevent some of these more serious offences from taking place. In terms of prevention, I wholeheartedly support the approach of viewing this as a health issue, because it is. If you look at the diagnostic manual for mental disorders, paedophilia is a mental health issue and I am not sure that we are treating it as such. I know Deputy Pamplin and others have raised the fact that our mental health services are grossly inadequate at the moment, so I do not think they are going to be adequate in this area either. I did some research into this and I have some questions for the Attorney General around our laws on this. If somebody has urges to offend, but they have not yet committed an offence, in some jurisdictions - for example I looked at Germany's laws - they have a law there where therapists are not able to disclose any information that is given during a session. I make no value judgment on whether that law is a good one, or not. I would just like to find out what the situation is for us here in Jersey. It is interesting that Germany has services that are highly respected and well subscribed, fortunately, or unfortunately, by individuals who have this type of disorder, but seek help before they offend. Their confidentiality is maintained. I think the jury is out on how effective this is. It is obviously hard to measure something that may have happened and then has not happened, but I think we should look into this in Jersey. So, could the Attorney General just outline what the situation is in Jersey, please? Firstly, if an individual who has committed an offence disclosed it to a therapist, would the therapist have a duty to report it? If they disclosed urges that could lead to an offence, would there be a duty to report? If the individual disclosed urges that the therapist was confident they would not offend, is there a duty to report in that case? In each of those cases, if there is a duty, who does the therapist report to, what happens to that information and what action would be taken? I would be grateful to hear from the Attorney on those questions, please.

The Attorney General:

My answers to the questions need to be slightly conditional, because I will undertake further inquiries in the next 15 minutes, or so, to ensure that my answer is correct. My understanding is that there is no statutory duty to report what is divulged to a therapist in confidence. If a therapist did choose to make a report to the States Police, then there would be no adverse consequence for them, save I suppose in relation to their professional code, which may dictate that such matters should remain confidential. I do know that the probation service, owing to their duty to the court, would, if in receipt of information that an offender had committed a serious, unsolved, crime, notify the States Police of that matter owing to their duties, but there is no general duty to report in those circumstances. But I will, as I have said, ensure that that advice is correct before the debate concludes. One thing I should correct, when I addressed the Assembly earlier, I indicated that all applications for removal from the register under the 2010 law, release and notification requirements are held in public. In fact, the court has a discretion to determine those matters in private, in appropriate cases.

Deputy L.M.C. Doublet:

May I briefly continue? I thank the Attorney General and look forward to hearing the rest of the answer. I do think that the Minister should look at this area, because I think for people who have not yet offended and want to seek help it would be of benefit to the children of the Island if that individual had clarity around what they could disclose and where they could seek help. I think that clarity would help to protect children. The Minister responded to an email that I sent, asking questions about this area and he said that is within the probation service, so that is after people have offended. It is not always? OK. There is a helpline that people can call, so there is something out there, but I think just maybe a bit of promotion of that and clarity would go a long way to protecting children.

