

# STATES OF JERSEY

## OFFICIAL REPORT

MONDAY, 30th JANUARY 2017

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[14:46]

**The Roll was called and the Deputy Greffier of the States led the Assembly in Prayer.**

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

### **1. The Deputy Bailiff:**

There is nothing on the Order Paper under A.

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

### **2. Appointment of a Member who is either a Minister or Assistant Minister to the Privileges and Procedures Committee**

The Deputy Bailiff:

We come on to F, and there is one appointment listed. The chairman of Privileges and Procedures Committee who will nominate a Member who is either a Minister or Assistant as a member.

#### **2.1 Connétable L. Norman of St. Clement (Chairman, Privileges and Procedures Committee):**

A vacancy occurs on the committee because of the resignation of Senator Ozouf as an Assistant Minister. I would like to thank sincerely the Senator for the very enthusiastic and positive contribution to the work of our committee during the past couple of years. **[Approbation]** As Members might understand, we did not always agree but we valued his very strongly expressed views on the committee and we surely are going to miss him. After consultation with the Chief Minister, I am pleased to propose Deputy Murray Norton of St. Brelade as a member of the committee.

**The Deputy Bailiff:**

Is the nomination seconded? **[Seconded]** Are there any other nominations?

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

Sir, could you just explain for the purpose of orders how other nominations might occur?

**The Deputy Bailiff:**

It is not possible to nominate from the floor of the Assembly. If there are no other nominations then I declare that Deputy Norton is now a member of the Privileges and Procedures Committee. **[Approbation]**

## **QUESTIONS**

### **3. Written Questions**

#### **3.1 DEPUTY R. LABEY OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE PARAMETERS OF MINISTERIAL RESPONSIBILITY AND ACCOUNTABILITY: [1(55)]**

##### **Question**

Will the Chief Minister advise whether he proposes to make any changes to the parameters of ministerial responsibility, with particular reference to the divide between the formulation and introduction of policy and the implementation of such policy; and, if so, what those changes will entail?

Will the Chief Minister also advise at what point and to what extent, following the approval of a policy, does accountability for implementation and administration of that policy currently move from the relevant Minister to the relevant Department or other body, where applicable, such as an appointed board?

**Answer**

The relationship between government and the civil service is critically important to the well-being of any democracy.

The civil service is required to implement the decisions of Ministers and to follow our policy direction under the States of Jersey Law, and in turn, Ministers are accountable to the Assembly for the actions of their Department.

However, we have a non-political civil service in Jersey, which means that it is not Ministers who assess the performance of officers, but rather their line managers. We should not wish ourselves into a completely different position where the civil service is beholden to the Council of Ministers. This is the balance we need to strike.

In part, this is why the States' Employment Board is a joint body of Ministers and other States Members, established by the Employment of States of Jersey Employees Law, which employs civil servants and establishes competency frameworks, with the Chief Executive able to give direction to Chief Officers on individual matters, and able to require them to account for matters concerning their Department.

The Public Finances Law then places a clear obligation on Accounting Officers to be personally accountable for the use of public monies as approved by the Assembly for the implementation of ministerial policy, a practise which avoids political considerations in the management and reporting of financial performance.

As to the arms-length delivery of government policy, the situation remains fundamentally the same, other than in so far as internal line management structures should be replaced by a clear framework that ensures the alignment of policy and delivery, including approval processes for business plans, and the ability to obtain information and to hold to account arms-length bodies (with these bodies also falling under the ambit of the Controller and Auditor General and the Public Accounts Committee).

Of course, Ministers cannot and do not turn a blind eye to performance. If a Minister is unhappy with the performance of their Chief Officer, or believe that implementation of policies and their directions are inadequate or deficient, they can raise the matter with the Chief Executive.

**3.2 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE RESIGNATION OF THE ASSISTANT CHIEF MINISTER WITH RESPONSIBILITY FOR THE FINANCIAL SERVICES INDUSTRY, DIGITAL SECTOR, AND COMPETITION AND INNOVATION: [1(56)]**

**Question**

Has the Chief Minister received a written offer of resignation from his Assistant Chief Minister with responsibility for the financial services industry, digital sector, and competition and innovation; and, if so, when will the resignation come into effect?

**Answer**



Senator Ozouf has written to the Chief Minister, and with immediate effect, on Friday, 20th January, 2017, ceased to hold office as Assistant Chief Minister.

**3.3 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR INFRASTRUCTURE REGARDING THE JUNCTION OF RUE DES PRÉS AND LONGUEVILLE ROAD: [1(57)]**

**Question**

Will the Minister explain what action, if any, is planned to be taken in respect of the junction of Rue des Prés and Longueville Road; and will he advise in particular whether or not it is the intention of his Department to install a traffic light system at this junction and, if so, state when such action will be taken?

**Answer**

No action is planned for the Rue des Prés and Longueville Road junction and it is currently not the intention of the Department to install traffic signals at this junction.

This junction will be included in a review of safety improvements along Longueville Road between Clos Gossett and Rue des Prés Trading Estate in the latter part of 2017 with the implementation of any agreed measures being delivered in 2018. The possibility of installing a traffic light system at this junction will be considered as part of this review.

**3.4 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR INFRASTRUCTURE REGARDING TRAFFIC-CALMING MEASURES ON LONGUEVILLE ROAD AND BAGOT ROAD: [1(58)]**

**Question**

Will the Minister advise whether or not it is his intention to introduce traffic-calming measures on Longueville Road and Bagot Road in 2018 and, if that is the case, will he explain what his Department's consultation process in respect of this work will include and when such consultation in 2017 will begin; and will he confirm that any such consultation will include the Deputies of the Parish and the Connétable?

**Answer**

The Deputy will recall that proposals for safety improvements along Longueville Road between Clos Gossett and Rue des Prés Trading Estate were tabled with the Connétable and Deputies in 2015, but these did not find favour and consequently were not included in the Department's programme of road safety improvements for 2016 or 2017. I can confirm that my Department will carry out a fresh review in 2017 with the implementation of any agreed measures being delivered in 2018.

This review will be carried out in the latter part of 2017 with the results being discussed with the Connétable and Deputies. Improvements which are supported by my Department and the Parish will be implemented in 2018 with a full public consultation process in advance of any works being completed on site.

**3.5 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR EDUCATION REGARDING THE TURNOVER OF STAFF AT NON-PRIVATE PRIMARY SCHOOLS: [1(59)]**

## Question

Further to the answer tabled on 17th January 2017 to written question 1(18), will the Minister provide a breakdown of the turnover, expressed both in figures and as a percentage, at all non-private primary schools in the past 3 years in:

- (a) teaching staff;
- (b) non-teaching staff; and
- (c) all staff,

with the answers also broken down by individual school?

Will the Minister also indicate, in each case, what percentage of turnover was due to retirement and provide the total number of staff at each school and in each category?

## Answer

### Staff turnover in States primary schools

Primary School	Academic year 2013 - 2014			Academic year 2014 - 2015			Academic year 2015 - 2016		
	Staff who left	Headcount @ 31/07/2014	Turnover	Staff who left	Headcount @ 30/09/2015	Turnover	Staff who left	Headcount @ 30/09/2015	Turnover
Bel Royal	4	27	15%	4	27	14.8%	1	23	4.4%
d'Auvergne	3	43	7%	8	46	17.4%	9	41	22.2%
First Tower	3	37	8%	5	42	11.9%	5	40	12.6%
Grands Vaux	8	28	29%	7	22	31.8%	4	21	19.5%
Grouville	3	41	7%	6	36	16.7%	8	34	23.5%
Janvrin	4	47	9%	5	46	10.9%	6	44	13.7%
Jersey College Prep	5	40	13%	6	40	15.0%	3	42	7.1%
La Moye	7	38	18%	11	37	29.7%	10	34	29.0%
Les Landes	4	21	19%	5	19	26.3%	3	19	15.6%
Mont Nicolle	2	27	7%	9	26	34.6%	3	22	13.7%
Plat Douet	4	39	10%	5	42	11.9%	5	36	13.8%
Rouge Bouillon	4	49	8%	6	49	12.2%	6	46	13.2%
Samares	4	35	11%	5	34	14.7%	3	28	10.5%
Springfield	3	20	15%	0	19	0.0%	1	20	5.0%
St Clement	1	24	4%	2	25	8.0%	3	20	14.9%
St John	4	26	15%	2	25	8.0%	3	23	13.0%
St Lawrence	2	26	8%	3	27	11.1%	4	21	19.1%
St Luke	3	24	13%	4	22	18.2%	6	22	27.1%
St Martin	1	25	4%	2	26	7.7%	4	22	18.2%
St Mary	4	20	20%	2	17	11.8%	1	18	5.5%
St Peter	2	25	8%	0	24	0.0%	3	21	14.2%

St Saviour	4	25	16%	4	24	16.7%		21	0.0%
Trinity	1	23	4%	2	24	8.3%	5	24	20.5%
Victoria College Prep	3	30	10%	4	32	12.5%	1	32	3.1%
<b>Total</b>	<b>83</b>	<b>740</b>	<b>11%</b>	<b>107</b>	<b>731</b>	<b>14.6%</b>	<b>97</b>	<b>675</b>	<b>14.4%</b>

### Staff turnover by teaching and non-teaching staff

Statistical disclosure control has been applied to the tables, to avoid disclosing information about individual staff members. Where either the number of teaching or non-teaching leavers is less than 3, the breakdown of teaching to non-teaching staff has not been included. The schools where the numbers are 3 or greater are listed in the table below:

Schools with 3 or more teacher leavers or 3 or more non-teacher leavers in the year	Teaching staff	Non-teaching staff	Total	Teaching staff	Non-teaching staff	Total
	No of staff			% turnover		
<b>Academic year 2013-2014</b>						
d'Auvergne			3			7%
Grouville			3			7%
La Moye	4	3	7	22%	15%	18%
Mont Nicolle						
Rouge Bouillon			4			8%
<b>Academic year 2014-2015</b>						
d'Auvergne	4	3	7	21%	13%	17%
Grouville			6			19%
La Moye	3	8	11	18%	47%	32%
Mont Nicolle	3	3	6	25%	30%	27%
Rouge Bouillon			6			14%
<b>Academic year 2015-2016</b>						
d'Auvergne			9			22%
Grouville	4	4	8	27%	21%	24%
La Moye	6	4	10	35%	23%	29%
Mont Nicolle			3			14%
Rouge Bouillon	3		6	14%	13%	13%

### Staff numbers at 31 December 2016

School	Non-Teaching Staff	Teaching Staff	Grand Total
Bel Royal School	13	12	25
d'Auvergne School	20	20	40
First Tower School	14	21	35
Grands Vaux School	10	10	20
Grouville School	17	16	33
Janvrin School	23	18	41
Jersey College for Girls Prep	18	21	39
La Moye School	15	16	31
Les Landes School	9	10	19
Mont Nicolle School	9	12	21
Plat Douet School	21	19	40
Rouge Bouillon School	22	22	44
Samares School	16	13	29
Springfield School	16	11	27
St Clement School	10	11	21
St John School	11	9	20
St Lawrence School	11	10	21
St Luke School	12	9	21
St Martin School	10	9	19
St Mary School	9	9	18
St Peter School	11	9	20
St Saviour School	11	11	22
Trinity School	11	11	22
Victoria College Preparatory	13	20	33
<b>Grand Total</b>	<b>332</b>	<b>329</b>	<b>661</b>

### Percentage of staff turnover due to retirements

A breakdown by whether the staff member left due to retirement is not possible at the school level, as it would disclose information about individual staff members. The total of leavers due to retirement across all schools has been provided.

Retirements – All States primary schools			
Academic Year	Teaching Staff	Non-Teaching Staff	Total
2013-2014	18.4 % (7 people)	17.8% (8 people)	18.1% (15 people)
2014-2015	10.8% (4 people)	8.1% (5 people)	9.1% (9 people)
2016-2016	24.4% (11 people)	13.5% (7 people)	18.6% (18 people)

### 3.6 THE CONNÉTABLE OF ST MARY OF H.M. ATTORNEY GENERAL REGARDING THE LEGAL STATUS OF LONG-TERM CARE CONTRIBUTIONS: [1(60)]

#### Question

Will H.M. Attorney General clarify the legal status of Long-Term Care contributions and advise specifically under what provisions they are to be treated as a tax?

#### Answer

There is one question which determines whether charges such as Long-Term Care Contributions are a tax or not. This is whether there is a direct causal link between the charge and the individual benefits to be received. It is true that Long-Term Care Contributions are paid into a ring-fenced fund, are subject to an upper earning limit when calculating liability, and that liability for non-residents in respect of Jersey income is significantly restricted. However, although these and other considerations mean that Long-Term Care Contributions have many characteristics common to Social Security Contributions (which are not a tax), the absence of a direct connection between

payment of the Long-Term Care Contributions and the benefit received means that it is to be regarded as a tax.

What determines the legal nature of the payment is whether there is a direct link between contributions and benefits.

The relevant legislation does not include reference to an individual's contribution record as being necessary in order to determine their entitlements.

It follows that, as a matter of law, Long-Term Care Contributions are taxation.

### ***Which provisions treat Long-Term Care Contributions as a tax?***

The question of whether something is a tax, a charge or in any other category is rarely one of legal relevance ie the distinction generally has no legal consequence.

In Jersey, Long-Term Care Contributions will be treated as a tax for the purposes of the Public Finances (Jersey) Law, Articles 21 and 23, Long-Term Care contributions are taxation, and also Regulation 9(2) of Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005 which also deals with the same borrowing issues.

### ***Other statutes referring to "taxation"***

There are statutes where, whilst Long-Term Care Contributions would amount to "taxation", this has little or no practical consequence. These are:

- For the purposes of the Public Finances (Jersey) Law, Article 15, Long-Term Care contributions can be dealt with under the "taxation draft", meaning that legislation in respect of raising of Long-Term Care contributions can come into effect without Royal Assent. (Although any such changes to Long-Term Care Contributions would in reality be brought by way of Regulations under the Social Security (Jersey) Law.)
- Article 42(1)(c) of the Charities (Jersey) Law, information requirements on charities in respect of taxation.
- Article 29(1) of the Data Protection (Jersey) Law, exemption in respect of crime and taxation.
- Article 2(5)(a) of the European Union (Implementation) (Jersey) Law, although in fact EU law has no relevance to setting either income tax or social security contributions.
- Privileges Immunities (Diplomatic, Consular etc) (Jersey) Law: the same privilege applies to taxation and social security contributions, so nothing turns on categorisation.
- State Immunity (Jersey) Order, Articles 11 and 15 would treat social security contributions and income tax the same, so nothing turns on categorisation.
- Taxation (Implementation) (Jersey) Law, Article 1. An agreement could in principle apply to Long-Term Care Contributions and equivalent charges raised in other countries. In practice, Long-Term Care Contributions fall outside the terms of relevant international agreements.

This answer is given on the basis of a search of the Current Edition of Jersey enactments for the word "taxation", and may not have caught every reference in Jersey statute law to "tax" or "taxation".

### **3.7 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR EDUCATION REGARDING THE FUNDING OF NURSERY EDUCATION: [1(62)]**

### **Question**

Further to the answer provided on 29th November 2016 to oral question 9738, will the Minister confirm what funding has been put in place to ensure certainty for the parents of children at private nursery providers from September 2017; and will he advise from where such funding has come, whether its provision has affected what was agreed in the Medium Term Financial Plan Addition, and, if so, how?

### **Answer**

The MTFP proposal to means-test nursery places has been postponed until September 2018. The Department has requested that the shortfall created by not achieving the MTFP saving will be met through carry forwards (although these have yet to be agreed). Parents should therefore not be affected in the 2017-2018 academic year.

This can only be a short-term solution as the scheme continues to exceed its budget on an annual basis. Work continues on implementing the means-testing in both private commercial nurseries and States school nursery classes, as agreed by the States.

## **3.8 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE LONG-TERM CARE SCHEME: [1(63)]**

### **Question**

Further to the advice provided by H.M. Solicitor General to the Assembly on 19th January 2017 regarding Article 21(3) of the Public Finances (Jersey) Law 2005 in relation to the funding of the new Hospital, will the Minister advise whether or not she will continue to regard the Long-Term Care scheme as a contribution; and will she confirm that the undertaking made to the Assembly by her predecessor on 18th June 2013 that the Long-Term Care contribution could not be manipulated by the Minister for Treasury and Resources remains in place?

### **Answer**

As Minister for Social Security I can absolutely confirm that all long-term care contributions are paid into the ring fenced Long-Term Care Fund and that payments out of the Fund can only be made to support long-term care costs.

The contributions are collected under the Social Security Law and the benefits are paid under the Long-Term Care Law.

Both these laws fall under my responsibility and any changes to the nature of the contributions or the use of the Fund would require legislation to be approved by the States Assembly.

The recent advice provided by H.M. Solicitor General does not have any bearing on the operation of the Long-Term Care Fund, and was confined to Article 21(3) of the Public Finances Law. As such, I can confirm the undertaking given by my predecessor, Senator Le Gresley, that the Long-Term Care contribution cannot be manipulated by the Minister for Treasury and Resources.

## **3.9 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING APPOINTMENTS UNDERTAKEN BY THE ASSISTANT CHIEF MINISTER WITH REPONSIBILITY FOR THE FINANCIAL SERVICES INDUSTRY, DIGITAL SECTOR, COMPETITION AND INNOVATION: [1(64)]**

### **Question**

Will the Chief Minister list all official appointments that Senator P.F.C. Ozouf has undertaken as Assistant Chief Minister, including any such appointments which occurred outside of Jersey, from the time the Senator announced his intention to resign from that role to the time when that resignation took effect or, if that resignation has not yet taken effect, to the time that this question is answered?

**Answer**

Senator Ozouf informed the Sates Assembly on 17th January of his intention to resign and wrote to the Chief Minister on Friday, 20th January 2017, and with immediate effect ceased to hold office as Assistant Chief Minister.

The only official appointment between 17th and 20th January was a pre-arranged invitation to meet with the Honorary Consul for the Republic of Rwanda (in Jersey). This prior engagement arose from Senator Ozouf's extensive and long standing involvement with the relationship between Jersey and Rwanda and specifically followed the visit of the Minister of Finance & Economic Planning for the Republic of Rwanda between 9th & 11th January.

Senator Ozouf has not conducted any further official appointments as Assistant Chief Minister.

**3.10 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING LEGISLATIVE MEASURES TAKEN TO PROMOTE ECONOMIC GROWTH: [1(65)]**

**Question**

Further to the response provided on 17th January 2017 to written question 1(15) regarding the legislative measures the Minister had taken to provide a tangible effect on promoting economic growth, will the Minister reproduce the list provided in that response with the addition of a clear explanation beneath each item to show what growth in our economy, if any, could be attributed to the measure in question?

**Answer**

The four changes to subordinate legislation highlighted in the previous answer were progressed on the basis that businesses generate economic growth, while government concentrates on improving conditions for economic growth. Both the efforts of business and government can take time to filter through.

Each of the four relevant legislative projects listed in the previous answer were designed to create important but incremental changes to business trading conditions.

In the case of the changes made to the Tourism (General Provisions) Order during 2015 and 2016, the primary success measures are indirect. Visit Jersey has been able to source higher quality baseline data to help direct its marketing resource effectively. If, as a consequence, Visit Jersey secures a sustained increase in the number of visitors then businesses will be well placed to generate sustained economic growth. Industry feedback indicates that businesses have also benefited from the incremental reduction in red tape insofar as their staff can devote time to other tasks.

Turning to the changes made to legislation governing licensing and retail activity, the incremental benefit of both will ultimately be factored into the economic activity reports published by the States of Jersey Statistics Unit. It is nevertheless worthy of note that local media reporting of pre-Christmas 2016 on-Island retail activity was positive.

