



## **Economic and International Affairs Scrutiny**

### **Panel**

#### **P.3 Inshore Safety Review**

### **Witnesses: The Minister for Sustainable Economic Development**

### **The Minister for Justice and Home Affairs**

Thursday, 5th June 2025

**Panel:**

Deputy M. Tadier of St. Brelade (Chair)

Deputy M.B. Andrews of St. Helier North

**Witnesses:**

Deputy K.F. Morel of St. John, St. Lawrence and Trinity, The Minister for Sustainable Economic Development

Deputy M.R. Le Hegarat of St. Helier North, The Minister for Justice and Home Affairs

Captain B. Sadler, Harbourmaster

Ms. L. Irving, Sector Officer, Maritime, Department for the Economy

Chief Inspector C. Jackson, States of Jersey Police

[15:01]

**Deputy M. Tadier of St. Brelade (Chair):**

Ministers and your team, first of all, welcome and thank you for coming to this public hearing where we are going to be scrutinising some amendments that you have put forward. The legislation amendment is called P.3/2025 and it is looking to bring some amendments to ensure safety to do with the sea and the harbours in Jersey. We have got a number of questions for you on this issue.

I am going to just introduce myself and the panel. I am Deputy Montfort Tadier and I am the chair of this panel.

**Deputy M.B. Andrews of St. Helier North:**

I am Deputy Max Andrews and I am a panel member.

**Deputy M. Tadier:**

If you can introduce yourselves for the record, please.

**The Minister for Sustainable Economic Development:**

Deputy Kirsten Morel, Minister for Sustainable Economic Development.

**The Minister for Justice and Home Affairs:**

Deputy Mary Le Hegarat, Minister for Justice and Home Affairs.

**Chief Inspector, States of Jersey Police:**

Chief Inspector Craig Jackson, States of Jersey Police, on behalf of the Chief Officer. Good afternoon.

**Harbour Master:**

Bill Sadler, Jersey Harbour Master:

**Sector Officer, Maritime, Department for the Economy:**

Lydia Irving, Sector Officer for Maritime in the Department for the Economy.

**Deputy M. Tadier:**

Thank you, welcome. I am just going to get on with our questions. First of all, I will put this to the Minister for S.E.D. (Sustainable Economic Development) initially. Of course, Minister, if you think there are individuals here who are better placed to answer too but otherwise we will proceed on that basis. Could you begin by explaining the primary objectives of the Draft Harbours (Inshore Safety) Amendment Regulations that you are putting forward in P.3, please?

**The Minister for Sustainable Economic Development:**

Yes, absolutely, I would be keen to do. The main aim is to strengthen the Island's maritime legal framework, making our territorial waters safer for everyone to use. As a result of that, there is also increasing penalties for individuals found guilty of causing harm to others within them. Chair, you mentioned the Road Traffic Law earlier in the preamble. It is also to introduce comparable events

to the Road Traffic Law 1956 as far as is practicable. That is the main overview. I do not know if you want me to draw down to more specifics on the regulations.

**Deputy M. Tadier:**

That is fine for now and we will come back to maybe looking at the comparisons between the Road Traffic Law. One question I have got, currently these amendments being put forward are amending a parent law, if I can call it that, which is the Harbours (Inshore Safety) (Jersey) Regulations 2012. I suppose the question is, what is wrong with that law or what is insufficient in it that it needs amending?

**The Minister for Sustainable Economic Development:**

Yes. A number of incidents over the past few years have highlighted a few areas of the current law which we would see as deficient. One of them is a range of new offences for the dangerous and careless operation of a vessel, including where someone is seriously injured or killed and that includes aggravated offences when drink or drugs are used. Another one is to include powers for the police and the Harbour Master to breathalyse people who they have reasonable cause to suspect may be under the influence of alcohol during the course of an investigation into that careless operation of a vessel. Those are the main deficiencies. I do not know if ...

**Harbour Master:**

I think that is right. I think the current regulations have 2 primary offences in terms of operating a vessel without due care and attention and recklessly. We have had a number of prosecutions under due care and attention, one under recklessly. Recklessly was very tricky to prove or very hard to get what is termed reckless. By replacing without due care and attention and recklessly with careless and dangerous, I think definitions are much tighter. I think when you read the definitions they read well. If you are a novice boater, or even experienced boater, I think you can read these and be clear what careless and dangerous means, so it would replace those 2 regulations. As the Minister identified, it allows us to be able to proportionately breathalyse but it does not give us the right to start going around and randomly breathalysing people. On the grounds we believe someone has operated a boat carelessly, that does allow us the grounds, if we suspect alcohol is involved, to be able to breathalyse someone and, again, it allows us to formally be able to breathalyse someone. At the moment we had to rely on people volunteering to, which quite often people do, but it does give us the powers to be able to do that.

**Deputy M.B. Andrews:**

It was very interesting just hearing you speak there because I just wanted to really touch on the part that you mentioned about carelessness. Would that be, say, for instance, if somebody is in charge

of the boat and they maybe hand the reins over to somebody else who has maybe got no experience? Would that be something that you would consider to be careless or not?

**Harbour Master:**

It is quite open and so I think it has been quite well written. A person who operates a ship in territorial waters without due care and attention or without reasonable consideration for other people, it is without that reasonable consideration. I guess these would be decisions for Law Officers to make when the case files are presented. The idea that, potentially, you have got a boat with a number of people on board, using an extreme example, you have got a 6 year-old driving it, are the parents happy doing that? There may well be an insurance offence there anyway, which will be covered by these regulations. You are required to have third-party insurance. I think that, potentially, would be something which would arise out of the duty officer and would need investigating. It could well fall under careless but it would be a decision obviously by Law Officers whether that goes forward as a prosecution.

**Deputy M. Tadier:**

Okay, thank you. Yes, I think that is helpful. What you are saying is up until now, for example, Article 9 of the current law talks about recklessness and I think 9A and B talks about in a manner that is dangerous to other people. Are you saying that that is too vague, effectively, and there have been problems with prosecutions because of that?

**Harbour Master:**

Yes. Our last prosecution we did get reckless for and that was an example of somebody riding a jet ski deliberately at a paddleboarder. We had very good phone evidence of that and we got an admission of reckless action in the end at the Magistrate's Court, but there was always a slight nervousness around the term reckless. I think careless and dangerous are understood in terms that boats and cars are similar but different, but I think in the context of this we are using similar language in the Road Traffic Law. Again, I think the definition is when you read them I would hope that even as a novice boater you would be able to recognise.

**The Minister for Sustainable Economic Development:**

If I may. Please correct me if I am wrong but I think there have been instances in the past where the prosecution has shied away from going for reckless because it is more difficult to pin down and, therefore, has gone just for careless as a result. I think there have been potential prosecutions which could have been at a higher level but were not taken; I think that is correct.

**Harbour Master:**

When we look at prosecutions, as the harbour enforcement, we are here to enforce these regulations. We are sworn in as Centeniers, we have got a responsibility. Prosecution is normally a last resort. It is whether we have got people who are consciously being incompetent. The case of the jet ski is a good example of that but deliberately going out of their way to breach regulations. In the first instance we are trying to use education and encourage responsible boating, but there do need to be penalties of operating vessels in the incorrect manner. Again, I think this just strengthens the regulatory framework around it.

**Deputy M. Tadier:**

You are sworn in as Centenier, so you can prosecute; is that right?

**Harbour Master:**

Yes. We have Centenier powers in relation to the regulations. I am responsible, as do the Acting Harbour Masters. We take an oath in the Royal Court. All our duty officers who are on call, they are in the law Acting Harbour Masters and are sworn in as Centeniers.

**Deputy M. Tadier:**

Do they have to be attached to a particular parish?

**Harbour Master:**

No. How it works is if the offence is committed within a particular parish, it is the Parish Centenier which then brings a prosecution. If it is in territorial waters it is St. Helier. Ordinarily we will tend to use the Law Officers and put a case file that way, yes. Just as a point of interest, if it is in the high seas and with a Jersey-registered vessel it is also the Parish of St. Helier, which is just a bit of a uniqueness of.

**Deputy M.B. Andrews:**

Can I just ask, in terms of there being contested disputes that are very difficult to enforce, have you been aware of such cases and, if so, how prominent have those cases been?

**Harbour Master:**

I think, being really honest and we have got some stats here, the compliance around our local boating community is very good. We have a low amount of incidents. It is a very small minority of people who deliberately go out of their way to operate their boats either carelessly or dangerously. We have never failed to seek a prosecution or to get a successful prosecution when we have gone to prosecution, but there has always been that teetering of between inattention and recklessly.

**Deputy M.B. Andrews:**

Yes, thank you.

**Deputy M. Tadier:**

Yes, Minister.

**The Minister for Justice and Home Affairs:**

I was just going to say what might be helpful to you is that if you look at the Road Traffic (Jersey) Law 1956 there has been changes over the last probably 15 to 20 years in relation to particular offences, because dangerous was always quite difficult to prosecute, to be able to get the evidence to prove dangerous. There have been additional offences, off the top of my head things to do with alcohol. If you look at the Road Traffic (Jersey) Law over time it has increased in its ability to be able to prosecute those serious offenders. That is probably the best way of putting it, is it not?

**Chief Inspector, States of Jersey Police:**

That is correct. It is bringing the serious injury by driving carelessly without due care and consideration where we did not have previously. We had to rely on death by dangerous driving. The new amendment is bringing in death by driving without due care and attention, which is obviously a lower reckless act compared to proving that higher threshold.

**Deputy M. Tadier:**

A restriction on telephones, holding a telephone while driving; that is one of the new additional offences.

**Chief Inspector, States of Jersey Police:**

That has always been holding a mobile phone while the vehicle is in motion, but obviously they are the aggravating factors that you would look at within the investigation, whether it is the way the person was driving, whether it constituted driving ...

**Deputy M. Tadier:**

It was not there in 1956 though is what I mean.

**The Minister for Justice and Home Affairs:**

No, no.

**Chief Inspector, States of Jersey Police:**

That would be the amendment 6 ...

**The Minister for Justice and Home Affairs:**

Yes. That amendment, you have driving without due care and attention.

**Deputy M. Tadier:**

Yes.

**The Minister for Justice and Home Affairs:**

By using a mobile phone that could be considered to be driving without due care and attention, but again, in the same principle as what I just said, and obviously Craig as well, is that that became more difficult and challenging to prove in a court. That is why the actual holding of a mobile phone became a standalone offence, so that you can deal with that matter and not have to prove the nature of somebody's driving while they are holding the phone. Does that make sense?

**Deputy M. Tadier:**

It absolutely makes sense, yes. We may come to this later but it has been mentioned already by Captain Sadler about the aggravated nature of alcohol, it could be drugs as well but stick to alcohol for now, but when you said testing is going to be made available there already has to be a suspicion that another offence is being committed, an offence of driving without due care, operating without ...

**Harbour Master:**

Again, it is all dangerous.

**Deputy M. Tadier:**

Careless or dangerous.

**Harbour Master:**

Yes.

**Deputy M. Tadier:**

That has got to be proven first before a breath test can be possible.

**Harbour Master:**

Yes, the duty officer has to believe that the vessel is being operated that way. It does not have to be proven, if there is a suspicion that it is.

**Deputy M. Tadier:**

Suspicion of it.

**Harbour Master:**

I think we will just go back to the definition of careless, I think the threshold is quite low. I think the bit which really sticks out is: "Without reasonable consideration for other people." I can give you some examples of what the vast majority of our enforcement are if I am honest. Within our stats, we have got a set of lights at the pier heads called the I.A.L.A. (International Association of Marine Aids to Navigation and Lighthouse Authorities) lights, there is vessels running through those lights and it is generally speeding within places like St. Brelade's Bay where we have got the 5-knot speed limit or down the small roads. If you are speeding or running a red light, you have operated that vessel carelessly, that most of the time what we find is when we speak to those people they are being unconsciously incompetent: "We did not really understand what the rules were." You have a word with them, they are explained to them, but if a duty officer comes down and he can smell alcohol, at the moment he is in a tricky position in terms of we have previously asked people: "Will you volunteer to have a breath test?" Quite a lot of people will agree to that. Otherwise we are really reliant on sometimes calling the States of Jersey Police and they will sometimes provide us a statement that they believe the person may be intoxicated. The magistrate will take that into account sometimes, but these stats, I think it is quite a low threshold and I think ...

**Deputy M. Tadier:**

In the new law.

**Harbour Master:**

In the new law, yes, to allow us to be able to breathalyse.

**Deputy M. Tadier:**

I think the point I am getting at is that you need to breathalyse if you suspect that there has been another offence committed.

**Harbour Master:**

Yes.

**Deputy M. Tadier:**

Breathalysing cannot be a way to prove that the other offence has been committed; it is an aggravating offence.

**Harbour Master:**

Correct.

[15:15]

**Deputy M. Tadier:**

For example, in that situation where somebody is speeding in to the pier head, you breathalyse them and they pass the breath test, so they have not been consuming excessively, there should still be an offence that is prosecutable there, which is the dangerous driving.

**Harbour Master:**

Potentially, yes. Potentially might want to be a couple of offences in terms of ...

