

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 5th OCTOBER 2021

COMMUNICATIONS BY THE PRESIDING OFFICER.....	8
1.1 Welcome to His Excellency the Lieutenant Governor	8
1.2 Adjournment due to technical issue	8
ADJOURNMENT	8
APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS	8
2. Nomination of the Connétable of St. Clement as a member the Planning Committee	8
2.1 Connétable P.B. Le Sueur of Trinity (Chair, Planning Committee):	8
QUESTIONS.....	8
3. Written Questions	8
3.1 Deputy R.J. Ward of St. Helier of the Chair of the Comité des Connétables regarding the implementation of the proposition ‘Green Lanes and Quiet Lanes: priority to pedestrians, cyclists and horse riders’ (P.79/2020) (WQ.356/2021):.....	8
3.2 Senator S.Y. Mézec of the Chief Minister regarding income inequality (WQ.357/2021):.....	9
3.3 Deputy L.M.C. Doublet of St. Saviour of the Minister for the Environment regarding the Intergovernmental Panel on Climate Change (I.P.C.C.) report ‘Climate Change 2021: The Physical Science Basis’ (WQ.358/2021):	10
3.4 Deputy K.F. Morel of St. Lawrence of the Minister for the Environment regarding visitors to Les Écréhous (WQ.359/2021):	11
3.5 Deputy S.M. Ahier of St. Helier of the Minister for Treasury and Resources regarding bonuses to Executive Directors of Subsidiary Companies (WQ.360/2021):	11
3.6 Senator K.L. Moore of the Chair of the States Employment Board regarding employment numbers of the States of Jersey (WQ.361/2021):.....	12
3.7 Connétable of St. Brelade of the Minister for Infrastructure regarding the cost of contracting out estate management (WQ.362/2021):	13
3.8 Deputy R.J. Ward of St. Helier of the Minister for Infrastructure regarding the changes in legislation to give effect to P.79/2020 (‘Green Lanes and Quiet Lanes: priority to pedestrians, cyclists and horse riders’) (WQ.363/2021):	13
3.9 Deputy K.F. Morel of St. Lawrence of the Minister for Infrastructure regarding recycling electric vehicle car batteries (WQ.364/2021):	13
3.10 Senator K.L. Moore of the Minister for Treasury and Resources regarding the Common Investment Fund (WQ.365/2021):.....	14
3.11 Connétable of St. Brelade of the Chief Minister regarding a debrief on Covid-19 (WQ.366/2021):.....	18

3.12	Connétable of St. Brelade of the Minister for External Relations regarding meetings with representatives from Normandy and Brittany (WQ.367/2021):.....	18
3.13	Deputy M.R. Le Hegarat of St. Helier of the Minister for the Environment regarding glasshouse sites (WQ.368/2021):	19
3.14	Deputy L.M.C. Doublet of St. Saviour of the Minister for Children and Education regarding the Corporate Parenting Board’s minutes (WQ.369/2021):.....	22
3.15	Deputy R.J. Ward of St. Helier of the Minister for the Environment regarding the green algal bloom in St. Aubin’s Bay (WQ.370/2021):.....	22
3.16	Deputy R.J. Ward of St. Helier of the Minister for the Environment regarding the Carbon Neutral Steering Group (WQ.371/2021):	23
3.17	Connétable of St. John of the Minister for Children and Education regarding Corporate Parenting Board (WQ.372/2021):	24
3.18	Connétable of St. John of the Minister for Health and Social Services regarding pay for a Theatre Nurse (WQ.373/2021):	24
3.19	Connétable of St. John of the Minister for Health and Social Services regarding private medical procedures (WQ.374/2021):	25
3.20	Deputy M.R. Higgins of St. Helier of the Minister for the Environment regarding contracts held between the States of Jersey and Simon Sand and Gravel Ltd (WQ.375/2021):.....	26
3.21	Deputy M.R. Higgins of St. Helier of the Minister for Housing and Communities regarding the digital register of landlords and tenants (WQ.376/2021):.....	27
3.22	Deputy M.R. Higgins of St. Helier of the Minister for Economic Development, Tourism, Sport and Culture regarding labour shortages in the Island (WQ.377/2021):.....	27
4.	Oral Questions	28
4.1	Deputy R.J. Ward of St. Helier of the Minister for Housing and Communities regarding the number of Islanders classed as homeless and without temporary accommodation (OQ.202/2021):	28
	Deputy R. Labey of St. Helier (The Minister for Housing and Communities):	28
4.1.1	Deputy R.J. Ward:	28
4.1.2	Senator S.Y. Mézec:	29
4.1.3	Senator S.Y. Mézec:	29
4.1.4	Deputy M. Tadier of St. Brelade:	29
4.1.5	Deputy L.M.C. Doublet of St. Saviour:.....	30
4.1.6	Deputy L.M.C. Doublet:.....	30
4.1.7	Deputy G.P. Southern:.....	31
4.1.8	Deputy R.J. Ward:	31
4.2	Connétable K. Shenton-Stone of St. Martin of the Minister for the Environment regarding the application of Health and Safety, and Food Safety, rules to the sale of supermarket produce that was past its sell-by date (OQ.199/2021):.....	31
	Deputy J.H. Young of St. Brelade (The Minister for the Environment)	31
4.2.1	The Connétable of St. Martin:	31
4.2.2	Deputy R.J. Ward:	32
4.2.3	Deputy R.J. Ward:	32
4.2.4	Deputy M. Tadier:	32
4.2.5	Deputy M. Tadier:	33
4.2.6	Deputy K.F. Morel of St. Lawrence:	33
4.2.7	The Connétable of St. Martin:	33

4.3 Deputy S.M. Ahier of St. Helier of the Minister for Infrastructure regarding the impact of changes to speed limits in St. Helier (OQ.208/2021):	33
Deputy K.C. Lewis of St. Saviour (The Minister for Infrastructure):	34
4.3.1 Deputy S.M. Ahier:	34
4.3.2 Connétable R.A. Buchanan of St. Ouen:	34
4.3.3 The Connétable of St. Ouen:	34
4.3.4 Connétable J.E. Le Maistre of Grouville:	34
4.3.5 The Connétable of Grouville:	34
4.3.6 Connétable A.S. Crowcroft of St. Helier:	35
4.3.7 The Connétable of St. Helier:	35
4.3.8 Deputy S.M. Ahier:	35
4.4 Senator S.C. Ferguson of the Minister for Health and Social Services regarding the timing of responses to Subject Access Requests (S.A.R.s) by the Department of Health and Community Services (OQ.205/2021):	36
Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):	36
4.4.1 Senator S.C. Ferguson:	36
4.4.2 Deputy K.F. Morel:	36
4.4.3 Deputy K.F. Morel:	37
4.4.4 Deputy M.R. Higgins of St. Helier:	37
4.4.5 Deputy M.R. Higgins:	37
4.4.6 Senator K.L. Moore:	37
4.4.7 Deputy R.J. Ward:	38
4.4.8 Deputy R.J. Ward:	38
4.4.9 Senator S.C. Ferguson:	38
4.5 Deputy I. Gardiner of St. Helier of the Assistant Chief Minister regarding the design of the new hospital (OQ.206/2021):	39
Senator L.J. Farnham (Assistant Chief Minister):	39
4.5.1 Deputy I. Gardiner:	39
4.5.2 Connétable A. Jehan of St. John:	40
4.5.3 The Connétable of St. John:	40
4.5.4 Deputy S.G. Luce of St. Martin:	40
4.5.5 The Deputy of St. Martin:	41
4.5.6 Deputy I. Gardiner:	41
4.6 Deputy L.M.C. Doublet of the Minister for Health and Social Services regarding the medical rationale for ongoing restrictions on singing in schools (OQ.211/2021):	42
The Deputy of St. Ouen (The Minister for Health and Social Services):	42
4.6.1 Deputy L.M.C. Doublet:	42
4.6.2 Deputy I. Gardiner:	42
4.6.3 Deputy I. Gardiner:	43
4.6.4 Deputy M. Tadier:	43
4.6.5 Deputy M. Tadier:	43
4.6.6 Deputy L.M.C. Doublet:	44
4.7 Senator S.Y. Mézec of the Attorney General regarding the protections against eviction afforded to residential tenants by Jersey legislation (OQ.200/2021):	44
Mr. M.H. Temple Q.C., H.M. Attorney General:	44
4.7.1 Senator S.Y. Mézec:	44

4.7.2 Deputy R.J. Ward:	45
4.8 Deputy J.M. Maçon of St. Saviour of the Minister for Infrastructure regarding his Department’s policy in respect of boulevards in the urban development area (OQ.198/2021):	45
Deputy K.C. Lewis (The Minister for Infrastructure):	46
4.8.1 Deputy J.M. Maçon:	46
4.9 Deputy G.P. Southern of the Chief Minister regarding the efficiencies and other rebalancing measures proposed in the Draft Government Plan 2022-2025 (OQ.209/2021):	46
Senator J.A.N. Le Fondré (The Chief Minister):	46
4.9.1 Deputy G.P. Southern:.....	46
4.9.2 Deputy R.J. Ward:	47
4.9.3 Deputy R.J. Ward:	47
4.9.4 Deputy G.P. Southern:.....	48
4.10 Deputy K.F. Morel of the Minister for Health and Social Services regarding the availability of medical records to clinicians at the General Hospital (OQ.204/2021):	48
The Deputy of St. Ouen (The Minister for Health and Social Services):	48
4.10.1 Deputy K.F. Morel:.....	48
4.10.2 Deputy R.E. Huelin of St. Peter:.....	48
4.10.3 The Deputy of St. Peter:	49
4.10.4 The Connétable of St. John:.....	49
4.10.5 The Connétable of St. John:.....	49
4.10.6 Deputy K.F. Morel:.....	49
4.11 Deputy G.P. Southern of the Minister for Social Security regarding measures to alleviate any hardship caused by the rise in gas tariffs (OQ.210/2021):	50
Deputy J.A. Martin of St. Helier (The Minister for Social Security):	50
4.11.1 Deputy G.P. Southern:	50
4.11.2 The Connétable of St. Martin:	50
4.11.3 Deputy R.J. Ward:	50
4.11.4 Senator S.Y. Mézec:	50
4.11.5 Senator S.Y. Mézec:	51
4.11.6 Deputy G.P. Southern:	51
4.12 Deputy R.J. Ward of the Minister for Children and Education regarding class sizes in Jersey’s schools (OQ.203/2021):	52
Deputy S.M. Wickenden of St. Helier (The Minister for Children and Education):	52
4.12.1 Deputy R.J. Ward:	52
4.12.2 Deputy M. Tadier:.....	52
4.12.3 Deputy M. Tadier:.....	52
4.12.4 Deputy I. Gardiner:	53
4.12.5 Deputy I. Gardiner:	53
4.12.6 Senator T.A. Vallois:	53
4.12.7 Senator T.A. Vallois:	53
4.12.8 Senator S.Y. Mézec:	54
4.12.9 Senator S.Y. Mézec:	54
4.12.10 Deputy R.J. Ward:	54

4.13 Senator S.Y. Mézec of the Chief Minister regarding the prospect of a public inquiry into the Government’s response to the Covid-19 pandemic (OQ.201/2021):	54
Senator J.A.N. Le Fondré (The Chief Minister):	54
4.13.1 Senator S.Y. Mézec:	55
4.13.2 Deputy R.J. Ward:	55
4.13.3 Deputy I. Gardiner:	56
4.13.4 Senator S.Y. Mézec:	57
4.14 Deputy I. Gardiner of the Minister for Health and Social Services regarding the prospect of treating Covid-19 as an endemic, rather than pandemic (OQ.207/2021):	58
The Deputy of St. Ouen (The Minister for Health and Social Services):	58
4.14.1 Deputy I. Gardiner:	58
4.14.2 Deputy R.J. Ward:	58
4.14.3 Deputy R.J. Ward:	59
4.14.4 Deputy M.R. Higgins:	59
4.14.5 Deputy I. Gardiner:	59
4.15 Deputy L.M.C. Doublet of the Minister for Economic Development, Tourism, Sport and Culture regarding the ability of children in the Island to access swimming pools and swimming lessons (OQ.212/2021):	60
Deputy H.C. Raymond of Trinity (Assistant Minister for Economic Development, Tourism, Sport and Culture - <i>rapporteur</i>):	60
4.15.1 Deputy L.M.C. Doublet:	60
5. Questions to Ministers without notice - The Minister for International Development	61
5.1 Deputy S.M. Ahier:	61
Deputy C.F. Labey of Grouville (The Minister for International Development):	61
5.1.1 Deputy S.M. Ahier:	62
5.2 The Connétable of St. Martin:	62
5.2.1 The Connétable of St. Martin:	62
5.3 Senator K.L. Moore:	63
5.4 Senator S.Y. Mézec:	63
5.4.1 Senator S.Y. Mézec:	63
5.5 Deputy J.M. Maçon:	64
5.6 The Connétable of Grouville:	64
LUNCHEON ADJOURNMENT PROPOSED	64
LUNCHEON ADJOURNMENT	64
6. Questions to Ministers without notice - The Minister for Treasury and Resources	65
6.1 The Connétable of Grouville:	65
Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):	65
6.2 The Connétable of St. John:	65
6.2.1 The Connétable of St. John:	66
6.3 Deputy S.M. Ahier:	66
6.3.1 Deputy S.M. Ahier:	66
6.4 Senator K.L. Moore:	66
6.4.1 Senator K.L. Moore:	66
6.5 Deputy R.J. Ward:	67