**3.11 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING MEASURES TAKEN TO ALLEVIATE THE BURDEN ON ACCIDENT AND EMERGENCY SERVICES: [1(66)]**

**Question**

Given that, in recent weeks, the States has had to put out messages asking the public to attend their General Practitioner (G.P.) if their ailment was not an emergency, rather than Accident and Emergency (A&E), because of the pressure placed on that service, what measures, if any, have been taken to alleviate the burden on A&E services; and what consideration, if any, has been given to improving access to G.P.s for those people who currently struggle to afford it?

**Answer**

Sending an Island-wide message to the general public requesting that they access their GP for medical support and input where appropriate is not a decision that is taken lightly by the Health and Social Services Department. However, at times of significant pressure, which was the case recently following increased volumes of seasonal illnesses and respiratory infections, it is deemed an appropriate, acceptable and sensible message to communicate. It is effective as, following any such request, the number of patients who present to the department always reduces in the short term, enabling the Emergency Department to meet patient demand.

Within the Emergency Department – which should only be used for emergencies – the number of patients and capacity to accommodate them is continuously assessed. This is monitored alongside the hospital bed capacity, ensuring sufficient in-patient beds are available for those patients who require admission for continuing treatment and acute care.

Where appropriate, Islanders should consider seeing their GP in the first instance – the Emergency Department displays posters in the reception area that promote the use of the GP out of hours service as an alternative to waiting in the department when their own GP surgery is closed. The Department is keen to review alternative models of care provision in the future or to be part of a media campaign that encourages the public to think about where they are best seen for non-emergency ailments. The staff, where appropriate, do advise patients to seek GP assistance, but this is not always accepted by patients and the staff can be victims of verbal abuse as a consequence.

Our Consultant Microbiologist continually monitors infection patterns, not only within the hospital but across our community to ensure where possible we prevent illness by the spread of infection and then handle any patients as efficiently as possible when they present to hospital. This can be helped by optimising the management of patients with respiratory and heart disease with the aim of reducing their risk of infection and thus prevent hospital admission. Greater uptake of the flu vaccine by children and by staff in care homes would assist with this.

Work is underway on supporting GP costs. Health and Social Services and Social Security have jointly commissioned Deloitte to undertake a review, which includes consideration of access for people with a low income to GPs. The scope of the review was included in the answer to Deputy Southern's written question (10) to the Minister for Social Security tabled on 17 January 2017.

**3.12 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING LOANS FORM THE JERSEY INNOVATION FUND APPROVED BY THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE: [1(67)]**

**Question**



In the time that the current Minister for Economic Development, Tourism, Sport and Culture had official responsibility for the Jersey Innovation Fund, how many loans did he sign off, if any, and how many of those loans, if any, are assumed by the Comptroller and Auditor General's recently published report (R.3/2017) to be highly unlikely to be repaid?

**Answer**

The current Minister for EDTSC signed three Ministerial Decisions approving the offer of a loan to JIF applicants on the basis of a recommendation from the JIF Advisory Board and the officers supporting the Advisory Board.

These recommendations, which outlined the supporting evidence and the terms upon which the offer of a loan were to be made, were attached to each Ministerial Decision.

Every such Ministerial Decision captured the recommendation of the Advisory Board and authorised officers to draw up loan agreements subject to detailed and specific terms together with the conditions that had to be met before and throughout the duration of the loan.

Of the three loans, one has been written off in full; one has been deemed "unlikely that a debt will be repaid"; and one loan is on track with its repayments.

**3.13 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE STATUS OF BUSINESSES WHICH HAD APPLICATIONS FOR LOANS FROM THE JERSEY INNOVATION FUND REFUSED: [1(68)]**

**Question**

Is the Chief Minister aware of any businesses which applied for loans or grants from the Jersey Innovation Fund and which had their applications rejected, but which have since gone on to establish themselves as a stable business making profit and employing people in Jersey?

**Answer**

A record of all applications to access the Jersey Innovation Fund (JIF) was maintained. This shows that 51 applications were received, 7 approved, 35 rejected and 9 withdrew. A further 19 enquiries were made but did not reach the application stage.

There was no subsequent monitoring of applications that had not been approved.

The JIF is just one element of supporting innovation in Jersey. Advice, support and signposts to alternative funding is available for start-ups and businesses through a wide range of agencies such as Jersey Business, Digital Jersey as well as numerous private sector organisations, all of whom play an active role in matching sources of business finance with seekers of finance.

**3.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING MINISTERIAL APPROVAL OF LOANS FROM THE JERSEY INNOVATION FUND: [1(69)]**

**Question**

Will the Chief Minister confirm the dates since November 2011 (inclusive) on which Senators P.F.C. Ozouf, A.J.H. Maclean and L.J. Farnham were appointed as either a Minister or Assistant Minister, including the positions to which they were appointed; and will the Chief Minister inform members who signed off the loans to Applicants A to F, as described in Appendices 1 and 2 to 'Jersey Innovation Fund' (R.3/2017)?

Will he further advise –

- (a) what factors influenced the interest rate (from 4.5% to 9%) on these loans;
- (b) why the ability to take equity in the companies was not pursued;
- (c) why no royalty agreements were sought; and
- (d) why only one loan was phased and why personal guarantees were sought on only 2 loans?

**Answer**

Senator A.J.H. Maclean	18 November 2011	Appointed Minister for Economic Development
	6 November 2014	Appointed Minister for Treasury and Resources
Senator L.J. Farnham	29 November 2011	Appointed Assistant Minister for Home Affairs
	6 November 2014	Appointed Minister for Economic Development
Senator P.F.C. Ozouf	17 November 2011	Appointed Minister for Treasury and Resources
	24 November 2014	Appointed Assistant Minister for Economic Development
	17 November 2014	Appointed Assistant Minister to the Chief Minister

The following Ministerial Decisions approved the offering of loans to JIF applicants:

Ministerial Decision - Loan A	Senator A.J.H. Maclean
Ministerial Decision - Loan B	Senator A.J.H. Maclean
Ministerial Decision - Loan C	Senator P.F.C. Ozouf
Ministerial Decision - Loan D	Senator L.J. Farnham
Ministerial Decision - Loan E	Senator L.J. Farnham
Ministerial Decision - Loan F	Senator P.F.C. Ozouf
Ministerial Decision - Loan G	Senator L.J. Farnham

- (a) Interest rates on individual loans were recommended to the Accounting Officer by the Jersey Innovation Fund Advisory Board. The recommendation would be based upon a range of factors including strength of the business, anticipated risks and available security;
- (b) From a review of Advisory Board minutes, the idea of taking equity positions was first discussed by the Advisory Board in April 2014 and a number of times thereafter. Having recognised on several occasions that a legislative change was needed to permit an equity position in companies, action was not taken by officers to bring the legislative changes forward.

A specific ‘debt to equity’ conversion clause was incorporated within the documentation for one loan although no legislative change was brought to the States Assembly that would permit triggering of this clause. This is now being developed as part of the remediation process.

- (c) The status of royalty agreements is specifically dealt with in Section 7 of the Comptroller & Auditor General (“CAG”) report dated 12<sup>th</sup> January 2017. Royalty agreements were discussed for some loans but not all. Reasons for not pursuing included possible borrower resistance and unavailability of relevant documentation.

Advisory Board opinion was divided on the value of securing royalties and none were secured as a condition of individual loans.

- (d) Phasing of loan disbursement was discussed in several cases and implemented in one case. It is, however, unclear from the Advisory Board minutes why phased drawdown was not actively discussed and considered in every case.

The Advisory Board also considered whether to advance the full amount of borrowing requested.

Once again, minutes of the Advisory Board do not reveal consistency of discussion around taking available security, including personal guarantees. There is a minuted discussion around the need to develop more of a policy on this and the associated consideration of interest rates if security is taken. This is commented upon at section 9.3 of the CAG report.

### **3.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING MINISTERIAL RESPONSIBILITY FOR THE FINANCIAL SERVICES INDUSTRY, DIGITAL SECTOR, AND COMPETITION AND INNOVATION: [1(70)]**

#### **Question**

Has the Assistant Minister to the Chief Minister with responsibility for the financial services industry, digital sector, and competition and innovation offered his resignation from this post, and had it accepted; and, if not, will the Chief Minister explain why not and when he expects to have completed this change? Will the Chief Minister also inform members how the responsibilities of the Assistant Minister have been, or will be, redistributed?

#### **Answer**

Senator Ozouf has written to the Chief Minister, and with immediate effect, on Friday, 20th January, 2017, ceased to hold office as Assistant Chief Minister. At that point, the delegated powers held by Senator Ozouf reverted to the Chief Minister.

It is not easy to replace the expertise brought by Senator Ozouf to competition, innovation, digital and financial services matters, but over the coming days decisions will be taken on any new delegations that may be needed.

A Report will be presented on Monday afternoon to confirm how the responsibilities of the Assistant Chief Minister will be distributed.

### **3.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE STRUCTURE AND WORKING PRACTICES OF THE LAW OFFICERS’ DEPARTMENT: [1(71)]**

#### **Question**

Will H.M. Attorney General explain the following –

- (a) how his Department is organized;

- (b) how many people work within the Department and in what sections, including their specialisms;
- (c) what vetting of legal advice to Ministers and Departments takes place in his Department before such advice is provided to Ministers; and
- (d) how the Department deals with any conflicts of interests which may arise?

**Answer**

- (a) The Law Officers' Department consists of the Criminal Division and the Civil Division supported by a small administration team.
- (b) A Director manages each division. The Criminal Division is divided into three teams; the team at Police Headquarters, Mutual Legal Assistance and Crown Prosecutors. The team based at Police Headquarters prosecutes all cases before the Magistrate's Court and gives advice to the States of Jersey Police and the Honorary Police and consists of eight lawyers and support staff. The Mutual Legal Assistance team deals with international requests and consists of 2.8 (FTE) lawyers and support staff and a police officer who is on secondment from the States of Jersey Police Joint Financial Crime Unit. The Crown Prosecutor Team prosecutes the majority of Royal Court cases and also advises the Police. It consists of twelve lawyers and support staff.

The Civil Division is divided into four teams; Advice; Safeguarding; Commercial and Contentious; and Property.

The Advice Team has eight lawyers and support staff providing advice regarding the following: international treaties, European Law, sanctions, statutory interpretation, extension of UK legislation to Jersey, drafting of Orders in Council and Rules of Court, legislation projects, human rights, penalty review of draft legislation, drafting of Royal Assent memoranda, and public law advice.

The Commercial and Contentious Team consists of 7.7 (FTE) lawyers and support staff who provide advice in respect of contracts and contractual disputes, employment and discrimination claims, data protection and freedom of information, planning, general civil litigation and applications for judicial review.

The Property Team consists of 4.5 (FTE) members of staff who advise on all property related matters and who deal with conveyancing work on behalf of the Public of the Island and the Crown.

The eight lawyers and support staff of the Safeguarding Team provide advice to the Children's Service about the care and protection of children in the Island, and deal with applications for public law orders in relation to children.

The Administration team consists of 6.5 (FTE) members of staff.

- (c) Arrangements are in place to ensure that the advice given to Ministers and Departments is accurate, of high quality and provided in a timely way. Advice drafted by assistant legal advisers is subject to the supervision of senior lawyers.
- (d) The Law Officers' Department is structured so as to manage any conflicts of interest. The Attorney General and Solicitor General are independent Law Officers; the Criminal and Civil

Divisions are managed and operated quite separately from each other and both are segregated from one another by an electronic case management system, which enables files to be locked electronically with only certain lawyers and staff having access to such files.

**3.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING MEETINGS HELD IN RELATION TO THE CONTRACT WITH MR. ALWITRY: [1(72)]**

**Question**

Will the Chief Minister explain the nature of the consultation, or meeting, that took place on or before 22nd November 2012, as referred to in paragraph 179 of R.75/2016, which involved both him and the Minister for Health and Social Services, and which had regard to the breaking of the contract entered into with Mr. Alwitary; and, in particular, will he explain –

- (a) the grounds at that time for the decision taken to terminate the contract;
- (b) what decisions were taken, by whom, and whether there was any dissent from such decisions;
- (c) who was consulted and in what form the consultation took place; and
- (d) whether any minutes or record of the discussion were taken and, if not, why not?

**Answer**

The decision to rescind the contract of Mr. Alwitary rested with HSSD under delegated authority.

- (a) the decision to terminate was for the following reasons, as explained in the letter of termination
  - Attitude and behaviour displayed in relation to multiple aspects of the role.
  - Demonstrable evidence of a dysfunctional relationship with the clinical director and other senior medical and management staff.
  - Loss of trust and confidence between the respective parties resulting in any employment relationship being irreparably damaged.
- (b) The decision to terminate the contract was taken by the Hospital Managing Director, the Joint Medical Directors, and the HSSD HR Director. The recommendation was made to the HSSD CEO and the Health Ministers who concurred with the recommendation.

The SEB were advised, for information, by the SOJ HR Director of the day via email on 21st November 2012. There were no objections.

- (c) See the answer to (b). Consultations were via meetings and/or briefings.
- (d) The internal meetings in HSSD were not minuted. There was a letter from the HSSD HR Director to the SOJ HR Director explaining the rationale for the HSSD decision to terminate the contract that was sent to the SEB for information.

**3.18 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE INVOLVEMENT OF CONSULTANTS IN THE PROCESS TO TERMINATE THE CONTRACT WITH MR. ALWITRY: [1(73)]**

**Question**

Further to written question 1(33) on 17th January 2017, will the Minister explain why he stated in

the response to that question that “*no consultants (whether external consultants or hospital consultants) advised the board in relation to the Health and Social Services Department recommendation to rescind / withdraw [the offer of employment]*” when the report of the States of Jersey Complaints Board (R.75/2016) highlighted the presence of hospital consultants at the States Employment Board meeting at which the decision to terminate Mr Alwitry’s contract was ratified?

**Answer**

Written question 1(33) was interpreted as referring to the decision to rescind the contract of employment by HSSD which took place on 22nd November 2012. In the specific, the earlier answer referred to is accurate.

The SEB was advised by the then States of Jersey HR Director of the decision via email for information which included a letter from the HSSD HR Director which stated that the Medical Directors, Clinical Director, Ministers and Hospital senior management supported termination of the contract.

If the question refers to advice received subsequent to the decision then clearly both clinical leaders and the external consultants who provided the three review reports provided information to the Board. The decision to terminate rested with HSSD under delegated authority and the Board’s reviews were designed to assure itself that the decision taken was both appropriate and proportionate.

**3.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE TERMS OF REFERENCE FOR REPORTS COMMISSIONED INTO THE TERMINATION OF MR. ALWITRY’S CONTRACT OF EMPLOYMENT: [1(74)]**

**Question**

Will the Chief Minister, as Chairman of the States Employment Board, publish for members the terms of reference given to, and any correspondence with, the former Solicitor General, Mr. Beal and Ms. Haste regarding the reports commissioned from them into the termination of Mr Alwitry’s contract of employment?

**Answer**

The three reports and hence the terms of reference, from the then Solicitor General , Mr. Beal and Ms. Haste are all contained as appendices in the SEB Comment to P.137/2017 which has been published to States Members.

There has been no direct correspondence between the Board and the authors. Officers have conducted any correspondence for the purposes of organising the preparation and delivery of the reports to the SEB. Provision of such correspondence will follow.

**3.20 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE JOB ADVERTISEMENT AND CONTRACTUAL DOCUMENTS PROVIDED TO MR. ALWITRY: [1(75)]**

**Question**

Will the Minister publish for members a copy of the document that advertised the position of Consultant Ophthalmologist for which Mr. Alwitry applied in the summer of 2012?

Will the Minister also provide copies of all the standard contractual documents that were used at

the time for employment to such posts; and will he confirm whether or not such documents were sent to Mr. Alwitry following his acceptance of the offer of employment and that there were no other contractual documents sent to Mr. Alwitry?

**Answer**

Yes. The advertisement and a copy of the Consultant contract documentation as used in 2012 are reproduced below.

I refer the Deputy to the former Solicitor General's report contained as an appendix to the SEB Comment on P.137/2016 which has been distributed to Members. Paragraphs 43-51 describe the circumstances surrounding the issue of a contract of employment and warrant careful reading. Those circumstances resulted in other contractual documents being sent in due course.

**Job Advert**

**CONSULTANT IN OPHTHALMOLOGY**

(To commence Winter 2012)

Applicants are invited for the post of Consultant in Ophthalmology; a special interest in a sub specialty is desirable. This post is based at the General Hospital in Jersey. The postholder will work as part of a 1 in 4 rota.

The successful applicant will join a team with two Consultants and two middle grades in a Department that provides the sole eye care service to the population of Jersey and visitors to the Island. The postholder will be expected to share in the care of eye patients through Out Patient and Theatre Sessions and contribute to the management of the Eye Department along with training, teaching and audit.

Just off the north coast of France, Jersey is a thriving cosmopolitan offshore finance centre and enjoys one of the highest standards of living in the world. Renowned as the sunniest spot in the British Isles, tourists swell the population from 90,000 to 130,000 in the summer months. The island's 100 square kilometres of scenic countryside are encircled by soaring cliffs and 40 km of sandy beaches - exposed directly to the Atlantic breakers and home to a vibrant surfing community. Outdoor sporting opportunities on land, surf, sea and in the air abound. The Island's 450 miles of mostly quiet country roads & cycle routes are thoroughfares for both the famous local Jersey cows and regular national motor sport events & rallies; there are also several excellent golf courses. The island also boasts an enviable programme of international arts, music festivals and entertainments. Whether watching the sun set into the sea over a beach barbecue, dining out on award-winning international cuisine served up by Michelin-starred restaurants or club & bar hopping in the town centre is the end to your perfect day, Jersey has the lifestyle & the work environment you're looking for, combined with a maximum tax rate of 20% and excellent affordable private education for your children.

Under Jersey Law, applicants must possess full registration with the General Medical Council and hold a license to practice.

Please go to [www.workingforjersey.gov.je](http://www.workingforjersey.gov.je) where you will be able to view the job description and further information about this post. There will also be a link to enable you to make an application using our online process. For information about living in Jersey and the Island's lifestyle visit [www.jersey.com](http://www.jersey.com)

For an informal discussion about the role, applicants are invited to contact Mr Richard Downes, Consultant in Ophthalmology and Clinical Director for Surgery on xx (Secretary) or xx (Main Switchboard).

The closing date is **Friday 22<sup>nd</sup> June 2012**.

Pre-visits and interviews will take place on **Tuesday 31<sup>st</sup> July** and **Wednesday 1<sup>st</sup> August** respectively.

## **Contract of Employment**

# **Consultant Contract of Employment**

(Permanent Appointment)

## **JERSEY VERSION**

**[NAME]**

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## The Post

### **1. Parties to the Contract**

The permanent contract is between the States Employment Board (hereinafter referred to as the Employer) and **[ ]** who is employed as a **[ ]** and (hereinafter referred to as the Employee).

The Employer is: The States Employment Board

Cyril Le Marquand House

The Parade

St Helier

Jersey

JE4 8QT

### **2. Date of Commencement of Employment**



This Contract of Employment will become effective from [ ]. However previous service with the NHS, as a consultant, which commenced in [ ] has been taken into account for annual/sick leave/seniority purposes.

### **3. General Mutual Obligations**

Whilst it is necessary to set out formal employment arrangements in this contract, the Employer also recognises that the Employee is a senior and professional member of staff who will usually work unsupervised and frequently have the responsibility for making important judgments and decisions. It is essential therefore that the Employee and the Employer work in a spirit of mutual trust and confidence. The Employee and Employer agree to the following mutual obligations in order to achieve the best for patients and to ensure the efficient running of the service:

- to co-operate with each other
- to maintain goodwill
- to carry out their respective obligations in agreeing and operating a Job Plan
- to carry out their respective obligations in accordance with appraisal arrangements
- to carry out their respective obligations in devising, reviewing, revising and following the organisation's policies, objectives, rules, working practices and protocols.