**Deputy M. Tadier:**

Do you expect that in that scenario that the offence would still have legs if they have not been drinking?

**Harbour Master:**

Yes. Again, I think it is proportion as well. The duty officer comes down ... for example - and I am not going to pick on the French deliberately - sometimes we get French boats in and they are less familiar with the local geography and how things work. He comes down and they have a word and they have probably gone 7 knots through the speed limit and perhaps gone through the red lights into the harbour. As long as that conversation and they take on board the words of advice, we will log it in the system. We would not necessarily take that forward to prosecution, it would not be in the public interest to do so, but it will be recorded. We then have another escalation and we would issue a Harbour Master's warning, which is the first level. This is in our public enforcement policy, our published public enforcement policy. The Harbour Master's warning stays on record for 3 years. If you get a second Harbour Master's warning that is when we really do start thinking about prosecution. Reoffending on a Harbour Master's warning is at 1.8 per cent; it is very low. Again, I think if you have run the red lights or you have sped down the small roads and you have been drinking, that is almost a pathway to prosecution.

**Deputy M. Tadier:**

I suppose what I am getting at is that a decision has been made, I think, either consciously or in absence of an active decision to prosecute operating a vessel under the influence of alcohol in its own right. It is not an offence to operate a vessel under the influence of alcohol, is it?

**The Minister for Sustainable Economic Development:**

In itself, no.

**Harbour Master:**

No, there has to be cause to ...

**Deputy M. Tadier:**

Yes. What I am saying is that the fact that somebody might have been drinking, that does not affect whether or not the underlying offence has been committed or not; it just aggravates it.

**Harbour Master:**

Yes.

**Deputy M. Tadier:**

Yes, okay, that is fine. It is just to get that point on record. We may come back to that point afterwards when we do the compare and contrast.

**The Minister for Sustainable Economic Development**

Of course.

**Deputy M. Tadier:**

Good, thanks for that. I will just continue> Why was a decision taken not to make it a provision for alcohol and drug-testing to be carried out if there was a suspicion? I think this question has been answered because it is not an offence. I will not ask that one. Minister, what information do you receive on accidents that are recorded in Jersey's territorial waters and what do you do with this information?

**The Minister for Sustainable Economic Development:**

I am provided with reports on accidents of a significant nature. There are plenty of incidents, such as going through the red lights, et cetera, which I do not seek reports about, but if there are accidents where there has been damage or there has been damage to people, then I will often usually get the reports on them.

**Harbour Master:**

Both within the Inshore Safety Regulations and within the Shipping Law there are managed reports which must be made to the Minister; that is all I am observing. The other thing we do is we have something called the Harbour and Airport Committee. The Ports of Jersey is the Harbour Authority and there is a sub-committee of the board. Either just before or just after every Harbour Authority and Airport Committee meeting I will meet with the Minister. We go through the pack of that. It is the Harbour Authority I am reporting to in terms of my enforcement powers and then the Minister receives the same briefing that is either just before or just after.

**The Minister for Sustainable Economic Development:**

You asked as well, Chair, what do I do with that? If you know what I mean, like I say, it is a report to me, there is nothing further for me to do following that, unless there may be an individual incident but I have not come across that so far.

**Deputy M.B. Andrews:**

Just before you mentioned about if somebody was to reoffend and I just want to know whether there have been instances where people have been reoffending during your stint in your current position.

**Harbour Master:**

Yes. The reoffending rate is openly ... I do not know about where the stats ... did you file the stats to Scrutiny where you described at a briefing?

**Sector Officer, Maritime, Department for the Economy:**

No, but we can provide them.

**Harbour Master:**

Okay, okay. Over the last 5 years I think it is one reoffence on a Harbour Master's warning and that did lead to a prosecution.

**Deputy M.B. Andrews:**

Okay.

**Harbour Master:**

There was a multitude of things to do with the vessel and the person.

**Deputy M.B. Andrews:**

I just wanted to know as well, do you get many French vessels coming to Jersey and, if so, are the rules different in France compared to Jersey?

**Harbour Master:**

Yes. Broadly speaking, international maritime legislation is the same. The international rules on the prevention of collision are the same but there are nuances, I would say, in terms of things like speed limits and stuff. Yes, on average we get 6,000 visiting boats a year to St. Helier and that is everything from lots of U.K. (United Kingdom) sailors but lots and lots of French sailors but also Americans and all sorts of things. Really every sailor should be, before they come, reading local rules on maritime, they can tell and so be aware of the particularity of that port. If I go to Granville or Carteret on my boat I will make sure that I will have a look at what the local rules and regulations

are. Yes, we do have some incidents every now and again where French boats will run a red light or do not quite understand, not just the French to be fair.

**The Minister for Sustainable Economic Development:**

Deputy, I think that does touch on something which is quite an important part of these regulations because somebody may finish their journey in Jersey but they did not necessarily start their journey in Jersey. In fact it is also something that is in your mind when you are deciding how much you want to copy the Road Traffic Law, if you know what I mean. The Road Traffic Law, the offences start and stop in Jersey. In shipping or the Inshore Safety Law, they do not necessarily start and stop in Jersey. In the sense that you could be in one jurisdiction where the law is slightly different but finish in this jurisdiction. It is one reason to, potentially, have a different system to the Road Traffic Law.

**Deputy M.B. Andrews:**

Yes, okay.

**Deputy M. Tadier:**

Are you able to carry on?

**Deputy M.B. Andrews:**

Yes, yes, sure, yes, most certainly. I was wondering whether you could provide the panel with some of the figures that you spoke about before. Yes, so this is to do more so with instances where alcohol or drugs have been consumed.

**Harbour Master:**

Yes, we did have a look at that. In the last 5 years there were no mentions of drugs but there were 14 incidents where alcohol was mentioned within the incident report, one very specifically which went to the Magistrate's Court where we had a statement for the police where it was suspected and, again, the magistrate did use it as an aggravating factor when doing the sentence. Within those there was a combination of people, mainly commercial operators, who have had an incident and then volunteered, basically came ashore and said: "I would like to be breath-tested", because the professional reputation they want to rule it out. A couple where we have suspicion but we were not able to follow through and that was a weakness in the regulation. Yes, 14 broad incidents but they include a handful of people who volunteered to be ...

**Deputy M.B. Andrews:**

Yes, yes. What happens in the case where, for instance, there might be a boat collision between 2 parties? It might be contestable and they disagree on what happened. What do you usually do from an enforcement perspective when that happens?

**Harbour Master:**

I think there are different types of collision. We have the very sad fatal collision at sea where you have a commercial vessel and there is catastrophic damage and loss of life and then you have what we call bumps in the harbour. Bumps in the harbour, generally they are recorded on the incident system and they are normally an insurance issue. We have very few, thankfully. There are 2 notable incidents in my time as Harbour Master. One is the tragic incident which happened in St. Ouen with the L'Ecume and the Commodore Goodwill and the other one was in St. Brelade's Bay with a jet ski and a speedboat, which is why the genesis of these regulations go back to was it inclusion of the serious injury and death? The serious injury was not in the previous regulations. Of course that person was seriously injured and all we really managed to get to prosecution was without due care and attention. With these set of regulations we would have been in a much stronger position, but those are 2 notable incidents.

**Deputy M. Tadier:**

Yes. The starting point, both in terms of Jersey but also the fact that we are not dealing with cars and roads here, is that there is no requirement for anybody operating a leisure vessel in Jersey to have any kind of qualification or training to do that, is there?

**Harbour Master:**

Correct.

**Deputy M. Tadier:**

When you talked about France earlier, are there different standards in Europe, for example, about who can take a vessel out?

**Harbour Master:**

Yes. There are different standards in different countries. France does have a minimum requirement for some stuff, U.K. has none, so we very much reflect the U.K. in that. Again, we wear lots of different hats in Ports of Jersey, as much as I am sitting here as the Harbour Master and talking about enforcement, I am also the Chief Coastguard and responsible for sea safety. We put a lot of effort into education and I think we can be really proud, generally speaking, of our local boat owners. We have got great yacht clubs, we have got great sailing clubs and we engage with youngsters early. We do not have a lot of what I would call true antisocial behaviour but it does happen and the duty officer gets called out to noisy jet skis, jet skis which are worrying people, but generally speaking, I think, again, regulations need to be proportionate to the level of risk which is being presented. At the moment I think we have got a very compliant local boating community. We manage to police with consent with them. We are, hopefully, not overbearing and over-exercising

our powers as a harbour authority. I think it gets very complicated in terms of qualifications. At the moment the local marine traders, when they sell a boat they offer a powerboat level 2 course or whatever it is as part of buying that. We strongly encourage that but, as I said, I would not say we have a big problem with non-compliant boat owners.

**Deputy M.B. Andrews:**

How onerous would it become, say, for instance, if it was part of Jersey's legislation that if you purchased a boat you have to partake in a course, for instance, before you could then pilot the boat?

**Harbour Master:**

I think it is different. You have got to imagine people do not currently have one, so is this something you are going to bring in going forward? The blue economy is really important to Jersey in terms of our marinas, our marine traders. It is something we should be really proud of because it is all domestically driven. I think it might put some people off buying a boat. How would it work? With U.K. sailors coming down to the Channel Islands is very much seen as a badge of honour if you are a sailor from the U.K. because of the tides and the rings. We would have to say to U.K. sailors: "You can no longer come." I think it is complicated. I think if we are having lots of issues with incompetency and, as a Harbour Master, I was worried about particularly safety but also our supply chain being interrupted through that, I think it would be a valid conversation. I am not sure that is where we are.

**Deputy M.B. Andrews:**

How often are incidents occurring where you or your officers have maybe come across persons who have maybe been piloting a boat but they have been inexperienced and they have maybe found themselves in a bit of trouble and they have obviously then had to be rescued by the services?

**Harbour Master:**

To give you a broad idea - and I did not bring any Coastguard stats with me - we respond to about 200 incidents a year within Coastguard. It is very seasonal, so it tends to be in the winter not so much but quite serious in the summer. Certainly with about 200 in the summer there is quite a bit of people running out of fuel or, potentially, you are ending up on sand banks and requiring assistance. I can definitely provide those stats for you and we publish them. We have a Coastguard annual report where that is published on the website. It is probably around, I would imagine, 50 per cent in the summer, perhaps a little bit more in terms of responses.

**Deputy M.B. Andrews:**

Is there anything for you, Minister, that you would maybe like to see be addressed in future regarding some of the issues that we have spoken about so far?

**The Minister for Sustainable Economic Development:**

You mentioned licensing and I think I agree with the Captain. For me, when you bring in any regulations it has got to be very proportionate to the actual activity that is occurring. We are not seeing pods of activity which tells us there is a problem with incompetency on the seas. I do think you need to see that before you start bringing in rules.

**Deputy M. Tadier:**

But you are bringing in legislation, are you not, for ...

**The Minister for Sustainable Economic Development:**

That is because we saw that there were some gaps, in this case obviously the inability to compel a breath test. At the end of the day most people volunteer a breath test because they know they have not been drinking but the ones who do not volunteer are probably the ones you wanted to be able to compel and tightening up on that.

**Deputy M. Tadier:**

The breath test does not tell you whether they have committed the offence of dangerous or careless operation of a ship, does it?

**The Minister for Sustainable Economic Development:**

No. You asked me, you said you were bringing in these rules and it was in the context of Deputy Andrews's question, which was what made you think about bringing in these rules? One of them was the inability to compel a breath test and another one was about the difficulty in reaching prosecutions on the reckless side of things. Clearly, better definitions around that would be important.

**Deputy M. Tadier:**

Focus on the breath tests is to establish whether they had been drinking but it is not an offence to pilot a boat and having been drinking, is it?

**The Minister for Sustainable Economic Development:**

No, but it is an offence to be careless in operation of a boat and it is very difficult if you are ...

**Deputy M. Tadier:**

What I am saying is that proves that ...

**The Minister for Sustainable Economic Development:**

If you are inebriated it is difficult not to be careless.

**Deputy M. Tadier:**

It is an aggravated offence, is it? You can be careless without being inebriated.

**The Minister for Sustainable Economic Development:**

That is correct.

**Deputy M. Tadier:**

You can be dangerous without being inebriated. You can presumably also be inebriated without being dangerous or careless.

**The Minister for Sustainable Economic Development:**

That is correct, but in that case there is not a prosecution that will follow necessarily. You have to have it against ...

[15:30]

**Deputy M. Tadier:**

Yes. You need the carelessness of course, but what I am saying is you can be careless without having drunk anything.

**The Minister for Sustainable Economic Development:**

That is correct.

**Deputy M. Tadier:**

Yes, okay. Could I ask maybe a related question perhaps to the Minister or to anyone who cares to answer really, it could be for the Harbour Master? What do you think the main reasons are for carelessness or dangerous operation of a vessel, in your experience?

**Harbour Master:**

In the context of these regulations where we would want to take a prosecution, yes.

**Deputy M. Tadier:**

Outside of this, in your experience, when there have been instances of people being careless or dangerous, in practice, what does that result from? Is it a lack of training? Is it personalities?