6.5.1 Deputy R.J. Ward:	67
6.6 Deputy M. Tadier:	67
6.6.1 Deputy M. Tadier:	68
6.7 Deputy K.F. Morel:	68
6.7.1 Deputy K.F. Morel:	68
6.8 Deputy G.P. Southern:	68
6.8.1 Deputy G.P. Southern:	69
6.9 The Connétable of St. John:	69
6.9.1 The Connétable of St. John:	69
7. Questions to Ministers without notice - The Chief Minister	69
7.1 Deputy M.R. Higgins:	69
Senator J.A.N. Le Fondré (The Chief Minister):	69
7.1.1 Deputy M.R. Higgins:	70
7.2 Connétable D.W. Mezbourian of St. Lawrence:	70
7.2.1 The Connétable of St. Lawrence:	70
7.3 Deputy L.M.C. Doublet:	70
7.3.1 Deputy L.M.C. Doublet:	71
7.4 Senator S.Y. Mézec:	71
7.4.1 Senator S.Y. Mézec:	71
7.5 Deputy K.F. Morel:	72
7.5.1 Deputy K.F. Morel:	72
7.6 Deputy K.G. Pamplin of St. Saviour:	72
7.6.1 Deputy K.G. Pamplin:	72
7.7 Deputy M. Tadier:	73
7.7.1 Deputy M. Tadier:	73
7.8 Senator K.L. Moore:	73
PUBLIC BUSINESS	74
8. Reduction of lodging period	74
8.1 Deputy K.C. Lewis (The Minister for Infrastructure):	74
9. Draft Road Traffic (No. 68) (Jersey) Regulations 202- (P.39/2021) - as amended (P.39/2021 Amd.)	76
9.1 Deputy K.C. Lewis (The Minister for Infrastructure):	76
9.1.1 Connétable M.K. Jackson of St. Brelade:	77
9.1.2 Deputy J.M. Maçon:	77
9.1.3 Deputy D. Johnson of St. Mary:	78
9.1.4 Deputy R.J. Ward:	78
The Attorney General:	79
9.1.5 Deputy K.C. Lewis:	79
9.2 Deputy K.C. Lewis:	81
9.2.1 The Connétable of St. Brelade:	81
9.2.2 The Deputy of St. Martin:	81
9.2.3 Deputy K.C. Lewis:	81
10. Draft Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202- (P.51/2021) - as amended	83
10.1 Deputy S.J. Pinel (The Minister for Treasury and Resources):	83
10.1.1 Senator K.L. Moore:	84

10.1.2 Deputy S.J. Pinel:.....	86
10.2 Deputy S.J. Pinel:	87
10.2.1 Deputy R.J. Ward:	88
10.2.2 Deputy S.J. Pinel:.....	88
10.3 Deputy S.J. Pinel:	89
11. Draft Planning and Building (Amendment No. 8) (Jersey) Law 202- (P.76/2021)...	90
11.1 Deputy J.H. Young (The Minister for the Environment):	90
11.2 Draft Planning and Building (Amendment No. 8) (Jersey) Law 202- (P.76/2021) - reference back.....	93
11.2.1 Deputy J.M. Maçon:	94
11.2.2 Deputy G.C. Guida of St. Lawrence:.....	94
11.2.3 Deputy L.M.C. Doublet:	94
11.2.4 Deputy S.M. Wickenden:.....	94
11.2.5 Connétable J. Le Bailly of St. Mary:	95
11.2.6 Deputy R. Labey:	95
11.2.7 Senator S.C. Ferguson:	95
11.2.8 The Deputy of St. Martin:	96
11.2.9 Deputy J.H. Young:	96
11.2.10 Deputy R.J. Ward:	98
11.2.11 The Connétable of Grouville:	99
11.3 Draft Planning and Building (Amendment No. 8) (Jersey) Law 202- (P.76/2021) - resumption	100
11.3.1 The Connétable of Grouville:	100
11.3.2 Deputy J.M. Maçon:	101
11.3.3 Deputy M.R. Higgins:.....	101
11.3.4 Deputy K.F. Morel:.....	101
11.3.5 The Connétable of Trinity:	101
11.3.6 The Connétable of St. Ouen:.....	102
11.3.7 Deputy R. Labey:	102
11.3.8 The Connétable of St. Brelade:.....	104
11.3.9 Deputy G.C. Guida:	104
11.3.10 Deputy M. Tadier:	104
11.3.11 The Deputy of St. Martin:.....	105
11.3.12 Deputy J.H. Young:	106
ADJOURNMENT	111

[9:31]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

The Bailiff:

1.1 Welcome to His Excellency the Lieutenant Governor

On behalf of Members I would like to welcome His Excellency to the Chamber this morning.
[Approbation]

1.2 Adjournment due to technical issue

I have been notified by the Greffier that we have to reset up the meeting, I am afraid, because at the moment outside members of the public will have access to the chat. That has happened on one occasion in the past and we have had to reset the system. We will have to adjourn for a short period and I will return as soon as I am advised that we can proceed in a proper way.

[9:40]

ADJOURNMENT

[10:11]

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

2. Nomination of the Connétable of St. Clement as a member the Planning Committee

The Bailiff:

There is one item under F, which is Appointment of Ministers, Committees and Panels. There is a nomination for a member of the Planning Committee and I ask the chair to make that nomination.

2.1 Connétable P.B. Le Sueur of Trinity (Chair, Planning Committee):

I would like to nominate the Constable of St. Clement as the final member of the Planning Committee.

The Bailiff:

Is that nomination seconded? **[Seconded]** Are there any other nominations? If there are no other nominations then I declare that the Connétable of St. Clement is appointed to the Planning Committee.

QUESTIONS

3. Written Questions

3.1 Deputy R.J. Ward of St. Helier of the Chair of the Comité des Connétables regarding the implementation of the proposition ‘Green Lanes and Quiet Lanes: priority to pedestrians, cyclists and horse riders’ (P.79/2020) (WQ.356/2021):

Question

Will the Chair advise what measures have been undertaken to implement the actions set out in ‘Green Lanes and Quiet Lanes: Priority to Pedestrians, Cyclists and Horse Riders (P.79/2020), as amended, since the proposition’s adoption in June 2020?

Answer

Since the States approval of P.79/2020, as amended, on 15 July 2020 the Comité des Connétables has been working with the Minister for Infrastructure and officers to consider the necessary changes to legislation to give priority in law to pedestrians, cyclists and horse riders in designated

roads in the Parishes and so that vehicular traffic should only be allowed in such designated roads for essential travel.

At its meeting in September 2020 (the first meeting after the States approval of the proposition) the Comité established a sub-committee to progress the work. The sub-committee identified the need for advice to be able to establish a watertight definition of “essential travel” that would be capable of enforcement. That was considered by the Comité which then met with the Minister for Infrastructure.

Following further advice, the sub-committee met with officers of Infrastructure, Housing and Environment (IHE) Department to consider proposals for signage on Green Lanes and the use of “Access only” to restrict traffic on roads.

The Comité considered a further paper from the sub-committee at its meeting on 6 September 2021 so the Deputy’s question is timely. The paper referred to other developments since the States adopted P.79/2020 (the vote was Pour: 25; Contre: 20; Absent: 4).

These developments clearly impact upon the States decision on P.79/2020 and include –

- the adoption of the proposition of the Connétable of St. Martin “Improvements to Road Safety” P.5/2021 as amended (the vote was Pour: 47; Contre: 0; Abstain: 0);
- the review of Road Safety which will feed into the Roads Law review (Ministerial Decision MD-T-2021-0024);
- the ongoing Speed Limit review;
- the Sustainable Transport Policy and
- work between Parishes, the Minister for Infrastructure and other group on the development of cycle routes.

A “hierarchy of road users”, i.e. setting out a priority for road users, is clearly desirable and may be achieved through the adoption of P.5/2021. It may also apply to all roads and not just those which are designated. Part of this proposition also relates to the education of road users.

In relation to restricting access in designated roads to “essential travel”, the Connétables have concerns that this may discriminate against those with limited mobility. The original concept of the Green Lanes included use for sightseeing and one of the 5 main priorities of the disability strategy is to give “greater access to the Island”.

The Comité will consider a further report at its next meeting in October 2021. This is likely to address the difficulty of enforcement, the need for a hierarchy of road users, and that Green Lanes should not be blocked or restricted to access only and should continue to be used for scenic journeys. It is our hope that Deputy Ward will be able to attend that meeting so that we may reach a decision on the next steps.

3.2 Senator S.Y. Mézec of the Chief Minister regarding income inequality (WQ.357/2021):

Question

What objective statistical evidence does the Chief Minister have to demonstrate whether income inequality has either increased or reduced during his term of office?

Answer

Income inequality in Jersey is measured in detail via the Living Costs and Household Income Survey (formerly the household Income Distribution Report. The last income distribution data published was from the ‘Jersey household Income Distribution Report 2014/15’ published in November 2015. Statistics Jersey started the Living Costs and Household Income Survey in mid-

2019 but this household survey had to be cancelled in March 2020 due to Covid-19 restrictions, with only around half the expected number of responses.

Having consulted with the Chief Statistician, Statistics Jersey have not yet been able to process and analyse the results from the 2019-20 survey, but are using their best endeavours to ensure that this data is analysed and published during Q1 2022. As the Senator will be aware from a number of statements in the Assembly, the Chief Minister shares his frustration over the lack of up to date statistical evidence on income inequality in Jersey, the Council of Ministers has ensured that Statistics Jersey has been funded to restart the Living Costs and Household Income Survey – first responses will be collected this month.

It should also be noted that the Council of Ministers has undertaken a number of measures to assist Islanders in lower income brackets in Jersey including; subsidising GP fees for up to 12,000 Islanders on Income Support or Pension Plus; increasing the minimum wage three separate times for a total rise of 5.6% since April 2019. Furthermore, Andium rents have been frozen for 2021 with further announcements being included in the forthcoming Government Plan; Emergency Tenancy legislation introduced to protect tenants from financial hardship during COVID-19 and provided additional financial support for families on income support with children, and not forgetting the payments made in parallel to the Spend Local Card.

3.3 Deputy L.M.C. Doublet of St. Saviour of the Minister for the Environment regarding the Intergovernmental Panel on Climate Change (I.P.C.C.) report ‘Climate Change 2021: The Physical Science Basis’ (WQ.358/2021):

Question

Will the Minister advise whether he has read the recent Intergovernmental Panel on Climate Change (I.P.C.C.) report ‘Climate Change 2021: The Physical Science Basis’; and, if so, what assessment has he made of any further actions that Jersey needs to take beyond the existing commitments laid out in the Carbon Neutral Strategy, and elsewhere, in light of this new evidence?

Answer

I have been briefed by SP3 officers on the recent Intergovernmental Panel on Climate Change (IPCC) report. I agree this is extremely important as the science is unequivocal and the message is clear: we must act on our declared climate emergency. The report highlights that strong, rapid and sustained reductions in emissions are required.

The report focuses on the impacts of warming which will be severe even with countries achieving their targets laid out in international agreements. Jersey is not exempt from the devastating impacts of this warming. With further global warming, every region is projected to increasingly experience changes. Changes in climate will be more widespread and severe at 2°C compared to 1.5°C global warming and even more pronounced for higher warming levels. The imperative to limit warming to 1.5°C has never been clearer.

The States Assembly declared a climate emergency and we already committed to an ambitious emissions reduction programme and a just transition. Since this declaration and the publication of the Carbon Neutral Strategy, we have used the citizens’ assembly to gather the thoughts of our local citizens on how we should achieve this. The detailed plan will be presented in the Carbon Neutral Roadmap which will be launched for consultation at the end of 2021 and brought forward to the States Assembly for debate in early 2022.

Much work has gone on since our in-committee debate. Our officers are currently drafting the Preferred Strategy for the Carbon Neutral Roadmap with a group of Ministers and Non-Executive States Members led by my Assistant Minister, Deputy Guida. This will be submitted

to the Council of Ministers very shortly. It will set out a new emissions reduction trajectory following science-based targets which will be published in mid-October.

Notes:

Headline Statements from the Summary for Policymakers

[AR6 WGI Summary for Policymakers Headline Statements \(ipcc.ch\)](https://www.ipcc.ch/summary-for-policymakers/)

9 August 2021 (subject to final copy-editing)

3.4 Deputy K.F. Morel of St. Lawrence of the Minister for the Environment regarding visitors to Les Écréhous (WQ.359/2021):

Question

Will the Minister advise members whether the number of visitors to Les Écréhous is monitored and quantified, and, if so, whether there has been an increase; and, furthermore, will he commit to investigating reports of visitors to Les Écréhous disturbing wildlife and causing damage to the reef's unique natural environment?

Answer

In 2020, Natural Environment installed three time lapse cameras on Les Écréhous Reef to record the number of visiting boats. Unfortunately, this project has experienced several setbacks, not least, with people turning the cameras away from the mooring areas.

Notwithstanding, there are 1,085 images from the reef this year and recording will continue during the autumn. These images are yet to be processed.

The number of visitors has increased, and this seem a consequence of COVID when travel by private boat to France has not always been possible.