## **The Work**

### **4. Location**

The Employee's principal place of work is Jersey. Other work locations, including off site working, may be agreed in the Employee's Job Plan where appropriate, e.g. for supporting professional activities and some direct clinical care such as audit notes. The Employee will generally be expected to undertake their Programmed Activities at the principal place of work or other location agreed in the Job Plan. Exceptions will include traveling between work sites and attending official meetings away from the workplace.

The Employee may be required to work at any site determined by the Employer, including new sites.

### **5. Duties**

#### **5.1 Main Duties & Programmed Activities**

Except in emergencies or where otherwise agreed with the Employee's manager, the Employee is responsible for fulfilling the duties and responsibilities and undertaking the Programmed Activities set out in the Job Plan, as reviewed from time to time in line with the provisions in section 6 below.

#### **5.2 Associated Duties**

The Employee is responsible for the associated duties set out in Schedule 2 of the Terms and Conditions.

#### **5.3 Objectives**

The purpose of including agreed personal objectives in the Job Plan is to set out in clear and transparent terms which the Employee and their manager have agreed should reasonably be achieved in the year in question. These objectives are not contractually binding in themselves, but the Employee has a duty to make all reasonable efforts to achieve them.

#### **5.4 On-call Duties & Emergency Responses**

The Employee may also be required to participate in an on-call rota to provide emergency cover (see section 9). When not on-call, the Employer may in exceptional circumstances ask the Employee to return to site for emergencies if the Employer is able to make contact. The Employee is not, however, required to be available for such eventualities. Where emergency recalls of this kind become frequent, the Employer will review the on-call arrangements accordingly.

## **6. Job Planning**

The Employee and their manager have agreed a prospective Job Plan that sets out the Employee's main duties and responsibilities, a schedule for carrying out the Programmed Activities, the Employee's managerial responsibilities, accountability arrangements, objectives and supporting resources, as appropriate.

The Employee and their manager will review the Job Plan annually in line with the provisions in Schedule 3 of the Terms and Conditions. Either may propose amendment of the Job Plan. The Employee will help ensure through participating in Job Plan reviews that the Job Plan meets the criteria set out in the Terms and Conditions and that it contributes to the efficient and effective use of Health & Social Services resources.

## **7. Programmed Activities**

### **7.1 Scheduling of Activities**

The Employee and their Manager will agree in the schedule of the Job Plan the programmed activities that are necessary to fulfill the Employee's duties and responsibilities, and the times and locations at which these activities are scheduled to take place. The Employee and their Manager will seek to reach agreement in the scheduling of all activities. The Employer will not schedule non-emergency work during premium time without the Employee's agreement.

Subject to the provisions for recognising work done in Premium Time (see section 8 below), a Programmed Activity has a timetable value of four hours. Each Programmed Activity may include a combination of duties.

The Employee's Job Plan will contain 10 Public Programmed Activities per week on average, subject to the provisions below for recognising emergency work arising from on-call rotas. Remuneration for Programmed Activities is set out in section 21 below and schedule 13 of the Terms and Conditions of Service.

### **7.2 Flexibility**

Attaching a time value to Programmed Activities is intended to provide greater transparency about the level of commitment expected of Consultants by Health & Social Services. However, the Employee and their manager can agree flexible arrangements for timing of work.

Programmed Activities may be scheduled either as a single block of four hours, or sub-divided into smaller units of time.

The precise length of Programmed Activities may vary from week to week around the average assessment set out in the Job Plan.

The Employee and their Manager may agree, as part of the Employee's Job Plan, arrangements for the annualisation of Programmed Activities. In such a case, the Employee and their Manager will agree an annual number of Programmed Activities and the Employee's Job Plan will set out variations in the level and distribution of Programmed Activities within the overall annual total.

The Employee and their Manager may agree, as part of the Employee's Job Plan, other arrangements for flexible scheduling of commitments over an agreed period of time.

### **7.3 Balance between Direct Clinical Care and other Programmed Activities**

Subject to the provisions for recognising emergency work arising from on-call rotas below, and time in lieu of on-call work, the schedule in the Employee's Job Plan will typically include an average of 75% of the Employee's time for Programmed Activities for Direct Clinical Care duties and 25% of the Employee's time for Programmed Activities for Supporting Professional Activities. Where the Employee's agreed level of duties in relation to supporting professional activities, additional responsibilities and other duties is significantly greater or lower than 25% of programmed activities there will be a local agreement as to the appropriate balance between activities.

The precise balance will be agreed as part of Job Plan reviews and may vary to take account of circumstances where the agreed level of duties in relation to supporting professional activities, additional Health & Social Services responsibilities and external duties is significantly greater or lower than 25% of programmed activities.

### **7.4 External Duties**

Where the Employee wishes to undertake external duties and include them in their Job Plan, the Employee must negotiate this with their Manager in advance. Scheduling of such duties will be by agreement between the Employee and their Manager. Where carrying out these external duties might affect the performance of direct clinical duties, the Employee must seek approval from their manager and agree a revised schedule of activities at least a month in advance.

### **7.5 Recognition For Emergency Work Arising From On-Call Duties**

Where emergency work takes place at regular and predictable times, the Manager will seek to schedule it as part of the Programmed Activities in the Employee's Job Plan schedule. The Employee may, however, be required to participate in an on-call rota to respond to less predictable emergencies.

The provisions in schedule 5 of the Terms and Conditions apply to recognise unpredictable emergency work arising from on-call rota duties that takes place other than during a Programmed Activity scheduled in the Employee's Job Plan.

### **7.6 Extra Programmed Activities**

The Employee and their Manager may agree that the Employee will undertake extra Programmed Activities over and above the 10 Programmed Activities that constitute standard contractual duties. The Employee is not obliged to work more than a maximum of 10 Programmed Activities, however, where the Employee does give their agreement to undertake additional work, the Employee must undertake such activities. The remuneration for these activities is covered by section 21 below and schedules 13 of the Terms and Conditions. Any additional Programmed Activities that are carried out beyond the standard 10 Programmed activities, will be paid at the rates set out in schedules 13 of the Terms and Conditions.

## **8. Premium Time**

From 1 April 2004 the provisions in schedule 7 of the Terms and Conditions will apply to recognise the unsocial nature of work done in premium time and the flexibility needed by Consultants who work at these times as part of a more varied overall working pattern.

On any occasion where a Consultant is scheduled to work during the premium time period, the employing organisation will ensure that the Consultant has adequate rest both before and after this period of duty.

## **9. On-call & Emergency Duties**

### **9.1 On-call Rotas**

Where the Employee is on an on-call rota, the provisions in schedule 8 of the Terms and Conditions will apply.

The Employee's on-call duties will be set out in the published rota or in accordance with any alternative arrangements that the Employee agrees with their colleagues for providing on-call cover.

## **9.2 On-call Availability**

Where the Employee is on an on-call rota, they will receive time off in lieu as recompense for the frequency and intensity of the rota, in accordance with the provisions of Schedule 8 of the Terms and Conditions.

## **OTHER CONDITIONS OF EMPLOYMENT**

### **10. Registration Requirements**

It is a condition of the Employee's employment that they are, and remain a registered practitioner and be included on the Specialist Register held by the General Medical Council (GMC) or General Dental Council (GDC) and continue to hold a license to practice.

The Employee must at all times work by the principles and values set out in the General Medical Council's Good Medical Practice. A copy of this can be found on-line at [www.gmc-uk.org](http://www.gmc-uk.org)

The Employee must also be appropriately registered with the Royal Court of Jersey.

### **11. Fee Paying Services & Private Professional Services**

#### **11.1 Minimising Potential for Conflicts of Interest:**

In carrying out any fee paying services or private professional services, the Employee will observe the provisions in Schedule 9 of the Terms and Conditions in order to help minimise the risk of any perceived conflicts of interest to arise with their work for Health and Social Services.

#### **11.2 Fee Paying Services & Health & Social Services Programmed Activities**

(Examples of Fee Paying services are set out in Schedule 10 of the Terms and Conditions)

The Employee will not carry out Fee Paying Services during their programmed activities except where they have the agreement of their Manager. Where the Manager has agreed that the Employee may carry out Fee Paying Services during their Programmed Activities, the Employee will remit to the Employer the fees for such services except where the Employee and their Manager have agreed that providing these services involves minimal disruption to Health & Social Services duties. Schedule 11 Terms and Conditions contains guidance on this subject.

#### **11.3 Private Professional Services & Health & Social Services Programmed Activities**

Subject to the provisions in Schedule 9 of the Terms and Conditions, the Employee may not carry out Private Professional Services during their Programmed Activities.

#### **11.4 Publications, lectures, public relations etc.**

The Employee shall be free, with prior consent of the Employer, to publish books, articles, etc. and to deliver any lecture or speak, subject to the local policy on public relations limitations, whether on matters arising out of their Health & Social Services service or not.

### **12. Deductions from pay**

The Employer will not make deductions from or variations to the Employee's salary other than those required by law without the Employee's express written consent.

### **13. Appraisal and Clinical Governance**

The Health & Social Services appraisal scheme for senior medical staff applies to the Employee's post. The Employee must co-operate fully in the operation of the appraisal scheme. The Employee must also comply with our clinical governance procedures.

#### **14. Gifts and Gratuities**

The Employee is required to comply with the States of Jersey policy governing the acceptance of gifts and hospitalities.

#### **15. Policies and Procedures**

The Employee is required to comply with the Employer's policies and procedures.

#### **16. Grievance Procedures**

The grievance procedures, which apply to this employment are set out in the Medical Staff Grievance Procedure (**current policy attached**).

#### **17. Disciplinary Matters**

Wherever possible, any issues relating to conduct, competence and behavior should be identified and resolved without recourse to formal procedures. However, should the Employer consider that the Employee's conduct or behavior may be in breach of the Consultant Disciplinary Code, or that the Employee's professional competence has been called into question, the Employer will resolve the matter through the disciplinary procedures, subject to the appeal arrangements set out in those procedures (**current policy attached**).

#### **18. Intellectual Property**

The Employee will comply with the Employer's procedures in respect of intellectual property which are in line with The NHS's Guidance on the Management of Intellectual Property.

#### **19. Other Conditions of Service**

The provisions in Schedule 12 of the Terms and Conditions will apply.

#### **20. Redundancy**

Wherever possible, redundancy will be avoided. However, if as a last resort the Consultant is to be made redundant, individual consideration will be given to redundancy terms. The above conditions may be varied at any time by the States Employment Board or the States of Jersey.

### **Pay**

#### **21. Salary**

##### **21.1 Basic Salary and Incremental progression**

The Employee's basic salary commencement is [redacted] per annum in line with [redacted] of the New Consultant Salary Scales.

This basic salary will increase in accordance with the provisions of Schedule 13 of the Terms and Conditions.

The Employee's Incremental date will be [redacted]

The Employee's basic salary, together with any payments for extra Programmed Activities (see section 21 below), includes payment for all Contractual and Consequential Services.

##### **21.2 Payment of salaries**

Salaries are to be paid by equal monthly installments on the last working day of the month, or if that is an official holiday, on the normal working day before it. Payment is made directly to the Employee's bank account.

### **21.3 Payment for additional Programmed Activities**

Any additional Programmed Activities that the Employee carries out, beyond the standard 10 Programmed Activities, will be paid at the rates set out in Schedules 13 of the Terms and Conditions.

## **22. Hours of work**

The Employee's contract is based on a normal working week of 10 Programmed Activities. Each Programmed Activity has a notional value of 4 hours.

## **Pension**

### **23. The provisions in Schedule 16 of the Terms and Conditions shall apply.**

The Employee is eligible for membership of the PECRS. Pensionable pay will include basic salary (up to ten programmed activities, but not any additional programmed activities above this).

## **Leave and Holidays**

### **24. Leave and Holidays**

Schedule 17 of the Terms and Conditions sets out the Employee's entitlement in respect of:

- annual leave and public holidays
- professional and study leave
- sick leave
- special leave
- maternity, paternity and adoption leave

## **Other conditons**

### **25. Expenses**

The Employee is entitled to be paid expenses, which should be submitted in a timely manner (normally within one month), for:

- excess travel
- subsistence; and
- other expenses in accordance with study leave

### **26. Housing**

This post has been made open to applicants from outside Jersey because of the need for skills not readily available in the Island. The Employee will not therefore be permitted to transfer to other posts in the public service which are outside this specialist area for a period of 10 years.

### **27. Medical Defence subscriptions**

The Health & Social Services Department requires that Consultants be fully subscribed members of a recognised professional defence organisation, or if objecting to such membership on grounds of conscience or some other grounds approved by the Department, an insurance policy covering them in respect of any liability arising out of, or in connection with, their duties, and to produce to the Department the receipts of payment or renewal of subscription or premiums as the case may be.

A refund of part of the subscription payable is in accordance with Schedule 6 of the Terms and Conditions

## **28. Ionising Equipment**

The Employee may only use, or be in contact with, ionising equipment if they hold a Certificate of Training in accordance with the 1988 Ionising Radiation Regulations.

## **29. Termination of Employment**

Provisions governing termination of employment are set out in Schedule 18 of the Terms and Conditions of Service.

## **30. Entire Terms**

This contract and associated Terms and Conditions contain the entire terms and conditions of the Employee's employment with the States Employment Board, such that all previous agreements, practices and understandings between the Employee and the Employer (if any) are superceded and of no effect. Where any external term is incorporated by reference such incorporation is only to the extent so stated and not further otherwise.

Signed:      Date:

**[I]** - *Medical Staffing Officer*

**For and on behalf of the States Employment Board**

I confirm I have received the original of this Contract of Employment and I have understood and agree to honour the terms and conditions set out in this contract of employment

Signed:      Date:

**[I]**

**Please sign both copies of the enclosed Contract of Employment, retaining one copy for your own information and returning the other copy to [Name] the Medical Staffing Department, Peter Crill House (West Wing), Gloucester Street, St Helier, Jersey, JE1 3QS.**

Encls:

1. Terms & Conditions of Service – Consultant Medical & Dental Staff
2. Pension Booklet
3. Medical Staff Grievance Procedure
4. Personal Misconduct Procedure for Senior Doctors
5. Policy for the Handling of Concerns and Disciplinary Procedures relating to the Conduct and Performance of Doctors and Dentists
6. Consultant Relocation Allowance Agreement

### **3.21 DEPUTY R. LABEY OF ST. HELIER OF THE CHIEF MINISTER REGARDING ACCOUNTABILITY FOR THE LOAN PROVIDED FROM THE JERSEY INNOVATION FUND IN RESPECT OF THE LOGFILLER APPLICATION: [1(76)]**

## Question

In relation to the Logfiller application to the Jersey Innovation Fund, who was ultimately accountable for:

- (a) verifying the details of the application to the Fund;
- (b) determining the dispersal of monies to an approved business plan; and
- (c) ongoing monitoring of allocated funds?

## Answer

Logfiller applied to the Jersey Innovation Fund on 6 June 2014 and the application was first discussed by the Advisory Board at their meeting of 19 August 2014. P.124/2012 Amendment details the operational terms of reference for the Innovation Fund.

- (a) Review of the application was undertaken by the Advisory Board with a member of the Board subsequently assigned as the primary relationship contact. Officers, also referred to as the JIF Executive, were responsible for verifying information provided in support of the application. It was then for the Advisory Board to satisfy themselves with due diligence, expert and economic opinions and analysis before making a recommendation.
- (b) The Advisory Board would review the level of loan requested against the business plan and make a recommendation to the Accounting Officer. It was the responsibility of Officers to ensure that funding was released in line with the loan approval conditions
- (c) The JIF Executive (provided by the Economic Development Department) carried responsibility for aftercare, monitoring and reporting to the JIF Board on all supported projects.

## 4. Oral Questions

### 4.1 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding the States' fuel contract: [1(83)]

When did the last States' fuel contract finish and when is the new one expected to be signed?

#### Senator A.J.H. Maclean (The Minister for Treasury and Resources):

The States of Jersey contract for the supply and delivery of on-Island liquid fuels used in States buildings and vehicles formally ended on 30th June 2016. The ongoing tender process has been subject to delay and is now scheduled to be concluded by 28th February of this year.

#### 4.1.1 Senator S.C. Ferguson:

Who or what has been delaying the tender?

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

It has primarily been a result of resource issues within Treasury, largely around 2 issues. One has been the completion of the Supply Jersey project, which Members will be aware is a mammoth task to bring together centralised procurement. The second reason has been the unexpected situation around the travel review and the considerable work that that has entailed.

#### The Deputy Bailiff:

I am afraid my screen is not working so if anyone has any questions...final supplementary?



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

Can the Minister confirm absolutely categorically that the new contract will be signed by 28th February? Is it a particular part of the contract that the supplier should be able to supply all 4 types of fuel to the States?

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

The second part of the question, first. Yes, the contract does indeed include 4 types of fuel: gas oil, kerosene, diesel and unleaded. So that is something I can confirm to be the case.

[15:00]

With regard to the signing and completion of this contract, we have said, or I made my earlier remarks, the fact that 28th February is the expected conclusion date for this contract to be signed. I have no reason to believe that would not be the case. It is also worth pointing out to Members that the delay that has happened, which is indeed regrettable, has no material impact on the public purse or services that are delivered whatsoever. The existing provider has undertaken to continue under the terms of the existing contract until the end of February.

#### **4.2 Deputy K.C. Lewis of St. Saviour of the Minister for Environment regarding the penalties for people found guilty of fly tipping: [1(78)]**

Further to the media statement from his department on 24th January 2017 that there has been an incidence of asbestos fly tipping at Maufant, will the Minister, in consultation with colleagues, seek to increase the penalties for those found guilty of such an offence?

#### **Deputy S.G. Luce of St. Martin (The Minister for Environment):**

The penalties for fly tipping are set out in the relevant laws. In the event of a successful prosecution the court will impose a sentence that it considers appropriate given the circumstances of the case before them within any limitations on the penalties as set out in the law. The Environment Department enforces the Waste Management (Jersey) Law 2005. The fly tipping of waste is a criminal offence under Article 23. This relates to the deposit of waste on any land whether publicly or privately owned. To fly tip waste or in the wording of the law: "To cause or knowingly permit the disposal of waste at unauthorised sites or in a manner likely to cause pollution, it is an offence punishable by an unlimited fine or term of imprisonment of up to 2 years. I do not consider that the penalties need to be increased and it is not my intention to do so.

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

The asbestos in question I believe was dumped at Maufant on the boundary between St. Saviour and St. Martin. I am sure the Minister will agree this is something that needs to be nipped in the bud. What advice would the Minister be giving to the public obviously, without endangering themselves of course, to take registration details of any offender and report to the authorities?

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

It would be my intention to continue as we do at present, which is to educate the public as much as we possibly can around the issues of fly tipping, the dangers caused by it. It has obviously, as we all know, environmental damage to the countryside. It causes pollution and potentially, in certain circumstances, can cause problems for human health. So educating is the way we wish to proceed but the public need to be in no doubt that if we find recordings of fly tipping, and we can prove it, we will be enforcing. So education for me at this stage is the way forward.

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

In terms of keeping the public safe from exposure to asbestos will the Minister for Environment check with Andium Homes that special measures as needed will prevent exposure to residents on Le Marais Estate where 200 flats are being majorly refurbished? I understand there is asbestos in the kitchens and in some bathrooms. Will he seek assurance from Andium that all protective measures will ensure the health and safety of residents while they proceed with this procedure floor by floor with residents staying *in situ*?

**The Deputy of St. Martin:**

On behalf of myself and other Ministers responsible I am very happy to give that assurance.

**4.2.3 Deputy D. Johnson of St. Mary:**

I know that the media statement was issued on 24th January whereas I think the instance itself happened some 6 weeks earlier. Can the Minister advise whether there were any reasons for the delay in getting the necessary media coverage to this incident?

