

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 5th JULY 2011**

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[9:30]

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

## **APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS**

### **1. Resignation of the Minister for Planning and Environment**

#### **The Bailiff:**

I understand the Chief Minister wishes to inform the Assembly of a ministerial resignation.

#### **1.1 Senator T.A. Le Sueur (The Chief Minister):**

That is right, Sir. It is with regret that I announce that over the weekend I received the resignation of Senator Cohen as Minister for Planning and Environment. While I would have preferred the Senator to remain as Minister for Planning and Environment as well as my Assistant Minister, I do now appreciate that, given the magnitude of the task in international matters, it is not possible to do both roles effectively. I am also convinced that he is by far the best person to develop the profile of external affairs. I have therefore reluctantly accepted his resignation as Minister for Planning and Environment and I am grateful for his ongoing commitment in the field of external relations. I am also grateful for his determination to see the Island Plan and the North of Town Masterplan through the States before announcing his resignation. In this, as well as in areas such as Eco-Active and Percentage for Art, he has left a significant planning legacy for the Island. I look forward to working with him even more effectively in the area of international relations and thank him for all his efforts in Planning and Environment over the past 6 years.

#### **The Bailiff:**

Very well. Then, Chief Minister, you will be bringing forward a replacement either at this meeting or, more probably, at the next one?

#### **Senator T.A. Le Sueur:**

Quite possibly later in this session since this meeting goes on over 2 weeks.

#### **Deputy P.V.F. Le Claire of St. Helier:**

May I ask if the former Minister for Planning and Environment, Senator Cohen, is going to make a statement or not because I would like to ask a question about who is going to ...

#### **The Bailiff:**

Deputy, I was about to say, it is in the Order Paper that he is going to make a personal statement and, if Members agree, it would seem convenient that he make the statement at this stage but, of course, no questions are capable of a personal statement.

#### **Deputy P.V.F. Le Claire:**

In that case, without reading the statement - I have not done so - I would like to ask a point of clarification from the Chief Minister in regards to his announcement just now and that is who will be taking over the department in the interim period?

#### **The Bailiff:**

The Minister continues in office until his successor is appointed. Very well. Then, I invite Senator Cohen to make his personal statement.

## **PERSONAL STATEMENT**

### **2. Senator F.E. Cohen - statement regarding his resignation as Minister for Planning and Environment**

## **2.1 Senator F.E. Cohen (The Minister for Planning and Environment):**

As Members will know, at the end of last year, the Chief Minister asked me to assist him and the Deputy Chief Minister in developing the Island's external relations. Consequently, I was appointed as Assistant Chief Minister with responsibility for External Relations. The objective is to build our relations with other jurisdictions and to further Jersey's international standing and this appointment was in response to the request of the Ministry of Justice that Jersey represents itself in discussions with U.K. (United Kingdom) ministerial departments and with overseas jurisdictions. The former Chief Minister, Senator Walker, had already done excellent work in this area and the current Chief Minister and Deputy Chief Minister have continued this work but it was clear that a dedicated post needed to be established. The objectives set out by the Chief Minister are being achieved through direct discussion and are bearing considerable fruit in a wide range of areas. Specifically, we have obtained ministerial support from the U.K. in relation to the future of our Zero/Ten tax regime through agreeing to remove deemed distribution. Visits to China, India and Israel have delivered considerable success in relation to jurisdictional reputation, culture, education, tourism and business. We have even made representations to ensure that the Jersey BBC News Service budget was retained. However, while we are achieving significant results, the task of assisting the Chief Minister and Deputy Chief Minister requires dedicated commitment and fulltime application. To give but one example, over the last 2 weeks, as a result of the extended Island Plan debate, I have been forced to cancel meetings with over 20 leading parliamentarians and officials at Westminster and Brussels. Consequently, last Friday, I signed 17 letters of apology, as I had been forced to reschedule these meetings. These included letters to the U.K. Prime Minister and Deputy Prime Minister. I am acutely aware that my obligation is to serve the Island in the best manner possible and as this external relations work has grown, it is clear that if I am to carry out my role in this area in the best interests of the Island, I can no longer continue as Minister for Planning and Environment. I have therefore given notice to the Chief Minister of my resignation as Minister for Planning and Environment. There is much important and urgent work needed to be undertaken in the field of external relations. The Chief Minister and Deputy Chief Minister have asked that I assist in ensuring that the Tax Information Exchange Agreement with India is signed in short order. I will also be signing a Tax Information Exchange Agreement with Czechoslovakia very soon. They also wish that I continue to work with them on securing our Tax Regime Agreement while also monitoring the emerging territorial tax issues relating to Gibraltar and elsewhere. There is also immediate work needed to assist ministerial colleagues in the Health, Education and Economic Development Departments. In addition, promoting the Island's reputation internationally at a cultural level is of increasing importance and I am currently engaged in an important project to facilitate this. It is with great regret that I leave the team at Planning and Environment. I believe that together over the last 6 years, we have delivered substantial improvements to the way the Island's built environment is managed. Over recent weeks, States Members participated in successfully delivering the Island Plan and the North of Town Masterplan, setting out a vision for the Island and delivering enduring sustainability while providing 900 affordable homes. Architecture has improved beyond recognition with the introduction and assistance of the Jersey Commission for Architecture and we are now seeing the emergence of great works of art on all large projects through the Percentage for Art programme. The Eco-Active environmental campaign has delivered huge benefits in the promotion of environmental awareness and the energy insulation grant scheme, thanks to the foresight and support of States Members, has delivered practical environmental help to 1,000 Island families. It is with a heavy heart that I have made this decision but I believe it is a necessary one if I am to serve Jersey effectively in an international relations role. I wish to thank the Chief Minister, Ministers, and every States Member for their support in my role as Minister for Planning and Environment over the last 6 years. Special thanks go to my longstanding Assistant Minister, Deputy Duhamel, and his predecessor, the Deputy of Trinity, together with the Deputy of St. Peter. I particularly extend my gratitude to members of the Planning Applications Panel led with great competence by the Constable of Trinity. I am indebted to my Chief Officer and the exceptionally competent team at Planning and Environment. The

delivery of States objectives would not have been possible without the commitment and dedication of the whole Planning and Environment team. I wish to record my very special thanks to 2 very special people who have assisted me enormously at the Planning and Environment Department over the last 6 years. They are the Director of Development Control, Peter Le Gresley, and my Personal Assistant, Pauline Griffiths. **[Approbation]** Finally, and most sincerely, I would like to thank my wife for her support. As Members will know, I have been at the firing line for all Planning decisions and recently this has brought its problems, all of which she has borne with grace and fortitude. Thank you all. **[Approbation]**

## **PETITIONS**

### **3. Deputy G.P. Southern of St. Helier - petition regarding the restoration of free school milk in Jersey schools**

#### **3.1 Deputy G.P. Southern of St. Helier:**

Do I get to make a little speech or not?

#### **The Bailiff:**

Not a speech, but you can certainly make a few remarks.

#### **Deputy G.P. Southern:**

A few remarks. Just weighing this 7,268 signatures and beneath it the far prettier, although no less relevant, petition from over 2,000 children, the people who really matter in this debate, I formally present the petition.

#### **The Bailiff:**

Very well. Now, under Standing Orders, Schedule 1, the States must refer the petition and the proposition to the relevant Minister, who is the Minister for Economic Development so the matter must be referred to the Minister.

[9:45]

Then you, in fact, have a period to prepare a report. Minister, when will you be in a position to prepare a report? This proposition has, in fact, been lodged for some time, of course.

#### **Senator A.J.H. Maclean:**

Yes, I hope to have a report to the Assembly for the next sitting which in reality is next week.

#### **The Bailiff:**

Next week?

#### **Senator A.J.H. Maclean:**

Yes, although it is a continuation I think technically speaking, but next week for certain.

#### **The Bailiff:**

So next week, thank you.

#### **Deputy G.P. Southern:**

I find that somewhat unsatisfactory since the proposition attached to this petition has been lodged for some time and has been down for debate on this session for some time and I wonder why the Minister has not come with his comments to the House?

**Senator A.J.H. Maclean:**

I would just comment that I have not seen the wording of the petition so until we have seen that we cannot complete. But the proposition, as the Deputy has quite rightly pointed out, that he has brought, is before the States and will be debated and comments are included with regard to that.

**The Bailiff:**

Yes, it is just that at the moment, the matter has been listed for debate if we get there this week but, on the other hand, Standing Orders are quite clear that if you present a petition, it has to be referred to the Minister for comment and the Minister clearly cannot comment on the petition until it is lodged. So I would suggest to Members that probably this one has got to be stood over until next week by which time the Minister must present his report.

**Deputy G.P. Southern:**

You just said "next week". Next week is a continuation sitting.

**The Bailiff:**

Yes, continuation of this one.

**Deputy G.P. Southern:**

In the sense that in the continuation ...

**The Bailiff:**

In this sitting but in the continuation part of it rather than this week.

**QUESTIONS**

**4. Written Questions**

**4.1. The Minister for Planning and Environment tabled an answer to a question asked by the Deputy of St. John regarding a response to P.21/2010 ('Importation of fireworks in 2007 for a charity event: investigation').**

**Question**

Could the Minister give details of the reasons for the delay in responding to P.21/2011 'Importation of fireworks in 2007 for a charity event: investigation', which the Assembly was advised would be circulated by June 2011, and advise when the Assembly can expect the response to be released?

**Answer**

The report is a detailed document comprising inputs from the Ministers for Home Affairs, Planning and Environment, and Economic Development.

These inputs are supported by a significant number of appendices including correspondence between the event organiser; the pyrotechnics owners and States of Jersey Officers and Ministers. Drawing together the diverse range of documents in their hard copy state and formulating a report which contains sufficient information to limit the need or requests for secondary information has taken longer than was anticipated. As a result of collating the volume of information together, the resulting report will be in excess of 250 pages, which will ensure a thorough examination of the chain of events.

The report is now nearing completion and will be circulated to members following final approval from the sponsoring Ministers. It is anticipated that it will be available to States Members in July.

#### **4.2 The Chairman of the Privileges and Procedures Committee tabled an answer to a question asked by Deputy R.G. Le Hérisier of St. Saviour regarding web casting.**

##### **Question**

Does the Committee propose to introduce web-casting of the States Assembly and other formal meetings such as Scrutiny proceedings and, if so, when?

##### **Answer**

The question of uploading audio of States meetings and Scrutiny hearings has been under consideration for some time.

The Committee has undertaken research into a recommendation of the former Media Working Party that recordings of the States Assembly, committee and scrutiny panel meetings should be made available on the internet. The Committee agreed that, provided there was sufficient demand for such a service, meetings should be broadcast live and be available to listen to on demand until the transcript of that meeting had been uploaded. The Committee agreed in December 2010 that, prior to pursuing such an approach, research should be undertaken into the feasibility of uploading audio from pre-recorded meetings on a trial basis so as to establish whether there was a demand for such a service, as the Committee was reluctant to incur additional cost if sufficient demand did not exist.

The proposed uploading of audio from scrutiny hearings was raised by the Chairman at the Chairmen's Committee meeting which had been attended by Committee representatives on Thursday 12th May 2011.

The minutes of the PPC's next meeting held on 24th May 2011 state –

“The proposed uploading of audio from scrutiny hearings had been raised by the Chairman at the Chairmen's Committee meeting which had been attended by Committee representatives on Thursday 12th May 2011. At that meeting, concern had been expressed that members of the public might be able to edit the available audio and upload parts of it to other websites. In response to these concerns, the President of the Chairmen's Committee had agreed to refer the matter to the individual scrutiny panels for consideration. The position was **noted** and the Committee **agreed** to await comments from Scrutiny in this regard.”

The Committee is still awaiting comments from the Scrutiny Panels in this regard, including from the Education and Home Affairs Panel, of which Deputy Le Hérisier is the Chairman.

#### **4.3 The Chief Minister tabled an answer to a question asked by Deputy R.G. Le Hérisier of St. Saviour regarding the role of HR Directors.**

##### **Question**

What are the differences, if any, in the roles of the HR Director (Operations) and the HR Director (Strategy and Change)?

How is it intended to entrench change within the public sector with these Directors who are occupying temporary appointments?

##### **Answer**

The Human Resources (HR) Director (Operations) is accountable for the delivery of Business as Usual Human Resources via the established HR Units in the departments of the Civil Service and related services such as Harbours and Airports. In addition the role leads on key aspects of the reshaping of the function's services such the introduction of new Resourcing software and Intranet.

The HR Director ( Strategy and Change) is accountable for the Terms and Conditions review , the redesign of HR Policies and procedures and Change support to Central and departmental CSR Programmes. In addition the role leads on capacity building in key areas such as learning and development, reward, and organisational development.

Both roles are temporary and are there to bridge the gap prior to the appointment of a new States of Jersey HR Director, which is currently in train. The roles help to maintain the momentum of CSR change and enhance the capacity of existing staff through coaching and development.

#### **4.4 The Minister for Home Affairs tabled an answer to a question asked by the Deputy of St. John regarding the Jersey Field Squadron.**

##### **Question**

Could the Minister advise the current numbers of service men and women who form the Jersey Field Squadron and whether the target membership remains 150 officers and men?

Would the Minister detail -

- (a) the number on the register;
- (b) the number who regularly attend training sessions and how many attended each session over the last 24 months;
- (c) the number who receive pay for attending training sessions and the amount paid;
- (d) the current grant paid to the United Kingdom government for the Squadron and whether the grant covers the cost of the junior Army Cadet Force and, if not, why not;
- (e) whether the grant mentioned in the 2010 States accounts for the Army Cadet force is above that currently paid to the UK;
- (f) what, if any, are the accommodation costs to the Island for the permanent staff at the Field Squadron living in States rented accommodation?

Will the Minister consider withdrawing funding from the Field Squadron and redirecting the grant to border agencies like Customs and Immigration?

##### **Answer**

The Minister for Home Affairs does not run the Jersey Field Squadron but provides finance and other support to the Jersey Field Squadron in accordance with an Inter-Governmental Agreement (IGA).

a) The Jersey Field Squadron RE (Militia) was subject to a service review in October 2006 when it became a Squadron. The Squadron has a maximum Territorial Army Strength of 8 Officers and 74 soldiers. The funding of the Squadron was amended in 2006 to reflect this change. The current number of members fluctuates on a weekly basis, but is approximately 54 Officers and soldiers (not including those on Operation TOSCA and on full time reserve service). This is approximately 66% of maximum strength. If one includes those who are away, the membership is approximately 72% of maximum strength, which is on a par with the other squadrons in the Regiment.

b) The number that attend training must be seen in the context of a Squadron that regularly deploys soldiers on enduring operations and functions within the Graduated Commitment Mechanism (GCM). The GCM, in simple terms, dictates the level of training a soldier needs; the closer a soldier is to deploying on operations the more intensive the training becomes. A Territorial Army soldier has a training liability of 27 days per annum; the number of soldiers who achieved this is set out below<sup>1</sup>:

- For the 2008/9 Training Year - 33
- For the 2009/10 Training Year - 32
- For the 2008/9 Training Year - 31

c) Territorial Army soldiers are only paid when they attend formal training; they are paid  $\frac{1}{4}$ ,  $\frac{1}{2}$ ,  $\frac{3}{4}$ , or a full Man Training Day's (MTD) pay depending on the time spent training. The MTD cost is in line with Regular daily rates of pay and therefore varies with qualification and rank. The cost of MTDs for the last three years is set out below<sup>1</sup>:

- 2008 - £139,502
- 2009 - £130,751
- 2010 - £121,753<sup>2</sup>

d) The current 1988 IGA provides for an annual costing exercise where, by the 1<sup>st</sup> of September each year, the Ministry of Defence provides a costing showing the full costs to the MOD of providing and maintaining the Field Squadron for the next three MOD financial years. The amount paid to the MOD under the IGA for 2011 (as set out in the Business Plan) is forecast to be £1,054,000. The costings do not cover the cost of the junior Army Cadet Force (ACF) because the ACF is separate from the Squadron. The ACF receives a separate grant (currently £10,000 per annum) from the Home Affairs Department to assist with administrative and operating costs, and there is a Service Level Agreement in place in respect of that grant.

e) Yes. As detailed in d).

f) The Squadron uses States of Jersey property to house its permanent staff; except one property that has a long term private lease. The enduring revenue liability is limited to property maintenance, which is met from the stated Squadron budget, and charges normally associated with residential properties. The housing liability is clearly articulated in the IGA.

2010

maintenance	£14,197.00
lease hire & utilities	£35,133.00 <sup>2</sup>

2011 (first 6 months)

maintenance	£21,402.00
lease hire & utilities	£16,315.00

Any proposal to withdraw from the IGA would involve the Chief Minister and would, in practice, probably require the approval of the States Assembly. There is currently no proposal to withdraw from the IGA.

<sup>1</sup> When a TA soldier deploys on operations they cease to be a reservist and as such they do not figure in the annual training numbers quoted

<sup>1</sup> The reduced spend during 2009 and 2010 reflects the fact that the figures span the Apr 09 – Mar 10 UK financial year when the Sqn had soldiers deployed in Afghanistan and contracted to the Regular Army on Full Time Reserve Service

#### **4.5 The Minister for Home Affairs tabled an answer to a question asked by Deputy T.M. Pitman of St. Helier regarding an alleged 'leak' of a report.**

##### **Question**

Given that the Minister has stated that he was already aware - prior to my question in the States - of the alleged 'leak' to a UK journalist of material from a then uncompleted and unpublished confidential audit report into the financial management of the historic abuse inquiry, will the Minister outline how he identified the individual he alleges leaked the information; what action he took as a result; further still, why this information and that this serious incident had taken place was not made available to States members or the general public?

##### **Answer**

I am concerned that Deputy T Pitman is asking a question, part of which implies that he has formed an opinion that I should have taken certain action at a particular time.

I became aware in October 2009 that some confidential information had been provided to a UK journalist as the result of enquiries by a member of staff of the Home Affairs Department. Those enquiries revealed that, although a draft report existed at that time, it was most likely that what had been provided was information contained in the working notes of a former senior police officer from the UK, who had been employed by the States of Jersey Police to work alongside the accountants who were producing the financial review for the Minister of Home Affairs.

I regret that in an answer to an oral question from Deputy T Pitman on 6 June 2011 I failed to clarify this detail. That was partly because my answer focussed on the question of who had revealed information and not on the question of what was revealed and partly because I was then not clear as to what had been provided to the UK journalist.

The further enquiries also revealed that the person likely to have provided the information was the former Senior Investigating Officer who had left Jersey in August 2009. Prior to leaving Jersey, that officer had given extensive interviews to the press in Jersey which had led to very substantial publicity. This officer was seconded to Jersey from another police force and had retired from that force and therefore could not be made subject to disciplinary proceedings anywhere. Furthermore, it was already very well known in Jersey that this officer had provided extensive information to the press in Jersey and I did not view this matter as being a significant extension of that.

By the time the issue was raised with me in May 2011 I had completely forgotten that this incident had occurred, and I have had to refresh my memory by reference to the written record in 2009. Indeed, it is only as a result of preparing this answer that I have become aware of the detail of the situation.



**4.6 The Chairman of the Public Accounts Committee tabled an answer to a question asked by Deputy T.M. Pitman of St. Helier regarding Historical Abuse Inquiry expenditure.**

**Question**

Given that the Education and Home Affairs Scrutiny Panel are about to undertake a review relating to wider related issues did PAC ever examine the report written by BDO Alto into the management of the Historical Abuse Inquiry expenditure; if not, why not? Further still, would the Committee undertake to scrutinize the expenditure incurred by the Wiltshire Constabulary in their investigation(s) surrounding the inquiry - including Operation Blast - and submit a report to the States outlining its findings?

**Answer**

Both the PAC and the C&AG received copies of the report written by BDO Alto into the management of the Historical Abuse Inquiry expenditure and in July 2010 the C&AG published a report "Historic Child Abuse Enquiry – Public Finances Law 2005". Weaknesses in the current Accounting Officer arrangements had been identified prior to the publication of the BDO Alto report and this led to the recommendation by the C&AG that an independent police authority be established – a view supported by the Public Accounts Committee.

This was progressed by the Minister for Home Affairs following consideration by a Working Group that included Deputy Pitman.

The Proposition P192/2010 – Jersey Police Authority: Establishment was lodged by the Minister on the 21<sup>st</sup> December, 2010 and debated on the 2<sup>nd</sup> February, 2011. It was unanimously passed with 48 votes in favour, no abstentions, and no votes against.

The Chairman of the Public Accounts Committee was interviewed by the Wiltshire Constabulary as he had made an official complaint concerning the former Chief Officer Graham Power and would therefore be conflicted in any such investigation of the BDO Alto findings. However no other politicians or independent members on the PAC proposed a specific review at the time of the BDO Alto report's publication.

The matter will be discussed at the next full Public Accounts Committee meeting in July and it is not possible at this stage to confirm whether a report will, or will not, be undertaken. However the Public Accounts Committee would be pleased to hear from the questioner what meaningful benefit to good government may be achieved by carrying out another review which will ultimately be funded by the taxpayer. It should be noted that the BDO Alto report received widespread publicity, including a great deal of published detail. Therefore it is not clear to the PAC what could be achieved by a further investigation.

**4.7 The Minister for Home Affairs tabled an answer to a question asked by Deputy T.M. Pitman of St. Helier regarding staff costs for the Wiltshire inquiry.**

**Question**

The inquiry by the Wiltshire Police cost £531,500 in total; will the Minister provide a full breakdown of the costs identifying how many staff these figures covered for the following headings:

Staff costs - £200,700

Travel - £92,000

Hotel Accommodation - £82,000

Subsistence £39,100

Rent - £14,000

Will the Minister further give a full breakdown for what exactly was covered by the remaining three headings -

Other costs - £11,400

Equipment Purchase - £15,200

Legal Fees - £77,100

### **Answer**

The cost of the Wiltshire Constabulary investigation into the management and supervision of the Historical Child Abuse Enquiry by the Chief Officer of Police was £572,532 as I advised in the answer to the Deputy's oral question on 19 July 2010.

The terms of reference for the investigation agreed by the Chief Minister's Department stated that *'All reasonable costs incurred, including funding for independent legal advice for the investigators will be met by the States of Jersey'*.

Up to six officers from the Wiltshire Constabulary were working on the investigation assisted by support staff in Wiltshire.

Staff costs (£289,984) comprise officers' salaries including overtime plus support staff in Wiltshire. Officers' travel to the Island was arranged by the Wiltshire Constabulary and reimbursed by the Home Affairs Department.

Travel costs (£76,501) include air travel, car hire, mileage allowances for travel to the point of departure and airport parking.

Hotel accommodation (£84,633) was mainly at the Radisson Blu Hotel (4\*), which is located close to the independent temporary office facility that was established at the Elizabeth Terminal. The average cost per night was £80. Staff booking the hotel accommodation used the States procurement website to get the best deals.

Subsistence payments (£38,398) were based on £28 per person per day (£25 subsistence plus £3 incidental personal expenses per 24 hour period).

Rental payments (£12,600) are in respect of the independent temporary office facility that was established at the Elizabeth Terminal at a cost of £1,400 per month.

Other costs (£4,984) include amounts paid in respect of telephones, general stationery and minor office equipment, photocopying and photocopying supplies.

Equipment purchase (£17,867) includes media evaluation of Jersey Police, IT purchases and licences.

Legal expenses (£42,963) is for professional fees incurred by Lawyers (Veale Wasbrough) who were acting on behalf of Wiltshire Police Authority in relation to Operation Haven.

**4.8 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy T.M. Pitman of St. Helier regarding 1(1)(k) residents' tax payments.**

**Question**

Given that the Minister concedes that there is no evidence that higher earners or 1(1)(k) individuals in particular would leave the Island simply because a higher rate of tax was implemented; will the Minister clarify how he justifies proposing allowing 1(1)(k) individuals to in future pay even less tax - in real overall percentage terms - as a result of proposals to be debated by this Assembly in July 2011; further still, what would the estimated increase in tax take be if the 1% figure was set at 2%?

**Answer**

The Minister does not concede that there is no evidence that increasing tax rates can affect the behaviour of individuals. He does accept that hard data is difficult to find, although he points to the UK's experience of introducing a higher rate of income tax of 50%, which suggests that higher earners are increasingly considering relocating. This was acknowledged by the UK Chancellor of the Exchequer in his Budget speech in March 2011.

The Minister refers the Deputy to the report accompanying draft Income Tax (Amendment No 39) (Jersey) Law 201- (P.113/2011) which sets out the rationale for changing the tax regime and to the report from the Tax Policy Unit on the review of the regime dated 2 July 2011.

This review concludes that while the direct tax contribution is significant and very welcome, what is equally important is the substantial indirect contribution from which Jersey benefits through their spending in the local economy, job creation and charitable contributions.

The proposed tax changes are designed to boost the economy and increase tax revenues by attracting more wealthy individuals to the Island. These rules should also encourage wealthy people to bring their businesses to Jersey, creating employment and enhancing economic activity in many sectors.

The annual minimum tax contribution required has also been increased from £100,000 to £125,000.

It is impossible to say with any certainty how many new consents will be granted and what the income levels of people seeking to come to Jersey will be. Therefore, whatever percentage of tax is paid, it is not possible to give a firm figure for additional tax revenues raised, beyond the minimum annual contribution of £125,000. It is clear from the review undertaken that the best way to increase the financial benefit to Jersey is to encourage more wealthy individuals and their businesses to the Island. This proposition is intended to do that.

**4.9 The Chief Minister tabled an answer to a question asked by Deputy T.M. Pitman of St. Helier regarding political transparency and integrity.**

**Question**

Following the statement on 30th March 2010 by the Minister for Home Affairs at an Education and Home Affairs scrutiny panel hearing that the Minister did not want to expand on the reasons for the delay in producing the Wiltshire report because he had given an interview to the Jersey Evening Post and, in his words, "I promised the reporter that she would have a scoop", will the Chief Minister state whether he considers this acceptable conduct by a Minister and within the requirements of the Ministerial Code of Conduct and conduct that shows a satisfactory standard of transparency and integrity?

## **Answer**

The question wrongly implies that the Minister for Home Affairs was declining to provide the Scrutiny Panel with relevant information or refusing to answer a question. Neither of these are correct. The Scrutiny Panel hearing related to the possible appointment of the Acting Chief Officer of Police as the next Chief Officer of Police. During the hearing there was a discussion between the Chairman of the panel and the Minister in relation to delays in the disciplinary investigation conducted by the Wiltshire Police in relation to the then Chief Officer of Police. The Minister was not asked a question in relation to this but began to volunteer information. He then decided to limit the information which he would volunteer as it was not directly relevant to the matter in hand and as he had recently given an exclusive press interview which would make this detail public. The Panel appeared to be satisfied with this approach because no questions were asked on this point. All this is apparent from the transcript of 30th March 2010.

I do not, therefore, believe at all that the Minister for Home Affairs has breached the Code of Conduct for Ministers.

### **4.10 The Minister for Treasury and Resources tabled an answer to a question asked by Senator B.E. Shenton regarding the income received from the Radisson Hotel.**

#### **Question**

Could the Minister identify the total amount of rent and/or income received in respect of the Radisson Hotel site by The Waterfront Enterprise Board Limited (now States of Jersey Development Company) in respect of the years 2008, 2009 and 2010?

#### **Answer**

The lease of the hotel site was granted from the Waterfront Enterprise Board Limited to the Jersey Waterfront Hotel Holding Limited. The lease went through the Royal Court and is a public registered document. Schedule 3 of this lease sets out that WEB will receive a percentage of room turnover on the following basis:- 0% in 1st year of trading, 1% in 2nd year of trading, 2% in 3rd year of trading and 3% every year thereafter.

The detailed information requested is confidential to the contractual parties at the time, is commercially sensitive and unfortunately not available for publication. The Minister would, of course, be prepared to disclose the details to a properly constituted Scrutiny Panel in accordance with a standard confidentiality agreement.

### **4.11 The Minister for Health and Social Services tabled an answer to a question asked by Senator S.C. Ferguson regarding 32 locum doctors.**

#### **Question**

Will the Minister state

- a) how many of the Datex incident reports completed in the last 4 years refer to the work of the 32 locum doctors employed to undertake the work of the 4 doctors in the Division of Surgery whose duties are currently restricted?
- b) The number of Serious Untoward Incident investigations during this period which have investigated the work of any of the 32 locum doctors?

## Answer

- a) DATIX is a software system used to capture information about ‘incidents’ that take place across hospital services and in the community. These ‘incidents’ cover a broad spectrum of events from an error in clinical practice to a slip or trip or a potentially faulty heating system. The DATIX system is also used to capture some elements of clinical data, for example HSSD’s caesarean section rates.

The reporting of ‘incidents’ - regardless of whether they relate to clinical practice or a faulty switch - is fundamental to improved patient safety and, in the words of Verita, is the “sign of a strong organisation”. Verita acknowledges that HSSD has invested significant effort in creating and maintaining a culture of openness in which professionals can acknowledge their own limitations, raise concerns about the practice of colleagues or flag up sundry issues and concerns.

Over the 4 year period, 2008 to 2011, there was a total 12,070 DATIX reports across all hospital and community services of which 31 related to the 32 locum doctors (approx to 0.25%).

- b) There have been no SUI investigations relating to the 32 locums.

### **4.12 The Minister for Treasury and Resources tabled an answer to a question asked by Connétable of St. John regarding annual revenue since the removal of car tax**

#### **Question**

Would the Minister provide details of how much revenue has been raised annually since car tax was removed and a charge per litre of fuel was introduced?

#### **Answer**

Motor Tax was abolished in December 1993 and resulted in an annual loss of £1.3 million. In the budget of that year an additional 2.56p of Impôts (excise) duty was added per litre of unleaded petrol and an extra 0.85p excise duty was added per litre of diesel to replace this loss. This resulted in additional yield in 1994 of £1.31 million from fuel duty

The total annual revenue yield from Impôts (excise) duty on fuel since 1994 is as follows:

1994	£4.3 million	2003	£16.4 million
1995	£4.6 million	2004	£18.7 million
1996	£5.2 million	2005	£18.5 million
1997	£5.8 million	2006	£19.1 million
1998	£8.4 million	2007	£19.8 million
1999	£10.9 million	2008	£20.5 million
2000	£11.8 million	2009	£20.7 million
2001	£11.7 million	2010	£20.3 million

2002	£14.0 million		
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**4.13 The Minister for Transport and Technical Services tabled an answer to a question asked by the Connétable of St. John regarding the cost of Island roads.**

**Question**

Would the Minister advise how much has been spent on maintenance and resurfacing of the Island's roads each year since the removal of car tax?

**Answer**

The table below shows the highways spend since 1992. Unfortunately we do not have records for years 1995 through to 1998 due to legacy software issues.

<b>Year</b>	<b>Highway Maintenance and Resurfacing £</b>
1992	483,058
1993	555,859
	Tax on Fuel started in 1994
1994	425,695
1995* <sup>1</sup>	n/a
1996	n/a
1997	n/a
1998	n/a
1999	619,647
2000	655,061
2001	748,880
2002	632,298
2003	600,000
2004	600,000
2005	915,000
2006	1,944,532
2007	2,708,961
2008	2,413,777
2009	1,813,339
2010	5,612,000 (Includes Economic Stimulus Funding)

In December 2010 the annualised depreciation value of roads and footways based on a 20 year resurfacing cycle was £2.24 million. This figure can be considered as the lowest maintenance expenditure that should be spent on the roads to offset the depreciation cost. This figure would only maintain the roads and footways to the existing standard, an improved standard will require substantially more funding.

**4.14 The Chief Minister tabled an answer to a question asked by the Connétable of St. John regarding pensions and the public sector.**

**Question**

Would the Minister please advise which categories of employees in the public sector are able to retire earlier than 65 and receive a full pension?

Can he also advise what extra percentage is paid as an employer contribution for these employees on top of the amount paid for employees whose normal retirement age is 65 and advise the total cost to the public purse annually of these additional contributions?

## Answer

Under the Public Employees Contributory Retirement Scheme (PECRS) there are four different schemes. Within the differing scheme Regulations there are various categories, i.e. Uniformed Members (Category A and Category B) and Non-Uniformed Members. Please note Category A refers to front line uniformed Members such as Police Officers, Fire-Fighters, Prison Officers, Paramedics, whilst Category B covers the Senior Officers of those services.

**Table 1 below** details normal retiring age, optional retiring age and maximum pensionable service allowed.

<b>Table 1</b>	1967 Regulations	Former Hospital Scheme (FHS)	Existing Members	New Members	New Members (2006 Regulations)
<b>Normal retiring age</b>	65 (males) 60 (females)	65 (males) 60 (females)	65 (males and females)	65 (males and females)	65 (males and females)
<b>Optional retirement age</b>	Any time up to five years before normal retiring age subject to 10 years' reckonable service	Any time up to five years before normal retiring age subject to 10 years' reckonable service	Any time up to five years before normal retiring age subject to 10 years' pensionable service	Any time up to five years before normal retiring age subject to 10 years' pensionable service	Any time up to five years before normal retiring age. Members who opt to retire before normal retiring age have their pension reduced by (currently) 2.4% for each year the pension is being taken early
<b>Maximum pensionable service allowed</b>	45 years	45 years	45 years	45 years	45 years

**Table 2 below** details the PECRS Category A and Category B normal retiring age, optional retiring age and maximum pensionable service allowed in order to receive a full pension.

<b>Table 2</b>	1967 Regulations Category A/B	Former Hospital Scheme (FHS)	Existing Members Category A/B	New Members Category A/B	New Members (2006 Regulations) Category A/B
<b>Normal retiring age</b>	Cat A age 55 Cat B age 60	N/A	Cat A age 55 Cat B age 60	Cat A age 55 Cat B age 60	Members who became Cat A members on or after 1 March 2009 no longer have the option of taking early retirement before age 55 the normal retirement age



<b>Optional retirement age</b>	Cat A age 50	N/A	Cat A age 50	Cat A age 50	Cat A age 55
	Cat B age 55		Cat B age 55	Cat B age 55	Cat B age 55
<b>Maximum pensionable service allowed</b>	35 years	N/A	35 years	35 years	35 years

Under the Jersey Teacher's Superannuation Fund (JTSF) there are two different schemes, Existing Members and New Members.

**Table 3 below** details normal retiring age, optional retiring age and maximum pensionable service allowed in order to receive a full pension under the Jersey Teachers Superannuation Fund (JTSF).

<b>Table 3</b>	JTSF Existing Members	JTSF New Members
<b>Normal retiring age</b>	Not defined in the Regulations	Age 65
<b>Optional retirement age</b>	Age 60 (Subject to 2 years' service)  (Before 1 April 2007 subject to 5 years service)	Subject to 2 years service - any time up to five years before normal retiring age. Members who opt to retire before normal retiring age have their pension reduced by (currently) 2.4% for each year the pension is being taken early.
<b>Maximum pensionable service allowed</b>	45 years  (A limitation on pensionable service means that service cannot count if more than 45 years in total or more than 40 years service before age 60).	45 years

### Question

Can he also advise what extra percentage is paid as an employer contribution for these employees on top of the amount paid for employees whose normal retirement age is 65 and advise the total cost to the public purse annually of these additional contributions?

### Answer

In terms of the PECRS the same percentage is paid for all employees, currently 13.6% this covers all categories of staff within PECRS. The employer also pays an additional 2% based on a figure capitalised as at 2001 for the Pre-1987 Debt.

The Employer contribution rate for the JTSF is currently 16.4% which includes an amount agreed with the actuaries in order to service the Pre-2007 Debt. Again this is a global rate and covers all JTSF members.

**4.15 The Minister for Economic Development tabled an answer to a question asked by Senator B.E. Shenton regarding the operation of the States of Jersey Development Company Limited.**

**Question**

Now that the SOJDC has been given power to act as property developer in direct competition to private developers will the Minister request the JCRA to investigate the interaction between the Minister for Planning and Environment, the policies of the States of Jersey, and the operation of the SOJDC, to ascertain whether there are competition or impartiality issues to address in respect of the current structure?

**Answer**

The Senator asks that I request the JCRA to ascertain whether there are ‘competition or impartiality issues’ between the States and the States of Jersey Development Company (SOJDC). This appears to be a reference to the recent appointment of the Mr. Mark Boleat, Chairman of the Jersey Competition Regulatory Authority, to the Chairmanship of the SOJDC, given that on 7th June, while debating the appointment of the Chairman and non-executive directors to the board of SOJDC, the States rejected the amendment of the Senator which would have forced Mr. Boleat to resign from the Chairmanship of the JCRA in order to Chair the SOJDC.

In respect of issues of impartiality, firstly I would say that the JCRA as a competition regulator is not equipped to opine on those issues, as such matters do not fall within the remit of the Competition (Jersey) Law 2005.

Furthermore, during the appointment debate on 7th June, the Solicitor General addressed the issue of impartiality, saying-

“Does a conflict of interest arise, perceived or real, merely by the appointment of Mr. Boleat as chairman? The answer to that is no. Can a conflict of interest arise depending on factual circumstances that have not yet arisen? Yes, of course ... Finally, if a conflict of interest arises, does Mr. Boleat have to take part in the relevant decision making process? The answer to that, from his own email, appears to be no in the sense that he would recuse himself, so to speak, and not take part in the relevant decision.”

If a legitimate competition issue were to be raised with the JCRA in respect of the SOJDC acting as a business then remedies exist within the Competition (Jersey) Law 2005, which the JCRA would be expected to apply in the normal manner. Robust procedures exist for the management of such potential conflicts of interest, which have been repeatedly applied by the JCRA in respect of the Chairman and Non-Executive Directors. These procedures would preclude Mr. Boleat from involvement with the matter.

Further, for the JCRA to act under the Competition Law it must first have a reasonable cause to suspect that there is a breach of some provision of the Law. My Department has spoken with the Executive Director of the JCRA and he has informed my Department that the JCRA is not aware of any concerns in this regard. However should any party have any concerns it would wish to share with him in this regard, the JCRA will consider whether it merits investigation as it would any other matter.

To summarise, I am not of the opinion that issues of impartiality arise in this case, and competition issues will be dealt with in the normal manner. Therefore I do not intend to request the JCRA to carry the investigation the Senator request as I believe it is not warranted.

**4.16 The Minister for Health and Social Services tabled an answer to a question asked by Deputy P.V.F. Le Claire of St. Helier regarding cancer rates in Jersey.**

**Question**

Could the Minister for Health and Social Services give the most current figures for each type of cancer in Jersey and also indicate the age brackets for each type of cancer? Does the Department maintain data on how the figures and age brackets compare with the UK and the neighbouring region of Normandy?

**Answer**

**Cancer Information**

Locally statistics on cancer incidence (the annual number of new cancers diagnosed) and cancer mortality (annual deaths) are maintained by the Health Intelligence Unit within HSSD. This data is collated and analysed to look at trends and compare with other areas where possible. Because of the small numbers for some cancers annual rates do vary from year to year so it can be difficult to get an accurate picture of what is happening.

**Cancer Incidence**

The statistics for incidence of new cancers in Jersey are contained within the regular reports produced for us by the UK South West Cancer Intelligence Service. The latest Channel Islands Cancer Registration Report 2010 covers the three year period 2005 - 2007 and is available on from:

<http://www.gov.je/Government/Pages/StatesReports.aspx?ReportID=538>give link

This report showed that the main cancers diagnosed in Jersey in 2005-07 were non malignant skin cancer, lung cancer, breast cancer, prostate cancer, colorectal cancer, malignant melanoma and blood cancers (see p7 of report).

Table 1 summarises the information from this report for the 5 main malignant cancer types diagnosed in Jersey.

**Table 1: Summary of the main malignant cancer types diagnosed in Jersey**

Cancer site	Annual average no. of cancers diagnosed	Age Standardised Rate (ASR) per 100,000 2003-07	Rate compared with South West	By age group		
				0-19	20-64	65+
Breast (F)	65	113.5	low	0	46%	54%
Prostate (M)	74	146.2	high	0	28%	72%
Lung	61	55.7	high	0	29%	71%
Colorectal	51	43.4	ns	0	37%	63%
Skin Malig.Melanoma	35	34.3	high	3%	58%	39%

Data shows that 1% of all new cancers occurred in the under 20's, 40% in those aged 20-64 years and 59% in the over 65's. This is a similar pattern to Guernsey & the South West.

Analysis carried out by the South West Public Health Observatory over the years has shown that Jersey has rates of cancer roughly comparable with the mainland and Guernsey for colorectal cancer, gynaecological cancer, leukaemia and upper gastro-intestinal cancer and, more recently, slightly lower for breast cancer incidence.

Incidence rates were significantly higher in Jersey than the South West for lung cancer, head & neck cancer, malignant skin melanoma, stomach cancer, prostate cancer and testicular cancer in 2005-07 (see p13 of the report for full details). However, the numbers for some of these cancers are low so the data must be treated with some caution.

Higher incidence rates are not always a bad thing. If an area has better systems in place to detect a certain cancer and/or specialists skilled in diagnosing that cancer then more people will be picked up with it. High incidence rates can indicate better detection of a cancer. Early detection of cancer can lead to better outcomes & cure.

The Health Intelligence Unit is working on finding reliable European data (including French regions) for further comparison. Such data is not always suitable for comparative purposes due to differences in the way it is collected, coded or analysed. For example French cancer incidence data is patchy across the various regions and does not cover all cases (unlike the UK & Jersey where almost 100% of cases are picked up by a robust cancer registration process).