**Harbour Master:**

What I would call it is what we call, and in the understanding is, deliberate incompetence. The person driving at the paddleboarder, for example, anger, frustration, they knew exactly what they were doing, showing off in their boat. I think you have an example of a prosecution of someone in the harbour who had been drinking and they have a family on board. Where we, I suppose, draw a line or where we begin to look at things very seriously is when other people are being endangered, where other people have been put at risk and that is what is unacceptable. Again, I know it is slightly nuanced, like use the example of the speeding in the small roads and the red lights in the harbour, of course running a red light on the avenue you have got oncoming traffic. Potentially if you run the red light in the harbour, you could be operating the vessel carelessly under these regulations and if you had been drinking that could be a reason why you have done it. It could be that you are from France and you do not fully understand the local regulations around the I.A.L.A. lights but it is the point where there is a potential to harm which ...

**Deputy M. Tadier:**

Yes. It is my question, I suppose to the Minister then, is that this legislation because it is light touch, if you like, is reactive, not proactive. If one of the reasons that somebody is driving a jet ski at a paddleboarder is because they are the type of person or they are in a mindset where they are minded to be dangerous, that would suggest to me that this is somebody who is not a fit person to be driving a jet ski, piloting a jet ski, but of course there is no check or balance about whether anyone is a fit person to be in charge of a vessel. When it comes to the road traffic there is whole load of checks and first we need to ...

**The Minister for Sustainable Economic Development:**

But not anger. Anger is not something you check when you get a driving licence.

**Deputy M. Tadier:**

No, but you can check whether somebody is a fit person. Let us say if there is a gun licence, so there will be a check, guns are dangerous, boats and cars are, potentially, lethal weapons, are they not? Would you agree?

**The Minister for Sustainable Economic Development:**

Absolutely. I do not quite see what you are saying.

**Deputy M. Tadier:**

What I am saying is that ...

**The Minister for Sustainable Economic Development:**

When I took my driving test, I took a driving test and it had nothing to do with my mood, my type of personality I was, nothing like that was in that test and I have not been retested since then.

**Deputy M. Tadier:**

What I think it does ...

**The Minister for Sustainable Economic Development:**

Yet I could have an angry moment on the road.

**Deputy M. Tadier:**

You have got to prove to yourself and you have got to prove to your instructor and with your examiner during that whole course that you can do an exam. If you are presented with issues on the road, so it is a process that has been gone through.

**The Minister for Sustainable Economic Development:**

That is just about the rules of the road.

**Deputy M. Tadier:**

But they are also about your demeanour. Presumably if you were to get very angry when you are driving and ended up driving carelessly as a result, you would not pass your test.

**The Minister for Sustainable Economic Development:**

That is only in that one instance and the instructor ...

**Harbour Master:**

Maybe one Craig can answer. I think there are plenty of examples, are there not? I have read them in local newspapers where people who have driver licences who then take their cars and speed. There has been a campaign in the parishes about people speeding and so using the country roads as racetracks; all those people have licences. Again, I think things have got to be proportionate. If I was going to the Minister and when I am doing my harbour report and say: "This is like the fifth time in this year we have somebody operating a jet ski recklessly where they have put another user in danger. We have had another swimmer who has just had a near miss with a boat." First of all, we would be looking at our risk control measures. Do we need to put more speed limits in place? Do we need to be doing more education? Do we need to do more patrols in the bay? At point we would also then be looking to change the regulations, but that is not the picture that we have currently got. I think, for me, as an enforcement authority, we have got to be proportionate and be able to do it by consent. Do we write regulations for something which is not happening? I do not know, like a worst case scenario; do we write regulations which are fit for the level that we have currently got?

**The Minister for Sustainable Economic Development:**

I think that is it. One of the things I think is the difficulty with modern life, to take it away from these regulations, is we are constantly trying to stop all possibilities happening, to remove 100 per cent of risk from everything. As a result, we now have regulations across all sorts of area which are all just designed to try to do the impossible, which is remove risk. You cannot remove all risk, it is utterly impossible to do that. I think when you are writing regulations it is absolutely fundamentally important that the Government and the States Assembly look at regulations and say: "Are they proportionate to where we are today?" We do not know what the future will bring but are the proportionate to the type of activity and the type of behaviour we are seeing today? If they are not proportionate, then I do believe if they are onerous and you will then get that sense among the community being regulated that this is without their consent, that this is too much and that this is not something that they believe should be how their lives are run by some government somewhere else. I think it is really important that proportion is ...

**Deputy M. Tadier:**

Minister for Justice and Home Affairs, do you agree with that ethos? Do you think it is right that we should not overregulate, we should not ask for boat owners to have licences or basic training before they go out?

**The Minister for Justice and Home Affairs:**

I think that is an interesting question asking of me. I think the thing is is that ...

**Deputy M. Tadier:**

You are Justice and Home Affairs you see, so ...

**The Minister for Justice and Home Affairs:**

Correct, I am, but I have no authority over the state of the waters.

**Deputy M. Tadier:**

Is it right that we treat, say, boat owners differently to car owners?

**The Minister for Justice and Home Affairs:**

I think the thing is is that I cannot make comment on how people behave on the water. If you look back, the Road Traffic (Jersey) Law was brought in in 1956; what was there before that? I do not know. The assumption is that as time has moved on and we have got more vehicles on the road, we probably had to implement more rules in order to be able to address those matters. I suppose the challenge is, is it not, if you have little or no concern about how people behave on the water,

then would you necessarily bring in legislation when you have not got concerns? I think that is the point here, is it not? I think, for me, if it was apparent that the behaviour was getting to a position where you thought this is no longer acceptable ... I do not know how many boats we have that go to St. Brelade's Bay every week, I do not know how many jet skiers there are in St. Aubin, et cetera, et cetera, but I would anticipate, as somebody who is always concerned about people's welfare and wellbeing in relation to that, I think it has to be decided about if it gets to the stage where your waters are like your roads, you may then have to consider how you are going to police that. That is not us policing it, that is the Harbour Authority is policing it because obviously that is their domain, not ours. We have no authority on the harbour. You are asking me about, would I legislate. In an ideal, perfect world if you are driving a boat, you would have a course and a licence. In an ideal world if you are on a set of skis on the mountains, you have a helmet and all of that that goes with it. I think it has to be proportionate. For me, I do not disagree with what Kirsten says in relation to it, it has to be proportionate, but if it got to the stage where every week you were having incidents, then I would be probably saying within the States Assembly: "This now needs to be considered and looked at." France clearly has rules and regulations, I do not know what they are because this really is not our domain.

**Deputy M. Tadier:**

No, I think I get your message there. I have cut in, not to be rude but just I think I have understood. Can I ask you then about the Road Traffic Law 1956, because I think that is a starting point for this legislation and feel free to jump in, Officer Jackson, as well? Article 28 of the Road Traffic Law talks about being drunk, drink driving, under the influence of alcohol.

**The Minister for Justice and Home Affairs:**

It has changed from when I was in there. It was Article 16, was it not?

**Deputy M. Tadier:**

It is an offence in its own right. Is that the right Article?

**Chief Inspector, States of Jersey Police:**

It is, yes, it is amended.

**The Minister for Justice and Home Affairs:**

It has been amended.

**Deputy M. Tadier:**

Yes, what is a number between friends, but the main point it is still in there. There was a point in Jersey of course where people had different attitudes to drink driving. It was tolerated, it maybe was not legislated for at one point.

**The Minister for Justice and Home Affairs:**

Right, I think what you will find - and I am not that old - what happened is that it was not tolerated exactly but the ability to prosecute and deal with people in relation to drink driving was a lot more onerous. As an example, if there is a feeling that you may have been drinking you used to have to walk along a white line in the middle of the road and also if you were stopped by the police. Also, it was about a medical examination and bloods being taken, et cetera, et cetera. Obviously the escalation of serious injuries and the amount of time that was spent in the accident and emergency department by the police prior to the breathalyser being brought in. The breathalyser was in the U.K. a lot longer before it came to Jersey and it was implemented, I think it was March 1990 when it came into fruition, which makes it a lot easier and identifiable. If you stop somebody, if they are involved in an accident, policy will now tell you that those individuals involved in that accident will be breathalysed. It is not in the law but it is a policy.

**Deputy M. Tadier:**

What do you think about the social attitudes to drink driving? Have they changed over time?

**The Minister for Justice and Home Affairs:**

I think it absolutely has but it has also changed the whole dynamic of how Jersey looks, because you no longer have coastal nightclubs and pubs and everything else. It has totally changed the dynamics of Jersey.

**Deputy M. Tadier:**

Do you think there is social pressure now for people not to drink and drive as well? It is not just the fact that it is enforced legally.

**The Minister for Justice and Home Affairs:**

Yes, I fully appreciate that that is the case. As I said, because of the fact that there significant serious injuries and fatalities in relation to alcohol-related crashes at night time in particular.

**Deputy M. Tadier:**

I know this is not your law but when it comes to the issue of drinking and then getting behind the wheel of a boat or a sail boat or a motor boat, has that come to the Council of Ministers for a philosophical discussion about whether or not what the law should be on that?

**The Minister for Justice and Home Affairs:**

No.

**Deputy M. Tadier:**

I will put it to the Minister for Justice and Home Affairs first but do you think it is morally okay for somebody to drink, say, 3 pints of lager or a bottle of wine and then to get behind a motor boat and take it out?

**The Minister for Justice and Home Affairs:**

Morally, my own view would be, no, it is not. I am probably not the best person to ask really but from my perspective if you are in charge of something, whether that is a bike, a horse, a car, a boat, a jet ski, anything that you are in charge of that can cause an injury to somebody else, my moral stance would be you should not be drinking alcohol, okay. The thing in relation to the driving of a boat, of course you would only know that if something happened but you would only know that if something happened in relation to all of the other things as well. Morally, I say drink driving is not acceptable, however people still do it. The only time that it is dealt with is if they are involved in a crash, they are stopped by the police for some other reason or somebody reports it to the police and the police then follow that story up. What I would expect - and I would assume that in relation to this legislation - if somebody came into the harbour and got off a boat and literally collapsed on the pontoon, I would expect the Harbour Authority to go and see. If that person was totally intoxicated I would anticipate that they would deal with that person. Does that answer your question?

**Deputy M. Tadier:**

You answered the question about whether you think it is morally right and you said, no, you do not think it is. The question I have got I suppose then, Minister, do you think it is morally acceptable for somebody to have a bottle of wine, a full-strength wine, or 3 pints of beer and then get behind the wheel of a boat?

**The Minister for Sustainable Economic Development:**

I think, as Deputy Le Hegarat has said, that anyone who is operating machinery of some sort, and by that I mean a paddleboard to a bicycle to a tractor to a car to a boat, you are best not doing that while drunk; it is just that simple. I do not know when the last prosecution was on people drunk on bikes, but they were using the road and it is probably an offence to be drunk on a bike and I looked at it this year. I will bet you there has not been a prosecution for a very, very long time on that and there is no licence needed for that either. They are on a very closed piece of road, as opposed to a wider ...

[15:45]

**Deputy M. Tadier:**

We are not talking about bikes, are we? We are not talking about bikes, we are talking about cars. If you get behind ...

**The Minister for Sustainable Economic Development:**

Yes, but I think it is important to look at the road, given that you want to compare to road traffic. Road traffic is not just cars. There are users of roads who are unlicensed but legally unlicensed like bike users - my guess and I know I have seen some - and people who look very inebriated while cycling but my guess is there have been incredibly few prosecutions of that.

**Deputy M. Tadier:**

I think we are not talking about bikes though, are we? I would prefer to be hit by a cyclist than a drunk driver but that is just me, but we are not here to talk about bikes. The point is you have said you do not think people should get behind the wheel of a boat and steer it because I mean ...

**The Minister for Sustainable Economic Development:**

I think, yes, you are best not doing that.

**Deputy M. Tadier:**

They are best not doing it but when it comes to a car they cannot do it legally, can they? We tell people we do not want you to do it, you should not do it and it is not lawful to do it, but that is not the message we are sending out with boats, is it?

**The Minister for Sustainable Economic Development:**

I think, again, this comes back to the proportionate and it is completed by consents ...

**Deputy M. Tadier:**

Could you answer the question? We are not sending that message out for boat operators, are we?

**The Minister for Sustainable Economic Development:**

I think we are sending that message out because what we are saying is that we are tightening the law from where it is today to say that if you are caught in charge of a boat that is being driven carelessly and that you have been drinking, then you will be in trouble, you will be prosecuted. To date that is not an offence that we can prosecute and ...

**Deputy M. Tadier:**

But you can prosecute ...

**The Minister for Sustainable Economic Development:**

Now we have an offence that you can prosecute.

**Deputy M. Tadier:**

You can prosecute for carelessness, so ...

**The Minister for Sustainable Economic Development:**

You can prosecute for carelessness.

**Deputy M. Tadier:**

That is a sufficient condition, is it not? When it comes to prosecuting for careless operation of a ship, it is a sufficient condition that they should just be doing it carelessly. The alcohol element does not affect that, does it?

**The Minister for Sustainable Economic Development:**

That is correct, it does not come into it necessarily ...

**Deputy M. Tadier:**

Right.

**Harbour Master:**

I think what I would say though it is quite an aggravating factor, is it not? Going back to, firstly, and, again, around education, be really clear, Jersey Coastguard does not endorse people going and drinking and going out on boats and ...