**The Deputy of St. Martin:**

I can advise the Assembly that I knew of this incident, as the Deputy says, before Christmas. Officers at that time took the decision that they wanted to proceed without making the offence known to the public and were confident in the earlier stages that they might have secured a prosecution. But this did not materialise, consequently the decision was taken to go to the public to seek the public's assistance and we are following up some leads.

**4.2.4 Deputy J.M. Maçon of St. Saviour:**

From the law that the Minister has cited I wonder if he can give an indication to the Assembly for the past 3 years how many incidents of fly tipping have been reported to his department and how many successful prosecutions have there been, and rather than there being an issue with the offences is they are not more a problem with the enforcement side of it?

**The Deputy of St. Martin:**

I have to be honest, I do not have that information before me today but I am happy to get it and let all States Members have it.

**4.2.5 Deputy A.D. Lewis of St. Helier:**

A question of process on asbestos. The Minister will be aware that whenever any building work is done on any property an asbestos survey should be done first. Once it is done and asbestos is identified and works commence, is there any cross-reference between the area of government that insists on the inspection and then perhaps the Environment Department that now are aware that there is asbestos in the building, they are aware it is being removed, and do they then follow through to ensure that it is then correctly disposed of?

**The Deputy of St. Martin:**

I do not know of the correct procedure. All I do know is, as the Deputy says, asbestos reports are received on buildings before they can be worked on. When the asbestos is analysed and the type verified there are then strict regimes in place as to how that asbestos is disposed of, and I can certainly guarantee to the Deputy when it arrives at La Collette disposal it will only be received in the correct manner.

**4.2.6 Deputy A.D. Lewis:**

Is the Minister therefore saying that if a report is done on asbestos in a building and it is identified that it is in existence, is there follow through and cross checks to see how it is then disposed of

because surely if that was the case fly tipping would not occur because you would know that it had to be disposed of somewhere appropriately?

**The Deputy of St. Martin:**

I can see exactly where the Deputy is coming from. I do not have the answer but I will get it for him.

**4.2.7 Deputy K.C. Lewis:**

Deputy Lewis of St. Helier just asked my supplementary question but I will ask ...

**The Deputy Bailiff:**

It is not compulsory, Deputy.

**Deputy K.C. Lewis:**

I am glad that the people of Jersey will be informed by the Minister regarding the dangers of asbestos fly tipping and I ask the Minister whether he will be redoubling his efforts regarding publicity to inform the people of Jersey of that.

**The Deputy of St. Martin:**

Certainly I am aware that if we have changes in the charging regime at the Energy from Waste plant there may well be some needs for me to redouble my effort and I guarantee to do that. I would just finish the Deputy's question by saying to him not only do I have powers under the law I quoted earlier but the Planning and Building Law has powers, the Water Pollution Law has powers, Policing of Roads, Beaches and Parks all have powers within them which would allow the courts to fine people who are prosecuted for fly tipping. So I thank the Deputy for his question.

#### **4.3 Deputy M. Tadier of the Minister for Social Security regarding the housing component of Income Support: [1(88)]**

Will the Minister advise how the housing component of income support for private rental accommodation compares with the typical weekly rental costs facing occupants of such accommodation; and will she agree to review the housing component, and update it where necessary, to ensure a greater level of support is provided?

**Deputy S.J. Pinel of St. Saviour (The Minister for Social Security):**

For private rental accommodation the housing component of income support is based on the average value of the Andium stock of social housing. This means that the rate for a specific type of property is generated by the average value of that property type across Andium's entire stock. Therefore the private one-bedroom flat rate is based on the average of all Andium one-bedroom flats rather than any specific property or location. The policy is designed so that people renting in the private sector are supported to live in properties that are of a comparable standard to the social housing stock. It provides a reasonable standard of support with affordable private sector rentals. The rents for some individual Andium properties will be higher than the private sector rate as these reflect investments made by Andium in improving their existing stock and building new properties to a good standard. Paying income support to meet these increased rents is a sensible investment in the future housing needs of low income households in Jersey. For income support customers who live in privately-rented properties their rental support components were reviewed last year. As a result, they increased overall by 5.2 per cent in October 2016. This was well above the R.P.I. (retail price index) figure. I have already committed to review them again this October.

**4.3.1 Deputy M. Tadier:**

Let us take a quick look and ask a question of the Minister with regard to typical rental costs. Now if we look at the Andium website there is a one-bedroom flat which is £211.52 a week, but the actual component that income support would give to a comparable property in the private sector is only £194 a week. Now given the fact that Andium properties are set at 90 per cent of market rate, that means that a comparable property to this one on the website in the private sector would be £235 a week, not the subsidised £211 a week that Andium charge. So how does the Minister expect somebody in the private sector who is on income support to find the extra £40 a week to rent that flat when her figures and her component that she allows does not even meet the full Andium rents that she would give to somebody dwelling in an Andium property?

**Deputy S.J. Pinel:**

As I have said in my opening statement, social housing rents paid at 90 per cent of market value are taken across the average of all properties. In the private sector people have the choice in some cases to choose to pay more for a flat, for instance the rental component from income support covers their rent but they choose to have somewhere with a garden, then that is their choice if the cost of renting it is more. The rental components from income support will vary in the private sector as to what the income or not of the claimant may be. If they have their own income then of course the rental components will be different.

**4.3.2 Deputy G.P. Southern:**

The Minister mentioned the figure of 5.2 per cent by which Andium's portfolio rents were raised last year. Where did that figure come from? She also said that that figure will be raised again this year. We are looking at, are we, of the order of 10 per cent increases in rental rates in the Island? Surely that is unsustainable. Does she not agree?

**Deputy S.J. Pinel:**

No, I just said that the rental components will be reviewed in October, not necessarily raised.

**4.3.3 Deputy G.P. Southern:**

Supplementary. She also said that rent in Andium Homes once refurbished will be higher than the income support rate for equivalent private rented property. Does that mean she has abandoned the principle of social housing where social housing, Andium Homes rents, are higher than the private sector?

**Deputy S.J. Pinel:**

I am not sure I quite understood the question, but the States agreed that we would pay 90 per cent of market value, which is taken, as I described earlier, as an average across the whole of social housing, which Andium Homes now deal with. So there is no question that we would give Andium anything.

**Deputy G.P. Southern:**

Clarification if I may, Sir.

**The Deputy Bailiff:**

No, this is not a point ...

**Deputy G.P. Southern:**

The Minister said she did not understand the question.

**The Deputy Bailiff:**

The Minister nonetheless went on to answer it ...

**Deputy G.P. Southern:**

I would like to clarify so she can answer it.

**The Deputy Bailiff:**

The Minister nonetheless went on to answer the question in the form she was content to answer it. That completes it in this case.

**Deputy G.P. Southern:**

I bow to your interpretation that that was an answer.

**4.3.4 Deputy M. Tadier:**

I know that some find it strange that if the private sector rents are paid at 10 per cent higher than Andium rents then how possibly can the income support component be less than what we would give to Andium rental properties? But the question I have for the Minister is this: does she accept the fact that Andium properties themselves are variable in their rent, not just due to the state of the accommodation but also due to the geography within the Island, yet the income support components have no uplift for properties which might be rented in the more leafy or sought after suburbs of the Island? Will she therefore make sure that there is an uplift which is not just to do with the average stock but where people want to rent to make sure that they are affordable so that we do not risk further ghettoising those income support residents who are not in Andium but obliged to look in the private sector for their accommodation?

**Deputy S.J. Pinel:**

That is not quite how the social housing system works. There is a housing gateway and people are on the waiting list and what comes up that meets their requirements is where they are. They do not, to quote the Deputy, ask to be in a leafy suburb, which is maybe more expensive or not. It is just which property comes up that fits their requirements.

[15:15]

**4.4 Deputy G.P. Southern of the Minister for Education regarding negotiations with teachers' representatives in relation to teachers' pay scales: [1(86)]**

What negotiations, if any, have taken place (including at what level and with whom) with teachers' representatives over the restructuring of teachers' pay scales and, in particular, the decision to reduce the starting salaries for newly qualified teachers; and, if none, why have none taken place?

**Deputy R.G. Bryans of St. Helier (The Minister for Education):**

Thank you to the Deputy. The intention is to discuss the employer's proposals for the starting salaries of newly qualified teachers with teachers' representatives in the near future. Without prejudice to those important discussions it is important to point out that the employer, the States, is not seeking to alter in any way the agreed salary scales for teachers. The issue to be discussed with unions concerns the level in the agreed salary scale that newly qualified teachers should be placed on when they start work. At present newly qualified teachers are placed on different levels within the salary scale on appointment. This needs to be reviewed.

**4.4.1 Deputy G.P. Southern:**

It sounds to me like the Minister is going down the route taken by the U.K. (United Kingdom) authorities where they have abandoned the salary scales in some parts of the country and have a free for all in particular schools and particular types of schools where there are no minimum standard salaries; is that the case?

**Deputy R.G. Bryans:**

No, it is not.

**4.4.2 Deputy M. Tadier:**

Does the Minister believe he has public support for the restructuring of teachers' pay that he is seeking to bring in or does he believe, like me, that the anecdotal evidence out there shows that the public generally think that teachers, if anything, are not paid enough or they are paid about right? Then if anyone's pay needs to be brought under control it is the top levels of the civil service, some of whom seem to be out of control in their wages and in the payment settlements that they get with golden handshakes ...

**The Deputy Bailiff:**

This is a question directed to the Minister for Education about teachers' salaries.

**Deputy M. Tadier:**

And that is right, and that is what I am asking ...

**The Deputy Bailiff:**

So it was: does he believe he has public support?

**Deputy M. Tadier:**

Yes.

**Deputy R.G. Bryans:**

Thank you to the Deputy. At the moment, going back to the notion of it being anecdotal, the anecdotal discussions that I have had with various people is very finely balanced so some people have said they do not agree with the decisions that we have placed. Others did not really realise what we were paying newly qualified teachers at that point in time and this has been a complete surprise to them.

**4.4.3 Deputy M. Tadier:**

Does the Minister agree that the figures he has released this week in response to a written question showing quite high levels of staff turnover in primary schools, in particular a primary school in my constituency, does he believe that further uncertainty and making it difficult for recruiting teachers across the board, will it exacerbate the staff turnover, which is already too high in many cases in these schools?

**Deputy R.G. Bryans:**

There are a couple of comments. With regard to this turnover, the figures that we have supplied to the Deputy, it is concurrent with the figures that you would expect if you were in the U.K., so we do not see any aberrations. It is quite good for schools to have some sort of turnover because it allows newly qualified teachers to come in, if nothing else. But replying directly to his question: no, I do not see it being a deterrent. In fact just yesterday I was contacted by a young teacher who was Jersey born coming back as a newly qualified teacher, wanting to start in the primary sector. I explained to her the situation and she still intends to come.

**4.4.4 Deputy A.D. Lewis:**

The Minister vaguely touched on my question there. But is he at all concerned that locally qualified students have perhaps gone away, done a degree in teaching or P.G.C.E. (Postgraduate Certificate in Education) and were intending to come back to Jersey now may not as a result of this change? Even though I am mindful that the difference between locally qualified teacher salaries

and U.K. were significant, now the gap has been closed does he have any concerns that some of those graduates may not now come back, although he has alluded to one that he knows of that is?

**Deputy R.G. Bryans:**

Thank you to the Deputy for the question. I do always have concerns because, as Deputy Southern has related, it is a bit of a problem in the U.K. with regard to recruitment so we are always keeping our eye on it. But what we have looked at is reducing the level down to a level, instead of a level 3 down to a level 1, which is around £33,900. Level 1 in the U.K. is £22,467. There is a considerable distance between the 2. It should not prevent teachers coming back to this Island.

**4.4.5 Deputy S.Y. Mézec of St. Helier:**

Could the Minister confirm whether or not discussions on pay for newly qualified teachers was one of the subjects in discussion at a recent visit from representatives of the N.A.S.U.W.T. (National Association of Schoolmasters Union of Women Teachers) Union?

**Deputy R.G. Bryans:**

Not, it was not.

**4.4.6 Deputy G.P. Southern:**

Notwithstanding the Minister's first answer when he said he is not changing the scales, just changing the place on the scales, does he not accept that the end result of his changing scale awarded will result in a reduction of salary of the order of some £6,000?

**Deputy R.G. Bryans:**

As I have explained already, it is just the difference between 2 levels. Over the last 4 years we have been bringing newly qualified teachers at level 3, which is around £38,000, and the consideration ... and it is not appropriate for me to get into the detail of the discussions - that will be provided by the States Employment Board - but is to return it closer to level 1, which is around £33,900.

**4.5 Deputy S.Y. Mézec of the Chief Minister regarding the impact of Brexit on Jersey's finance industry: [1(93)]**

What plans, if any, does the Chief Minister have to safeguard the interests of Jersey's finance industry throughout the upcoming Brexit negotiations and what does he perceive to be the biggest risks to the finance industry arising from Brexit?

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

Jersey is of course outside the E.U. (European Union) for financial services and our access to the E.U. markets will not be directly affected by the U.K.'s departure on whatever terms that may be. Those financial services companies doing business in Jersey have elected to do so on a third country basis as far as the E.U. is concerned, perhaps most notably our funds industry. In agreement with the U.K. Government we have established our full priority workstreams, one of which is specifically for financial services. The first round table meeting between the U.K. and the Crown Dependencies to discuss financial services is scheduled to take place during the week commencing 20th February. Those workstreams are reflected in our internal planning within Government and engagement with relevant stakeholders, including periodic meetings and workshops with States Members.

**4.5.1 Deputy S.Y. Mézec:**

I asked this question as a result of the front page article where a senior States adviser brought this issue up. One of the things that he brought up was the potential change in perception internationally of the zero rate in Jersey's corporation tax. Would the Chief Minister give any indication if in discussions that he has had with other parties in the other Crown Dependencies or the U.K., or even in the E.U. for that matter, is the zero rate and the perception of it something that has come up and if so what does he think the implications of that will be?

**Senator I.J. Gorst:**

There is nothing new in the front page article of the *J.E.P. (Jersey Evening Post)*. We have spoken in this Assembly previously about the European consolidated list of unco-operative jurisdictions. They have gone through a score-boarding process. We have been engaged in that score-boarding process. They are moving on to a screening process and they are writing to jurisdictions. Currently they have got something like 91 jurisdictions that they are writing to to understand their corporate tax structure. Our corporate tax structure of course has been through the E.U. Code of Business Tax and has met muster there. Of course there are some Member States who see the world differently to ourselves but we have set up a Brussels office, we have been engaging with Member States, helping them to understand not only what Jersey has got to offer but the rationale for our corporate tax rates, and that will continue throughout these 2 years of the Brexit negotiations and beyond.

**4.5.2 Deputy C.F. Labey of Grouville:**

Does the Chief Minister think that it would have been a useful exercise for him to sit in on the Public Select Committee when they visited Jersey and they had a meeting with States Members to find out their concerns?

**Senator I.J. Gorst:**

It is a very good question but it is always a difficult balance to allow States Members to say whatever they wish to visiting U.K. Ministers or politicians without feeling hindered by the presence of the Chief Minister. That is the approach that we have recently taken. I have no doubt that some of the questions that that Select Committee spoke to me about later in the day were based on some of the questions that Members of this Assembly raised. But I think there should be rightly an opportunity for Members to meet with visiting U.K. Ministers and Select Committees to be able to ask questions in a way whereby they feel uninhibited by the presence of Ministers or their officials.

**4.5.3 Deputy G.P. Southern:**

What attention has the Chief Minister paid to the words of Mr. Powell, who I believe still has an advisory role within Government, when he says it could be a problem for Jersey, it could be that the E.U. tightening its rules on equivalence, market access regulations, which would restrict the U.K. and other non-Member States from doing business on the continent? The rules on equivalence could change to make it, the E.U. market, less open. What attention has he paid to this warning from his recent adviser?

**Senator I.J. Gorst:**

Let us be clear, the adviser referred to in the question still sits on the 5th floor and he is employed and his title is International Adviser to the Chief Minister. I listen carefully to his advice. But this is the reason that we set up the Brussels office many years ago. This is the reason why we have been building relationships and friendships with various Member States across the E.U. This is the reason why we engage with the Commission when we visit Brussels. This is the reason why we engage with permanent representatives of Member States to the E.U., to make sure that they understand that if they want to deliver on jobs and growth they need to allow cross-border flows of



capital. The Deputy should be aware of the Capital Markets Union paper and all the good work that was started by Lord Hill when he was a commissioner and that we had input to not only formally but informally when we met with him as well. So those challenges, which are also opportunities, will continue, as I have just said, throughout the 2 years and beyond.

#### **4.5.4 Deputy S.Y. Mézec:**

Obviously the difficulty with Brexit is that everything is uncertain right now. Does the Chief Minister have any gut feeling over how our corporation tax system will be maintained during these Brexit negotiations and post-Brexit or does he anticipate that there may well have to be some changes to align itself with potential changes in perceptions from those E.U. Member States when the U.K. is no longer one of them, and no longer able to advocate on our behalf round the table?

#### **Senator I.J. Gorst:**

We were already working with Member States and we have been doing so for many years. I do not want to be too political but there is Estonia. Perhaps I should not mention Estonia. There is Malta, there is Ireland, there are other Member States for whom that relationship, working forward throughout these 2 years and beyond, is critically important, and that is why we have made the decisions that we have, so that Europe remains open to investment. It remains open for the creation of jobs. It remains open for foreign direct investment because we, in partnership with the E.U., can support that agenda. Capital Economics in their independent report said it. They said it about the U.K. as well. We do not work on gut feeling. We work for the best interests of Jersey. We engage. We build relationships. Some Members opposite have accused us of going on jollies. These are not jollies. These are protecting the fundamental rights of Jersey people and her economy by building the strong relationships and getting out there and supporting jobs. On top of that, in the coming weeks, Members will see that we have won an extremely important piece of business in competition with other jurisdictions. We are out there day-in, day-out, fighting for Jersey's best interest.

#### **4.6 Deputy J.M. Maçon of the Chief Minister regarding measures taken by the Council of Ministers following the debate on P.130/2016: [1(90)]**

Following the debate on the hospital spending debate and its referral to Scrutiny, what lessons have the Council of Ministers learned from those circumstances; and what changes to processes and procedures, if any, will be put in place as a result?

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

As I explained at the last States sitting, financial markets are uncertain and as we embarked on this project of this scale, which matters greatly to Jersey, it was important that we had that debate. Therefore it was right that the Assembly considered the timing of its support to the Minister for Treasury and Resources' proposal.

[15:30]

That was either at the last States sitting or to provide Scrutiny with more time. The Assembly made its decision. I respect that decision. The Council of Ministers respect that decision. Now I will be working with Ministers and the Chairmen's Committee to ensure that we do not find ourselves in such an uncomfortable position as we did at the last States sitting.

#### **4.6.1 Deputy J.M. Maçon:**

That sounded to me like not much has been learnt. I wonder then if the Chief Minister can explain what proposals he will be taking to the Chairmen's Committee to discuss what changes he envisages in the future?

**Senator I.J. Gorst:**

It will not surprise the Deputy to know that it has been an extremely busy fortnight and so there are no concrete proposals that I currently have, other than the work that the Chairmen's Committee has already been doing with the Code of Practice that we have been in conversation and communication with, and I think before that is finalised that creates another great opportunity for us to make sure that that Code of Practice will deal with the issues that arose at the last States sitting.

**4.7 Connétable J. Gallichan of St. Mary of the Minister for Social Security regarding information provided to the States Assembly when the Long Term Care scheme was originally proposed: [1(61)]**

Following the confirmation to the Assembly on 19th January 2017 that, in at least some circumstances, long-term care contributions are to be treated as a tax, will the Minister advise whether Members were properly informed of that when the long-term care scheme was originally proposed?