The new Wildlife (Jersey) 2021 came into force in June this year. The law provides for a more robust protection of our wildlife. Officers are committed to continue to investigate all reports of potential offences at Les Écréhous. They have worked closely with members of the Écréhous Residents Association, the Société Jersiaise and rib operators so that disturbance to wildlife and damage to the reef's unique natural environment is minimised. The Marine Resources rib is available for fast access by officers to the reef. This work continues to be a priority,

3.5 Deputy S.M. Ahier of St. Helier of the Minister for Treasury and Resources regarding bonuses to Executive Directors of Subsidiary Companies (WQ.360/2021):

Question

Will the Minister, as shareholder representative, state what action, if any, she has taken to ensure she is satisfied that the payment of bonuses to Executive Directors of Subsidiary Companies (as outlined in the respective 2020 Annual Reports) is justified; and is it her intention to review all such bonus payments – as well as the levels of emoluments – before the end of this term?

Answer

Each of the wholly-owned States-owned Entities (“SOEs”) operate in accordance with the Principles of the 2018 UK Corporate Governance code, especially in the area of remuneration. The remuneration of the Executive Directors of these SOEs is also a subject addressed in the respective Memorandum of Understandings (“MoUs”). The new MoUs provide that changes to either the structure or quantum of remuneration paid to Executive Directors for their executive responsibilities, including those relating to bonus payments, are to be approved by the Shareholder in advance of them taking effect.

In practice, each SOE has a Remuneration Committee (“RemCom”), comprised of independent non-executive directors, that sets the KPIs and objectives on which Executive Director performance will be measured for the ensuing year. The KPIs are specific to each individual executive and are usually a combination of personal and company objectives and targets. That same Committee will be responsible for the assessment of performance during and following the end of the company’s financial year-end.

The Assistant Minister for Treasury and Resources meets with and agrees the Executive Director KPIs and objectives with the RemCom, under his delegated authority. The Assistant Minister discusses Executive Director performance on an ongoing basis with the RemComs and then finally at the year-end when the RemComs have completed their assessments of the previous year. All of this supports the final decision of the Assistant Minister, on behalf of the Shareholder, to approve or otherwise the Executive Director bonuses on an annual basis. In considering requests for approval for bonus payments and changes to the structure or quantum of the remuneration of the Executive directors, research is undertaken, and independent advice is sought, as appropriate, to ensure that the proposed award or change is commensurate with market levels.

Accordingly, in view of the existing robust review and approval process, it is not my intention to review the bonus payments and levels of emoluments outlined in the respective 2020 Annual Reports of the SOEs. This would be a repetition of the work already undertaken throughout the year through open and honest dialogue between the SOEs and the Assistant Minister.

However, work has commenced on commissioning a professional advisor to assist with the formulation of a Remuneration policy which will provide principles and a framework within which SOE RemComs will be required to design their remuneration strategies. It is intended that this policy will be adopted in the first half of next year.

3.6 Senator K.L. Moore of the Chair of the States Employment Board regarding employment numbers of the States of Jersey (WQ.361/2021):

Question

Will the Chair provide –

- (a) details of the number of people who joined the employment of the States of Jersey each year from 2017 and the number who left in each year; and
- (b) identify, for each year, how many of the individuals appointed moved to the Island to take up their role?

Answer

Below is a table showing, by year, the number of joiners and leavers into the Government of Jersey. The table also shows the number of licensed staff; these are staff who are given a special residency license to move to the island and able to access accommodation in the island:

Year	Joiners	Licensed Joiners ¹	Leavers
2017	708	105 14.8%	504
2018	681	157 23.1%	518
2019	703	153 21.8%	477

¹ % of joiners

2020	801	111	13.9%	520
2021	653	71	10.9%	447

Excludes:

- Zero Hour Staff
- Non-States / Government of Jersey Workers
- Data Protection Commission

3.7 Connétable of St. Brelade of the Minister for Infrastructure regarding the cost of contracting out estate management (WQ.362/2021):

Question

Will the Minister advise members what assessment, if any, has been undertaken of the policy of contracting out estate management, as opposed to using ‘in-house’ staff, and whether any such assessment has judged the policy to be successful; and will he provide an outline of any cost savings that have been achieved through this policy?

Answer

Discrete activities under the estate management umbrella are currently contracted out, elements of property maintenance and individual valuations sales or rent reviews where there are insufficient resources internally to manage the workload. The discrete packages avoid commercial conflicts of interest and allow competition for the work, however, even with competitive tender, the packages of work are more expensive than keeping the functions in house.

No formal assessment has been undertaken to contract out the entire management of the estate as it is assessed to be more expensive and less responsive than keeping it in house.

3.8 Deputy R.J. Ward of St. Helier of the Minister for Infrastructure regarding the changes in legislation to give effect to P.79/2020 (‘Green Lanes and Quiet Lanes: priority to pedestrians, cyclists and horse riders’) (WQ.363/2021):

Question

Will the Minister advise what actions, if any, have been undertaken to progress the necessary changes to legislation required to give effect to P.79/2020 (Green Lanes and Quiet Lanes: Priority to pedestrians, cyclists and horse riders)?

Answer

My officers have brought forward legislative proposals to support the Comité des Connétable in their endeavours with P.79/2020. Officers from the Operations and Transport Directive have met with a sub-committee of the Comité des Connétable to present and discuss the details.

The Operations and Transport Directive is awaiting the conclusion of the Comité’s deliberations before acting further.

3.9 Deputy K.F. Morel of St. Lawrence of the Minister for Infrastructure regarding recycling electric vehicle car batteries (WQ.364/2021):

Question

In respect of the recycling of electric vehicle car batteries, would the Minister –

- (a) describe the current process put in place by his department to ensure the effectiveness of such recycling; and
- (b) advise whether there are costs borne by his department in order to achieve such recycling or whether revenue is generated by the process?

Answer

- (a) At this point in time my department does not accept waste electric vehicle car batteries as it does not have a route to dispose of them safely. If a customer or business has an electric car battery to dispose of, we advise them that they need to contact the local dealer that sold the vehicle for that dealer to dispose of the battery.

The department is investigating options available for the safe recycling of electric vehicle batteries as it is inevitable that we will see some that arrive on our sites in the future due to the increased popularity of these vehicles.

- (b) Therefore, there are currently no costs borne by my department.

3.10 Senator K.L. Moore of the Minister for Treasury and Resources regarding the Common Investment Fund (WQ.365/2021):

Question

With reference to the recently published States Investment Strategies (R.131/2021), will the Minister outline the fees paid each year since 2011 for the management and administration of the various funds held in the Common Investment Fund?

Answer

The table on the following page illustrates the fees paid across the various investment classes in the Common Investment Fund ('CIF'). To give context to the values, fees have also been stated as a % of year end net asset values invested and detailed against the performance generated that year. Fees are split between Manager Fees, Advisor Fees, Custodian Fees, and Administration Fees.

- Managers Fees are those levied by the CIF investment managers, which includes both fixed and performance fees.
- Advisory Fees are primarily levied by the States Investment Advisor and are incurred through advice received on the appointment and removal of managers, additions and divestment from asset classes, ongoing monitoring and due diligence, and the attendance of, and advice provided to, the Treasury Advisory Panel ("TAP").
- Custodian Fees are levied by the States Custodian for the holding of the States investment assets, facilitation of portfolio trading and the maintenance and reporting of accounting and performance data.
- Administration Fees are primarily the recharging of GOJ costs incurred through the oversight, administration and operation of the States Investment Portfolios.

By far the most material cost charged to the CIF relates to Manager fees. Fees must be considered in the context of the quantum of assets being managed and critically the returns they generate. By the end of 2020, the CIF was valued at £3,896 million, over the preceding ten years of operation, the CIF has delivered investment returns equal to an estimated £2,324.3m, roughly 12 times the level of fees incurred (£190.0m).

Manager fees remained broadly static as a % of assets under management until 2016, the subsequent rise relates primarily to the addition of the Absolute Return (hedge fund) Pool to the strategic mix of CIF investment classes. The addition of the Absolute Return class was in response to high market valuations and was a deliberate strategy to both diversify sources of return and reduce correlation of those returns with markets. TAP monitor the pool carefully, reviewing performance at least quarterly, but also hold an annual day specifically to assess in more detail the performance of the pool and level of fees paid to underlying Funds.

Hedge Fund Fees are a combination of fixed fees and a performance element and the sharp rise seen in 2020 stemmed from significant outperformance generated in that year. The gross return of the Absolute Return Pool in 2020 was £75.2 million whereas fees rose to c.£19.6m in 2020 (3.5% of the pool closing net asset value) The total return over the life of the Absolute Return asset class is currently c.£135m – two and half times the level of fees (c.£53m).

Fees paid per category per year:

FEES PAID	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
	£m	£m	£m	£m	£m	£m	£m	£m	£m	£m
Manager Fees	(£3.0)	(£7.0)	(£9.9)	(£12.7)	(£13.1)	(£20.9)	(£22.7)	(£22.3)	(£29.3)	(£38.9)
Advisory Fees	(£0.4)	(£0.1)	(£0.3)	(£0.1)	(£0.6)	(£0.4)	(£0.5)	(£0.7)	(£0.6)	(£0.7)
Custodian Fees	(£0.7)	(£0.2)	(£0.3)	(£0.6)	(£0.6)	(£0.5)	(£0.4)	(£0.5)	(£0.5)	(£0.5)
Administration Fees	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	(£0.2)	(£0.2)	(£0.2)	(£0.2)
Total Fees	(£4.1)	(£7.3)	(£10.5)	(£13.4)	(£14.3)	(£21.8)	(£23.8)	(£23.7)	(£30.6)	(£40.3)
Investment gain/(loss) gross of fees	£10.8	£139.9	£271.4	£220.2	£90.8	£480.2	£368.1	(£77.3)	£499.0	£321.2
Investment gain/ (loss) net of fees	£6.7	£132.6	£260.9	£206.8	£76.5	£458.4	£344.3	(£101.0)	£468.4	£280.9

To give context to the above numbers, fees are illustrated as a % of net asset value as at the yearend in the table below.

Fees as a % of closing net asset value invested:

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
	£m	£m	£m	£m	£m	£m	£m	£m	£m	£m
CIF NAV (closing)	£1,268.1	£1,549.7	£2,372.4	£2,862.4	£2,943.4	£3,341.8	£3,695.1	£3,567.9	£3,936.6	£3,895.5

Manager Fees	0.24%	0.45%	0.42%	0.44%	0.45%	0.63%	0.61%	0.63%	0.74%	1.00%
Advisory Fees	0.06%	0.01%	0.01%	0.02%	0.02%	0.01%	0.01%	0.01%	0.01%	0.02%
Custodian Fees	0.03%	0.01%	0.01%	0.00%	0.02%	0.01%	0.01%	0.02%	0.02%	0.01%
Administration Fees	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.01%	0.01%	0.01%	0.01%
Total Fees	0.32%	0.47%	0.44%	0.47%	0.49%	0.65%	0.64%	0.66%	0.78%	1.03%

Note, columns may not sum due to rounding to the closest 0.01%

3.11 Connétable of St. Brelade of the Chief Minister regarding a debrief on Covid-19 (WQ.366/2021):

Question

Will the Chief Minister outline what plans, if any, he has to conduct a debrief for States members and officials in relation to the Covid-19 pandemic outbreak, in order to ensure that the Government is better prepared to protect both the health and economic wellbeing of Islanders arising from any future pandemics or similarly disruptive events?

Answer

The Chief Minister and the Minister for Health and Social Services are committed to regular and transparent States Members' briefings on COVID-19 matters. States Members' briefings are held on a regular basis and encompass both the decisions reached and the supporting evidence for those decisions. In addition, a range of scrutiny panels are briefed regularly but also carry out research on key topics which encompass public hearings and public reports. These briefings and processes supplement the vital role States Members play in raising questions with Ministers and participating in relevant Assembly debates.

Provided the Island remains in a good position and comes through the winter period, we would of course arrange a debrief for States Members probably in March / April. However, at this time the Government of Jersey continues to treat COVID-19 as a Pandemic Emergency. It is therefore important, especially in a community of our limited size, that scarce resources of the government are devoted largely to the ongoing threat posed by COVID-19, which is considerable. A range of capabilities within Government including health services, public health, emergency planning and our test and trace teams continue to incorporate learning and feedback, including from States Members, into the ongoing management of their functions.

As previously confirmed, the Government of Jersey intends to work with the Bailiwick of Guernsey to review emergency planning and preparedness for a pandemic on a pan-Island basis, at a stage when the current pandemic is formally declared as concluded.

3.12 Connétable of St. Brelade of the Minister for External Relations regarding meetings with representatives from Normandy and Brittany (WQ.367/2021):

Question

Will the Minister advise whether he plans to have direct meetings with political representatives for Normandy and Brittany in order to arrive at an agreement that will ensure Jersey can manage its marine resource as laid out in the UK-EU Trade and Economic Cooperation Agreement (T.E.C.A.) agreement, and if so, when?

Answer

On Monday 6th September, I attended an online meeting with the President of the Normandy Region and the President of La Manche to discuss progress on the implementation of the fisheries aspects of the UK-EU Trade and Co-operation Agreement (TCA) so far as they apply to Jersey and Normandy.

The Connétable will be aware that Jersey hosted the annual Channel Islands-Normandy political summit on Friday 24th September. The summit was attended by the President of the Normandy Region, the President of La Manche and the Préfet of La Manche and included important and constructive discussions on the further progress made in meeting the fisheries aspects of the TCA. The statement issued following the summit can be read [here](#).