6.1.9 The Deputy of St. Martin:

Could I just start by saying how impressed I am with the debate we are having now? We have had some excellent speeches. I thank the learned Attorney for his guidance and particularly single out the speeches from Senator Vallois and Deputy Perchard in particular and especially the Deputy of St. John, who has obviously spent a great deal of time thinking about the fine words that he has given us this morning. Could I start by just talking, very briefly, about the petitions and the way petitions come to this Assembly and how the general public have the ability to vote on them and the simplicity of the titles? I will use the reason we are here today as an example: higher sentences for paedophiles. There are 3 words in that, obviously, which we read and we know what they mean and we know the simplicity of we want higher sentences for paedophiles, but when we look at the detail: 'higher', how much higher: 10 per cent, 15, 20, 50, double, treble? Is it higher sentences? Maybe the conditions, or the types of orders that we give need to be increased. Then the Attorney spoke to us at length about sentences and the different types of sentences and how we get there. Then, of course, the word 'paedophile' itself and people's perceptions of what a paedophile is. Is it somebody who has non-contact with a 15 year-old? Is that the same as contact with an 8 year-old or a 6 year-old or a 3 year-old? I raise the point to get Members' attention to say the simplicity and complexity at the same time of some of these petitions is difficult and maybe it is right we have a simple petition and it ends up on the floor of this Assembly and we debate and talk about the complexities. Then we get back again to the simplicity of what is trying to be achieved by the petitioner. When it comes to simple and complex at the same time, I think back to many years ago now when I spent 2 sessions on the Youth Panel and how, sometimes, I would go home and read in the media a very short paragraph that detailed the sentence and some details, although, obviously, the young person was never named. My name would appear at the top and people would say to me: "That sentence did not seem appropriate" and I would say to them: "How can 3 sentences in the media portray the hours and hours of work that we put into that case?" That leads me on to what I wanted to say about the flexibility in sentencing and I would be very concerned about setting minimum sentences and trying to generalise and say: "This is what we would do in this case of this convicted person", because in all the work that I did with my fellow lay magistrates and magistrates in the youth sentencing, the thing that was always predominant in our minds was doing the most amount we could to make sure that the person in front of us did not offend again. That is why the Deputy of St. John and Deputy Perchard, in particular, have mentioned that and it must be always the case that courts have the ability to be flexible and to use their discretion when it comes to sentencing. I will finish with this. I am grateful and we saw the simplicity of the petition and I think today the Attorney has told us that there are moves in place to raise sentencing, to follow new guidelines from over the water and internally that are raising sentences.

[12:15]

I think we will all go away from today saying that we are looking at this matter and thinking about it and I am sure the Attorney and others will bear those words in mind.

6.1.10 Deputy M.R. Higgins:

As other people have said and I agree with them, we are all agreed that paedophilia is abhorrent. However, I do not agree with mandatory sentences in this area and believe, as the Minister for Home Affairs said and a few others, that it should be left to the courts. The reason is quite simply that, as has been stated, circumstances and cases differ and all the facts need to be determined before a penalty can be determined. It is right that the States will determine a framework for law. We pass legislation and we lay down various sentences, but the determination of those cases and the penalty within that framework needs to be determined by those who hear the evidence. We do not hear the evidence. We could not possibly decide on a penalty with not knowing all the individual facts. For that reason, I am against it. I am also against it because of, as Senator Vallois said, the U.S. experience. The Americans brought in a rule that said: "Three strikes and you are out", so anyone who is convicted of a felony, when they got to their third felony offence - even if it was relatively minor, not even sexual and could be just something that fell foul of their law - a person would be incarcerated for life. The consequence of that has been that they have, I think, the highest prison population in the world, except for the Chinese re-indoctrination centres where they have a million people being re-educated, as they put it, because they are Muslim. The U.S. system is not one that we should follow and anything like that would be detrimental to our society, as well. I believe that the investigation and enforcement of these offences is important and that no one is above the law and that is to be exercised without fear and favour which, from my recent meeting with the States of Jersey Police, they assure me that they do act in that way but, again, we all need to be vigilant. I also believe that treatment of offenders is also important and I do wonder whether we do have sufficient resources dedicated in this area. In a written answer to questions I have asked, I have been told that there are currently 1.5 forensic psychologists working within the prison and one trainee forensic psychiatrist. We all know that it is a very complex area and I wonder whether there is sufficient work going on there and, in fact, when I do have my visit to the prison to meet the prison governor, I shall be exploring this particular area and see that we are dealing with it. I am somewhat concerned about measures of success. I know the J.M.A.P.P.A. report mentioned a very low level of offending but, again, in another answer to a question I asked, it says: "The measure of success of interventions for sex offenders could come from an ongoing reconviction study of those sex offenders Island-wide who are treated, or remain untreated, incarcerated, or who serve a non-custodial sentence and who are not reconvicted over the various timeframes." That is work underway and I look forward to hearing about that report and seeing what they are saying, but we do not have very detailed evidence of the effectiveness of the treatment, but I am sure it is something that is evolving not only in Jersey but also elsewhere. However, just to reiterate, I do not agree with mandatory sentences. It should be left to the courts within the framework that we have given them.