**Deputy S.J. Pinel (The Minister for Social Security):**

At the last States sitting the States received legal advice that for the purpose of Article 21 of the Public Finances Law it is appropriate to include long-term care contributions within the definition of taxation used in that Article. This legal definition in respect of a particular section of the Public Finances Law has no bearing at all on the contributions collected to be paid into the Long-Term Care Fund, the maintenance of the fund, or the way in which benefits are paid out of the fund. States Members supported the introduction of a ring-fenced Long-Term Care Fund in the light of an increase in the ageing population and significant increases in care costs that were putting pressure on general taxation. Ring-fencing long-term care contributions into a standalone fund were seen as a very positive step to ensure that we could meet this new challenge and local residents could continue to enjoy a good quality of care when they needed it. In addition to the legislation itself, a detailed proposition covering all aspects of the operation of the new scheme was debated and approved before the new scheme was introduced. As Article 21 of the Public Finances Law is not relevant to the operation of the long-term care scheme this was not discussed at the time. However, I repeat, that the recent legal advice makes no difference to the long-term care scheme itself.

**4.7.1 The Connétable of St. Mary:**

I thank the Minister for her answer. Of course I am grateful for the other information she has given in written questions today, and of course I do support the scheme, as I am sure most of us do, but it does follow the information that I have had given in my written question 6 backs up the treatment of the contributions as taxation. The thrust of the debate at the time, this was brought up many times. We were told repeatedly it is not a tax, it is a charge. I ask again the Minister, does she think perhaps Members were, albeit inadvertently inadequately, informed about the matter?

**Deputy S.J. Pinel:**

The law officers have quite correctly applied a legal definition to this question and the legal answer is that any contribution or charge that a Government makes is technically categorised as a tax unless there is a clear link between the amount of contributions paid and some benefit that is provided. As there is no direct link between your contribution record and the amount of long-term care benefits you receive, long-term care falls into this category.

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

The Solicitor General of course is a lawyer and will give a legal answer. The Minister for Social Security is a politician, so can I ask her a political question? Does she think that politically speaking the long-term care charge, the amount that is paid for that, the levy, is a tax or a contribution?

#### **Deputy S.J. Pinel:**

The only definition of tax is concerning the Public Finances Law. The long-term care scheme, as I have repeatedly said, is a ring-fenced fund of contributions out of which benefits are paid. The Minister for Social Security has total responsibility for the Long-Term Care Fund, it is ring-fenced, and it comes under the Long-Term Care Law, which is part of the Social Security Law.

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

Does the Minister think that the cap on the long-term care fee - we will call it for now - is integral to it remaining in place and if she does could she explain how high that cap could go, while it still remains a contribution in its current form. Perhaps the follow-up answer would also be to include whether she thinks that the cap could be removed at some point in the future.

#### **Deputy S.J. Pinel:**

As the Deputy will be well aware, there is a review underway with Social Security at the moment, which is reviewing the whole social security scheme, and the Social Security Fund. The cap that was set with long-term care, the upper earnings limit, is separate. It can be changed at any time. It does not have to rely on any change in the Social Security Fund Law.

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

Could the Minister clarify my understanding that there is technically no such thing as a ring-fenced fund in Jersey because the law does not allow it? Even the Health Insurance Fund, which we always refer to as ring-fenced, has been diverted to a wider use than its original intention?

#### **Deputy S.J. Pinel:**

There are several ring-fenced funds. The Social Security Fund, which people call the Pension Fund. The Health Insurance Fund is for primary care and it has not been diverted to any other place other than primary care. The Long-Term Care Fund is solely used for long-term care benefits for people requiring that sort of care.

#### **4.7.5 Senator P.F.C. Ozouf:**

Having previously been known to say if it quacks and it waddles it is a duck in relation to tax, would she agree that because it is a contribution with a hypothecated or ring-fenced - or what every other way one would like to describe it - fund for the Health Insurance Fund, that it cannot be a fund but a contribution? Would she agree that perhaps the reason why there is some confusion, not in any way to grind the advice legally for the separate definition under the Public Finances Law, that perhaps the reason why people think that this may be a tax is because it is on the marginal rate of tax contribution, which is fairer because of course there is an income free allowed? Maybe if she could say is that the reason why people think it is a tax where it is not?

#### **Deputy S.J. Pinel:**

I thank the Senator for his question. I think most of the public think it may be a tax because it is collected by the Tax Office. But all the contributions collected by the Tax Office go into the ring-fenced fund which is long-term care, and it is only used for long-term care benefit.

#### **The Connétable of St. Mary:**

I think I have exercised my questions on this but I know the Deputy of St. John has a question, might I give my final supplementary to her?

**The Deputy Bailiff:**

I do not think you can. You are called upon, you have the right to a final supplementary and I am not sure it is something ... otherwise we would end up in situations where people would be selling their questions. [Laughter]

**The Connétable of St. Mary:**

In that case, I will pass.

**4.8 The Deputy of Grouville of the Minister for Education regarding the teaching of the citizenship programme in the Island's secondary schools: [1(77)]**

Will the Minister tell the Assembly to what extent the citizenship programme is regularly taught in all the Island's secondary schools and how much of the programme, if any, is based on Jersey's constitution, political system and local politics?

**Deputy R.G. Bryans (The Minister for Education):**

Thank you to the Deputy. The entire Jersey curriculum was updated in September 2014 to reflect more of Jersey's culture and heritage. As part of the change citizenship was made a mandatory part of the P.S.H.E. (Personal, Social and Health Education) curriculum, alongside health and wellbeing, relationships and living in the wider world. Members should find a copy of the citizenship curriculum on their desk and will be able to see it is very much based on teaching and understanding of how Jersey's Government works. All the year 5 children take part in a debate in this Chamber and in secondary school the curriculum is delivered in different ways in different schools. All of them highlight the importance of voting and taking part in the democratic process. They work with the States Greffe team who are the experts in this matter and give talks in assemblies about the workings of the State. In relationship to how do I know it has taken place and how often. We trust our schools. The teachers who lead the P.S.H.E. in their schools attend termly meetings of a working group to share practice but it is left to the individual schools - this is part of our autonomy strategy - to organise the detail of their own learning. Some teach P.S.H.E. every week. Some do it as part of their tutorial programme and some will provide full days themed on certain issues.

**4.8.1 The Deputy of Grouville:**

I would like to thank the Minister for this paper. He may be interested to know that this programme was originally set up by myself and the late Senator Vibert when we were on Education. I am glad to know that it has been updated with regular input. But what I am concerned about is that not all the Island's secondary schools are receiving the same amount of political input to the programme and what standard it is being taught at, and how is it being monitored.

**Deputy R.G. Bryans:**

That gives me the opportunity to say all Members are invited to a presentation down at the Société tomorrow when we break for lunch. In direct reply to the Deputy's question, like I say, the autonomy is given to the heads and the teachers of the school, those who have a particular relationship to that, and it is for them to provide the teaching and the differences related to what they feel is right for their particular school. What I can tell you is that when we produced the new curriculum behind that was a new moderation and behind that was a new opportunity for assessment. Again, this will be referred to tomorrow. That conclusively for us allows us to

monitor the situation in all schools and allows us to see through and see what is being taught and when it is being taught.

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

With regard to political education in schools, does the Minister think that there is a risk of educating our students, whether at primary or secondary school, about how our system works might put them off in future from wanting to engage in our very strange opaque and archaic system?

#### **Deputy R.G. Bryans:**

This is where probably the Deputy and I differ a little bit. I do not think it is that opaque and I think the work the States Greffe is doing, making sure that that is the understanding of how our democracy works, is fantastic, I have to say. I think our students in particular, every time I come across them they want to discuss on any level the relevance to what we debate here in this Assembly. They are highly knowledgeable, they are highly political in their points of view and they are not shy about telling me. So, no, I do not think it puts people off.

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

Would the Minister consider drafting in the expertise of our former Greffier who in his Christmas exposition to States Member showed quite clearly how complex and how laughable in many cases the current political setup is with his '*Clarrie Ecobichon*' routine? After 10 minutes of explanation from him I think no one was left in any doubt about how complex our political system is. But on a serious note, does the Minister accept that the best way we can educate our children as citizens and politically is to get them to question rather than only being taught about how systems work. The best form of engagement is to question everything and to demand answers perpetually even in adulthood?

#### **Deputy R.G. Bryans:**

A very convoluted question in itself. The answer is yes, I do think our students question everything, and that is what they are taught to do. What we are giving them is a basic premise and structure of understanding how our Assembly works within this democratic state and I think they are fully aware of how we operate and I think they are fully given to the opportunity of questioning everything when they can.

#### **4.8.4 Deputy J.M. Maçon:**

It definitely arises from what the Deputy of Grouville said, which is about monitoring. Certainly on Scrutiny we have had the P.S.H.E. curriculum on our radar, which we want to look further into, but can I ask the Minister: given the P.S.H.E. curriculum we do not really know how well it is taught across the schools.

[15:45]

We certainly do not know how much information is retained with our students. We know that the system, for example, is not tested. There are no published results of any testing to do that. I appreciate the Minister has goaded us a little bit by saying how it is going to change, but what is going to change so that the public know how well and how retained our P.S.H.E. curriculum is being because it covers a whole host of incredibly important subjects?

#### **Deputy R.G. Bryans:**

Absolutely it does, and it is the very reason that we have made it mandatory compared to the U.K. As I say, we have this presentation tomorrow and I hope the Deputy will attend. We will verify that when you build a new curriculum and this new curriculum, for want of a better word, was Jersey-fied; we have included extra parts to do with geography and history and, in particular, the

political situation of the Island. When you do that you then have to build behind that a form of moderation to make sure that that is taught in a particular way. Then you are given the opportunity to make assessment of that. That is what we intend to do. What we will do, as always, and what we have been trying to do from the 4 principles that we set out right at the beginning of this journey, is make sure that every head/teachers responsible for this have full autonomy to teach it in the best way they think possible.

#### **4.8.5 The Deputy of Grouville:**

Has the Minister come across an issue with the training the trainers in political instruction to ensure that they are fully conversant with the political system here? Are they aware that they have resources in the form of 49 Members here that they can call in to the schools to question and to give classes? In my experience I have only been aware of one school that does this on a regular basis.

#### **Deputy R.G. Bryans:**

Many of the schools invite Members in to debate specific subjects they are studying in other parts of the curriculum. For instance, I know that Senator Ozouf has taken part in Brexit debates, Deputy Noel has discussed the incinerator and Constable Crowcroft has been invited to talk about the Millennium Park. So schools really try to play with a straight bat here. They are very apolitical, they make sure that the children and students understand fully how we work as a democracy and I think if there is greater debate from ourselves ... remember the other way that children learn is not necessarily from the teachers themselves but from their parents. We know there has been a certain amount of apathy with regards to voter turnout. So we as politicians need to do more ourselves to engage with students. I would suggest to any Member of this Assembly who wants to do that to go ahead, discuss it with the school and I think they will be very pleased to be received.

#### **4.9 Deputy M.R. Higgins of St. Helier of the Chief Minister regarding the Chief Minister's awareness that a complaint had not been made to the British Medical Association against the Clinical Director in the Alwitary case: [1(84)]**

Will the Chief Minister inform Members when he was first made aware, or read documents to show, that Mr. Alwitary had not made a complaint to the British Medical Association against the Clinical Director; and what actions, if any, did he take in response to this information?

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

The then Solicitor General's report makes it quite clear that the B.M.A. (British Medical Association) had approached the hospital in an email on 12th November 2012 referring to problems. It was also highlighted in the Health and Social Services Department report on 21st November 2012 that he had now engaged the B.M.A. to support a formal complaint about the Clinical Director. So clearly a complaint of some nature was made. The said meeting of the 18th December 2012 agreed that a review be conducted on the process of hiring and subsequent termination of Mr. Alwitary.

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

The Chief Minister has not been straightforward in terms of his answers. On the 13th November a message was received by a hospital employee that the B.M.A. had phoned up with a very vague sort of statement. Pardon?

#### **The Deputy Bailiff:**

Deputy, this does have to be a question, it cannot be an answer to the Chief Minister's answer.

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

It is. Just coming to it. So on the 13th there was an allegation that Mr. Alwitary had made a complaint to the B.M.A. There was no complaint at all. When did the Chief Minister receive a letter from the B.M.A. confirming that no complaint had been made? Or from Mr. Alwitary providing proof that no complaint had been made?

**Senator I.J. Gorst:**

The Deputy is accusing me of being not very straightforward. That is because these matters are not very straightforward. There was, and the then Solicitor General confirmed it in his report, an email that says that the B.M.A. had approached the hospital. The Deputy is now saying that that was not a complaint and I said in my answer that there was obviously a complaint of some nature because Mr. Alwitary's lawyers - to the then Solicitor General - advised him in writing that they believed that the hospital had been prepared to hire him but for the error with the handling of the B.M.A. complaint.

**4.9.2 Deputy G.P. Southern:**

Has the Chief Minister not seen the evidence in the report that there was no complaint?

**Senator I.J. Gorst:**

Does the Deputy suggest that Mr. Alwitary's lawyers, when they were defending his position, were wrong to say: "But for the error of handling the B.M.A. complaint." I might add subsequent to this, so the problem of some description - the Deputy is trying to say it is not a complaint, that is fine - there was then a complaint made to the G.M.C. (General Medical Council).

**The Deputy Bailiff:**

Final supplementary then, Deputy Higgins. I beg your pardon, Senator, I did not see your light then, it was not in the front. Senator Ferguson.

**4.9.3 Senator S.C. Ferguson:**

I did light it very noisily, Sir. Did the Chief Minister not see the correspondence with the B.M.A. that explained that Mr. Alwitary's inquiry was about the terms of the contract where his contract said he was working for 11 and a half units and he understood that he should be working for 10 units? Nobody would explain it to him and there was definitely no complaint about Mr. Downs. Has the Chief Minister on the S.E.B. (States Employment Board), in his role as chairman, not queried the evidence? Has he not seen the evidence?

**Senator I.J. Gorst:**

I have seen reams and reams of documentation between the parties and reviews and some transcripts of interviews with various parties, but I go back ... the assertions that the Senator, the Deputy and the other Deputy have made, I am not sure how that can stand with the evidence, to use their term, in correspondence from Mr. Alwitary's lawyers to the then Solicitor General that talks in terms of: "But for the error with the handling of the B.M.A. complaint." That is the term Mr. Alwitary's lawyer used in that correspondence. But if we were to say then that that was not a complaint, subsequent to that there was a complaint to the G.M.C. and that upheld the decision of Health and Social Services.

**4.9.4 Senator S.C. Ferguson:**

Was that not in 2015, well along the way?

**Senator I.J. Gorst:**

Yes, it was but it was around the same issue.

**4.9.5 Deputy M.R. Higgins:**

So the Chief Minister did not receive notification on 18th December that Mr. Alwitry had not made a complaint, and would the Chief Minister not accept that a complaint may have been forthcoming later after the States Employment Board had broken its contract?

**Senator I.J. Gorst:**

I did not say that. I said on the 18th December the States Employment Board instructed that a review be undertaken because there was a letter of that date suggesting and saying that no complaint had been made, despite the fact that subsequent or post that, in correspondence with the then Solicitor General ... so the situation was correspondence received saying no complaint had been made, the States Employment Board made the decision to carry out an independent review but subsequent to that Mr. Alwitry's own lawyers confirmed to the then Solicitor General in terms: "But for the error with the handling of the B.M.A. complaint."

**4.10 Deputy R.J. Renouf of St. Ouen of the Minister for Social Security regarding work on implementing the Assembly's decision to prohibit exclusivity clauses in zero-hour contracts: [1(81)]**

Given the unanimous decision of the Assembly on 16th November 2016 that exclusivity clauses in zero-hour contracts should be prohibited, why does the Minister's Business Plan for 2017 not include any proposals to implement that decision?

**Deputy S.J. Pinel (The Minister for Social Security):**

The Deputy of St. Ouen will recall that the Assembly made an in principle decision that exclusive zero-hour contracts should be prohibited but the Assembly did not set a timetable for that work. A vote was taken after Deputy Mézec agreed to withdraw the part of his proposition that would have required me to bring forward legislation in 2017. I explained during the debate why that timetable would not have been achievable. I have a longstanding business plan commitment to extend family friendly rights and I am not willing to divert the resources that have been allocated in 2017 to help working parents. As chairman of the Health and Social Security Panel, the Deputy will be aware that my department has an ambitious programme of work this year, including work on disability discrimination and continuing our review of the social security scheme, Living Longer, Thinking Ahead.

**4.10.1 The Deputy of St. Ouen:**

The Health and Social Security Panel is very aware of the taxing programme of the Minister and has never sought to seek to divert its course and suggest other work should come in before the work that is planned, but will the Minister now give a timetable for implementing the decision of the Assembly?

**Deputy S.J. Pinel:**

As the chairman of the Health and Social Security Panel, the Deputy is very well aware of the confusion in a lot of cases of what a zero-hour contract is. So it will take quite a while to explore the various avenues and we would hope that when the family friendly review recommendations are returned from the Employment Forum at the end of this year that we can then direct the Employment Forum to look in to the zero-hour contracts after that.

**4.10.2 Deputy G.P. Southern:**

Will the Minister not agree that to engage with the law draftsmen to create a proper definition of exclusivity clauses, and a proper definition which does not exist in the law at present of zero-hour



contracts, in order that she can prepare the way forward to delivering this instruction from the States at the earliest possible date?

**Deputy S.J. Pinel:**

The definition, as the Deputy said, of the zero-hour contracts, the definition of the exclusivity clause, the circumstances in which zero-hour contracts are not permitted to be exclusive, circumstances in which zero-hour contracts are permitted to be exclusive, anti-avoidance measures, penalties against employers and/or compensation for are all things that need to be investigated in order to bring forward a recommendation.

**4.10.3 Deputy G.P. Southern:**

Will the Minister not agree to bring forward law drafting instructions to that effect?

**Deputy S.J. Pinel:**

No, as I have said repeatedly it is the job of the Employment Forum to consult on this and they will start that as soon as they finish the family friendly review.

**4.10.4 Deputy G.P. Southern:**

Final supplementary, if I may. Does the Minister not accept that this is not a matter for consultation, there has been an instruction from the States, albeit without a time element on it, but there has been an instruction, no need for consultation?

**Deputy S.J. Pinel:**

As I have just explained, the whole complexity of the issue requires consultation and I have agreed, and said so publicly, that we will start the consultation as soon as the family friendly review is finished.

[16:00]

**4.10.5 The Deputy of St. Ouen:**

Does the Minister not agree that she is holding the States Assembly decision in complete disregard because is it the case that she is intending to ask the Employment Forum to investigate the very question that this Assembly has decided?

**Deputy S.J. Pinel:**

No, not at all. The States Assembly agreed unanimously that in principle exclusivity clauses in zero-hour contracts should be banned. It was an in principle decision, there was no timeframe set.

**4.11 The Deputy of St. Ouen of the Minister for Health and Social Services regarding the prospective recruitment of physician associates: [1(82)]**

Following the launch in the United Kingdom of the Faculty of Physician Associates at the Royal College of Physicians in July 2015, will the Minister undertake to consider whether or not the recruitment of physician associates would support consultants and staff and ease recruitment pressures on hospital services in Jersey?

**Senator A.K.F. Green (The Minister for Health and Social Services):**

I thank the Deputy for his question. My department is aware of this initiative both in the United States and in the U.K. and our workforce planning specialists have been reviewing this role. The early indicators are that this role looks promising but the usefulness in the Jersey context has still yet to be considered.

#### **4.11.1 The Deputy of St. Ouen:**

I am pleased to hear the Minister's answer to that. Can he perhaps elaborate on what responsibilities he might be considering could be undertaken by physician associates?