**Deputy M. Tadier:**

Yes, but you are presumably neutral on it, are you not?

**Harbour Master:**

Neutral in what sense?

**Deputy M. Tadier:**

From a legal point of view you are neutral on whether people drink on boats or not and then operate them. All you care about is whether they are doing it safely and not dangerously.

**Harbour Master:**

We want people to be able to operate vessels properly, so there are offences of careless and dangerous, but the aggravating offence of being if you are doing something carelessly and you have been drinking results in a 2-year prison sentence that this ... that is a very clear message.

**Deputy M. Tadier:**

It is for careless operation of a vessel, is it not? Say, for example, somebody who is an experienced drunken sailor, if you excuse the slightly funny sounding phrase, it is better to be an experienced drunken sailor who is not going to drive carelessly than to be an inexperienced sober sailor who is going to be careless.

**Harbour Master:**

I think we are getting into really ...

**Deputy M. Tadier:**

That is what we are talking about. The law says whether you are drunk or not it is neither here nor there, it is an aggravating offence but the main thing is you must not steer a vessel ...

**The Minister for Sustainable Economic Development:**

You should not be careless, yes.

**Deputy M. Tadier:**

You must not be careless. If you happen to be drunk that is aggravating but you can be drunk ...

**The Minister for Sustainable Economic Development:**

The penalties are much different from ...

**Deputy M. Tadier:**

You can be as drunk as you like, so long as you are not dangerous.

**Harbour Master:**

I think it would be very difficult to be drunk and not be dangerous.

**The Minister for Sustainable Economic Development:**

Not dangerous.

**Harbour Master:**

I think it is ...

**The Minister for Sustainable Economic Development:**

There is reality in this as well, there is reality.

**Harbour Master:**

I think, again, just looking at the States of the Jersey Police, there needs to be cause for them to breathalyse. They cannot just knock on my door and say: "Bill, I fancy breathalysing you today."

**Deputy M. Tadier:**

Yes, but they can do it if they suspect you have been drinking in a car.

**The Minister for Sustainable Economic Development:**

They can only do it if they suspect you have been drinking, as is the case in ...

**Deputy M. Tadier:**

Yes, but you cannot do that to people on a boat if you think they have been drinking.

**The Minister for Sustainable Economic Development:**

You have got to have reason to be suspicious.

**Deputy M. Tadier:**

You have got to suspect they have committed a separate offence.

**Harbour Master:**

I think given the level of offending we have, the level of accidents we have, remember the drink driving regulations were brought in because there were lots of accidents, there were lots of people dying on the roads. There was irresponsible behaviour. These regulations, I guess, are written around the level of risk which is presented. Again, I keep going back around policing, around consent. We have a good relationship with our boat owners. We have a good relationship. The Coastguard has a good reputation, I believe, in Jersey and engagement with the boat-owning community. That is something that we should be very careful about. The Harbour Authority, we are Centeniers, we have the same powers as Centeniers. We have a policing role but we also have a responsibility for maritime safety. That is a fine balance to walk and I think having the right set of regulations that are proportionate are. I think boat owners would be quite uncomfortable with the idea that ... I think there needs to be threshold at which the Harbour Master can start to exert his powers or at a level.

**The Minister for Sustainable Economic Development:**

I think it is also worth saying that looking at the 2 laws ... and obviously I have asked officials, et cetera, and some of the advice I have received they have said that in general terms it is only a matter of drafting style that differentiates the provisions from the 1956 Road Traffic Law and the proposed new offences inserted into these regulations, which have been modelled on road traffic offences. There is a great similarity and I think when it comes to the suspicion of someone operating a vehicle while under the influence of alcohol, to my knowledge police do step in. If I am wrong here but you can only be stopped and breath tested in Jersey on the roads if the police officer has suspicion that you are under the influence, I believe. Is that correct?

**The Minister for Justice and Home Affairs:**

No, not technically. Right, if you are involved in an accident then it is policy to do that, yes. Then if you commit a moving road traffic offence, yes. Then if you are stopped, as a prime example, during Christmas time, New Year time, there will be specific road stops, road checks between both the Honorary Police and the States of Jersey Police. During those times if you are having people driving in a queue and you speak to somebody and you suspect that they have drinking then you can breathalyse them.

**The Minister for Sustainable Economic Development:**

But there has to be a suspicion is what I am trying to say.

**The Minister for Justice and Home Affairs:**

Yes, you have to suspect that you can smell alcohol, yes.

**The Minister for Sustainable Economic Development:**

Yes. It is not possible just to say: "I do not like the look of you, I am giving you a breath test." There has to be a suspicion.

**The Minister for Justice and Home Affairs:**

No, no, no, no.

**The Minister for Sustainable Economic Development:**

Here the carelessness is tantamount to the suspicion.

**Deputy M. Tadier:**

I will give you a scenario. A police officer sees somebody come out of a pub, get into a car, so they know they have been at a pub for an hour or 2. Get into a car, it might be reasonable for the officer to then test that person and say: "I suspect you have been drinking."

**Chief Inspector, States of Jersey Police:**

No.

**Deputy M. Tadier:**

If they see that they had been drinking.

**Chief Inspector, States of Jersey Police:**

Yes, but then you form your reasonable grounds to suspect that they have been drinking.

**Deputy M. Tadier:**

Yes. If you see somebody who had been drinking in the Royal Square at the Corn Riots, had a couple of pints, get in their car, you could stop them and reasonably ask for a breath test.

**Chief Inspector, States of Jersey Police:**

Yes.

**Deputy M. Tadier:**

The equivalent happens in a boat and you see somebody having a bottle of wine and then start to go off in a boat, can you stop them and breathalyse them?

**The Minister for Sustainable Economic Development:**

No, because that will not be an offence. They would have to be ...

**Deputy M. Tadier:**

That is correct.

**The Minister for Sustainable Economic Development:**

... piloting that boat in a careless manner.

**Deputy M. Tadier:**

Sorry to labour the ...

**The Minister for Sustainable Economic Development:**

I then put that into the context of the seas are not enclosed roads, they are wide open seas.

**Deputy M. Tadier:**

We have established that.

**The Minister for Sustainable Economic Development:**

If there is any dangerous or careless behaviour on that boat or driving that boat, then they absolutely can be stopped. I would say the question is, are you trying to criminalise people who are not in any danger? If someone is piloting a boat ... regardless of whether they had been drinking or not, if someone is piloting a boat carefully, they are being aware of the people around them and they are operating that boat safely, why are you trying to criminalise them?

**Deputy M. Tadier:**

I am not saying we are. I am talking about messages and ...

**The Minister for Sustainable Economic Development:**

Why would you want to criminalise them?

**Deputy M. Tadier:**

I am talking about the messages that we send out. For example, I have seen the police have had a road campaign which says "none for the road"; is that right? I do not know if it is still alive.

**The Minister for Sustainable Economic Development:**

Roads are entirely different factors.

**Deputy M. Tadier:**

No, the campaign says "none for the road", okay. That is an interesting campaign because of course that is not the legal position. You are allowed to have a small amount and drive, but I think the message you are sending out as a Government is it is better not to drink and drive. It will be very difficult for you to send that message out.

**The Minister for Sustainable Economic Development:**

I can send that message out.

**Deputy M. Tadier:**

As you could not have a ...

**The Minister for Sustainable Economic Development:**

It is better not to drink and so ...

**Deputy M. Tadier:**

You could not have a campaign saying "none for the boat", could you?

**The Minister for Sustainable Economic Development:**

I can do.

**Deputy M. Tadier:**

People would say but that is not the law.

**The Minister for Sustainable Economic Development:**

It does not matter. It does not matter. You do not have to have a law to say that something is worth doing or not doing.

**Deputy M. Tadier:**

What is the message that you will be sending out there?

**The Minister for Sustainable Economic Development:**

I would say it is worth studying your homework if you are a schoolchild but there is no law to do that. This will say to them it is worth studying your homework to get your exams. You do not need a law in order to be able to tell someone that it is worth acting in a particular way.

**Deputy M. Tadier:**

What is the message you will be sending out to boat owners with regard to alcohol, Minister?

**The Minister for Sustainable Economic Development:**

The message I am sending is that they need to be very much more aware of the fact that if they are drinking that they should definitely think twice before getting in that boat.

**Deputy M. Tadier:**

What is your slogan so that they have got ...

**The Minister for Sustainable Economic Development:**

They can now be stopped. I am not here to do slogans.

**Deputy M. Tadier:**

No, but the police have got ...

**The Minister for Sustainable Economic Development:**

If you want to do politics by sloganeering that is up to you.

**Deputy M. Tadier:**

I am here to ask questions. There is a very catchy slogan that the police have, which is “none for the road”.

**The Minister for Sustainable Economic Development:**

Yes, but I am not here to be an advertising person and I am sure the police may have spent money on trying to get an advertising person to come up with a catchy slogan. I can invest in a catchy slogan if you wish but I am not going to do it here.

**Deputy M. Tadier:**

What is the message to boat owners who are legally allowed to drink? Do you want to change the drinking culture that is associated with some maritime activity or do you want to leave it?

**The Minister for Sustainable Economic Development:**

No, I want to make sure that the seas are a safe enough place for everyone to enjoy them. That is what I want to do and that is what we are doing.

**Deputy M. Tadier:**

What if enjoying them involves having a ...

**The Minister for Sustainable Economic Development:**

The statistics I have here say 215 total incidents over the last 5 years. I imagine there has been more than 215 total road incidents in Jersey in the past year. I would imagine it is more than 200. We are talking about something which is barely 40 or 50 incidents a year. There is barely one a week and most of them are just going through the harbour traffic lights. There is not this immense problem to solve and that is where the proportionate comes in. I do not believe that ... without having a big problem to solve I do not think you should be trying to solve a problem that is not there.

**Deputy M.B. Andrews:**

Okay. Can I just ask, Minister, how satisfied are you with P.3? Can you also confirm whether you do have concerns and what are those concerns?

**The Minister for Justice and Home Affairs:**

I would prefer to have something that says no alcohol because I just think that it is quite clear. I think the Minister sitting next to me is probably of the same view. It is not about preventing somebody having a glass of wine on a boat, it is about saying that you should not be intoxicated while sailing a boat.

**Deputy M.B. Andrews:**

Yes. Can I ask as well ...

**The Minister for Sustainable Economic Development:**

We can do an education campaign which says that with these laws are in place. Without these laws in place, if we keep the laws exactly as they are today there would be still huge amounts of value in doing a campaign about not being intoxicated while driving a boat. The laws we have in place today are weaker than the laws that I am presenting to the Assembly, but the weaker laws would not negate this advertising campaign.

**Deputy M. Tadier:**

Would it not be better to have a campaign saying do not be reckless or careless or dangerous when you are piloting a boat because that is what the law says?

**The Minister for Sustainable Economic Development:**

I can do that.

**Deputy M. Tadier:**

One of those factors might be do not drink because that increases your likelihood of ...

**The Minister for Sustainable Economic Development:**

I can do that, I can do that campaign today with the existing laws. There is no hypocrisy in saying you are better not being drunk while driving a boat and having a big campaign saying if you are going on the water today do not drink, it is better for you, it is safer for you. There is no hypocrisy in that.

**Deputy M. Tadier:**

We have got one Minister here saying, and I understand that she is saying, she would prefer it if the law was clear so you should not be able to drink drive on a boat, full stop. Is that your position?

**The Minister for Sustainable Economic Development:**

It is not entirely my position. I think people are best if they do not drink but I think there is that idea that people do have a boat, they go off to Beauport or wherever it is and they sit down for a picnic and they may well have a drink and they then get back on their boat. I do not think we should be criminalising it because there is not a problem, that is the issue. There is not this big problem where we need to start criminalising people.

**Deputy M. Tadier:**

Are you committing to an ad campaign to tell people not to drink?

**The Minister for Sustainable Economic Development:**

I do not have the budget to commit to ad campaigns.

**Deputy M. Tadier:**

It just seems like a bit of a nanny thing to do to tell people not to have a drink on a boat.

**The Minister for Sustainable Economic Development:**

I think nannying is trying to criminalise people for things when there is no big issue in that respect at all.

**Deputy M.B. Andrews:**

Sorry, can I ask, Minister, as well, were you consulted on P.3 before its lodging?

**The Minister for Justice and Home Affairs:**

No.

**Deputy M.B. Andrews:**

All right. Can I also ask this one of you, Craig, whether you were consulted about P.3 before its lodging?

**Chief Inspector, States of Jersey Police:**

No.

**Deputy M.B. Andrews:**

Is there anything that you would like to have maybe implemented as part of P.3 and, if so, what would that be?

**The Minister for Justice and Home Affairs:**

I would prefer there to be something to say that people should not be I suppose the word is over a prescribed limit. If you look at driving a car, it is quite clear and the advice always is none for the road because it is not simple and straightforward to say that somebody can drink one glass, 2 glasses or 3 glasses of wine. It depends on weight, the individual, whether they have had anything to eat and there is all sorts of dynamics. I would prefer to have legislation that does prevent that. That does not stop somebody from having a picnic but it does have the fact that if they do that that that is part of what I ... because, morally, I cannot be a police officer for 25 years and then suddenly flip my brain and have a different view about drinking and operating of any machinery.