6.1.11 Deputy K.G. Pamplin:

I would like to start my speech by thanking the 5,000 people who have signed this petition, which has led to this extremely high level debate today. It is important that we do tackle the most difficult things in our society and the fact that it has come from everyday folk should be applauded. I agree also, though, with the Deputy of St. Martin about the petition process. There is room for improvement there. I think that will benefit not just us, but the public. I want to start my speech. I have broken it into various sections, because, over the last few weeks, I have undertaken a lot of research prompted by this petition, because it is a fascinating and important subject. I am going to start by referring to my written question in this week's sitting to the Attorney-General, for which I thank him. I do hope all Members have read and appreciated his response, because I think it is important when debating this subject that we undertake a review of other jurisdictions and approaches to similar areas which is why I looked at the 2017 Royal Commission into Institutional Responses to Child Sexual Abuse in Australia. It is not too dissimilar to our independent Jersey Care Inquiry, though that report obviously started in 2013, was very comprehensive and, again, a huge moment in Australian history, uncovering an epidemic of child sexual abuse predominantly, as the report showed, in the Catholic Church. Also, I use this in order to identify improvements to Jersey legislation, which could be

considered and, again, I thank the Attorney General for his response. I think it is very important. The report had 114 pages of final recommendations. Those that relate to criminal justice start at page 91 and you can find the report on the internet and, in themselves, contained 85 recommendations. The Attorney General said it may be beneficial to give further consideration to the recommendations that are particularly relevant to the criminal justice system, which I think is very important because, as we have been hearing today, the much improved laws in Jersey are welcomed, but there is always room for improvement. Benchmarking against other jurisdictions I think - and not just the United Kingdom - is very important. Some of the recommendations have already been implemented in Jersey, the legislation in 2018, but there may be some benefits in carrying out a comparison of others, as I just said. Accordingly, the Attorney General, which I thank him for, will consider these recommendations in consultation with the States of Jersey Police and the Minister for Home Affairs and will set out any relevant recommendations, or observations, resulting from this exercise with the aim of doing so by the end of September 2019. Again, I think that is going to be important reading for all of us. The key points in that report from Australia I think stand out for me and I hope they feature in that work. Excluding good character as a mitigating factor. All state and territory governments other than New South Wales and South Australia, it is recommended, should introduce legislation to provide that good character be excluded as a mitigating factor in sentencings for child sexual abuse offences. Cumulative and concurrent sentencing - which the Attorney General did touch on earlier - where they recommended that state and territory government should introduce legislation to require sentencing courts, when settling a sentence in relation to child sexual abuse offences, involving multiple discreet episodes of offending, or where there have been multiple victims, to indicate the sentence that would have been imposed for each offence had separate sentences been imposed. Finally, sentencing standards in non-current cases of abuse where they should introduce legislation to provide that sentencing for children sexual abuse offences should be set out in accordance with the sentencing standards at the time of sentencing, instead of the time of the offending. An important thing that we should keep in mind. Also, in New South Wales, the maximum penalty for the new form of the offence of persistent sexual child abuse is life imprisonment, which was increased from 25 years. In relation to the grooming of a child in Jersey - as the Attorney General mentioned - an adult who commits an offence is liable to imprisonment for a term of 10 years and to a fine for intentionally meeting children under 15; and 5 years for not meeting, but for gratification by communication. While, again, in Australia, the maximum penalty for the offence will remain the same at 12 years imprisonment if the child is under 14 years of age. Again, something that could be increased as a maximum. Also, it is an offence to groom a parent, or a carer, to access a child for sexual purposes after distressing evidence to the Royal Commission showed offenders gaining access to children by establishing relationships with parents and carers. I do hope this is looked at, because I think this is a very important factor in the world of grooming. Going forward, in the most horrific cases around the world, we are seeing now more and more so many courts taking the full effect of the law into effect. Only last week in Florida, America, a 31 year-old paramedic was handed the U.S. Attorney Office's Middle District of Florida maximum sentence of 70 years in federal prison for sexual crimes to his one year-old daughter. He then shared his crimes to the Dark Web with thousands more images. In response, a Homeland security agent said this deviant committed the most horrible atrocities imaginable. He went on to say, in a press statement: "The investigation with national and international partnerships has helped ensure that this predator will never again harm a child." Words really matter for crimes like this also. Finally, looking at this and my research undertaken, I had looked to a jurisdiction which does have mandatory minimum sentencing; Canada. By looking at the research, there are obviously, at the moment, pros and cons to doing so. Admittedly, looking at the research, there are more cons than pros, but the pros are interesting in terms of the rationale for the minimum sentencing that they continue to carry out in Canada suggests that minimum mandatory sentencing laws are designed to maximise the safety aspects of prisons for our society. Those who commit a crime are removed from society, so that they can no longer do harm in it in their preferred way. They also say that up until the 1960s, capital