**Senator A.K.F. Green:**

Typically physician associates work under supervision of a doctor as part of the medical team. They have direct contact with patients, taking medical histories and carrying out examinations. A key consideration for us at the hospital is that we must be able to continue to provide sufficient good quality training for our junior doctors. That is one of the reasons why we are not yet pursuing this role.

#### **4.12 The Deputy of Grouville of the Minister for Treasury and Resources regarding revenue raising measures to be taken as a replacement for the health charge funding: [1(79)]**

Given that, in his answer to a written question from the Deputy of St. John on 17th January 2017, the Minister indicated that balanced budgets would be achieved by 2019 by, among other things "future revenue raising measures to replace the health charge funding", will he advise what such measures will consist of?

**Senator A.J.H. Maclean (The Minister for Treasury and Resources):**

The options for additional revenue-raising measures to replace the health charge will be informed by various pieces of review work currently being carried out by Treasury and the Taxes Office in the coming months. This was outlined in the 2017 Budget and that work will include reviewing our corporate income system to see if we can generate more income from it without affecting our competitiveness or its internationally compliant status. As an example, and as mentioned in the Budget debate, and provided it is safe and feasible to do so, we will consider asking large retailers to contribute more following the example of the Isle of Man and Guernsey. These considerations and others will involve engagement with States Members and Scrutiny through workshops and briefings before any final measures are proposed as part of Budget 2018.

#### **4.12.1 The Deputy of Grouville:**

Is he confident that these kind of measures he is proposing will achieve and make up the financial deficit?

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

Obviously a lot of work has yet to be undertaking with regard to this but with our improving outturns in terms of income in 2016, together with the preliminary work undertaken on the reviews, I do have a degree of confidence that we can meet the said target of broadly balancing by 2019 as laid out.

#### **4.12.2 Deputy S.Y. Mézec:**

Will the Minister for Treasury and Resources rule out here and now any revenue-raising measures which fall on the shoulders of low and middle earners, exempting the highest earners, like he attempted to do with the health tax?

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

One of the key pillars of our tax system is the word "fair" and I think it was indeed Members of the party on the back row opposite who were keen that that was introduced. That therefore remains a key objective to ensure that any measures that are brought forward are indeed fair and therefore are

balanced to ensure that they seek their contributions from as broad a cross section of both business and the community as possible.

**4.12.3 Deputy S.Y. Mézec:**

It was indeed us who had the word “fair” included in that policy but it did not stop this Minister for Treasury and Resources from attempting to bring forward a regressive health tax, which by no stretch of the English language could have been defined as fair. So would he rule out here and now he will not bring forward revenue-raising measures which fall disproportionately on the shoulders of those who are least able to pay and instead he will focus on those who are most able to pay. That is fairness, that is what is in the Strategic Plan as a result of my amendment, will he commit to doing that?

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

Well, the Deputy and his team on the Back Benches over there have an opportunity to influence the outcome because, as I have said in my opening remark, there are going to be workshops, there are going to be engagements with States Members while we go through the process of considering the options that will come as part of the review. So I would be very keen to welcome the Deputy and his colleagues to fully participate and put forward the points he has just made to ensure that the outcome is satisfactory for all concerned.

**4.12.4 Deputy M. Tadier:**

We would happily contribute to the review but we know from empirical evidence that the Minister and his ministerial colleagues do not listen when Back-Benchers and when Reform Jersey ask for taxes to be fair and progressive. They prefer their own brand of taxes which are regressive and unfair, despite the lip service that was put in with the word “fair” into that amendment of the business plan or strategic plan at the time. We will certainly bring our own proposals forward before the next election so that the public can judge whether they prefer ours or the Ministers.

**The Deputy Bailiff:**

Deputy. Deputy. Deputy, please, can you ask your question? Firstly, when the Chair speaks Standing Orders provide that the Member should sit down. Secondly, you have not yet asked the question and you have made a number of statements. I accept that a number of statements sometimes need to precede a question but I could not see a question coming along the way. So could you ask the question now, please?

**Deputy M. Tadier:**

Thank you, Sir. There was no disrespect intended, it just took me a moment to hear you over my own voice. So the question is to the Minister, will he look at things that have already been suggested, for example, lifting the cap which already exists on the long-term care charge, because that already exists and it is a mechanism which he can use to make sure that is fair and proportionate without being progressive, and the same possibly for social security contributions? Those are 2 suggestions which he can take on board straight away, free of charge.

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

I am not sure there was much of a question there. I had the opportunity of playing table tennis against the Deputy on Friday and Ministers are often accused of trying to spin matters but I can assure Members that the Deputy had a very mean spin on him when I played him. With regard to his question, these are points that have been considered before. I have alluded in my opening remarks to the areas that we are focusing on with regard to reviews. There will be workshops, there will be opportunities for Members to put in further consideration for areas that they feel should be looked at, but I think the areas that the Deputy in particular was referring to are areas that have

already been given due consideration and are not at the forefront at this stage with the review that I was referring to.

**4.12.5 Deputy G.P. Southern:**

The Minister for Treasury and Resources' answer sounds very plausible but it is not much more than that. Is it not the fact that where this has been introduced elsewhere the large supermarket tax has raised relatively small sums of the order between £1 million and £2 million in Guernsey I understand, and that the target that he needs to reach to balance his books is far, far greater than that and the supermarket tax will not achieve his end? Is that not the case?

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

I am pleased to say that the Deputy is right, and I do not think I said that the potential retail tax was going to solve the problem on its own. It is part of a package. I mentioned it in my opening remarks as an example of one area where we can raise additional revenue. In fact Guernsey do not yet know exactly, I believe, what they are going to raise from this particular measure. It is, he is right, estimated to be somewhere around £1 million or £2 million. The estimates within Jersey are higher than that but nowhere near what is required. But it will be helpful, nevertheless, as part of the package in meeting the objectives that we have set. What I would also make clear is that we are looking at broadening the corporate income tax regime, we are looking at the definitions with regard to financial services companies. There are different definitions between Guernsey and the Isle of Man, and provided that we are not putting at risk our compliance with the Code Group with regard to Zero/Ten, there are possibly some options there. That is going to form a key part of the review that is going to be undertaken.

**4.12.6 Senator S.C. Ferguson:**

I must say I am confused by all the tax reviews that are going on. Is the one that we were going to have by March ... where is that? Also, in his comments the Minister talked about the balanced budget by 2019. How does he reconcile that with the F.P.P. (Fiscal Policy Panel) second report which considered that the balanced budget would not be achieved by 2019 and will probably be something in the order of 10 million in deficit still?

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

With regard to the second part, that is why there needs to be additional revenue-raising measures to ensure that the gap is closed under current forecasts. There is still work to do to get to a position of a broadly balanced budget by 2019 and I think that has been made patently clear both through the budget process and on other occasions when I have been in a position to answer questions on that subject. With regard to the first part of the question asked by the Senator, that was with regard to the personal income tax review and that is ongoing. There are a number of Members in this Assembly who are part of that review and indeed there is a further meeting of that group during the course of this week and we are still on target to produce that report by the end of March.

**4.12.7 Senator S.C. Ferguson:**

I am sorry, a supplementary. How much work is needed to be done for that review, it was perfectly straightforward? It was look at the information behind the figures and come up with an explanation. You know, why are there only 5,300 people paying tax at 20 per cent. It is very simple, why is it so complicated?

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

It is the Senator who I think is suggesting it is complicated. Any work needs to be done fully, there are a number of States Members who are involved in this process and the outcome will be at the end of March. I think that is perfectly reasonable. I would also point out that the cost is going to

be nowhere near what the Senator originally thought her review was going to cost. I think that is also worthy of mention.

#### **4.12.8 The Deputy of Grouville:**

I am a little disappointed that 6 weeks after the Budget debate we only have a couple of suggestions of what might fill the deficit or measures of raising the loss in revenue. I would like to know if he can give us some more examples other than just the corporate income tax, large retailers. Is he going to look, for example, at financial institutions, non-banking, who give mortgages, for example? Could we learn a little more about the Minister for Treasury and Resources' thinking?

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

I was perhaps not clear enough earlier on. It is not just 2 measures, I had sought to give an example when I referred to the fact that we are looking at the definitions around the corporate income system. That is more than just a measure. It is a number of potential measures, some of which the Deputy of Grouville mentioned herself. There are businesses within financial services that do not currently fall under the ambit of the 10 per cent rate. They are not regulated businesses, for example. There are others: insurance companies do not fall under, fund managers do not fall under it and there are companies that give loans but do not take deposits that do not fall under it. There is a whole range of businesses that are not currently under the ambit of that particular regime. Now, the definitions of which they fall under that are going to be looked at and that is part of the review. So it is not a single item, it is quite broad and there are opportunities, we believe, there provided we maintain our compliance, as I mentioned earlier, with the Code Group so we do not put at risk our competitiveness or, indeed, our whole tax system.

[16:15]

#### **4.13 Deputy M. Tadier of the Minister for Housing regarding the Minister's work in reducing the number of lower-income households in 'rental stress': [1(89)]**

Given the 2015 report on Housing Affordability in Jersey, published in December 2016, stated that "almost three-quarters (73 per cent) of lower-income households living in qualified private rental accommodation could be considered to be in 'rental stress'", what measurable steps, if any, will the Minister take to ensure that this figure is significantly reduced?

#### **Deputy A.E. Pryke of Trinity (The Minister for Housing):**

I recognise the challenge facing low-income households in the private rental sector. This is why we are building more than 1,000 affordable homes by 2020. More supply will help to reduce the upward pressure on housing costs and ensure that low-income households have access to good standard homes with long-term security and certainty over rents.

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

Would the Minister state whether she knows who own the homes, the private rental homes, that these 73 per cent of low-income households currently live in?

#### **The Deputy of Trinity:**

No, that is something that the Housing Strategic Unit would not have.

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

The Minister keeps on coming up with this statement that she is going to build 1,000 homes by 2020. How many homes did she build in 2015 and 2016?

#### **The Deputy of Trinity:**

I can give the Deputy a list. That is no problem but as he knows building does not happen overnight. It takes time to prepare the site and go through Planning and, if necessary, planning appeals. But, as he knows, the Jersey College for Girls site, College Gardens, is in the process of being built and Jersey Homes Trust are building 26 houses, if I remember rightly, down at Grouville. Summerland will hopefully go through Planning later on this year, as will Ann Court. Unfortunately it does take a lot of preparation to get anywhere.

**4.13.3 Deputy G.P. Southern:**

Supplementary, if I may. I am aware that it takes time to build houses. I think everybody can do that. Nonetheless we have had a Minister for Housing for the past 5 years and to be looking at relatively small numbers of housing in 2015/2016 says that we are not building enough. What faith can the public out there put in this current Minister that these 1,000 houses are going to be delivered in any sort of timescale whatsoever?

**The Deputy of Trinity:**

I have great confidence. He is quite right that we still need to build more and we will continue to build more. The homes are being built. He knows that in Planning, as I have just said, we have regular meetings with the officer from the Environment Department who keeps a check that houses are being built and we are according to plan. Most of the houses will come on line 2018 to 2019 and beyond.

**4.13.4 Deputy J.A. Martin of St. Helier:**

To follow on because Deputy Southern stole my thunder, it is basically the question that this 1,000 figure in 2020 and we are already in 2017, is a bit ... when you hear 26 here and a possible 50 there. Could the Minister then undertake to write down exactly where these 1,000 houses are coming from, when they will be completed even if at 2019, so we know we have something to hold her or the next Minister for Housing to account? Where are they, when will they be delivered and will it be 1,000 by 2020 because I think that is a real push?

**The Deputy of Trinity:**

Yes, I am very happy to do that. I can give that phase 4 of Le Squez will be 151 houses, the low rise of La Collette will be 147. We know that has had significant delay and Summerland 87, 152 from Ann Court and 24 from Convent Court and 400 from 50 other sites. I am quite happy to give the Deputy that list.

**Deputy J.A. Martin:**

I would like a full list going up to 2020 and the deliverable dates and the exact amount, please. That is what I did ask for in the original question.

**The Deputy of Trinity:**

Of course I am very happy to do that.

**4.13.5 Deputy S.Y. Mézec:**

Could the Minister, if she can, attempt to remind Members what the net inward migration figures over the past few years have been and correspond to that with how many new houses have been built in the Island and then attempt to justify how any of us can have any faith whatsoever that this Government has its housing policy right when its population policy is all over the place?

**The Deputy of Trinity:**

Just because you cannot see houses there, there is a lot of preparation that goes behind all this work. It just does not happen overnight. I wish it did but I have said many times there is a significant

need for housing. We know that with housing on the Gateway but rest assured to Members there is a great deal of work done behind it to check the figures we need in the Housing Needs Survey. The Housing Needs Survey that came out in the middle of last year showed that we are more or less on line by 2020. But quite right; we need to keep an eye on those figures and keep the pressure on.

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

I have heard of the emperor's new clothes but it seems that we are talking about invisible homes now. Just because we cannot see them does not mean they are not there. I am sure I am misquoting the Minister. Does the Minister accept that even if she is successful in building 1,000 new homes or Jersey builds 1,000 new homes in the next 5 years, we have already had a net population increase last year of 1,700 people and in the last 5 years we have had a population increase of 5,290 according to the Government's own statistics and that even if there was no population increase at all we still could not be building the homes quick enough? Does the Minister accept that we need to look beyond the tired old excuse of homebuilding and we need to look at new and perhaps radical ways to make sure that quality and affordability of homes, both in the private rental sector, social and for ownership, becomes just that; affordable and with minimum standards imposed? Will she take the opportunity to bring forward a meaningful policy and encourage her Council of Ministers to bring forward a meaningful population policy, because the 2 are very much interlinked?

#### **The Deputy of Trinity:**

There are a lot of different questions in there. As you know, there is a population policy in place. The Assistant Chief Minister has said in this Assembly, it will come back to the States to have various workshops later on this year and also we are sitting with H.A.W.A.G. (Housing and Work Advisory Group) we are much tighter on the number of permissions that we give. It is not just one arm. It is various arms. But bearing in mind that people who come in cannot access social housing until they have been here for 5 years or later. But the work still needs to be done and we have the finger on the pulse, as I said, with the housing strategy that I launched last year.

#### **4.14 Deputy G.P. Southern of the Minister for Social Security regarding the criteria used by the Department to assess whether an Income Support repayment regime would be reasonable: [1(87)]**

When recipients of income support are subject to the withholding of benefits for whatever reason, what criteria are used by the department to assess what repayment regime is reasonable?

#### **Deputy S.J. Pinel (The Minister for Social Security):**

There are 2 reasons why income support claimants repay money to the department. As well as weekly support with living costs we provide interest-free loans to support low-income families with larger one-off costs such as rental deposits and white goods. The claimant requests a loan and a repayment schedule is agreed. The repayments will depend on the size of the loan and the amount of other income coming into the household. Officers will generally recover these special payment loans at a rate of between £2 and £4 a day. This might be more if the household can afford it because a person is earning or of they ask to repay the amount more quickly. Where a household can demonstrate that they are struggling an officer will consider a lower repayment rate. Secondly, if the benefit is overpaid, often after an increase in the claimant's wages, the claimant will need to repay this extra amount and this is usually deducted from ongoing benefit payments. Similar rules apply, with repayments typically set between £2 and £3 per day. I believe this process is fair and is fully transparent to customers. The level of repayments is always carefully considered and the circumstances of the individual household taken into account.

**4.14.1 Deputy G.P. Southern:**

Supplementary, if I may go to some numbers. Let us talk about an overpayment, an overpayment because a client finds a job. Let us say it brings in £150 a week regarded income, and yet he has been paid his income support 4 weeks in advance. Four weeks times £150 is £600. He is faced with an overpayment of £160 to the department. What rate in that particular case, a £600 debt, does the Minister consider to be a reasonable rate?

**Deputy S.J. Pinel:**

As I said in my opening remarks, the repayment of an overpayment is down to the determining officer to assess based on the household needs.

**4.14.2 Deputy M. Tadier:**

The Minister said that the department provided loans for the likes of white goods and deposits for private rental or rental properties. Does that extend to providing loans or grants for flooring in properties which we know do not currently come with ready-made flooring? If she does provide that will she clarify whether it is done in the form of a loan or a grant?

**Deputy S.J. Pinel:**

No, I do not believe we do provide loans for that. It is purely white goods like refrigerators or cookers and then those are subject to repayment without interest.

**4.14.3 Deputy M. Tadier:**

Would the Minister seek to clarify because I spoke to Andium this week visiting one of their beautiful but unfloored premises, which is the standard now, and they said: "No, we rely on income support for that." I am not sure whether it is in the form of a loan or grant but I was told that income support takes care of that. If that is not the case could the Minister come back to us and verify, at least get some joined-up thinking between the Minister for Housing?

**Deputy S.J. Pinel:**

Yes, I certainly will. The housing from what I understand is not carpeted because of various reasons such as allergy to carpet, so the flooring is left to be decided by the occupant.

**4.14.4 Deputy G.P. Southern:**

If I can return to the example I gave, a single person with a disposable income of £145 and the Minister was talking withholding repayments from benefit of between £2 a day and £4 a day, which was between £14 a week and £28 a week. Does the Minister really consider that taking £28 off a person who has £145 total disposal income to meet all their bills is a reasonable rate?

**Deputy S.J. Pinel:**

I think I have already answered that question. The determining officer will assess what the household can afford and the repayment rate, bearing in mind that it is interest-free, will be determined upon what the household can afford.

**4.15 Deputy M.R. Higgins of the Minister for Health and Social Services regarding the Minister's awareness that a complaint had not been made to the British Medical Association against the Clinical Director in the Alwitry case: [1(85)]**

I had better explain that this question is possibly a waste of time as it should really have been directed to the previous Minister for Health and Social Services.

**The Deputy Bailiff:**



Do you still wish to ask it?

**Deputy M.R. Higgins:**

I shall ask it and follow on from it. Will the Minister inform Members when he was first made aware or read documents to show that Mr. Alwitry had not made a complaint to the British Medical Association against the Clinical Director, and what actions, if any, did he take in response to this information in relation to his department's employees?

**Senator A.K.F. Green (The Minister for Health and Social Services):**

It will come as no surprise to the Deputy that my answer is very similar to that of the Chief Minister. The Solicitor General's report, paragraphs 184 to 186, make it quite clear that the B.M.A. had approached the hospital in an email on 12th November 2012 referring to problems. It is also highlighted in the Health and Social Services Department report to S.E.B. on 21st November that year. It has now emerged that in November that year he has, that is Mr. Alwitry has engaged the B.M.A. to support a formal complaint about the clinical director.

[16:30]

This is complicated and confusing but it was quite clear that a complaint of some nature was made. I was asked as a member of the S.E.B., I presume, when I was first aware of a complaint or made aware that Dr. Alwitry said he did not make a complaint. As a member of S.E.B. I was present on 18th December when it was agreed to review and look into the hiring and subsequent termination of Mr. Alwitry. At the time I was the Minister for Housing and I am also proud to have been a member of the S.E.B. and stand by what the S.E.B. has achieved in that time. But it would have been inappropriate for me as Minister for Housing to take any action on employees in Health and Social Services.

**4.15.1 Deputy M.R. Higgins:**

Can the Minister for Health and Social Services tell us whether on the 18th he was made aware that one of the consultants had threatened to resign unless Mr. Alwitry's appointment was terminated?

**Senator A.K.F. Green:**

I think there is some confusion here. His appointment had already been terminated and on the 18th we received a letter, from memory, saying that Mr. Alwitry said he did not make a complaint.

**The Deputy Bailiff:**

I can give you a final supplementary if there is no one else.

**4.15.2 Deputy M.R. Higgins:**

I wanted confirmation of this. Did one of the consultants in the hospital at the meeting on the 18th threaten to resign if Mr. Alwitry was reinstated?