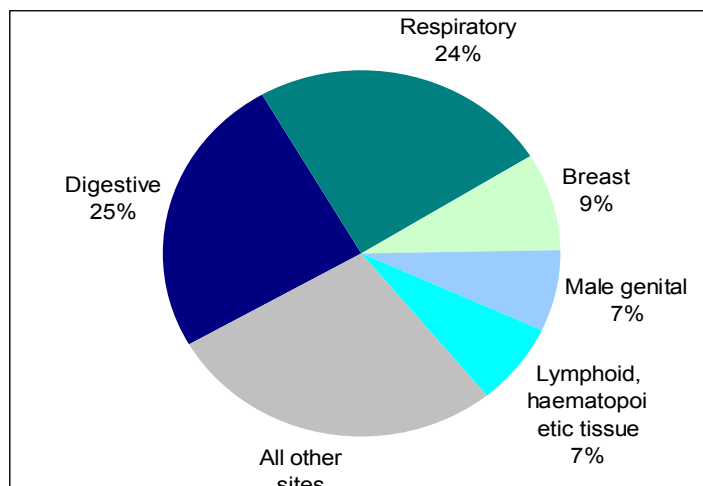
### Cancer Mortality

Mortality data is collated and analysed annually by the HSSD's Health Intelligence Unit.

Jersey data shows that lung, upper gastrointestinal (oesophagus, stomach & pancreas) and colorectal cancers contribute to almost half of all cancer deaths in Jersey. This reflects world wide and European trends where lung cancer the single main cause of all cancer deaths.

Cancer of digestive organs (including upper gastrointestinal and colorectal cancers) accounts for a quarter of all Jersey deaths due to cancer. The second most common cause of cancer death is cancers of respiratory organs (mostly lung cancer) at 24%, followed by female breast cancers at 9% and male genital cancer (mostly prostate) at 7% (See Figure 1).

**Figure 1: Jersey cancer deaths by site (2005-09)**

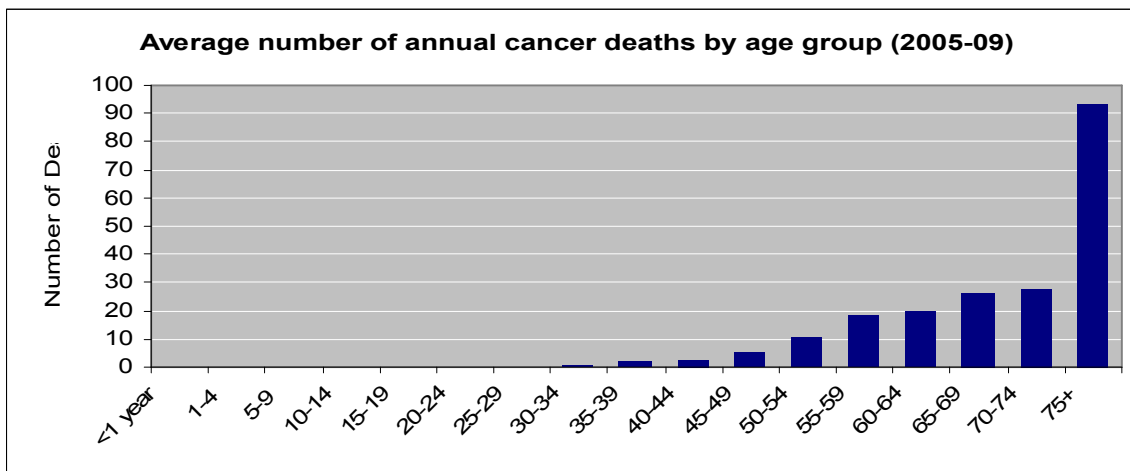


In terms of the age groups affected HSSD’s Health Intelligence Unit maintains detailed spreadsheets for the main cancer sites by age group with data going back to 1996. This allows in depth analysis of individual cancers as required. From this we can show that nearly 60% of all cancer deaths in Jersey occur in those aged 70 or over and we have very few cancer deaths under aged 40 (Table 2).

**Table 2: Jersey cancer deaths by age (2005-09)**

Age group	Total (2005 – 2009)	Annual average no. of cancer deaths	Proportion of cancer deaths
under 20	3	1	0.3%
21-39	12	2	1.2%
40-59	185	37	17.9%
60-69	230	46	22.2%
70-79	296	59	28.6%
80+	309	62	29.8%

**Figure 2: Cancer deaths by age group 2005 – 2009**



**Using Incidence & Mortality data**

Ideally cancer incidence and cancer mortality should be looked at together.

A high incidence rate and an equally high mortality rate would indicate that that cancer was a particular problem, for example lung cancer.

But a high incidence rate can also be due to better diagnosis and detection of a cancer, and, if linked with lower mortality rates, indicate better treatment of those cancers, for example breast cancer.

**4.17 The Minister for Health and Social Services tabled an answer to a question asked by Deputy P.V.F. Le Claire of St. Helier regarding radiation levels.**

**Question**

Could the Minister for Health and Social Services state whether there is any routine testing of radiation levels in Jersey and in the surrounding coastal waters, and does the Department maintain data on how the radiations levels in Jersey (including in our drinking water) compare with other jurisdictions?

**Answer**

HSSD's Public Health Team undertake routine testing for radio-activity (not radiation) with assistance from the Environment Department. The data collected is published annually in UK's CEFAS (Centre for Environment, Fisheries & Aquaculture Science) report entitled "Radioactivity in Food and the Environment"

([www.cefass.defra.gov.uk/publications/scientific-series/radioactivity-in-food-and-the-environment](http://www.cefass.defra.gov.uk/publications/scientific-series/radioactivity-in-food-and-the-environment)).

CEFAS "Marine Radioactivity in the Channel Islands 1990 – 2009" report concludes that:

- Relatively low concentrations of radionuclides were detected in the marine environment around all the Channel Islands.
- Most non-transuranic radionuclide concentrations reported (caesium-137 and ruthenium-106) have declined since the last review in 1998.
- Transuranic radionuclide concentrations reported (plutonium-239+240 and americium-241) have either declined since the last review in 1998, or there has been no significant change in concentrations.
- The effects of discharges from local sources<sup>1</sup> have continued to be of negligible radiological significance.

Information can be found at:

[www.gov.je/Environment/ProtectingEnvironment/Land/Contamination/Pages/Radioactivity.aspx](http://www.gov.je/Environment/ProtectingEnvironment/Land/Contamination/Pages/Radioactivity.aspx)

Jersey drinking water (both supply and raw water) is routinely tested by Jersey Water and is regulated by the Department of the Environment according to the provisions of the Water (Jersey) Law 1972 (as amended) and associated orders.

Radioactivity analyses requires specialist analytical equipment and is undertaken by the Jersey Water's consulting analyst's laboratory in southern England. Verification of water quality results are checked against duplicate samples analysed by the States of Jersey Analyst and the Consulting Analyst's laboratory results.

<sup>1</sup> The three main local sources which could impact Jersey's marine environment include: the French nuclear fuel reprocessing plan at La Hague; the French nuclear power station at Flamanville; historic disposals of radioactive waste in the Hurd Deep, a natural trough in the western English Channel.

**4.18 The Minister for Home Affairs tabled an answer to a question asked by Senator J.L. Perchard regarding financial means-testing of prisoners.**

**Question**

Will the Minister introduce financial means testing of those detained at HMP La Moye and levy a fee based on a scale of charges up to a maximum of the full cost recovery on inmates?

**Answer**

I am not intending to do that for four reasons. Firstly, I am not aware of any such scheme anywhere in the British Isles or the European Union. I am aware of some such schemes in the U.S.A., but they are not subject to the European Convention on Human Rights.

Secondly, I believe that this would be contrary to the European Convention on Human Rights for two reasons. It would be viewed as a second penalty in addition to the imprisonment being imposed by the Court. It might also contravene the right to private property being a charge which was not a legitimate tax which was being imposed on an individual without their consent.

Thirdly, because of the potential adverse effect on the family of an offender which had already lost a major source of income. A family could be forced to sell a home or be otherwise penalised by reason of this.

Fourthly, other means already exist to confiscate the proceeds of crime both in relation to drugs offences and in relation to wider crimes. I support current proposals to extend this by way of a civil confiscation scheme which allows for confiscation of the proceeds of crime without the need for a criminal conviction.

**4.19 The Minister for Transport and Technical Services tabled an answer to a question asked by Senator B.E. Shenton regarding recorded accidents.**

**Question**

Can the Minister detail the date, time, location and brief details of all recorded accidents since 1st January 2010 along the following roads;

1. La Grande Route de St. Clement;
2. La Grande Route de la Côte;

**Answer**

The following road traffic collision statistics have been provided by the States of Jersey Police. It should be noted that only collisions resulting in injury, recorded in the States of Jersey road traffic collision database, have been provided. The States of Jersey Police do have non-injury accident data though this is less reliable and, thus, this is not provided to Transport and Technical Services. The Department follows recognised engineering standard practice and limits the assessment of data to those collisions involving injuries.

*[Tables reproduced within the dedicated Questions section of [www.statesassembly.gov.je](http://www.statesassembly.gov.je)]*

**4.20 The Chief Minister tabled an answer to a question asked by Deputy D.J. de Sousa of St. Helier regarding the impact of Greece's financial difficulties.**

**Question**

Has the Chief Minister assessed the possible implications for Jersey if Greece was to default on its debts and the Euro was to cease to exist, in view of concerns expressed in this regard by the Bank of England and in light of Jersey's dependency on the finance industry and, if so, would he give members details?

**Answer**

I visited Brussels on the 27th June and met with senior European Commission officials and heard at first hand the action being taken in response to the Greece sovereign debt crisis.

Here in Jersey the Financial Services Commission is monitoring the possible impact on the regulated financial institutions of Greece defaulting on its debts. As the banks in Jersey are primarily deposit gatherers rather than major lenders there is understood to be very little direct exposure to Greek debt. The impact of a default by Greece can be expected to be felt more by some if not all of the parent banks. However, as was the case with the global financial crisis, we can take comfort in the strength of those parent banks and the degree of oversight being exercised by the parental supervisory authorities.

There is every reason to expect that the European Central Bank and the Euro zone countries will continue to take all necessary measures to support the Euro. However, should the Euro cease to exist it would then be replaced by national currencies. This change and its possible influence on the holding of other currencies such as pound sterling or the US Dollar might be expected to provide business opportunities as well as challenges for the finance industry. There is no reason to expect that this will have an adverse effect on the deposit gathering by the Jersey banks and insofar as the UK and pound sterling are seen as more attractive options this could have an advantage for Jersey with its close complementary relationship with the City of London.

The position on the crisis in Greece will continue to be closely monitored and in this having an office in Brussels is proving to be of great value.

**4.21 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy D.J. de Sousa of St. Helier impact of Greece's financial difficulties.**

**Question**

Has the Minister assessed the possible financial consequences for Jersey if Greece was to default on its debts and the Euro was to cease to exist, in view of concerns expressed in this regard by the Bank of England and in light of Jersey's dependency on the finance industry and, if so, would he give members details?

**Answer**

While the States investment funds do not have any direct exposure to Greek government bonds the financial consequences for Jersey of both a Greek default and the cessation of the euro are difficult to predict and assess. Such a scenario could take many different forms and have a wide range of implications for all European and global economies and financial markets.

It is not a central scenario but would pose a risk to the Jersey economic outlook and the global economic outlook, particularly if it were accompanied by another banking crisis and/or financial market contagion.



As a finance centre where the key banking activity is deposit taking and with no government debt we remain in a strong position to weather any future financial market turmoil. However, the current uncertainty serves as a timely reminder that we should maintain what has been a fundamental element of our approach to the Comprehensive Spending and Fiscal Strategy Reviews. That is, with the global economic outlook uncertain and with significant risks, we should plan to get our finances on a sound medium-term footing so we have the flexibility and scope to respond should the economic outlook prove more negative than current forecasts suggest.

**4.22 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy S. Pitman of St. Helier regarding the cost of suspensions.**

**Question**

Would the Minister advise the cost of suspensions for each year from 2005-2011?

**Answer**

Information and statistics held on suspensions prior to 2009, when the Suspension Review Panel was set up, are incomplete. Central data held for 2009 to date, covers only the cost of basic salary for the period of the suspension, and does not include employment costs (Social Security, pension contributions, tax, etc), allowances, alternative cover arrangements, etc. - the details of which are held independently by departments.

**Estimated Cost of Suspensions 2009 to date**

YEAR	COST
2009	£207,132
2010	£94,236
2011 to date	£34,647

Information on the number of suspensions is included in an Annual Report published by the States Employment Board. The latest is R.C.41/2011.

**4.23 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy S. Pitman of St. Helier regarding underspends.**

**Question**

Would the Minister advise what the total underspends were for each year from 2005-2010?

**Answer**

The below table provides details of the total departmental underspends for each year as requested.

Year	Total Underspend
	£ Million
2005	9.7
2006	38.1
2007	3.0
2008	6.0
2009	13.5
2010	23.9

**4.24 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy S. Pitman of St. Helier regarding interest earned by the Strategic Fund.**

**Question**

Would the Minister advise the amount of interest earned on the Strategic Reserve Fund for each year from 2005-2010?

**Answer**

The interest received by the Strategic Reserve Fund for each year from 2005-2010 is shown in the table below, together with the overall returns. Interest earned by the Strategic Reserve Fund is only one way in which the fund changes in value in year. The table below summarises the growth in the fund for the years 2005-2010:

	2005	2006	2007	2008	2009	2010
	£	£	£	£	£	£
<b>Interest income</b>	1,953,219	997,938	1,441,667	1,846,355	514,891	206,660
<b>Investment income*</b>	17,759,107	18,098,376	18,948,810	22,997,837	18,153,292	8,967,184
<b>Expenditure</b>	(2,551,653)	(2,493,629)	(2,468,054)	(2,632,130)	(2,001,833)	(2,325,342)
<b>Change in value of investments**</b>	20,735,993	4,492,531	4,894,466	(24,648,587)	25,600,603	30,015,652
<b>Total Recognised Gain</b>	<b>37,896,666</b>	<b>21,095,216</b>	<b>22,816,889</b>	<b>(2,436,525)</b>	<b>42,266,953</b>	<b>36,864,154</b>

<b>% movement in Fund</b>	9.1%	4.4%	4.8%	(0.5)%	8.3%	6.7%
<b>Total Net Assets</b>	456,097,509	477,192,725	510,084,530	507,648,005	549,914,958	586,779,112

\* Investment income includes dividend income, bond interest income, and any other income on investments held by the fund.

\*\* The change in market value of investments is the increase or decrease in the capital value of investments, compared to the previous year, including both gains and losses made when investments have been sold, and gains or losses compared to the original value of those investments which are still held by the fund.

Source: All information provided is taken from the States of Jersey Annual Accounts for the relevant years. The accounts can be found at

<http://www.gov.je/Government/PlanningPerformance/BudgetAccounts/Pages/StatesofJersey2008Accounts.aspx>

**4.25 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy S. Pitman of St. Helier regarding payments on terminated contracts.**

**Question**

Would the Minister advise the amount of payments made upon termination of contract for each year from 2005-2011?

**Answer**

The States of Jersey has moved to GAAP accounting with the first full GAAP-compliant set of accounts published recently for 2010. I can, therefore, provide the following information:

2011 (to date) £0.5m (provisional, unaudited data)

2010 £7.5m

2009 £0.7m

Payments for years prior to 2009 were recorded in a different way which means collating termination payments across departments from payroll information is more difficult. To do so would involve significant amounts of work in reviewing individual transactions. For that reason the Minister is unable to provide the earlier information requested.

The figure for 2010 is disproportionately high due largely to the Voluntary Redundancy Scheme approved by the States. Approximately 100 individuals left the States in 2010 to improve the ability to deliver restructuring and CSR savings.

**4.26 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy S. Pitman of St. Helier regarding tax revenue from GST.**

**Question**

Would the Minister advise the amount of tax revenue from GST on food for 2010?

**Answer**

The amount of GST revenue raised in 2010 from the consumption of all food was in the region of £4.5 million. This figure is calculated using 2004/5 Household Expenditure Survey data updated for 2010 covering all food and non-alcoholic drinks.

**4.27 The Minister for Health and Social Services tabled an answer to a question asked by Deputy M. Tadier of St. Brelade regarding qualifications and conditions for staff in private care homes.**

**Question**

Is the Minister satisfied that all the staff currently employed by private residential and respite care homes are suitably qualified? Is the Minister satisfied that working conditions in all such homes are satisfactory enough so as to not create instances of low morale which may lead to instances of client neglect? If so, what evidence does she have to know that this is the case? What mechanisms are there in place to monitor private care homes? Are there sufficient whistleblowing mechanisms in place to flag up staff concerns, and if so, what are they?

**Answer**

All independent nursing and residential homes<sup>3</sup> are required to be registered under the Nursing and Residential Homes (Jersey) Law 1994 and are regulated under the associated Orders.

It is a requirement of registration that all nursing homes “*employ by day and by night suitably qualified and competent professional technical ancillary and other staff in numbers which are adequate to ensure the well being of patients*”.

It is a requirement of registration is that all residential homes “*employ by day and where necessary by night suitably qualified and competent staff in numbers which are adequate for the well being of residents*”

To support these requirements, HSSD issues staffing standards setting out what will be assessed for compliance with the Order. These standards require both nursing and residential homes to have:

- “*a staff training and development programme that includes induction and further training and opportunities to undertake qualifying/educational courses*”.
- “*a minimum of 50% of the care staff employed (who) have either NVQ level 2 or equivalent or have previous experience as a care worker.*”
- “*on any one shift, a minimum of 50% of the care staff are either qualified to NVQ level 2 in care or equivalent or have previous experience as a care worker.*”

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<sup>3</sup> A residential home provides its residents with accommodation, board and personal care. A nursing home provides nursing care for people suffering from illness, injury or infirmity. The term “care home” applies to both residential and nursing homes.

Nursing and residential homes are inspected at least once and usually twice a year to monitor compliance against standards. The inspections, which are generally unannounced, can take anything from one day to three days depending on the size of the home and what is found during the inspection. The inspector talks with staff and residents, consults the home manager and inspects staff rotas and a sample of personnel and training records.

If standards are not met this is formally recorded in the inspection report alongside the required actions. This is monitored at subsequent inspections or, in more serious cases through follow up visits. A formal notice would be served in the event of persistent non-compliance which could lead to prosecution. In such cases the Minister would be informed.

Where concerns exist about clients' well-being additional visits are conducted between the formal inspections and, where necessary, additional investigations are undertaken.

Care homes generally have their own whistle blowing policies, however any individual can report directly to HSSD's Registration and Inspection Team if they believe their concerns will not be satisfactorily addressed through the home's own procedures.

In addition to existing whistleblowing policies, Jersey was the second jurisdiction to sign a memorandum of understanding with the Nursing and Midwifery Council (NMC), which is the regulator of nurses across the UK. This memorandum aims to safeguard the wellbeing of all Islanders by enabling anyone to raise concerns about any Jersey based health or social care service directly with the NMC.

**4.28 The Chief Minister tabled an answer to a question asked by Deputy R.G. Le Hérisier of St. Saviour regarding the classification of jobs and pay scales for police.**

**Question**

Can the Chief Minister confirm how jobs in the Police uniformed service are classified and pay scales are arrived at?

**Answer**

The States of Jersey Police Officer ranks, in the main, mirror the ranks of the UK Police Forces with a few exceptions. The current ranks are:

<b>States of Jersey Police</b>	<b>UK Police Forces</b>
Chief Officer	Chief Constable
Deputy Chief Officer	Deputy Chief Constable
N/A	Assistant Chief Constable
N/A	Chief Superintendent
Superintendent	Superintendent
Chief Inspector	Chief Inspector
Inspector	Inspector
Sergeant	Sergeant

Constable	Constable
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The origins of the scales are historic. There was a major review in the 1970s or 1980s which led to a substantial increase in the scales for junior and middle ranking officers. Annual pay awards have been by negotiation and agreement with the States Employment Board and the Police Association, and occasionally by independent arbitration.

**4.29 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy R.G. Le Hérissier of St. Saviour regarding repairs to Hautlieu School.**

**Question**

What is the cost of the repairs to the roof of Hautlieu School, why have these repairs been required and are they covered by warranty?

**Answer**

Cost

The cost incurred to date for stripping and re-fixing the existing fibrous cement slates is as follows:

Art and Music	£16,100
Canteen	£9,780
Science	£10,480
Dayworks	£9,500
<b>Total</b>	<b>£45,860</b>

Reason for Repairs

The building was handed over in April 2004. The Certificate of Making Good Defects was issued in March 2007 with the Final Certificate issued the same month. At this time, three years after the building was occupied, there was no indication of problems with the slate fixings.

In 2008 Jersey was exposed to severe wind conditions and a section of the ridge was damaged and several slates were lost. This damage was repaired and there was no indication of continuing problems until 2010. It then became clear that a solution to the problem of the failing fixings had to be found as there was a serious risk of injury from falling slates.

The solution was to strip the existing slates, drill three holes to accommodate fixing by two nails and a rivet and re-fix the existing slates. This work was carried out in September 2010 to the most exposed roofs. The remaining areas of roof will receive the same improvements, as necessary, in the future.

'Warranty' Position

The Contractor fitted the fibrous cement slates using the wrap type hooks in accordance with the then relevant British Standard BS5534-Part 1:1997. In 2003 this British Standard was revised and

became BS5534:2003. This later version no longer recommended the wrap hook fixings which were used at Hautlieu School.

It is the wrap hook fixings which have proved not to be fit for purpose and are being replaced with the more traditional two nails and a rivet. Neither the method of fixing nor quality of workmanship was challenged during either the construction or defects liability stages as there was no indication of problems with the slate fixings. It is considered an action brought against the Contractor for a latent defect is unlikely to be successful. The cost is therefore being met by Jersey Property Holdings from its maintenance budget.

JPH has instructed that under no circumstances will the hook type fixings be specified on any other States of Jersey contracts.

**4.30 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy R.G. Le Hérissier regarding the use of commercially sensitive information.**

**Question**

Further to his answer given on 20th June 2011 would the Minister inform members what restrictions, if any, are in place to prevent a former employee of a States owned body using, to his or her business advantage, commercially sensitive information gained in that position?

**Answer**

In my previous answer to this question I stated that I expected States owned companies to be competitive and to protect their competitive advantage wherever they can.

I am confident that the Boards do all that they reasonably can to protect the use of commercially sensitive information. Employers are entitled to protection against any employee taking unfair advantage of information obtained during their employment. Whilst restrictive covenants can be used in employment contracts, a covenant intended merely to protect an employer against bona fide competition from a former employee would not be upheld.

As I have stated previously, the precise terms and conditions of individual employment and commercial contracts are confidential and a matter for the Company Boards, their employees and other contractual parties.

**4.31 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding 1(1)(k) taxation.**

**Question**

Can the Minister explain to members how the proposed new policy on 1(1)(k) taxation, containing the requirement to declare worldwide income and to pay 1% tax on it will attract more applicants?

**Answer**

The Minister would refer the Deputy to the report accompanying the draft Income Tax (Amendment No 39) (Jersey) Law 201- (P.113/2011) which sets out the rationale for changing the tax regime for future 1(1)(k)s. In brief, however, the policy is intended to make Jersey's tax regime more attractive to the mobile wealthy by simplifying the tax regime. Advice suggests that the current regime is considered too complex by potential applicants and their advisers. Looking at Jersey's nearest competitors in this area, Guernsey and the Isle of Man impose a simple cap on the maximum amount of tax payable by any one individual. Switzerland charges a flat tax, while Monaco charges no income tax at all. By comparison, Jersey's multiple tax rate and different types

of income sources appear overly complex, as well as deterring investment and business activity in Jersey.

The changes proposed are intended to rectify these issues and form part of a package of measures intended to increase revenues from the 1(1)(k) regime. This package follows the decision to increase the annual minimum tax contribution required from new 1(1)(k) applicants from £100,000 to £125,000.

#### **4.32 The Chief Minister tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding States employees' terms and conditions.**

##### **Question**

What specific measures does the States Employment Board ('SEB') have under consideration to achieve the £14m of CSR savings identified by the Tribal reports on States employees' terms and conditions?

Have any changes to the terms and conditions of any specific groups of employees yet been identified and/or agreed, and if so, can he state which groups and what changes and whether any refer to no-strike agreements?

Have any specific proposals been formally put to employee representatives yet and if not why not?

How many meetings have been held between representatives of employees and SEB and what was their nature and duration?

Is it his intention to include specific and costed proposals to achieve the £14m savings in the 2012 Annual Business Plan to be presented to the States on 13th July 2011 and if not why not, and when will proposals be made public? Will any proposals be made public before the run up to the next election starts in early September?

##### **Answer**

The Tribal Report highlighted a range of options, some more practical for implementation than others.

To date a temporary pause has been placed on changes to allowances, for example the mileage, and discussions will take place with Employee Representatives regarding these allowances as part of the overall negotiations on revised Terms and Conditions. At this stage, there have not been any discussions on the inclusion of no-strike agreements although all aspects of Terms and Conditions of employment will be open to discussion with the relevant Unions. Some employee groups already have such a clause in their existing agreement.

The States Employee Relations team are currently working on proposals for Civil Servants and Manual workers. In that regard the team have held exploratory meetings with both Prospect and Unite to explain the broad areas under consideration. This will include a desire to harmonise under a single pay spine for both groups and will coincide with consultations/negotiations on a revised set of single policies, terms and conditions.

Unite in particular have expressed a preference to engage more fully when concrete proposals are put before them. A full package of proposals will be ready to coincide with the negotiation process for pay claims for 2012. The broad direction for Civil Servants and Manual Workers has been shared with SEB but detailed discussion of the Management sides position prior to going into negotiation with employee representatives has not yet taken place.



Turning to the business plan process for 2012, it would be wrong to anticipate the outcome of negotiations prior to them taking place and therefore the pay budgets remain unchanged from 2011. As part of the 2010/11 two year pay award, agreement was reached with all negotiating groups to move the pay award period into line with the annual budget cycle. Therefore, we anticipate the process of negotiation to commence in the autumn of 2011 and will take sometime to complete. This process will be dependent upon receipt of 2012 pay claims which we expect to be lodged by Trade Unions in late summer/early autumn.

#### **4.33 The Chief Minister tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding work permits.**

##### **Question**

Further to his response to my question (6371) on 7th June 2011 on the 178 work permits granted to the financial, legal and medical private sectors in 2010, will the Chief Minister ascertain from the relevant Minister what the duration of these permits was and whether they were replacement or new posts, and how many dependants were attached?

Will he further state how many J-category permits were granted in these sectors and in the private sector overall in 2010 and state how the combined numbers match his migration target of 150 heads of households?

Will he further state what the equivalent figures for the period 2007 – 9 were?

##### **Answer**

The 178 work permits granted to these sectors in 2010 include figures for employees in the Public Service, notably within the Health and Social Services Department, and not just the private sector.

Permits may be issued for a maximum period of 3 years in the first instance, with the exception of Doctors employed by Health and Social Services where a period of employment not exceeding 5 years may be authorised. The duration of work permits issued in 2010 varied from between 2 days and 5 years depending on the type of role being filled by a work permit holder.

Information is not specifically collected by the Customs and Immigration Service to confirm whether these posts were replacement, or new. Hence, the contribution to the net inward migration target of the net change in the number of holders of work permits and their dependents, *which may be numerically positive (inward) or negative (outward)*, is not accessible from currently available administrative sources.

All work permit holders are also required to be in compliance with housing regulations, which means that J-category figures include a number of work permit holders, i.e. that you cannot simply add the number of the number of work permits to the number of 1(1)(j)s issued.

Applications for persons seeking to enter as the dependant of a work permit holder are assessed against immigration (visa) rules as opposed to work permit rules. Work permit holders may be accompanied to Jersey by their dependants only where a work permit is issued for a period of 12 months or more.

It has not been possible, due to the length of time it would take to collate the information, to answer Deputy Southern's specific question on work permit dependants for those permits issued during 2010. However, information on the number of work permit holders and their dependants, who were living in Jersey on 31 December 2010, was provided in response to a written question to the

Minister for Home Affairs by Deputy Le Claire (1240/5(5976)), tabled on 1st February 2011. For ease of reference these figures are repeated below.

Sectors	Total No. Work Permit Holders	Total No. Work Permit Dependants
Finance	171	114
<i>Hospitality</i>	73	9
<i>Information Technology</i>	38	16
Health	35	31
Legal	23	14
<i>Other</i> <i>(Education, Sport, Telecommunications, Engineering)</i>	17	21
<b>Total</b>	<b>357</b>	<b>205</b>

307 1(1)(j) permissions were granted in 2010 for employees in the financial, legal and medical sectors, some of which were also on work permits. In 2010, however, the total number of 1(1)(j) employees in the private sector in Jersey **decreased** by 30 (as recorded in the Labour Market Report published by the Statistics Unit).

This illustrates that turnover in 1(1)(j) employees is high, and that numbers approved cannot be taken in any way to be reflect of changes in population, as so many leave each year. Indeed, this is the nature of career progression in many aspects of the finance industry given its international nature.

Prior year figures are as follows:

	2010	2009	2008	2007
<b>1(1)(j) approvals</b>	450	348	523	498

The net decrease in the number of 1(1)(j) employees in private sector employment in 2010 constitutes a numerically negative (i.e. outward) component of total net migration for that year.

**4.34 The Minister for Health and Social Services tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding waiting times for physiotherapy.**

**Question**

The response to my question (6394) on 20th June 2011 on waiting times for physiotherapy following the loss of 3.5 staff under CSR stated –

“waiting times for clients referred directly by GPs have increased from 1 to 5 weeks in the first 4 months of 2011. This is a result of a significant increase in referrals (up 29%) creating delays not as a result of CSR cuts. Similar patterns of delay are created whenever there is an increase in referrals.

All fluctuations are negligible”

Given the 5-fold increase in the waiting time in response to a 29% increase in referrals what steps is the Minister taking to enable the physiotherapy service to cope with such fluctuations in demand?

Will she apologise to patients who have been kept waiting for appropriate treatment?

What steps if any will she take to improve waiting times in this service, and if not why not?

**Answer**

The increase in waiting times in the physiotherapy service is not the result of CSR cuts, it is the result of significant increases in referrals. Fluctuations and increases in waiting times occurs in any service operating at full capacity that has to manage either a sudden increase in demand or a reduction in capacity (for example through staff illness).

For illustrative purposes Table 1, which is based on an imaginary scenario, shows how an increase in referrals over a relatively short period of time creates a significant backlog, hence extending waiting times into the future.

The physiotherapy department provides direct GP access which can result in referral volumes varying from month to month with no obvious seasonal pattern. When backlogs occur they are balanced out by a catching up process that occurs when referral rate drops. This has been the trend over the past three years. The physiotherapy department works to minimise the impact on patients by prioritising all urgent referrals based on clinical needs.

Fluctuations in demand present a challenge due to lack of spare capacity across all HSSD services, not just physiotherapy. HSSD regrets the impact this has on patients and where possible manages it through short term increases in capacity, the use of locums etc. HSSD recognises however that these pressures will only increase as a result of demographic changes and hence proposes the major service redesign outlined in the Green Paper.

**Figure 1: Illustration of impact of increase in referrals (based on an imaginary scenario)**

Week	1	2	3	4	5	6	7	8	9	10
Number of patients that can be seen each week in Clinic A	50	50	50	50	50	50	50	50	50	50
Standard number of weekly referrals to Clinic A	51	51	51	51	51	51	51	51	51	51
20% increase in standard number of referral over 4 weeks = 10 additional patients over 4 weeks)	0	3	3	4	0	0	0	0	0	0
Number of patients now having to wait	1	5	9	14	15	16	17	18	19	20
% of patients now waiting	2	10	18	28	30	32	34	36	38	40

**4.35 The Minister for Health and Social Services tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding a breakdown of savings.**

**Question**

Will the Minister provide a detailed breakdown of the £37m of savings in the cost of delivering Health by 2040, projected by option 3 in her consultation Green Paper, to include which services will be affected; what savings will be delivered by each, and how those savings will be delivered?

In particular will she state what current services, if any, will be subject to charges, including means testing, and whether any services are to cease, or to cease being delivered on-Island?

**Answer**

The Green Paper outlines 3 different scenarios and projects what each scenario will cost, in terms of total health and social care expenditure by 2040. £37 million is the projected difference in cost between Scenario 1 and Scenario 3. It is not a saving, it is the estimated difference in expenditure that could result if there were to be significant changes to our existing models of health and social care provision, staff roles and organisational structures.

The Green paper clearly outlines the demographic changes which will result in increased demand for services and increased costs. It identifies how by changing the way we work we can meet increasing demand and deliver safe, sustainable care which is more affordable than our current model (as described in Scenario 1). Increased affordability (as described in Scenario 3) will be delivered through:

- greater integration between all services and improved team-working, including joint working between GPs, hospital consultants and specialist UK centres;

- the use of new technology and new ways of working to care for more people in their own homes, rather than in hospitals or care homes;
- an associated reduction, although not the removal, of the requirement for capital and other investment in the hospital and other forms of institutional care.

Scenario 3 will allow us to provide better care, to more people, at a lower cost than Scenario 1. It will achieve this, not by ceasing to deliver services but by delivering them in different, more appropriate settings. For example the community pharmacy, the GP's surgery or, if required, the UK centres that have specialist resources and expertise available to them. This will, in turn, help contain our Islands increasing health care costs.

At this present time there are no proposals to introduce new charges, or means test more services, other than those potentially identified for CSR 2011-2013.

**4.36 The Chief Minister tabled an answer to a question asked by the Deputy of St. Mary regarding a comparison of targets set by UK authorities.**

**Question**

Before setting the target of 10% savings in water and energy consumption in States buildings to save around £1 million, did the Chief Minister assess how this target compares to targets set and/or achieved in the best local authorities in the UK?

**Answer**

The 10% target was seen as a realistic and achievable figure in the Jersey context and was not compared directly with the targets set in the best local authorities in the UK. Progress in the UK is being monitored closely but direct comparisons are difficult as the UK targets are based on emissions rather than consumption.

The setting of wholesale reduction targets for the States as an organisation is a new initiative and certain management information is currently missing in some areas. The initial target to be achieved is a 10% reduction in consumption against a 2010 benchmark. As departments improve resource efficiency with experience and better information the initial 10% target will be revisited and increased if necessary. The start of this process is a roll out of 'energy dashboards' which will provide monthly updates on energy consumption and progress towards the 10% reduction target.

If the Deputy wishes to discuss this initiative further he is welcome to meet with the appropriate officers where much more of the project's detail and evolution into the future could be covered.

**4.37 The Minister for Economic Development tabled an answer to a question asked by the Deputy of St. Mary regarding the Depositor Compensation Scheme.**

**Question**

Can the Minister inform members of the work, if any, he has carried out, including consultation, in the area of including SME's (Small and Medium Enterprises) in the scope of the Depositor Compensation Scheme, and can he inform members about progress made?

**Answer**

Following analysis of the results of the Business Deposits Survey, my Department is currently taking forward an amendment to the Banking Business (Depositors Compensation) (Jersey)

Regulations 2009 that will extend the scope of the Jersey Bank Depositors Compensation Scheme (“DCS”) to include deposits held by certain small Jersey businesses.

In keeping with Principle 1 of the International Association of Deposit Insurers’ “Core Principles for Effective Deposit Insurance Systems”, the qualifying criteria will ensure that the focus of DCS protection will continue to be on the most vulnerable depositors.

A draft amendment will be the subject of consultation with relevant stakeholders, including the Institute of Directors and Chamber of Commerce, over the next few months. It is hoped that a draft amendment can then be lodged later in 2011.

**4.38 The Minister for Treasury and Resources tabled an answer to a question asked by the Deputy of St. Mary regarding tax systems and tax burden.**

**Question**

In view of the fact that the Minister now has a dedicated tax policy team will he inform members whether he will

- a) carry out a study into exactly how progressive is the tax system in Jersey, and / or the tax and benefit system in Jersey, across different household types, and, if not, why not;
- b) carry out a study into exactly how great the overall tax burden in different jurisdictions is, including what are seen as competitor jurisdictions, in order to inform the taxation debate, and, if not, why not?

**Answer**

The recent Fiscal Strategy Review fully considered the tax burden on various households and compared Jersey’s tax system to competitor jurisdictions.

As the Deputy will be aware from responses to the recent review of Income Support benefit levels by the Health, Social Security and Housing Scrutiny Sub-Panel, work is being undertaken by the Social Security Department to look at benefit levels. The Tax Policy Unit will work with that Department in reviewing the benefits system and in particular how it works with the tax system.

Any future tax changes reviewed by the Tax Policy Unit will take full consideration of the impact on all of Jersey’s tax payers as well as how the overall tax burden compares to competitor jurisdictions.

**4.39 The Minister for Economic Development tabled an answer to a question asked by the Deputy of St. Mary regarding Jersey Enterprise.**

**Question**

Can the Minister inform members how many firms in the energy efficiency, energy management and renewable energy sectors have received help from Jersey Enterprise or Jersey Business Venture in the last 5 years?

Can the Minister inform members of how many such firms there are in total and how many people they employ?

Does the Minister know what the availability of skills in renewable energy installation, maintenance and repair, energy efficiency advice and installation, and energy systems management, in Jersey is, and if not why not? Will he be taking steps to increase the level of these skills?

Can the Minister inform members of what the actual and potential economic value is of this sector?

**Answer**

The ECO-ACTIVE Energy Efficiency Service (EES) supported by the States of Jersey and Jersey Electricity plc provides energy efficiency services to the socio-economically vulnerable in our community. Currently this initiative concentrates on demand side measures such as home insulation and does not implement renewable energy installations, although over 1,000 applications for assistance have now been received.

The EES's second initiative, the Community Buildings Programme, was launched in May 2010 and delivers improvements to charities and not-for-profit organisations which provide a service to socio-economically vulnerable islanders. Applications from 21 diverse organisations have been received by the Community Buildings Programme. These organisations represent over 400 individuals through the provision of residential and day centre facilities.

It is fair to say that the Energy Efficiency Grants scheme has meant that a number of local building companies have invested and geared up to deliver energy efficiency services on Island. The surety of the investment from grant allocations has meant that in addition to the carbon, financial and comfort savings from the scheme, we believe that a number of local jobs have either been secured or created. Regrettably however, precise numbers and bench marks of skill sets are not available.

The ECO-ACTIVE Energy Efficiency Service has a long term aim to expand its activities into the "able to pay sector".

If it achieves this, there will be a significantly increased amount of work for this sector, with the need to ensure standardized training and up-skilling is made available, possibly requiring a future skills audit.

In terms of other elements of the Deputy's question, I would like to firstly confirm that over the last five years, Jersey Enterprise and Jersey Business Venture (JBV), between them, having supported 12 local companies operating in the energy efficiency sector.

I am not in a position to provide the precise figures that the Deputy seeks regarding companies operating in the stated areas, or the employment generated therein. Many of these services are provided as extensions to more traditional services provided by heating engineers, plumbers and electricians based in the island.

There is evidence however that a growing number of local courses are now being organised for local suppliers in the area of renewable technologies, (especially heat-pump applications - where planning requirements have just been eased by the Environment Minister). It could therefore be argued that the private sector is already preparing itself for an increase in demand in the renewable energy sector without any need for States intervention or support.

Given the high costs of investment in renewable technologies in Jersey and the lack of incentives such as 'feed-in-tariffs', commercial and private investment in renewable energy installation remains at relatively low levels. Demand-side awareness remains relatively low, thus the market is still evolving and not yet mature, meaning that economic value is difficult to isolate.

**4.40 The Minister for Planning and Environment tabled an answer to a question asked by the Deputy of St. Mary regarding the anomaly identified within the report of the Complaints Board into the ‘Construction of a Wall in the Countryside Zone’ (R.55/2011).**

**Question**

The report of the Complaints Board into the “Construction of a Wall in the Countryside Zone” (R55/2011) said that the “curious anomaly” whereby “a wall could be slated as ugly, incongruous, and harmful to the character of the countryside by the Department, yet could also be regarded as perfectly acceptable in the eyes of that same department solely dependent on its location within the domestic cartilage of a domestic dwelling house” should be addressed.

What steps, if any, has the Minister taken or will he be taking to address this anomaly?

**Answer**

The wall referred to by the Deputy is in the Parish of Trinity, but the issue could equally apply anywhere in the Island. The matter relates to the Planning and Building (General Development) (Jersey) Order, 2011 and its predecessors.

Members will be aware that the 2011 Order allows for certain small scale development to be carried out on land without the need to apply to the Minister for planning permission. Typically, it allows home owners to build walls, fences, garages and small extensions. Members may recall that I recently extended these regulations to allow for loft and garage conversions and the extension of industrial and warehouse premises. In addition to removing red tape from many minor works, this legislation is useful because it also allows the Planning Department to focus upon larger applications.

The effect of the 2011 Order is to grant wholesale planning permission for these minor types of work across the Island, although certain areas and buildings (such as Listed Buildings) do not benefit. Apart from size and height restrictions, the Order does not specify what these structures should look like and the planning system has conceded that it cannot act as an arbiter of taste in these types of development. The structures which can be built have no requirements over the material from which they are constructed and a wall which is exempt from control could be constructed from granite, blockwork (with or without a render finish) brick, or any other material

The issue is one of balance and in order to allow freedom from some restrictions of the planning process for householders there has to be an acknowledgement that the department has to relinquish its role in championing appropriate design.

**4.41 The Minister for Social Security tabled an answer to a question asked by Senator F. du H. Le Gresley regarding survivors’ pension.**

**Question**

How many survivors have ceased to receive a survivor's pension due to co-habitation or marriage during the last ten years? How many survivors, currently in receipt of a survivor's pension, live outside Jersey? What steps are taken by his Department to ensure compliance with the terms of receipt of a survivor's pension?