punishment was a mandatory minimum sentence for murder in the U.S. which we have been hearing about. There is still mandatory minimum sentences for serious crimes like treason. Because of the severe sentencing guidelines that are required by a mandatory sentence, it can reduce crime levels in targeted categories but as we know - and as Senator Vallois was alluding to - the cons of this can prove problematic. The mandatory minimum sentence pros and cons shows us that it may be beneficial to have a minimum sentencing for serious crime, as the Canadians continue to do so. It may also be detrimental to have them in place for some petty crimes and others. There are financial costs clearly in the evidence that must be considered with this along with the safety requirements of a society. The future of mandatory minimum sentences, though clear by talking to some people and colleagues in Canada at the moment, remains unclear. There is some indication that minimum sentences are not an effective sentencing tool. That is they constrain judicial discretion, without offering any increased crime prevention benefits. Nevertheless, mandatory sentences remain popular with some Canadian politicians and recently bills have been continuing to be passed which would increase the number of mandatory minimum sentences of imprisonment. I only put that out there, because I think it is important, when having a debate, to do so and look further around the world to what is happening. I will just end on a personal note that, again, I think that the Deputy of St. John's speech should be relayed and replayed by many people for a long while to come and he is an asset to our review that we are undertaking of the Jersey Care Inquiry Panel that we are continuing on. It is important that we have these conversations and we remind everybody that while great efforts are being undertaken, we cannot be complacent. For many years, children were speaking out and were saying things, but were not listened to and it is important, as Deputy Doublet reminded us of today, that organisations like the N.S.P.C.C. and others are doing huge amounts of work to improve the situation for children. That is great but we, as adults, have our role to play in it so that people are listened to and children are listened to. I say this also because of personal experience growing up where I, to put it bluntly, was close to abuse myself. In fact, it was a choice between me and a friend of mine who is no longer with us anymore.

[12:30]

That is how close I came and that person was a person of authority, who I trusted. Many of us did. Unfortunately, that person, who spoke up, was simply not believed and as long as I am an elected Member of this Assembly working together with my colleagues reviewing the Independent Care Inquiry, I will not rest until the voice is heard and trusted, we improve things in all cases to have a better society and that we never again have to deal with the things that we are still dealing with. A life sentence of any crime of abuse, sexual, or otherwise, is a sentence for those all connected and we should move forward in society and condemn it in its highest voice and I am happy to do so today.

6.1.12 The Connétable of St. Clement:

I shall be brief and I shall try not to get emotional, because I have found this an extremely emotional debate. I want to add my thanks to the petitioners, who have enabled us to have what has undoubtedly, in my mind, been a very high quality and very high level discussion. I value that and I appreciate that and I am sure the petitioners will appreciate the fact that they have been listened to and we have treated their petition and their views with respect and that I think is very important. As I say, it has been a high-quality debate, but there were 2 speeches which impacted on me quite significantly and they were by Deputy Perchard and the Deputy of St. John and I pay tribute to them for the research they did and the thoughtfulness that they put into their speeches. What the Deputy of St. John pointed out - and I tried to in answer to a question previously - is that on sexual offences, the reoffending rate from the information that we have is very low. It is very low and it is comparable with other jurisdictions and there are reasons for that. The reasons for that is the support that convicted offenders do get at the prison and I pay tribute to the psychologists and the prison governor for the work they do there. Also, of course, because of the supervision from the Offender Management Unit, for the supervision that offenders get after they leave prison being on the sexual