In addition, discussions at a technical level take place on a very regular basis.

I held an online meeting with the President of Brittany on 14 January. Officials in the Bureau Des Îles Anglo-Normandes have since sought to regularly engage with colleagues in Brittany. Further discussions at political and technical level have been offered and I am scheduled to attend a further meeting with the President of Brittany on 29 September.

3.13 Deputy M.R. Le Hegarat of St. Helier of the Minister for the Environment regarding glasshouse sites (WQ.368/2021):

Question

Will the Minister inform members of the following –

- a) the number of glasshouse or polytunnel sites no longer in active use;
- b) the length of time that they have been derelict for;
- c) what, if any, actions are being taken by government to see these sites restored to agricultural use or adapted for another purpose; and
- d) the reason why none of these sites was nominated for affordable housing in the Bridging Island Plan?

Answer

a) and b) Information about the amount and use of land under glass or polytunnels is set out in the [agricultural statistics report](#) the latest of which, for 2018, was published in September 2020.

Relevant extracts from this report are set out below which indicate that 43.5% of land under glass; and 15% of land under polytunnels has not been actively cropped in the last 12 months (as of the end of 2017).

The fact that land under glass or polytunnels has not been actively cropped does not necessarily render the structures derelict; however, the viability of using them for productive agricultural use will likely decrease over time where they are no longer used and maintained.

Table 10: Glasshouse areas (m²)

	2014	2015	2016	2017	2018
	m ²	m ²	m ²	m ²	m ²
Glasshouses under 5 years	5,800	5,800	0	0	0
Glasshouses 5 - 10 years	12	12	5,812	5820	5,020
Glasshouses 10-15 years	26,019	20,131	16,131	0	800
Glasshouses over 15 years	193,639	199,527	189,914	168,480	149,012
Total area of glasshouses	225,470*	225,470*	211,857*	174,300*	154,832
Of which:					
Area not cropped in last 12 months	24,150	21,468	30,878	30,590	67,334
% not cropped of production area	10.7	9.5	14.5	17.5	43.5

Note: data does not include garden centres, parks & gardens and derelict/rezoned glasshouse sites.

Source: Agricultural statistics report (2018)

Table 12: Polythene Tunnel Areas (m²)

	2014	2015	2016	2017	2018
	m ²	m ²	m ²	m ²	m ²
<i>Area of Multi Span</i>	94,145	97,281	88,275	82,257	59,467
<i>Area of Single Span</i>	54,777	53,945	51,235	53,918	53,121
<i>Total area of polythene tunnels</i>	148,922	151,226	139,510	136,175	112,588
<i>Of which:</i>					
<i>Area not cropped in last 12 months</i>	19,857	17,263	16,796	16,845	16,897
<i>% of production area not cropped</i>	13	11	12	12	15

Source: Agricultural statistics report (2018)

c) The States Assembly sets the planning policy framework for the management of derelict and redundant glasshouses in the Island Plan.

In the current Island Plan this is contained in [Policy ERE 7: Derelict and redundant glasshouses](#). The key elements of this policy are as follows:

- glasshouses which have become surplus to the requirements of the existing user, but which are considered to be of value to the horticultural industry, should be retained in the industry and advertised for sale or rent.
- where glasshouses are no longer viable to the horticultural industry and a 'disuse and disrepair' condition is attached to the planning permission, then the landowner will be required to comply with that condition.
- in exceptional circumstances, the development of redundant and derelict glasshouse sites may be considered for non-agricultural purposes, provided that the amount of development permitted will be the minimum required to ensure a demonstrable environmental improvement of the site by the removal of the glasshouses and any contaminated material, the reduction in the area of buildings, and the repair to the landscape.

The draft Island Plan contains similar policy provisions at [Policy ERE6 – Derelict and redundant glasshouses](#).

d) To ensure that the development needs of the island can be met, as far as possible, over the plan period of the bridging Island Plan, the Minister for the Environment invited landowners to put forward sites that were available and which might be considered and assessed for their development potential, as part of the Island Plan Review 'call for sites' process. This enabled the owners of land - including the owners of derelict and redundant glasshouses and polytunnels – to submit their sites for consideration.

Any site considered as part of this process was assessed against a range of planning criteria, including the existing use of the land, as set out below.

Assessment criteria		Classification	Rating
Spatial strategy	Settlement Integration:	Within or edge of primary or secondary centre	4
		Within or edge of local centre	3
		Within or edge of smaller settlement	2
		No integration	1
Accessibility	Accessibility & suitability	Very high accessibility rating (rating above 80)	5
		High accessibility rating (rating above 60-80)	4
		Medium accessibility rating (rating above 40-60)	3
		Low accessibility rating (rating below 20-40)	2
		Very low accessibility rating (rating below 20)	1
Landscape analysis	Countryside Character Area (ILSCA)	Urban area	7
		Interior agricultural land	6
		St Clement & Grouville coastal plain	5
		St Ouen's Bay & Quasine coastal plain	4
		Escarpment	3
		Enclosed valleys	2
		Cliffs and headlands	1
Use	Existing use of site:	Brownfield	4
		Glasshouse	3
		Agricultural field	2
		Open space/recreation/community use	1

Table HSA2: Site suitability analysis criteria

Source: Housing land availability and assessment of sites report (2018)

In this respect, therefore, any derelict and redundant glasshouse or polytunnel sites submitted and assessed through this process would have been considered against these relevant criteria; however, it is only those sites that performed best against these key planning criteria that have been taken forward for further assessment and review. The detail of the site assessment process, and the outcome of the initial assessment of sites, is set out in the [housing land availability and assessment of sites report](#).

Those sites proposed for rezoning in the draft plan, to help meet the need for affordable homes, are those that are considered to be most acceptable in planning terms.

It is relevant to note that island's agricultural industry has been undergoing change for some considerable time, including the cessation of tomato growing for export in 2008. Since that time, a number of those former glasshouse sites most suited for development for other uses, specifically the development of homes, where they were well-located relative to the island's built-up areas, have already been redeveloped through their rezoning in previous Island Plans. This includes the following sites:

- De la Mare Nurseries, Rue a Don, Grouville (now Jardin de la Mare)
- Samarès Nursery, Grande Route de St Clement, St Clement (now Clos de la Colonie +)
- Field 274, La Louderie, St Clement (now Hameau de la Mer)
- Fields 561 and 562, Rue du Maistre, St Mary (now Jardin de Haut)
- Fields 203, part 204 and 252, Rue de Jambart, St Clement (now Clos du Corvez)
- Hodge Nurseries, Grande Route de St Clement, St Clement (now Clos de L'Abri)
- Fields 786 and 787, La Rue des Cosnets, St Ouen (now La Ville Vautier)

The remaining stock of older derelict and redundant glass is generally considered to be less well-suited to redevelopment for affordable homes because of, amongst other issues, its relatively remote location and potential to generate significant trip generation, and potentially damaging impact on the character of the countryside.

3.14 Deputy L.M.C. Doublet of St. Saviour of the Minister for Children and Education regarding the Corporate Parenting Board's minutes (WQ.369/2021):

Question

Will the Minister provide (and commit to publishing as a matter of urgency) the minutes of the Corporate Parenting Board's last meeting held on 11th September 2020, together with copies of all the accompanying meeting documents as requested in Written Question [355/2021](#)?

Answer

Written Question 355/2021 does not ask for copies of any accompanying documents, for ease of reference the text is copied below:

“Will the Minister provide the dates and Minutes of the last 3 meetings of the Corporate Parenting Board and also provide details of any meetings which were cancelled, and the reasons for these cancellations?”

The response I provided on 26th July 2021 says:

The dates and minutes of Corporate Parenting Board meetings are published here:

<https://www.gov.je/Caring/Children/SocialCareService/ChildrensServicesImprovementPlan/Pages/CorporateParentingBoard.aspx>

Minutes of the last meeting held on 11th September 2020 will be published on the same page when they have been approved by the Board at its next meeting. Meetings scheduled for the end of 2020 and earlier in 2021 have been cancelled due to multiple changes in Ministerial Leadership.

In answer to this Written Question 369/2021:

The Minutes of the meeting held on 11th September 2020 were provided to the Deputy via email on Monday 20th September. The Minutes have also now been published on gov.je, in accordance with my previous answer, following their approval at the last meeting on Monday 20th September 2021.

3.15 Deputy R.J. Ward of St. Helier of the Minister for the Environment regarding the green algal bloom in St. Aubin's Bay (WQ.370/2021):

Question

Will the Minister advise what action, if any, apart from physical clearing has been undertaken to try to overcome the green algal bloom in St Aubin's Bay?

Answer

The quantity of nitrates entering St Aubin's Bay from land run-off and from the waste-water treatment works (WWTW) at Bellozanne impacts the growth of the nuisance weed, sea lettuce. Officers across my departments in IHE have recognised the importance of reducing levels of nitrates for some time, particularly given that the bay receives run-off from a large proportion of the island and the potential negative impact on drinking water standards and health (especially for households on private boreholes and wells).

Relevant stakeholders, including potato and dairy farmers and officers from Jersey Water and Natural Environment, have worked closely together in the Action for Cleaner Water Group for some time to reduce levels of nitrates in water across the island. This includes streams and groundwater entering the bay, and by default the quality of water being treated by the WWTW. Their collaborative work

has been very successful and average nitrate levels in streams and groundwater have reduced by one-third during the past 20 years (the annual average level of nitrates in streams is currently less than 50 mg/l).

The WWTW will be replaced in 2024. The new facility will result in lower levels of total nitrogen entering the bay and increased volumes of treatment during storm conditions leading to less shock loading of total nitrogen. These improvements will help limit the annual volume of this nuisance weed. A discharge permit issued under the Water Pollution (Jersey) Law 2000 will ensure that levels of potential pollutants (including total nitrogen) entering the Bay are regulated.

The excessive growth of sea lettuce in St Aubin's Bay is highly complex. Multiple factors contribute to its growth, including bay topography, land reclamation, sea temperatures, nutrient inputs and more.

Natural Environment officers undertake regular monitoring of St Aubin's Bay in line with the EU Water Framework Directive (WFD). This work gathers base line data to assess the chemical and ecological status of the bay. In 2015, following the collection of 3 years of data, the water quality of St Aubin's Bay was classified as 'moderate' according to the classification of the WFD. This was driven by the outcome of the opportunistic sea lettuce and the level of dissolved available inorganic nitrogen, both of which are indicators of nutrient enrichment. This classification is currently being updated.

Additional nutrient monitoring of the surf (inshore) zone of St Aubin's commenced in 2014. This will lead to a better understanding of the source and distribution of nutrients across the bay and identify the conditions responsible for the variation in the growth of sea lettuce. Over time, the data collected will be used to assess the impact of the expected decrease in nutrient loadings from the new WWTW and from the work of the AFCW group tackling land-based sources.

The IHE Operations & Transport directorate responsible for removal and disposal of sea lettuce along the amenity beach areas of St Aubin's Bay have increased the amount harvested and disposed of directly to suitable farm land this year. This provides the land owners with a source of organic fertiliser thereby reducing the amount of additional chemicals being used by the industry.

The estimated totals for sea lettuce removed this year between June and September (to 21 September) were: 2400 tonnes to land and 400 tonnes to the La Collette Green Waste site for composting.

It remains, that sea lettuce will always be present and that it will vary in quantity from year to year.

3.16 Deputy R.J. Ward of St. Helier of the Minister for the Environment regarding the Carbon Neutral Steering Group (WQ.371/2021):

Question

Will the Minister advise what criteria were used to select members of the recently formed Carbon Neutral Steering Group?

Answer

The Minister, with the agreement of the Chief Minister, requested the formation of a Carbon Neutral Steering Group (CNSG/the Group) which was to be comprised of both executive and non-executive members of the Assembly. The CNSG would be required to work at pace over the summer recess to provide a steer with which to direct the drafting of the Preferred Strategy which would feed into the Carbon Neutral Roadmap.

As the Island Plan programme is progressing at pace alongside the climate emergency programme, the Minister requested that their Assistant Minister, Deputy Guida, chair the group on their behalf.

Membership of the CNSG was determined using the following criteria:

- It was considered best that the Group did not include members of the Environment, Housing and Infrastructure Panel as they will be required to scrutinise its work.
- As the journey to Carbon Neutrality will cross many portfolios, it was recognised that it was important to engage with a multitude of ministries and that the Group would be a useful vehicle with which to do so. The following ministries were identified:
 - i. Economic Development, Tourism, Sport and Culture.
 - ii. Treasury and Resources.
 - iii. Infrastructure.
 - iv. Environment.
- It was deemed important that the membership of the Group include experienced scrutineers who could provide critical and constructive feedback.
- It was recognised that the Group should seek the views of the parishes where possible as they will play a crucial role in addressing climate change.
- The Group would seek gender balance where possible.

Based on the above criteria and the constraints on availability over the summer recess, the Group was ultimately comprised of the following members:

Executive

- Assistant Minister for the Environment, Deputy Guida (Chair).
- Minister for Infrastructure, Deputy Kevin Lewis.
- Assistant Minister for Treasury and Resources, Deputy Lindsay Ash.
- Assistant Minister for Economic Development, Tourism, Sport and Culture, Deputy Morel.

Non-executive

- Chair of the Comité des Connétables, Constable Mezbourian.
- Chair of the Economic and International Affairs Scrutiny Panel, David Johnson.