**Answer**

Currently there are 852 claims to Survivor's Pension in payment. This benefit is paid to survivors under pension age, with 79 % of claimants aged over 50.



The number of individuals claiming Survivors Pension, analysed by age is given in the table below (as at 30 April 2011). Please note that some women will have a pension age of 60.

Age 30 and under	Age 31-40	Age 41-50	Age 51-60	Age 61-64	Total
3	27	149	419	254	852

Of the above 488 claimants are resident in Jersey and the remaining 364 claims are paid outside of the Island.

Since January 2005 75 Survivor's Pension claims have been closed due to co-habitation or remarriage.

Checks are made on overseas claims on a regular basis. Forms were issued to all overseas claimants in 2009 to verify claim details. This exercise is due to be repeated towards the end of 2011. More information is available on local claimants and the department pro-actively investigates all cases of potential customer error or fraud.

**4.42 The Minister for Health and Social Services tabled an answer to a question asked by the Deputy of St. John regarding private nursing homes.**

**Question**

Would the Minister inform members of the name and number of private nursing homes and care homes for the elderly in the Island together with the total number of residents licensed for each establishment?

What are the total number of full time and part-time staff for each of the licensed establishments?

How often are the premises inspected by Health and Social Services, and would the Minister give details of number of inspections to each establishment in last 3 years?

Have any reports of ill treatment of patients/residents been reported to the Department in the last 3 years and, if so, how many, and what action is taken in response to such a report? Is the Minister or her department aware of any bullying of residents/patients in either private or public sector nursing/care homes and, if so, how is this being dealt with?

Does the Department monitor the food and beverage that patients/residents receive and, if not, why not?

Do the private nursing/care homes have to comply with the same standards as establishments operated by the Parishes and the States and, if not, why not? How do staffing numbers compare in the private sector and the Parish/States sector?

**Answer**

**Numbers of private care homes**

Please see table 1 for details of private care homes and total number of licensed residents.

There are currently 38 registered residential care homes, 3 nursing and 9 dual<sup>4</sup> registered homes making a total of 45 homes regulated by HSSD. They comprise private, voluntary and Parish homes catering for a variety of health and social care needs for a range of age groups.

### **Staff numbers**

Independent homes are regulated under the Law and it is a requirement that:

- all nursing homes “*employ by day and by night suitably qualified and competent professional technical ancillary and other staff in numbers which are adequate to ensure the well being of patients*”.
- all residential homes “*employ by day and where necessary by night suitably qualified and competent staff in numbers which are adequate for the well being of residents*”

To support these requirements, HSSD issues staffing standards which require both nursing and residential homes to ensure that:

- The number of staff employed is sufficient to ensure that individual members of staff do not, on a regular basis, work in excess of 48 hours per week.
- Sufficient staff are employed to cover holiday and sickness absence.
- Any member of care staff must not work anymore than 12 hours in a 24 hour period unless this includes an overnight break.
- For residential homes the minimum ratio of care staff to residents is 1:10 by day and 1:15 by night.” In units for high dependency residential care the ratio is 1:7 by day and 1:12.5 by night.
- For nursing homes the minimum ratio of non-registered care staff to residents is 1:5 by day and 1:10 by night.
- For nursing homes the minimum qualified nursing staff to resident ratio is as follows:
  - Up to 10 residents there is one registered nurse by day and by night,
  - Between 10 and 20 residents there is one registered nurse by day, except where the home takes acute cases where there are two registered nurses by day and one by night.
  - Between 20 and 40 residents there are two registered nurses who can demonstrate the necessary competencies, by day and one by night.
  - Over 40 residents there are three registered nurses who can demonstrate the necessary competencies, by day and two by night.”
- The person registered as in charge of the home, has adequate periods of supernumerary time, not counted as part of the staff ratio, to carry out their management duties.
- Domestic staff are employed in sufficient numbers to ensure that the standards relating to food, meals and nutrition are fully met and that the home is maintained in a clean and hygienic state, free from dirt and unpleasant odours. Ancillary staff numbers are calculated on the following basis:
  - 3.5 hours per resident per week for laundry and domestic staff
  - 2.5 hours per resident per week for kitchen and catering staff.

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<sup>4</sup> Dual homes are registered as both residential homes and nursing homes.

## Number of inspections

HSSD's registration and inspection team has responsibility for the statutory inspection of registered care homes and nursing agencies. An inspection schedule has been developed based on size of home and an associated risk assessment. High risk services are fully inspected twice a year and more often if required, medium risk homes are fully inspected at least once a year with a second limited follow up inspection. Low risk homes may only have one full inspection once a year.

	Number of homes having 2 inspection	Number of homes having 1 inspection
2009	35	7
2010	30	3 (as a result of closing part way through year) 3 (as a result of being new registrations part way through the year) 9
2011 to date		32 (of which at least 25 will have a 2 <sup>nd</sup> inspection to be conducted later in the year )

## Reports of ill treatment and departmental response

When HSSD receives complaints the complainant is advised to contact the home in writing requesting an investigation and response. This letter should be openly copied to HSSD.

If the response is not satisfactory, HSSD will investigate to establish whether the complaint constitutes non-compliance with statutory requirements. In cases where a complaint is serious or indicates a risk to an individual resident/s – whether through bullying or maltreatment - HSSD will directly investigate. Such cases are usually part of a safeguarding process conducted jointly with Social Services.

In 2009 the team was involved in 12 adult protection investigations and 4 complaints.

In 2010 the team were involved in 3 adult protection investigations and 4 complaints.

In 2011 to date, the team has been involved in 6 adult protection investigations and 9 complaints.

## Monitoring of food and beverage

Inspections, which are usually unannounced, involve assessing whether the home complies with the statutory requirements for standards of care: These include: resident choice; staffing;; record keeping; infection control management; medication management; quality of the environment; compliance with fire and safety requirements and food.

This includes an assessment of the quality of food and drink provided, plus the quality of support provided with feeding and fluid intake.

A detailed list of inspection standards is available on request.

## Parity of standards across sectors

As present care homes provided by HSSD fall outside the Law and are therefore not regulated under the law. HSSD is currently working with Law Officers to develop a Regulation of Care Law which will bring HSSD Care Homes under the same standards as private sector homes. It is envisaged that phased implementation of the Law will commence in 2013/14.

A comparison of staffing levels across States, Parish and private homes is not available.

**TABLE 1**

<b>NAME &amp; ADDRESS</b>	<b>Owner</b>	<b>No of Beds</b>	<b>For older people</b>	<b>For Older People Dementia Care</b>
<b>Residential care homes 2011</b>				
<b>*AZTEC HOUSE</b>	Shelter Trust	50		
<b>BEAUMONT VILLA</b>	Caring Homes Health Care Group Ltd.	24		Y
<b>*CAMELOT</b>	Jersey Focus on Mental Health	8		
<b>*GLANVILLE</b>	Glanville Home for the Aged & Infirm	29	Y	
<b>GLENFERRIE</b>	Personal Care Ltd	9		
<b>*LA MABONNERIE</b>	Les Amis Incorporated	3		
<b>*L'AVENIR</b>	Les Amis Incorporated	5		
<b>*LE FIGUIER</b>	Les Amis Incorporated	5		
<b>*LES AMIS</b>	Les Amis Incorporated	10		
<b>LES HOUMETS</b>	Les Houmets Residential Home Ltd	26	Y	
<b>LONGFIELDS VILLA</b>	Apex Nursing Care	19		
<b>*MAISON DE VILLE</b>	Parish of St Helier	50	Y	
<b>*#MAISON LA CORDERIE</b>	Methodist Home for the Aged	32	Y	
<b>*MAISON ST BRELADE</b>	Parish of St Brelade	51	Y	
<b>#PINWOOD</b>	Millais View Ltd	48	Y	
<b>*RIDOUT</b>	Caesarea Association	9	Y	
<b>#RONCERAY</b>	Mr Altaf Nanji	21		Y
<b>*ROSENEATH CENTRE</b>	Roseneath Centre	31		
<b>*ROSEVALE</b>	Les Amis Incorporated	5		

<b>*SILKWORTH LODGE</b>	Families in Recovery Trust	12		
<b>*SOMERS HOUSE</b>	Les Amis Incorporated	6		
<b>*ST HELIER HOUSE</b>	Parish of St Helier	56	Y	
<b>*ST JAMES STREET SHELTER</b>	Shelter Trust	25		
<b>#*STUART COURT</b>	Methodist Homes for the Aged	28	Y	
<b>*WESTLEY LODGE &amp; COTTAGE</b>	Les Amis Incorporated	5		
<b>*12 CLOS DE VILLE</b>	Les Amis Incorporated	5		
<b>26 – 28 WEST PARK AVENUE</b>	Jersey Council on Alcoholism	9		
<b>*43 CLUBLEY ESTATE</b>	Les Amis Incorporated	5		
<b>*75 LA TOUR</b>	Les Amis Incorporated	5		
<b>*6 LEMPRIERE ST</b>	The Weston Healthcare Foundation	5		
<b>17/18 WESTMOUNT</b>	Les Amis Incorporated	5		
<b>1 KEROUSSEAUX</b>	Les Amis Incorporated	2		
<b>2 KEROUSSEAUX</b>	Les Amis Incorporated	5		
<b>Nursing homes</b>				
<b>*CLARKSON HOUSE</b>	Jersey Hospice Care	6		
<b>LITTLE GROVE</b>	Guardian Nursing Services	34	Y	
<b>PALM SPRINGS</b>	Palm Springs Nursing Home	25	Y	

**DUAL REGISTRATION HOMES – 2011**

<b>NAME &amp; ADDRESS</b>	<b>Owner</b>	<b>No of nursing beds</b>	<b>No of residential beds</b>	<b>For older people</b>	<b>For Older People - Dementia Care</b>
<b>*#CHESHIRE HOME</b>	Jersey Cheshire Home	15	10		
<b>CLIFTON CARE HOME</b>	Clifton Care Home Ltd	29	5	Y	
<b>#HIGHLANDS LUXURY CARE HOME</b>	Sandown Care Services (Jersey) Ltd	8	17	Y	
<b>*#JEANNE JUGAN RESIDENCE</b>	Little Sisters of the Poor	10	70	Y	
<b>#LA HAULE</b>	Sandown Care Services (Jersey) Ltd	49	5		Y
<b>LAKESIDE</b>	Lakeside Residential Home Ltd	39	28	Y	
<b>#L'HERMITAGE</b>	Caring Homes Health Care Group Ltd	25	16	Y	
<b>SILVER SPRINGS</b>	Sandown Care Services (Jersey) Ltd	33	34	Y	
<b>*ST EWOLDS</b>	Parish of St Helier	5	61	Y	

\* Denotes charity or Parish-run Homes # denotes respite care facilities

**4.43 H.M. Attorney General tabled an answer to a question asked by Deputy M.R. Higgins of St. Helier regarding super injunctions.**

**Question**

Further to his answer about so-called 'super injunctions' given on 7th June 2011, would the Attorney General -

- (a) explain why the existence or otherwise of super injunctions should be denied to States Members and to the people of Jersey;
- (b) set out the circumstances and grounds upon which such injunctions could be granted in Jersey?

## Answer

For the purposes of this question and answer the expression “super injunction “ is taken to refer to an injunction that prevents not only something from being done but also prevents the disclosure that such an order has been made.

The Royal Court has a wide jurisdiction to grant interim or final injunctions. Interim injunctions (injunctions granted pending the final determination of the issue between the parties) may be granted *ex parte* or after argument depending on the circumstances of the case. Any party subject to an *ex parte* injunction can apply to the court granting it to discharge it. A final injunction is one granted on the final determination of the issues between the parties. Any person subject to an injunction, interim or final, can appeal against it to the Court of Appeal.

Whilst there is a presumption that justice is done in public and the decisions of the court and the reasons for them are known, that presumption can be set aside and there are circumstances in which it does not apply or is qualified (in cases relating to children, for example, the court sits in private to hear the argument and anonymises its judgement for the purposes of publication of what has taken place).

The Royal Court has the jurisdiction to grant a super injunction as defined above. It is impossible, however, to set out the circumstances in which such injunctions may be granted definitively. The injunction is a flexible tool and may be used in many different circumstances.

It would not be hard, however, to suppose that the court would be sympathetic to the grant of an injunction in such terms where to do otherwise would compromise the personal safety or life of a party or another person or would compromise the integrity of legal proceedings or an investigation.

It should be born in mind, however, that the Court is a public authority and must exercise its discretion in a Human Rights compliant manner. In considering, for example, an application to restrain publication of information about a person the Court would have to balance competing rights such as the right to respect for private and family life (Article 8 of the European Convention of Human Rights and Fundamental Freedom (“ECHR”)) with the right to freedom of expression (Article 10 ECHR). The Human Rights (Jersey) Law 2000 at Article 12 requires the Royal Court to have particular regard to the right of freedom of expression.

I am not aware of any Judgment of the Court that sets out the principles of a grant of an injunction that balances Article 8 rights with Article 10 rights and prevents publication of the fact that an injunction has been granted. In my opinion the Court would probably only grant such an injunction in exceptional cases where the matters of which the applicant sought to restrain publication represented an egregious invasion of the privacy and family life of the applicant or his dependants or was tantamount to an abuse of the right to freedom of expression that could not be justified on compelling public interest grounds.

I repeat, however, that it is impossible to be definitive about the circumstances in which such an injunction might be granted.

It should accordingly be apparent that the grant of such a “super injunction” would be very rare and done in exceptional circumstances in which the Court, in balancing the competing considerations, has found that there is a compelling case for this measure of secrecy. It is for that reason that the existence of an order in any particular case should not be known to anyone, States Members or otherwise, outside the Court, the parties and their lawyers.

The answer given to the question on the 7th June 2011 simply reflects that I would not be aware of such an injunction if I was not a party to it and if I was a party I would be prevented from referring to it. For the reasons referred to in my answer of the 7th June, I could not therefore answer that question.

**4.44 The Minister for Transport and Technical Services tabled an answer to a question asked by Deputy M.R. Higgins of St. Helier regarding the Energy from Waste plant.**

**Question**

- a) In a written answer on 7th June 2011 the Minister stated that “many technical or operational issues” had been highlighted with the new Energy from Waste Plant and that “these were being resolved by CSBC Jersey Limited”. Will the Minister set out the details of each of these technical or operational problems and explain how they are being resolved by CSBC Limited and the estimated costs of such rectification?
- b) Although the Minister in his previous answer stated it was normal to discover problems during the commissioning period and that the contractor was required to address these issues and is liable for any associated costs, can he inform members whether the contractors have indicated whether they –
  - (i) will be seeking any additional funds for any purpose in relation to the construction of the facility and the amounts involved; or
  - (ii) will be lodging any claims against the States in relation to the contract, and if so what they relate to and the amount of the claims?

**Answer**

- a) The Energy from Waste plant is still under the control of the Contractor CSBC (Jersey) Limited. TTS are working with the CSBC commissioning engineers to get the plant to the point where it can be officially handed over to the States of Jersey. The plant is a large and technical piece of machinery and there have been many minor snags to resolve. The cost of resolving these snags is within the original contract price. To date 70% of the snags have been resolved.

The Contractor, CSBC (Jersey) Limited has diligently worked to provide a plant which has processed all of the Island’s waste since Christmas 2010.

- b) The Energy from Waste plant is being constructed by CSBC (Jersey) Limited on behalf of Transport and Technical Services. The Contract is a design and build Lump Sum contract. The Contract form is the IchemE red book and has a variety of mechanisms for dealing with claims and penalties. At this critical point in the Contract whether the contractor will seek additional funds or lodge any claims against the States of Jersey remains to be seen. The high level of project governance, on going audit and proactive risk management mechanisms are in place to protect the interests of the States of Jersey and I am confident that our position is satisfactory at this time.



**4.45 The Minister for Economic Development tabled an answer to a question asked by Deputy M.R. Higgins of St. Helier regarding Air Traffic Control staff.**

**Question**

Will the Minister advise the States whether:

- (a) the Air Traffic Controller employed by Jersey Airport who failed his local radar validation is still employed at Jersey Airport and, if so, in what capacity and salary;
- (b) the baggage consultant employed by Jersey Airport whose work was taken over by, or superseded by, Capita Symonds is still employed at Jersey airport and if so in what capacity and salary;

and, if so, justify the continued employment of these individuals when they are not doing the jobs for which they were employed?

**Answer**

- (a) The air traffic controller you refer to, who has previously been the subject of a States question, is in discussion with Jersey Airport management over his future. It would not be appropriate to discuss the details of this matter during current negotiations other than to say that both parties, with union involvement are working towards an appropriate and acceptable outcome.

The air traffic control officer is an ATCO 2 grade 6 salary.

- (b) The external resource you refer to, who has previously been the subject of a States question, was appointed by Jersey Airport in 2010 to act on our behalf in support of a number of initiatives for which he has the required knowledge and experience. These included changes to the hold baggage system as well as renegotiations and renewals of service level agreements with our ground handlers. He was appointed on a fixed term one-year basis, for a fee of £65,000. This contract is due to finish on 31 August 2011 and will not be renewed.

**4.46 The Minister for Economic Development tabled an answer to a question asked by Deputy M.R. Higgins of St. Helier regarding the Channel Islands Control Zone.**

**Question**

Will the Minister explain fully to members the air space redesign project at Jersey Airport which relates to the Channel Island Control Zone setting out the work and cost involved, the companies and individuals involved - setting out what each is doing, the sums being paid to them and how they were appointed/recruited and provide details of any aspect of the scheme which is yet to be put out to tender?

**Answer**

The Channel Islands Control Zone (CICZ) airspace redesign project is already underway and has been since the contract was awarded through competitive tender to Cyrrus Ltd in 2010. The project is expected to finish in 2013.

The tender process was conducted in accordance with States of Jersey procurement and financial directions.

The redesign project is a project that encompasses a modernisation of the airspace and the procedures contained within the boundaries of the CICZ, this includes but is not limited to:

- Investigation of the reclassification of the airspace at the lower levels in order to best meet customer and service provider requirements;
- Modernisation and improvement of the interfaces between Jersey and the UK and France;
- A review and improvement of the missed approach and aircraft procedures and positions;
- An investigation into increased airspace responsibilities in order to simplify co-ordination between the islands, UK and France and provide a more efficient and improved service;
- New departure and arrival routes in the CICZ, based upon traditional navigation and modern Performance Based Navigation (PBN).

The modernisation will ensure the future viability of the airspace as well as building foundations for the forthcoming requirements of PBN to which the aim is to ensure global standardisation of Precision Area Navigation (P-RNAV) and Required Navigation Performance (RNP) specifications and to limit the proliferation of navigation specifications in use world-wide.

All of the changes will follow the Civil Aviation Publication 725 process as agreed with the Director of Civil Aviation.

An approved budget of £800,000 has been allocated to this project.

There are no other elements of the project that need to be put out to tender.

There are a number of companies and individuals involved in the airspace redesign project, including:

- Jersey Airport Executive Management Team, Senior Management Team, Air Traffic Controllers, Strategic Planning, Air Traffic Engineering
- Director of Civil Aviation for the Channel Islands
- UK Civil Aviation Authority (CAA)
- National Air Traffic Services (NATS)
- Egis Avia (French air navigation service provider, in partnership with Cyrrus Ltd)
- UK Directorate of Airspace Policy
- Guernsey and Alderney Air Traffic Control
- Guernsey, Jersey Environmental Departments

## **5. Oral Questions**

### **5.1 Deputy K.C. Lewis of St. Saviour of the Minister for Economic Development regarding the lottery franchise.**

Further to the Minister's encouragement that we should support local business, can he explain why the local lottery franchise has been taken away from a Jersey company and given to a U.K. company?

**Senator A.J.H. Maclean (The Minister for Economic Development):**

If I can, I would like my Assistant Minister to answer this.

**Connétable L. Norman of St. Clement (Assistant Minister for Economic Development - rapporteur):**

The proposed new arrangements follow an open and public tender exercise advertised both on and off Island last year. The proposals are designed to stimulate interest and materially increase sales volumes through a combination of increased marketing, point of sale presence and additional distribution via electronic terminals. However, an existing local company will be responsible for all on-Island activities leading to the creation of local jobs. It is vital that we reinvigorate the Channel Islands Lottery for the benefit of Jersey good causes and we anticipate that over the next 2 years, double the amount currently available will be distributed to those good causes.

**5.1.1 Deputy K.C. Lewis:**

I have spoken recently to one of the ladies concerned who has given me full permission to use her name, Jersey lady, Mrs. Le Brocq, who is now £40,000 down on the deal and was given one month's notice. Does the Minister think that this is right and just and, if not, what is he prepared to do about it?

**The Connétable of St. Clement:**

The situation, as described by the Deputy, is not accurate as far as our experience is concerned. The current agents decided to give up their franchise and return their tickets to the department. That was their own choice. There was no need for them to retire and there would have been opportunities for them to continue their involvement in the lottery had they so wished. In fact, we facilitated the meeting between the preferred tenderer and the agent but that did not produce the result that we would have wished.

**5.1.2 Senator F. du H. Le Gresley:**

Did the Minister favour the successful bidders because they offered to provide electronic lottery terminals and, if so, what steps did his department take to ensure that the use of such machines complies with our laws and regulations relating to the operation of the Channel Islands Lottery?

**The Connétable of St. Clement:**

We were attracted to the tender by the preferred bidders because of the substantial increase in monies raised for good causes. The Senator will know that the Channel Islands Lottery is being kept alive, just, at the moment, by the Christmas draw, and the scratch card draws are dropping by between 5 and 10 per cent a year so some revitalisation was needed. We were certainly attracted by the innovative attitude of the preferred tenderer but based on the money being raised for good causes. Of course, we took advice, including from the Gambling Commission, on the legality of the distributing machines and, indeed, from the Law Officers, as indeed has the Senator.

**5.1.3 Senator F. du H. Le Gresley:**

Is it not a fact that I have circulated a letter to the Economic Development Department following correspondence I have had with the Attorney General, which suggests that it is possibly requiring a change in the legislation to allow the use of these terminals?

**The Connétable of St. Clement:**

No, I do not think the Attorney General's letter says that at all. In fact, the Attorney General answered the question in this Chamber some weeks ago where he made it absolutely clear, as far as I understand, that the electronic terminals are perfectly appropriate. He says in his letter to the Senator that the point is put beyond doubt in that participation in the Channel Islands Lottery shall not be held to be gaming. So there does not appear to be any doubt whatsoever about the legality of the terminals.

#### **5.1.4 Deputy P.V.F. Le Claire:**

Will the U.K. company be operating outside of this jurisdiction and will the franchise in Jersey be operating as a local company in relation to tax because, if my understanding is correct, a non-local company will not be paying tax. What are the tax considerations and the tax elements that have been factored in, please?

#### **The Connétable of St. Clement:**

As far as I am concerned, we have factored in no tax agreements. The preferred tenderer has already got a significant involvement with the Channel Islands Lottery. They produce the games and print the tickets. The on-Island work, as I mentioned, with the terminals, the distribution of the tickets and so on, will be carried out by a local company. But if I understand the new tax rules, we have introduced a zero rate of corporate tax so neither company would be paying tax in the Island in any event.

#### **5.1.5 Deputy T.M. Pitman of St. Helier:**

Firstly, I should wish the Constable a happy 29th birthday; I do not know if everyone is aware of that. But could he tell us, in reality, is this not another own goal such as the Think Local, Buy Local campaign, which produced a lot of publicity for a failed election candidate in St. Helier No. 2, but then resulted in the promotional material being bought from outside the Island? Is it not a very flawed, not very well thought through idea?

#### **The Connétable of St. Clement:**

No, absolutely entirely the opposite. The priority for the Economic Development Department and the Minister for Economic Development is to create funds for the benefit of good causes, charities and so on and that is our absolute priority. But the additional bonus in this is that the on-Island work, which will be significant, will be carried out by a Jersey local company who will be creating local jobs to achieve that.

#### **5.1.6 Deputy M. Tadier of St. Brelade:**

The Constable said that the amount contributed to charity will hopefully be double what it currently is. Does this mean that the percentage payout or the expectation for punters will be reduced and, if not, will he give, or give in the future, what the current percentage payout is when one buys a scratch card and what it will be in the future?

[10:00]

#### **The Connétable of St. Clement:**

No, absolutely not. The object of the exercise is to generate more interest in the lottery and you do not do that by reducing the amount paid out in prizes. That is covered by regulation in any event so there will be no reduction to the punters, but there will be a significant increase in ticket sales and also a significant increase to good causes.

#### **Deputy M. Tadier:**

Would the Minister circulate that information so we can have the statistics available, please?

#### **5.1.7 Senator T.J. Le Main:**

Will the Assistant Minister confirm that Senator Le Gresley and I have met with the agents and with officers and we believe with the many, many years of very loyal service to the lottery, that these agents have been miserably treated by the department and officers?

#### **The Connétable of St. Clement:**

I do believe that that is the Senator's view, one which I do not agree with.

### **5.1.8 Deputy K.C. Lewis:**

Following on with that theme, it is obvious that 2 Jersey ladies who are independent, there is no way in the world they can compete with a U.K. company that is fully computerised. I do not have a problem with modernisation but does the Assistant Minister not believe that these ladies should be compensated for their losses, as I say, one of which has lost well over £40,000? They were given less than one month's notice and they are now being forced to pay for the kiosk that they rented, for which they have to give 3 months' notice, and they are about to be sued for that one. Does the Minister not believe that this is totally unfair?

### **The Connétable of St. Clement:**

If the Deputy's comments were correct that would be the case, and I invite him to come and meet with me and we will go through the facts, not just the propaganda which he has been given, clearly by other people who have been disappointed that they have lost the contract.

### **Deputy K.C. Lewis:**

I will do.

### **5.2 Deputy G.P. Southern of the Chief Minister regarding changes to public sector terms and conditions.**

What progress, if any, has the States Employment Board made in identifying the changes to public sector terms and conditions required to deliver the target of £14 million of savings?

### **Senator T.A. Le Sueur (The Chief Minister):**

The States Employment Relations team is still making proposals that will be the subject of a consultation with employees and their Trade Union representatives in line with the timescales I outlined in my written response to question 32 today.

### **5.2.1 Deputy G.P. Southern:**

Does that mean that these proposals will not be ready for inclusion in the Annual Business Plan in 2012 and will he be presenting an Annual Business Plan which is inadequate in this sense?

### **Senator T.A. Le Sueur:**

I refer the Deputy to my written answer when I said that it would be wrong to anticipate the outcome of negotiations prior to them being concluded.

### **5.2.2 Senator S.C. Ferguson:**

Does the Chief Minister not find this disappointing considering that there was a requirement to look into the terms and conditions and prepare a report some - I think it is nearly 3 years ago in the Annual Business Plan?

### **Senator T.A. Le Sueur:**

The objective of my Employment Board is to ensure that we have harmonious employer relations and that takes all the parties to get together and discuss things and try to reach a consensual agreement. That does not happen immediately or overnight.

### **5.2.3 Senator S.C. Ferguson:**

No, but it does happen more quickly than 3 years, surely and is the Chief Minister looking at the pension provisions at the same time as the overall terms and conditions?

### **Senator T.A. Le Sueur:**

The current arrangements and the target of £40 million was only set last year. As far as the pension arrangements are concerned, while they are being looked at, it would be wrong to try and mix that

considerable piece of work with another considerable piece of work on terms and conditions so they are separate pieces of work.

**5.2.4 Deputy R.G. Le Hérissier of St. Saviour:**

Would the Minister state whether the work that has been done embraces the notion that if there are to be cutbacks, they cannot just be across the board? For example, if there were to be cutbacks of 3 per cent in salary, they have to be higher at the higher levels in order to achieve a proper impact. Would he accept that this is the principle he is applying or is he just applying one figure across the board, thus resulting in disproportionate impacts?

**Senator T.A. Le Sueur:**

The question and the arrangements are about terms and conditions, not about rates of pay.

**5.2.5 Deputy R.G. Le Hérissier of St. Saviour:**

I think the principle still applies. Would he say in reviewing terms and conditions he is applying that principle?

**Senator T.A. Le Sueur:**

Yes because there are different terms and conditions applying to different pay groups so clearly there will be different approaches to each of them.

**5.2.6 Deputy G.P. Southern:**

Does the Minister accept that terms and conditions are intrinsically linked to pay rates and that there are no concrete proposals drawn up yet to appear in the Annual Business Plan, nor indeed to be put before the population of the Island before the elections when some of these Ministers will have a policy that will not be exposed to public decision-making?

**Senator T.A. Le Sueur:**

I am not going to commit to any particular timeline on the negotiations. They will take their place and I hope that those negotiations and discussions will be harmonious and not fettered by any constraints of that nature.

**5.2.7 Deputy G.P. Southern:**

Does the Chief Minister not accept that it would have been better to have co-ordinated his pay policy and conditions policy in line with the schedule for the Annual Business Plan this year so that he had something concrete to bring to the House in a month's time?

**Senator T.A. Le Sueur:**

The pay policy and the pay envelope is already known to States Members. How it is going to be achieved is a matter of ongoing discussion.

**5.3 Senator B.E. Shenton of the Minister for Economic Development regarding the use of the Radisson Hotel by States Departments.**

Does the Minister consider that the use of the Radisson Hotel by departments when there is a financial incentive to the States of Jersey Development Company could create competition issues and be detrimental to other hotels operating in the Island and, if so, will he request the Jersey Competition Regulatory Authority to investigate competition issues arising from this type of arrangement and, if not, why not?

**Senator A.J.H. Maclean (The Minister for Economic Development):**

No, there are very clear guidelines on procurement and I have no reason to believe that these are not adhered to by all States departments. I would add that I hope that other States departments do

as we do at Economic Development and use the Jersey.com website to obtain best value for money and ensure that business is spread around the different excellent establishments in the Island.

**5.3.1 Senator B.E. Shenton:**

The Minister will be aware that the Radisson pays a peppercorn rent and is, in fact, subsidised by the taxpayer. This subsidy is anywhere between 7 and 8 figures. It is a substantial subsidy and I know the Minister likes big government and is anti-free market, but does he believe that this could create competition issues and be detrimental to other hotels operating on the Island?

**Senator A.J.H. Maclean:**

First of all, I ought to correct the Senator. I do not like big government and I am very keen on competition, as the Senator well knows. Also, I would point out that the Senator is incorrect, that the hotel in question is not subsidised. There is simply a commercial arrangement in place whereby a percentage of turnover is paid in lieu of rent. It is a commercial arrangement put in place by W.E.B. (Waterfront Enterprise Board) who were there to negotiate what they considered at the time the best deal for the Island.

**Deputy P.J. Rondel of St. John:**

He is talking with forked tongue.

**5.3.2 Deputy M. Tadier:**

First of all, does the Minister acknowledge that it is not the fact that the States of Jersey use the Radisson but the potential peppercorn rent which has been alluded to that is the issue? Does the Minister also agree that it is very sensible for the States to get the best deal they can and even more so if they can get some kind of financial incentive, either as being a shareholder or using a company which they may get some kind of profit back from?

**Senator A.J.H. Maclean:**

There were a string of questions there. In summary, yes, I believe that the States of Jersey should always seek to get best value for money. As far as putting business specifically to one hotel, as the suggestion is in this case, this is simply not the fact. It is not true. I know from my own department's point of view that we pass business to a number of different hotels around town and, indeed, I could add that the Viscount's Department, only the other week, I attended an Insolvency Regulators Conference which was held at the Grand Hotel. There is plenty of evidence of other hotels quite rightly being used.

**5.3.3 Deputy T.M. Pitman:**

Following on from what Senator Shenton has said, when you look back at the answers to question 7 and you see that £82,000 was spent largely at the Radisson Hotel to put up 6 individuals during the Wiltshire investigation, does this seem a little unfair and that perhaps best practice is not being followed and we should be spreading this out with other departments because my information is that this was arranged from a States department. It could be wrong but that is what I have been told.

**Senator A.J.H. Maclean:**

I have to say that this is nothing short of headline grabbing nonsense. There are no facts to support the suggestion by Senator Shenton that all the business is going to the Radisson. There is plenty of evidence that States departments are using a number of different establishments. My own department, in particular, I have clear evidence that we use all sorts of places and I would add that Members have been invited to the Gambling Law presentation, which is at the Museum coming up shortly, and I would remind Members; I hope as many as possible will come along.

#### **5.3.4 Connétable D.J. Murphy of Grouville:**

Could the Minister confirm that in fact the arrangement that W.E.B. have with the Radisson, i.e., a peppercorn rent and a percentage of turnover, is, in fact, the norm throughout the hotel industry around the world?

#### **Senator A.J.H. Maclean:**

I am not sure that I would confirm it is norm around the world. It is certainly not an unusual commercial arrangement and, indeed, it happens in other areas within the Island. Certainly in the airport in the past some concessions have been operated on a turnover basis and very successfully generating more revenue than a straight rent would have done.

#### **5.3.5 Senator B.E. Shenton:**

It is not the norm, that is absolute rubbish, but they may have been told it was the norm. The Minister says that the information is commercially sensitive. There is nothing commercial about this rent agreement. It was either agreed by an idiot or someone was receiving a backhand.

#### **Senator P.F. Routier:**

May I object to that last statement? At the time, I was a Director of W.E.B. and I can assure Members that it was a well-negotiated, hard fought negotiated deal to achieve to get a hotel built there in the first place and so it was done at a time when that deal was considered to be appropriate.

#### **The Bailiff:**

Senator, it is not appropriate to make an allegation of that nature. Do you withdraw it?

#### **Senator B.E. Shenton:**

Okay, was not receiving a backhand, Sir. I asked the written question, the Minister would not give the figures because, if he gave the figures, they would realise that it valued that prime piece of waterfront location at less than £1 million. Can the Minister give an undertaking to this House to produce the figures that are paid by the Waterfront Hotel to the people of Jersey?

#### **Senator A.J.H. Maclean:**

In some respects, I am somewhat surprised that the question is directed at my department in the first place. The negotiations, the commercial arrangements, were made by W.E.B. and, indeed, the responsibility should be for them to provide the information that the Senator seeks, and I would suggest that he contacts the new S.o.J.D.C. (States of Jersey Development Company) in that regard.

#### **5.4 Deputy P.V.F. Le Claire of the Minister for Health and Social Services regarding the monitoring of air quality and radiation levels from the nuclear power station near Cherbourg.**

Can I ask the Minister who monitors air quality and radiation levels for the nuclear power station near Cherbourg? Is the data available online for the public to monitor and, if not, will the Minister undertake to ensure this information is made available, please?

#### **Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):**

The French Nuclear Safety Authority, known as A.S.N. (Autorité de Sûreté Nucléaire), is responsible for regulating nuclear safety in France in accordance with international standards. The A.S.N. and the affiliated French National Network of Environmental Radioactivity Monitoring undertakes monitoring of all French nuclear power facilities and this monitoring information is available online. I have emailed the website address to the Deputy.

#### **5.4.1 Deputy P.V.F. Le Claire:**

Thank you. The Minister was kind enough to send me the email link. However, it is in French so unless one is fluent in French and also radioactivity issues, then it is not much use at all really. I



am wondering if maybe, given the written question answered in number 17 today saying how the U.K. undertakes analysis of our water in relation to radiation, whether or not more thought needs to be given about the ongoing monitoring of Cap de la Hague and Cherbourg by our own Government, so that we can make that available and readily accessible by our people rather than having to trawl through foreign language websites or the U.K.'s databases. I appreciate there are some links but it is not easy to find these.

[10:15]

**The Deputy of Trinity:**

I take the Deputy's point and not that I have been on the website personally, but I would have thought they might have an English link. If they do not, then perhaps I will look into it with the Emergency Planning Officer to see if something can be done.

**5.5 Deputy R.G. Le Hérissier of the Minister for Economic Development regarding restrictions placed upon private aviation for the summer period.**

Why have restrictions been placed upon private aviation for the summer period and is the Minister satisfied that the new Air Traffic Control system is able to cope?

**Senator A.J.H. Maclean (The Minister for Economic Development):**

The temporary measures to which the Deputy refers have been introduced as a safety requirement agreed by the independent Director of Civil Aviation. This temporary change followed consultation with all relevant parties. I have assurance from Jersey Airport that these temporary measures are under constant review during the current transition to the new A.T.C. (Air Traffic Control) facility. The new Air Traffic Control system represents cutting edge technology and is one of the most advanced systems in the world. I am confident from all the details that I have been given that it will bring significant operational benefits for the airport in delivering a safe, effective and efficient Air Traffic Management system.

**5.5.1 Deputy R.G. Le Hérissier:**

Thank you. Despite those remarkable assurances that the Minister has received and which have pleased him, would he not accept that a new Air Traffic Control system which is dealing, from the date of its original inception 2008, with 18 per cent less traffic which is in a type A airport, which is unbelievably unusual, given the classification of big U.S. (United States) airports as type B and which allow private aviation to fly in without the kind of bureaucracy surrounding Jersey, would he not believe that these controls are totally out of place and represent basically a farce given the supposed benefits of the new system?

**Senator A.J.H. Maclean:**

No, I do not agree with the Deputy. I think they are perfectly prudent and safe. That is certainly the view of the Director of Civil Aviation who we have spoken to. It is a safety matter during the transition period and as far as the system itself is concerned, I have been up, I have had a look. In fact, I took the new Group Chief Executive of the ports up there. I took the Chief Executive of Economic Development and Senator Routier came with me. We had a look at the new system. We had a full presentation on it and I am satisfied that the transition is working well and this is a very prudent and safe measure to have taken.

**5.5.2 Senator S.C. Ferguson:**

In olden times when I was flying, Jersey was, I think, probably the third busiest airport in the U.K. and the A.T.C. coped well with the numbers using pencil and paper. Now that we have all this new equipment it seems that the Air Traffic Control system finds it difficult to cope. What is the problem? Is the system a Rolls Royce when we should have had a Ford?

**Senator A.J.H. Maclean:**

I am not sure of the arrangements that Senator Ferguson was referring to. In the bygone days of biplanes [Laughter] there were very different regulations in terms of managing traffic flows but nevertheless, as I have pointed out to Members, I have been up very recently and seen the system. I am satisfied that it is going to deliver for Jersey a first-class air traffic management system. It is in a transition period at the moment, as Members would expect, as controllers get used to using the new system but it is something that other airports around the U.K. have begun to come to Jersey to look at. I can tell Members, for example, that the Norwegian Air Traffic service provider has been here and is considering rolling it out in Norway at the Norwegian airfield.

**5.5.3 Senator S.C. Ferguson:**

Is the new computerised system sufficiently flexible to deal with the problem of a private plane landing on the taxiway as a jet is coming round the corner to taxi for takeoff?

**Senator A.J.H. Maclean:**

I cannot comment on the exact detail that the Senator is referring to as a scenario. What I can say is that this particular system is flexible, as Members would imagine, and as it has been put in place, it has been evolving and the airport management are working very closely with the manufacturers and N.A.T.S. (National Air Traffic System) to ensure that it fits Jersey's needs, as indeed it should do.

**5.5.4 Deputy M.R. Higgins of St. Helier:**

The truth of the matter is that air traffic in Jersey has fallen 18 per cent fewer movements than before we were bringing in tighter restrictions. There is 12 per cent less movement in the whole of the Channel Islands. The main question I have got for the Minister is, is the system working because my understanding is it is not working completely? There is a problem with the strip system, though they have been getting rid of Air Traffic Assistants, who used to ...

**The Bailiff:**

So your question is, is it working, Deputy?

**Deputy M.R. Higgins:**

Is it working? In his own comments, he says "will". He keeps on talking about the future; he has problems at the moment. Will he elaborate on what the problems are?

**Senator A.J.H. Maclean:**

The question is is the system working? I saw it for myself with my own eyes last night. It was working very well. I had the opportunity to speak to controllers. One controller who was there has been working at the airport as a controller since the 1980s. It was very interesting to hear his view on the system and, indeed, the confidence generally that staff at the airport have with this system as it evolves. As far as numbers falling, I should point out that this prior permission system that has been put in place as a temporary measure through the summer was in place 3 or 4 years ago. It was the norm, it was not always enforced, but indeed it was taken off for the simple reason that the air traffic movements fell. As Members would expect, following the global crisis, air traffic movements dropped quite considerably. That allowed air traffic controllers to remove this restriction. It has now been put back in place as a temporary measure during the course of the transition.

**5.5.5 Deputy M.R. Higgins:**

Will the Minister confirm that there are no technical problems with the software at the present time at the airport?

**Senator A.J.H. Maclean:**

What I can tell the Deputy and Members is that the system is new. It is going through transition. There are changes being made to the system as Members would expect, a new system as it is bedded in, and the airport management are working closely with the manufacturers and N.A.T.S., but they are all very satisfied that it is moving in the right direction. It is delivering, it is safe and it is efficient and I believe that the Island should be proud of this particular facility.

**5.5.6 Deputy P.J. Rondel of St. John:**

Will the Minister answer the question? Are there any problems with the system at the moment? Secondly, will he tell us what the ...

**The Bailiff:**

One question at a time, Deputy.

**The Deputy of St. John:**

It was in what he said but okay.

**Senator A.J.H. Maclean:**

Is it working? The answer is yes, it is working. I saw it for myself last night. It is working very well. There are improvements that are being put in place in terms of speeding up the access to the information that comes through but the controllers are satisfied; I spoke to them myself, a controller that has been there since the 1980s.

**5.5.7 The Deputy of St. John:**

The Minister mentioned the controller that has been there since the 1980s. Is that officer 100 per cent happy with the equipment he is using?

**Senator A.J.H. Maclean:**

When questioned yesterday, there was no indication from him or anybody else that I saw at the tower that there were any significant issues in relation to this system. It is evolving very nicely and there is a great deal of confidence that it will deliver a first-rate service into the future. It is a long-term solution for the airport whereas the old system was costing a lot of money in terms of maintenance. This is a major step forward. It is cutting edge technology and the Island can be proud of it.