offenders' register, that is good that that offending rate is relatively low. Deputy Perchard did mention offender rates in generality and that is too high. No question about that. We are not talking about sexual offences now. I am talking about other offences, as well. That is why I am working with the prison governor on an improved pre-release regime, to create a pre-release unit at Jersey Prison, which would be helpful, but also working with the probation service to improve post-release supervision, as well, which is certainly not as effective and not as widespread as it ought to be. That is not just the sexual offences. That is for all offences and that is something that we have to improve. Like one or 2 others, I would like to pay tribute to the States of Jersey Police who have to deal with these issues and I can assure everyone that when complaints of this sexual nature, particularly with children, are made, or found, they are investigated robustly and without fear, or favour. There are some who doubt that, but I can assure Members and the public that the police are totally impartial when it comes to dealing with sexual offences, particularly against children. I also pay tribute to the Sexual Assault Referral Centre at Dewberry House, who support victims of sexual assault of all ages and I shall be looking to increase investment in that area, so that victims, who perhaps do not even want to go to make formal complaints to the police, can do so and get the psychological support and the emotional support that they need. I appreciated Deputy Doublet's tributes she paid to the police and I echo that. She asked me to ensure that the support that they get, having looked at the evidence in these cases, is adequate. It was interesting following this morning's discussions and the statement made by the Deputy that she implied that the majority of the police officers, who deal with this, is male. It is not necessarily so and I can assure the Deputy that all of those officers do have access to excellent welfare support, because it is so important in the business that they do. I know it is there, but I will go back and make absolutely sure that that support is appropriate. It is not just because of what they see and the things they have to deal with but particularly, in more recent times, the accusations sometimes that are made anonymously on social media about the way they treat cases and accusations made against them for ignoring cases and not dealing with them properly, impacts on those police officers almost as much as the evidence that they have to look at. That simply is not fair, because they do a terrific job and they bring these perpetrators to justice whenever they possibly can. All strength to their elbow for doing that and may our support for the police and Dewberry House continue well into the future. The focus of the Sexual Offences Law is on victims now and that is how it ought to be and that is what we need to concentrate on. Can I also thank the Attorney General for his wonderful presentation this morning, which I think clarified a lot of things for all of us, but I also appreciated the comments of Deputy Pamplin. What that brings home to me - and I hope to the rest of us in this Assembly - is that we must remain vigilant in this area and just make sure that our practices, our laws and our regulations are fit for purpose. Currently they are, but we cannot just assume that is going to be the case. We have to maintain what we have and improve what we have, but also to learn from other jurisdictions. Learn the good and the bad, take the good and ignore the bad and also note that other jurisdictions are also learning from us and we can be proud of that. This morning, I am particularly proud of this Assembly who, as I have said before, have had a very high quality, high-level debate, worthy of this mature Assembly and I thank Members for that. Thank you, Sir. **[Approbation]**

The Greffier of the States (in the Chair):

That brings the debate to a close. During the debate, there were one or 2 electronic beeps and I am looking at the Deputy of Trinity as somebody, in particular, who will be providing a contribution to my special charity fund. If anybody else wants to admit they beeped, I will be happy to see them afterwards. Arrangement of Public Business is next. Deputy Labey.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

7. Deputy R. Labey (Chairman, Privileges and Procedures Committee):

There are no changes to the listing of Public Business on the Consolidated Order Paper. We can predict, with absolute certainty, in the dying days of summer the departure of our aerodynamic swifts and swallows to warmer African climes. Not so the arrival, influx even, of a new noisy flock of Propositions for debate and, therefore, I am unable to predict the length of the sitting on 10th September. Contrary to popular myth, we are not now on holiday until 10th September, but I do hope that you and the Assistant Greffier and the Deputy Greffier and all your staff and Members do find a period for some rest and recuperation in the summer recess and, with that, I propose the Arrangement of Public Business.

The Greffier of the States (in the Chair):

Thank you very much. The extent to which we get any rest and recuperation largely depends on how many Propositions you all bring forward.

7.1 Deputy K.C. Lewis of St. Saviour:

Members may have noticed there was an error on the future rota for Questions Without Notice, which somebody very kindly pointed out. I did my last one in April, but the rota has been amended, so I will be up for Questions Without Notice on 24th September, if Members would like to sharpen their pencils.

The Greffier of the States (in the Chair):

If there are no other contributions, those in favour of the Arrangement of Public Business for the next sitting, kindly show. In that case, the Assembly can now adjourn until 9.30 a.m. on Tuesday, 10th September.

ADJOURNMENT

[12:39]