3.17 Connétable of St. John of the Minister for Children and Education regarding Corporate Parenting Board (WQ.372/2021):

Question

In respect the Corporate Parenting Board (“CPB”), will the Minister advise –

- (a) when the membership of the CPB last changed;
- (b) how new members were selected/appointed; and
- (c) how and when the new members of the board were notified?

Answer

- (a) The membership was updated in July due to changes in Ministerial post holders.
- (b) New members were selected/appointed by holding a relevant Ministerial position.
- (c) New members of the board were notified by receipt of calendar invites sent in July.

3.18 Connétable of St. John of the Minister for Health and Social Services regarding pay for a Theatre Nurse (WQ.373/2021):

Question

Will the Minister state the current annual rate of pay for a Theatre Nurse employed by the Health Department, and the estimated annual cost of hiring a Locum Theatre Nurse?

Answer

All Theatre Staff Nurses / Operating Theatre Practitioners are paid at level 4 of the States of Jersey Nursing and Midwifery pay scale.

Level 4 of this pay scale attracts an annual salary starting at £41,121, with four annual incremental points rising to £49,801.

In addition to the salary, there are additional costs to the department for social security and public employees' pension scheme employer contributions which mean that the total cost of employing a Staff Nurse / Operating Theatre Practitioner is £54,050 - £61,090 per annum.

Agency staff (Registered Nurse / Registered Operating Theatre Practitioner) cost the department on average £81,900 per annum to hire, depending on the experience of the individual and the agency fee (which can range from 10% to 15%). In addition, return flights at the beginning and at the end of the contract are paid. Accommodation is provided for the duration of the contract with the costs being shared equally between the individual and Health and Community Services.

Agency staff do not accrue paid annual leave, do not benefit from employer sick pay, nor are they able to participate in our public employees' pension scheme.

3.19 Connétable of St. John of the Minister for Health and Social Services regarding private medical procedures (WQ.374/2021):

Question

Will the Minister provide the number of private medical procedures carried out at the Hospital by employees of the States of Jersey for each of the last 5 years, and outline how this figure compares with expected level of private medical procedures, if any, by States of Jersey employees?

Answer

Private surgical health care is available for all surgical specialities on an elective (scheduled/booked) and emergency basis for those patients who wish to use their private health insurance or wish to self-pay for private surgical care.

It is estimated that 25,000 islanders have private health care insurance policies, either individually funded or provided through their employer. A number of patients choose to self-fund their care.

The following table illustrates the number of surgical procedures (including endoscopy) undertaken in the last five years (as well as the number undertaken this year to date), broken down by public and private, and including/excluding emergency procedures. The percentage of private procedures has remained broadly constant over the last five years.

	2016	2017	2018	2019	2020	2021 - as at 31.08.21
Total Private including Emergency Procedures	2400	2148	2196	2111	1681	1427
Total Public including Emergency Procedures	8752	8110	8091	8100	6266	4671
Total	11152	10258	10287	10211	7947	6098
Private as % Total including Emergency Procedures	22%	21%	21%	21%	21%	23%

Total Private excluding Emergency Procedures	2290	2037	2089	2011	1598	1371
Total Public excluding Emergency Procedures	7129	6592	6590	6594	5002	3775
Total	9419	8629	8679	8605	6600	5146
Private as % Total excluding Emergency Procedures	24%	24%	24%	23%	24%	27%

3.20 Deputy M.R. Higgins of St. Helier of the Minister for the Environment regarding contracts held between the States of Jersey and Simon Sand and Gravel Ltd (WQ.375/2021):

Question

Will the Minister –

- a) publish for members the terms of the sand extraction agreement or contracts held between the States of Jersey and Simon Sand and Gravel Ltd (redacted where commercially sensitive or confidential);
- b) set out the requirements for restoring the site when the current planning permit to extract sand expires in 2023;
- c) advise members whether there have been any recorded breaches of contract; and
- d) outline the legal remedies and/or penalties that arise from any breaches, as defined within the contract?

Answer

a) The Minister is not aware of any agreements or contracts held between the States of Jersey and Simon Sand and Gravel Ltd. Regarding sand extraction.

b) Planning permission exists for the continued extraction of sand until 31 December 2023 and this requires that restoration must be complete by 31 December 2025. The latest consent is a 5 year extension to the previous (2003) permission. Copies of those permissions, together with the conditions and restrictions imposed, are available on the Planning Register

P/2003/1318

<https://www.gov.je/citizen/Planning/Pages/PlanningApplicationDetail.aspx?s=1&r=P/2003/1318>

RC/2018/0816

<https://www.gov.je/citizen/Planning/Pages/PlanningApplicationDetail.aspx?s=1&r=RC/2018/0816>

c) and d) The Minister is not aware of the existence of any contract and therefore is not aware of any contractual breaches.

Additional information

- The Minister is aware that a Sand Levy Trust was established at the request of the States of Jersey in 1976. The purpose of the Trust is to amalgamate funds (levied from the extraction of sand from the quarry) and put these aside towards restoration of the quarry following the completion of extraction.
- The Minister is aware that conversations between the operator of the site and regulatory officers are continuing with regard to the future restoration of the site. It is important to note

that the operator's obligation to restore the site is bound by planning permission rather than any contractual agreement.

3.21 Deputy M.R. Higgins of St. Helier of the Minister for Housing and Communities regarding the digital register of landlords and tenants (WQ.376/2021):

Question

Will the Minister update members on the progress –

- (a) of the investigation into the feasibility of establishing of a digital register of landlords and tenants following the adoption of P.82/2020; and
- (b) in establishing a digital register of the ownership of all commercial and residential property following the adoption of P.93/2020, to be in place by the end of 2021 at the latest?

Answer

As a new Minister, I have remained focused on creation and delivery of the Housing Action Plan, as this issue is foremost among the concerns of Islanders.

At the same time, while both these propositions were directed at the Council of Ministers, I have been tasked with commissioning this work, which needs to be delivered in line with the decisions of the Assembly.

I have therefore asked for a business case to be produced, and a project manager to be appointed before the end of the year.

I accept this is behind the scheduled agreed by the Assembly, and I will now endeavour to ensure this works progresses apace.

3.22 Deputy M.R. Higgins of St. Helier of the Minister for Economic Development, Tourism, Sport and Culture regarding labour shortages in the Island (WQ.377/2021):

Question

Will the Minister provide members with an explanation of the various labour shortages certain industries are experiencing in the Island, and set out any research that has been carried out into this matter by the Government identifying the scale, causes and possible solutions to these shortages?

Answer

Government has a range of ongoing policy development projects and tools that monitor, evaluate and / or respond to changes in the labour market. Statistics Jersey publishes the Census and regular Labour Market Reports. The Draft Bridging Island Plan, the recent Population policy consultation paper, the Economic Framework and the Skills Jersey strategic plan are some examples of cross-Governmental policies and initiatives that have been or are being developed with reference to the status of the Island's labour market.

To the extent that the Island faces degrees of labour shortage in some sectors, these are tending to be a function of several factors. A number of employees left the Island during the COVID-19 pandemic and have not returned. The Island's economy has performed comparatively well, notwithstanding the impact of COVID. Post-Brexit, the ending of free movement of persons will also have had an impact. In addition, it is also important to remember that COVID remains a public health concern.

The visitor and hospitality sector has been faced with relatively acute labour shortages this year, reflecting the position across the British Isles. Recent research by Jersey Business and the Jersey

Hospitality Association indicates that the Island's visitor and hospitality sector has been up to 1,500 workers short this summer. This shortage has caused some businesses to scale back their service provision. Given that the supply of labour in that sector is predicted to remain tight for the foreseeable future in Jersey and across the British Isles as a whole, Government is actively exploring the possibility of securing peak season sources of labour from certain other Commonwealth jurisdictions for the 2022 season, pending the development of longer-term solutions in partnership with industry.

Active monitoring of job advertisements by Skills Jersey across various platforms indicates that while the visitor and hospitality sector has suffered the most significant gap between staff demand and supply this year, there is also a degree of unmet demand across a range of other sectors, including retail, social care and construction. A broad range of Government actions are therefore being deployed in response. Amongst other things, Skills Jersey is currently reviewing the supply and demand for heavy goods vehicle drivers in the Island and researching delivery options for a Cyber Security apprenticeship pathway. The Fiscal Stimulus Fund is supporting a project that will encourage domiciliary care providers to recruit and train new staff members to provide home care services.

Looking to the future, Government is developing a Skills Strategy in recognition of the fact that the pace of evolution across many economic sectors will change both the overall requirement for staff and the particular skills that employers in those sectors require.

4. Oral Questions

4.1 Deputy R.J. Ward of St. Helier of the Minister for Housing and Communities regarding the number of Islanders classed as homeless and without temporary accommodation (OQ.202/2021):

Will the Minister advise how many people, to the best of his knowledge, are currently classed as homeless and without temporary accommodation; and what action is being taken to find these people suitable accommodation urgently?

Deputy R. Labey of St. Helier (The Minister for Housing and Communities):

I assume the Deputy is referring to those who are roofless or sleeping rough? Those figures are in low single figures, meaning that they are readily identifiable, so I will talk in general terms. As it stands at the moment, we currently do have capacity in the refuge if somebody presents with emergency housing issues. They will not be turned away without the offer of accommodation. Unfortunately for a small number of people the simple offer of accommodation is not for them; it is not enough for various reasons, which we must respect, various circumstances. All of those that are sleeping rough we are in touch with. The critical support team, the occupational support team, know the whereabouts of them all; are in constant contact with them. Are organising with agencies consultations, including with G.P.s (general practitioners), and the aim with all our homeless - those who are in temporary accommodation with a roof over their head in the refuges or in the Sanctuary Trust, or where have you - what we are aiming to do is put them on a pathway out of homelessness.

4.1.1 Deputy R.J. Ward:

I was referring, as much as anything, to those hidden homeless who could very quickly become without a roof over their head. But I would ask the Minister to make a commitment here and now to ensure that people this winter will not be left homeless or sleeping in vehicles, for example, sleeping in their vans, sleeping in their car, and there are many hidden homeless on this Island, sofa-surfing, for example. Can I ask the Minister to ensure that on a wealthy Island such as Jersey we will not leave people in this situation of homelessness this winter?

Deputy R. Labey:

The Deputy is right. Those who are sofa-surfing are classified as homeless. It is not appropriate and while it might sound like a good idea at the time, we encourage people not to embark on that.

[10:15]

Also those who are living in unsafe accommodation, possibly in a dangerous situation with whom they are living, they are classified as homeless too. We do our best to identify everybody. We now have the Housing Advice Service, which is busy, and people are approaching it. With that - it has been operational since 22 July - we are able to collect data on the trends of who is seeking help. I just want to reiterate that we do have capacity at the moment in the shelter and at the refuges. We are increasing capacity with the money Government has provided to Shelter Trust. There is a new women's only refuge coming online this year. That is with 20 beds. That frees up 20 beds elsewhere. We are also going to, with the help of Andium Homes, move the Women's Refuge to new premises, double its size, so there is increasing capacity. But, yes, everybody who presents to us with emergency housing issues will be found accommodation. If the shelter is full we have other ways and means with some very helpful landlords.

4.1.2 Senator S.Y. Mézec:

When I have attempted to help a constituent recently who I was put in touch with, who is currently sleeping in their vehicle and is on band one of the Housing Gateway, when I got in touch with Gateway I appeared to discover that there is such high demand for band one, one-bedroom properties, right now that urgent cases are not even being able to be presented with a timeline for when those people will be housed. Can the Minister confirm what attention he and his team are giving to those urgent cases to make sure that nobody in this very affluent Island is sleeping in their vehicles with no idea for when they will one day get a roof put above their head?

Deputy R. Labey:

I do know of 2 instances currently with people sleeping in their vehicles. Those people will have been offered accommodation in one of our facilities. But, as I say, sometimes these issues are highly complex, of course always very individual, and we keep a tight hold of those that we know are sleeping rough, are roofless, and the critical support team is in constant contact with them.

4.1.3 Senator S.Y. Mézec:

Can I ask the Minister that as winter approaches if there are cases where they are unable to provide accommodation for, even if it is purely on a temporary basis, would he be prepared to ask the Minister for Treasury and Resources to make financial assistance available to ensure that people have a roof above their head throughout winter? Further to that, would he be prepared to use his Ministerial discretion, in those instances where temporary accommodation is provided to those people, that it does not disrupt their position on the Housing Gateway so that they do not become a lower priority for receiving permanent accommodation? Can he very specifically give me those guarantees?

Deputy R. Labey:

Yes, I am happy to do that. Can I just say that in the winter time more potential beds become available to us in some B. and B.s (bed and breakfasts) and some hotels. We have in the winter greater availability and we are in touch with a lot of those landlords. I pay tribute to them because they are extremely helpful for us.

4.1.4 Deputy M. Tadier of St. Brelade:

I have a question about a very specific type of homelessness. The Minister might know that there was a fire very recently following a lightning strike in St. Brelade where a number of homes around the Portelet area were affected. Has the Minister or anyone from his department been in contact with those individuals? When this kind of thing happens does he think it is appropriate for his department to be in contact with those to see what help can be given?