**Senator A.K.F. Green:**

I do not have the minutes of the 18th with me. I cannot answer that question.

**4.16 Deputy S.Y. Mézec of the Minister for Economic Development, Tourism, Sport and Culture regarding measures taken for which a tangible benefit for small businesses in the Island could be demonstrated: [1(94)]**

What individual measures, if any, has the Minister taken since taking office for which a tangible benefit for small businesses in the Island can be demonstrated?

**Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):**

The strong performance of the small business sector in reality is a team effort. Benefit starts right here in the Assembly and manifests in the departments responsible for the economy, namely the Chief Minister's Department, the Treasury and my department, with other departments and States Members playing a strong supporting role. The majority of individual measures taken to support business flow through our partners, who include Visit Jersey, Digital Jersey, Genuine Jersey and shortly to be joined by Farm Jersey, and, of course, Jersey Business. Jersey Business provides advisory support to a growing number of small businesses across all sectors of our economy on a daily basis. The number of clients they are actively working with today is 211, which is an increase of nearly 60 per cent in the last few years. In addition my department provides support for small business on a case-by-case basis at weekly meetings of the Housing and Work Advisory Group and just last week I launched a full consultation process on a new tourism law that will cut red tape and allow businesses to be much more flexible in that sector. In late September 2016 the Statistics Unit reported that the majority of non-finance sectors of the economy recorded real term growth in G.V.A. (Gross Value Added) and productivity in 2015. Our focus has and will continue to be for these figures to show further growth when the figures for 2016 are released later this year. All this support helps to deliver tangible benefits for small businesses, is provided free of charge and is a key part of our enterprising grant strategy.

**4.16.1 Deputy S.Y. Mézec:**

Supplementary. When I have spoken to business people in the last few weeks, many of whom are finding it particularly difficult right now, in particular the smallest businesses and those that are just trying to get up on their feet, and I think of one businessperson who is worried that in the next few months he will have to end his business activity because he has not felt like he has had the support getting his business up on its feet. What radical ideas does the Government and, in particular, this Minister have to look at things like our social security contribution system, look at these other elements to see what can be done for those businesses in their starting days that is perhaps thinking a bit outside the box or is not connected purely to setting up a quango or something like that to offer advice but something really radical and tangible? What discussions has he had and what ideas does he think would be worth putting out there to consider that would help those businesses in their early days?

**Senator L.J. Farnham:**

I have had numerous discussions with various representative bodies of commerce and business sectors, but I would recommend to any business, small, medium or large, that are having difficulties and need help to visit Jersey Business. It is a completely changed and reformed, productive and forward thinking organisation that does provide real, tangible assistance to businesses so any businesses struggling I urge them to go and talk to Jersey Business.

**4.16.2 Deputy M. Tadier:**

One of the tangible benchmarks that residents and businesses in my constituency use is the number of empty shops there are and it has to be said that in the Le Quennevais area, and Le Quennevais precinct in particular, the number of empty shops, about 5 or 6, has not gone down significantly in the last year since I raised it previously with the Minister here. Could the Minister clarify what steps, if any, he thinks he could or has used to address this issue of high rents, particularly in the St. Helier semi-urban or urban areas?

**Senator L.J. Farnham:**

I think one of the best things Government can do to support small business is stay out of the way and, of course, these shops are often empty not because of Government economic policies but simply because the way the marketplace is performing at the moment in terms of competition. We are working with retailers to develop a new retail strategy and will be supporting them in establishing their own retail group aligned to a similar group in the U.K. which will enable them to drive their own policies and grow their own business sector. As I said, I cannot be held responsible for empty shops but I will say that I will be prepared to sit down with the Deputies in any constituency where there is concern about the way local companies are performing and discuss ideas that might improve the situation. I would be really keen to help where I can and do everything I can to help that particular area.

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

The Minister says the best thing that Government can do to help small businesses is to stay out of the way. If only the Minister and his Council of Ministers had adopted those wise words when it came to the Innovation Fund then perhaps we would be a couple of million pounds the richer and that money could have been put to much better use. Does the Minister agree that perhaps the statement from another free market liberal essentially which says as much market as possible but as much state as necessary is the way forward here, certainly for people of his own political disposition. The Minister has let down small businesses because on the one hand it has blown away millions of pounds worth of money in a high-risk gamble to businesses that do not even exist yet and are not yet established. Yet when it comes to pre-existing, long-established Jersey businesses that are going through a hard patch there does seem to be enough being done for that. Would the Minister comment on that last part that we should be doing more for local businesses that are long-established, maybe going through a tough patch, facing the wall and that help needs to be given to those?

#### **Senator L.J. Farnham:**

I am not sure I really understand the question and I did not expect to receive a lecture on helping the economy from a member of the Reform Jersey party. I would love to ask them exactly, other than protest just about at everything we do, what they have ever done for small business. I would think the Deputy could write on the back of a stamp what he knows about small business. But anyway, the innovation support and funding, notwithstanding the current situation of the Innovation Fund, remains incredibly important and this Government and this Assembly must continue to support small business with innovation in the future. The Deputy's speech was quite rambling. I am not sure what the question was.

#### **The Deputy Bailiff:**

As I understood it, what more could be done for small businesses in this difficult economic climate?

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

May I just clarify that the Minister seems to want to have it both ways, saying on the one hand Government should stay out of the way but ...

#### **The Deputy Bailiff:**

Could you either ask a question in terms of: "Will the Minister?" Otherwise we are going to get nowhere there. Deputy Andrew Lewis.

#### **4.16.4 Deputy A.D. Lewis:**

The Minister will be aware that small businesses are the engine room of our economy. We have over 4,000 of them, if not more than that. Their greatest raw material is people. That is their only

raw material and if you talk to many small businesses at the moment they will complain they do not have enough of them, those that are highly skilled; those that are essential to the progress of their business to grow that business, to create more jobs and to grow the economy. That is where the growth is going to come from. What is the Minister doing to work with the Minister responsible for population control to ensure that small businesses get their fair crack of the whip for licences, because I am consistently being asked by small businesses: “What can you do for me because I cannot employ the skills that I need to make my business a success?” What is the Minister doing about that?

**Senator L.J. Farnham:**

That is a good question and it is a difficult question answer because we have a number of policies that are clashing here. We have population policy versus the interests of business and our department through the efforts of Deputy Murray Norton, who represents the department on the Housing and Work Advisory Group, is fighting the corner of small business on a case-by-case basis, on an often more than weekly basis to try to make sure small businesses especially are properly staffed. We will continue to do that but it is difficult when you have a number of policies clashing against each other but I am sure, as the Assistant Chief Minister will testify and other members of the Housing and Work Advisory Group, my department through Deputy Norton and myself occasionally provides strong support and back-up for small businesses and we fight their corner as best we can, always and we always will do.

**4.16.5 Deputy A.D. Lewis:**

Does the Minister, though, accept that many of the larger businesses get licences and the smaller businesses do not? The higher value jobs get more licences. If I could just finish, does he not accept that unless you have a service sector that is supporting those larger businesses the people that cut the hair, dig the gardens and do other things, if you do not have those you do not have those high value jobs as well? One has to support the other so what is the Minister doing to balance that?

**Senator L.J. Farnham:**

I do wholeheartedly agree and fight that corner on a regular basis but it is simply not true that businesses are treated differently because of their size. In fact, I know that the department is working very closely with a number of larger businesses to help them reduce their reliance on non-qualified people. I wish at this stage I could delegate the answer to Deputy Norton who works on a daily basis with some of these people but I can assure Deputy Lewis we are doing all we can and businesses are treated fairly across the piece.

**4.16.6 Deputy S.Y. Mézec:**

The Minister says the best thing the Government can do is to stay out of the way but there are obviously clear examples where the opposite is true because the very nature of the free market is that bigger businesses can sometimes use their dominance to act in an anti-competitive way that is unfair on small businesses and forces them out of their position in the market, which is why government intervention can be essential to secure those small businesses' ability to operate. I want to know what sort of government intervention could be considered as a good way forward to helping those small businesses when they are struggling with things like, as Deputy Tadier referred to, the cost of commercial rents where there probably is not enough regulation to ensure those businesses are able to feel secure in the long-term future of their premises and they can operate so they can invest in what they are trying to do. What thinking is the Minister having on those lines of positive government intervention to help those small businesses? If it is possible to answer in such a way that does not include a childish snide at another Member who has quite a good business record I would be most grateful for that.

**Senator L.J. Farnham:**

It seems that the Deputy can give out plenty of childish snides but does not like to receive them.

**The Deputy Bailiff:**

Is there an answer to the question?

**Senator L.J. Farnham:**

Yes, Sir. It reminds me of the scene from the famous Monty Python film, “The Life of Brian”: “What have the Romans ever done for us?” How about 211 live cases of support from Jersey Business? Weekly case-by-case support for small businesses at the Housing and Work Advisory Group, a new tourism law, a new rural economy strategy, excellent inward investment support and job creation by Locate Jersey, Visit Jersey supported by Events Jersey, increase of its visitor numbers and growing the economy. The Tourism Development Fund working to support innovation in that sector, Digital Jersey the Digital Hub providing essential support and facilities for the digital sector; all of this growing the economy and providing more business for more small businesses and we are going to continue to do more of that.

**4.17 Deputy J.M. Maçon of the Chief Minister regarding the publication of official notices: [1(92)]**

Will the Chief Minister explain when changes will be brought forward to remove the requirement for official notices to be published in the local paper and advise the reasons for the time taken for these changes to be implemented?

[16:45]

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

Could I ask Deputy Wickenden to answer this, please?

**Deputy S.M. Wickenden of St. Helier (Assistant Chief Minister - rapporteur):**

A draft law is due to be lodged in March this year that will propose moving the official *Gazette* online. We have been publishing official notices on the States website as well as the local paper for almost a year now. It has been important to run these 2 systems in parallel while training staff and testing the technology. This has also allowed Islanders to review and get used to the coming change. Seemingly we have also been establishing an assisted digital programme for customers who might need support to access the *Gazette* online.

**4.17.1 Deputy J.M. Maçon:**

I suppose I should give my congratulations to the Deputy on his new portfolio that he has received. Can I further ask the Deputy what further measures will be brought in for perhaps those individuals who are not *au fait* with accessing the website?

**Deputy S.M. Wickenden:**

The assisted digital programme we are working on is to be using areas like Social Security for training in areas and also the assisted digital we are going to begin an 8-week programme with St. Brelade’s Parish Hall, St. Clement’s Parish Hall and St. Mary’s Parish Hall which starts next month, with new training for the staff and technology that is being put in place to help people, so if they are not clear on what they can be doing online, they can go and get the assistance there and the training.

**4.17.2 Deputy M. Tadier:**

Will the Assistant Minister explain how much money will be saved by removing the requirement for these notices to be published in the local newspaper?

**Deputy S.M. Wickenden:**

The original business case for putting forward the *Gazette* online rather than through the local media had a saving of £245,000, approximately. The savings assumed on this are consistent with the last 2 to 3 years of around £245,000, but we can presume that half of those savings will be about year one and over the next 2 years it will be the full amount.

**4.17.3 Deputy M. Tadier:**

A supplementary. I am surprised the *J.E.P. (Jersey Evening Post)* can afford to pay some of their columnists, taking that vast hit in their finances, but I am sure they will manage nonetheless. Has the Assistant Minister considered following up on Deputy Maçon's concerns that people who do not access online, for whatever reason, might still be able to access in the form of the Parish magazines, which have a wide circulation and a wide readership, certainly among a certain demographic perhaps who do not go online frequently? Have any approaches been made with those Parish magazines, and if not, will approaches be made to include a gazette-style page within that?

**Deputy S.M. Wickenden:**

The Parish magazines, apart from St. Helier, I believe, run quarterly, so the information would probably be out of date by the time it got circulated. I do know that we do tweet out the information and there are other online publications that use that information and put it on their media outlets for free. The Parish Halls can help people to see the information now, but I think that the magazines, it will be up to the Constables. You may find that it would be out of date for the people by the time that they read the information.

**4.17.4 Deputy M.R. Higgins:**

Can the Deputy tell us whether there will be a reduction in the cost of official notices now that it is going online and therefore is much more efficient? In other words, if there is a print cost, what will be the cost of doing it online?

**Deputy S.M. Wickenden:**

Obviously we run the website as it is, so there is no additional cost to the publishing of the *Gazette* online, because it is running on our existing infrastructure. The staff who would normally put things together and put them into the *J.E.P.* will now just be doing that in an online format and they have had the training to do that. We have almost 21,000 Islanders subscribed to the MyGov website where they can get this information as it happens.

**4.17.5 Deputy M.R. Higgins:**

A supplementary. I do not think I have made myself terribly clear. As someone who has to occasionally put an official notice into the *J.E.P.*, if it is going online, what I am saying is the cost of the print version is a certain figure. Will the fact it is going online, which is reducing the costs, enable me and others to get a reduction in the cost of the official notice?

**Deputy S.M. Wickenden:**

Can I just ask for clarification? You are talking about publishing on the online *J.E.P.* or are you talking about publishing on the gov.je website? Can you please clarify?

**Deputy M.R. Higgins:**

I will tell people it is to do with the Air Display. The Air Display has to have an official notice that goes out; it has been in the *J.E.P.* I am asking now if the official notice is going online, what will be the charge of it going online on the States website compared to the other? Will we make a saving?

**Deputy S.M. Wickenden:**

Fantastic news: it will be free.

**Deputy G.P. Southern:**

Can I congratulate the Assistant Minister for producing a clear answer which addressed the question? May I suggest that he undertakes some heavy ministerial training to make sure he never does that again?

**The Deputy Bailiff:**

I am assuming that is not a question, Deputy; that is simply an observation on your part. A final supplementary, Deputy Maçon.

**4.17.6 Deputy J.M. Maçon:**

The Deputy explained the law drafting time and expected the law to be lodged at the beginning of April, end of March?

**Deputy S.M. Wickenden:**

It will be lodged in March or the next sitting.

**4.17.7 Deputy J.M. Maçon:**

In which case, can the Deputy explain what the expected final implementation date of all of this will be and can he confirm that Scrutiny has been factored in within that timeline as well?

**Deputy S.M. Wickenden:**

I do not have that information in front of me, but I will find out and get it to Members.

**4.18 Deputy K.C. Lewis of the Minister for Economic Development, Tourism, Sport and Culture regarding assistance with travel and accommodation for competitors at the Island Games in Gotland [1(91)]:**

Further to news that some competitors are withdrawing from the Island Games in Gotland, Sweden, due to the high cost involved, what further measures, if any, is the Minister taking to assist with travel and accommodation expenses?

**Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):**

I wonder if Deputy Lewis would allow the Assistant Minister, with responsibility for sport, to take that question?

**Deputy K.C. Lewis:**

Indeed, Sir.

**Connétable S.W. Pallett of St. Brelade (Assistant Minister for Sport - rapporteur):**

I very much thank Deputy Lewis for giving me the opportunity to highlight the forthcoming NatWest Island Games in Gotland in June, a Games I am expecting Jersey to perform extremely well at. My department are both understanding and sympathetic to the costs borne by all

competitors travelling off-Island to play sport, be it individually, with a club, or representing Jersey; but to my knowledge few, if any, competitors have, to date, withdrawn from travelling to this year's games, solely due to the final costs involved. The few that have decided not to compete, have generally done so for other reasons, such as work, or family commitments, or personal sporting targets. I am supportive of any athlete who wishes to compete at the highest possible level, either nationally or internationally. As the Deputy should be aware, an additional £32,000 was made available from the department's cash limit as recently as December last year to cover the costs of the deposit on the charter flights to be used in transporting Team Jersey to this year's games in Gotland. The costs in terms of travel, accommodation and subsistence are considerable. However, the combination of historical grant funding, plus that found in December, is intended to reduce individuals' travel costs to around the £1,000 mark, comparable to costs to travel to past off-Island games, such as Bermuda. Each sport is involved in its own fundraising activities, which we would expect will reduce the costs further for most competitors. The level of Government support provided by the States of Jersey is comparable to the offer to competitors in Guernsey, but the department remains in close contact with the Island Games Association of Jersey and will do whatever it can to ensure that Jersey has a strong representation in Gotland later this year.

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

The Island Games in 2015 in Jersey was a great success and I have nothing but praise for the organisers, [**Approbation**] but I believe that even the Gotland team struggled to find the funds to come down to Jersey at that time. Even if Jersey were to pay for the charter of the plane to Gotland, or if further funds could be raised, it would go a long way to help. I know several people have got alternative sporting arrangements to go to, but several people have contacted me to say they are, indeed, struggling and any assistance would be greatly appreciated.

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

As I say, the level of Government funding I think has been quite considerable. Over the last 4 years, Government has put grant funding of £20,000 per year over the 4-year period and has also, as I say, just given another £32,000 towards the cost of the flights. The actual transport and accommodation is organised through the Island Games Association of Jersey and I think all sports, all 14 sports, understand that the responsibility for getting their athletes to the games very much sits with the individual sports. In saying that, it is a considerable expense, but I know virtually every sport is looking to do their own fundraising. I, personally, have been to events held by the football and swimming squads, which I know - in both of those sports - will reduce the cost of the games and travelling to those games for their competitors considerably. I know that is true of other sports as well. It is very much left in the hands of the Island Games Association and the sports to organise their own travel and accommodation through the Island Games Association but, as I say, we are in close contact with sports. I am aware, as the Deputy will know, of some athletes that have decided not to travel, but as I say, I think they have been not just for financial reasons, they have been because of own personal targets and goals, although I am aware of one or 2 athletes that have mentioned cost. But I think when they were mentioning cost, it was at a very early stage, before the final costs of the games - in terms of travel - had really been finalised. I know of one that probably would have changed their minds had they known what the final cost would be, but like I say, we do work closely with the Island Games Association and its chairman. I only met him some weeks ago in regards to the organisation of the games. He had been over and seen the facilities over in Gotland, so I keep in close contact with him. But I am sure we will have an extremely strong squad there. We are looking to take nearly 270-plus athletes to the games and I would not expect that squad to reduce too much from that number.



## **5. Questions to Ministers without notice - The Minister for Housing**

### **The Deputy Bailiff:**

That brings the time allocated for questions to an end and we now come to Questions to Ministers without notice. The first question period is for the Minister for Housing.

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

Will the Minister use her good officers to encourage Andium Homes to communicate properly with Le Marais tenants about their modernisation project? They last sent a letter on 11th November, which received a detailed response, with a series of questions from residents, about all sorts of factors and they still have not replied. Will the Minister ensure that Andium Homes does so, because it is now the end of January, and that is 2 months of waiting without information, full information, that the tenants have been suffering?

### **The Deputy of Trinity (The Minister for Housing):**

In fact, I had a briefing with Andium only this morning just about that very issue, so the timing is very good. As you know, Andium want to refurbish the 4 blocks at Le Marais - 224 homes to be precise - at a cost of £5 million, so it is a significant investment. They did consult with the residents there, as the Deputy says, in November and they have been around to see most of the residents in Le Marais, the ones that wish to see them, which is the vast majority, but some residents did not quite want to engage, but they will still pursue that. They are going to see every resident again very shortly and a letter advising them of the update on the refurbishment project will be sent within the next couple of days. Suffice to say, they have reviewed their timetable, because it is a big project, and after hearing the views of the residents, that most of the residents - they have to move out, unfortunately, but it is a big piece of work - do want to move in other areas, not in Le Marais, so they need to ensure that they have got somewhere appropriate for residents to move in. They are looking at commencing the project middle of next year.

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

A supplementary, if I may. Will the Minister assure Members that she will insist that Andium address the questions that tenants gave to Andium, particularly about safety around the site? What arrangements will be made to defray, or cover, expenses, as they have to move out from Le Marais for between 6 and 8 weeks?