**Deputy M.B. Andrews:**

Thank you very much, Minister.

**The Minister for Sustainable Economic Development:**

I think importantly these regulations do bring prescribed limits.

**Deputy M.B. Andrews:**

I would just like to ask you, Craig, had you been consulted, what would your advice have been to the officers in bringing forward P.3 before yourself?

**Chief Inspector, States of Jersey Police:**

I think very similar to the Minister's stance that obviously tightens the regulations, but also I do err on the side of the subject matter experts and the Harbour Master. He is the expert of the waters, knows the data, knows the statistics. We have got statistics for the road, we have seen the impact and the cause and effect that drink driving has on our communities. Yet I look at the Harbour Master and look at his data to say - and I get the Minister as well - the proportionality side to bring something into it, is it a problem and is it proportionate to tackle something that is not there? The Road Traffic Jersey Law, I came into the police and it has already been adopted. If you have a look at the experts with regards to anything in P.3 and bringing what is a problem and trying to problem solve the issues of the harbours.

[16:00]

**The Minister for Sustainable Economic Development:**

Sorry, if I may, I think it is important on your question on consultation, obviously this has been all presented to the Council of Ministers and so the Minister has had opportunity to look at these laws and ...

**Deputy M.B. Andrews:**

Might not have been present.

**The Minister for Sustainable Economic Development:**

They have been presented to the Council of Ministers. On top of that we have had a public consultation for a long time. Obviously the police force and Minister were entirely able to take part in that public consultation as well; that was a publicised public consultation. From that perspective there has been consultation and the consultation was well adopted, there was quite a strong response.

**Sector Officer, Maritime, Department for the Economy:**

We had a 75 per cent approval rate from the consultation.

**The Minister for Justice and Home Affairs:**

Sorry, what was that?

**The Minister for Sustainable Economic Development:**

Yes, 75 per cent approval rate from the responses. How many responses did we get?

**Sector Officer, Maritime, Department for the Economy:**

Fourteen.

**The Minister for Sustainable Economic Development:**

Fourteen, yes, so it was not as strong again, never mind.

**Deputy M. Tadier:**

Questions like mandatory training, licensing of individuals ...

**The Minister for Sustainable Economic Development:**

It is not something we were consulting on. It was not part of our thinking at the time.

**Deputy M. Tadier:**

It was not consulting, all right.

**The Minister for Sustainable Economic Development:**

I do not apologise for that. I think we are strengthening a law and so for the law today we are strengthening from the position it is in and I think that is the right thing. I think it is very important that you take the community with you. I think the community in this case ... because I also think it is important to have evidence-based decision-making and evidence-based legislating. I think it is too easy to say we should not, we should not, we should not. That is basically crying from some moralistic perspective. It is interesting when ...

**Deputy M. Tadier:**

We should not what, sorry?

**The Minister for Sustainable Economic Development:**

It is when you say should not, should not, should not, it is coming from this moralistic perspective which was you should not do X or you should not do Y. I am talking in general terms, not specific.

It is very easy for legislators to say: “You should not, you should not, you should not” or people to say that, to moralise. It is interesting that your questions, Chair, have been about morality, not about reality. The reality of the situation here is that we do not have an excessive problem with incidents on the sea and we do not have an excessive problem with drunken incidents on the sea. What we are trying to do is take that into account but say that we have seen some - literally one incident in 2017 and another incident more recently where somebody refused a breath test or refused to volunteer a breath test - where we thought: “No, we need to tighten this up.” It is by looking at those incidents, which is the reality and the evidence before us, that I have then said: “Right, let us tighten these up” but take them to the next step. If there is some point in the future where we are seeing many hundreds of incidents, and particularly where danger is very much happening at sea, where people are driving their vessels in all sorts of dangerous ways, then of course you should look at it, but we just do not have any of the evidence so why would you want to take freedom from people - because that is what this is about, freedom from people - when there is no evidence?

**Deputy M. Tadier:**

To do what? Freedom to drink?

**The Minister for Sustainable Economic Development:**

Is it wrong to drink? Is it morally wrong to drink, is it?

**Deputy M. Tadier:**

You said it is morally wrong to get behind the wheel of a vessel if you are drunk.

**The Minister for Sustainable Economic Development:**

I did not say that.

**Deputy M. Tadier:**

Do you think it is morally right or wrong?

**The Minister for Sustainable Economic Development:**

I do not know whether it is morally right or wrong. I think it is better not to.

**Deputy M. Tadier:**

But your fellow Minister has given a clear ...

**The Minister for Sustainable Economic Development:**

I said I think it is better not to.

**Deputy M. Tadier:**

I think earlier you said it is better not to do it. Why? Why is it better not to?

**The Minister for Sustainable Economic Development:**

I think it is better not to. I think you can be more sure of yourself and the people around you if you are not, but the evidence does not ...

**Deputy M. Tadier:**

Are you not moralising that? It sounds like you are telling people what they should and should not do.

**The Minister for Sustainable Economic Development:**

No, I did not. That is the opposite. You are the one who is telling people what they should and should not do.

**Deputy M. Tadier:**

I am asking questions, Minister.

**The Minister for Sustainable Economic Development:**

No, you are making some statements as well.

**Deputy M. Tadier:**

I am asking some questions. If they come across as statements it is because they are rhetorical questions. Are we happy to move on, on this? I think we have got to be ...

**The Minister for Sustainable Economic Development:**

Well, it is your choice.

**The Minister for Justice and Home Affairs:**

Just for clarity, you asked the question about whether I was consulted and the answer to that I said was no and what I meant was that we were not consulted before the law was presented. I have no issue with the law in relation to strengthening the powers of the Harbour Masters because I agree that it needs to be strengthened because of the fact that it is difficult to prosecute. I may have very different views to what the Minister or the Harbour Master thinks about what I would put in a legislation because I have a wired brain in a certain way.

**The Minister for Sustainable Economic Development:**

I think as well the Ministerial Code does say you should consult with Ministers when it affects their areas. This, to my knowledge, does not particularly affect the Minister for Home Affairs area, which is why perhaps I did not knock on your door more directly.

**Deputy M. Tadier:**

Do you accept that it is absolutely right, where part of our job is to do legislative scrutiny ...

**The Minister for Sustainable Economic Development:**

Of course.

**Deputy M. Tadier:**

... and part of that process is to understand the philosophy behind legislating, so why legislation is brought forward and what the philosophy behind the legislation is? Do you accept that is reasonable?

**The Minister for Sustainable Economic Development:**

Yes, that sounds reasonable. In terms of that I also think ... so part of my thinking as a legislator - maybe incorrect thinking - is you should not legislate unless there is a need to, and I strongly ... that is part of my political thinking in general; you should not legislate unless there is a need to legislate.

**Deputy M. Tadier:**

Do you accept the fact that you have introduced into this new legislation, the proposed legislation, a prescribed limit for alcohol; you accept that you have done that?

**The Minister for Sustainable Economic Development:**

That is correct; there is a prescribed limit for alcohol.

**Deputy M. Tadier:**

That has not existed in this legislation up until now, so what you are saying is that there is a dangerous level of which you should not have so much alcohol in your system? What is the purpose of that limit?

**The Minister for Sustainable Economic Development:**

What the purpose of that limit is is to prescribe an evidential limit so that prosecutions can be made. In itself those limits do not necessarily ... they do not cast a moral aspersion anywhere, they are evidential limits.

**Deputy M. Tadier:**

What does that consumption of alcohol prove? What is it you are trying to prove by showing that people, who are otherwise just reasonably enjoying themselves, have got alcohol in their system?

**The Minister for Sustainable Economic Development:**

In this case it is proving that the alcohol was likely contributing to their dangerous or careless piloting of the vessel.

**Deputy M. Tadier:**

How does it do that?

**The Minister for Sustainable Economic Development:**

In what way?

**Deputy M. Tadier:**

How does it prove that it contributed to their dangerous driving?

**The Minister for Sustainable Economic Development:**

That is the whole purpose of the offence.

**Deputy M. Tadier:**

But how does it prove that, because it is an offence in its own right, so careless operation of a vessel is an offence in its own right; how does the consumption of alcohol prove that it has contributed to ...

**The Minister for Sustainable Economic Development:**

It is incorrect to say it proves it. It was your word rather than mine, but I am just trying to say that we put a prescribed limit in there for evidential reasons, so we now have something to prosecute against.

**Deputy M. Tadier:**

But what does it evidence? What does it prove?

**Harbour Master:**

Going back to the ...

**Deputy M. Tadier:**

I mean, it is your legislation, Minister, so it must serve a ...

**The Minister for Sustainable Economic Development:**

I am not sure it proves anything.

**Deputy M. Tadier:**

So why is it there then?

**The Minister for Sustainable Economic Development:**

As I have said, it is there because we now have an evidential limit that we can prosecute you against.

**Deputy M. Tadier:**

But what does it show though? What does it show about the careless or dangerous operation of a vessel?

**The Minister for Sustainable Economic Development:**

I do not know, you tell me.

**Deputy M. Tadier:**

It is not my legislation.

**The Minister for Sustainable Economic Development:**

I know, but ...

**Deputy M. Tadier:**

I am saying I think it shows that you have had an amount of alcohol which has contributed to your careless driving.

**The Minister for Sustainable Economic Development:**

In the Road Traffic Law what it shows is that you have committed an offence by having that in your system, which is that you should not have been driving.

**The Minister for Sustainable Economic Development:**

But it does not show that in this case.

**Deputy M. Tadier:**

No.

**The Minister for Sustainable Economic Development:**

No, it does not.

**Deputy M. Tadier:**

So should it be there at all?

**The Minister for Sustainable Economic Development:**

I think it does because I think we can now say that your careless driving was made worse or your careless piloting was made worse likely by the use of alcohol.

**Harbour Master:**

If it helps, if I can come in. Being a Harbour Master and a practical person, we have got laws and regulations that we need to enforce to keep people safe. Ideally people will obey rules but it gets to a point where you need to have rules and consequences to the rules that are real. Again, I think if you are operating a vessel carelessly and you have had a drink that is an aggravating factor. Again, coming back to when we take a prosecution, it is that we are not looking out for incompetent, the person who has ... because do not forget a boat is everything from a paddleboard to a 60 foot sunseeker. Somebody who is deliberately going out of their way knowingly to put someone else at risk, and having had a drink is an aggravating factor. Just going back to the: "Is it okay to drink?" No, and we have done Coastguard ... and I do not think it is contradictory either. Coastguard are responsible for sea safety. One part of the Ports of Jersey responsibility as the harbour authority is to keep people safe at sea and to educate them around that, and we have done educations around alcohol consumption, both on the beach, on boat, coastal activities.

**Deputy M. Tadier:**

Two questions and we will move on but I think there is potentially an area for amendment from the panel so I think we do need to get the ...

**The Minister for Sustainable Economic Development:**

Believe me, I kind of knew that before I came in.

**Deputy M. Tadier:**

Given the fact that one of the Ministers already supports it, it is not a bad start.

**The Minister for Sustainable Economic Development:**

Supporting and voting are 2 different things.

**Deputy M. Tadier:**

There are 2 questions. The first one is if we accept that it is not ideal to drink alcohol and then get behind the wheel of a boat, and we accept that it is not a fair comparison to compare it to the roads

for all sorts of reasons, is it reasonable to ask then why the limit is being set the same as for the road? It could have been a different limit.

**The Minister for Sustainable Economic Development:**

We could have put a different limit but to provide a different limit I think we would have had to find a way of evidencing a different limit. Quite simply, in this case we have adopted the road traffic levels because it is much simpler to do so.

**Deputy M. Tadier:**

Does that in itself pose a problem, because you are saying on the one hand it is not the same? It could well be that you could say that the sea is much bigger, we come from a different culture where it has not been outlawed to drink and sail ...

**The Minister for Sustainable Economic Development:**

You could make that argument.

**Deputy M. Tadier:**

... so would it be better to have higher limits for ...

**The Minister for Sustainable Economic Development:**

You could have made that argument but I think we would have had to then find our own method of testing to find a particular limit somewhere, and I do not think Jersey is in a position to do that.

**Harbour Master:**

I think trying to get consistency is important. The really important part of these regulations is providing clarity. I am an experienced mariner, but if I was a less experienced mariner and I pick up these regulations can I read them and understand them? I think you can. I think having different levels would be confusing. It is really tricky because there are comparisons to cars and there are not comparisons to cars and I do not know if this is a good example or a bad example but I will give it to you. These regulations also to a certain extent regulate water skiing. It is okay to have a boat, have somebody water ski behind you and have somebody to be able to spot that going on. It is not okay for me to be able to put a rope behind my car and pull somebody on roller skates; the 2 are similar but they are different. What we have tried to do here is provide regulations which can be read and understood by the layperson, because boating is a leisure activity, regulations which can apply to both leisure mariners and professional mariners and as much as possible we should not be confusing people, so to try and draw parallels where reasonably practicable to existing legislation.

**Deputy M. Tadier:**

Thank you.