Deputy R. Labey:

I do not want to talk about individual cases in this forum. I have a feeling that we have been in touch and my officers have been helping in that instance. I will check on that and get back to the Deputy. I know that this is a concern of his. He is absolutely right. We must try to ensure that this does not happen again. That one party or the other is insured against such a thing happening and people being made instantly homeless.

The Bailiff:

Deputy Southern, I am not calling upon you yet but did you want to ask a question?

Deputy G.P. Southern of St. Helier:

I did, Sir, but I do not have the correct equipment with me.

The Bailiff:

In which case, if you could ask through a colleague in future and I will certainly call you for this question. I realise you have but I just wanted to make sure what the position was.

Deputy M. Tadier:

Just to clarify, I do not need a supplementary. I am happy to give the time to someone else.

The Bailiff:

Thank you very much, Deputy Tadier. I have Deputy Doublet, then Deputy Southern.

4.1.5 Deputy L.M.C. Doublet of St. Saviour:

I wanted to ask the Minister about another category that he mentioned of those who are in temporary accommodation because I am certainly aware of a number of families who are affected by our housing crisis, for example, that have one family in a bedroom, perhaps at their parents' house while they are waiting for homes to come up for sale. Is the Minister aware of the scale of this issue? Does he have any figures on that please?

Deputy R. Labey:

As part of the homelessness strategy, which was published earlier this year, we have partnered up with U.K. (United Kingdom) Homeless Link to benefit from their experience. They have been doing extensive workshops and consultations with everyone in the industry; charities, agencies, are all trying to assist with the homelessness issue. Their report and recommendations are going to be with us very soon. They have also been collecting I believe the sort of data that the Deputy is talking about. I await their recommendations. I think the Deputy might be interested to know that we are talking about ... it is in its infancy but I think the next big piece of work we are going to do in relation to this sort of thing is especially to target long-term vulnerable women, trying to finally find a solution for their issues, and try to nip it in the bud with vulnerabilities that have sprung up in the short term for some women. That is being formed now. We have seed sponsorship interest from the private sector and then Government would have to take that forward. That is probably coming down the track I think next year.

4.1.6 Deputy L.M.C. Doublet:

The Minister mentioned vulnerable women and funding from the private sector. Will there be any change to the funding currently supplied to the Women's Refuge please?

Deputy R. Labey:

As I say, the Women's Refuge is going to double in size. It is going to move premises. Andium Homes is taking care of this; so that is good news. Obviously if it is twice as big it might cost more to run, and we will have to facilitate that of course.

4.1.7 Deputy G.P. Southern:

Would the Minister inform Members what timescale he has for the new beds coming online? He has mentioned some time next year but could he be more specific please? When are we going to see these new beds to meet demand?

Deputy R. Labey:

Yes, the new women's only shelter - 20 beds - will come online this year. The moving of the Women's Refuge will take place in 2022. We get 2 bites of the cherry with a new women's only shelter because that releases capacity elsewhere.

4.1.8 Deputy R.J. Ward:

I thank the Minister for his commitment to ensure that nobody is left homeless this winter but can I ask him to just clarify that that extends to the age groups that are below the age of social security, i.e. below 25? In particular, those young people who are care leavers who can easily slip through the net - there are so many questions - and those who perhaps may be evicted due to rent arrears caused by COVID because I believe that that law is now being ended; that protection is being ended. Can he commit to extending it to those people as well?

Deputy R. Labey:

Yes, it is universal. The critical support team, Housing Advice Service, is for everybody and the sooner people can identify issues that might be coming down the line, my advice is get in touch with the Housing Advice Service so that we can try and get the problem sorted, so that that person does not become homeless. Can I repeat, because I am afraid last night's *Evening Post* was full of factual errors, and there is confusion between what is the Sanctuary Trust, a charity, a long-term focus with what is the Shelter, with what is the Refuge, and other charities. If people present in an emergency to us at Shelter we will find them accommodation. We will find them a roof over their head.

4.2 Connétable K. Shenton-Stone of St. Martin of the Minister for the Environment regarding the application of Health and Safety, and Food Safety, rules to the sale of supermarket produce that was past its sell-by date (OQ.199/2021):

Will the Minister explain why current health and safety rules prevent fresh supermarket produce, some just one day past its sell-by-date from being donated at food banks, even to a person who has signed a disclaimer to acknowledge the food must be consumed immediately or frozen; and will he take action to amend this guidance to ensure food is not wasted and that those involved with food banks are not negatively impacted?

Deputy J.H. Young of St. Brelade (The Minister for the Environment)

Under the food law there are 3 types of standard labelling used on food products: use by, best before end and, at the discretion of the seller, display until dates. They all have different meanings. At the moment, the environmental and consumer protection team provide guidance and support to several charitable services to ensure that the food they provide to consumers is safe to eat. There are several charities that already freeze produce on the final day of the use-by date for meals and these organisations already comply with the food legislation to protect the consumer, and I understand that system works well. Food banks are a little more complicated in that the control of the food products and any risk associated with it of course move on to the consumer. Regardless, the restrictions remain the same, so not to put service users at risk, compared to those of other charitable services who facilitate this provision. Of course we are producing a new food law, which is necessary under the post-Brexit situation, and that will assist supermarkets in providing food is safe to eat, to providing that food to charitable organisations and maintaining the public. That is the situation.

4.2.1 The Connétable of St. Martin:

Because of this ruling and overzealousness we have had to close our much-needed food bank. Could the Minister also explain why the food, which is being denied to the vulnerable and those in need in the Parish, is then deemed to be okay for the government to collect to feed COVID workers with the same food? This is happening and, much to our alarm, happened on Friday, the day we had no option but to close the food bank.

Deputy J.H. Young:

I do not know of this. I would be happy to have that investigated further of this particular incident. I think food banks are in a different situation to charities. The answer I have given concerns basically produce that is taken off the shelf by supermarkets. The use-by date is about product safety and that is the most important date because it is accepted, under all food standards, that there is a risk of some food poisoning if products are consumed beyond that date. But there is no reason why it cannot be cooked at that time or frozen at that time. Indeed my understanding is that the charities have freezers full of this material. I will arrange to have this particular situation investigated in more detail. I am sorry I cannot go further than that at the moment.

4.2.2 Deputy R.J. Ward:

I am sorry, I am having trouble hearing the answer here. This question may just have been answered but if it is: can the Minister confirm whether food that was usually taken by the food bank redirected to any form of government worker, and therefore did the rules that stopped it going to the food bank no longer apply because it was going to government staff? I think that is a very important question that we need to know because there is an inconsistency there. Most of all we want consistency please.

Deputy J.H. Young:

I am sorry the Deputy did not hear, I will try and speak a bit louder. Yes, I will have to investigate that. It is of concern that food that is intended to go to food banks appears, it has been suggested, to have got into the hands of other people, if you like, that are not in the need of the food bank. I need to investigate that and find out why. I am sorry I cannot go further than that now but I give a commitment that I will arrange for that to be checked and reported back.

[10:30]

4.2.3 Deputy R.J. Ward:

Can I ask the Minister seeing as - I do not mean to make a prediction - but we may be here a few days this week, that he could come back with the answer during this sitting because the next sitting is not for a month due to the 3-week sitting and the half term, and this answer will be lost in the ether?

Deputy J.H. Young:

Yes, I am happy to give that commitment. Obviously this is not within my mainstream experience. I spoke with the Environmental Health officers who do this work yesterday. They did not give me any information along the lines of what appears to have happened here. But I will find out from them, get it investigated and get back during this sitting. I will give that commitment.

4.2.4 Deputy M. Tadier:

As part of a Minister who is on the Council of Ministers, who is committed to reducing income inequality, could he state whether he feels uncomfortable about how many people rely on food banks in the first place in Jersey and that we are discussing today about ways to give poor people who cannot afford food almost out-of-date food to eat and access it in a very wealthy Island? Does that concern the Minister?

Deputy J.H. Young:

There are 2 issues. Certainly I am very uncomfortable with the situation that this should occur in Jersey. That people are having to rely on food banks when we are an incredibly wealthy society and people buy properties for £31 million. It is absolutely, I think, almost obscene frankly that is the case. But obviously those responsibilities do not lie with me. My role is regulatory and of course that is why we have food standards. I think the question is this whole question of the use-by date. Those are there for a reason and the law, because we rely on our really high-quality food and obviously our retailers ensure that what we buy in the shops is of the quality required, but there is no reason why as long as that material is taken off the shelf and goes to charities for use by those in need, and it is either cooked at the time or frozen, there is no reason why that should not happen. In fact there is every reason why it should not be happening rather than going into the incinerator, which is incredibly wasteful.

4.2.5 Deputy M. Tadier:

I do ask the question in the context that the Minister is the Minister also for Environmental Health. I would like to know if he would prefer a situation where people did not need to rely on out-of-date food because they are so poor and there is not provision for them in this Island rather than trying to find ways to allow them to eat out-of-date food.

Deputy J.H. Young:

I am very embarrassed that people are in a situation where there are circumstances they have to rely on it. But I have to say that the food is safe. The Deputy talks about out-of-date food. I have described there are different dates, they mean different things. The use-by date is the important one and as long as it is used by or frozen at that time it is perfectly safe. That is the basis of the food law.

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

Would the Minister explain whether his department gives guidance to food banks and people who operate food banks so they understand this reclassification system to make sure they are not confusing best before end with use by?

Deputy J.H. Young:

I think at the moment I cannot confirm how effective that advice is. Yesterday in my discussions with the officers I have been told about the charities. The charities that either receive the food and cook it straightaway for consumption - because that is another immediate way of dealing with it, cooking at the time the material leaves the shelves - or freezing it. But whether or not how we got into the detail of food banks, and I will be frank. I do not know, and hands up here, how many food banks there are in the Island and that is the thing I should be checking up on as I have agreed to do.

4.2.7 The Connétable of St. Martin:

I thank the Minister for his answers and just would like to say that the various shelters are suffering from these health and safety rules too. Please can the Minister reiterate and ensure that food goes to those in need and not be used for government workers or, worst of all, be dumped?

Deputy J.H. Young:

I cannot do any more than reiterate the commitments I have already given. There are a lot of sound questions here that I will make sure are investigated and have a supplementary answer sent round to Members as soon as I can. But certainly during this session.

4.3 Deputy S.M. Ahier of St. Helier of the Minister for Infrastructure regarding the impact of changes to speed limits in St. Helier (OQ.208/2021):

Given that the St. Helier Roads Committee has now passed the phase 2 speed limit review, how will the Minister analyse the effect of these changes on traffic flow and congestion prior to making any decision on whether to implement the changes permanently?

Deputy K.C. Lewis of St. Saviour (The Minister for Infrastructure):

As Minister for Infrastructure, I am responsible for setting speed limits and do this within a published policy framework agreed with the Parishes. The framework considers the characteristics of Jersey roads to set appropriate and consistent Island-wide speed limits that balances users varying needs. The framework provides for a review process to be undertaken in partnership with Parishes to ensure that local context is properly considered and community opinion is gauged. Prior to any recommendation being presented for my consideration the Parishes' proposals are subject to a technical review against policy framework by my department's road safety engineers who, working with the Parish, seek to resolve any inconsistencies in the proposals. No decision to amend speed limits will be made until that process has been complete.

4.3.1 Deputy S.M. Ahier:

Will the Minister ensure that he reads all of the consultation documents brought by the Parish of St. Helier on 22nd September before he makes his decision and that he considers each road separately rather than authorising all these radical changes *en bloc*, as have the Roads Committee?

Deputy K.C. Lewis:

Indeed, I can make that commitment. My team are very technically minded and they will go through every single road individually prior to a decision being made.

4.3.2 Connétable R.A. Buchanan of St. Ouen:

My question for the Deputy is: will he consider the opinions voiced in the surveys undertaken by the Parish of St. Helier which, on the face of it, seem to have been ignored in their final decision, when he makes his decision about which roads to change the speed limits on? I note from his comment that he said community opinion will be gauged. Could he just give us an assurance that that will be case?

Deputy K.C. Lewis:

Absolutely, it will all be taken in the round. My team do a lot of research on each road individually and there will be consultation with the local community regarding the appropriateness of any speed limits.

4.3.3 The Connétable of St. Ouen:

Just further assurance that the appropriateness of the speed limit in relation to the roads to which they be applied to will also be given serious consideration before any final decision is made.

Deputy K.C. Lewis:

Absolutely.

4.3.4 Connétable J.E. Le Maistre of Grouville:

Does the Minister not think that the Parish of St. Helier should hold a Parish Assembly to ratify the decision of the St. Helier Roads Committee before he makes the decision to implement the changes?

Deputy K.C. Lewis:

I was of the opinion that it was all discussed at a Parish meeting to discuss the various St. Helier Roads Committee recommendations. But absolutely, the parishioners should turn up at the Parish Hall and, if necessary, take a vote on each individual road if that was their wish.

4.3.5 The Connétable of Grouville:

Does the Minister think that he should listen to Parish Assemblies in all Parishes if they propose speed limit changes?

Deputy K.C. Lewis:

Absolutely. I am committed to consulting with all Constables and all roads committees of all the Parishes on the Island.

4.3.6 Connétable A.S. Crowcroft of St. Helier:

Does the Minister agree with me that “20 is plenty” in residential areas of the built-up zone and that residents of St. Helier’s densely populated roads have the same right to the heightened road safety protection as Islanders living in, for example, St. Peter’s Village or St. Mary’s or St. Aubin?