**5.5.8 The Deputy of St. Mary:**

I am not going to comment or ask the Minister about the need or otherwise for these extra measures, the transitional measures, but I am interested in the consultation aspect. He said in his first answer, and I quote, that introducing the new arrangements “follows consultation with all relevant parties.” I would like him to square that with the claim of the Pilots Association that: “Jersey A.T.S. have failed to consult the general aviation community properly at any point in this process.” Would he care to comment on the gap between his statement and their statement?

**Senator A.J.H. Maclean:**

I think the relevant word there perhaps is “properly”; as I said at the beginning, all relevant parties have been consulted. Some may have a different view as to whether the consultation was effective enough. My belief is, from what I am told, that it was. It certainly provided the necessary information and if parties think it was not, it may well simply be that they do not like the temporary measures that have been put in place.

### **5.5.9 The Deputy of St. Mary:**

We had in the past considerable problems with consultation down at the harbour. I remember a storm about the marina arrangements and I want to ask the Minister whether this new Group Chief Executive will be sensitive to the need to properly consult with stakeholders when creating policy?

#### **Senator A.J.H. Maclean:**

I have no doubt that the new Group Chief Executive will be very sensitive to all relevant issues. He has just taken up his post. He is going to be a major asset for the ports. I would also point out that it would be of interest to the Deputy of St. Mary's slight tangent that this new system has significant environmental benefits in terms of management of foam.

#### **The Bailiff:**

That was not the question, Senator.

### **5.5.10 Deputy C.H. Egré of St. Peter:**

Having some expertise in this particular field and having been responsible for commissioning radar systems, both at Royal Air Force Brize Norton and the London Air Traffic Control Centre, I understand the Minister's comment regarding safety. Would he confirm that the reason why it is safe at the moment is the fact that the system is not working up to speed and that reduction of zone control has been put in place to make it safe? Will he accept the fact that at this particular moment in time, all is not well within the Air Traffic Control Network?

#### **Senator A.J.H. Maclean:**

I would not entirely agree with what the Deputy has said, although I have to say that I am not entirely sure exactly what the thrust of his argument was. The system is safe. The system is operating efficiently. There are improvements being put in place which will help rectify some areas that need to be improved, and I would accept that. What I will say is that I would invite any Members who are interested in this particular issue to contact me. We will arrange for them to go up to the airport to see the facility, to see controllers, and to see it in operation. I went and it was a first-rate viewing and I think Members will be reassured if they come up and see it.

### **5.5.11 The Deputy of St. Peter:**

Would the Minister accept the fact that I asked to make such a visit myself and I was not invited to go?

#### **Deputy M.R. Higgins:**

Also the Scrutiny Panel could not do its scrutiny!

#### **Senator A.J.H. Maclean:**

The Deputy has asked to go and he is more than welcome. **[Laughter]** All I would say is that he is still more than welcome but I did want to view the facility myself first and I only had an opportunity due to diary commitments to go yesterday. Of course, Deputy, I am sure we can find room when the busy schedule over the next 2 weeks is complete.

### **5.5.12 Deputy R.G. Le Hérisier:**

Given his highly enhanced knowledge of air traffic control, would the Minister specify whether he asked the authorities was what Jersey was doing with general aviation comparable to what other similar sized airports and indeed larger airports were doing or were we being over-bureaucratic, over-cautious? Secondly, given his enhanced knowledge, would he say that it is remarkable that a newly installed system, which was meant to deliver so much, cannot work with a reduced capacity?

**Senator A.J.H. Maclean:**

I think I must make this clear. The system is working very efficiently. The Deputy talks about a reduced capacity. Restrictions have been put in place for safety reasons for a temporary period during the summer. It is as simple as that. As far as the other part of the Deputy's question, I have absolutely no doubt that because of the Channel Islands Control Zone which we have, which generates millions in terms of revenue, these measures put in place are absolutely appropriate and appropriate to the class A airspace that the Island has.

**5.6 The Deputy of St. John of the Minister for Economic Development regarding the new Air Traffic Control system.**

Following the reports that new regulations relating to aircraft movements are to be put in place in the coming months, is the Minister satisfied that having spent millions of pounds on the new traffic control system, it will not be out of date or obsolete?

**Senator A.J.H. Maclean (The Minister for Economic Development):**

Déjà vu, Sir. I think the Deputy is referring to rumours as opposed to actual reports. I can assure Members that the air traffic control facility continues to operate to the highest standards. I am perfectly satisfied with the investment that has been made and I think that we can be proud, as I have already said, of the facility that we have at the airport for managing air traffic movement.

**5.6.1 The Deputy of St. John:**

Given in the 1990s in the heyday of tourism, when we had over 1 million visitors a year and over 450 rotations per day at the airport and that was the norm in the summer season, we have approximately between 30 and 40 per cent of those numbers coming in today and yet we have to put in place visual flight rules requiring prior permission. Does the Minister not consider that this is a backward move and given the 18 per cent decline in the last 2 years in flights alone, we are going backwards? Will he confirm that I am correct?

**Senator A.J.H. Maclean:**

I hate to disappoint the Deputy but I do not agree with him. I do not believe it is a backward move. I think it is a very prudent move in terms of safety. That is what Islanders would expect us to do, to be prudent, safe and that the facility of the airport, which we invested considerable money in, is efficient as well. We are moving towards a system that will give us long-term viability at the airport.

[10:30]

**The Bailiff:**

Now, this is a very similar question. I propose, therefore, to invite questions from those who were unable to ask their questions during the last time first. Deputy Le Claire? He is not here. Deputy Trevor Pitman.

**5.6.2 Deputy T.M. Pitman:**

I did try to get in last time but I was a bit slow because I was thrown by the thought of Senator Ferguson flying, but there we go. Could the Minister tell us ... Deputy Higgins has just said his Scrutiny Panel were not allowed to come and look at this and we recently saw objections to the Deputy chairing that Scrutiny Panel; could the Minister not explain if those 2 things are linked and does it not concern him a little because surely Scrutiny should be having access to all these things in the course of doing a thorough job?

**Senator A.J.H. Maclean:**

I think the Deputy is inflating issues. I would welcome a review by Scrutiny. I have always said that and that is a consistent position. I have also said that Members are more than welcome to

come and view the facility. As far as Deputy Higgins is concerned, the matter was purely one of perceived conflict, totally unrelated. Members are welcome to see the facility, Scrutiny is more than welcome to review the air traffic control facility and that is as simple as that.

#### **5.6.3 Deputy F.J. Hill of St. Martin:**

Is the Minister aware of the potential loss of revenue from visiting aircraft and has he a contingency fund in place to cover the shortfall which is now obviously occurring?

#### **Senator A.J.H. Maclean:**

Well, it may come as a surprise to Members - not that I do not value general aviation, it is important - but in purely aeronautical charging basis for the airport it loses money. We get less revenue from it than we contribute towards the aero club and the facilities there. So, I am afraid that from a financial point of view it is a very small part of the revenue generation at Jersey Airport. Members would expect the commercial air traffic movement is the key revenue generator for the airport.

#### **5.6.4 Senator J.L. Perchard:**

The Minister has informed the Assembly of teething problems with this project and the extra safety levels in place currently. My question is about budget and would the Minister confirm whether the project is still within budget and if this is not the case, who is liable for the overspends?

#### **Senator A.J.H. Maclean:**

Yes, I can confirm to the Senator that the new air traffic control facility, the tower, was delivered on time and on budget, and I am very pleased about that. There is an ongoing charge in the revenue budget in relation to maintaining this particular facility as Members would expect with any computer-based system. The budget for that is £100,000 a year and again we are inside that budget and would expect to remain so unless any significant changes are asked for in the future to meet changing needs.

#### **5.6.5 Connétable P.F.M. Hanning of St. Saviour:**

It is quite simple. It is not fully operational there at the moment. The Minister has said this. How long was this lead up period before it was fully operational intended to be, and how long will it be before it is fully operational?

#### **Senator A.J.H. Maclean:**

I am afraid the Connétable is not correct. The air traffic control tower and facility are fully operational. All we are referring to here is a management flow issue. It is requiring general aviation, that is small aircraft, to get prior permission for slots so we can better manage the approach of light aircraft. That is a system that can be done by telephone. There is a hotline that has been installed to help general aviation flyers and it takes no more, online or by telephone, of a few minutes to do that. It is a system that was in place some years ago.

#### **5.6.6 The Connétable of St. Saviour:**

A supplementary. I am sorry, I think we are being confused here. If the system could cope without them having to telephone before they came before, how can the new system be fully operational or have you introduced a system that does not cope?

#### **Senator A.J.H. Maclean:**

No. The system is fully operational. All we are talking about is a flow management exercise for safety purposes for light aircraft on the agreement of the Director of Civil Aviation for safety purposes as controllers get used to the transition into this new facility. It is a temporary arrangement for 3 months through the summer and controllers and the airport management inform

me that they expect that when that is concluded there is no reason why the original system will not be put back in place and the temporary measures removed permanently.

**5.6.7 Deputy A.E. Jeune of St. Brelade:**

I am really concerned with what I think I heard and I would like the Minister to clarify it. Is it correct that a member of Scrutiny has not been allowed to visit or is it a case, rather like I think the Deputy of St. Peter, they have not yet been invited to visit, and I would like that clear?

**Senator A.J.H. Maclean:**

There has been absolutely no prevention of Scrutiny, either an individual member or anybody else not being able to undertake a review. The exception, so I can be absolutely clear, is that when Deputy Higgins was chairman of the Scrutiny Panel he and his panel were interested in doing a review. It was felt that there was a potential conflict with the Deputy and that was the only reason, and that was nothing to do with the decision from my department; that was independently verified. They are perfectly at liberty to scrutinise.

**Deputy M.R. Higgins:**

I think the Minister might be slightly misleading the House. Yes, there was the perceived conflict of interest which we dealt with. However, documents were asked, straightforward documents were asked in February of this year and were never delivered, even up to the time when the perceived conflict of interest matter was dealt with. February to May ... these were straightforward documents that should be in the public arena.

**The Bailiff:**

I am sorry, Deputy, the question is whether anyone was prevented from visiting the control tower.

**Deputy M.R. Higgins:**

Well, I am sorry it was getting information. We were prevented from getting anything.

**The Bailiff:**

No, the question was about visiting the control tower. So, that is not relevant. Final question from the Deputy of St. John.

**5.6.8 The Deputy of St. John:**

How many additional staff are employed to operate the visual flight rules and what cost implications are there, and from which budget is the funding coming?

**Senator A.J.H. Maclean:**

Sorry, can I ask the Deputy to repeat that? There was some noise. I unfortunately could not hear what he said.

**The Deputy of St. John:**

How many additional staff are employed to operate the visual flight rules, and what cost implications are there and from which budget does the funding come?

**Senator A.J.H. Maclean:**

As far as I am aware, the system is operated by the air traffic control assistants and the controllers. It is operating, as I have already stated to Senator Perchard's question, within budget. It is coming from the revenue budget set aside by the airport for the management and operation of this particular facility. I would also point out that Deputy Higgins' comments earlier were inaccurate.

### **5.7 Deputy T.M. Pitman of the Minister for Home Affairs regarding expenses incurred by the Wiltshire investigation.**

Will the Minister clarify how the Wiltshire investigation incurred expenses of £200,700 in staff costs; £92,000 in travel; £82,000 in hotel accommodation and £39,100 in subsistence; where were these expenses incurred (Jersey or elsewhere); what grade hotels were used; and to how many individuals do the travel, accommodation and subsistence figures relate? I should say those original figures were from the Minister.

#### **Senator B.I. Le Marquand (The Minister for Home Affairs):**

The terms of reference for the first Wiltshire investigation in relation to the handling of the Haut de la Garenne investigation were agreed by the Chief Minister's Department and stated that all reasonable costs incurred including funding for independent legal advice for the investigators will be met by the States of Jersey. The Wiltshire Police produced 2 very detailed and well considered reports, one in relation to financial management of that investigation and one in relation to other issues. The figures quoted by Deputy Trevor Pitman relate to the first Wiltshire disciplinary investigation on Haut de la Garenne but they are not the full figures for this. A breakdown of the full figures is contained in written answer 7. Up to 6 officers from Wiltshire were working on the investigation at any given time assisted by support staff. Generally they were returning home for the weekend and then coming back to Jersey. This of course increased the travel costs considerably but increased the hotel and other costs. The investigation ran for a number of months. When in Jersey officers stayed at the Radisson Blue Hotel 4-star, which is close to the office facility set up for them at Elizabeth Terminal, at £80 per night. My staff who dealt with all these matters felt it better to place them there, it was slightly more expensive than an alternative hotel, because of the close proximity which reduced travel time and costs of getting to and from work. More detailed information is contained in the written answer which is on page 7 of the written answers.

#### **5.7.1 Deputy T.M. Pitman:**

A supplementary. I thank the Minister for his answer. £82,000 for 6 individuals, as the Minister says £80 a night at the Radisson on average. Could the Minister tell us if he thinks that is good value for money because Jersey is only 9 by 5?

#### **Senator B.I. Le Marquand:**

I am not sure what the implication of the question is. I have already indicated that my staff ...

#### **The Bailiff:**

The question is whether you think it is good value for money; that was the question.

#### **Senator B.I. Le Marquand:**

Well, it was good value for money to place them at £80 per night so close to the place where they were working. That was the view taken by my staff.

#### **The Bailiff:**

Very well, final question then, Deputy Pitman.

#### **5.7.2 Deputy T.M. Pitman:**

I am sorry but I think the Minister is responding - perhaps he does not mean to - but sounds a bit glib. My point is the public are going to look at this and they are going to wonder if they are funding some kind of celebrity lifestyle, £82,000 for so few people and Jersey is just 9 by 5. There is cheaper accommodation. Why was it not used?

#### **Senator B.I. Le Marquand:**

I explained that because people were going back over the weekend that effectively what was happening, they were arriving, as I understand it, on a Monday, staying on a Monday night,



Tuesday night, Wednesday night and Thursday night, and then leaving. So, they were only here for 4 nights. That was viewed as being the best approach. Members of this Assembly will of course remember that when I first came on the scene, which was after the initial arrangements had been set up, that I was being told that the investigation would be completed by March of 2009. In fact, of course, I did not get the first interim reports until October. So, it did take a great deal longer than was originally anticipated.

**5.8 The Deputy of St. Martin of the Minister for Planning and Environment regarding complaints in relation to the High Hedges Law.**

Will the Minister inform Members how many complaints have been received and investigated in relation to the High Hedges Law and is there any evidence that the investigation fee of over £450 serves as a deterrent and a denial of justice to those residents who cannot afford this sum?

**The Bailiff:**

I understand the Assistant Minister will be responding to this one.

**The Deputy of St. Peter (The Assistant Minister for Planning and Environment - rapporteur):**

Since 1st January 2008 the department has received 17 applications to examine high hedges. The application fee was set at £450 to contribute to the department's costs in processing the application, including commissioning an independent report from a chartered surveyor to make an assessment of the hedge. Any fee charged has the potential to be a deterrent to individuals wishing to submit a high hedge complaint. However, I recognise that it should not be of such a level as to actively discourage applications with merit. Given that there have now been a number of these applications I have instructed a review of the process and the fee to ascertain whether there would be a change to make the system more accessible and I would invite the Deputy, should he so wish, to contribute to that review.

**5.8.1 The Deputy of St. Martin:**

The law allows for a fund to be refunded. Can the Assistant Minister inform Members whether in fact any of those fees have been refunded following an investigation?

**The Deputy of St. Peter:**

I do not know the exact details of any fees paid over the period since 2008. I will certainly look into those figures and pass them on to the Deputy if he so wishes, but certainly within the review we will be looking at the whole way this particular system is managed.

**5.8.2 Deputy R.G. Le Hérissier:**

The Assistant Minister mentioned the use, for example, of a chartered surveyor. Would he not accept that some investigations are more complex than others? Is one of the principles he will review whether the fee should vary in the light of the investigation, some of which will be very straightforward?

**The Deputy of St. Peter:**

Yes.

**5.8.3 Senator S.C. Ferguson:**

Does the Assistant Minister not think that for his department to issue an environmental dictate that all Les Landes hedges should not be higher than 6 foot unless specific planning permission has been obtained would simplify the system considerably and cause a lot less work?

**The Deputy of St. Peter:**

I am all for simplifying systems and, as I said, a review will be taking place to look at all aspects of this and if it comes out that that is one way forward, a nice simple way, I am sure that will be looked at sensibly.

[10:45]

**5.8.4 The Deputy of St. Martin:**

Would the Minister agree that the principle of charging for an investigation does not seem to be right? Would the Minister, for instance, accept that if one had their car stolen they went to the police station and said: "I have had my car stolen" and then the police officer will say: "Well, yes, for your car to be stolen for me to investigate that is going to cost £150." Does he see the fact that the High Hedges Law has introduced a fee for investigation that could also be increased right across the board for any investigation of any form of misdemeanour?

**The Deputy of St. Peter:**

I think that was implicit in the answer that I gave in that we do recognise that there could be a possible deterrent for people to apply because of a fee, and that is why I have asked for the review.

**5.9 Deputy S. Pitman of St. Helier of the Minister for Health and Social Services regarding financial support for trainee nurses.**

Could the Minister advise whether the next intake of trainee nurses will be given financial support by her department and if not, would she explain why?

**The Deputy of Trinity (The Minister for Health and Social Services):**

I am very delighted to be able to confirm that 18 local students will start their nurse training in Jersey this September. Health and Social Services and Education, Sport and Culture have been working in partnership to develop this programme, which is known as the partnership scheme. Financial support is provided by Education, Sport and Culture who will fund the university fees for the programme, which is delivered by Open University. This funding is not means tested. The partnership scheme course is 26 hours per week, which has enabled all the students to register on the nurse bank to work and be paid as healthcare assistants. This is a positive blend for on-job experience and study which will enhance their nurse training.

**5.9.1 Deputy S. Pitman:**

A supplementary. The funding that I am talking about, which I have not made clear to the Minister, is maintenance because a trainee nurse that I have spoken to was told by her department that they should go to Income Support for financial support. So, could the Minister explain why her department is not giving financial maintenance support?

**The Deputy of Trinity:**

As I said in the question, financial support is provided by Education, Sport and Culture and I understand the students are being treated in the same way as students if they were undertaking full-time nurse training in the U.K.

**The Bailiff:**

Sorry, I will come back to you Deputy.

**Deputy S. Pitman:**

The Minister did not answer the question. I did say it was maintenance, financial support for maintenance, everyday living. She did not answer that question.

**The Deputy of Trinity:**

As I understand, the other students who are training in Jersey do not get the maintenance.

**5.9.2 Deputy A.E. Jeune:**

I am just picking up on something that the Minister said in her answer. Could she just explain the time spent by the student nurses where they are employed as healthcare assistants, does that practical experience go any way towards their training?

**The Bailiff:**

I am not sure that relates to the question.

**The Deputy of Trinity:**

I am sure it does because, as the Deputy knows being a previous nurse, in our day it was you learnt on the wards, so any practical training will enhance your nurse training, definitely.

**Deputy A.E. Jeune:**

But they are paid, are they not?

**5.9.3 Deputy R.G. Le Hérissier:**

Can the Minister confirm that in building up a cadre of local nurses that, in fact, her department and/or E.S.C. (Education, Sport and Culture) are also supporting nurses who are training in the U.K. and are not able to get, shall we say, highly subsidised training through the N.H.S. (National Health Service)? Are U.K. based nurses who, of course, are broadening their experience and that is helping the Island, are they being supported equally?

**The Deputy of Trinity:**

Yes, I would take it that they are, but I am very proud that we are able to offer on-Island nurse training and it really is a good news story.

**5.9.4 Deputy D.J. De Sousa of St. Helier:**

This is a really important question because most of our nurses, as we know, are brought in from the U.K. and there does seem to be a disadvantage to the local nurses, and part of the financial side of it is the fact that local cadet nurses are not able to access the accommodation as well. I did speak to the Minister about this. Is she going to work to try and address this issue?

**The Deputy of Trinity:**

We just need a level playing field across the board for all students, and we work very closely with Education, Sport and Culture, and I am sure if there is an issue ... but we have very limited accommodation and, as you know, some of it leaves a little bit to be desired, but I will look at it and see if we can do something.

**5.9.5 Deputy S. Pitman:**

As we all know there is a shortage of nurses who are, as we know, essential employees for this Island; does the Minister not agree that it is not acceptable that such cadet nurses are told by a department that if they want to live while studying and training that they have to go to Income Support?

**The Deputy of Trinity:**

I value every nurse whether they are a student nurse or whether they are qualified. They are an asset to the service as well as to our Island, but, as I said, all of our student nurses are encouraged to go and I think all of them are on the nurses' bank, and they can earn part-time because the nurses' course is 26 hours a week and they are encouraged to go on the nurses' bank where they do earn a wage.

**5.10 Deputy M. Tadier of the Minister for Economic Development regarding the provision of information relating to qualified and non-qualified employees in the fulfilment sector.**

Will the Minister reconsider his refusal to provide a breakdown of information relating to qualified and non-qualified employees in the fulfilment sector and if so, would he advise what percentage of Play.com's staff are non-qualified?

**Senator A.J.H. Maclean (The Minister for Economic Development):**

I have never refused to give a breakdown of staffing across the fulfilment sector. In fact, following specific requests from Deputy Tadier, I arranged for this information to be supplied to the Deputy on 28th June this year. For the record, I advised the Deputy that of the 890 staff in the industry as at 31st December 2010, 200 or 22 per cent were non-locally qualified under Regulation of Undertakings. As to providing details on specific licences of individual companies in Jersey, that has always remained confidential information between the regulator and individual companies.

**5.10.1 Deputy M. Tadier:**

There seems to be a semantic dissonance here because what the Minister has quite rightly provided, in fact it was the Statistics Department I had to get the information from in the end ... provided information. What I am asking for now and I have asked for in the past is the breakdown of that information per company and if the Minister is going to say that it is commercially sensitive then will he at least give an undertaking to provide anonymised data, firm A, firm B, firm C, et cetera, to show how many in each company are employed without 5 years' residency?

**Senator A.J.H. Maclean:**

I cannot understand the thrust of the question. If the Deputy wants to come and talk to me about it I am happy to discuss the matter with him, but based on what he has said to date the position of the department is consistent. We do not provide information on individual companies but we are happy to give sectoral data, which I provided for the Deputy.

**5.10.2 Deputy G.P. Southern:**

Can the Minister confirm that most of these employees are employed on zero hours contracts, which quite frankly are not worth the paper they are printed on?

**Senator A.J.H. Maclean:**

No, I cannot confirm that. In fact, I was talking to one company only yesterday and I was told of their complement of staff there were only 2 on zero hours contracts, which represented only a few per cent of the total complement.

**5.10.3 Deputy G.P. Southern:**

Will the Minister then have a conversation with the Minister for Social Security and discover what proportion of workers in this particular industry are employed on zero hours contracts?

**Senator A.J.H. Maclean:**

I continually have conversations with fellow Ministers. If the Deputy has a specific request, if I could ask him to put it in writing I will consider it and respond to him accordingly.

**5.10.4 The Deputy of St. Mary:**

Yes, I just wanted to get the Minister's assurance that he recognises the importance of this question, and when he says that he cannot give data on specific companies can he assure the House that he is concerned about access of different categories of workers to this kind of job?

**Senator A.J.H. Maclean:**

Sorry, I did not get the last part of that question.

**The Deputy of St. Mary:**

Yes, I just want the Minister to confirm that he is concerned about the access of different housing categories of worker to this kind of job because that is what the question is really about.

**Senator A.J.H. Maclean:**

The fulfilment industry provides valuable employment to a large number of local people, the majority within this Island, and I think that is important. It is something we should work continually very hard to support.

**5.10.5 Senator T.J. Le Main:**

Can the Minister confirm that any local, unemployed, willing person applying to one of these companies will always be able to get a job and always taken on as top priority?

**Senator A.J.H. Maclean:**

I can certainly confirm that should the company have a vacancy I cannot see a circumstance where an appropriately qualified local person would not be given the opportunity. That is certainly a point that we continually push, and we can see from statistics that the majority of people employed in most sectors in the Island are indeed locally qualified. We have got a lot of work to do to improve the employment position, particularly for young people, and we continue to strive to do that and encourage local companies accordingly.

**5.10.6 Deputy M. Tadier:**

Let me put the question in context. There is a difference between Jersey Post and, let us say, Indigo Lighthouse. There is a difference between what was Flying Flowers and Indigo Starfish. The information I am seeking and I have sought in the past is very simple, and I do not know why the Minister appears to be being obtuse in withholding the information. What I am seeking quite simply is the breakdown per company, which can be anonymised, of how many unqualified, that is less than 5 year, residents are employed because I have reason to believe that certain companies operating in the Island have a majority of their staff, which are less than 5 years' resident, and the underlying reason I ask the question is because I am concerned about exploitative employment practices, which are being performed by certain, perhaps less scrupulous, companies, all within the boundaries of the law, and this is why I am seeking that information. This information should be available to any States Member, indeed to the public, and I will not accept excuses of commercial confidentiality where they are not relevant.

**Senator A.J.H. Maclean:**

I think the Deputy is dealing with unfounded rumour, I am afraid, because across all sectors the Regulation of Undertakings Department consider all applications from businesses for employment purposes between local and non-local, and there is a consistency across the sector to ensure the percentages between different companies are broadly similar. That is the fair way to deal with the matter, and certainly I am confident that that is the case. I would add the Deputy also asked me for specific details in relation to Jersey Post. I directed the Deputy to the head of H.R. (Human Resources) at Jersey Post to get that information. I did speak to the lady in question today and so far he has not been in contact, but I would suggest if he has specific requirements of individual companies, including Jersey Post, he contacts the companies in question themselves.

**5.11 Senator S.C. Ferguson of the Minister for Health and Social Services regarding the total number of hours on duty undertaken by Middle Grade doctors.**

What was the number of hours on duty undertaken by each of the 57 middle grade doctors for the period from 9.00 a.m. on 6th June 2011 to 9.00 a.m. on 13th June 2011, and did any undertake periods of continuous duty lasting more than 24 hours?

**The Deputy of Trinity (The Minister for Health and Social Services):**

This is a complicated question. I am unable to provide this information at present here and now because Health and Social Services did not simply have the capacity to respond in the time available. My officers have to trawl through dozens of rotas and then assess for each of the 57 doctors who was present, who was on leave, who was sick, et cetera. It will take some time and will divert officers from important work but as soon as it is available it will be forwarded to all States Members. Just to recap, this year alone my department has answered 7 questions directly relating to middle grade doctors, a significant number from the Senator herself. Apparently from her sources it is at odds with information already provided to you by this Assembly.

[11:00]

If this is the case then I urge the Senator to provide me specific details, not of the sources, but of the incidents that she believes was a cause for concern, because it will save us precious resource.

**5.11.1 Senator S.C. Ferguson:**

A supplementary. As the Minister full well knows I have undertaken to meet with her to discuss this. I thank her for her answer, but has she any knowledge of doctors undertaking more hours on duty during weeks when colleagues are on annual or study leave or is this information not available?

**The Deputy of Trinity:**

As I said, the information will be there but it will take quite a while to trawl through all the voters. If she can be more specific to one specific area that will help us enormously and I welcome that meeting.

**5.11.2 The Deputy of St. Martin:**

When doctors undertake extra hours on duty to cover the on-call duties of colleagues on leave; is this on a voluntary basis or is it compulsory?

**The Deputy of Trinity:**

I would have thought it is on a voluntary basis. They have to cover, as we have to provide 24 hours/7 cover. As you know, middle grade doctors, as all doctors and nurses, go on training, have sick leave, go on holiday. Rotas are not easy to do but they are overseen by the medical directors.

**5.11.3 The Deputy of St. Martin:**

Is there any evidence at all to show that if a doctor does not volunteer to do these extra hours that their card is not marked as being someone not co-operative?

**The Deputy of Trinity:**

Again, I am not aware of that but if the Deputy has that information, then please come and see me.

**5.11.4 Deputy A.E. Jeune:**

I am quite amazed that we cannot get this information quite readily; pay systems usually do. But where the shift length exceeds 24 hours, how many hours may the doctor be continuously on duty? Could the Minister advise, please?

**The Deputy of Trinity:**

If I remember rightly, I have been asked that question before in a written question. Jersey Employment Law requires one day off in 7 days or 2 off in 14 days. Where the European Working Time Directive is, our trainee doctors comply to that because they are programme managed by the Wessex Deanery but we do comply to the local employment laws.

**5.11.5 Deputy A.E. Jeune:**

Is the Minister aware that when a 24-hour shift is finished, some doctors are entitled to a rest period, whereas others have to carry on working through the day until 5.00 p.m. or 6.00 p.m.?

**The Deputy of Trinity:**

If I understand it correctly, if they have 24-hour cover then they are entitled to some days off. They are entitled to one day off in every 7 days and 2 in 14 days.

**Deputy A.E. Jeune:**

But that means somebody could be working 2 or 3 24-hour shifts, listening to what the Minister is saying, and on the 7th day you may rest.

**5.11.6 Deputy D.J. De Sousa:**

The Minister, in her reply to the questioner, said that she needs more specifics. How more specific can the question be than have from 9.00 a.m. on 6th June to 13th June at 9.00 a.m.? That is specific timing. Surely the rota is on a computer system; punch in the date and time and the information should be there.

**The Deputy of Trinity:**

I wish it was that easy but our computer systems are unfortunately behind the times. It is not that easy, because there are 57 doctors and you have to know who are present, who is on leave and who was sick, et cetera.

**5.11.7 Deputy D.J. De Sousa:**

How much then is invested in a computer system that does not give the information?

**The Deputy of Trinity:**

I stand by that. We will provide States Members with that information before the end of the month.

**5.11.8 Deputy M. Tadier:**

Were this question time being conducted in French, it would be a farce worthy of Molière. Are we really to believe that this information about how many hours staff have worked during a certain period of time is not available? My question would be, how on earth does the H.R. Department at the hospital know how much to pay these staff [**Approbation**] if they do not know which hours they have been working? Will the Minister acknowledge that this is a complete nonsense; that the information is available and it is being withheld, perhaps by civil servants, for politically-charged reasons, just like the last Minister who refused to give information?

**The Deputy of Trinity:**

I wish I could provide that information. We have just had 2 days and there are 57 doctors. Some of the middle grade doctors' provision is out of hours; some is on-call, some of them stay in the hospital in the high-risk areas such as the Registry Department, General Medicine and Intensive Care but some of the residents do on-call from home. All of that has to be assessed. I wish it could; I wish it was as simple as pressing a button but it is not and I have given my undertaking that I will provide that information to Senator Ferguson and the rest of the States Members.

**5.11.9 Senator S.C. Ferguson:**

In the Verita statement it said: "It seems clear that on-call, middle grade doctors are more likely to be busy than on-call consultants. The weekly rotas show that registrars and staff grades were frequently on-call for 24 hours at a time. No doubt this is in line with tradition but perhaps not with modern views on patient safety or acceptable working practices." In view of the lack of information that the Minister has been given, can the department really be keeping track of the hours worked and complying with best employment practices?

**The Deputy of Trinity:**

Yes, we do keep on track but I can say it is not as easy as pressing a button. I will happily give that information to the Senator but it just needs time and it takes longer than just 2 days unfortunately.

**Deputy T.M. Pitman:**

I did not want to interrupt the Minister; I think it is a point of clarification. I think the figure that she was looking for was £11 million that has been invested, I think, if that helps Members. That is the right figure; that is how much we have spent so far.

**5.12 The Deputy of St. Mary of the Minister for Planning and Environment regarding an alleged pollution incident at the Energy from Waste Plant.**

Further to the statement by Her Majesty's Attorney General on 1st March 2011 that there was no protocol preventing the interview, would the Minister tell Members exactly what justification he has for his department not interviewing the whistleblower concerning the alleged pollution incident at the construction site at the incinerator at La Collette and, I should add, in April 2009?

**Deputy R.C. Duhamel of St. Saviour (Assistant Minister for Planning and Environment - rapporteur):**

Environmental Protection, the Department of the Environment investigated the alleged pollution incident at La Collette under the provisions of the Water Pollution (Jersey) Law 2000 and, in accordance with the enforcement policy and guidance, an extensive case file was prepared by officers and submitted to the Attorney General for his review. The opinion of the Attorney General was that there was insufficient evidence to found a criminal prosecution. The Attorney General further stated that from the paperwork submitted, a thorough investigation of the incident had been undertaken by the department. By the term "whistleblower", I take it that the Deputy is referring to the Project Manager's site representative and whose employment was terminated during the investigation. Environmental Protection obtained a substantial quantity of information from him during the investigation in his capacity as site representative. Following his dismissal, Environmental Protection considered that there was no additional relevant information that he could provide that would benefit the case. Nevertheless, Environmental Protection gave him more than one opportunity to provide a witness statement, to which he declined.

**5.12.1 The Deputy of St. Mary:**

Here we go again. The Attorney General said that he had insufficient evidence in his decision, which was relayed to the members of the Ramsar Management Group and yet the key person who pointed out the problems down at the site, who insisted that certain procedures were followed and in the end blew the whistle, was not interviewed. My question asks what the justification is for the department not interviewing the whistleblower and the Minister has said: "We got some information from him and we did not feel the need to talk to him." Is this not another case of simply avoiding the difficult evidence?

**Deputy R.C. Duhamel:**

No, I do not agree with that and furthermore I would recommend that if, indeed, the Deputy of St. Mary has any technical legal questions as to the sufficiency or insufficiency of the evidence that was obtained from the reluctant witness, then he address them to the Attorney General in whatever meetings that can be arranged.

**5.12.2 The Deputy of St. Mary:**

Can I query his use of the words "reluctant witness"; that is not the story that I am getting?

**Deputy R.C. Duhamel:**

In terms of criminal proceedings that are taken by this House, it is not right for any Deputy or any States Member to come to this House and to seek to prise out information in order to reopen a case



or, indeed, to pooh-pooh the decisions that have been undertaken. I repeat my offer; I think that if the Deputy wishes further information that can perhaps be given to him on a confidential basis, then he should seek a meeting with myself or, indeed, the ex-Minister or whoever is in charge and the Attorney General or other law officers, and perhaps that is the better way to conduct his investigations.

**The Deputy of St. Mary:**

Point of order; I am not trying to reopen the case.

**The Bailiff:**

I will come back to you at the end.

**5.12.3 The Deputy of St. John:**

Given that my Scrutiny Panel, of which the Deputy of St. Mary is the vice-chair, were reviewing the Energy from Waste plant/Ramsar scenario in 2009 and we requested on umpteen occasions to have this information; now that the Attorney General finds there is no case to answer, could the information now be forwarded to my panel so that we can close the file once and for all on this scenario?

**Deputy R.C. Duhamel:**

Probably; I will need legal advice on that. If indeed that is able to be done then I would be more than happy that that information be passed to the Scrutiny chairman.

**5.12.4 The Deputy of St. Mary:**

The guidance for the department consists of 3 documents in how to carry out investigations and one of them is the code on the decision to recommend prosecution. Under the general principles of that document - and this is what the Environment Department follows - we read: "It is important that the right person is prosecuted for the correct offence and that all the relevant facts are presented to the court." I would just like to ask the Minister how he thinks that all the relevant facts can be presented to the court when, again, the key person involved was not interviewed?

**Deputy R.C. Duhamel:**

It really depends on the interpretation of the words "key facts". The Deputy is at pains to suggest that the information that was taken from the representative has been insufficient in some way, but there is nothing further really that I can add in this particular forum.

**5.13 The Deputy of St. John of the Minister for Transport and Technical Services regarding the identification of sites for the recycling of waste materials.**

From the response to my written question on 20th June 2011 in which he advised that the response to P.97/2010 Recycling Waste Materials: identification of a suitable site would be presented by the end of June, would the Minister explain the reasons for the delay and when the report will be delivered?

**Connétable M.K. Jackson of St. Brelade (The Minister for Transport and Technical Services):**

Firstly, I would like to apologise for the delay in producing the report. Officers have undertaken a thorough review of all 22 possible sites in public ownership, which took longer than expected. The report is in final draft format to be reviewed this week before seeking political endorsement by the 3 respective Ministers in July.

[11:15]

### **5.13.1 The Deputy of St. John:**

Given the impact on residents in the area where recycling takes place, would the Minister agree that between his department and that of the S.o.J.D.C. and Planning; I do understand where he is coming from but a fair amount of feet dragging has taken place, in particular to the incident at the site at the top of Bonne Nuit.

### **The Connétable of St. Brelade:**

No. I am well aware of the site at the top of Bonne Nuit, which has been a quarry for many years and obviously has made a lot of noise and, I think, was there long before the houses adjacent were built. In practice it has been a working site for a long time, as the Deputy well knows. I am not confident, I will have to say, that the report will come up with the answers which the Deputy is expecting, because the relocation of the skip-sorting taking place down there is not going to be popular wherever it ends up. While I do not want to reopen the debate, I do anticipate that there will not be an easy answer.

### **5.14 The Deputy of St. Mary of the Chief Minister regarding the Napier Review.**

Can the Chief Minister explain why he maintains that the former Chief Officer of the States of Jersey Police offered in his letter to the Deputy Chief Executive dated 31st March 2010 to fully participate in the Napier review?

### **Senator T.A. Le Sueur (The Chief Minister):**

The letter of 31st March 2010 received from the former Chief Officer of the States of Jersey Police clearly states that the Chief Officer wished to participate fully in the review subject to 2 issues on which he requested clarification. The letter states: "For the avoidance of any doubt whatsoever, it is my firm wish to assist Mr. Napier with his review, provided that I am able to do so with a clear understanding of my position and the evidential status of any information covered by Mr. Napier while I am still subject to disciplinary notices." The 2 issues that are outstanding were relatively straightforward to address and on that basis, I was and I remain of the view that the former Chief of Police was willing to participate in the Napier review. **[Approbation]**

### **5.14.1 The Deputy of St. Mary:**

Yes, the Chief Minister has now at last clearly said orally as well as in answer to the written question of mine on 17th May, that there were qualifications to the statement of the former Chief Officer of Police that he was willing to participate in the inquiry. It was covered in provisos and caveats: "... provided that, in particular, the following 2 issues remain to be resolved." So what I want to know from the Chief Minister is how he can square that fact, that the Chief Officer of Police said that he would fully participate "provided that", with his statement, among many, but the particular statement on 30th November 2010, where he said in his first answer to an oral question - so it was a prepared answer: "The former Chief of Police confirmed to the Deputy Chief Executive in a letter dated 31st March 2010 [which is what we have just been talking about] that he would fully participate in the investigation." Can he explain his use of those words?

### **Senator T.A. Le Sueur:**

Yes. The words quoted are the words I quoted this morning: "For the avoidance of doubt, it is my firm wish to assist Mr. Napier with his review provided I am able to do so ..." The Deputy seems merely to be questioning whether I made it clear that there were caveats. I may not have made it clear in November that there were caveats because those caveats had been addressed, as the result of which, in my view, and it is my view, the former Chief Officer was indeed prepared and willing and anxious to assist.

**5.14.2 The Deputy of St. Martin:**

Would the Chief Minister agree that had the former Chief of Police been made aware that the terms of reference had been altered following the initial letter from the Deputy Chief Executive that the former Chief of Police would not have taken part in the inquiry?

**Senator T.A. Le Sueur:**

I do not believe that is the case but I cannot know what is in the former Chief of Police's mind.

**5.14.3 The Deputy of St. Martin:**

What happened was that part (d) was removed therefore there was a change in the terms of reference to which the Chief of Police was never made aware of. Would the Minister not agree that had he been made aware of the change to the terms of reference he may well not have taken part in the review?

**Senator T.A. Le Sueur:**

That is a hypothetical question but, in my view, the omission of that term of reference made no difference whatsoever when it was quite clear that the inquiry would still receive from the former Chief Officer of Police the statement referred to by the Deputy earlier.

**5.14.4 The Deputy of St. Mary:**

The Chief Minister has now told the House that his words: "The former Chief of Police confirmed in a letter dated 31st March 2010 that he would fully participate in the investigation." He has confirmed to the House that there were severe caveats to that willingness on behalf of Graham Power and yet he did not make those caveats clear to the House, even though they are there in black and white in the letter, as part of a prepared question. Can the Chief Minister comment on what that does for trust and transparency in this House and with the public?

**Senator T.A. Le Sueur:**

I think the Deputy is implying that the caveats, in his words, were severe. In my words they were relatively straightforward issues; it is a matter of opinion.

**5.15 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the worldwide income of 1(1)(k) residents.**

Will the Minister inform Members what powers, if any, there will be to identify and assess the worldwide income of 1(1)(k) residents under the proposed new tax regime?

**Senator P.F.C. Ozouf (The Minister for Treasury and Resources):**

1(1)(k) residents are treated exactly the same as any other taxpayer. They complete an annual tax return, which contains a complete and correct statement of their worldwide taxable income. The controller can then use his powers given to him under the Income Tax Law to inquire into their tax affairs, carry out any investigation of 1(1)(k) residents and raise additional tax assessments where he deems necessary. This has always been the case for 1(1)(k) residents and the proposed changes before the Assembly do not change those arrangements in any way.

**5.15.1 Deputy G.P. Southern:**

There is a fundamental restructuring of the 1(1)(k) tax regime which says that now all worldwide income beyond a certain limit will be subject to 1 per cent tax. Is it not the case that under the new regime this would encourage high net worth individuals to bring their businesses to Jersey and be charged a mere 1 per cent on the income that they derive from those businesses, compared with 20 per cent or 10 per cent for their competitors who are not 1(1)(k)s?