**The Minister for Sustainable Economic Development:**

I think it is also really important, and sometimes it is easy to forget, we have widened the definition of “ship” in the previous legislation that went through in P.4, and so now we are also talking about people on paddleboards, in kayaks, and so what you are also suggesting is that you should have a prescribed limit for people getting in a kayak. I am not convinced that is an appropriate way forward in terms of saying you should not be in control of a kayak after having drunk. I think you are going to the limit of literally taking away people’s freedom in those situations for no good reason, and that is not an area I want to go into.

**Deputy M. Tadier:**

It would be within your gift, would it not, to differentiate so in the same ...

**The Minister for Sustainable Economic Development:**

Yes, but it is within all sorts of ... people in authority have all sorts of powers in their gift; they do not necessarily deploy them, for good reason.

**Harbour Master:**

If it helps again, so these regulations came in, in 2012, just before me, but they preceded a set of quite old regulations I think that are called surf riding or something along those regulations. Maritime activity evolves quite a lot so what we have seen is jet skis, paddleboards are quite commonly seen now, people are now all of a sudden starting to have foiling boards, for example. It is quite easy to try and write specific regulations. I think again these are hopefully simple for laypeople to understand and encompass a broad range of maritime activity.

**Deputy M. Tadier:**

That is really useful. Just to move things on and maybe lighten the tone a little bit, regulation 2 talks about some interpretations, so 2b. talks about using a ship to ride the surf, and I presume in that case it is because we are talking about not a ship but maybe like a surfboard or a kayak; is that right?

**The Minister for Sustainable Economic Development:**

This is the definitions that went through in P.4.

**Harbour Master:**

It is a surfboard. I cannot remember if it is 1.2 metres and with a fin it is regarded as a ship, and that was to capture the requirement for third-party insurance, trying to remind people you are supposed to have if you have a surfboard.

**Deputy M. Tadier:**

With a surfboard it is still a requirement that you need to get ... I think it has been a longstanding thing ...

**Harbour Master:**

Yes, and that came from the original ... it is quite unique I think to Jersey ...

**Deputy M. Tadier:**

You normally register with a club. Is it a club?

**Harbour Master:**

Yes, and if you register with a club quite often that club then has ...

**Deputy M. Tadier:**

They insure you.

**Harbour Master:**

... insurance which covers you.

**Deputy M. Tadier:**

It is just that there are some interesting turns of phrase, which I do not criticise but they are not necessarily plain English. If I was reading that as a layperson, using a ship to ride the surf, it is at best flowery language, but we know it does not necessarily mean a ship, it means a ...

**The Minister for Sustainable Economic Development:**

That does also point to the fact that the suggestions that you are making about having an offence that is just not being in charge of a ship having imbibed any alcohol would mean that somebody who is having a beer and then wants to jump on their surfboard would be breaking the law. What we are saying is you can have a beer, you can jump on your surfboard, but if you then cause harm you can be prosecuted, but until you have caused that harm ... and that is what I mean about the freedom element and the proportionality of this.

**Deputy M. Tadier:**

I get that but that notwithstanding, when it comes to the Road Traffic Law there may not be a difference in law between bicycles and cars, because I think you can still be found to be drunk in charge of a bicycle, is that right, but there is probably a difference in policing, is there not, in reality? You are not going to go ...

**Chief Inspector, States of Jersey Police:**

There is, and there is also a difference in the process as well. It does not fall under the legislation of breathalysing, it is the unfit, which goes to, as the Minister said, the old sobriety test that comes through to it. It is different in the penalties as well with regards to unfit on a pedal cycle compared to ...

[16:15]

**Deputy M. Tadier:**

But would you have to be suspecting of careless cycling effectively?

**Chief Inspector, States of Jersey Police:**

Riding a pedal cycle while unfit is an offence in itself but there again you could not give the breathalyser roadside sample because it falls under a different part of legislation.

**The Minister for Sustainable Economic Development:**

I think it is interesting because I think if you start treating people at sea for leisure purposes ... because again, it is really important, none of these regulations are about commercial operators, so commercial operators operate under different regulations.

**Harbour Master:**

These would apply for commercial operators, and so we have to ...

**The Minister for Sustainable Economic Development:**

Well, they do, but they cannot be in charge of a commercial vessel while ...

**Harbour Master:**

Yes, so the Shipping Law has again similar offences.

**The Minister for Sustainable Economic Development:**

That is what I am trying to say. This is all about the leisure industry, effectively, and I think to treat the sea where we have 200 incidents over 5 years, most of which are crossing a traffic light, in the same way as treating the roads is to ignore the clear differences between the 2 in terms of other

people's safety and your impact on other people. I think to take that approach ignores the fact that the sea is inherently international; you can arrive in Jersey, having started in France under a different set of laws. When you try to make out that they are the same I think what you are doing effectively is you are in danger of removing a great deal of freedom from people and for the sake of saying you want to treat the seas the same as the roads. The seas are not the same as the roads. The sea is much less densely populated, and so I think your approach would be seen by many as being disproportionate to the actual evidence of what is going on out there, and we do not have lawless seas where lots of people are drunkenly bashing into each other.

**Deputy M. Tadier:**

Minister, this is not about our approach but what we are looking at and, thank you, because that is useful for the record but we are trying to establish the differences and similarities between the 2 laws, because you have used that as a starting point so I think that is ...

**The Minister for Sustainable Economic Development:**

Yes, and that was, as you say, to try to make drafting simpler, to try to make the application simpler, to try to help the understanding be simpler.

**Deputy M. Tadier:**

We have no preset outcomes, it is just to try and understand. That is what we are here for, so ...

**The Minister for Sustainable Economic Development:**

You mentioned just before you are likely to bring an amendment so I understood that to be ...

**Deputy M. Tadier:**

It is possible. I did not say we are likely, I said it is possible that we may. It is something we are considering.

**The Minister for Sustainable Economic Development:**

That is a fairly preset outcome.

**Deputy M. Tadier:**

Sorry, say that again?

**The Minister for Sustainable Economic Development:**

Nothing.

**Deputy M. Tadier:**

I thought you said something. Okay, let us move on because I think we have covered quite a lot of ground already, Deputy Andrews, so I think some of the questions probably up to about ... certainly 12 are done. Can we proceed with our questions maybe from number 21? Are you happy to take those?

**Deputy M.B. Andrews:**

Yes. In a letter to the panel, dated 5th March, you informed the panel that the penalties have been set in line with the Road Traffic (Jersey) Law. Can you explain the rationale behind this and whether any other considerations were given?

**The Minister for Sustainable Economic Development:**

I think I just have explained the rationale behind it. I just listed them. It was about the simplicity of application, simplicity of understanding, and also making sure we could do this quickly. To set different rules would have meant trying to find different standards from somewhere else, possibly even having to create a set of testing to work out where different levels should be. It would have massively complicated this exercise.

**Deputy M.B. Andrews:**

Did officers look at international best practice elsewhere and, if so, what other jurisdictions were explored?

**The Minister for Sustainable Economic Development:**

Lydia?

**Sector Officer, Maritime, Department for the Economy:**

So we have certainly considered it but it is a little bit difficult to answer this question because the genesis of these amendments kind of come from some legal advice which we are not at liberty to discuss at this time. However, our Law Officers have offered a private hearing to yourselves which might help in your understanding a little bit of where these amendments have come from and why we mirrored the Road Traffic Law so much, including the penalties. So if it all right, I will stop there and a private hearing might be able to expand a little bit on that legal advice.

**Deputy M. Tadier:**

I think that is fine. That has been conveyed to us; we are open to that. What I would say - and this is not specific to our panel or to your department - is that we always encourage the Law Officers to waive their confidentiality, I think it is within their gift to do so and I think that would make the scrutiny process a lot easier, but we know that precedent has not been set yet so I am sure between the officers and yourself we can follow that up in the appropriate way.

**The Minister for Sustainable Economic Development:**

What I suggest is if Law Officers choose not to waive that confidentiality I would still suggest you have that private briefing. I would not forgo their wisdom for the sake of ...

**Deputy M. Tadier:**

Thank you. I think, just for the public record, because these are public hearings it is an ongoing frustration for Scrutiny. We need to test evidence publicly and that is why we have these hearings and we cannot do that when it comes to private legal advice. That is not a new thing. Deputy Andrews, can I just ask something? I was probably slightly remiss to refer you to question 21 because I needed to ask question 19 first. Slightly more prosaically but, nonetheless important, Minister, regulation 9J will introduce a new offence or an offence for operating a ship in territorial waters emitting excessive or unreasonable noise or fumes. First of all, that is not entirely new, is it? Is there something in the pre-existing law which touches on that already?

**Harbour Master:**

Correct. It hopefully tightens the definition up. I will just find the definition again.

**Deputy M. Tadier:**

I think in the original law it is under 9(3).

**Harbour Master:**

Yes, there we go.

**The Minister for Sustainable Economic Development:**

I do not know what the original law was.

**Deputy M. Tadier:**

The original one talks about excessive or unreasonable noise or fumes in the 2012 regulations, so that is under various offences. Anyway, let us look at what the current 9J says, so a person who operates a ship permitting excessive or unreasonable noise or fumes commits an offence and it is liable to a fine. What is new there, I suppose is the question, and also how is it determined what is unreasonable or excessive in those cases?

**The Minister for Sustainable Economic Development:**

I think in this case - and it would be better to refer to a lawyer - it will be similar to the situation on land, which is about where it is seen as a nuisance, where it is causing a nuisance. I think it would be difficult to prosecute individual short moments of it, so if I am sitting in a bay and a very loud

vessel goes past me I may complain to the Harbour Master about that but I do not think the Harbour Master would be able to do much about it. The vessel has passed on, they have left the waters, whatever may happen. As is the case, I understand, with the existing nuisance laws, it is likely where that it is on a repetitive basis. So it could be someone who is mooring up outside your house, if you happen to live by the seaside, on a regular basis and is blasting out music or leaving their engines running on a regular basis I think, but please do ask the Law Officers. I think it is more likely to be about nuisance.

**Harbour Master:**

It helps practically as well. We have, relatively speaking ... we can come back to this idea of policing by consent, we have a compliant boat owning community. It is very good to be able to point out to somebody ... you are on a 2 stroke jet ski and you cause a lot of irritation in St. Brelade's Bay, and if the duty officer was just to walk down there and say: "Look, it is 6.00 a.m. in the morning and I appreciate you are practising your sports stuff but this is noisy, you do know it is a regulation to be operating this vessel noisily? Perhaps you might want to consider about doing this at a more sociable time." Most people then take those words of advice, and having a regulation which sits behind that is an important part of enforcement.

**Deputy M. Tadier:**

There is presumably a measure. Certainly for things like noise it is easier to measure objectively, is it not, than necessarily emissions which might depend on what cycle the engine is at, for example? When it comes to the roads, perennially there is an issue with noisy exhausts for 50cc, for example, unless subject to M.O.T. (Ministry of Transport) equivalents, are they not?

**Chief Inspector, States of Jersey Police:**

They are, correct.

**Deputy M. Tadier:**

What is the threshold for noisy exhausts in terms of roads?

**Chief Inspector, States of Jersey Police:**

Well, the process would be, if we believe it is an offence we would have to send it down to the Driver and Vehicle Standards, who are the subject matter experts, to give us the evidence to say it is beyond that noisy emissions. I cannot tell you what the limits are on the back of that.

**Deputy M. Tadier:**

There is a limit, I think, is there not, Minister, in terms of decibels?

**Chief Inspector, States of Jersey Police:**

Yes, there is.

**The Minister for Justice and Home Affairs:**

Yes, but as was said, it would have to be checked by D.V.S. (Driver and Vehicle Standards).

**Deputy M. Tadier:**

Can I ask, there is also this interesting turn of phrase in 9J about whether it comes from the engine or otherwise. Why has that been worded like that?

**The Minister for Sustainable Economic Development:**

Well, I think that is probably ...

**Harbour Master:**

Again, it is dealing with ... there are different types of noise, so there is engine noise but there is also activities people do on boats so loud music, and, again, there are other linking regulations in this, so we use this regulation for example to manage charter boats. This is how we permit people to do like seafaris - totally responsible operators, by the way - so these do link as well to the permitting of operations. So other noise in the sense of this regulation would be antisocial noise.

**Deputy M. Tadier:**

I suppose some of this will be policed in a sense by the community, so if you are a member of a boatowners association it may well be in the first instance ... or you operate out of one of the St. Helier harbours, someone who is a fellow boatowner may well flag it up with you and say: "Look, you have got a lot of smoke coming out."

**Harbour Master:**

Yes, so our operation room is manned 24 hours a day, so we will get calls for people who are ... let us use the example of 2 stroke jet skis in St. Aubin. That has been an example in the past where we have worked with the person with that jet ski, who legitimately I think was a European champion, to say: "Look, there are better times to operate." I guess if that had continued and that was a regular, repeating offence and it was causing a nuisance we then would - a bit like Craig would do - go to perhaps the Environment Department and seek some advice on what is the definition of a continuous nuisance, and then seek to build a case file around that.

**Deputy M. Tadier:**

Yes, thank you. I will just move on to the question of seaworthiness. Is there legislation that requires a vessel to be seaworthy?

**Harbour Master:**

Yes.

**Deputy M. Tadier:**

Could you just point us to that? Is that within this?