Deputy K.C. Lewis:

As previously stated, the Technical Safety Committee and Infrastructure will go through every single road to determine that. If that is appropriate then that will be adopted.

The Connétable of St. Helier:

Could I ask the Minister to answer my first question before I pose a supplementary?

Deputy K.C. Lewis:

I cannot do a blanket agreement on the whole of St. Helier for 20 miles an hour. As I say, every road will be taken on its merit.

The Connétable of St. Helier:

If I could restate the question for the Minister’s benefit. I asked him: does he agree that “20 is plenty” in residential areas of the built-up zone, as has already been done in many Parishes?

Deputy K.C. Lewis:

I will repeat, every road will be taken on its merit. If 20 is appropriate then 20 it will be.

The Connétable of St. Helier:

Can I ask my supplementary now please?

The Bailiff:

I think, Connétable, the answer given by the Minister is the answer he has given in the last 3 iterations and I think that must be treated as a supplementary.

The Connétable of St. Helier:

But that did not allow me to ask my supplementary because he was failing to answer my original question.

The Bailiff:

I think he answered it in the same way. But in the exercise of my discretion, I will allow a supplementary question in this regard as we are well within time for this question.

4.3.7 The Connétable of St. Helier:

Could the Minister confirm that the roads committee of the Parish is the highway authority in each case and not the Parish Assembly?

Deputy K.C. Lewis:

Indeed but obviously, as the Constable is aware, it is crucial to have the opinion of the residents of the various Parishes onboard.

4.3.8 Deputy S.M. Ahier:

Of the 674 submissions received by the Parish of St. Helier, 63 per cent of them did not support the speed limit changes. Will the Minister be backing the majority of Islanders who have made their opinions clear?

Deputy K.C. Lewis:

As I previously alluded to, every road will be taken on its merits. I cannot predetermine any speed limit of any particular area. Every reduction or even increase must be fully justified. My officers will go through every single road meticulously.

4.4 Senator S.C. Ferguson of the Minister for Health and Social Services regarding the timing of responses to Subject Access Requests (S.A.R.s) by the Department of Health and Community Services (OQ.205/2021):

Will the Minister advise whether there have been any delays in response time and provision of information by the Health and Community Services Department to subject access requests; and, if so, will he explain the cause of any such delays?

Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):

I will call subject access requests S.A.R.s. As of 1st October this year 241 S.A.R.s have been received by the Health and Community Services Department during 2021. Of these 241, 10 - that is just over 4 per cent - were or will be disclosed outside of the 84-day timeframe allowable within the relevant legislation. Of those 10 S.A.R.s that will be disclosed outside of the timeframe, 7 have already been disclosed and 3 are waiting on harm checks prior to their disclosure. The S.A.R.s that will be disclosed outside of the timeframe are either Children's Services or mental health records and, as such, are often significant in volume or require redaction prior to disclosure to reduce the impact on the privacy of third parties and/or they require harm checks. Some medical record requests are also voluminous and may be in clinical use when requested. Clinical use has to take priority and this can cause delays to the processing of the request.

4.4.1 Senator S.C. Ferguson:

Is the Minister not aware that H.C.S. (Health and Community Services) has an appalling record in replying to subject access requests; Dr. Alwitry being a prime example. Does he not think that as Minister he should investigate properly the reasons for this?

The Deputy of St. Ouen:

I do not agree it is an appalling record. As I said, 4 per cent of those were unfortunately disclosed or are being disclosed outside of the timeframe allowed by the legislation, so that is not appalling. Furthermore, I have ensured that there are very good reasons, which I have explained, that they are disclosed outside of that timeframe. That is significance in volume, they require redaction to reduce the impact on the privacy of third parties, or they require harm checks because some people who are seeking these records are, in themselves, very vulnerable and we have a duty of care towards them.

[10:45]

4.4.2 Deputy K.F. Morel:

The Minister mentioned 84 days, which appears to be approximately 3 months, which seems a large amount of time to respond to subject access requests. Does the Minister believe that a lack of digitisation of records, not just medical records but also other records in the Health Department, is contributing to the delays? Whether it is just in the 4 per cent he mentions but also overall taking 3 months in order to respond?

The Deputy of St. Ouen:

Yes, that is very much the case. That heavy bulky paper records which have to be trawled through do just build in delays. When we move to digital records I am sure the accessing of those records will be easier. But far and away the majority of these S.A.R.s are responded to at an early date. The difficulties arise only in the minority of cases, for reasons that I have stated.

4.4.3 Deputy K.F. Morel:

The Minister mentioned when we do move, would he enlighten the Assembly as to when will the department move to digital records?

The Deputy of St. Ouen:

Yes, I can. That is part of the notes I had on the Deputy's own question later. Paper records are going to be scanned into a dedicated platform, and this is called the "electronic patient record" within which there is an electronic data management system. The outline business case is complete and approved. A full business case needs to be drafted but first a procurement exercise must be completed. The procurement will be completed before the end of this year and we expect the full business case to be completed in quarter one of next year. Then it will take 18 months to scan all the hospital records, I am advised. I hope that helps.

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

The Minister said only 4 per cent were not answered with 84 days. Will the Minister tell Members what the actual normal date is for a subject access request to be answered? It is considerably less than 84 days; will he please tell Members?

The Deputy of St. Ouen:

I do not have a figure that has worked through and produced a mean, but the fact is that 96 per cent of them are answered within the timeframe allowable within the relevant legislation. I am sure that the majority of them, perhaps being the simpler requests, are answered at a very much earlier stage.

4.4.5 Deputy M.R. Higgins:

If my memory serves me correct, and I may be wrong, but it is certainly lower. It is 40 days or less for a data protection answer to be given. Your department, Minister, is one of the worst on the Island for doing it. Many people who wish to take action against the hospital, let us say for medical negligence, have been denied records even after 84 days. What do you answer to that?

The Deputy of St. Ouen:

I am sure the Deputy will be aware of the complexity of hospital records, which in the case of somebody who has lived locally for many decades in the Island will date back perhaps 80, 90 years, and there will be voluminous records. Some of which might be relevant, some not. This could well be the reason why it is difficult within H.C.S., and there is a difference with other departments. Data protection legislation does provide for a timeframe with extensions up to 84 days after which it is permissible for applicants, if they have not received their records, then we are in breach of the legislation at that stage and matters can be taken up with the Information Commissioner. I know they regularly are. We are in good contact with the Information Commissioner, who does challenge H.C.S. and is aware of the difficulties.

4.4.6 Senator K.L. Moore:

Last week I received an answer to a S.A.R. that I had put in on behalf of a constituent. It came in just under the 3-month overdue mark and did not adequately answer the question. I mention that incidentally. What I did notice in receiving that response, however inadequate it was, was that it uses an additional platform, one that I had never seen before called Egress, which meant that the person receiving the response has to log into it. The question is: why, when we are supposed to be moving to a slimmed down, simple to use digital world, has the department chosen to add an additional layer

of complexity in providing information to members of the public? Has this slowed the process down somewhat?

The Deputy of St. Ouen:

I will happily take that up with the Senator. Do I understand that the applicant was being asked to log on to a digital system for records, in which case I am not aware of the detail of how that individual case may have been answered? But I undertake I will take it up with the Senator, if she wishes to pass on details.

4.4.7 Deputy R.J. Ward:

The Minister talks about a timeframe. How does he monitor whether simple cases are getting extended simply because his department can use that timeframe? How does he monitor the effectiveness of responses? Does he see that digital records in the future would bring down that statutory time of 84 days maximum? If so, will he be bringing that change to legislation once things are digitised?

The Deputy of St. Ouen:

I know my staff take very great care over all applications. They are really exercised by the difficulties in ensuring that the more complex records are released safely and thoroughly and in time. The simpler records I am sure that they will attend to very quickly, as quickly as they can, within a reasonable time, because they are simpler to do. There is no reason why they should be left outstanding. It is the few more complex ones that take up their time that create the difficulty. As to the change in legislation, that is possible. One will have to allow a bedding-in period to see how this works but if it is feasible to reduce, though I imagine this timeframe set out in legislation governs not just H.C.S. but all government departments, indeed all Island data protection issues. It will be for the Minister of the time, and this probably does not come under H.C.S., but whoever has Ministerial responsibility for data protection will need to keep this in mind and consider changes in the future.

4.4.8 Deputy R.J. Ward:

The Minister mentioned that if the 84 days is not reached he can go to the Data Commissioner. Can I ask the Minister what support is given to people to pursue the problems that they face? People who may be vulnerable, people may be, to put it simply, fed up with the system that they are engaged with and may just give up. So what support is in place and does he feel that that support to access the system is adequate?

The Deputy of St. Ouen:

We, in the department, support these applicants. This is not an antagonistic issue. This is a legal right that they are entitled to and we provision that. We will work with those. But in addition, we have heard from various Members in this questioning that they are supporting various applicants. The Information Commissioner will also be on hand to assist, the Citizens Advice, and I am sure there are various sources. But I would urge anyone who feels they are having difficulty to reach out to all those various sources of help.

4.4.9 Senator S.C. Ferguson:

I think the Minister is living in a different universe to me. The data protection rules say one month. Dr. Alwtry had to go to court. I have another constituent who has had to wait some years. Will the Minister provide the States with a list of subject access requests over the past 5 years, together with the time taken to reply and identification of any rejected and the reasons why they have been rejected?

The Deputy of St. Ouen:

I am willing to discuss that with the Senator but my immediate thoughts are with 241 requests thus far in this year, so there may well be 300 each year, if I was to divert my staff into trawling through

5 years' records - perhaps up to 2,000 records - with that sort of data, when we know that 96 per cent of this year's records were released within the timeframe allowable what value is that? If the Senator has specific problems I am willing to speak with her. But I think diverting staff from important work to produce that sort of data, would she please try and meet me or we will chat to persuade me why that might be necessary?

Senator S.C. Ferguson:

Perhaps the Minister would like to use one of his myriad of managers to look at this.

The Bailiff:

No, I am sorry, Senator, that was a final supplementary and the Minister has answered it, so that does end this question.

4.5 Deputy I. Gardiner of St. Helier of the Assistant Chief Minister regarding the design of the new hospital (OQ.206/2021):

Further to reports from the project team that, in the development of the new hospital, digging into granite would cost £10,500 per square metre and clinical and non-clinical space would cost £5,500 and £3,500 per square metre respectively, will the Assistant Chief Minister provide the total planned square meterage within the new hospital of each of these three categories??

Senator L.J. Farnham (Assistant Chief Minister):

I believe the Deputy may be referring to some remarks made during a recent Scrutiny hearing. These remarks were examples of high-level comparisons to illustrate that some elements of the works are more expensive than others. The works cost for the project have been informed by the cost plan, which has been provided to the Scrutiny advisory team, and which explains line by line the build-up of the main works cost. The cost plan follows the industry standard guidance on construction cost plans and is split into element heading. For example, the substructure, the frame, the upper floors, the roof, the stairs, the ramps, external walls and breaks the cost down for each of these. Given the stage of the project, this is, I believe, or the team believes, is a more detailed way of working out costs and has been used to develop the costs, rather than just using an average cost for clinical and non-clinical space. Because clinical space is not just one cost, there are lots of different layers of costs for clinical space, whether it is very high specialist cost, such as operating theatres or wards or clinical corridors. However, information on all the areas is provided in the schedule of accommodation.

4.5.1 Deputy I. Gardiner:

Because it was stated by Professor Handa, and it was published, so the question from my perspective was not answered because it was a very simple question. Now my supplementary, it is the costs that were mentioned across 3 categories and the question was how many square metres were allocated in the hospital for each of the categories or if it is not why the 3 costs were mentioned?

Senator L.J. Farnham:

Yes, I can answer that and thank the Deputy for the clarification. Those were, as I said, a high-level example of the fact that there were different costs for non-clinical and clinical. The hospital project does not just break it down into those 2 categories or 3 categories.

[11:00]

They break it down into lots of different subheadings because there are different layers of costs; for example, for diagnostic, it is pathology, pharmacy, mortuary, they are all different costs. Engineering functions is different to a non-clinical corridor or storage area, so it is just not that simple. All of the square meterage under these headings is available and have been made available to the Scrutiny

Panel. It is possible, although difficult, to work out what is clinical and what is non-clinical because of the sort of the overlap and the different usages of many of those different categories.

The Bailiff:

Is the answer, for clarification, Minister, that you are not able to provide these figures at this time?

Senator L.J. Farnham:

I cannot provide a figure of what is clinical and what is non-clinical, Sir. It is a lot more complex than that. All of the square meterage of areas has been provided and it could technically be worked out. But what I would say is that an updated schedule of accommodation will be provided when we get to the detailed planning application later this year. I am sure it would be possible for us to work out a figure of non-clinical and clinical space, and I shall certainly put that to the team.

4.5.2 Connétable A. Jehan of St. John:

I think the original question referred to the cost of digging into granite. Can the Deputy Chief Minister tell us what percentage of the building will be on granite footings?

Senator L.J. Farnham:

No, I cannot and groundworks are ongoing. The chances of digging into granite increase with the amount of excavation and the recent designs have reduced basement areas to reduce the amount of excavation required and reduce the chance of digging into granite or other material, which is more costly, but we cannot give those exact figures because the groundworks are still continuing. But it is not anticipated to be a figure that is unexpected or cause problems or additional costs to the scheme.