**Senator P.F.C. Ozouf:**

Yes, and I hope the Deputy enjoyed and benefited from the presentation given yesterday. So, I look forward, if the Assembly is persuaded by the arguments for the Treasury to introduce the new regime, for the first time to these 1(1)(k) individuals bringing their significant wealth and resources to the Island, creating jobs and boosting the financial services sector on the result of it, instead of having unfortunately the situation where 1(1)(k) residents do not bring their assets to Jersey and, in many cases - not that I am against Guernsey - run their affairs in Guernsey.

**5.15.2 The Deputy of St. Mary:**

The Minister has just talked about 1(1)(k)s boosting the economy with their investments. What measures will the Minister be taking to ensure that 1(1)(k)s, with their vast resources, do not squeeze out local businesses?

**The Bailiff:**

That is drifting a long way off the original question.

**The Deputy of St. Mary:**

He brought it in, Sir.

**Senator P.F.C. Ozouf:**

I am not sure whether the Deputy was at the presentation yesterday where there was a number of important questions asked and answered. I think one of the concerns is rental property income, which of course remains at 20 per cent across the board for both 1(1)(k) residents and others as a standard deduction.

**5.15.3 The Deputy of St. John:**

Would the Minister agree with me that the continual attack on 1(1)(k)s is sending out the wrong message to those people who have moved to the Island to make their home and it is creating a "them and us" society which is totally unfair to all.

**Senator P.F.C. Ozouf:**

I agree with the Deputy 100 per cent. Moreover, he also, I think, shared with some frustration the message that we were told from our external advisers that somehow the message had gone out from the Island that we did not welcome 1(1)(k)s and we were closed for business. I want to send out a very clear message that we are open for business, that this Assembly will consider this new regime and that we look forward to those 1(1)(k)s bringing business, bringing jobs, boosting prosperity to the Island and I thank the 1(1)(k) for their £313.5 million annual contribution to the tax take of the Treasury and all the other benefits that they bring. **[Approbation]**

**5.15.4 Deputy T.M. Pitman:**

In fairness to the Deputy of St. Mary, I should point out he was at Scrutiny yesterday, as I was. I did get there, of course. There are a lot more questions that were not answered yesterday but what I would like to know is, with this awful message that the Deputy of St. John was sending out, in 2010 a Jersey-based individual was about to make transactions of more than £90 million. Now, we are going to offer them to be taxed at 1 per cent. What kind of message is that sending out to the ordinary people being told to tighten their belts? It is an immoral message, that is what it is and it is a 2-tier society.

**Senator P.F.C. Ozouf:**

The Minister does not agree.

**Deputy T.M. Pitman:**

Did he answer?

**5.15.5 Senator T.J. Le Main:**

Will the Minister for Treasury confirm that Jersey is in strict competition with London, Ireland, Switzerland and other places to attract wealth creators such as 1(1)(k)s who contribute hugely to the wealth of their countries?

**Senator P.F.C. Ozouf:**

Absolutely, and that is the very valuable information that is contained within the report that has now been issued by the Treasury advisers. But this is, indeed, a competitive marketplace. High-net-worth individuals have options in terms of where they locate their business and the truth of it is that perhaps we have not been as successful as we should have been in the last few years in attracting these people. The regime before the Assembly is designed to deal with that and to send out the message that we want wealth-creators and we want their business and we value them and we respect them.

**5.15.6 Deputy G.P. Southern:**

Is it not the case that this is the significant reduction in the contribution from 1(1)(k)s that the Minister is expecting, as witnessed by the fact that in the past a 1(1)(k) with an annual income of over £1.5 million would be expected to contribute and would contribute something like £250,000, whereas now the new target is £125,000.

**Senator P.F.C. Ozouf:**

The direct target is £125,000 but of course there is going to be additional benefit to the economy over and above that. The deduction of any investments in Jersey property at 20 per cent, the other jobs and other income tax and other benefits that the economy will take, quite apart, of course, from the 5 per cent G.S.T. (Goods and Services Tax) on the local spending. These are all other aspects which are important to take into the round in deciding the 1(1)(k) regime to the Island.

**5.15.7 Deputy G.P. Southern:**

Does the Minister accept that in proposing that these particular businessmen pay only 1 per cent tax on their earnings, he is introducing an equitable system into the Jersey tax?

**Senator P.F.C. Ozouf:**

Of course, what the Deputy does not say is, of course, that they are paying £125,000 minimum contribution and they are likely to be paying significantly more than that. I doubt anything that I say in relation to 1(1)(k)s is ever going to persuade the Deputy. He will have his chance to vote on the regime when we debate it, hopefully later on in this sitting, in the Assembly and the democratic will of the Assembly will prevail.

**5.16 The Deputy of St. Martin of the Chief Minister regarding the establishment of anti-discrimination programmes.**

Following his statement made at the States meeting on 17th May 2011 about racial intolerance in Jersey, what steps, if any, has the Chief Minister taken to raise public awareness by establishing anti-discrimination programmes in schools, public service departments and the wider community?

**Senator T.A. Le Sueur (The Chief Minister):**

My statement on racial and religious intolerance was, in my view, the proper response to the abhorrent criticism of the Minister for Planning and Environment. However, this question allows me to stress some of the anti-discrimination work that exists within our primary and secondary school curricula, the equality and diversity policy that the States department has worked to, and most importantly, the role of the Jersey Community Relations Trust in combating discrimination in the wider community. One example of this is the survey they recently carried out in respect of the proposals for the discrimination law. The information about these programmes and policies is in the public domain and, while I would not wish to give the impression that discrimination is

widespread in Jersey, the actions of a few individuals has to be challenged in this Island which recognises and thrives on the diversity of all individuals.

[11:30]

**5.16.1 The Deputy of St. Martin:**

Has the Chief Minister any knowledge of the number of States employees, if any, who have been reported for making racist remarks during the last 12 months and, if so, what action, if any, has been taken against those people?

**Senator T.A. Le Sueur:**

I am not aware of any reports of such abuse; were that to be the case I would expect them to be disciplined by their line managers and further dealt with as appropriate.

**5.16.2 Deputy G.P. Southern:**

Does the Minister accept that age discrimination, in particular, is an issue and that one piece of legislation is backed up awaiting the promotion and the adoption of a discrimination law. When will he do so?

**Senator T.A. Le Sueur:**

The matter of timing for the discrimination law is in the hands of the Members of the House.

**5.16.3 The Deputy of St. Mary:**

When I last knew the budget of the Community Relations Trust was just £100,000 to deal with all these issues. Will the Chief Minister, first of all, commit to maintaining that budget and, secondly, will he think about increasing it, in view of the fact that as times change so the stresses in society will increase and the consequences do not bear thinking about if we get this wrong?

**Senator T.A. Le Sueur:**

I am pleased that the Deputy of St. Mary agrees with me on the value of the work done by the Jersey Community Relations Trust. The ongoing funding of that, as indeed all the aspects of States spending, will come under the microscope in September but I would certainly hope that that funding can be maintained and, if it is felt appropriate, increased, but that will depend on the business case to be put forward at that time.

**5.16.4 Deputy M. Tadier:**

Have any talks taken place between the Chief Minister and the Minister for Home Affairs to move this possible piece of legislation to the responsibility of the Chief Minister's Department and, if so, were those talks formal or informal?

**Senator T.A. Le Sueur:**

Yes. There have been talks at the moment on an informal basis; no doubt in the fullness of time they can be more formalised.

**5.16.5 The Deputy of St. Martin:**

In his answer the Chief Minister said he was not aware of any numbers of people that may well have been reported for racist remarks. As Chairman of the S.E.B. (States Employment Board), could I ask that he may ask around his department to see if, indeed, there are any people who have been found guilty or, indeed, have made these remarks, which gives some indication to other States Members whether, indeed, the remarks made against the former Minister for Planning were once in a lifetime remarks or, indeed, it is endemic in the Island that there is far more racism than people would like to believe?

**Senator T.A. Le Sueur:**

I am not sure that the time of members of the States Employment Board or, indeed, of the Human Resources Department is best served by trying to find among the 7,000 employees in the States whether anyone at any time makes improper remarks. If those remarks are made and overheard and cause distress then there is a duty on those staff to bring that to the attention of management and to the Human Resources Department and ultimately to S.E.B. I said in my response that I have no knowledge of any such occurrences and I would hope that that would continue.

**5.17 Deputy T.M. Pitman of the Minister for Home Affairs regarding the resignation of a States of Jersey Police Officer.**

Will the Minister advise whether a disciplinary investigation was pending in respect of the States of Jersey Police Superintendent who recently resigned after just a few months in his post, and, if so, what was the basis for this investigation and will he advise whether the officer concerned received a final salary settlement outside of his contracted entitlement?

**Senator B.I. Le Marquand (The Minister for Home Affairs):**

The superintendent in question resigned and no disciplinary investigation was pending. The officer did not receive any salary supplement outside of his contracted entitlement.

**5.17.1 Deputy T.M. Pitman:**

I thank the Minister for his answer and I am interested in it. Could he not confirm that what under lay this included allegations of sending out another on-duty officer to fetch a takeaway and, far more seriously, allegations which I could only describe as of a sexual harassment nature? If that is the case, why has that not been made public?

**Senator B.I. Le Marquand:**

I am not going to comment publicly on the reasons why an individual has resigned as that would be very unfair to the individual. Personal reasons should not be made public. If hypothetically there were issues of complaint against an individual and that person then resigned, those issues should also not hypothetically be made public as that would be unfair because there would have been no proper investigative procedure or anything of that nature. So, I would neither comment in either set of circumstances hypothetically. The fact is that despite a proper appointments procedure this appointment has not worked out. The situation has been dealt with speedily and satisfactorily and a replacement appointment has been made.

**5.17.2 Deputy D.J. De Sousa:**

I wonder if the Minister could inform Members why, when the original appointment was made, nobody on Island was found to be able to carry out this position and yet somebody now from the Island is carrying out the position?

**Senator B.I. Le Marquand:**

That is not correct. Unfortunately there was a very misleading article, which had even more misleading headlines in the *Jersey Evening Post*, which gave the impression that I was saying that there was nobody suitable in the Island to carry on this post. Anyone who read later on in the article would see what I was saying but that got buried by the very misleading headline. Fortunately, the article in the *Jersey Evening Post* recently, when I was re-interviewed on this matter, did correctly state that which I have always been saying, and that is that in relation to this particular post that there was a local applicant who was appointable, but the view of those interviewing was that the gap in ability, experience, et cetera, et cetera, between that person and the non-local person was too great and that local knowledge and experience was not sufficient to compensate for that gap. That was the view of the initial appointments board and that is, in fact, what I told the press although they misreported me.

**5.17.3 Deputy A.E. Jeune:**

Could the Minister just advise the Members, are the States of Jersey Police contracts, like other States and business contracts that, in the first few months of taking up an appointment you can choose to leave or you can be asked to leave quite easily; there is no big deal about it?

**Senator B.I. Le Marquand:**

That is exactly the position. The officer concerned, of course, resigned during his probationary period.

**5.17.4 The Deputy of St. John:**

Could the Minister explain to us how the gap of the experience between the 2 officers was overcome?

**Senator B.I. Le Marquand:**

That was overcome by the resignation of the first officer. As I said before, it was always reckoned that the Jersey-based officer was appointable; simply that the gap between, in the view of the appointments board, was too great to be compensated for by local knowledge. It is well-known that I am very keen to see local appointments made whenever that is possible. That is my view and that has always been my view. The issue is what weight you give in relation to any individual appointment as to the value of local knowledge. Those who might re-read my campaign literature from 2008 might find that I was saying there that I do not feel that sufficient weight was being given, but at the end of the day there is a limitation to the degree of weight that can be given for that. That is a matter for assessment by individual appointment boards in these cases.

**5.17.5 The Deputy of St. Martin:**

I am sure the Minister feels terribly let down by possibly the process that allowed this officer to come to Jersey but one lesson surely must have been learned? Can I have an assurance from the Minister that that lesson has been learned that when references are produced at interview boards that they are thoroughly checked and not just accepted, because we all know that there can be very good letter writers?

**Senator B.I. Le Marquand:**

I am satisfied that things were done properly and professionally and things were checked but, nevertheless, in this particular case I have said things have not worked out.

**5.17.6 Deputy J.B. Fox of St. Helier:**

In light of this recent incident, can the Minister assure the States that there will be a review on our succession planning for the benefit of future applicants?

**Senator B.I. Le Marquand:**

Recently there was an excellent report produced by my Scrutiny Panel, to which I have not yet replied, to indicate that in my view it was excellent, with one error, in my view, in it. But apart from that one error it was an excellent report; it highlighted exactly how we have arrived in this situation. My own view, not just for the police but right across the States is this; if we are serious about succession planning of local officers we are going to have to invest in them. We are going to have to invest in their training; it is going to cost. I think what has happened historically has been this; when there has been a paring down of monies in relation to areas, what tends to go first or very early is money on training and when that goes, so does succession planning. **[Approbation]** So, we have to face that and I firmly believe that if it is the will of the Assembly and of the Island that we should be developing our own officers as much as we can, we must invest in them.



**5.17.7 Deputy T.M. Pitman:**

I fully support appointing our own people. What I would like to ask the Minister, following on from other questions, is that it is my understanding that the local appointee now scored fourth, I think, out of 4 candidates, so I could ask the Minister what happened to the other 2 in the middle who, presumably, were viewed as better candidates? Were they no longer available or how did that process work?

**Senator B.I. Le Marquand:**

There were other candidates who scored quite highly but I understand that there were particular issues in their cases. These were not local candidates, there were particular issues in their particular cases and, as I say, one has to give appropriate weight to local knowledge.

**5.18 Deputy M. Tadier of the Chairman of the Consumer Council regarding businesses in the Island that did not pay tax in Jersey.**

Will the Consumer Council undertake to obtain and publish a full list of trading businesses in the Island who do not pay tax in Jersey on the basis that it is of interest to consumers who wish to shop in an informed way?

**Senator A. Breckon (Chairman of the Consumer Council):**

The Consumer Council does not have access to this information or have the resources to compile a full list of those trading businesses in the Island who do not pay Jersey tax, which would extend well beyond the High Street. However, along with others, the Consumer Council has in the past and will indeed continue in the future to highlight those U.K. companies and others trading in the High Street and elsewhere who charge U.K. equivalent prices including Value Added Tax, so that consumers can make informed choices.

**5.18.1 Deputy M. Tadier:**

I note that the Consumer Council chairman has the same problems I do in not having access to information. I think we both have the same frustration around that. I take on board the comments about the U.K. prices being charged in Jersey. Will the Consumer Council chairman undertake to highlight where there are instances of companies perhaps providing comparable services? We know of one to do with De Gruchy's and Voisons; one pays tax locally, the other one does not. Will he undertake, where it is possible, to highlight such instances so that the Jersey taxpayer and shopper can know that when they spend their money over here a greater percentage of that money will remain in the local economy, which is something to be encouraged, I think, from both the Minister for Economic Development and from us all?

**Senator A. Breckon:**

Within the last 12 months I have contacted over 60 companies who are visibly trading, asking them what their policy is on U.K. equivalent prices and the charging of V.A.T. (Value Added Tax). One of the things I did ask them to do was to have better signage so it was clear what their policy was so that people shopping there could make informed choices, and I think that covers the point of what the Deputy was asking.

**5.18.2 Deputy A.E. Jeune:**

Would the chairman agree that Jersey-registered companies could benefit consumers in the Island by putting a sign in their window or on their invoices; have it that we are a Jersey-registered company and pay Jersey tax?

**Senator A. Breckon:**

Tax is an issue but it is not necessarily an issue for the Consumer Council. What is an issue is the U.K. equivalent prices and, along with campaigns from the *Jersey Evening Post*, formerly the watchdog group which was set up in 1988 and included Members of this House and was indeed

sponsored through this House, so it is a long campaign but the Jersey tax is not just the issue, it is the consumer price which includes Value Added Tax.

[11:45]

**5.18.3 Deputy T.M. Pitman:**

Much in the same theme, I appreciate the limits of the Consumer Council's powers but being it has got to be a concern for Jersey's taxpayers to the shambles really of Zero/Ten, would the chairman be willing to work with Economic Development and the Treasury so that we could get an identification of these firms who are paying no tax and not contributing to our economy?

**Senator A. Breckon:**

Indeed, we have done campaigns which are touching on the same thing but it is not necessarily about Jersey tax, it is about Value Added Tax and there have been campaigns, including the Chamber of Commerce who had a view about the *Jersey Evening Post* and other groups as well and it has been fairly high profile and indeed it will continue, but it is not just about Jersey tax because companies paying Jersey tax can be charging V.A.T.

**5.18.4 Senator S.C. Ferguson:**

Does the Consumer Council chairman not agree that it is not under the Zero/Ten system, the company which pays the tax; it is the shareholder on their dividends, and that apart from finance companies and utility companies, no Jersey company pays tax?

**Senator A. Breckon:**

That is a technical issue; I am not sure that it is an issue for the consumer.

**5.18.5 Senator P.F.C. Ozouf:**

Does the chairman know whether or not his organisation has carried out any research into whether or not there are more or less companies charging U.K. V.A.T. compared with, say, 5 years ago and has he done any comparative work with Guernsey retailers on the same subject?

**Senator A. Breckon:**

The issue is quite complicated and it is something, when you start looking at it, it is not that simple, because, for example, Guernsey does not charge G.S.T. and there is also the issue that people are not just buying things in the local High Street; they are buying them on the internet. Again, some companies are geared up to Jersey being zero rated for V.A.T. and others are not, so it is a complicated piece of work and I would, with the Minister for Economic Development and the Minister for Treasury; I would be pleased to work with any of those to try and make sense of some of this.

**5.18.6 The Deputy of St. John:**

Given that a recent supermarket group has moved into the Island, is the chairman of the Consumer Council aware that they are now taking away local franchise within the Island and, therefore, people are being made redundant. Local companies who pay tax are losing business to these companies from outside the Island who move in and pay no tax on Island. Is the chairman aware of this?

**Senator A. Breckon:**

I am aware that on a number of occasions this has happened; where somebody has had a franchise or an agency for a business to import things from the U.K. and France, where a bigger operator has moved in and they have had the muscle or the clout to take that away from them. I am aware of that. Whether that is to the detriment of the consumer, I am not sure.

**5.18.7 Senator J.L. Perchard:**

Does the chairman of the Consumer Council realise that no company, unless it is a utility company or a financial services company, pays tax in Jersey and will he join me in asking or requesting the Minister for Treasury to hold some sort of briefing for Members so that they can really understand how we tax corporations and how, with the look-through being withdrawn, local shareholders will no longer be liable for a deemed payment and will only be liable for taxation on any dividend that they will receive. There is an ignorance in this House that is worryingly frustrating and I think the Minister for Treasury must explain to Members exactly how our tax system works.

**The Bailiff:**

These questions are for the Chairman of the Consumer Council at the moment.

**Senator A. Breckon:**

That extends well beyond the remit but, as I said in an earlier answer; I am willing indeed to work with the Minister for Treasury and Minister for Economic Development on this. If there are some misunderstandings with this then I think clarity is the way forward, but the issues that the Senator has just touched on are wider than the remit of the Consumer Council.

**5.18.8 Deputy M. Tadier:**

If I can just say to Senator Perchard, it is completely understood by myself. This is a question about where tax on profits are paid and clearly it is understood that if shareholders are not resident in Jersey, then profits do not get paid to Jersey; if they are, tax on profits go to Jersey. That is the distinction. I would ask the Consumer Council chairman to reconsider his statement that this is not an issue for the Consumer Council, because customers when they shop do so for a variety of reasons. They choose their goods and their services based, for example, not simply on cost but also on other factors to do with where the goods were produced, whether they were produced ethically and whether money is going to be staying in the Island. So, the question I would ask is that would the chairman take on the very sensible and constructive suggestion of my colleague from St. Brelade, Deputy Jeune, to encourage businesses themselves who are registered and do pay tax on their profits in Jersey to put a sticker or something similar on their door so that customers will know that their money is staying in Jersey rather than being sent out of the Island without any benefit to the Island?

**Senator A. Breckon:**

Indeed, we have done that over the years, since 1995. It is about getting information into the public domain so that people can make informed decisions and purchases and that is what this is about. People can make decisions on that for ethical reasons or for fair trade reasons or for whatever it may be and that is one of the things that we have done over the years and will continue to do so, and it includes the issues that the Deputy has touched upon.

**6. Questions to Ministers Without Notice - The Minister for Housing**

**6.1 Senator F. du H. Le Gresley:**

As the Minister supported the re-zoning of Samarès Nurseries site during the recent debate on the Island Plan, will he be lobbying the new Minister for Planning and Environment to bring back this site as an H1 site for affordable housing?

**Deputy A.K.F. Green of St. Helier (The Minister for Housing):**

My view is that currently we have it very clearly on record that we are looking for States-owned sites to provide the social rented housing. We should get on with that work, allow the H1 group and the H3 group to do their work and then review where we are, having released some sites, hopefully, to the States rental housing in view of where we are and see whether it is appropriate to bring back brown field sites such as Samarès.

## **6.2 Deputy D.J. De Sousa:**

I am rather surprised it was that quick. I wonder if the Minister could inform the House, either now or by email, as to the number of properties within Housing that are suitable for families with disabled children and also the number of properties that are likely to come online that would be suitable for families with severely disabled children?

## **Deputy A.K.F. Green:**

This is an area that I have particular interest in but I am afraid I do not have that information available at the moment. I do know that we have insufficient adapted accommodation for people with disabilities. It is a stream of work that we are working on at the present time and I am happy to provide Members with that information by email.

## **6.3 Deputy M. Tadier:**

Will the Minister give an update on progress at the Les Quennevais site, Belle Vue, St. Brelade, and if he does not have the information handy at the moment, will he undertake as a matter of urgency to talk to the Property Holdings Department to ascertain what the future of this site will be?

## **Deputy A.K.F. Green:**

I have to say that this is one area, the Les Quennevais site, that both concerns me and which I know not that much about so I do undertake to come back to the Deputy and to the Members with information on that. I understand from memory that there is a problem around the use of the land and planning but it is something I need to come back to.

## **6.4 Senator S.C. Ferguson:**

We hear a lot about the way forward for the Housing Department; when can we expect to see the Green Paper?

## **Deputy A.K.F. Green:**

You will not see a Green Paper; the Green Paper was already done before I was in post but there will be a White Paper and that will be in September. It has taken a little longer than I hoped it would take but there are 90 different work streams currently being undertaken. I have to say that the knobbling around the financial side has been one of the most complex pieces of work that our advisers have ever worked on but it is in hand and I am determined to see that we get this White Paper out to get people's comments back on it in September.

## **6.5 The Deputy of St. Mary:**

I just wanted to know from the Minister whether he has a view on what kind of level of spare capacity ideally he would have in the system for social rented housing to allow transfers and movement so that people are housed adequately and in suitably-sized accommodation but also without necessarily leaving their existing communities. What is the level of extra provision that he thinks is desirable and will that be figuring in the White Paper?

## **Deputy A.K.F. Green:**

Currently it is not extra provision that I need to worry about, it is provision for people on the waiting list. We have currently 461 families on the waiting list and that is where my priority is at the present time.

## **6.6 Senator T.J. Le Main:**

During my tenure as Minister for Housing, I was concerned at the amount of planning costs in relation to the development of social housing, particularly the regeneration of estates such as Le Squez. During my tenure I had an assurance from the Minister for Planning that he would look at these individual costs incurred by social housing providers, such as Housing. Will the Minister

please try to achieve developments for social housing without the need for paying hundreds of thousands in planning costs associated with development, as would the private sector?

**Deputy A.K.F. Green:**

I wonder sometimes if the Senator has bugged my office with some of the questions that he asks me. This is a conversation I had with officers only about 3 days ago and I do give an assurance that I will discuss this matter with the new Minister for Planning, because it seems to me ludicrous just to be moving money around within the States departments and it is something that I will be discussing with the new Minister for Planning.

**6.7 Senator J.L. Perchard:**

Will the Minister request the economic adviser to undertake a study and produce a report to identify the affect that the housing element of the income support payment has upon rental prices and house prices?

**Deputy A.K.F. Green:**

I am sorry; could the Senator just ask who he suggested I ask to undertake?

**6.7.1 Senator J.L. Perchard:**

The economic adviser of the States of Jersey.

**Deputy A.K.F. Green:**

Thank you. This is a piece of work that is already underway as part of the Housing Transformation Programme. [Approbation] I do have some concerns about the current rent rebate scheme inasmuch as I do not think it does what it says on the tin, and I think it has been responsible in the private sector for the increase in rents rather than supporting those that need help. While I have not asked the economic adviser to do it, I have asked my advisers and consultants that we are using to look at this, just because I am very concerned that we are funding people inappropriately. I will just make these figures up because you would be very lucky to find rent at £100, but if you were paying £100 rent and we were supporting the person with £20 rent rebate, or whatever the system is now called, it does not mean the person pays £80. It means they continue to pay £100 and the landlord gets £20 and that is fundamentally wrong and we need to do something about it.

**6.7.2 Senator J.L. Perchard:**

If I could pin the Minister down; I did say will he ask the economic adviser to undertake a study to identify the affects of the payments?

**Deputy A.K.F. Green:**

No, I will not because we are already doing the work separately.

**6.8 Senator S.C. Ferguson:**

The Minister mentioned 461 people on the waiting list. Does he have the time-in-Island profile of these 461? How many 10 years, how many 12?

**Deputy A.K.F. Green:**

No, I do not have that at the present time. I will see if I can get it and pass it to Members.

**6.9 Senator T.J. Le Main:**

Could the Minister have a word with the Minister for Treasury and Resources, please, in regard that currently in the property market there are many family homes that would be suitable price-wise for first-time buyers but the difficulty is accessing the loan or the deposit? Would he please convey my message to the Minister for Treasury that a guarantee to assist first-time buyers to access homes in

the private sector, which in many cases, are now affordable if assistance was given, with a rental deposit guaranteed by the States?

[12:00]

**Deputy A.K.F. Green:**

I think the Senator has already told the Minister for Treasury what he feels, but all jokes aside, I do think that we need to look at, as a separate work stream - I must get transformation programme up and running first - I do think we need to look at the States loan scheme. Only one States loan was made out last year and I think the States loan scheme as it was before would have supported this sort of initiative. You cannot tie up in today's world millions and millions of pounds of our assets in mortgages, but I do think we can work smarter working with the banks. Another separate piece of work, but I am going to concentrate my efforts between now and the next election on the transformation programme, otherwise I am in danger of trying to do everything and achieving nothing.

**6.10 Deputy A.E. Jeune:**

Just going back to Senator Ferguson's question, would the Minister be prepared to give Members a breakdown of the numbers on the waiting list by years of residency?

**Deputy A.K.F. Green:**

I would be prepared to do that if it is easy to access that information, what I would not be prepared to do is to tie up officers in hours and hours of work. But if it is easily accessible then I will do that.

**6.11 Deputy G.P. Southern:**

Is the Minister aware of any arrangements in place to replace the £10,000 from the Prison? Me! No Way! scheme which unless replaced will result in Prison? Me! No Way! closing?

**Deputy A.K.F. Green:**

First of all I would like place on record my admiration for the work that the Prison? Me! No Way! and the team do. We have support as the Housing Department, we have supported Prison? Me! No Way! to the tune of £107,000 to date, but currently I have no plans to extend the working agreement that we have had with them because our agreement has come to an end, we do not extend it. Now to get to the point that the Deputy was asking me, there is no need for Prison? Me! No Way! to close because they have not got that £10,000, in fact they had asked us for £20,000. They have in reserve £60,000 at the current time. I have some very difficult choices to make. Prison? Me! No Way! needs to continue its good work, to target its work where it would have the most effect, there is no need for them currently to close because they do not get a grant from the Housing Department. That decision is made against things like adapting homes for disabled people. I have very tight budgets to work to. Prison? Me! No Way! is an excellent organisation and can continue to work with the £60,000 it has in its reserves at the current time.

**6.11.1 Deputy G.P. Southern:**

If I may, a supplementary? So the Minister is unaware of any measures to replace that missing £10,000 and he also appears to be unaware that effectively Prison? Me! No Way! is a franchise and unless the funding is in place Prison? Me! No Way! will close come next year. Is the Minister happy with the situation?

**Deputy A.K.F. Green:**

I do not run Prison? Me! No Way! They have £60,000 in reserve, they must target their work where they think it is appropriate.

**Deputy D.J. De Sousa:**

Sorry, my question has been asked.

**6.12 The Deputy of St. Peter:**

What action, if any, would the Minister take to protect the people living in non-qualified accommodation from poor landlords?

**Deputy A.K.F. Green:**

I have been working with the Minister for Health particularly to have new legislation coming forward on the minimum standards of accommodation. Of course, the Tenancy Law will cover some of the arrangements around the contractual side, but in terms of the standard of accommodation there is work to be done and the Minister for Health has a law almost ready to come forward for debate. I do not know if it will be in the life of this Assembly, but we are not far off bringing that forward.

**6.13 The Deputy of St. Martin:**

Given that there are over 450 people on the Housing waiting list, is the Minister still minded to sell off those properties in States rental at the moment, such as those at St. Catherines(?)? Would the Minister not consider it may be better to house some of those 450 rather than sell off those properties?

**Deputy A.K.F. Green:**

That is a very interesting question because it is something that has concerned me in my time as Minister for Housing. In fact I have blocked a number of sales on estates where I have not thought it was appropriate. I do think it is appropriate to sell some of the properties and what I call generally realigning our stock, there are some properties that we have that do not fit with the profile that we have at the Housing Department. There are some properties that are old, that need to be disposed of, that stand alone and just not for us. So, in short, I will not be selling off the majority of our stock, I will be realigning our stuff so that we have got modern, good accommodation for our tenants and allow other people to buy older property such as those at St. Catherines that they can do up and provide good family homes.

**6.14 Senator T.J. Le Main:**

I would like to follow up the question from the Deputy of St. Peter who asked the question of the Minister about bad landlords, how would he deal with bad landlords; could the Minister please explain how he would deal with bad tenants and good landlords?

**Deputy A.K.F. Green:**

That is an interesting question because what I should have said, of course, there are some bad landlords but there are many good landlords as well and I meet with them and discuss with them fairly regularly. It is a fine balancing act between looking after the interests of the tenants and those tenants that abuse the homes and the accommodation that are provided by landlords. It is a fine balancing act and something that I am working on all the time.

**6.15 Deputy G.P. Southern:**

Can the Minister explain to Members why his Transformation Plan has yet again been delayed, I understand until September, when it was due to be before us at the end of last month?

**Deputy A.K.F. Green:**

It was due be before us some time in July. It is because, as I said before, it is one of the work streams and there are 90 separate work streams, not helped by spending so much time in the House working as well, but there are 90 different work streams and our advisers on the financial side say it is the most complex piece of work that they have ever undertaken. I want this to come to this

House in the correct format, in a format that will work and not something cobbled together because of the need to get it done in haste.

## **7. Questions to Ministers Without Notice - The Chief Minister**

### **7.1 Connétable G.F. Butcher of St. John:**

My question relates to the written question I had in today, question 14 and the question was based on the enhanced pensions that many of our public sector employees have in their terms of contract. The last part of my second question has not been answered and it was to advise the total cost of these enhanced payments to the public purse. I wonder if the Chief Minister would forward that at some time to Members?

### **Senator T.A. Le Sueur (The Chief Minister):**

Yes, if I can just briefly try and find the question that the Constable refers to. Yes, I will endeavour to do that but it may take a little bit of time to collate.

### **7.2 The Deputy of St. Martin:**

Last night the Chief Minister and Members will have received an email from a resident raising concerns in relation to compensation to victims of historical child abuse. Will the Chief Minister update Members of the procedure in place to handle claims and are the claims being processed in good order?

### **Senator T.A. Le Sueur:**

The manner in which claims are being addressed is a matter of ongoing negotiations between the Council of Ministers and our legal advisers. At this stage all I can say is it is progressing satisfactorily but at a slower pace than no doubt some of the claimants would have liked.

### **7.3 Deputy G.P. Southern:**

Will the Minister confirm that no concrete proposals have been tabled for the employee representatives to look at the way forward for changes to their terms and conditions as yet?

### **Senator T.A. Le Sueur:**

There have been, to the best of my knowledge, no concrete proposals discussed with employee representatives at this stage. I think, rather than a step forward concrete proposal it is a matter for exploration and discussion about the best way to proceed.

#### **7.3.1 Deputy G.P. Southern:**

Is the Minister content that no negotiations are yet to take place because no proposals have been brought to the table by the States Employment Board and when will he do so and when will he reveal to Members what those proposals are to save £14 million or is he wishing to abandon £14 million of savings from terms and conditions?

### **Senator T.A. Le Sueur:**

I think the Deputy is trying to put words into my mouth and I was very careful to say that there would be no concrete proposal discussed. There have been discussions with employer representatives on a general basis. It is my objective, the States clear objective, that the savings to be derived from terms and conditions will indeed be so derived.

### **7.4 Deputy A.E. Jeune:**

I would be grateful if the Chief Minister could clarify for me and Members the set up in his department. The reason I ask this is because the statement made by the Minister for Treasury and Resources on 30th June 2011 in respect of Lime Grove referred to the Acting Chief Executive Officer and the Assistant Chief Executive. How many senior staff are in this department, and I do not expect him to be able to give it fully, would he be prepared to give it to Members in writing?



**Senator T.A. Le Sueur**

The Assistant Chief Executive post is one that has been in there for many years and that person is currently being tasked with the particular activity of resolving the issue relating to a new police headquarters. The Acting Chief Executive is of course a temporary role pending the appointment of a new Chief Executive and is currently being filled by the Deputy Chief Executive in a holding capacity.

**7.4.1 Deputy A.E. Jeune:**

Sorry, just on a point of clarification, does that mean we do not have an Acting Deputy Chief Executive?

**Senator T.A. Le Sueur:**

That is correct.

**7.5 The Deputy of St. Mary:**

The Chief Minister on 10th November 2010 said in answer to the Deputy's questions, that is the Deputy of St. Martin, in October/November of this year: "I refer to the changes that were made to the terms of reference of the Napier inquiry and to the confirmation received from the former Chief of Police that he would fully participate in the investigation." Now that the Chief Minister has admitted that the confirmation was heavily qualified and indeed conditional on certain conditions being met, can the Chief Minister explain why he did not mention these caveats to the Assembly on this occasion and on other occasions?

**Senator T.A. Le Sueur:**

I thought I answered that question earlier this morning. I take issue with the Deputy that the comments were heavily qualified or of serious concern. In my view they are matters of detail, which were satisfactorily resolved and evidenced in fact by the fact that the former Chief of Police did fully participate in the Napier Inquiry.

**7.5.1 The Deputy of St. Mary:**

Can I ask a supplementary? Is the Chief Minister claiming that there were no important consequences of making this omission of the truth?

**Senator T.A. Le Sueur:**

I take objection to the words: "Omission of the truth." I do not believe there has been anything untruthful or a significant omission made. What was said in November and what I repeated today is that the matters in concern were, in my view, matters of detail which had been satisfactorily resolved.

**7.6 Senator F. du H. Le Gresley:**

Can the Chief Minister name the facilitator appointed to deal with drawing up terms of reference for a committee of inquiry into historical child abuse and advise when he or she will commence work with all interested parties?

**Senator T.A. Le Sueur:**

It is not normal practice to name or give individuals' names in this respect. I would say it is a senior executive within the Verita organisation who has been appointed and, as far as I know, has already commenced activities in dealing with the process of the child abuse inquiry following the proposals of the Deputy of St. Martin and the Senator earlier this year.

**7.7 Senator J.L. Perchard:**

What message will the Chief Minister give to the 270 unemployed 16 to 19 year-olds as well as the young people leaving school and Highlands and graduating this month regarding their employment prospects?

[12:15]

**Senator T.A. Le Sueur:**

I would give them the message that it is important that they seek to be as well qualified and well experienced as they possibly can. To seek higher education wherever possible, to apply where necessary for schemes such as the work placements and other employment opportunities being put forward with the help of the Education Department and the Minister for Education and also that they support my view of ensuring that we have a thriving economy which enables new jobs to be created in different areas to give a variety of opportunities.

**7.8 Deputy M.R. Higgins:**

Could the Chief Minister tell the House whether the former Chief Executive is employed in any capacity including in a consultancy or advisory capacity or are there any plans in the future to use his services?

**Senator T.A. Le Sueur:**

The former Chief Executive is not employed in any advisory capacity and I have no indication that he would be applying to or eligible or wanted to do any work in the future, but certainly in the present time the answer is no.

**7.9 Deputy D.J. De Sousa:**

Bearing in mind the Minister's reply to my written question number 20, does he have any views as to whether there is possibly going to be an end to the monetary unit of the euro and does he have any ideas on the concerns that have been voiced by the Bank of England about the possible reoccurrence of a financial downturn due to the U.K's amount of funds that they have put in to keep the euro afloat in Ireland?

**Senator T.A. Le Sueur:**

The concerns about the economic situation primarily in Greece, which the Deputy referred to in her written question, are ones which concern, not just the U.K. economy, but States throughout Europe. In Brussels last week that was the major topic of conversation among the people that I spoke to and it is in everyone's interests, not just the U.K.'s, to ensure that any financial downturn is avoided or minimised. The effects of the situation in Ireland is just one aspect of that, the overall situation is one which affects every country in Europe in different degrees, for example, in Greece it is some of the banks in France and Germany which are heavily exposed, but this is a contagious problem which everyone is doing their best to make sure it is minimised.

**7.10 Deputy T.A. Vallois of St. Saviour:**

Could the Chief Minister advise if his department are still responsible for the Social Policy Framework and if so when will a new policy be established and reported to the States on the back of the Strategic Plan of 2009-2014?

**Senator T.A. Le Sueur:**

Yes, my department is still responsible for the Social Policy Framework. I am disappointed that matters have not progressed as quickly as possible, but rather in the same way as the Minister for Housing has said earlier, matters in the States have taken up so much time in recent weeks that it has been difficult to fit meetings in.

**7.11 Deputy G.P. Southern:**

In his response to my written question 32, the Minister says: "Pay budgets remain unchanged." In the Annual Business Plan for 2012: "Remain unchanged from 2011." Does that mean there are no pay rises for public sector workers written in to the Annual Business Plan 2012?

**Senator T.A. Le Sueur:**

What I have said in my written answer, I stand by.

**7.11.1 Deputy G.P. Southern:**

For the sake of clarity, will the Minister interpret that statement for us? Will there be any money written into the 2012 Business Plan for any pay rise, cost of living pay rise?

**Senator T.A. Le Sueur:**

At the moment the objective is to achieve savings of £40 million over the years 2012 and 2013. Whether that takes the form of pay budgets remaining unchanged or changes in terms and conditions remain up for discussion. What is clear is the amount of money available is fixed.

**Deputy G.P. Southern:**

So that means no.

**The Bailiff:**

Are there any other questions of the Chief Minister?

**7.12 Deputy G.P. Southern:**

Yes, certainly. It is a rare occurrence that you get more than one go at the Chief Minister and I would not want to turn it down in any shape or form.

**The Bailiff:**

I will tell you to hurry up.

**Deputy G.P. Southern:**

Yes, I am sure it is ticking. Where is that follow up I wanted? The Minister for Treasury and Resources says a full study has been done of comparative overall tax rates for various situations between us and our competitors. Will the Chief Minister request the Minister for Treasury and Resources to release that data as soon as possible?

**Senator T.A. Le Sueur:**

I am not aware that that was confidential. I am sure I would be more than happy for the Minister for Treasury and Resources to release comparative overall tax data, which I am sure will show that Jersey is one of the lowest paying jurisdictions in the world and necessarily so if we are going to compete and secure business opportunities in order to provide, for example, the employment opportunities that Senator Perchard referred to earlier.

**Deputy G.P. Southern:**

Supplementary?

**The Bailiff:**

No, no, I think you have had a fair crack, Deputy Southern.

**7.13 Deputy A.E. Jeune:**

Just continuing from my earlier question, can the Chief Minister confirm then that his department is making savings on staffing costs? Thank you.

**Senator T.A. Le Sueur:**

Absolutely.

**7.14 Deputy M.R. Higgins:**

Could the Chief Minister tell us what the budget is for his Assistant Minister for Foreign Affairs and what sort of figure he anticipates he will be spending between now and the end of the year when he retires from politics and where he will be going in the meantime?

**Senator T.A. Le Sueur:**

The overall budget for the Chief Minister's Department was set last year and likened to different areas. That budget remains unchanged. How it is applied will be a matter for continued discussion for the rest of the year in terms of our priorities.

**7.14.1 Deputy M.R. Higgins:**

The Chief Minister was asked specifically what the budget was for the Foreign Affairs side of his budget. He must know that.

**Senator T.A. Le Sueur:**

Not off hand, I can find out, but in fact it is published in the space the financial budget for last year and I refer the Deputy to that document.

**7.15 The Deputy of St. John:**

In referring to us that document, could the Minister remind us what the budget for his department is for 2011 and what trips he has planned between now and his retirement at the end of the year?

**The Bailiff:**

The budget must be a matter in the public domain already.

**Senator T.A. Le Sueur:**

Yes, thank you. In terms of visits for the remainder of the year, at this stage I have none, other than possibly routine visits to France or Brussels, which are necessary if we are going to maintain and develop these sort of business links that we need to do to further the interests of the Island. I have no other major trips planned for this year, but there will no doubt be trips, for example, to the U.K. on various occasions to be shared between myself and my Assistant Minister.

**7.15.1 The Deputy of St. John:**

Supplementary? Given that the figures are in the public domain, I ask if the Minister could remind us because we do not all walk around with the necessary documents in our pockets.