[17:00]

### **The Deputy of Trinity:**

I have great faith in Andium that they are doing a very good job and they will do a good job in talking to the residents. Unfortunately, the residents will have to move out. As I have said, it is a huge project, not only putting new electric cables and whatever through, but also new heating and also there is asbestos there, so that is why the area has to be clear and the residents do have to move out. But rest assured, when the residents do go back, they will have much-improved, much better insulated homes. That is what we all wish for.

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

In tackling the issue of unaffordable, or high rents, in the private sector, the Minister has confirmed earlier that the Strategic Housing Unit does not know anything about who owns private rental properties in Jersey. Presumably, they know nothing about the condition of those properties that are being rented out, or of the residential status of the owners of those properties. Now, does the Minister agree that, in order to help the situation with regard to affordable housing, it is important to have an informed position and that she should make sure that she and her staff have this

information at their fingertips if they are to tackle the complex issues of high rents in the private sector?

**The Deputy of Trinity:**

The last question first: the high rents in the private sector are because we need to build more. I know people probably have been tired of what I am continuing to say, but we do need more to bring down the costs of rents, especially those living on low incomes. If we build more social housing, those on a low income can come into our gateway system and make sure that they are housed appropriately and also be able to access - they can access - income support in the private sector, but they are mostly housed appropriately. The Deputy also brought up about conditions of properties in the private sector. Environmental Health do know: if they have any complaints about conditions in the private sector they will follow that up. They need to have a complaint, but rest assured, that department are very thorough and will follow it up and they will make recommendations and, if necessary, they will pursue it further. Regarding the private sector too, within the next couple of months, minimum standards will be brought in for the private sector. I want to increase the conditions of some houses within the private sector. Most private landlords are good landlords, but there are those who are not so good and understand, via the minimum standards that we have got the law behind us, that we can access those and make sure that they raise the standards. A lot of good work has been done already.

**The Deputy Bailiff:**

Minister, the norm is 1 minute 30 seconds and we are up at 2 minutes now.

**The Deputy of Trinity:**

It was a long question, Sir.

**Deputy M. Tadier:**

I hope I will not be penalised by the Minister ...

**The Deputy Bailiff:**

Did you have a supplementary, or ...

**5.2.1 Deputy M. Tadier:**

I do. Does the Minister accept that she cannot, for all the goodwill in the world, solve the demand simply by building? Does she accept the fact that the population has increased by 5,000 in the last 5 years? It is probably going to increase by 5,000 in the next 5 years, and the 1,000 homes will not go anywhere near meeting that demand, so does she accept that, because of that, she needs to look at other issues, including things like rent control, including things like property taxes for second, third, tenth, twentieth homes and also property taxes for unoccupied properties, to make sure that property in Jersey is maximised, so that properties that exist already can be put on the market and, if necessary, new properties will be built, no doubt in the green spaces of St. Helier?

**The Deputy of Trinity:**

Where do I begin with those questions? The population, we know it is a pressure. I said in the oral questions it is not just one thing that is going to solve the issue; but rest assured that with the Housing Needs Survey and regular contact with the Environment Department to know exactly what is being planned to build and what comes to fruition, to actual building, and when it comes online, we do take note. That is why I said about 1,000 homes in the Island Plan. We have those sites up to 2020. I cannot remember what else he said, there were so many questions.

**5.3 Connétable A.S. Crowcroft of St. Helier:**

I am sure the Minister is fully signed up to the States policy of concentrating new housing in urban areas, in particular in St. Helier. Is she also signed up to the fact that residents in urban areas, particularly in town, need access to open spaces and will she, therefore, support my proposition to extend the Town Park in an area which is already densely built up?

**The Deputy of Trinity:**

Yes, the Constable is right: we need to use every available space that we can possibly use in town but, as he says, it is making sure that the community is looked after too. That is one of my 4 objectives within the housing strategy, because he knows that green space, like I do, is important. As regarding the Town Park, I will wait to see what the Constable brings forward in the proposition.

**5.4 Deputy G.P. Southern:**

Could the Minister explain to me how the new system for choice-based lettings works, because it says in the 2015 annual report from Andium: "In response to the high refusal rate and following U.K. best practice, we have recently introduced a new way of letting properties called choice-based lettings. Under this scheme, we advertise our available properties on our website, enabling clients to bid for the properties". My understanding was that you are on the list, you are given a category, 1, 2 or 3 priority, and if you have been on the list the longest you are at the top of the list. How does it work that people can bid in a system like that to take on a property? Surely that just invites people to waste their time, because there is somebody ahead of them.

**The Deputy of Trinity:**

Surprisingly, the Deputy is more or less right in his thinking. Those on the various bands, especially band 1, are in order of priority, but because people do have the choice of where they want to live - and quite rightly - if they refuse 3 choices, they come down to the bottom of the list, or within the current listing - because some houses, when they go and see them, perhaps it has got a few steps. If they have mobility problems, they cannot access it, it is not suitable, or even if people want to live in a certain area, like live out west, but they have been offered town, that is not suitable too. So, having a choice is important. We do prioritise those within band 1. But I can ask Andium to send the Deputy, and other States Members, the actual working policy of it.

**5.4.1 Deputy G.P. Southern:**

A supplementary, if I may. Surely, Minister, the problem of area chosen, or disability, should be sorted out by officers at the Gateway in order to make sure that they know exactly what the needs are and that people are allocated a property which suits, rather than being invited to come and bid - I do not know how that works - to bid for a property. It does not seem to me that the 2 halves of what is being said here match.

**The Deputy of Trinity:**

It is perhaps unfortunate, the word "bid." I think it is expressing an interest. Some people, as I said, want to go out west, but perhaps when they go and see the flat, or home, or whatever, decide not to. Rather than going through the whole procedure again, if they have got 2 or 3 people interested in that, then it cuts down the time. But choice is important. People should have a choice of where they want to live. As I said, I am quite happy to send him the working policy.

**The Deputy Bailiff:**

No other questions for the Minister? Deputy Martin.

**Deputy J.A. Martin:**

No, sorry, I was jumping for the next one, Sir. [Laughter]

**The Deputy Bailiff:**

I was asking if there were any other questions.

**5.5 Deputy M. Tadier:**

In a recent email, the Minister for Housing circulated saying that she would bring forward a regulatory framework by March. Would she explain what that regulatory framework will cover, in particular whether it relates solely to Andium, social housing, or whether it also covers the private sector?

**The Deputy of Trinity:**

No, this is part of the Housing Transformation Programme, which came to the States in 2013. When it was suggested too that there should be some social housing regulation, the Scrutiny Panel at the time felt that it was too hard on social housing, it is too regulated, so we looked at it. It is for all social housing providers, so it is going to be for the 5 housing trusts. It has been out to consultation. The reports are back in and my officers are looking at it at this moment in time and hopefully the report will be out, the results of it, on the way forward. It is going to be governance, accountability, financial, but what level of regulation has still got to be worked out.

**5.5.1 Deputy M. Tadier:**

Does the Minister agree that only applying this to the social sector, not to the private sector - as was the original policy with previous Ministers for Housing, they wanted an over-arching policy for all rental properties - that there is a risk that an unequal playing field, an unlevel playing field is being put into place, not just in terms of the rents, because we know that Andium rents are supposedly 90 per cent of market rate, but also the fact that Andium and social housing will be regulated, inspected, meet decent homes, but the private sector will not have to meet any standards?

**The Deputy of Trinity:**

In the private sector, as the Deputy is aware, there are tenancy deposits and condition reports, and especially the tenancy deposit. Every deposit taken must be deposited in my deposit scheme. We have had a few people who do not want to do it, but we have chased that up and, if necessary, we will take it to court. But there is also Rent Safe, a bit like Eat Safe, and that is the same principle of so many stars. A landlord can accredit to so many stars, but also, as I said before, in the next couple of months the Environment Department will be launching minimum standards in the private sector. This will go to raising the standards in the private sector a great deal.

**6. Questions to Ministers without notice - The Chief Minister**

**The Deputy Bailiff:**

That brings the time allocated to this Minister to an end and the next question period is for the Chief Minister.

**6.1 Deputy J.A. Martin:**

You have to be quick. Yes, the Chief Minister laid before us today R.9, delegating to one of his Assistant Ministers delegated functions with 5 main areas and 23 sub-areas. Can the Chief Minister assure me that this will not spread this Minister too thinly? Because he has already got a massive area, not to mention implementing an immigration policy, a disabled strategy, safeguarding, *et cetera*, and it includes his new one is innovation as well. Will he be dealing with all of those equally?

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

I have absolutely no doubt whatsoever that the person that these responsibilities have been delegated to will do anything other than give them his full attention. Of course he has a broad range of responsibilities. He is well supported in those responsibilities, particularly if we think about population and migration by the Minister for Housing, by the Minister for Social Security, by the Assistant Minister for Economic Development, Tourism, Sport and Culture. I should say that the Minister for Social Security is supported by the Assistant Minister for Social Security in that regard. Likewise, with safeguarding, he has the Minister for Home Affairs, the Minister for Health and Social Services, the Minister for Education.

[17:15]

So he is well supported in what are important roles of Government, but it is important that they are kept at the centre of Government, because of their importance.

#### **6.1.1 Deputy J.A. Martin:**

I am very concerned. I will leave that answer, but in the R.9 laid: “Innovation policy, including innovation review and action plan and any continuing matters with relation to the Jersey Innovation Fund.” Can the Chief Minister assure this Assembly this Assistant Minister will not be reviewing the Innovation Fund at the same time as he is continuing overseeing the Innovation Fund?

#### **Senator I.J. Gorst:**

There are 2 pieces of work. As I have said in previous Assembly meetings, the Innovation Fund is closed to new applicants, so, in effect, it is closed. There is remediation work that is being undertaken and that is being undertaken by departmental officers, with the support of external independent accountants. Then, of course, this Assembly will ultimately need to decide what it wishes to do with the remaining money in the current Innovation Fund and officers will be working, together with Scrutiny, to think about how that money can be used to support innovation.

#### **6.2 Deputy S.Y. Mézec:**

The big new story of the day is, of course, President Trump’s executive order banning people from entering the United States, based on their country of birth. I have checked the most up-to-date population stats to see that we have a number of people from these countries living here in Jersey. These people are our neighbours, our colleagues and our friends, who provide benefits to our society from being here, with everything that they contribute. Notwithstanding that the number of people affected is small, will the Chief Minister join me and others in deploring a policy based on racism and xenophobia, which could affect some Jersey residents and would he further state if he would ask the British Government, in their attempt to get U.K. residents exempted from this ban, to ask that our Jersey residents be exempted from it as well?

#### **Senator I.J. Gorst:**

Any policy that were based on racism or xenophobia I would deplore. I will be asking officers to consult with the U.K., through the Ministry of Justice and onto the Foreign Office to understand that the undertakings provided to the British Foreign Secretary are applicable to all British citizens, as was the understanding given, to ensure that if that undertaking is applicable to citizens residing in Jersey, they are aware of that.

#### **The Deputy Bailiff:**

Just to say to Members: I have Deputy Higgins, the Constable of St. Helier, Deputy Andrew Lewis, the Deputy of Grouville, Deputy Southern and Deputy Tadier as listed for questions, whether we get through to everybody, but that is the order that they are coming.

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

Can the Chief Minister tell Members when the States Employment Board reviewed the letters from the various consultants, who voted in support of Mr. Alwitry, pointing out that he was not a troublemaker, he was well-qualified and he was asking quite reasonable questions of the management of the hospital and so on?

**Senator I.J. Gorst:**

I do not have the exact dates of when these things were considered by the States Employment Board, but there were, as I said earlier, many, many letters, many, many emails. I can think of one particular consultant who wrote, I think, probably more than once, if my memory serves, in support of Mr. Alwitry, but equally, as the Deputy tried to ask the Minister for Health and Social Services earlier, there were consultants who were absolutely in favour of the decision that Health and Social Services took.

**6.3.1 Deputy M.R. Higgins:**

Just a point of clarification. Is it not the case that on 14th January, 4 consultants threatened to resign if Mr. Alwitry was reinstated?

**Senator I.J. Gorst:**

There is a letter. I cannot recall whether it is detailed in the then Solicitor General's report. If it is, Members will have it before them and I will find and locate it overnight so that they have got it. But of course, yes, people felt extremely strongly about it. It was not just a matter of management, it was a matter of clinicians, as I have said in answers in this Assembly on many occasions previously.

**6.4 The Connétable of St. Helier:**

I would be interested to hear the Chief Minister's current views on whether Jersey should be doing more to assist in the refugee crisis. Has he been as impressed, as I have, by the response of the Prime Minister of Canada, when contrasted with President Trump's attitude towards Syrians, for example? Accepting that Jersey, of course, is much smaller than Canada, does he not feel that there is still a role for this Island to play? On a side issue, will he be attending the play at the Jersey Arts Centre this week on this subject?

**Senator I.J. Gorst:**

Unfortunately, in answer to that last question, I will not be able to do that. I have stood in this Assembly, and also in public arenas, explaining where we found ourselves when we were considering whether we could, in exceptional circumstances, take a few refugees directly from the camps on the border in Syria. It was a great privilege for me to accompany the chairman of the Jersey Overseas Aid Commission to see first-hand the work that Jersey taxpayers' money is doing out there, supporting people who find themselves in the most devastating of circumstances. Of course, we have heard about some of those families, who have been trying to escape that devastation who, during the course of the last 48 hours, have been stopped from doing so; some of whom have sold everything, because they thought they were going to be accepted to a new life in a new country. I can assure the Constable that the work that the chairman and the Commission are doing is continuing to invest hundreds of thousands of pounds and exploring with those agencies how they can deliver that; not only to the camps on the borders, but also directly into some of these war-torn areas. I think that they either have made announcements, or I have seen announcements, or they are intending to announce where they are working with United Nations agencies to deliver directly on to the ground into Syria, making people's lives better. It has been said that no man is an island and we, coming from an island, can sometimes forget that. We are not an island, we are part of the world community and I, for one, believe that we should stand up and be counted and take our place in that world community. **[Approbation]**

#### **6.4.1 The Connétable of St. Helier:**

The Chief Minister did not quite answer my question. I fully accept what we are doing through the Overseas Aid Commission and thoroughly applaud that, but is the Chief Minister saying that there is no case for Jersey accepting even a small number of refugees, albeit we do not have the size of Canada, of course, and we already have waiting lists?

#### **Senator I.J. Gorst:**

The reason for the decision that was reached was not to do with the scarce resource, but there were other legal difficulties that arose that meant that it was not possible for us to do that. Those circumstances have not changed. As much as I, personally, found that difficult, they have not changed and, therefore, that decision cannot change at this time.

#### **6.5 Deputy A.D. Lewis:**

Is the Chief Minister satisfied that there has been sufficient constructive dialogue between his Minister for Education and his Minister for Treasury and Resources with regards to establishing a workable solution in respect of the question of higher education funding?

#### **Senator I.J. Gorst:**

I think there has been constructive dialogue. What we now need is for all Ministers to work together. I attended upon the Scrutiny Panel last week and I found that their questioning was, indeed, very constructive and I think that some of the results of that panel and the suggestions there - I know that others have had a long personal interest in addressing this problem: the Deputy who asked the question, Senator Ozouf as well and I hope that, together, all Members - wherever they sit in this Assembly - are going to be engaged during this process and we can solve this problem once and for all, albeit we know that it is not easy and I do not think that there will be just a one size solution fits all either.

#### **6.5.1 Deputy A.D. Lewis:**

A supplementary to that. The Minister for Treasury and Resources seems to think that it is up to the Minister for Education to bring a proposal to him and the Minister for Education seems to think it is for the Minister for Treasury and Resources to bring a proposal to him. Which is it?

#### **Senator I.J. Gorst:**

I would not see it quite like that. I think that both Ministers are now committed to working together to bring forward a workable, or workable, solutions. Of course, Education's expertise is education and Treasury's expertise is money and they need to come together to find a solution.

#### **6.6 The Deputy of Grouville:**

The Chief Minister suggested in his previous answer to me that States Members may feel hindered, or inhibited, by the presence of Ministers while discussing their concerns over Brexit. If I may, I would say far from it. I think certainly me, and I am sure my other States Members, my fellow States Members, would welcome being listened to by this Council of Ministers. I wondered what he considers of the recent Supreme Court judgment, ordering the U.K. Government to consult with their fellow parliamentarians over Brexit.

#### **Senator I.J. Gorst:**

I would not presume to second-guess what the Court of Appeal decided in the U.K. Their judgment is wide-ranging and detailed and the British Government have said that they will stand by that, as we would here stand by a decision of the highest court. The Deputy will know that, hopefully, States Members have already got time set aside in their diaries for workshops on the particular

issues. Those workshops will form Government policy as it works with the British Government during the course of the 2 years that the Brexit negotiations take. We are engaging with States Members in that regard.

#### **6.6.1 The Deputy of Grouville:**

A supplementary. Could I have the Chief Minister's assurance that these workshops will not just be a PowerPoint presentation to Members and they will take on board States Members' concerns and how they would like to see policy moved forward?

#### **Senator I.J. Gorst:**

I absolutely can give that assurance. The purpose of the workshops is so that we can understand and help form the decisions that we need to make throughout these 2 years. I can also confirm that, in very short order, we will be lodging a proposition to ask the Assembly to give its agreement that we will follow an approach which means that we will bring forward a Great Repeal Bill, which repeals the Jersey E.U. Law as well.

#### **The Deputy Bailiff:**

That brings the time allocated for questions to the Chief Minister to an end. There are no items under J and K and, accordingly, we would come on to Public Business and that is arranged for 9.30 a.m. tomorrow morning.

#### **Senator P.F.C. Ozouf:**

May I ask a procedural question, if I may, before the adjournment? Members will have noted that I have lodged an amendment to my amendment, P.133/2016. I am suggesting no improper motives, or otherwise. My amendment was sent to the Greffe at just about 4.00 p.m. on Thursday with a view to getting it lodged in good time on Friday. However, because of the approval mechanism that is necessary, it has been lodged in a way that means that it cannot be debated. I am not asking Members to consider this, but I just wish to draw Members' attention to the fact that I did make best endeavours to lodge it in time, but because of the procedural arrangements within the Greffe and the Bailiff's chambers, it was not lodged until Monday, which means that I cannot, without this Assembly's approval, amend it. Now, it is not a wrecking amendment, it is not an amendment that is designed to cause difficulty. I would prefer - my position in that amendment is clear, that I would prefer - to make my amendment as amended and, if I cannot do that, I think through no fault of my own, then I am placed in an impossible position. I just wanted to draw that to Members' attention. It is not anybody's fault. I did send it at 4.00 p.m., but that should have been able to be lodged on Friday, with the greatest of respect.

#### **The Deputy Bailiff:**

Without making any observations about the mechanism, Senator, the correct process is: come the debate you would have to ask the leave of the Assembly to allow this amendment to be debated and further ask the leave of the Assembly, if the first leave is granted, to be able to take your first amendment as amended by the second. That would be a matter to be dealt with tomorrow.

#### **Senator P.F.C. Ozouf:**

Whether or not we get to the composition of the debate tomorrow, or not, is another matter but, Sir, perhaps you may suggest when would be the appropriate time, because I do not wish to waste the Assembly's time. I do not wish to take advantage of the Assembly, or to cast any matters. This is just an unfortunate set of circumstances: that an amendment made in good faith, designed to give Members a choice, which I will not be very lengthy in discussing, has now been effectively in the position it is. It might just be better to deal with that in the earliest possible course, but not now, but I thought I should raise it as a matter of good order.



**The Deputy Bailiff:**

The norm of the earliest possible course for these kinds of things is immediately after the main proposition has been proposed and seconded, and then we will know whether you can bring either of your amendments, or have you withdraw it. You can consider what your options are, depending upon the decision of the Assembly. Very well. Is the adjournment proposed? The States stands adjourned until 9.30 a.m. tomorrow morning.

**ADJOURNMENT**

[17:31]