**Harbour Master:**

I think it is within the shipping regulations. One of the things we measure for seaworthiness is the ability to have insurance. Every vessel has to have third-party insurance and to be able to get insurance the vessel needs to be seaworthy, and that is quite often how we make the link, but again, not having third-party insurance is an offence.

**Deputy M. Tadier:**

Is there a requirement now for the insurance to be seen when applying for mooring, for example?

**Harbour Master:**

When you apply for a mooring you come to Ports of Jersey and, yes, we check your insurance and a little bit of that is self-interest because we already have third-party insurance on our marinas. You do not have to have a Ports of Jersey mooring to operate a vessel. You can keep your vessel in your home address and slipway launch it.

**Deputy M. Tadier:**

So a bit like a car in the sense you have to have insurance; is that right? Do you have to have insurance to have a vessel?

**Harbour Master:**

Correct. If your boat is sat on your drive you do not need to have insurance for it, but if you are operating on the water in Jersey you need to have third-party insurance.

**Deputy M. Tadier:**

Thank you. Max, are you happy to carry on with I think 22 or 23, whichever ones have not been asked?

**Deputy M.B. Andrews:**

I have got a few more questions for the Minister for Home Affairs. In the submission that we received from the States of Jersey Police the word "ambiguous" was used regarding our letter

regarding the views of the States of Jersey Police about P.3. I just wanted to know why the word “ambiguous” was used about P.3?

**The Minister for Justice and Home Affairs:**

I think you would be better asking ...

**Chief Inspector, States of Jersey Police:**

Yes, if you could signpost me into the area or which letter?

**Deputy M.B. Andrews:**

It was in terms of I think the enforcement aspect in terms of the responsibilities of the Harbour Master and the police.

**Chief Inspector, States of Jersey Police:**

Okay, so primacy I think is the word, and working with the Harbour Master to say - as the Harbour Master alluded - the primacy is with Ports of Jersey to enforce these regulations. It is the States of Jersey Police’s position that these regulations will increase demand on the States of Jersey Police, it is mentioned in the law, we will have a power to breathalyse, but it is our position that the primacy should be with the Ports of Jersey to deal with these regulations as a whole within their enforcement policy and their maritime standards.

**Deputy M.B. Andrews:**

Minister, are you comfortable with the responsibilities of your officers within the law and is there any level of ambiguity that you still have and, if so ...

**The Minister for Justice and Home Affairs:**

I think what you will find is that both the States of Jersey Police and Craig and the Chief also are working with the Harbour Master in relation to an M.O.U. (memorandum of understanding) which will have all of that sorted out so it is quite clear who takes responsibility and for what.

**Deputy M.B. Andrews:**

Okay, and do you know when this M.O.U. will be in place?

**The Minister for Sustainable Economic Development:**

It is nearing completion.

**Chief Inspector, States of Jersey Police:**

Working together imminently, so we are meeting next week to pull that together and then represent to the Chief Officer and the Harbour Master formalising. It is about the primacy of which agency takes on which offences so it is clear, it is regulated, and there is no misunderstanding at the point of the reporting.

**Deputy M.B. Andrews:**

At this moment in time, what demand is there on the police for maritime issues where you and your officers are potentially called upon?

[16:30]

**Chief Inspector, States of Jersey Police:**

I think the natural one is, as the Harbour Master said, Operation Nectar back in 2022 there with the tragic loss of life of 3 individuals. Over the last decade it has been light on the demand but I think it is the capacity versus capability that when these regulations or when the offences do happen they can be impactful on our services of the States of Jersey Police. Like Operation Nectar, 3 gross negligent manslaughter cases, it is time consuming and they have to be investigated. It is not necessarily the amount, it is the capacity at the point of what the States of Jersey Police are dealing with.

**The Minister for Sustainable Economic Development:**

Of course it is impossible to legislate or regulate or M.O.U. for when an incident happens in relation to other incidents. It was awful that 2 severely tragic incidents happened within 2 days of each other, which obviously you would hope would rarely happen.

**Deputy M. Tadier:**

Has the L'Ecume II investigation concluded?

**Chief Inspector, States of Jersey Police:**

It is going to trial September, so it is still under investigation.

**Deputy M. Tadier:**

Thank you.

**Deputy M.B. Andrews:**

Do you want to carry on?

**Deputy M. Tadier:**

Yes. So again this is just going to another ... after regulation 9K in this case, so this is about - you have already alluded to it - towing somebody on the back of a boat, for example, as a water skier or wakeboarder presumably, or parascending, I presume that can cover a number of those types of activities. When it talks about the requirement of somebody with experience on the boat, can I just clarify, we were not quite clear under 9K(1)(b) it says that the master of the boat should be accompanied, so if he or she is not accompanied with a person that constitutes an offence by somebody with the relevant experience. Could that be the same person or does it need to be a separate person?

**Harbour Master:**

Separate person. This is not a new regulation, so I believe when it was put into the existing regulation it was around insisting that there was somebody else there to spot. When my children were slightly younger - well, they still enjoy it now when they are older - I would take them out on an inflatable at the back. There needs to be somebody visibly watching that. It is dependent on the activity as well. It is very different towing somebody on a ring to perhaps towing somebody on a foiling board, and again very different to parasailing. That is a bit of a judgment call on the duty officer but really the key bit is that there is somebody who is capable of looking out at the back, spotting that someone is in danger and making the master of that vessel aware.

**The Minister for Sustainable Economic Development:**

Quite simply, it is to deal with the fact that people do not have eyes in the back of their head. The master of the vessel is looking in one direction and obviously the person being towed is by definition behind them and cannot be seen.

**Deputy M. Tadier:**

We get the ethos of the purpose of the law. Just to clarify, we just wanted to make sure that there was a separate person, it did not seem to be clear from the wording. Is that just simply a renumbering then, 9K? Are there any substantive changes to the wording?

**Harbour Master:**

I believe it is unaltered.

**Sector Officer, Maritime, Department for the Economy:**

Yes, I think it would probably be case of drafting styles changing, but this is probably something that you could flesh out in the private hearing perhaps with the Law Officers.

**Deputy M. Tadier:**

That is fine, but if it is just a case of renumbering it then there is nothing material that has changed. We would just ask whether it is sufficiently clear to suggest that it is absolutely that there needs to be a second person with that relevant experience. One question I did have is that relevant experience or experience in the relevant activity is not the same as being qualified in that.

**Harbour Master:**

Correct.

**Deputy M. Tadier:**

So I could have relevant experience in sitting on the back of a boat watching someone water ski because I have done it 10 times but it does not mean I would necessarily know what to do in an emergency situation.

**Harbour Master:**

You are coming out on my boat with me today, we are going to take our children out with the inflatables, I should be the master briefing you so: "What I am going to do is the kids are going out on the back of the boat, they have got their safety vests, I want you to watch those people. If the boat flips I want you to let me know that it has flipped, but I just want you to pull the line in so then I can turn around and pick them up." At that point now I would argue, with a briefing as an adult - and it could be a teenager - that following that briefing you would be adequately briefed to undertake that tasking.

**Deputy M. Tadier:**

I understand that.

**The Minister for Sustainable Economic Development:**

That, I imagine, is quite different to commercial?

**Harbour Master:**

Yes, you need to have a Reg 6 permit.

**The Minister for Sustainable Economic Development:**

That is what I mean, sorry. If you are a commercial operator you have to have a permit in order to be able to do those activities and have appropriately qualified people, but this is ... again, we are in the world of leisure and people's private enjoyment and their time on their own private boats. So asking for qualifications I think would be again a step too far.

**Deputy M. Tadier:**

So I am not asking ... that is fine ...

**The Minister for Sustainable Economic Development:**

I am not suggesting you are, I was just saying ...

**Deputy M. Tadier:**

... it is a thought process. What I am asking though is whether or not a layperson reading that, let alone a legislator, whether it automatically follows that that kind of scenario would be covered. It does say that you need somebody with experience in a relevant activity and I think that seems quite subjective to me, so depending who is interpreting that law somebody could say: "Well, look, you have not got somebody who is an experienced water skier on the back of your boat so that does not fulfil that."

**Harbour Master:**

As much as you want these to be easily understood - and I appreciate they are drafted Law Officers - we try our best as practical people to help Law Officers make the law sound as practical as possible. Of course this does tie into education as well, so as the Coastguard we go to the yacht clubs and the boating association, we do education, we go to schools and do education where we talk about this sort of thing. We have got a guide on our website called "Enjoying our coastline safely". I think that is really important because we genuinely want people to enjoy our coastline safety. Doing activities like I guess coastering and jet skiing, they are thrilling, they are different, are they not, so we would not encourage people to go on the road and have a thrill, for example, but we would actively encourage people to go enjoy our coastline by enjoying a jet ski or a speedboat responsibly. We provide softer guidance to that in terms of ...

**Deputy M. Tadier:**

Thank you. All I was getting at, I am just wondering whether it just simply needed to say you need to have somebody on the boat with you so do not go out on your own if you are doing an activity that is potentially dangerous. That is kind of what it is saying, is it not?

**Harbour Master:**

Yes, if you are towing somebody there should be someone else in the boat who is capable of telling you someone is in trouble and then helping you get them back on board the boat.

**Deputy M. Tadier:**

Okay, thank you. Sorry, I know we have got quite a lot to get through. It is good to have a focus for one piece of legislation but we do have a few more questions. One question I have got here is that the panel notes that the resource implications from this draft legislation lies with Ports of

Jersey. If these regulations are adopted as is, they should come into force within 7 days; is that correct?

**Harbour Master:**

I believe that is the ...

**Sector Officer, Maritime, Department for the Economy:**

Yes, that is correct.

**Deputy M. Tadier:**

Do you believe that Ports of Jersey have in place the sufficient resource to police and enforce these amendments?

**Harbour Master:**

We have had a slight restructuring of the team. We do lots of different things in Ports of Jersey from running harbours to Coastguard. We have recruited somebody who has come from States of Jersey Police within our maritime standards team, so it is the maritime standards team which do this. They have been brought on board to just help us mostly around process and procedure. We already have an existing duty officer roster, so we have duty officers on call 24 hours a day, 365 days a year, but to make sure ... because there is a change here in terms of there is going to be a requirement for the duty officer to possibly breathalyse people, so we are going to need a breathalyser. Underneath that we need process and procedure. We have recruited someone with experience as a police officer in States of Jersey Police, and in a maritime context with the Ministry of Defence Police in the UK, to support the team with putting that process and procedure in place. It would be good to get the M.O.U. in place. I think we are very close with that in terms of the final bits. Yes, I think we are in a position where we are ready for this.

**Deputy M. Tadier:**

So there is going to be a new officer recruited from ...

**Harbour Master:**

No, sorry, we have stolen one of Craig's officers and recruited them into Ports of Jersey. He joined us about 6 weeks ago now but that was in anticipation of these regulations coming forward. He is not the Ports of Jersey police officer. The Harbour Master and the acting Harbour Master are those, if you like, they are ...

**Deputy M. Tadier:**

Is that an indefinite secondment?

**Harbour Master:**

Yes, he ...

**The Minister for Sustainable Economic Development:**

It is not a secondment.

**Harbour Master:**

He is employed by Ports of Jersey but he is going to be sworn in, in the Royal Court as a Harbour Master on Friday, but he is not a standalone resource just doing all this policing ...

**Deputy M. Tadier:**

No, I understand.

**Harbour Master:**

... but he provides us the expertise, if you want to ...

**Deputy M. Tadier:**

In more general terms is there going to be any anticipated workload for the States of Jersey Police in any of this?

**Chief Inspector, States of Jersey Police:**

It is our belief that it will increase our demand and in the current landscape we do not have sufficient resources and financial landscape to cope with the increased demand. We have not had an uplift in resources or growth for this change in the legislation.

**Deputy M. Tadier:**

What order of magnitude are we talking about and what are the likely scenarios that you are talking about?

**Chief Inspector, States of Jersey Police:**

Well, I think the draft memorandum of understanding is with the serious injury, so whether somebody is causing serious injury and it is complex in its investigation then States of Jersey Police with the capability may have to pick that investigation up, whether they are a P.I.P. (Professionalising Investigations Programme) 2 qualified detective. So in those sorts of cases it could be quite a lengthy investigation. If there is a clear gross negligent manslaughter, a death at sea, we would expect States of Jersey Police to pick that up, and that comes along with quite a

lengthy investigation, financial implications as well, and it adds to the undue pressures of our existing pressures within the police as it currently stands.

**The Minister for Sustainable Economic Development:**

If I may say, Chair, with great respect, I do not think any of the offences that D.C.I. Jackson just said are relevant to this particular law. He mentioned manslaughter, deaths at sea. These are already issues dealt with in other laws, they are not specifically anything to do with these law changes here.

**Chief Inspector, States of Jersey Police:**

Causing serious injury while operating ...

**The Minister for Sustainable Economic Development:**

That is already an offence. Causing serious injury on the sea is already an offence, and with regard to magnitude - as I keep pointing out - with regard to actual offences to be prosecuted we are talking one or 2 in 5 years.