**The Bailiff:**

Standing Orders refers to not asking questions about information in the public domain.

**The Deputy of St. John:**

I was asking if he could remind us and it is the Chief Minister's question time.

**The Bailiff:**

It is out of order, that question. I am sorry.

**The Deputy of St. John:**

I will give over to the Chair.

**The Bailiff:**

This is very good of you, Deputy. **[Laughter]** That brings matters to an end.

**The Connétable of St. Peter:**

If I may, would it be opportune time to test the mood of the Chamber, given the amount of matters we have got on the Order Paper for this week and also next week, whether Members would be minded to return to the hours we were doing last week on the Island Plan debate starting at 9.00 a.m. and finishing at 6.00 p.m. I would like to test the mood of the Members.

**The Bailiff:**

That is a matter for Members. Are you making a proposition to the Assembly, section 94(6)?

**The Connétable of St. Peter:**

Yes, I think we all have other duties to perform outside of sitting in the States as well and it would be useful if we could concentrate our efforts in the time available to give us some time hopefully towards the end of next week to put in the work.

**Deputy G.P. Southern:**

May I suggest that we do not make a decision now on the hoof, but we return to it after lunch.

**The Bailiff:**

Are you happy with that?

**The Connétable of St. Peter:**

As long as we make a decision today, that would be good. Thank you.

**STATEMENTS OF A MATTER OF OFFICIAL RESPONSIBILITY**

**8. The Minister for Transport and Technical Services made a statement regarding cycle helmet legislation**

**The Bailiff:**

Very well. Then we come next to a statement which the Minister for Transport and Technical Services will make concerning cycle helmet legislation. Well, he would if he were here. Very well, he ... very well, Minister, your statement please.

**8.1 The Connétable of St. Brelade (The Minister for Transport and Technical Services):**

On 10th March 2010, the States agreed to support part (a) of Deputy Green's proposition P4/2010 and required me as Minister for Transport and Technical Services to bring forward legislation to ensure that cyclists were required to wear a suitable safety helmet while cycling in the case of persons aged under age 18 years. Part (b), which proposed compulsory cycle helmets wearing for adults was not supported. During the debate, some Members questioned whether 18 was the most appropriate age. I have subsequently discussed this with Deputy Green and propose to bring legislation to the Assembly setting the age at 14. I am mindful that our laws must be reasonable and practical to enforce and, to that end, I believe that policing will be easier if we initially set the level at under 14, when age differences from one year to the next tend to be more obvious and youngsters are more generally under the control of their parents. It will also be consistent with the age used in seat belt legislation. The compulsory wearing of helmets until the age of 14 is likely to establish a habit in later life and so increase the proportion of cycle helmet wearing generally. This is something that T.T.S. (Transport and Technical Services) will monitor and review to consider whether in time the age limit should be increased or indeed if it should ultimately become compulsory for all ages. My officers have developed law drafting instructions on that basis to amend the Road Traffic (Jersey) Law 1956. By prescribing the provisions in that law the requirement will apply to the use of pedal cycles on a public road, a road administered by the Minister for Housing, a cycle track or in a public park. Appropriate amendments will also be required to the Customer Protection (Protective Helmets) (Jersey) Order 2006 to accommodate cycle helmets or a standalone order drafted for cycle helmets. The Minister for Economic

Development who administers that order has approved the law drafting instructions. Draft legislation will be brought to the Assembly in due course. Thank you.

**The Bailiff:**

Does any Member wish to ask a question of the Minister? Deputy Tadier?

**8.1.1 Deputy M. Tadier:**

I was fortunate enough not to be here for that debate, because I was on Commonwealth business in London and it did make the news over there and it was the talk among delegates. My concern here is that while I think I probably would be supportive of the move to 14, it seems probably more sensible is that the Minister was charged by this House to bring forward a law and it was voted on democratically and won by a majority and that law should apply to all those under the age of 18, so my question is really, how the Minister can just come back by making a statement having consulted with one Deputy out of 53 States Members that this decision is going to be changed to 14?

**The Connétable of St. Brelade:**

The States Members at the time of the debate were not given the option of 14 and it was the general feeling during the debate that was the preferred course. Deputy Green was the proposer of the proposition and after discussion with him and as a result of input from the police, in general, it was felt that 14 was a far more appropriate age.

**8.1.2 Deputy M. Tadier:**

May I have a supplementary? We are not overwhelmed with questions. I completely understand where the Minister is coming from. It seems to me that the appropriate course of action should be for the Minister to bring the law forward as agreed by the States at 18, anyone under 18 having to wear a helmet and then for the Deputy to bring an amendment to that which can be endorsed by the House, not for the Minister to bring forward a law which the majority of the House, as he said, did not even have the option of debating.

**The Connétable of St. Brelade:**

That was another option; we felt this was a more efficient way forward and a quicker way to achieve the results of getting the legislation in place during this session of the States.

**8.1.3 Senator S.C. Ferguson:**

On the same lines as Deputy Tadier, does the Minister not think - I appreciate that it was considered to be more efficient - but does it not occur to him that bringing it forward in this manner, does rather take the States into somewhat contemptuous attitude of this Assembly by just taking a decision and not coming back to the States with it in a format that keeps to the spirit of the original decision?

[12:30]

**The Connétable of St. Brelade:**

Well clearly the legislation will come back to this Assembly for approbation in due course and Members will have an option to amend it then. It just seemed that in order to get the legislation on the statute books as soon as possible that this was the most efficient way of proceeding. It was not with any intention to take the option of States Members away to put their views forward.

**8.1.4 The Connétable of St. Saviour:**

In his statement the Minister says that this law will apply to use of pedal cycles on a public road, a road administered by the Minister for Housing, a cycle track or a public path. Will it include pavements, Royal Square and other areas not designated for use by cyclists?

**The Connétable of St. Brelade:**

Yes, it will.

**8.1.5 Deputy D.J. De Sousa:**

Along the lines of the first 2 questioners, why has this taken so long to come back to the House when on 10th March 2010 this legislation was passed by a majority and we are now on 5th July 2011?

**The Connétable of St. Brelade:**

Regrettably, any changes in law drafting do take an appreciable amount of time. All departments are pressed and it has been proceeded with as quickly as humanly possible.

**The Bailiff:**

Are there any other questions? Very well, that concludes that matter. We move next to a statement which the Chairman of the Corporate Services, Migration and Population Sub-Panel will make regarding the control of housing and work.

**9. The Chairman of the Corporate Services, Migration and Population Sub-Panel made a statement regarding the control of housing and work**

**9.1 Senator S.C. Ferguson (Chairman of the Corporate Services Migration and Population Sub-Panel):**

Last Friday Members received their copy of the Corporate Services Scrutiny Panel's report, *Migration: Control of Housing and Work*. The report follows a review undertaken by the Population and Migration Sub-Panel on the Draft Control of Housing and Work (Jersey) Law and Draft Register of Names and Address (Jersey) Law, both of which will shortly be debated by this Assembly, as proposed replacements for the existing Housing (Jersey) Law, the Regulation of Undertakings and Development (Jersey) Law and the Hawkers and Non-Resident Traders (Jersey) Law. Members will, no doubt, be aware that this piece of work comes in addition to the sub-panel's 2009 Population Policy Review with its subsequent report presented in June of the same year. We commend our report to the Assembly and, if they have not yet had the opportunity, would encourage Members to do their best to read it. Members will see that the sub-panel set out to undertake a fit-for-purpose examination of the draft legislation. The legislation does not itself address or establish policy on population size. It aims to provide the States with a much improved depth and range of information which, in turn, should enable us to make decisions relating to migration and population policy on a much more informed basis than previously. Having completed its work, the sub-panel concludes that, if passed, the proposed legislation will essentially deliver on those broad aims and is content that the fit-for-purpose examination has been passed. While that may not be the case, it does not tell the whole story. Despite a number of positive outcomes, including a much simplified and less bureaucratic system for all concerned and improvements in the efficiency and effectiveness of compliance work through greater co-operation and information-sharing between States departments, there are areas of concern that require addressing. These include the pressures brought about by the volume of unqualified licences issued across industry sectors, what we found to be the under-enforcement of the criteria for (j) category licences to be issued wherever possible for the temporary purpose of training local residents to then take on the role permanently and the relocation of the Population Office away from the Chief Minister's Department, we believe, as Members will see from our amendment to P.37 amendment, ideally to the Social Security Department. In addition to the delicate balance that already exists between our economic needs and the impact of net inward migration on our infrastructure and on social issues, Jersey will not be immune from the additional pressures faced by countries worldwide of increasing economic migration. Ultimately this legislation may prove to be only a partial solution to addressing a complex long-term problem and the sub-panel has concluded that Jersey will be required to seriously revisit the longer-term cases for the introduction of a stricter work

permit system, tighter border controls and so forth. In the context of the significance of the issues at hand, the concerns that have been highlighted and the forthcoming regulations that accompany the Control of Housing and Work (Jersey) Law, we recommend that the subject of population policy and migration controls should be revisited on a regular basis, ideally by a sub-panel incorporating Members from all of the other Scrutiny Panels.

**The Bailiff:**

Yes. Now, does any Members wish to ask any questions of the Chairman?

**9.1.1 Senator P.F.C. Ozouf:**

While welcoming the statements of the mainly positive aspects of this legislation, I am concerned with the comments that the chairman makes in relation to raising expectations on border controls. Could she confirm that she has taken advice on this issue and that, potentially, having border controls is not indeed possible and is the same advice that I received when I was chairman of the working party that worked on this; that tighter border controls are simply not possible without fundamental constitutional reform, particularly with the relationship with the U.K.?

**Senator S.C. Ferguson:**

Yes. Border controls, however, are not the only possibility. When we looked at what other countries were doing - the Senator is shaking his head - we felt that the border controls issue does need to be revisited. As Guernsey are having the same problems and have just issued their consultation document on population growth and pressure, then we do need to look at it again; but we also need to look on extending the quota system and we might, with advantage, use the system that they have in Singapore where they have a target that no more than one-third of the total workforce should be from outside the Island and they have - which should be music to the Minister for Treasury and Resources' ears - a foreign workers levy. If you employ unqualified staff you pay a levy.

**The Bailiff:**

A concise answer if you please, because there are a number of other Members who wish to ask questions.

**9.1.2 Deputy A.E. Jeune:**

Just on a matter of clarity really and for accuracy, in the third paragraph what we have in front of us says: "While that may be the case" and when the Senator spoke she said: "While that may not be the case." Can she just, for a matter of record, make that clear?

**Senator S.C. Ferguson:**

I apologise. Obviously I need to clean my glasses.

**9.1.3 Deputy G.P. Southern:**

Does the Minister accept that no additional powers are contained in this new legislation, so there is no reason to expect better control of targets such as 150 net migration heads of household, and, further, that the appeal the chairman makes to the reinstatement of temporary (j) cats to train up locals has been long overtaken since most (j) cats are now permanent?

**Senator S.C. Ferguson:**

Yes, we came to the conclusion that there is nothing in this law that will control people coming into the Island. The Migration Advisory Group expects that the limitations on access to unqualified jobs will restrain immigration and, I am sorry, I feel that that is just a pious hope. We do need more control than that.



**Deputy G.P. Southern:**

The question on (j) cats?

**Senator S.C. Ferguson:**

Our understanding from the hearings we had was that we do have better records on (j) cats. The real problem is the numbers of people who are coming in who are not (j) cats or anything like that and who just come and work over here and, like the (j) cats that the Deputy was talking about, after 5 years they also get absorbed into the population as qualified for social security and later, 10 years, qualified for housing. Therefore, the population is just ratcheting up. We do need some form of control.

**9.1.4 Deputy S. Power of St. Brelade:**

I thank the chairman of the Corporate Services Scrutiny Panel for an excellent report. Would she not agree with me that the 2 fundamental points she has identified are key to the successful control of net migration into the Island; that is: what Minister controls the department and that Minister must have a much more proactive system to address people arriving on the Island without immediate gainful employment?

**Senator S.C. Ferguson:**

I think whichever Minister is in control or where the Population Office is located should be obviously alert to the possibilities. Obviously, as the House knows, the Deputy and the panel do not quite see eye to eye on that, but it is more than just that. It is a problem that we do need to deal with. I think we need to work more closely with Guernsey because they have a similar problem. I am sorry, I have lost the second part of the question.

**The Bailiff:**

I think that probably answers the question.

**9.1.5 Senator A. Breckon:**

The chairman has mentioned the border controls. Is she aware of the significant resource implications and constitutional issues with this between Jersey and the U.K., the island of Ireland between north and south, the common travel areas of England and Scotland and Wales? When she makes that statement is she aware of those issues?

**Senator S.C. Ferguson:**

Yes, I am well aware of the issues: the free travel area, the common travel area. However, we have seen in the media over the last 2 months the fact that the U.K. immigration controls are not perhaps as good as they might be. We have considerable waves of economic migrants going round Europe and the world, in fact, and we are only a small Island. We have pressure on immigration. We then have, subsequently, pressure on income support and pressure on housing. We do need to recognise that we need some foreign ... I say "foreign workers"; I mean workers from outside the Island. But we do need to look after our own people, too, and it is striking the balance. If we just leave the gates open then we shall end up with an Island concreted over.

**9.1.6 Deputy M. Tadier:**

Did the chairman and her panel give any consideration to birth rates and the effect that locals who have children also contribute to overcrowding in the Island, which may make the quality of life for our foreign labourers quite intolerable?

[12:45]

**Senator S.C. Ferguson:**

No, we did not consider the birth rate. That is really getting quite Orwellian and I am not prepared to discuss that.

**9.1.7 Deputy M. Tadier:**

If I might, just a quick supplementary. The underlying problem is that it is not simply net inward immigration that has an effect on population. It is also birth rates that contribute to population. Was that not considered by the panel?

**The Bailiff:**

You just asked that and she said no, it was not, Deputy. That seems to be exactly the same question. Very well, I am afraid that brings the questions to the chairman to an end.

**LUNCHEON ADJOURNMENT PROPOSED**

**The Bailiff:**

Just before you do, can I clarify one matter. Deputy Southern expressed apparent surprise that an Assistant Minister had been allowed to ask a question of a chairman of a Scrutiny Panel. From the Chair, I can only say that one is surprised at his surprise because - whereas, quite rightly, Ministers are not normally permitted to ask questions of other Ministers and Assistant Ministers are not usually permitted to ask questions of their Minister - first of all, Assistant Ministers are allowed to ask question of other Ministers but, more particularly in relation to chairmen of Scrutiny Panels, Ministers and Assistant Ministers are in exactly the same position as any other Member of the Assembly. Now, 2 matters have been presented. They are comments, both relating to Disciplinary Grievance Hearings: right to a friend (P.112). They are comments by the Minister for Social Security and by the States Employment Board. Very well, the adjournment has been proposed. The Assembly will reconvene at 2.15 p.m.

**LUNCHEON ADJOURNMENT**

[14:16]

**10. The Chairman of the Comité des Connétables made a statement regarding the Island-wide rate**

**The Bailiff:**

We come next to a statement which the chairman of the Comité des Connétables will make concerning the Island-wide rate.

**10.1 Connétable K.P. Vibert of St. Ouen (Chairman of the Comité des Connétables):**

I wish to inform Members of the costs to ratepayers across the Island of the Island-wide rate for 2011 which has been determined in accordance with the Rates (Jersey) Law 2005. The 2011 annual Island-wide rate figure is the 2010 figure of £10,635,350, increased by the Jersey Retail Prices Index for the 12 months to March 2011 of 3.1 per cent, resulting in a sum of £10,965,046. In accordance with the Rates Apportionment (Jersey) Regulations 2006, 55 per cent of the annual Island-wide rate figure is to be met from the domestic rates and 45 per cent of the annual Island-wide rate figure is to be met from the non-domestic rates. The sum of £6,030,775 is, therefore, to be raised from the domestic rates and the sum of £4,934,271 from the non-domestic rates. The rates are determined by dividing the sum to be raised between the number of quarters assessed on domestic and non-domestic properties. The rates will, therefore, be 0.67 pence per quarter for domestic ratepayers and 1.17 pence per quarter for non-domestic ratepayers.

**The Bailiff:**

Does any Member wish to ask any questions of the Chairman? Very well, then we move to Public Business.

**Deputy I.J. Gorst:**

Sir, I have just been looking at the timetable business and I see that we have a number of quite substantial debates. First of all, we have the migration names and address register and then some smaller ones, one of which is mine: the health insurance fund one. I was just wondering whether I and perhaps other Ministers could have a look and see about moving my more minor propositions down the agenda so we can deal with the substantial debate earlier in the week.

**The Bailiff:**

That is a matter for you and other Ministers to consider, Deputy. At the moment I think we will stick to the Order Paper, but obviously if people are happy to move and the Assembly agrees then that can be done at the time.

**Deputy I.J. Gorst:**

Okay, Sir. I just give an indication that that is what I will probably be suggesting.

**The Connétable of St. Peter:**

Excuse me, Sir. Would now be an appropriate time to test the mood of the Assembly regarding the starting and finishing times?

**The Bailiff:**

Yes, very well, there was a suggestion that we look at that after lunch. I think you had proposed, Connétable, that we should ... starting today?

**The Connétable of St. Peter:**

Yes, starting today; concluding at 6.00 p.m. today and starting at 9.00 a.m. tomorrow morning and the same for Wednesday evening and Thursday.

**The Bailiff:**

Very well. Is that seconded?

**Deputy A.E. Jeune:**

Sir, can we have an ...

**The Bailiff:**

Can we just check whether it is seconded, first? **[Seconded]** Yes, sorry, Deputy?

**Deputy A.E. Jeune:**

Any chance of an advance for what time we start in the morning? Can we start earlier?

**The Bailiff:**

The proposal for the moment is 9.00 a.m. until 6.00 p.m.

**The Connétable of St. John:**

Sir, I wonder if we are running into danger again here. After the last 2 weeks we seem to expand the time and Members just fill the time up and it seems to me to be a nonsense. **[Approbation]** I personally think they are better of focusing their attention and speaking less.

**Deputy M. Tadier:**

I agree with the last speaker. I remember we had a proposition last week from Deputy Le Hérissier to have a one-hour lunch, which most of the population seemed to find sufficient to get lunch and do their other commitments; some even manage on half an hour. It seems preferable that we keep the same hours and maybe go to a one-hour lunch. I think it is unsatisfactory to finish at 6.00 p.m. today when none of us has had notice of that and we have prior engagements. 6.00 p.m. tomorrow

I would not have so much of a problem with, but it is not really fair to ask Members to change at short notice.

**The Bailiff:**

Well, it is a fairly simple matter for Members then. Does anyone else wish to say anything? Chairman of the P.P.C. (Privileges and Procedures Committee), do you wish to say anything?

**Connétable J. Gallichan of St. Mary:**

I was just going to make the point that, I am sure like most other Members in this Assembly, I have a great deal of constituency work to do as well and I already shoehorn that into time before meetings and time after meetings in the evenings. To be honest, we are sitting almost every day until the end of the month and I think it is ridiculous that Members cannot discipline themselves enough to conduct the business we have within the time and the extra days we have already allocated.

**The Bailiff:**

Very well. So the matter before the Assembly is to sit from 9.00 a.m. until 6.00 p.m. If you wish to do that you vote pour. If you do not, you vote contre.

**Deputy J.B. Fox:**

Can I just clarify, does that start tonight or tomorrow?

**The Bailiff:**

The proposition was for it to start tonight. Do you want to amend that, Connétable?

**The Connétable of St. Peter:**

If the will of the Assembly is to prefer to start tomorrow then I am happy to go with that.

**The Bailiff:**

The proposition is that starting tomorrow we sit from 9.00 a.m. until 6.00 p.m. As I say, if you want to do that you vote pour. If you want to stick to the conventional hours you vote contre. Is the appel called for? The appel is called for. The Greffier will open the voting.

<b>POUR: 20</b>		<b>CONTRE: 25</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator T.A. Le Sueur		
Senator P.F.C. Ozouf		Senator J.L. Perchard		
Senator F.E. Cohen		Senator F.du H. Le Gresley		
Senator A. Breckon		Connétable of St. Helier		
Senator S.C. Ferguson		Connétable of St. Brelade		
Senator B.I. Le Marquand		Connétable of St. John		
Connétable of St. Ouen		Connétable of St. Saviour		
Connétable of Trinity		Connétable of St. Lawrence		
Connétable of Grouville		Connétable of St. Mary		
Connétable of St. Peter		Deputy of St. Martin		

Deputy R.C. Duhamel (S)		Deputy J.B. Fox (H)		
Deputy of St. Ouen		Deputy G.P. Southern (H)		
Deputy of Grouville		Deputy of St. Peter		
Deputy of Trinity		Deputy J.A. Hilton (H)		
Deputy K.C. Lewis (S)		Deputy P.V.F. Le Claire (H)		
Deputy I.J. Gorst (C)		Deputy S.S.P.A. Power (B)		
Deputy of St. John		Deputy S. Pitman (H)		
Deputy A.E. Jeune (B)		Deputy M. Tadier (B)		
Deputy A.T. Dupré (C)		Deputy of St. Mary		
Deputy A.K.F. Green (H)		Deputy T.M. Pitman (H)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy D.J. De Sousa (H)		
		Deputy J.M. Maçon (S)		

## **PUBLIC BUSINESS**

### **11. Draft Control of Housing and Work (Jersey) Law 201- (P.37/2011)**

#### **The Bailiff:**

Very well. So now we will return to Public Business and the first item on the Order Paper is the Draft Control of Housing and Work (Jersey) Law, P.37, lodged by the Chief Minister and I will ask the Greffier to read the citation.

#### **Deputy J.A.N. Le Fondré of St. Lawrence:**

Sir, just before the Greffier starts in respect of this I think, on reflection, for the main debate, as there are aspects involving properties and companies owning properties, I prefer to withdraw from that further down when we get to the articles. If it is the amendments, Sir, which is which Minister looks after it, I will take part in that debate.

#### **The Bailiff:**

Well, Deputy, it is obviously a matter for you. You have not declared exactly what your interest is but it is quite hard to see that a general piece of legislation about housing and work could result in a direct financial interest which you have to declare and remove yourself from. It is hard to see at the moment.

#### **Deputy J.A.N. Le Fondré:**

I was looking at section 6, Sir, I think.

#### **The Bailiff:**

Very well, the Greffier will read the citation.

**The Greffier of the States:**

Draft Control of Housing and Work (Jersey) Law - a law to establish a registration process for the residents of Jersey and to make provision for the control of work and housing and for related purposes. Whereas Jersey wishes to preserve and maximise the benefits of its resources; and whereas it is recognised that, in the furtherance of these aims, provision is needed for controlling (a) the overall population density of Jersey; and (b) the availability of work and housing in Jersey for people with strong connections or associations with Jersey and, more generally, in such a way that is in the best interests of the community in Jersey, the States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

**The Bailiff:**

Very well, then I invite the Chief Minister to propose the principles.

**Senator T.A. Le Sueur (The Chief Minister):**

I would ask that Senator Routier, who has been chairing the Migration Working Party, act as rapporteur on this occasion.

**The Bailiff:**

Very well, then I invite Senator Routier to propose the principles.

**11.1 Senator P.F. Routier (Assistant Chief Minister - rapporteur):**

I will start by saying that Jersey needs a more effective means of managing migration. I think it is something we could all agree to. It is an aim that we all want to try and achieve. This legislation we are debating today will ensure that we do have a more effective means of managing immigration and that we can achieve our immigration objections. If Members would like to perhaps just focus on what the Greffier has just read out, the long title of the law, which they will find on page 59, I would just re-emphasise exactly what that says, just so that we are clear of exactly what we are debating: “Jersey wishes to preserve and maximise the benefits of its resources and whereas it is recognised that, in the furtherance of these aims, provision is needed for controlling (a) the overall population density of Jersey; and (b) the availability of work and housing in Jersey for people with strong connections or associations with Jersey and, more generally, in such a way that is in the best interests of the community in Jersey.” If Members approve this legislation we will be in a far better position to achieve those aims. We will also be reducing red tape and costs and bringing forward, I have to say, a fairer system. As to the principles of the new law, it will maintain the current 2-tier housing and jobs market. It will do this to preserve local work and housing opportunities and importantly manage immigration. In a time of recession I am sure it is clear to Members as to why we need to protect local jobs. As for housing, we all know how expensive it is and we must do everything possible to protect it for those with strong connections with our Island. So in this new law the vast majority of housing, including all existing housing which is qualified, and the vast majority of new housing coming along will also be qualified. All this qualified housing will be reserved for entitled and licensed people only. There is one exception and that relates to registered housing, which can only be leased. Registered status would only be permitted after having regard to the needs of entitled people first and may be leased as a principle place of residence. Another feature of the law is a business will need to be licensed and may be permitted to employ a maximum number of migrants as a condition of that license. However, due regard would have to be taken to several factors, including - and especially - the employment of existing locally qualified residents, the financial contributions of the Island, and any States policies that apply which have been adopted by this Assembly. In addition, the registration cards and the increased level of information from returns which business will provide, and when people move to new property, and more compliance powers to more effectively police the system, this law will enable informed decisions to be made and it will, therefore, be wholly a matter for this law as to whether property and jobs become available to new migrants. But importantly it will be

this law that will provide protection for housing and jobs. I imagine many countries, even those with border controls, would be pleased to have these types of powers for themselves. Of course with Jersey being a small island we do need this legislation more than most. However, Jersey remains a part of the British Isles and cannot simply decide to change our constitutional position without a much wider deliberation and with great care. Because most people move for work and for quality of life reasons, the population can be managed through this law. If people cannot gain access to work or living accommodation they are unlikely to move or stay in any place. Before I explain the benefits of this law in more depth, let me remind Members that if passed this law will replace 3 outdated laws from the 1940s, the 1960s and the 1970s. So the Housing Law, which was in 1949, the Regulations of Undertaking Development Law, the Hawkers and Non-Traders Law; these laws need replacing now. Just to give some examples of their thoughts, although many exist, breaches in the laws are currently difficult to identify and address.

[14:30]

Unqualified people do not have any basic rights, such as notice periods, and businesses currently need to apply to the Population Office to employ local people. Indeed local people who are even doing some simple odd jobs for money need to have a license. If Members read the recently published Business Brief they will have seen an article that said: "The Housing Law is now unwieldy and difficult to understand, while the Regulation of Undertakings Law is so vague." I am sure all Members endorsed these comments and appreciate that this is not really a good position to be in. This new law will require the Minister to have regard to the needs and demands of our Island community, and he or she will be required to make decisions with regards to employment opportunities and availability of housing in an even-handed and balanced manner. I will now talk about 4 areas where I think considerable improvements will take place as a result of this new law. Firstly, this legislation will provide more information through the requirement to register and have a card because all residents will need to make a change of address notification, and because returns from businesses will be combined, detailing each employee. This can then be compared with any license conditions. We will also have the power to obtain name and address information from any department. Secondly, we will have an array of new compliance powers. The current lack of suitable provisions in the laws hampers the ability to control matters at the present time. For example, the new law will enable the issue of cessation notices when unlicensed activity is identified, as we have seen perhaps with the concerns with, perhaps, white van men arriving in the Island. We will be able to issue a cessation notice and stop them from working. It will be possible to revoke licences where the Island's interests are being significantly damaged and also if they have not paid a fee for their licence. It will be possible to vary a licence capacity in response to changes in the economy; and I know this has been a concern to some Members for quite some time. This ability would be very useful with the recent downturn in the economy and the desire to focus more licences towards the needs of locally qualified unemployed people. These powers are all missing from the current Regulation of Undertakings Law. In this way, permissions given to businesses will be closely monitored and businesses will be assisted in ensuring they can comply. For example, the registration card will mean that it is no longer down to each business to prove their employees' residential status and the number of returns they have to complete will be reduced. Thirdly, unnecessary rules will be removed and lacunas closed, for example, permissions will not be needed to employ local people. Beneficial ownership rules will be more targeted; all non-resident traders visiting Jersey will require a licence, including those selling service and buying goods from Islanders; the complex (a) to (h) and (a) to (j) classifications will be streamlined. This all means that both businesses and the department will have less time processing unnecessary paperwork, however, the department will have much more time to carry out targeted compliance work because of the new powers and all the additional information will be available to them to help carry out that compliance. Businesses will also benefit from the streamlining, having to make less applications and returns and having a clearer law to comply with. This has been, I have to say,

welcomed by the business community; with the consultations we have had with them they have been very positive about what we are proposing. Equally, property owners and landlords, estate agents and lawyers will no longer have to keep track of complex housing categories or make applications for housing consent. They can simply rely on a public register of properties and present their registration cards when transacting. Fourthly - and by no means least - the law is fairer. The existing Housing Law consigns most people who are not granted consent, i.e. unqualified people, to lodging arrangements. Many, if not most, of these lodging houses include self-contained units and under the new law where a registered person occupies such a unit they will obtain the same basic tenancy rights as any other resident. Most notably, they cannot simply be told to leave their home without notice and they must be given tenancy agreements. These are basic rights and, I have to say, are long overdue. There are over 3,500 unqualified households in Jersey who could be protected by this law. Can I finally say that we have been asked many times why it has taken so long to bring this legislation forward and I am sure Members realise it is a complex piece of legislation that affects every person, every property and every business in Jersey. Therefore, it had to be right. This has meant engaging in great depth with social groups, the business community, the legal community, Scrutiny and indeed many individual Members of this House. I am grateful to the Corporate Services Scrutiny Panel for having met the time constraints in getting their report ready for this debate; their overview of the law in saying that this is a first step and their comments highlighting the new benefits of this law are reassuring. Having read the panel's report, I believe that what is being said is that this new law is better than the current old laws and after this law is approved they would like to see more work done to take the policy a stage further. These are good observations, for which I thank them. To get to where we are today there has been also a substantial amount of time and resources devoted by officers, law draftsmen and our legal advisers, for which I thank them. This has been a piece of work which started out many years ago, by different States Members; I think I was part of the original group along with some other Members. The Minister for Treasury and Resources was there as well and I think the current Minister for Social Security was there. But it has taken a long, long time and a lot of work to get to where we are today. Of course, this Assembly has approved some principles on the way to where we are today and we are now in a position to move this forward. Those previous debates have been won with an overwhelming majority. Since the last debates there has been a lot of detail added to the legislation and that all needed to be completed. So I hope today that Members will endorse all this considerable work by approving this law. I propose the principles.

**The Bailiff:**

Are the principles seconded? [**Seconded**]

**11.1.1 Deputy P.V.F. Le Claire:**

I have spent most of my time in this Assembly since 1999 trying to understand the housing and population issues. There is a time when one must turn the page and I certainly have a very high pile of pages on these topics. But I think we have really had a very, very long session in relation to the Island Plan recently, and trying to use all of the figures and the facts did me no favours whatsoever. So I think it is best to be succinct and that is to say that in my opinion this is a better system that is being proposed than we currently have. The system that we currently have is not a good system; it is unfair. The society we live in is becoming increasingly divided and while congratulating Senator Routier, in particular, and the other Members, I would also ask Members to heed the words, in particular of the chairman of the Scrutiny Panel in her statement today when she said that not only more consideration should be given to border controls - which was picked up by Senator Ozouf - but also issues in the future about a more stricter work permit regime and an ongoing scrutiny of these policies as they come forwards by a cross body of Scrutiny Panel members. This is a culmination of an extremely inordinate period of time and effort. I would just like to say I hope it does make Jersey a better place to live in. I believe it is going to be a fairer



system than we have. I congratulate those that have bought this to fruition. There is still more to do but I think we should get on and support this today.

### **11.1.2 Senator A. Breckon:**

I think Senator Routier has given us the potted version because, as silly as it may be, I have a suitcase full of stuff on population and immigration; and he said he was involved with some of the earlier things but there was a proposition recommending the setting up of a working party to investigate and report on the problems of immigration, presented to the States by Deputy J.R.C. Riley of St. Helier on 15th May 1968. The working party was set up and reported and there was an important proposition on immigration presented to the States, lodged '*au Greffe*' on 20th February 1973. It is interesting because these reports are saying the very same thing that is being said now and they talk about at the time, of course, the Regulation of Undertakings Law was not there but it was going to be there and it was going to be used as a sort of blunt instrument to that and there was various contributories to this, including housing committees and all sorts. There was another one, the Policy Advisory Committee report and proposition regarding economic strategies and immigration control policies in 1978. They talk in this about laying down an economic strategy which served 2 basic ends: one was the need to limit the rate of population growth to lessen the pressure on the Island's scarce land and water resources. The objective here was to hold the rate of population increase to below 500 a year and to limit the level of population to 80,000; and they said economic was not a problem, the problem was overheating; at the time it was said it is achievable, it just happens. There was another important proposition on immigration, again by the Policy Advisory committee, in June 1979 and there was things in there about the background to it and what the 1976 census showed. It talked about the continued need for population growth control and how it was going to be exercised at present. At the time in one of these documents it talks about deaths exceeding births by about 100 a year, that was the prediction that was made at the time. The other thing - Senator Routier will remember because he was in the House at the time as I was - again, I have got these documents and I lent Deputy Le Claire this box of tricks about 6 months ago to look at something - strategic policy review and action plan 1994. Interestingly the then Deputy Layzell proposed the same thing, that we limit the population at 80,000 because the Policy and Resources Committee were then moving to 85,000 and we are - as they say - where we are now because things have moved on. The reason I say that, because of this, I have got a document that I will share with the Minister of Treasury and Resources and others talking about a report on wealthy immigrants; and this was done in the 1970s, it is probably the same as we have just paid £60,000 for not many months ago. It probably says exactly the same thing. My reason for standing up and saying these things is we have been here before but what the difference is today is that we have an opportunity to move things on and for it to be fairer to many people, and as Senator Routier mentioned, especially those people who do not have housing qualifications.

[14:45]

Sadly I still deal with many of these cases, I had one just yesterday, somebody trying to get a £600 deposit back and I had one that finished up in the Petty Debts Court and thanks to the former Magistrate and the Bailiff's office where there is now dispute resolution procedure, it was able to be remedied to the satisfaction of the person who did not have housing qualifications; they got their money back. So that is really where we are and Members who have not been around - and I know it comes under the Minister for Housing - some Members should really go and have a look at some of the lodging houses. Some are excellent but let us just say some are not. It really would open some Members eyes if we think we have a wonderful housing situation; and it is not just about who is on the States waiting list because there are many people who are not adequately housed. Hopefully if we put something in place, a clear policy in place that gives people rights but also gives them responsibilities to act responsibly. We were talking about good landlords and bad landlords but there are also some bad tenants as well, let us not forget that, and some people will try

and take advantage of situations. But I think with this it is a move in the right direction but I think, as I have shown, it goes back ... I do not know if Senator Routier and I were at school at the time, we probably were not but we were not far off that when some of these things were emerging. There is a report that goes back further to 1968, which I can claim to be still at school then, I am sure Senator Routier would as well; but that is how far this goes back. As I say, I have got a suitcase full of this stuff and sometimes when I am trying to sort it out I just realise, well we have done this once, we have done it years ago; and there are reports we have got about all sorts of things, about tourism, about traffic and transport, and they are probably as robust now as they were then but we tend to: "Well, we will move on and we will get something else done." A whole lot of people have been involved in having some input in this but I know I looked at the addresses, now, if we look at the addresses, the Parishes have got them, they know what the properties are; the post office have got them, it is not rocket science to bring these things together. Perhaps there are things that we could have done earlier. Yes, there are issues about data protection and whatever else but, I mean, these would have been overcome. The next thing is we need to find out who is living where, to do a proper survey to find out what the Island's housing needs are as opposed to what somebody thinks they are next week or next month, or we have had issues with the Island Plan. We need to deal with something; I would contend that it is a bit more comprehensive than that and this is a move in that direction because Government, on occasions, needs to be nosy but we need to be nosy for the right reasons because if we look into some of this old stuff it talks about how we talk about car parking and drainage and education and health. Well, somebody else - I think it was the Deputy of St. Mary - mentioned when we were talking about the Island Plan, how many people was the Island Plan for? I am not sure we really know that and when we look back on some of this a lot of the Island's strategies and policies were based around the population of 80,000. As we know, the Minister for Health has issues about how big is the hospital, what do we do in the future; but the age and indeed the profile of the population is important to do that. Now, there will be an evident flow of people, I mean, that is good and healthy; but at the same time sometimes we need to know a little bit of detail about what exactly happened so we can plan for that. So generally, when this first emerged I had some issues about where I went with this but the more I have looked at it I have thought we must really do something, and I commend those who have done not all the work on this because this work has gone on for probably more than 40 years. So where we are at the moment is coming from a group, and I know there was a sort of break in proceedings, it has taken a long time to produce, but I believe if we approve it, and I hope the House will, and the second part of it which is to do with addresses, then we will move on from here and there is a benefit for many people. Because in general it is a sort of win/win situation and that is where I am on this. I will support it and if anybody wants to look at the paperwork they are quite welcome to do that. Thank you.

### **11.1.3 Senator S.C. Ferguson:**

"Managing the growing and often competing demands of the world's population is fast becoming the major challenge for governments. The Island is not immune from this challenge." It goes on: "Although the States has made considerable progress in its approach to future planning, there is one important piece of the jigsaw missing and that is a mechanism which will allow the Island to effectively manage the size and make up of its population." That was the forward to the consultation document on population by Guernsey. It sounds very familiar. This particular piece of legislation is an information gathering system and, as we found in our review, we did not really feel there was any means of control over immigration. There was a blithe confirmation during the hearings that if the number coming in looked to be increasing the average too much - the average over the last 5 years - then steps could be taken. But we were not particularly given evidence as to how. Barring quotas, ceasing to issue registration cards, pull the blind down and say "We are closed." The Migration Advisory Group in fact are relying on limiting immigration by limiting access to jobs, but this is somewhat passive. Where is the incentive for businesses to employ locals? Where are the carrot and the stick? Migration is a problem; well, we need some immigration to support economic growth but if too many people come in we will need more and

more housing until finally we will concrete the place over. But if we carry on providing more and more housing people will continue to want to come as we are making an effort to provide housing and we shall end up on a treadmill with more and more people needing housing and more and more houses attracting people. The legislation allows us to collect information, it does what it says on the tin, it gives us the information on the population. But it does not stop people arriving and going to Social Security to collect their registration cards. We have pretty good information already on the (j) cats but after 5 years they qualify for social security benefits and after 10 years they qualify for permanent residence. But what about the non (j) cats who work as unqualifieds for 5 years and then qualify for benefits and then after another 10 years they get housing qualifications and then they qualify for first-time buyers' homes or social housing and the population ratchets up again. It is all too easy to slide into permanent residency after having come to the Island on a temporary basis. With a population base of 50,000 or 60,000 - as Senator Breckon said - the numbers were easily absorbed; but we are reaching an unsustainable level. The work does not stop with this legislation; it has only just begun. I think we need to do more working with Guernsey and get into a serious discussion with them to pull ideas. The question of border controls - which I have touched on this morning - is an area where the Channel Islands do need to speak with a single voice. Guernsey apparently capped the number in their population and we think that we have got to have some increase to maintain growth and improve the skills basis, which is an area where our (j) cat policy has fallen down miserably. The (j) cats, on the whole, were meant to come in and train up locals to do their job because we had not any of the particular skills locally, but this has not as a general matter been followed up. I do recognise that local training, for example in a medical specialty, is really quite questionable; I am not quite sure where you learn to be a heart surgeon in Jersey, the mind boggles. But there are a considerable number of jobs where (j) cats have been given but the succession training has been ignored. Now, other countries are looking at other ways to deal with this and, as I touched on this morning, in Singapore they charge the employer a foreign workers levy on all foreign members of staff. It is not a high rate, it is a few dollars, but it does encourage the employment of local staff. They also set quotas, well, we are going to do that too. They have work permits for their highly skilled foreign workers - which is effectively our (j) cats - and, yes, they are a separate country so they can have border controls; we do have the limitations of the common area in the E.U. (European Union) free travel area and this is something which no doubt if we reopen discussions it will open a real can of worms. But it may be something we need to look at. The Singaporeans have also developed more flats than us with an emphasis - the former Minister for Planning will be glad to hear - on excellent outside spaces and the environment. In fact they consider flats to be first-time buyers' homes and there is less emphasis on the Anglo-Saxon concept of 3 beds, a garage and a garden. So there is still a job of work to be done by the Migration Advisory Group, this is but the start, but certainly we support it and support the legislation generally.

**Deputy S. Power:**

Sir, I wonder could I just clarify as to when the actual amendments come in, is it after the principles are debated?

**The Bailiff:**

Yes, when we get to the particular article which the amendment relates to, so in your case Article 1.

**11.1.4 Deputy G.P. Southern:**

I am glad that is clear because I was beginning to wonder myself. But just briefly, if I can, looking only at the front page, page 5 of this document, and I was looking for the word control because that is what is missing from this particular document, control of migration. Instead I find manage immigration, monitoring and regulation, manage population density - I wonder how you do that - manage population, please. Population density to me means moving 300 out of St. Helier and putting them in Trinity to even out the population density, perhaps not a good idea. Then we

finally find the word “control”. “However, contradictory objectives remain between the need to manage immigration more firmly [manage firmly] and the protection of local housing and jobs, support for employers and better housing rights for migrants. The challenge is to balance these objectives.” I do not think we have got the right balance and I will tell Members why very shortly. “This law gives the States and their appointed Minister the controls to do this” the controls to properly balance. Then finally at the bottom of the page it says: “Jersey, as all Islands in all countries, must balance [again that word] the benefits of immigration with the burden it places on local resources. It must do this fairly, robustly and in a manner which is cost effective for all to achieve population objectives set by the States.” So this has been described as an improvement on what we have got by the current chair of the Corporate Services Scrutiny Panel. The Assistant Minister said it has taken so long to come to the House because we had to get it right. The fact is I was there at its inception early on as the then chairman of the relevant Scrutiny Panel the real reason why it has taken so long, 5 years, to get here to the States is that it was so badly constructed in the first place they had to go back and start again after a year, 18 months of work. Why? Because it was full of data protection issues and it was so unclear as to what they wanted to achieve it was meaningless. So the reality is they started from a lousy place to arrive with something that is supposed to have been an improvement on what we have got. I doubt very much that it will be any improvement whatsoever. I see no additional powers here to control immigration, and that is what we need to do.

