

STATES OF JERSEY



PLANNING AND ENVIRONMENT: DIVISION INTO 2 MINISTERIAL OFFICES (P.47/2009) – COMMENTS

**Presented to the States on 27th April 2009
by the Council of Ministers**

STATES GREFFE

COMMENTS

Deputy Le Claire's proposition is to establish 2 separate Departments, one for Planning and one for the Environment. His primary reason is that separation will give greater prominence to environmental issues by minimising the inherent tension between environmental protection and development pressures and reinforcing the role of the environment champion.

In addition, the Deputy outlines the very real need to ensure Members' Questions are answered appropriately, that the public are informed of any potential risks and that the environment is properly protected through up-to-date, robust regulation.

The Council of Ministers recognises that by bringing this proposition the Deputy is seeking to achieve laudable aims; however the Council does not support the mechanism which is proposed. Dividing the existing Department will not achieve greater environmental protection nor will it address his other concerns.

Managing the inherent tension between development pressure and the environment

The Deputy's proposition is accompanied by a previous proposition debated and rejected by the States in September 2008. Whilst it is true that the membership of the States is now different, the central argument remains largely the same.

There are undoubtedly inherent and unavoidable tensions between development – which is deemed necessary for economic and social purposes – and the protection of the environment. This pressure is witnessed across the globe and is a normal occurrence. Splitting the Planning and Environment Department will not remove this tension. It would still exist and will still need to be reconciled.

The balancing of these tensions and competing priorities is the responsibility of the Minister, who has access to specialist staff, information and resources. Planning and Environment staff work together to ensure these tensions are managed on a daily basis. Splitting the current Department would remove the very structures that allow the conflicts and tensions to be resolved. It would displace them to 2 different Departments and create greater separation between staff with planning expertise and staff with environment expertise. It would worsen the situation that the Deputy seeks to solve.

Planning and Development Control are environmental functions in their own right. They are the tools used to protect the Island's environment from inappropriate development, whilst facilitating necessary development in a manner that minimises harm. The notion of "Planning" as a subset of "Environment" is widely understood in other jurisdictions, including the UK, Scotland, Wales, Eire, Isle of Man and Guernsey, where it is also the convention for "Planning" to sit within "Environment".

However, even if the development control function was to be located elsewhere, a standalone Environment Department would still need to manage complex tensions and competing priorities on a daily basis; for example, the issuing of licences to discharge effluent into controlled waters or, to cite the Deputy's example, the need to secure funding to implement the EU's comprehensive bathing water directive.

An Environment Champion

A fundamental change has been made since the Deputy bought his last proposition in 2008. The Assistant Minister for Planning and Environment has been appointed the Environment spokesperson. She does champion environmental issues, both within the States and within the Department. She liaises with internal bodies such as the Environment Scrutiny Panel, and external bodies such as the Jersey Environment Forum, the Advisory Group on Environmental Sustainability (the Environment Think Tank), the National Trust, the Société Jersiaise and other informal pressure groups.

A breakdown of her duties is attached at the Appendix to this Report.

Her role does not preclude others from acting as Environment Champions. Indeed, all States Members should speak on the Environment's behalf whenever they feel it is appropriate.

It is important to remember that the Minister for Planning and Environment, in law, retains overall responsibility for his Department. It is therefore proper and expected that he continues to speak on environmental issues when he feels it appropriate.

Public Information and Members' Questions

The Deputy rightly points out that all Members' Questions must be answered in an accurate, timely and appropriate fashion. This is essential to the ability of the States Chamber to function.

There is however, in some circumstances, a legitimate balance to be made between answering questions in the Chamber and straying into areas of commercial sensitivity. In the case specified by the Deputy, the Minister considered that it was not appropriate to release sensitive information by way of a verbal answer. He considered that it was more appropriate for a confidential note to be prepared. It would be the prerogative of any Minister for the Environment, regardless of whether or not they had responsibility for Planning and Development Control.

Splitting the Department will change nothing in this regard.

Proper regulation of the Environment

The Deputy is concerned that there are lax controls over the Environment in Jersey and that these result in adverse impacts on human health.

It is important to note that the environmental protection regime operating on the Island has been significantly strengthened since the year 2000. In that period of time, we have introduced a new Waste Management Law, a new Water Pollution Law, a new Animal Welfare Law, an Environmental Impact Order, a new Plant Health Law, a Conservation of Wildlife Law, and a new Water Resources Law. In addition, there have been regular updates to Regulations affecting other areas of the environment, including Fisheries.

The Department is also planning to extend this control regime, and is starting work on significant new legislation around air quality, contaminated land and a review of the existing waste law.

Considerable steps have been made to increase the environmental protection regime which operates in Jersey. It is clear from the amount of legislation in place and planned, that controls are far from lax.

Splitting the Department would have a detrimental effect on this work programme. It would result in a substantially increased administration burden, and deflect resources away from front-line environmental protection work.

Financial and legal issues

P.47/2009 correctly identifies that there are practical, financial and legal issues that would need to be addressed if the Department was split. These are not insurmountable, but they are complex and expensive, and additional resources would have to be sought as part of the 2010 resource allocation process.

Conclusion

The Council of Ministers recognises the need that is so clearly stated by the Deputy, to afford our environment the highest possible levels of protection. It also recognises that the need grows on a daily basis. But it disputes that the solution outlined in this proposition will achieve the desired aims. It will absorb precious resources for little proven gain.

The current Planning and Environment function is working, and staff are increasingly working as one entity to reconcile environmental issues with development pressures.

The Environmental Champion role delivered by the Assistant Minister is bringing benefits. It is complementing the work done by other States Members to ensure a voice is heard for the Environment.

Accordingly the Council of Ministers does not support this Proposition.

Planning and Environment

Minister and Assistant Minister Responsibilities

Minister	Assistant Minister
Strategic responsibility for all Planning and Environment Issues	Specific responsibility for decisions on Environment issues not requiring Ministerial Order
All States propositions on Planning issues	Chair of the Planning Panel
All Ministerial Decisions	All States propositions on Environment issues
Architecture and Design	Press Releases from Environment not on those subjects opposite
Percent for Art	News bulletins from Environment
All Press Releases from PBS and specific Environmental issues below	Lifelong Homes
Energy Policy	Social Housing in conjunction with Assistant Minister for Housing
Eco-Active strategy	Advisory Group on Environmental Sustainability
Energy conservation, Energy Trust	Jersey Environment Forum
Tidal Power	
Advisory Group on Environmental Sustainability	
Jersey Environment Forum	