**Deputy M. Tadier:**

Let us get back to our old friend the breathalyser. In terms of when an incident does happen now, suspicion of careless or dangerous operation of a vessel, and a breath test may be taken, who is going to be doing that in reality? Is it possible someone from harbours or possibly a police officer?

**Harbour Master:**

There are 2 types of breath test, so there is the first breath test which is on the scene and that cannot be evidence. Arguably, that is most likely going to be the Coastguard duty officer or the Acting Harbour Master because they are likely to be the one who ... it is likely to be somebody ... we have seen somebody operating a vessel we are unhappy with, it might be the lifeguard at St. Brelade's Bay observing something. It is likely the duty officer is going to attend first. There is provision within the regulations for it to be a States of Jersey Police officer as well. When it comes to the evidential breath test, I think you call it the Lion meter or the ...

**Chief Inspector, States of Jersey Police:**

Lion Intoxilyser.

**Harbour Master:**

Yes, that is States of Jersey Police, so there would be the original process and then we would have to go to the police station, within this process here then the States of Jersey ... and it is in the regulations but it needs to be codified within the M.O.U. exactly to make sure we get that right, but

that evidential breath test comes from the police station, their machine, and the processes which ... I guess a rigour behind that as well.

**Deputy M. Tadier:**

Let us finish this element. There seems to be some disagreement about the resource implication and the potential uplift in work for the States of Jersey Police. Do you have any thoughts on that, Minister?

**The Minister for Justice and Home Affairs:**

I think there needs to be some clarity, and that is the whole point of the M.O.U. because it will not be the role of the States of Jersey Police to provide the breathalyser at the harbour or on the beach or wherever. That will be the role of the Ports of Jersey. The implication would come obviously with the breathalyser at police headquarters, depending on the numbers, et cetera. The paperwork and the rest of the prosecution sits with Ports of Jersey. It sits with Ports of Jersey. I think the only thing is that, as Craig said, in relation to parts of it ... I think what needs to be clarified potentially is that the States of Jersey have picked up those serious investigations in the past in relation to deaths within the water because of the fact that the ... I am probably saying something out of turn here, but the Ports of Jersey would not be in a position to be able to investigate that level of injury in relation to those sorts of things. So those will always probably sit with the States of Jersey Police. What needs to be identified is that when these matters do occur there might be an anticipation, and it is fine, that S.O.J.P. (States of Jersey Police) may take that, but I think sometimes, as with the L'Ecume II, there was an additional resource that had to be brought in, in order for that to be managed. I think sometimes the costing of that and who pays for it is probably what needs to be looked at in the round, I would suggest, but that is obviously for the police to have some consultation with the Ports of Jersey in relation to how that all maps out.

[16:45]

**Deputy M. Tadier:**

I suppose a point to make then, or a question to ask rather, is although incidents at sea might be a lot rarer than on the road, when they do happen at sea they can be much more costly in terms of certainly the scale of the accident but also the psychological impact or the cost at the end of the day. It is very expensive to ...

**The Minister for Justice and Home Affairs:**

Yes.

**Deputy M. Tadier:**

It is not the first thing that we ask about or think about but in terms of cost recovery there is a big income stream from traffic, is there not? There are lots of ways that we get money out of car or bike owners for the road, but how does Ports of Jersey get its money? Is there an argument that some of that money should be going directly to this, if there are increased policing costs or would you argue that that is already being done to ...

**The Minister for Sustainable Economic Development:**

Sorry, to me that is what this M.O.U. is about. It is about making sure that division of labour, remuneration - if that is the right word, because it is normally wages - where the costs lie, et cetera, are decided in advance to make sure that when events happen we are not having to have a discussion about how, who, where, why, that it is clearly laid out.

**Deputy M. Tadier:**

Is the M.O.U. publicly available, or how would we scrutinise it?

**The Minister for Sustainable Economic Development:**

It is not finished yet.

**Deputy M. Tadier:**

Is the intention for that to just be an internal thing or would it be ...

**Harbour Master:**

It will be a living, breathing document so I think it should reflect the relationship at the time and it should evolve with how things are going. I suppose what I would say is the M.O.U. is a 2-way working relationship. States of Jersey Police are the Island's experts in ... I do not know if policing is the right word but a detective has a career in being a detective in the same way as a Harbour Master has a career in being a Harbour Master. It is certainly not Ports of Jersey's intention to put the enforcement and safe management of Jersey's waters in States of Jersey Police's hands. That would be inappropriate. We are the harbour authority, but likewise, when a serious incident happens where somebody's life has been altered it is appropriate that the best qualified people are able to undertake that investigation. That is the M.O.U., but at that point Ports of Jersey does not walk away because Ports of Jersey is still the maritime expert and, like with L'Ecume II, we are supporting States of Jersey Police very heavily with that investigation in terms of maritime expertise. I think something like L'Ecume II is so big, it is almost a bit beyond the scope of States of Jersey Police and Ports of Jersey, things like salvage operation of a vessel. That comes back to a certain extent to Government and they are such big activities, so I think the M.O.U. will provide clarity of when the police will lead an investigation in terms of having that expertise, but not expecting States of Jersey Police to pick up Ports of Jersey's responsibility. I think when we get

into really big incidents - and thankfully they do not happen at all very often and we do not want them to happen at all, we want to prevent them - they are, I think, beyond the normal scope.

**Deputy M. Tadier:**

Yes, I mean, that incident - and I know it is still live in a sense - involved 2 commercial entities, so there was a commercial ferry and a fishing boat. To what extent do these amendments cover that, or would that kind of situation have already been covered by separate legislation.

**Harbour Master:**

I think technically ...

**Chief Inspector, States of Jersey Police:**

It would be covered by separate legislation because it is gross negligent manslaughter and it would not fall into these amendments. If I can go back to the M.O.U., just to satisfy the panel, we are working with the harbours, the Ports of Jersey, the States of Jersey Police and have clear lines of demarcation to know primacy in roles and responsibility at the point of reporting. With regards to cost recovery, we will clearly have that in there with regards to if States of Jersey Police pick up an investigation what costs would be recovered on the back of that. Clearly if there is an unfit through drink or drugs and it is going on to Lion Intoxilyser and using in custody, that is part of the Island's process and the States of Jersey Police being good partners. We are not expecting Ports of Jersey to get their own custody unit Lion Intoxilyser to get that evidence. We are supporting there. We are an Island community and want to support the safe waters and operating of vessels. I think it should be open, there will be nothing within the M.O.U. that should not be public facing because it is how 2 agencies are going to effectively work together to make sure there is a thorough investigation at the point of an incident.

**The Minister for Sustainable Economic Development:**

I think it is really interesting that the Harbour Master and his assistants have Centenier powers, and I think that also points to the Honorary Police in itself. That line of policing in Jersey, that if we did not have that level of both Honorary and Harbour Master policing, 100 per cent of these costs and 100 per cent of the investigations would be falling on States of Jersey Police.

**Deputy M. Tadier:**

But this is not being done by the Honorary Police, just to be clear ...

**The Minister for Sustainable Economic Development:**

No, but I am saying ...

**Deputy M. Tadier:**

More generally.

**The Minister for Sustainable Economic Development:**

... the fact that we have a Harbour Master system which enables that level up to the level of Centenier to be dealt with within the Harbour Master saves the police having to deal with these incidents in itself.

**Deputy M. Tadier:**

Yes, but what we are talking about here is the practicality, so initial breath tests would be done on the sea but then the follow up if there was a more sophisticated test, it would be done ...

**Harbour Master:**

Yes, that is the most ...

**Chief Inspector, States of Jersey Police:**

The evidential breath test would be done at the police station by a trained person within that use of the equipment, yes.

**Deputy M. Tadier:**

Yes, good. Okay, that is fine. Did you want to add anything, because we were talking about the commercial vessels?

**Harbour Master:**

The only thing I would say, I think you are right, there was legislation outside of shipping legislation in terms of L'Ecume, there was also a Shipping Law offence. We have the Shipping (Jersey) Law 2002, which generally speaking covers more commercial type activities, but in theory operating a vessel dangerously or carelessly could apply to commercial vessels within that context. These regulations do not preclude that.

**Deputy M. Tadier:**

Thank you. Deputy Andrews?

**Deputy M.B. Andrews:**

No more from me.

**Deputy M. Tadier:**

Let us go back to the M.O.U. very quickly. Ministers, are you also mindful of the comments of D.C.I. Jackson that there is no reason the M.O.U. should not be made public?

**The Minister for Justice and Home Affairs:**

If the 2 agencies are satisfied I think it makes sense because then people are quite clear of what that is. Why does it need to be secret?

**Deputy M. Tadier:**

We are going to start to wrap this session up. Clearly there may be some follow up, and certainly I think we are likely to take up the invitation of meeting with the Law Officers or law drafters.

**Sector Officer, Maritime, Department for the Economy:**

Law Officers, yes.

**Deputy M. Tadier:**

Law Officers, thank you. Can I just ask though, so in terms of the workload of bringing this forward, who has been the main driver behind this, not Ministerially but from a practical point of view?

**The Minister for Sustainable Economic Development:**

It has been a partnership.

**Harbour Master:**

Ultimately the Minister is the Shipping Minister, and for our P.S.O.s (public service obligations) a lot of those responsibilities are delegated practically through administration through the harbour authority. So we work really well with our colleagues in economy, so again we provide the subject matter expertise, and again with the Law Officers, yes, so a collaborative approach. We are trying to provide what we think will work practically from a keeping people safe point of view, while also not all being experts on necessarily writing laws and regulations.

**Deputy M. Tadier:**

Thank you. I have got a final question. Minister, do you plan on recording dangerous offences, so I suppose monitoring how these new amendments bed in? If so, what will the data monitoring process look like?

**The Minister for Sustainable Economic Development:**

I think that comes back to the fact the harbour authority already does record offences and investigations and incidents of these sorts. They compile that and provide it as the *Harbour Authority Annual Report*. I do not think that is going to change.

**Harbour Master:**

No, so we will continue to report to the Harbour and Airport Committee and to the Minister after those meetings. Again, if any States Members have an interest in coming to see the work of what we do in terms of Coastguard and the enforcement parts, you are welcome to come along. We have not, I must admit, to date published enforcement stats. We do publish our Coastguard stats but it is something potentially we could consider.

**Deputy M. Tadier:**

This is all part of the same question but do you think that there is going to be any evolution that you anticipate in this legislation? Are there latent offences that you are potentially not picking up at the moment, which might be more obvious once these amendments are brought forward? Is that something you anticipate?

**Harbour Master:**

I think we are trying to do a broad sweep with this brush, taking them on. These regulations first came out in 2012, I think on the whole those regulations have served us okay but we have identified in that time a couple of weaknesses. Again, it is difficult to know, is it not, whether the next thing is going to be in maritime? Somebody will come up with something we have not thought about. I think broadly using careless and reckless and having one set of regulations and not being too specific I think helps keep them broad. So, will these regulations change perhaps in 10 years' time? I guess so, in the way that regulations do, but I think these regulations will set us on a good course for that kind of period.

**Deputy M. Tadier:**

Minister for Sustainable Economic Development, I think we have got a quote here from you at the last hearing saying by bringing this legislation you are going one step down that road, I think it is to talk about ... we were probably talking about in the context of regulation generally and possibly in the context of breath testing and alcohol. Is this maybe a way of moving the conversation forward about what we expect in terms of maritime safety in a proportional way?

**The Minister for Sustainable Economic Development:**

I think it does. I think it does move that forward. I think just in itself, giving the ability to compel a breath test, that measure in itself makes a difference.

**Deputy M. Tadier:**

That was me who said that. That was a question; I misread it. We get the point, I think ...

**The Minister for Sustainable Economic Development:**

In which case I would roughly agree with you.

**Deputy M. Tadier:**

I think what you said is that it is about taking people along with you, so do you still stand by that?

**The Minister for Sustainable Economic Development:**

That is what I keep coming back to, that is the proportionality element, which I just fundamentally believe in. I do not think you should make rules when there is no evidence that you need that rule to be there.

**Deputy M. Tadier:**

So you said by bringing this we will be one step down the road and my question was, therefore, what were the next steps.

**The Minister for Sustainable Economic Development:**

I agree either way, whether you said it or not.

**Deputy M. Tadier:**

I think we found some consensus there at the end anyway. I think unless there are any questions from this side of the table, have you got any questions, Minister, for us or any points that you would like to make or from an officer point of view?

**The Minister for Sustainable Economic Development:**

No, I would just like to thank D.C.I. Jackson and Deputy Le Hegarat for joining me in a Scrutiny hearing. It is the first time that has happened, so it is quite novel.

**The Minister for Justice and Home Affairs:**

No, second, we were in the online safety.

**The Minister for Sustainable Economic Development:**

We were, you are right. Okay, this is becoming a habit. Online safety, that is right.

**Deputy M. Tadier:**

Yes, and there are clearly always going to be areas of synergy and crossover. Thank you to the other officers for coming.

**The Minister for Sustainable Economic Development:**

Interestingly, like you kind of pointed out, we did not directly consult in that sense, so from that perspective it is interesting that you found synergies that we were not seeing ourselves, perhaps.

**Deputy M. Tadier:**

Thank you for your time. We will bring this hearing to a close and we will ask for the camera to be closed, thank you.

[16:57]