[15:00]

Control population properly. What we have got here is a piece of legislation which has been 5 years in the drafting, which changes the names on the cat badges, it swaps one set of labels for another and does precious, precious little more. What we are doing now, without these controls, is we have a target, the wording was: “To achieve population objectives.” Are we meeting our population objectives now? No, we are not. We have a target of 150 net heads of households, net immigration inwards, instead of which we have, even in this time of recession, been achieving 325 heads of household with the associated dependents, something like 680 people net immigration. On top of which, just take a look at the work permit holders; 171 of them, in addition to (j) cats, in the finance sector alone with their 114 dependents, over 300 places there. Overall some 550 work permits coming into the Island in 2010. Now we have our targets way out of control. This particular change in the labels will do nothing to improve those controls. There is no control of population and mitigation in this entire document and I am afraid it is very much the story as we have seen before continuing into the future. When and if we get into recovery and the economy takes off, we will see a target of 200 or 250 heads of household in order to feed the economy and that will be overshot by miles as it was in the past yet again because we have got no controls here and, in fact, we are giving away some controls.

#### **11.1.5 The Deputy of St. Mary:**

I will be brief. I am just going to ask the Minister a few questions. I would like him to enlarge on particularly the overall goals which he mentions on page 10 of his report. The purpose clause. He describes the purpose clause, and he says it is very important to have a purpose clause because the law is forceful in its provisions. For example, it restricts where people can work and live. Amen to that. So we look at the purpose of the law and he says: “Jersey wishes to preserve and maximise the benefits of his resources.” That is fair enough, I have no quarrel with that at all. Then he says: “The purpose clause recognises the need to control the overall population of Jersey and the availability of work and housing for those with strong connections with Jersey.” For those with strong connections to Jersey. I would like him to explain exactly, given that we are talking about the principles, given that this is the purpose clause, how that is enacted within in this law. The second point is that in the purpose clause we read: “And whereas it is recognised that in furtherance of these aims provision is needed for controlling the overall population density of Jersey. Now,

taking into account what Deputy Southern has just said, that that means the overall population of Jersey because otherwise it is fairly badly constructed, but if it means that the idea ... first of all, can he confirm that what he means is controlling the overall population of Jersey and, secondly, can he tell us why he thinks this law would be effective in doing what it says on the cover. So those are the 2 points about what it says on the purpose clause. The third arises from, again, what he says on page 10 in his report: "When applying the law the Minister will look to achieve the relevant approved objectives of the States Assembly, in particular, the Strategic Plan and any individual policies around population, the environment, the economy and housing." So the Minister has to have an overall view of all these issues and I want the Minister to tell me whether this law being proposed is truly policy blind. Can it be applied in any policy environment, because that is what it says in the report and I just want him to spell out to Members how this policy applies in any environment, whether the Strategic Plan says: "Let us increase the actual population by 600 people a year" or whether it says: "Let us keep it steady" can this law deliver on that? On the first point I made about the preference given to people with a strong connection to Jersey, I just want to remind the Senator that his report on page 10 and 11, if you read the very last words on page 10 and then the top words on page 11, he lists a whole host of reasons for giving people entitled status and immediate access to qualified housing. He talks about hardship cases, he talks about what are now known as 1(1)(k)s, people who can pay an agreed minimum amount of tax, people who can provide new employment opportunities because of their entrepreneurial skills and so on. He lists several categories of people who have a case to make in the sense that they can, in the sense, jump the queue ahead of people with a strong connection to the Island. Why can he not say that those with a strong connection to the Island could be the ones with the entrepreneurial skills, could be the ones who have a hardship case, in other words they are related to somebody living here or whatever? I find that paragraph almost denies what the purpose clause says and I would like him to include consideration of that when he is answering the first of my 3 questions.

#### **11.1.6 Deputy M. Tadier:**

I do not have a great deal of comments to make. Something I would like the rapporteur to comment on when he sums up is that there has been a suggestion in some quarters that what has been done here, and I first of all need to acknowledge the good body of work that has been done, and I think this law is certainly an improvement on what we currently have. I would like the rapporteur to answer the criticism from some quarters that in fact what is going on here, particularly when it comes to the neologisms that have been brought in to do with entitled licensed, entitled for work only and registered, that these are just a relabeling and that very little of any fundamental difference has been done to change the current qualified, non-qualified, (j) cats, et cetera. This is simply a relabeling process and it is aesthetic rather than doing anything of fundamental change. If I can just speak quickly to a comment made by Senator Ferguson, I think also we have to acknowledge the body of work done by her panel. This is clearly something which does need scrutiny. In many ways it is something just as significant as the Island Plan, it is something which goes hand in hand with the Island Plan, I think, and it is noteworthy to see that this piece of legislation will go through very quickly when we consider the work that has been done on it with very little contributions from Members, whereas the Island Plan had a great body of work, quite rightly to do with it. But the Senator made what I found a remarkable comment that it is far too easy to get permanent citizenship in Jersey, whereas if you talk to those who have been here for 7, 8, 9 years in Jersey I think you will find that it requires an awful lot of tenacity to sometimes battle through discrimination, to battle through very difficult working and living conditions only to find that after 5 years you can get a job on the open market probably which you are overqualified for already after having worked in a ... very poor bar work, for example, when you are qualified or maybe a Master's graduate from Poland, from the Czech Republic. So I would question that comment that it is far too easy to get permanent citizenship but it raise, of course, a whole raft of questions about whether anybody should be entitled to permanent citizenship, why it is that because you are born in a particular place that you have an automatic right over somebody else who may be

better qualified to live where you are living and to do the job that you are doing. Of course these are questions that cannot easily be answered today. So these are basically the issues I would like the rapporteur to consider, particularly the first ones, in his summing up. But generally I think, as has been said already, we must take this proposition at face value, we must not be under any delusions that it is going to do anything that we think it might not be doing, such as controlling immigration, controlling the amount of people who live in Jersey. This is not what this law is for. We do not have the mechanisms in place to control those who come to Jersey or the overall population. It is interesting to see the nodding heads when Senator Ferguson expounded her concerns and the concerns of the panel about the increasing population and the pressure that has on its infrastructure when only in 2009 I think many of the Members I saw nodding voted to increase the population year on year steadily by at least 150 households. The Assembly had a choice, you can either cap the population, keep it roughly at the same level or you can have it increase year on year and the majority of noddly dogs in the Assembly said: "We want to increase the population because that is what Ministers want to do" and now we are seeing some of the contradictions coming back.

**The Bailiff:**

I do not think it is appropriate to refer to other Members as noddly dogs.

**Deputy M. Tadier:**

I will withdraw the dog part, Sir. Although I have seen certain Members nod off during the States Assembly sittings. But the point I am making is that why is it that we vote to increase the population and then we complain that the population is increasing? I leave that thought with Members and with the public.

**11.1.7 Deputy C.F. Labey of Grouville:**

I am going to speak briefly, even though I could speak at some time being on the Scrutiny Panel, because when the Minister for Housing attended a hearing and was answering one of my questions I think this encapsulates what this piece of legislation is all about. He answered me and said, and I quote: "Well, to be honest, I think what we need to do is this Migration Law is a great improvement on what we have got. It will not give greater controls but it does give greater information. We will have a much clearer understanding of where we are and then we need to look at it again." That is what this is doing. The title, in my opinion, is misleading, there are no controls, what it does is give us greater information. To my mind it is a missed opportunity, the Island is crying out for greater controls and I would like to see the Population Office and the relevant Ministers get together and bring something forward. I know that is their intention, I know this is the start of much more work but it really needs to be addressed much more quickly because the sort of directives and policies that we have been working on in recent times are things like ... I forget who said it in their speech, for those sort of controls we have in place are for those with strong connections with Jersey, whatever that means. There are other policy directives that suggest people can come over here and work if they are in the Island's best interest, whatever that means. It means something different to everyone. So this is a way forward, it is a very small step and we have got a very long way to go but be under no illusion, this does not control, all it does is give information.

[15:15]

**11.1.8 Deputy T.A. Vallois:**

I was a member on the Corporate Services Scrutiny Panel from March 2009 up until March of this year and I was on the sub-panel for migration at that point and I have collated copious amounts of paperwork and information, approximately 4 lever arch files on this particular redrafting of legislation. There was a lot of talk surrounding the Protocol 3 that we have with the European Community, our trading area, and I see on page 6 of the legislation in front of us where it states to the legal context that British and European Union nationals have the right of abode in Jersey and

therefore Jersey cannot apply border controls over such nationals. I understand the whole reasoning behind the Protocol 3 and the reason why it is there but I would just like the Assistant Minister to explain or verify whether our newly appointed Assistant Chief Minister dedicated to our Foreign Affairs has been in any form of discussions with the U.K., other Channel Islands and the Isle of Man concerning this area because I understand they are having issues as well, and whether there is going to be any continuation of review in this area going forward with the European Union. The other question that I want to ask of the Assistant Minister is that although this is the bones to the legislation going forward and when the meat will come on with regulations later on, whether it has been set a timeline of review of the legislation going forward to whether it is going to be every year or whether it will be every 5 years a review of the legislation as to how it is working and whether there is improvements that can be made.

#### **11.1.9 Senator T.J. Le Main:**

I know a little bit about the background of this because for a couple of years I have been involved with Senator Routier and the working party in looking at this. I am totally, after, as I say, having been at Housing for nearly 11 years, in favour of moving on with this new law. For years and years and years good people have come to Jersey, many of them working in Health, Education, other highly skilled jobs, people have come to work on farms and over the years we have treated people that have come to work in Jersey so awful. I can remember as a young fellow housing farm workers in shed and lofts and cow stables and we have moved on. I can remember when I first got involved with Housing in 19 ... oh I cannot remember how long it is now but anyway a long time ago, we still with the Housing regulations ground people into the ground. People that have had children, people that were working, as I say, in jobs that were essential to the good government of this Island and to the economy of the Island, we still ground them to the ground with our archaic regulations. I want ... I now see this as a new beginning. It will not ... and I am not in favour of control. We have got an ageing population and in my view this new regulation, this new law will manage businesses, it will control the business on the availability and how their licences work, it will not ... and I do not believe that we ought to be a third world country where we are going to control, control and control. I do believe very much so that this legislation will put in place a management of businesses, workforces and managing as the economy changes over the years. There is no doubt that the economy is going to change as it has changed over the years. It is going to go up, it is going to go down and I would never favour an actual figure on control of people who needed to work on this Island. I was listening to Senator Ferguson who quoted about (j) cats; (j) cats who originally were to come into Jersey, train up local people and then go again. In my time that has never been the situation. I always felt that there was a huge percentage of people that were needed (j) cat-wise, highly skilled people that needed to complement the international businesses that we have got to maintain our reputation and otherwise all around the world. It came to me many times where demands were made for highly skilled individuals, perhaps in the H.R. Department and certain departments in compliance where in fact the business was not sure when the new compliance regulations came out, they wanted to make sure they had highly skilled individuals in those positions to make sure that they understood the reputational damage that could be done if you did not know your client. Many of the clients that deal with Jersey deal with people they want to know and trust and large movement of many years ago on (j) cats where they were in for 2 and 3 years certainly did not improve the reputation of Jersey in as much of knowing your client. This law will, at long last, see through to the migration policy regulations that will, in fact, give unqualified people more rights. This is essential that we give unqualified people more rights, the right of being able to have a tenancy, if you like, and to be able to have some security of tenure in wherever they are living. Also it will lead, in my view, to improve the quality of some of the accommodation out there which people still sadly are having to live in. I think this is a great step forward. I think that the days are gone when ... at one stage this House made an awful decision many years ago when people were stopped from having qualifications, people that are living in Jersey and all of a sudden this Assembly in those days decided no more qualifications, you can

never qualify, and that was a retrograde step. It was a step too far and it made our ... it gave Jersey a terrible reputation. I was glad to say that I was part of the team that took that away and we are where we are today. There is still a lot of work to be done and I would rather hope that Members today will support this and see it in the general wellbeing of a well regulated good employing place where people can live and work, whether they come to Jersey on short term or otherwise. Jersey is a wonderful place to live and, yes, we cannot just open the gates to everyone, we just cannot open the doors to everyone but I am not going to be party any more to, as I say, how we have treated people in the past. Senator Routier deserves a hand clap really because he has really ... Senator Routier has put his heart and soul in this and has worked and worked and worked. I am sure he has had many sleepless nights. I am going to give my full support to Senator Routier and I would rather hope that I can work with him, and others as well, in pursuing this to its conclusion. Thank you.

#### **11.1.10 Deputy R.G. Le Hérissier:**

Just a very quick point, I was just going to reply in part to Deputy Vallois' comments. We were always told that the impositions that came through Protocol 3 were virtually unchangeable because to do so would involve all the signatories at the time agreeing to make a subsequent change, and politically it would be very, very difficult obviously to get that degree of commitment. Secondly, because of all other issues that were around the European Union, it would be very unlikely that they would be terribly interested in that issue unless in some sort of way, given E.U. politics it was hitched to another issue where there was some kind of deal that was needed at a much higher level. That was why we ended up ... but there is no doubt what has happened to us is, in a mini way, what has happened to Britain where you see these enormous controls being imposed upon foreign students, and this was partly mentioned in that excellent series last night called *Made In Britain* when they were examining the role of universities. You see these enormous controls and you have got totally unfettered immigration from the European Union. So what happens is people who can make ... everybody makes a contribution, of that there is no doubt, but people who make very highly specialised contributions, they have to run through and jump through all sorts of hoops in order to become engineers and scientists in Britain. In a way we have ended up in that situation. The other sadder one, of which there are warning signs already on this Island, is that the immigrants coming in from East Europe in particular who do all the jobs that a lot of the British no longer want to do, they are occupying the low paid jobs while the welfare rolls and the numbers of young people on those rolls are going up, almost - not entirely - in parallel. That is one of the perverse consequences of the highly unbalanced immigration system. That is why I have thought the only answer, given that we apparently cannot open Protocol 3, and partly because of the finance issue that it would open up all sorts of other issues, I have always thought that work permits ... and could the Assistant Minister tell us - and I know this must bore him silly, but I know he is a very patient man, because he said so in the *J.E.P.* (Jersey Evening Post) - why work permits are not workable for new entrants, permits that would give people full rights once they were in possession of those permits, because it is a social stain of the highest order that we continue to run a sector called unqualified housing, which means poor, less than good housing. We collude with this code language and allow this to happen, and allow people to make enormous profits on the back of that sector. That is what the implications of not having an entry point system allow to happen.

#### **The Bailiff:**

Does any other Member wish to speak on the principles? Very well, I call upon the rapporteur to reply.

#### **11.1.11 Senator P.F. Routier:**

I have really enjoyed this debate. It has been a very good debate because this is something that we have needed to do for a long, long time. It started off with Deputy Le Claire, and I have to say that I was obviously very pleased to hear what he said, being that for a number of years now he has



been banging the drum about how we are going to manage and control our population. For him to have come to the position whereby he has studied this legislation and he has come to the conclusion that this is a better system that we currently have and he has a hope that it will make Jersey a better place to live in; I believe that that is what this will do for many people. Senator Breckon gave us a long history of where this had started out and Deputy Riley in 1968. Do not worry, I am not going through every word that everybody said but it does show that this has been a thorny issue to grapple with and he went on to say that we now have an opportunity to move things forward. He also talked about combining the next piece of legislation that we are going to discuss, which is the names and address register, which is going to make things a lot more informative for us to make appropriate decisions for businesses and for our community.

[15:30]

As he said, this is a win/win situation so I thank him for that. Senator Ferguson obviously has done a great deal of work on looking at this legislation through the Scrutiny Panel and her team and, as she quite rightly says, this is an information gathering system, that is quite right, but what needs to be recognised is that information is going to enable us to make far, far better decisions than we have been currently because we will be able to look at all the licences that we have, we will know the names of individuals who are working in businesses and in all the various licences that are approved and we will be able to cross-reference them with social security, with tax, and we will know from all that information exactly who was working in which position. So the decision making process of when somebody applies to the departments for a new licence we will be able to compare them a lot better against other businesses, against what the Island needs and also the people who are unemployed. We will know from all that information that the people who are looking for jobs, who are waiting at Social Security to try and find jobs, that that has got to be a real benefit to the system. Senator Ferguson also mentioned the system they have in Singapore about they have the ability to levy a fee for foreign workers. Well, we are proposing that for what is the equivalent of (j), which will be licensed in this new system, is that there will be a fee attached to a licence position. So that is what is being proposed, I make that quite clear. There is, within the legislation, although we have not consulted on this yet, for registered people there is the ability to charge for a registered number of people within a business. We have not consulted on that fully yet but there is a possibility to do that. Deputy Southern majored on the issue about control versus management, tried to highlight that this was not a control mechanism. We will, although some people have not wanted that, be able to control the number of people who are getting work. That is what we will be able to do and we will be able to control where they live. That is the control that there will be because people will be applying to the Minister and the department to take on new members of staff, take on new migrants to the Island, and the Minister will have the knowledge and the understanding through all the information that they will be able to make a decision which they feel is appropriate for that decision. So I want to dispel the notion that a couple have made that this will not be a control mechanism, because there will be the ability for the Minister to say: "No, I am sorry, you cannot have that number of migrant people coming to work in the Island" because there are local people unemployed, there are people who already have those skills within the Island, so because of the information we will have that will be the control that will be able to be made. The Deputy of St. Mary wanted me to answer a few questions regarding the purpose clause and the first one was to what the strong connections with Jersey are. I think he went on later to highlight those on page 10 and 11 with what we are going to debating at a later stage when we debate the regulations, how long people would need to be in the Island to qualify, those are the people who we will be deciding, this House will be deciding, who will have strong connections with this Island and that is what is the explanation for what the strong connections means. The second question was about the control of the overall population, the States objective. When the States have set the population number the Minister who has the responsibility to look at any applications, they will know what this Assembly have decided and they will have to take that into account to ensure that

when their considering an application they will have to keep an eye on what the numbers are. Some have thought: “Well, we may not be in a position to say: ‘No, we might not keep an eye on that, we will just be making a decision on an ad hoc basis’” but because we will now have that more information, we will be able to say: “I am sorry; we are too near that limit.” If the States have set a limit, we will be in a position to make that judgment. But it will be down to the States as an overall body to make the decision about where they want to go with the Island population. The Deputy of St. Mary also asked about the relevant strategic plan objectives. That drives to the point where we are going to have a debate later on about who should be responsible for this legislation. Because the person who is going to be making the decisions about applications for licences needs to be aware of all of the States policies, whether it be the environment, whether it be social, whether it be economic, the Minister who has responsibility for that needs to take all those considerations into account. So we will be having that debate later and I look forward to that debate. Deputy Tadier said is it just a relabeling exercise. Well, it is not just a relabeling exercise, there are, I have to say, a range of new powers which come through this legislation. There is registration cards, there is the information sharing, which is going to be of great benefit, and I have to say the rules are going to be a lot simpler and a more modern piece of legislation which the community will be able to understand far better than the hotchpotch of legislation we currently have with the housing legislation and the Regulation of Undertakings. This is a much more modern piece of legislation so no way is it just a relabeling proposition at all. I think the Deputy of Grouville was making the same point about not being a control mechanism. I think I have covered that off in my earlier response but people will be able to be controlled in gaining access to work and into Housing. Deputy Vallois and Deputy Le Hérisier spoke about the Protocol 3 matter. Obviously in the earlier piece of work that was carried out by the group that looked at this, it was looked at and the advice is given that that is one piece ... it is too far to go and because of so many different problems with our relationship with the U.K. ... and I have to say I have had informal discussions with the people who are leading the consultation in Guernsey and they, I have to say, are of the same point of view, that is when I spoke to them about 2 or 3 months ago, they felt that Protocol 3 was very, very difficult to progress. Deputy Vallois also asked about the timeline for a review of the legislation, well I would say it would be a continuous thing because once it is up and running and we are working with it, it will be something that will be monitored all the time. Whether there needs to be a formal review of it, well that would be something, no doubt, Members will take on board at the time. I will finish with Senator Le Main because he I think encapsulated that this legislation is very important to us. It is important to our Island community, it is important to the way we treat people who come to this Island and it is important that we ensure that our Island community does have the ability to gain access to work and to housing. We need to treat people fairly and this legislation will do that. I am grateful to Members for their positive comments and ask Members to support these outdated existing pieces of legislation because it will give us a real effective legislation going forward. It will enable us to meet our strategic policy aims when that is decided by the Assembly. I can do little better than to quote from the statement made by the chairman of the Corporate Services Scrutiny Panel, which focuses on this legislation, and they suggest that obviously some further work needs to be done but from the statement that was made this morning: “The legislation does not itself address or establish policy on population size” fair enough, it was not expected to do that but then it goes on: “It aims to provide the States with a much improved depth and range of information, which in turn should enable us to make decisions relating to immigration and population policy on a much more informed basis than previously. Having completed its work the sub-panel concludes that if passed the proposed legislation will essentially deliver on those broad aims and is content that the fit for purpose examination has been passed.” I thank the Scrutiny Panel for that and everybody who has spoken in this debate. I maintain the principles and ask for the appel.

**Deputy G.P. Southern:**

A point of clarification. Yes, I believe I heard the Minister say: “We will know who is in which job.” “We” meaning presumably the Minister. Did he, in fact, say that?

**Senator P.F. Routier:**

Yes, if I did not make that clear I meant the Minister will know that.

**Deputy G.P. Southern:**

Okay, is the Minister aware and would he like to reconsider that runs directly against Article 42 which says that: “The Minister may use any information obtained for the purposes of this law for providing statistical information to any Minister for the purposes of assisting in development or evaluation of public policy and informing the public about social and economic matters. For the purposes of paragraph 1, statistical information does not include personal information that is information that relates to and identifies a particular person.” Would the Assistant Minister like to rephrase his expression because it specifically forbids you saying and using: “That person is in that job” et cetera, and passing that information on?

**Senator P.F. Routier:**

Currently we have manpower returns which are made on a 6-monthly basis which just says the numbers of people who are working in any particular business, the new position will be that it will be named people on the manpower returns, that is what I am saying. It is not information that is going to be shared around other departments, all it is is that it will be named information ... every name will be on the return.

**Deputy G.P. Southern:**

Is the Assistant Minister clear that use and passing on of any of those names is specifically forbidden by Article 42?

**Senator P.F. Routier:**

Yes.

**Deputy M.R. Higgins:**

The Assistant Minister when he was talking mentioned that in discussions with Guernsey that renegotiating Protocol 3 was too far to go but he did not explain why. Can he confirm that the reason why renegotiating Protocol 3 would be too far to go would be because it would open up the whole question of the role of the finance industry, which was insignificant at the time that Protocol 3 was originally ...

**The Bailiff:**

I am sorry, Deputy, that is not a point of clarification. That is a point that you wish to make and that this is what Members are not allowed to do. Deputy Le Hérisier.

**Deputy R.G. Le Hérisier:**

I wonder if the Assistant Minister could answer my question. Why were work permits at the point of entry discounted as a way forward?

**The Bailiff:**

Is that a matter that had been raised before? I do not think it had. It is not an elucidation of the Minister’s speech, you just simply did not mention it.

**Deputy P.V.F. Le Claire:**

Sir, he did question the Minister to answer that during his speech. Hansard will confirm that.

**The Bailiff:**

In that case I stand corrected. Clearly when Members ask questions then ...

**Senator P.F. Routier:**

This Assembly has already voted on work permits a couple of times and it was rejected quite strongly every time and I think the work of the group was trying to find a way forward from that position. So I cannot say we looked at the workings of work permitting in a lot of detail because we understood the States had rejected it several times.

**The Deputy of St. Mary:**

Sir, I would like a point of clarification also. The Assistant Minister said in his summing up about my first question about people with a connection to the Island and he spoke about people who are already here. I was really meaning him to say how these regulations will affect people who are not here but who have a connection and that pans out in the law.

[15:45]

**Senator P.F. Routier:**

I am not quite sure how to answer that. The way I see ... if somebody wanted to come to this Island and they fitted our regulations, for instance, there is an ability for somebody to apply for a hardship - they are calling it (g) currently - that they could apply and that could be looked at to see if they had strong connections with the Island. If somebody comes back to the Island and has previous connections, like they have qualified already, they will be able to live here and work here. I think that probably, hopefully, answers the question.

**The Bailiff:**

Very well, so we come now to the vote on the principles. The appel has been called for. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 46</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 1</b>
Senator T.A. Le Sueur		Deputy G.P. Southern (H)		Connétable of Grouville
Senator P.F. Routier		Deputy T.M. Pitman (H)		
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				

Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				

Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

Then this is a matter which has already been referred to Scrutiny because there is a Scrutiny Report and therefore I will not ask Senator Ferguson whether she wishes the matter referred to her panel. Then we come to consider the articles. There is an amendment to Article 1 so I invite you to propose Article 1, Assistant Minister.

**11.2 Senator P.F. Routier**

This Article 1 lists a number of key words used throughout the law and provides clarification of their meaning. I will just highlight 3 of those. I will not go through them all. Of which one of them is Minister for which we have the amendments. The residential and employment status, this is a term used throughout the law and refers to an individual’s right to both housing and work. Now most usually referred to as one’s quallies, I will be defining this term further when we consider those later. Work, for instance, the definition used in this law has been widely drafted to include the definitions found in the Employment Law and current Regulations of Undertakings Law, as well as being expanded to include any activity falling within Article 23 where any paid activity involving work or services are performed for or offered to members of the public or a section of it is required to have the appropriate licence. I turn now to the issue of the definition of the Minister, but I think it would be helpful for me to put into context of this debate about which Minister should have responsibility for the law just to perhaps rehearse some of the history of how we got here. Back in 2005 when the principles of the law were adopted by the States, I think it was Deputy Southern at the time brought forward a proposition that it should not be the Minster for Economic Development and that was approved. Then the Deputy of St. Ouen brought forward a proposition that it should be the Minister for Housing but that was overwhelmingly rejected. The P. and R. (Policy and Resources) Committee brought forward that it should be someone a bit more neutral and that it should be the Chief Minister who would have to take into consideration all of the States policies and not just to have a bias towards one policy or the other, whether it be the economy, whether it be employment or whether it be housing. The States overwhelmingly approved that it should be the Chief Minister. When it was being considered by the current Migration Advisory Group and the Council of Ministers which Minister should have responsibility for this new legislation it was discussed again and the same matters were aired. The following questions were asked: will the housing needs of the Island be taken into consideration; will the work opportunities for the Island be taken into consideration; and will the economic growth needs be taken into consideration?” The answer obviously has to be yes. All these factors can be considered if the Chief Minister is responsible. Before I go further I would just ask Members to put out of their minds totally any personalities who have been involved or who could be involved in the position of any of these ministries because this is not how we should be making decisions. It should be on clear principles. The decisions should be made on the basis of sound and appropriate structures for the long term. The amendments which are being made highlight the difficulties because we know that the current Minister for Economic Development has not put in an amendment to fight his corner and from the previous decision made a few years ago, that obviously

has to be right. However, for instance, if the Minister for Economic Development did have responsibility would he or she make decisions on the basis of economic growth being the top priority? Probably. Possibly. So we have to think about what if the Minister for Housing had responsibility, would he or she make decisions that while protecting housing did not recognise that there could be a need to have some economic growth to maintain a range of job opportunities for our younger generations. If the Minister for Social Security had responsibility would he or she have the overarching vision and interest to enhance all job opportunities across the economy? I would expect the Minister, of course, to have a particular interest to ensure that job opportunities are available, to ensure that people are not reliant on benefits and income support. However, it should be wider than that, so the overview required should be for the complete job market at all levels and not just ensuring that those who are receiving support and looking for jobs are catered for in a decision making process. This is not to say that these Minister would not look obviously to the best interests of Jersey, they all do, I know that, but the Chief Minister is in the best place to oversee the policy overall and especially a policy of this nature. Furthermore, the Ministers for Housing and Social Security are already extremely busy, they have very large operational departments dealing with very many different issues.

**The Bailiff:**

It is a matter for you, Senator, but it might be more normal to deal with this in detail during the debate on the amendment. I hope you are not going to repeat this speech ...

**Senator P.F. Routier:**

I do not intend doing that, Sir, I thought I would get the first shot in.

**The Bailiff:**

I see.

**Senator P.F. Routier:**

I have no intention of repeating it even twice.

**The Connétable of St. John:**

Could I ask a point of clarification, Sir, from the speaker if he would give way for just a moment? I wonder, are you suggesting the Chief Minister has nothing to do? **[Laughter]**

**Senator P.F. Routier:**

No, what I am saying is the operational sides of the departments, the operational side of Social Security in particular, do have a major workload. The Housing Department also have a major workload operationally. Admittedly it is different for the Ministers but I take the point but operationally I am concerned about the departments.

**Deputy A.E. Jeune:**

May I ask on a point of clarification, would the Assistant Minister not agree that the Chief Minister's Department has the Population Office and therefore there is staffing there that, wherever it went, that staffing could go?

**Senator P.F. Routier:**

Yes, certainly if it is talking about the number of staff. But certainly to have the overarching appreciation of all the various policies I think is something we need to have consideration of. But we will all have our opinions and I am just putting forward our position. I believe that the previous States decisions were sound and correct and that is what I am proposing, that the Chief Minister who has regard to all States policies, not just Housing, not just Social Security and not just economic interests but all policies, social, economic and also the environment. One of the things that I should point out is we should remember that there is the safeguard that the Minister will have

the guidance and advice of the Minister for Housing and the Minister for Economic Development, and any other Member who would like to become involved, there will be that opportunity because we are establishing the housing and work advisory group which will be able to make those ... to help to make an overarching decision and to, as we do currently with the migration advisory group, take note of what is being said by the various departments. I believe what is being proposed is an appropriate way to go forward with the Chief Minister with the responsibility for this. I propose all of Article 1.

**11.3 Draft Control of Housing and Work (Jersey) Law 201- (P.37/2011): amendment (P.37/2011 Amd.)**



**The Bailiff:**

Is Article 1 seconded? **[Seconded]** There is an amendment to Article 1 in the name of Deputy Power and I will ask the Greffier to read that amendment.

**The Greffier of the States:**

1 Page 59, Article 1 - In paragraph (1) in the definition “Minister” for the words “Chief Minister” substitute the words “Minister for Housing”.

**11.3.1 Deputy S. Power:**

I will try to be as quick as I can. I do not normally make long speeches if I can help it but there is a bit of detail in here that I think Members need to concentrate on. Senator Routier has presented so far a very rosy picture of control of housing and work in Jersey but you will notice that the word migration is not used very often and I would like to deal with the marriage that needs to take place between control of work and housing and migration. He also said a few minutes ago that it was a 2005 States decision to take away part of the Housing Committee’s responsibilities and give it to the Chief Minister, as a result of Deputy Southern’s report and proposition. We have had 6 years experience now of a decision that was made before ministerial government; it was made during the committee system. I am not criticising the committees of the day but hindsight is a wonderful thing after some experience and we have had almost 6 years of ministerial government now and I would like to describe some of the experiences and some of the operating conditions under which the right to work and live has been managed in Jersey. Just returning to my amendment, and I am not going to read it all, Members will be pleased to hear; the management of migration on this Island is a strange hybrid beast. It is a strange peculiar beast that in actual fact has very little basis in current law and that is one of the reasons why we are here today. My own understanding is that there is no legal framework for the Migration Advisory Group, yet it has cheerfully sat for 6 years deciding who gets a (j), who gets a (k) and who gets other issues with regard to that. It is interesting; again, I referred to it a couple of minutes ago that the word “migration” is not used in the title of this report and proposition but I am very glad to see ...

**Senator P.F. Routier:**

Sorry, will the Deputy just give way just for a second?

**Deputy S. Power:**

I will this time.

**Senator P.F. Routier:**

Okay. Really it was just the point about saying that the Migration Advisory Group make the decisions; it currently is the responsibility of the Minister for Housing and the Minister for Economic Development who have specific responsibility. The Migration Advisory Group do advise and sit in but do not make the decisions.

**Deputy S. Power:**

I do not disagree with that. The Migration Advisory Group exist as a hybrid group. It is the Minister for Housing that makes the decisions on the issuances at the moment and it is the Minister for Economic Development that regulates Reg. of Uns. But I have not said anything that is different from Senator Routier interprets.

[16:00]

The first hint of the word “migration” in this debate is on the Corporate Services Scrutiny Panel title which is Migration Control of Work and Housing but the title of this report and proposition is Control of Housing and Work, so there is a disconnect there. My own amendment deals with the fact that the Chief Minister essentially controls the Population Office and its budget and structure.

The Minister for Economic Development, as I have just said, controls the Regulation of Undertakings and the Minister for Housing, on my first page, I say deals with Housing Law, Lodging Houses Law and Regulations and the issuing of housing qualifications under the current (g), (h), (j) and (k) system and this loose amalgam constitutes the Migration Advisory Group. On a number of occasions in the last 2 years I have expressed concern, both at Migration Advisory Group, when I had the right to sit on it, to both everyone on the panel and to the director of the Population Office that I was not happy with the way policy was despatched. One of the reasons where I am today is I feel that the regulation of work and a right and a place to live should come back to a reinforced Minister for Housing. I draw Members' attention to the graphs on the second page of my amendment and you will see that on the top 2 graphs the population of Jersey is a fairly consistent diagonal line and the one underneath it, the working population, is almost a parallel line which shows that under the Regulation of Undertakings Law, since it was enacted to today, has had very little effect on anything to do with the population of Jersey or the right to work. My other issue that I refer to in the amendment is this grey area of people who come and go without seemingly to be registered in any way, shape or form in Jersey's economy and I will deal with that in some detail a little later on. Today's headline in the *Jersey Evening Post*, in reference to this debate, the headline is housing; we are dealing with housing in this area and I want to pick up on the fact that this, if ever there was a report and proposition that needs to sit within the Housing Department it is one of these and I would like to explain why. The Minister for Housing, at the moment, has a number of responsibilities. Very briefly they are that he has responsibility for housing about 13,000 people; he has a portfolio of about 4,500 houses and flats to deal with; he houses those most difficult cases in Jersey society, more than any other Trust, charity or Housing Association; he or she houses people with bad credit, no credit, criminal records, learning difficulties and so on; he also manages the issuing of hardship cases of (j)s and of (k)s, as I have already said. But all of that will probably change in the not too distant future, subject to this Assembly approving, to the moving of the housing stock and the Housing Department to an association and that Housing Association will be a new body, wholly owned by the public of the Island of Jersey through the States and will have an asset base that is supposedly worth somewhere between £900 million and £1 billion, still housing those same people. The Minister for Housing, at some future time, will have capacity to take on other responsibilities. Senator Le Main, who preceded me in Housing, will probably agree with me when I say that over the last 2 years that I have been on the Migration Advisory Group and he has been on a lot longer; many of the applications for consents, mostly (j)s, came to the Migration Advisory Group. Many came through the Chief Minister's office and many came through the Minister for Economic Development's office and that many, many times those in the Migration Advisory Group will remember presentations being made to the Migration Advisory Group by officers of the Chief Minister's Department or Economic Development. I would therefore suggest, and picking up on what Senator Routier has just said, that when officers of the Chief Minister's Department lobby for a particular (j) or the Economic Development Department lobby for a particular (j) or the issuance of a number of (j)s or the issuance of a number of unqualified units, I would therefore suggest to Members that the Minister for Housing, both Senator Le Main before me, in my own case as Minister and then Deputy Green as the current Minister for Housing, we are all aware of the pressures that we are put under; not only by the private sector in applications but also by the public sector, and that also applies to Treasury and Resources. It has been really difficult at times for the Minister to resist the demands of these various States Departments asking for further (j)s; the Minister for Housing has to deal with a lot of that. Might I also remind Members that the Minister for Housing, in his present form, also deals with the (g) category, the hardship cases, which are time-consuming. They are painful to deal with, they come through the officer assessment and then they come up to the Assistant Minister and Minister for a ministerial decision. Senator Breckon referred to the fact that he has, as chairman of the Consumer Council, attended on the Magistrates Court, Petty Debts Court, on landlords in the private sector or in the unqualified sector who do not return deposits or who abuse unqualified tenants. Indeed I have done it myself, as both Assistant Minister and

Minister, where I have gone and represented their case and afterwards gone and mediated so that a satisfactory solution is found. The reason I say all this is that if the Minister for Housing does this as a Minister, I am not quite sure how that would work if all of these responsibilities were transferred over to a Chief Minister's office and I will deal with that in a bit more detail. There will be change in the Housing Department, subject to the Housing Transformation Programme going through; there will be a lot of change but this particular report and proposition opens up questions about ministerial responsibility and about changes of ministerial structure. My understanding is, at the moment, a future Council of Ministers will need to open up and free up a position for an external Minister with responsibility for foreign affairs and external affairs and the preferred option that I am aware of is that the Minister for Housing will be extinguished in favour of that role and be replaced by possibly an Assistant Minister in the Chief Minister's Department. I ask Ministers that behind this today there is that latent issue, which has not been clearly spelt out. I take the opposite view and that is why I have lodged my amendment and, in my view, the role of the Minister for Housing should be maintained, expanded and reinforced. In my view, there are almost 40,000 people who are not homeowners on this Island who are living in social housing, Housing Associations, Trusts and I think their interests need to be represented by a compassionate and by a caring Minister for Housing. I do have concerns as to whether the role of that Assistant Minister would be lost in the Chief Minister's Department. I am suggesting to Members that an expanded role for a Minister for Housing to take charge of housing and population and migration policy is an option that can be considered by a future Assembly and a future Council of Ministers. My other issue is that in the great cycle of economic activity in the Island there sometimes appears to be a swing-door policy operating on the Island, whereby we have people coming in and coming out of the Island all of the time who appear to pay almost no regard to the welfare of the Island, and I feel that these people they come in and they come out, they appear in the court system, they turn up at our hospital, they incur costs and then they disappear again. The problem we have at the moment is that the Population Office, the way it is structured at the moment, has no budget for compliance and the problem with that is that we cannot tackle those who come in and come out of the Island on a temporary basis. There was an experiment carried out at the Harbour; I think it was the early part of 2010, where the Population Office worked with Customs and with Social Security to stop and check essentially white van man coming into the Island and on the number of vehicles that they tested, which was a small sample I have to admit, most of them were not registered for Regulation of Undertakings. But the problem was that the Population Office had no powers whatsoever to turn them back and I believe that throughout the construction industry and other parts of the Jersey economy there are people coming in operating for 30 to 60 to 90 days and then disappearing again, and I think that is a big issue. I call this Jersey's twilight economic zone. We do not have a border but we do have these people coming in and coming out without any regard to our Housing Law, to Regulation of Undertakings; they use different names and I think it has got to be tightened up. I am worried that if we pass this law in its present form, that if it ends up in the Chief Minister's Department it will not have the teeth it needs to control what I call Jersey's twilight zone. I make this amendment on the basis that I think it would be far more appropriate that a Minister for Housing is retained on the Council of Ministers, that the Minister for Housing's role incorporates population and migration and that that Minister for Housing is independent of any economic driver on the Island and can easily and, I think, competently manage his or her function as a Minister for Housing with specific responsibility for population and migration also. I make the amendment.

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

Is the amendment seconded? **[Seconded]** Very well.

**11.4 Draft Control of Housing and Work (Jersey) Law 201- (P.37/2011): amendment (P.37/2011 Amd.) - amendment (P.37/2011 Amd.Amd.)**

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

There is an amendment to this amendment so we must get to the end and then work our way backwards through the amendments; the amendment in the name of the Corporate Services Scrutiny Panel and I will ask the Greffier to read that amendment to the amendment.

**The Deputy Greffier of the States:**

On page 2 amendment 1 - For the words “Minister for Housing” substitute the words “Minister for Social Security”.

**11.4.1 Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

It is a bit like one of these Russian dolls, is it not, you take it apart and then there is another one and so on but I swear ours is the last. Our report in fact was the second report and the term migration is a legacy from the original policy that was debated by the States. We obviously need to emphasise that this is legislation which authorises the collection of information; there is very little control. Deputy Power mentioned the hardship cases and problems with landlords but registered people will be able to lease in future, which will give much more security of tenure. As I understand it, the white van man experiment, but no doubt Senator Routier will confirm this, most of these people were in fact licensed. The Deputy has made a case for the Population Office remaining with Housing but is that the correct place? There was quite a lot of explanation of what the Housing Department did but the Housing Department deals mainly with only one facet of the population.

**Deputy S. Power:**

Sir, can I correct the Senator? The Population Office is not with the Housing Department now; it is with the Chief Minister’s Department.

**Senator S.C. Ferguson:**

Yes, but effectively the Minister for Housing deals with the (j) cats. I am sorry, it is one of those days, Sir.

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

You are correct, Senator. The power in law rests with the Minister for Housing, as you said earlier; (g)s, (j)s and (k)s.

**Senator S.C. Ferguson:**

Yes but the Housing Department effectively provides social rented housing and it defines the housing category into which a property falls.

[16:15]

We have a situation where the Housing Department is going to be restructured so that the housing stock will, in fact, be part of however it is set up; whether it is a limited company or a Housing Association, we shall see. The legislation, if we pass it today, will so simplify the housing categories that this part of the Housing Department’s workload will be virtually eradicated. The Chief Minister’s Department deals with the overall policy that is defined in the Strategic Plan; whether we have a cap on population, whether we have a limit of 150 heads of household a year or whatever, and that is what the Chief Minister should be dealing with. But the day-to-day management of registration cards is very much more suited to the work of the Social Security Department, which deals with people and people are at the heart of population management. In fact, as we said in the report, the Social Security Department is a pivotal department dealing, as it does, with health, employment and benefits, so it is best placed to act as a gatekeeper to evaluate the numbers registering and compare these with the aims of the Strategic Plan. The department is going to be the first port of call for newcomers to the Island and is in a position to provide the accurate statistics most quickly. As we discovered during our review (j) category incomers are

easily identified. It is the unqualified who just arrive on the boat, the white van man of Deputy Power's speech, about whom we know nothing until they qualify for income support and housing. There is certainly a place in the ongoing Migration Advisory Group for the Minister for Housing as there is for Education, Health and Economic Development but the common denominator is people and this is why Social Security should be the lead. If the Ministry for Treasury and Resources takes the carrot and stick approach and applies a charge to employers employing unqualified workers then Social Security have the necessary software and procedures and are already set up for the controls which we might decide to put in place. The Chief Minister, in his comments, states that the Minister for Social Security should not direct immigration, housing and population matters. Our report points out quite clearly that this legislation sets up an information system; there is still a great deal of work to be done on the next stage, on the management of the population. I appreciate that this sounds somewhat Orwellian but we live on a small island with limited space and the problem of economic migration is not going to go away. In the meantime we need a people-centred organisation to collate the information. I contend that this is the Social Security Department and maintain the amendment.

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

Is the amendment seconded? **[Seconded]** Does any other Member wish to speak on the amendment to the amendment? Senator Ozouf.

**11.4.2 Senator P.F.C. Ozouf:**

Seven years is a long time when I chaired the original working party, which consisted of a number of members that are still in the Assembly today although many have retired or moved on. I can just about remember the period before 7 years when ... I was going to say fortunate enough but I will explain perhaps why I was not fortunate enough to sit in parallel as I think the only person that had ever done so on both the Economic Development Committee, as it then was, and the Housing Committee with Senator Le Main probably, in his Deputorial guise then, I think. The extraordinary situation, when I turned up to the regular 2-week committee meetings, was unbelievable; inefficient, tragically not joined up in terms of the departments and employers frankly running rings around the application process that happened in the Regulations of Undertakings and Housing. **[Interruption]** Some things never change but perhaps that is because the Economic Development Committee of the day went on a bit in terms of their discussions but in fact it was tragically not joined up. Ministerial government was supposed to join up departments. One thing that needs to happen, I think, in terms of the Council of Ministers in future is that there is a requirement to be even more joined up and what we have not created and should not have created is a system of ministerial silos. Ministerial government were supposed to join up and to have a clearing house of the respective interests of individual Ministers and it is quite right that there are individual Ministers arguing and battling for their particular area. In fact I would go so far to say that both the amendment to the amendment and the amendment are not probably wide enough because the issue of work and housing needs to be even wider than both housing and the previous debate on economic development. It needs to encompass the issues of planning and in relation to the supply of homes. It needs to ensure that the Minister for Housing is arguing his or her case in terms of designation of housing. It needs to hear the Social Security arguments in terms of the job market, which are separate, and of course, the last one, it needs to join up the economic matters. I think the decision to correct the original report to put the original migration law in the Economic Development Department was the right one. It needs to be joined up, and the right place to have this is in the Chief Minister's Department and indeed Senator Routier was a good example of an Assistant Minister who got the delegated responsibility for this, of weaving and joining up all the interests of the different parties. While 7 years has been a long time there has been a lot of cross-working between different departments, different ministries to ensure that the law is right. He has done a very good job in relation to dealing with all of these individual constituent responsibilities and these constituent plates that need to be spun at the same time. I think Corporate Affairs have

got this wrong, if I may say. It should not sit in any of the respective self-interested departments, including Social Security; it needs to be joined up and on this occasion it is the right decision, I think, to maintain the situation and to put it in the Chief Minister's Department that can join up all of these departments and hear the interested debate. I will come back perhaps; we will get to a debate on the amendment if this is rejected, I assume. Yes, perhaps I will say that it is quite extraordinary if we do not get there. It is quite extraordinary. Hansard will record that Deputy Power did say in his proposition that it was the M.A.G. (Migration Advisory Group) that made the decision but it is not; it is a matter of goodwill that the Ministers have worked together. I say keep it in the Chief Minister's Department; that is the right place to join up all the respective interests.

#### **11.4.3 Deputy P.V.F. Le Claire:**

I am not too distant from that way of thinking; I do agree with Senator Ozouf that there needs to be a much more holistic approach to the way we do things, in fact that is why I supported him. It was interesting because the strong recommendation from the Corporate Services Panel that work permits be reconsidered and continuously considered was not driven by myself; it was driven by much of the other members of the panel. When you look at something in an holistic way, as Senator Ozouf is suggesting, then you get back to looking at things in the way that a work permit would. I would just like to very briefly, just for one minute or less, touch upon this whole concept for one second because I was a little bit astounded to hear what I heard this afternoon. I will just say this; the issue of work permits was debated twice in the last 10 years, both times I brought those. The first time it was rejected and encouraged to be rejected on the grounds that it was against the European Convention of Human Rights. The second time it was encouraged to be dismissed was because this law was coming and now we get told this afternoon work permits were never considered in great detail because the States had rejected them twice before. That is about the sum of it. We did this while continuously running a work permit system through Home Affairs which continues today and I am part of it so I will say I am equally to blame; the self-created hypocrisy of what we do. We say that work permits are not possible and then we run them in tandem with a system that nobody understands. Members must realise I am supporting this. I am also supporting this amendment and I will explain that in a second. But I think these laws do make Jersey a better place to be but, as I said before, there was a caveat to that and that is that we need to do a better body of work. If we look at the last few years in terms of population and we go from 2006 we had an inward migrant increase in population of 800 in 2006. In 2007 we had an inward migration population of 1,100. In 2008 we had an inward migration population of 700 and in 2009 we had an inward migration population of 300 and hopefully Deputy Tadier is listening in the ante-Chambers. We did take into account the overall issue of births over deaths, as pointed out in other speeches. I went to see the head of Statistics and there has been a small baby boom in the last 5 years; we have had an average of 250 babies being born a year in Jersey and that is over and above people dying. These inward migrant numbers, which I have given Members, if you run those numbers, add them up and divide them by 4 it gives you 725 people more a year into the Island. That is also counting those that have left. That is 725 new people coming to Jersey every year for the last 4 years. On top of those 725, you need to add 250 newborn babies. So our population has increased in and around about 1,000 because the figures are plus or minus 100 accurate. Now, Senator Ozouf, as I said before in my previous speech last week, if you read back to what he says, he said it in 2008 and he was absolutely right, then house sizes and demographic changes mean 1,000 people's needs today are nothing like the needs of 1,000 people 20 or 30 years ago. House sizes are continually decreasing. People are not getting married; they are getting divorced. You have the people wanting homes, et cetera, and availability of accommodation and the numbers and the pressures of inward migrants mean that we need a system that takes on board an holistic view. Now, I do not believe, given the numbers that I have evidenced this afternoon, and those are numbers that every Member has in their published figures from States of Jersey Statistics Unit, *Jersey in Figures 2010*, that little booklet there which all Members were given - it is on the website - that demonstrates that while these Ministers were in charge of our population and trying to keep it

below the 100,000 threshold, we were experiencing 800, 1,100, 700 and 300 and, as I said, averaging out 725. Over the 5-year period, it was 640 more people instead of the 325, which is what we were told we would need to stick to if we were to keep the population below 100,000 and at the moment we are going well over that. So how do we keep that under control because that is important for us; we have said it is important for us in relation to our expenditure on our infrastructure. In my view, the best way to support that at the moment is to recognise 2 things. This is a living, breathing document. It is not perfect. We need to kick-start it, get it up, get it running, get it rolling and then if we can, once it is rolling, throw in the best person capable of driving it and hope it gets around the track once so we can fix it when it comes in at the pit stop. Now, at this stage, in my view, the best person to take into account the needs of the Island, because I do not think they are being catered for necessarily by the Chief Minister, I think he has got other issues and concerns, I think it is the Minister for Social Security. If we are going to have this system and one Minister is going to run it, then I think it should be his. Deputy Power talked about today's *J.E.P.* You only have to look at page 4 of the *J.E.P.* to get the Council of Ministers' view in relation to the Deputy of St. Mary's proposition on freezing the population and it says in a report by Mr. Andy Sibcy - he is up there as usual working hard: "Freezing the population at current levels would send out the message that Jersey was closed for business and cost Jersey lost tax receipts" the Council of Ministers have said. That is exactly what I have been saying for the last few weeks, if not years. If you are in the finance industry, if you are in finance, if finance is your game and this is the only game in town, the only sign we can have on our shop window is "open for business".

[16:30]

Any other sign that we have got on that window will mean it will go to the competition and that is not what we want. So if we are to be open for business, then we will not control population. If we are to give the control of population to the Chief Minister or the Minister for Economic Affairs, they will be minded about one thing and one thing alone in my view, and that is business. Housing we will return to very shortly, but just prefacing my view, I believe that although well-intentioned, is going the way of the dodo so that leaves the Minister for Social Security who has these things in his armoury. Immediately they need to have a card so if they arrive on the Island and this is where in a former life I used to be employed by the States of Jersey to marshal the vehicles off the ferries at the Harbour. I was there morning, noon and night. Senator Le Main will back me up on this, marshalling the vehicles off. Come 9.00 p.m., you get the vehicles coming through and 90 per cent of the people in white vans would be craning their necks behind them as if to say: "We are through, speed up, speed up." Nobody to stop them, nobody to check them. They were checking passports, they were checking security, a different set of circumstances exist at the airport, but there were no checks being undertaken and in giving this over to Social Security, we must recognise that a certain ... we talk about difficulties of border control. It is not like we have got a 400-mile front here. We have got 2 regular places of access for Jersey. How ridiculous is that? We have got them coming in one gate, marshalled through under Special Branch into a very confined area, managed by baggage control, et cetera, and taxes arriving. We have got theoretically 2 main points of entry. Okay, you can land in a boat or a canoe in one of the other harbours or swim up the beach but 99 per cent of us arrive through the port or through the airport. It is the easiest thing in the world I would say to the Minister for Social Security to ensure that those arriving to work in Jersey are not only informed as soon as possible about the requirements to work but also from a health and safety perspective, and licensed and qualified to undertake the work that they are about to engage in and also to capture the revenue from a tax perspective that will pay for the regular and ongoing costs of due diligence in ensuring we do not just let anybody in. It is not just about letting people in who are going to take away jobs from local people. It is about making sure that local people who are going to employ people are employing people who are *bona fide* professionals. You add to that - and people do not want to talk about it but let us add to it anyway - the global concerns about

terrorism and money laundering, et cetera, and the ability to lay low and do a low-skilled job for a couple of years. You have to take all that on board as well. So I would encourage Members to support the Corporate Scrutiny Panel in giving the first lap of this journey to the Minister for Social Security and seeing if he can manage an entire lap without the vehicle falling to pieces. I am sure he can, I have every confidence in him. I am also certain that if we do it and if he gets behind it with his people, he will make sure that when the Customs Officers and the Passport Officers are clearing these vehicles and these boats, that he has somebody from his team down there also checking the white vans. The boats are not coming in every 10 minutes. There are 3 a day. Sometimes there are none a day and generally speaking, even if you turn up late, you will be on time for the boat.

#### **11.4.4 Deputy G.P. Southern:**

I am intrigued by Deputy Le Claire's mixed metaphor of kick-starting a living, breathing object but unlike him, I rise to my feet to hope sincerely that the Minister for Social Security is saying: "Let this cup pass because it is not for me." It has very little correlation with the sorts of work that Social Security does. Social Security, I know from experience, is a very black and white department. You qualify or you do not qualify. They are not into the business of giving balanced judgments about: "Oh, yes, I know it says you should not have this but no the rules say black and white". They do not say we have got a target of 150 (j) cats and if we start to go over that, then we have got a problem with our resources, be it our roads are full, be it our schools are full, be it our houses, we have not got enough of them. What might any other Minister for Social Security but this intelligent and perspicacious Minister say? He might be tempted. "Oh, I like to think. Well I have got a problem paying for pensions and if I let a few more workers in, that will be easier. It will ease that little problem." So does he have a problem with positive feedback? Yes, he does so we approach the 150 limit. Is the Minister for Social Security - not this one, of course - tempted to let that be a little soft target and let it go over in order to help to pay for his pension bill? Perhaps he does. What we need is clear negative feedback from somebody in the system that says, automatically almost, there is a check and balance. When that target starts to get approached, it says: "Hang on, alarm bells going off, let us ease back, let us stop. Let us cease this activity. Let us put some negative feedback" and you all know the result of positive feedback. It is the horrible whine that you get in your ears as you run out of housing.

#### **11.4.5 Deputy I.J. Gorst:**

I am pleased to follow that last speaker who put a slightly different spin on things again. It might not surprise the Assembly and I might be the only one of 9 Ministers who does not look forward to attending upon Scrutiny. Having said that, it was probably only a fortnight ago on a dull Friday morning that I was called upon to attend the Corporate Services Scrutiny Panel and between you and me, I quite enjoyed myself. I am not sure if that was the approach that the Scrutiny Panel were trying to take to allow me to reduce my guard or put me off guard but it appears that that is what has happened. While I was enjoying myself and we were having a general discussion around immigration and jobs and the fit with the names and addresses database with the Social Security Department, I made a comment which has, to some extent, been worked upon further by the Corporate Services Panel, and that is why we arrive where we are right now. I think the first thing I want to say is that we should not make this decision based upon personalities, and I think that is partly what Deputy Southern was saying in his comments. We should not make this decision based upon personalities. We should make it based upon the office of Minister or department to where we wish to send responsibility for administering this legislation. I would say that the Assistant Minister in the Chief Minister's Department made some compelling arguments while not in relation to this particular amendment but, as he put it, he got his shots in first earlier in this debate and he made some compelling points about balance and where those competing expectations and requirements might best be met. We have talked also earlier in this debate about controlling migration and controlling immigration and a number of Members have said that they do not believe



that this legislation does control immigration or migration. We have also talked about work permits. I believe that if we do look dispassionately at this new legislation that we have agreed the principles of, and I hope that we are going to go and overwhelmingly support, we see that the actual control with regard to immigration is around work and therefore is around jobs. Deputy Le Claire I think asked me while I was appearing before his panel around work permits and I am of the opinion that what we have got before us today is not too dissimilar to work permits. The main control will be around the issuing of jobs licences. The housing controls have been considerably streamlined and, as other Members have said, will not be quite so onerous going forward although there will still be control there. Having said that, I think it is probably the housing controls that we currently have that make most Members of this Assembly feel most uncomfortable because of the social inequity that it creates within our community and qualified and unqualified housing and the different conditions that people find themselves in, having to live in that strictly controlled regulated housing. Therefore I come back to the point that I think that this legislation will put even more of an important spotlight upon the jobs that we are creating and allowing to be created in our community. Why are jobs important to the Social Security Department? Well, I would say quite simply because we see on a day-to-day basis the effect that unemployment and those without jobs, the effects of that unemployment and the effect that it has on individuals on their families and ultimately on our community at large. So we are doing lots of things to try and encourage people back into work. We are working with the Skills Executive and the Skills Board and Members do not need me to rehearse all the excellent initiatives that are taking place there and the great success that Skills are having and we are having in our department with regard to getting people to work since we have introduced the new personal advisers across the Advance to Work Scheme. In the Advance to Work Plus, we are seeing some excellent results there of people getting back into work. Currently, my Assistant Minister does attend the Migration Advisory Group. The decisions around jobs licences are made under law by the Minister for Economic Development. My Assistant Minister has been referred to as the “Minister’s rottweiler” in this regard because she has - and it is a credit to her - in my opinion, protected a number of jobs for the local qualified individuals within our community. She has been tenacious in the way that she has done that and it has often been unseen work and unchampioned work, and I am grateful to her for that work. So we are working more closely together than we ever have done before. Before making this decision today, Members should be in no doubt that I believe that if it were be down to me today and if I were controlling this piece of legislation as the Minister for Social Security, unlike the intimation of Deputy Southern, I would not be looking at the pension. I would be looking at those 1,300 people that I currently see as looking for work. We know there are more, we know that the International Labour Organisation says there are 3 per cent of our workforce unemployed. I would be no doubt very much looking to make sure that those people were found jobs and that licences were granted in light of those individuals that need work, those who have been resident for 5 years, and I believe that any future Minister would be obliged as well to make decisions in that light. I come back to an earlier point I made; some Members believe that there is no control on immigration in this law. Well, they are strictly right but if they look at the fact that what we are aiming to do is control jobs, this new law for the first time will allow the Minister to review a licence mid-issue, and we touched upon this again when I appeared before the Scrutiny Panel. That, I believe, is a very important enhancement to the existing law, not that we should make people unemployed but if employers have licences with non-local capacity in their existing licence which is not being taken up, then I believe that the Minister would have a responsibility to review that licence and perhaps downgrade the number of non-local licences, thereby creating opportunity for local employers.

[16:45]

So this is not something which will necessarily be popular with businesses and it is not necessarily a popular stance full stop, but I believe that that is something that a Minister for Social Security would relish. If we just talk about the practicalities, the reality is that the existing employees or the

existing head staff at the Population Office, which sits within the remit of the Chief Minister's staff, could quite easily move to either my department or the Housing Department for that matter, so Members should not be concerned about the physical moving of staff. That is not a problem. The issue is the Minister who will have political overall responsibility for making these decisions and Deputy Power is right to mention the decisions about (g)s and the licences and whether they will be lease only or they will be allowed to buy, et cetera. On an everyday basis, a lot of these decisions are non-contentious and delegated to officers. That would continue to be the case, but where new non-locals are being asked for in a licence, where the decisions are contentious, where they are difficult like the (g)s then they come up for a political decision and that is exactly right and it is exactly as it should be. So to sum up, I would revert back to my earlier comments that Members should make this decision based on the office of Minister and the department, not on an individual. I believe that if it comes to the Social Security Department, contrary to what Deputy Southern says, although that is perhaps something which Members should bear in mind when making the decision, there might be other pressures for a Minister to think about the work ratio and how that would affect the pension, but I believe fundamentally a Minister for Social Security would have to consider the jobs, those that are not working, and how it was that licences could be amended and issued in light of that decision. I recognise that that is absolutely what the Assistant Minister in the Chief Minister's Department wanted me to say because, to some extent, it validates his argument about appropriate balance but I, having considered further since my comment to the Scrutiny Panel, will be supporting the Scrutiny Panel's amendment today.

#### **11.4.6 The Deputy of St. John:**

The amendment to the proposition is another example of the out of touch nature of the Council of Ministers working in silos. Here we are debating the introduction of a law created to support and enhance the current level of immigration. It is unsustainable to continue along the same current pathways and this will be on the same pathways, the main proposition, as it is currently, which demonstrates the lack of vision demonstrated by the Council of Ministers or the Chief Minister's Department. The main proposition could arguably be compared to sticking plaster on a deep wound. We currently have disproportion among the young unemployed Islanders who in some cases cannot find employment and others who do not want to find employment. What we need to be doing is to be changing the culture of the Island away from one which is shifting to the benefit culture of the United Kingdom back to the hardworking one, which Jersey used to have a few years ago. We must not only make it more difficult for unemployed benefit to be made available but we must encourage employment opportunities. To its credit, the Council of Ministers are making strides towards the right direction. We can see this through the Advance to Work Scheme which encourages 16 to 19 year-old youngsters to gain employment by offering them not only work placement but also mentoring and tutoring. However, by implementing the main proposition, we are cutting across the success of some of these schemes. Further to this, we are renegeing on our duty of care to the young people of this Island. Not only should we be creating a safe environment for them to live in but also we should be creating as many employment opportunities as possible. What we do not have is a duty of care to the immigrants. The only people that this would benefit are the businessmen who can gain cheap labour and maximise their profits. This is totally wrong and must be addressed. Moreover, what quality of life are we offering to Islanders if we are going to make it easier for immigration to occur? We have to realise that we live on an Island of 9 by 5. I think if the Council of Ministers are prepared to consult with the general public, then they will see that very few indeed want population to exceed its current level. This is not a small-minded speech, and I embrace the different cultures that other nationalities have brought into the Island along with the lifestyle which we have offered to them. However, this does not mean that our door should be open to everyone. We are not in the European Union and immigration must be restricted to address the aforementioned problem. What really bugs me is that the U.K. Border Agency has restriction on certain countries like Bulgaria and Romania working in the United Kingdom. They need a permit to work over there and only on low-skilled jobs, yet Jersey allows them in without

needing a permit and this has never been explained although I have tried to get the information from Immigration. Several days ago, I downloaded this on the U.K. Border Agency website: “U.K. Borders, European Economic Area and Swiss Nationals” and the relevant bit: “Bulgarian and Romanian nationals. If you are Bulgarian or Romanian nationals, you may need our permission before you can work in the United Kingdom.” This section is explained who needs to apply for permission and how to apply and it goes on: “This section explains what the Seasonal Agricultural Worker Scheme (S.A.W.S.) is and how you can apply. This section also provides information for farmers and growers wishing to employ seasonal workers. The S.A.W.S. is designed to allow farmers and growers in the United Kingdom to recruit less skilled overseas workers who want to take short-term [and I mention the word ‘short term’] agricultural work”. This scheme works on a quota basis for farmers and growers who participate in the scheme and are allowed to employ a fixed number of overseas workers through the scheme each year. In 2010 and 2011, the quota for the whole of the United Kingdom was 21,250 places and the scheme is already closed for 2011 and they go on. Yet Romanians are working in this Island and I have checked with our Aliens Department and they do not need a work permit for any job for which they come into this Island. We are not part of the European Union and yet we are taking some of their labour forces. Why, when we have got 1,300 people of our own unemployed in Jersey? This is absolutely ludicrous. We have a large number of young people who could fill these jobs and give them experience of life, not be on the dole or Social Security, call it what you will. These people, particularly young people, need the rigour of work ethic of having to get up in the morning and do an 8 or 10-hour day at manual labour or whatever other job it may be. I can think back in my early days. It was not always easy to get a job but you did because you wanted to put food on the table.

**The Bailiff:**

Deputy, I am sorry to interrupt, but we are speaking on the amendment as to whether it should be the Minister for Social Security or the Minister for Housing rather than whether there should be controls.

**The Deputy of St. John:**

Yes, I am coming to all that, Sir. **[Laughter]**

**The Bailiff:**

Well, could you come to it a bit more quickly.

**The Deputy of St. John:**

Yes, Sir. I have only got another couple of lines but you have now thrown me so it will take another minute or so, Sir. **[Laughter]** Coming back into the main debate afterwards, I would like to know from the proposer, has the Council of Ministers investigated putting in place a system that after 2 weeks or so where persons on the dole or Social Security, call it what you will, that that person has to register and, as happened until 10 years ago within the Parishes, a person would register with the Connétable and he would be given a brush and a wheelbarrow and go and clean the roads? Alternatively, in the Parish of St. Helier, they would go to the woodchoppers’ yard and chop wood for the old people. There is nothing wrong. They would be paid for what they do and it gives them a sense of pride. At least they are not taking money for nothing and some of these things need to be reviewed. I do not believe because of the silo mentality of the Chief Minister’s Department, and they are working in silos, that the Chief Minister’s Department is the right department to be looking after this particular area. I believe it should go with Housing and if Housing are not prepared to take it, with Social Security, but definitely not in the Chief Minister’s Department. So I hope I have come back to where you wanted me to be but I had to put it out as I see it and take it from the heart but, at the end of the day, we need to make sure that our young people and our people who are unemployed come before allowing people from outside of this Island to come here and take jobs away from our own people. In fairness to many people, they are

willing to do other jobs. We cannot all be lawyers or bankers and sometimes you have to be a window cleaner or dig potatoes for a few months to put the food on the table. I think I have said sufficient. I hope it has been picked up by the Chief Minister's Department but it has definitely got to move away from the silo mentality of the Chief Minister's Department.

#### **11.4.7 Deputy D.J. De Sousa:**

I always thought that this responsibility should lie within the Housing Department. I have spoken to the previous Minister and the current Minister and stated my thoughts on that but due to the fact of the changes that are due to come in the restructuring of Housing, I do have difficulties with this and this is why I am backing the Scrutiny review and their amendment, which I was party to. The Minister for Social Security very eloquently as well put the case for the Social Security Department to have responsibility for the population. When you think that when this legislation comes into being, the very first port of call will be at the Social Security Department to get the registration card, they will have all the relevant information at their fingertips. Therefore, if we are in danger of exceeding the Strategic Plan aims of the population, they will automatically be able to kick in with restrictions. When Senator Routier proposed this registration, he made reference to the fact that this legislation would be able to enact that. Also, the Social Security Department is totally aware of the unprecedented levels of unemployment currently in the Island, and the key indicator is long-term. These numbers have doubled within the last year and it is much harder for these people to get out of the rut and get back into work. They end up becoming dependent on income support and other help from the Social Security Department through no fault of their own, and this is why I am supporting this amendment because I do feel this is the department that will be best placed to have responsibility for this department.

#### **11.4.8 Senator T.A. Le Sueur:**

This law comes to us today some 6 years after the then Policy and Resources Committee took a proposition to the States, and I took the opportunity recently of reviewing the proposition which we agreed back in 2005, and that was to agree in principle to integrate the policy for housing consent, monitoring employment and regulation under technical development to simplify and streamline the processes involved and also to designate a single office working with the Housing, Economic Development, Social Security, Environment and Public Services Committees to amalgamate the various functions.

[17:00]

What we have before us today is a law 6 years on which implements that States decision and we have to be, I think, mindful of the fact that what we are debating this afternoon is a law and it is a law which is going to stand hopefully the test of time, not for a short time but maybe as the previous Housing Law has done since 1949, for a period of over 50 years. It may not be as long as that but certainly we make laws with the intention that they will be permanent. What we have to do in making that law is to have something which can stand the test of time short-term and long-term. Now, it was suggested by the proposer of this amendment that this law does nothing more than collect information, and I think that sells the law short. Certainly, it does enable better collection of information but it also is there in terms of defining a policy on control of employment opportunities. It does that in a way which is something like a work permit mechanism but is, in my view, better than a work permit mechanism because it does it in terms of the employer rather than the employees at a global level, which is far more efficient for all concerned. But I say it is important that we distinguish between a law, which is going to last for a considerable period of time, and a policy which is capable of changing from time to time because the policy which we currently need to adopt is one of providing employment opportunities for a significant number of local people. In 10 years' time, we may decide as a States to follow a different policy within the same law and, for that reason, it is important that the policy setting is co-ordinated in my view, as

the States agreed in 2005, co-ordinated and led from the Chief Minister's Department, holding the ring together from the other Ministers concerned. When the Deputy of St. John accuses me or my department of having a silo mentality, I would say that absolutely to the contrary, the present arrangements, the Migration Advisory Group which is a stepping stone, is a good example of working together across different departments, working with the constraints of different laws, a Housing Law and a Regulation Undertakings Law, which do not always match perfectly, working together to improve that situation to produce the law we have now. I think there is a danger that we are thinking in terms of continuing next year and the year after to implement an old Housing Law and to implement an old existing Regulation of Undertakings Law. What we are doing is taking some steps forward.

**The Deputy of St. John:**

Would the Minister give way a second? Is the Minister suggesting that a committee is better than a Minister?

**Senator T.A. Le Sueur:**

No, I was saying that the Advisory Group here is a good example of working together and breaking down the silos so that far from trying to deliver and promote a silo mentality, I believe that the group led by my Assistant Minister and the Chief Minister's Department has worked in a very positive way to break down those silos. That is why I think there is a danger, whether it be the Minister for Social Security, the Minister for Housing, the Minister for Economic Development, even the Minister for Planning and Environment, for any one Minister to have political responsibility for this matter when it is a matter which should not be contained in one particular silo but should be held within the Chief Minister's Department. Now, why do I say that and why is it not suggested that the Chief Minister's Department is simply a different silo? The reason for that is that the policy which is going to be adopted and promoted is one put forward by the Chief Minister's Department in the Strategic Plan and then agreed by the States as a whole. That is why it is important that that policy, which may change from time to time, still has a common thread in this generation, in this decade and the next decade. That would not happen if the political responsibility were with any one particular Minister. Finally, in relation to that question of policy and policy setting, there is also a very important question, which seems to have been overlooked at the moment but I am sure from a scrutiny point of view is very important, and that is one of accountability. If we have a central States Strategic Population Policy, Migration Policy, call it what you like, then some Minister needs to be held accountable for it and, in my view, a policy adopted in the Strategic Plan, the person to be held accountable should be the person responsible for that Strategic Plan, in other words, the Chief Minister. Give it to the Minister for Social Security, as this amendment suggests, and that Minister has to be held accountable for a policy which he only implements and is focusing on one particular aspect. So I know that this is well meaning but I think people are getting confused between the policy and the implementation of that policy. Now, it may well be that from a practical point of view, people will go to the Social Security Office at an early stage and register to collect their Social Security card. It may well be that over periods of time, Social Security cards and residents' cards become amalgamated and they may well go to the Population Office rather than the Social Security Office. That is why we need to distinguish very carefully between what we are passing today in a law and how we might implement it this year but how we might change the implementation in 5 years' or 20 years' time. We would all obviously have particular views on this matter but I do ask Members to come back to this overall question of who do you hold responsible, who do you hold accountable? If this policy is to be a States Strategic Policy, as it should be, then it needs to be the Chief Minister with whom accountability rests. There are going to be reviews of the policy. I can certainly agree with the Scrutiny Panel that there should be an ongoing living policy which needs to be reviewed on a regular basis and in doing that, again, we come back to this question of who is accountable for that review, for the implementation of the changing in policy, who is responsible for setting that policy?

The States as a whole sets the policy on the recommendation of Ministers but it is therefore the person responsible for setting that policy, the Chief Minister, who should be the person held accountable and therefore who should be the Minister within the wording of this law.

#### **11.4.9 Deputy S. Power:**

First of all, I want to clarify what I said earlier. I do not either believe that there is no aspect of personality politics or silo politics in my lodging of this amendment. I passionately believe that the role of Housing Regulation in Jersey, the way we manage housing in Jersey, could be dangerously subsumed into 2 large departments, either Social Security or Chief Minister's. That is why I lodged my amendment that I feel it needs to go to an independent freestanding department. That could be the Housing and Population Office; it could be Housing, Population, Migration. Senator Ozouf said in one of his swipes at me that he suggested that Housing, Population and Planning could live quite easily together but that is not for me to suggest that I have any influence over the great scheme of things that will emerge and unfold and evolve in the next 6 months to one year. So I say to Members at the moment, be very careful of taking what is a Housing Department at the moment. It is not a case of a dodo, as Deputy Le Claire suggested. It is a Housing Department that can be reinforced, can be free-standing and can establish itself as an important part of Government life in Jersey. The reason I say that is that I am very clear - and Members will know I am passionate about this - there is a great deal of confusion out there in the public about the role of the Minister for Housing, what the Population Office does, why is the Chief Minister's office involved, why is there a Population Migration and Advisory Group and why can I not just go to the Minister for Housing or the Housing Department and get my housing bits and pieces sorted out? Well, the problem is it is a completely occluded front for the public and even if it was clear, in the comment made by the Corporate Services Scrutiny Chair last week when she said and confused the fact that the Population Office was in the Housing Department, when it had moved in 2005. So there is confusion out there and we need to deal with that confusion and I really am worried about a whole department of this significance to the public of the Island that need looking after the most disappearing into Social Security and Chief Minister's and that is not a criticism of the Social Security Department. They do a fantastic job, and indeed it is not a criticism of the Chief Minister's Office. My goodness, he has enough to do as it is. So it is not a criticism. Again, I have said this is not a personality issue; it is not empire building; it is none of those things. It is what we have to deal with. Can I get back to a comment that Senator Ozouf said that I had made a mistake in my comments on the role and responsibility of the Migration Advisory Group. Unless I have been living in a trance for the last 2 and a half years, I am quite clear in my mind that collective decision making is made at the Migration Advisory Group. There is a list of applications that comes through Economic Development and there is a list of applications for (j)s, (g)s or (j)s and (k)s that come through. The (k)s are recommended by Treasury, the (j)s are normally recommended by Economic Development and then there is a list of other issues to do with the Housing Department and there is collective decision-making and collective responsibility on the Migration Advisory Group, so it is not a case of the Minister for Housing going off and making a decision. Sometimes he disagrees with the Migration Advisory Group; sometimes the Minister for Economic Development disagrees. The Chief Officers do not like some of the decisions that are made but by and large there is collective decision-making on the Migration Advisory Group. One of the comments that has been made is that we cannot have border controls the way other jurisdictions have because of the free movement of goods and labour through the E.U. and one of the last sentences in my amendment deals with the fact that if we had constitutional independence, then we could deal with frontiers and borders but we are not there. We do not have that so we have to deal with a compromise, and the compromise is how do we deal with people who come into the Island, make money here and then disappear again, and it does cost the Island's economy in terms of what happens in the court system and what happens in the health system. It is an issue and they are not being picked up. I persuaded the Director of the Population Office and the Assistant Minister for Housing to go to the Isle of Man last year to look at their work permit system and we

spent 2 very intense days studying how they did it and would it have an effective application in Jersey. I think at the end of it, the 3 of us collectively decided that the Isle of Man permit system was quite bureaucratic in that if a young lady came into the Isle of Man from say Liverpool or Warsaw and she ended up with 2 or 3 part-time jobs, she had to have 3 permits and that was quite bureaucratic.

[17:15]

But what I did like about the Isle of Man system is that they had a very aggressive frontier policy in terms of enforcing their regulations throughout the finance industry and, more particularly, the hospitality industry and the construction industry. Just as we were there, they had recently changed the zero days of tolerance for the construction industry to ... I think brought it up to 30 or 50 days and the same applied to the hospitality industry. In actual fact, the day we were there, they reported that they would give us a briefing on a raid on a chain of restaurants for people who were living illegally on the Isle on Man. So the Isle of Man operates a more aggressive policy and we do not have that compliance team that we need here in Jersey. So I am saying to Members that we need to deal with Housing Regulation as a source of migration control as we have done in the past. We need a department that is freestanding, stands alone and needs to be operated like that. I will give Members one example with which they may or may not agree. Three or 4 years ago the social security system took the income support system back from the Parishes. Now, whether you approve of the rights and wrongs of the welfare system and the use of the word “welfare” in those days, the Constables and the Parish Halls did have a fund of knowledge to do with who needed help in what Parish. What happened, once it was centralised in one department, the knowledge that the Parish Halls and the Constables had was lost and the flexibility that existed within the Parish Hall system and within the Constable system was also lost. Now while we have an income support system that works, by taking it away from a system that I think did work fairly well, the Island lost something. So I say to Members today that if you are minded to make this new Control of Work and Housing Law work, you must seriously consider that it sits in a freestanding department such as I am suggesting, which is a reinforced, invigorated and strengthened Housing Department. Finally, I must say that the lodging house sector is one that when I was in the Housing Department worried me the most. It is unloved. It generates a huge amount of time but those people at the bottom of Jersey society live in the lodging house sector and it does need protecting, and I really worry that if this decision were to go against my wishes, I feel that the lodging house section would be even more unloved. So I urge Members to think very carefully about this. I will not be supporting Senator Ferguson or the Corporate Services Scrutiny Panel amendment and I hope Members do the same.

#### **11.4.10 Deputy A.K.F. Green:**

A very interesting debate so far. Draft Control of Housing and Work Law. It seems to me that it should sit with Housing or with Social Security and it will be a matter for Members to decide where it should sit. Where it does not sit is in the Chief Minister’s Department and I will explain why later. Before I do that, I would just like to take issue with a couple of comments that have been made. First of all, my good friend, Senator Routier implied that only people in the Chief Minister’s Office or Holding Office in that department can look broadly over all the different aspects of the Island policies. That is what we do now. That is what Housing do now, that is what Social Security do now and that is what all the other departments do, and so I know he did not mean it in that way but I have to put that right. A couple of interesting comments coming out from other people as well before I get into the actual issue. If you listen to Senator Routier, I have got far too much to do and I will have far too much to do and when I say “I”, I mean the Minister for Housing. This is not about personalities, this is about the operation. So the Minister for Housing is to be relieved of this very difficult responsibility and yet is to sit on the Advisory Panel and do the same amount of work but just not have the say. So it is not relieving the Minister for Housing of any

work at all. However, if you listen to Senator Ferguson, I will have nothing to do because of this new Housing Strategy and Transformation Programme I am going to bring in and, of course, that is far from the truth. The fact is that Housing is a very important part of work in this Island, a very important part that affects everybody just like work does, so it makes sense if it is up to Members to decide whether this sits with Housing or whether it sits with Social Security. But I will say one thing before I discuss some of the issues. As I understand it, and I am sure the Minister for Social Security will correct me if I am wrong, if anybody presents themselves with the right European passport at Social Security, he will have to issue them with a card. There is no control. He will know who is there but the department will have to issue them with a card, and where is the next place they are going to go if they have not already been? They are going to start to look for accommodation. The way we do it at the moment is to control, or attempt to control, migration by substandard lodging houses and other accommodation, by not allowing people to have housing qualifications and we need to put that right and I will come on to that in a minute. So there is no control when they present themselves at Social Security. If they have got the right passport, they will get a card, simple as that. Then if they have not already got accommodation, they go to look for accommodation. In my view, now is not the time to be changing ministerial responsibilities in respect of this legislation. Of course, this law needs to be adopted and the principles were almost unanimously accepted and I think Senator Le Main, maybe unintentionally, made a very good speech as to why it should remain in Housing, I think, but maybe that was not what he intended. That was not the message that was intended. This law needs to be adopted and we need to allow the Housing Department to engage on the project that they have got underway, which has a number of objectives around the manner in which social housing is provided and regulated. One of the key outcomes will be the proposals to establish a Strategic Housing Authority with the States of Jersey. This body will administer those activities presently undertaken by the Housing Department but not related to the department's landlord function. In other words, we will have this organisation that will run the Housing Department and then we will have a very small, vibrant, lively - not a dodo - Strategic Housing Organisation, which will take the much more strategic overview on the Island. The duties for this function will be developing a robust cross-tenure Island Housing Strategy, commissioning work to drive the Housing Strategy survey work, proposing and delivering the social housing rent policy, setting eligibility criteria. Then the Housing Authority also, as I envision it, will take responsibility for prioritising resource allocation within the sector, managing the affordable housing gateway, proposing and updating Jersey housing standards across all types of housing and championing housing supply and the regulation of housing social providers. I believe the appropriate way to proceed is to review the Population Office and its functions following the adoption of this law to determine where each of the functions can be provided to maximise efficiency and benefit to the public. Proposals for changes can then be brought back to the States with a proposition that I will make next year with respect to the Housing Authority. This is not about me fighting my corner as the Minister for Housing. It is not about me. It is where the Draft Control of Housing and Work Law should be managed, and clearly that should be with the Housing Department and later with the Housing Strategy Authority.

#### **11.4.11 Deputy M. Tadier:**

I think I am in the strange position of agreeing with the Chief Minister which leads me to an uneasy feeling that I might be wrong on this occasion. **[Laughter]** But that notwithstanding, it seems to me that listening to the various parts of this debate - and this was going to be my last point but I will bring it forward because I think it is important - the reason there is perhaps so much confusion about to which department the responsibility for this law falls is because there is a lot of confusion about the law and what it means and how it is going to pan out. There are clearly implications for more than one department. We see implications for Housing, for Social Security and for Economic Development and subsequently there will also be implications for Health and for other departments. Because it bridges at least 3 departments, it seems it would be strange to say that one department should house it when it has very serious implications for Housing, for Social Security and for



Economic Development. I agree with the point also that the Chief Minister came out with, that this law will need to have time to be bedded down to see what the implications are. It will need to be monitored very carefully. It will need to hopefully be tweaked and improved over time and it would be perverse, I think, in some ways. It could have perverse consequences if we put it in one department. The Minister for Social Security, I thought, gave a compelling speech for what he would do if it came to his department, whether it was desirable for him or for the States to have it in that particular department. But he also was quite clear that he would be very biased and he would look at what was best for Social Security, for the unemployment figures, and that he would take decisions to reduce unemployment figures, which may not be the best thing for the Island in general and may be to the detriment of the elements that relate to Housing and that relate to Economic Development with the other consequences. That would be the same, I think, if it fell to any of the other departments. So while, of course, it does have massive implications for Housing, I think the same argument applies that, certainly in an interim period when the law is bedding down, that we need somebody overarching who can look over the different ministries, which is essentially the Chief Minister's job. If that is not the Chief Minister's job, I do not know what job is the Chief Minister's job, just to make sure that departments all pull together in a coherent way. I think so long as the relevant safeguards are in place, as long as communication is in place and information sharing is in place between departments - which it is not at the moment, not to the extent that it should be - as long as these things happen, it is almost academic I think in one way to whom the responsibility falls. I think I will leave the comments there. I did have others. I think it has become quite apparent, certainly from my perspective, which way to vote on this.

**The Bailiff:**

The adjournment is proposed. At the moment, I have one other Member who wishes to speak but I do not know whether there are others who would wish to. Yes, other Members wish to speak. The adjournment is proposed so the Assembly will reconvene at 9.30 a.m.

**ADJOURNMENT**

[17:28]