4.5.3 The Connétable of St. John:

Would the Deputy Chief Minister agree with me that it is unfortunate that the panel were given that figure, just as it was unfortunate yesterday to be told 40 per cent of Islanders have private health, yet the week before the Minister for Health and Social Services wrote 25 per cent had private health?

Senator L.J. Farnham:

No, I disagree. I disagree with both of those comments. The figures for the number of Islanders having public health were taken from a social survey in 2018 and we still believe those to be reasonably accurate. That social survey stated that 87 per cent of people working in the financial services sector had private health and we still believe those figures to be accurate. In relation to the previous question I started; I think the question was taken of the comments of Professor Handa at a Scrutiny hearing in response to questions, where he used these figures as examples. They were not based on anything, they were examples to demonstrate that different levels of the building come with different costs.

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

Given that the Minister obviously saw the list of oral questions before today's sitting, can he explain to us why he is not in a position not to give better answers to the question?

Senator L.J. Farnham:

Could the Deputy elucidate that, please, or perhaps be a bit more specific because I feel I have given a detailed explanation as to why it is not possible to simply give the square meterage of clinical and non-clinical space at this stage of the designs? Perhaps he could be more specific, please.

The Deputy of St. Martin:

Yes, I am happy to be more specific ...

The Bailiff:

I think this is a supplemental question because that is an answer from the Minister, so this is your supplemental, the Deputy of St. Martin.

4.5.5 The Deputy of St. Martin:

Okay, thank you, Sir. One of 3 items asked for in the question was the square meterage that might be dug into granite. Can the Assistant Chief Minister tell us approximately what the square meterage of the current hospital proposed development is?

Senator L.J. Farnham:

The current approximate square meterage construction figure for the whole hospital is in the region of 68,000 square metres. That is going to change as the final designs are approved for the detailed planning application and at this stage we expect the final square meterage to be in the region of 65,000 square metres. These figures are widely available and if Members, which I am sure they have, and I am sure the Deputy of St. Martin has done plenty of reading of the reports, the figures are all there in black and white. I do stress we are on stage 3 of a 7-stage RIBA 2 process to complete the project and all of these figures will continue to change until such time as the detailed planning application is presented. I will undertake to keep Members informed every step of the way.

4.5.6 Deputy I. Gardiner:

I do agree with the Deputy Chief Minister that with the progress figures will be changing. My last question will state 2 figures and I would be grateful if the Deputy Chief Minister can explain the difference. On 27th August the Assistant Chief Minister stated in his response to the Scrutiny Panel at appendix 1 that 1 square metre will cost approximately £4,497, including preliminaries, costs and risks. At the beginning of September at the public hearing the Assistant Minister for Treasury and Resources stated that 1 square metre will cost £6,200. What is the difference? What has happened between 27th August and September and if £6,200 is including all costs?

The Bailiff:

Are you able to answer that, Assistant Chief Minister?

Senator L.J. Farnham:

I am sorry, I am not really understanding what the question is. Could you just repeat that, please, sorry?

The Bailiff:

Perhaps you were comparing 2 figures given at different meetings or in different circumstances and asking the Minister, I think, to explain the distinction or difference between them. Could you repeat the 2 figures, Deputy?

Deputy I. Gardiner:

27th August appendix 1 letter to the Scrutiny Panel, 1 square metre cost £4,497, including preliminaries, costs and risks. I think it was 7th September the Assistant Minister for Treasury and Resources stated £6,200 per square metre. What is the difference that happened within this time and was £6,200 included as an extra?

Senator L.J. Farnham:

I would have to review my letter to get the context of those figures but I could put in the letter. It would appear that the Assistant Minister for Treasury and Resources and I were referring to different aspects of the scheme but I will clarify that. What we can be sure of is we will know the exact square metre costs of the project, as we have done all the way through and, again, it is an evolving and moving figure. But what we do know is that when we do have the final square meterage figure, when

the final detailed planning application is ready, the costs will be within the accepted industry figures in brackets.

4.6 Deputy L.M.C. Doublet of the Minister for Health and Social Services regarding the medical rationale for ongoing restrictions on singing in schools (OQ.211/2021):

What is the medical rationale behind the ongoing restrictions on singing in schools and what assessment has been made of any negative impact of these restrictions on children and when does the Minister expect these restrictions to be lifted, please?

The Deputy of St. Ouen (The Minister for Health and Social Services):

Public health guidance on music for children and young people no longer recommends a cap on the number of children participating in singing activities. The current guidance advises to take into consideration general COVID-safe behaviours, such as physical distancing, hygiene, cleaning and ventilation, to ensure risks are kept to a minimum, while allowing the benefits of this important aspect of learning and education to continue. There is well-documented evidence that singing is a risk factor in the dispersal of both respiratory droplets and aerosols, which can put both the singers and audience at risk of COVID. In comparison to older adults, school-age children are an under-vaccinated cohort and there has been ongoing COVID-19 transmission among these age groups for some time. Despite often having a milder form of the disease, there is evidence of long COVID in children and we do not yet know of any longer-term effects childhood COVID could have in later life. For children who do catch COVID, it can also negatively impact their education, mental health and overall well-being. The rationale to have protective measures in place while singing is based on broader public health and well-being, rather than just the medical health of the individual. The Minister for Children and Education has made a commitment to keep all these protective measures under review, recognising the balance between reducing the risk of COVID transmission and supporting children and young people's learning. I understand that the Minister is giving active consideration to school performances, including singing, in order to ensure these activities can take place safely.

4.6.1 Deputy L.M.C. Doublet:

I thank the Minister for his answer. I want to know about the research that this advice has been based on because the current and most up-to-date research states that there is no increased risk from singing at the same volume as talking. Indeed, in terms of wind instruments and brass instruments, this is safer than talking in the same risk level as breathing. It seems to me that the advice is out of date. Would the Minister for Health and Social Services commit to reviewing the medical advice that has been given to the Education Department in this area to make sure that it is up to date and also to make sure that it is taking into account and fully weighing up the benefits of singing in a group, which include feeling of togetherness, regulating heart rate, reducing stress levels and depression and a feeling of social well-being, to make sure that this is fully weighed up against any potential negative impacts?

The Deputy of St. Ouen:

Yes, I give the commitment the Deputy seeks because I know that our public health teams are reviewing research as it comes through. I invite the Deputy to share that research with our team. But I would remind her that we have been here before, that there is conflicting research. I refer the Deputy to a written question of some time ago in which the research used by the team was listed with links to very well-researched papers. All that is out there; it is not necessarily all one way. But we, I suppose, take a protective view until the question is absolutely certain. But we will certainly work with the Deputy to understand the latest research.

4.6.2 Deputy I. Gardiner:

I would like the Minister to answer, if I am correct there is a 15-minute limit for the assemblies. If the 15-minute limit exists, where did the limit come from; on which medical advice is it based?

The Deputy of St. Ouen:

I have the Public Health guidance on music in front of me. I do not see any specific limits to 15 minutes but this may be something that schools have introduced of their own volition. There is reference to sort of ensuring that there is time for cleaning and there are spaces left between the use of rooms where there has been singing, but I have not read a specific reference to 15 minutes.

4.6.3 Deputy I. Gardiner:

From what I am aware, there are schools who are not doing assemblies because the time is too short, for whatever reason. Could the Minister's team work with the Education team to make sure that assemblies, which are very important in children's development and children's consolidation, will be able to take place within the guidelines that exist now?

The Deputy of St. Ouen:

Yes, both I and the Minister for Children and Education wish schooling to be returned to as near normal as possible, while being kept as safe as we can make it. We will certainly speak. I will ensure that our team ... I know they are in contact with schools and have worked very well together.

[11:15]

I will take up that point and ensure that if schools want to have assemblies but have felt unable to, that we do what we can to assist that to happen.

4.6.4 Deputy M. Tadier:

I am trying to understand from the Minister's answer just what has changed since these questions have been asked in the past. As far as I understand, and the Minister can clarify, most children have not been vaccinated. The vast majority and the advice previously was that airborne particles from singing would be very dangerous. Can the Minister clarify what has changed in terms of the risk?

The Deputy of St. Ouen:

The risks will not have changed, if the scientific evidence is believed. The incidents of COVID might be different in that there are perhaps not the surges that we have seen in the past because of the effect of vaccination in the larger population. But what we have at the moment is there is no longer any regulation around this, there are no prohibitions. There is guidance that is available for all people who are singing or playing music, whether outside the schools or in. This is, as you would expect, very much around the usual rules that we follow about ventilation, cleaning, outdoor settings where weather permits - but that is unlikely as we go into the winter, I guess - staggered start and finish times, consider the size of each facility, good hygiene, use of shared equipment should be avoided, just cleaned and disinfected. It seems to me very much how we would want and have got used to keeping places and people safe.

4.6.5 Deputy M. Tadier:

My concern is about choice and that while adults who have been vaccinated or have had the choice to be vaccinated might want to partake in choirs, pupils at school do not have that choice. They may not have been offered a vaccine and they may have limited choice about whether to partake. Given the fact that masks are still being worn in communal areas in schools, presumably to limit the transmission of coronavirus for those who have not been vaccinated, what is the logic in encouraging young children in close proximity to sing when he has told us in the past that there is a greater risk of transmission from that?

The Deputy of St. Ouen:

There is no prohibition on children singing in choirs. The risks are recognised and, therefore, we need to mitigate against those risks, as we do in all our other activities during COVID. The guidance

says: “If groups are participating, 1 metre distancing at the very least, ideally 2 metres, should be kept between anyone singing and anyone else present; 3 to 5 metres should be kept between any participants facing opposite others present. Adhering to safe physical distancing will determine the numbers able to safely participate in indoor settings when groups are not all from the same bubble.” Of course if those singing are within the same bubble you adjust accordingly because they are carrying out all sorts of other activities together. There is a good structure in place to guide this activity safely, I believe.

4.6.6 Deputy L.M.C. Doublet:

The Minister has answered one of my questions in that he has not said that whole school singing is prohibited, whereas there is a policy in place in schools at the moment where that is not allowed. But he mentioned taking a protective stance of children and I wanted just to reflect on the current increase in mental health problems, especially among children and the increased importance of community singing in terms of community-building and well-being, especially at this time coming up to Christmas and organising carol concerts and whole-school events. Will the Minister ensure his department considers and communicates the health and the well-being benefits of group-singing and these events to the Education Department, alongside any research that is discussing the negative impacts, please?

The Deputy of St. Ouen:

Yes, and I confirm we do. As I said in my answer to the question initially, we do recognise the therapeutic effects of singing together and the community effects that creates to learning and education. It is a question of balancing the risks. I hope that as we continue to learn to live with COVID and manage the pandemic, the situation will ease and children will be able to sing together in an easier and perhaps less restrictive way. We will continue to balance those risks.

4.7 Senator S.Y. Mézec of the Attorney General regarding the protections against eviction afforded to residential tenants by Jersey legislation (OQ.200/2021):

What provisions, if any, exist in Jersey law to protect residential tenants from being evicted by their landlord when the landlord wishes to sell the property?

Mr. M.H. Temple Q.C., H.M. Attorney General:

Yes. The Residential Tenancy (Jersey) Law 2011 contains 4 sets of provisions which offer protection to residential tenants in the circumstances of the question. The first is where there is a periodic or recurrent tenancy or where there is no specified term, the landlord would need to give notice to quit, which contain prescribed particulars in accordance with Article 6 of the law and a minimum notice period of 3 months. Secondly, if the tenant does not vacate the property where the tenancy has already ended, a landlord would need to obtain an order for eviction from the court to allow the eviction to take place. Third, Article 14 of the 2011 law allows the tenant or the court of its own motion to stay the eviction or seek a stay of the eviction either with or without conditions. Article 15 sets out prescribed matters which the court must consider and those which the court may consider when considering an application for a stay. They include a wide range of circumstances, including matters such as the balance of hardship as between landlord and tenant, whether other accommodation is available to the tenant and so on. Lastly, Article 10 of the law provides that it is a criminal offence for a landlord, without lawful reason, to prevent a tenant from occupying the property, which is subject to a residential tenancy agreement or otherwise, interfere with the tenant’s enjoyment of the property. I would take that to apply in circumstances where perhaps the landlord is taking matters into their own hands and seeking to prevent the tenant from enjoying quiet enjoyment of the property.

4.7.1 Senator S.Y. Mézec:

Could the Attorney General, therefore, confirm that where a tenancy has a fixed end which does not coincide with the time at which the landlord wishes to sell their property, that they are unable to require the tenant to leave that property? Would he further confirm that when the ownership of the property changes hands, whether or not the new landlord is bound by law to honour the existing tenancy and see it through to its end?

The Attorney General:

Yes, the law distinguishes between 2 different types of tenancy agreements and the Senator has referred, I think, to a fixed-term tenancy of, say, one or 2 years and in those circumstances the landlord, they could do a number of things but basically they should wait until that fixed tenancy has expired. Alternatively, they could sell the property to a purchaser but subject to the existing tenancy. I suppose, thirdly, they could try and negotiate with the tenant and see if they could provide alternative accommodation of an equivalent character or possibly try and buy out the tenant, I suppose, in those circumstances. But the basic provision is that the tenant has a legal interest in the property and the landlord would need to respect that.

4.7.2 Deputy R.J. Ward:

Sorry, I am just struggling to hear some of the answers. Can I just confirm, and it may well have been asked just in a different way because it is a technical question, does a landlord who buys a home with somebody living in it buy the interest, if you like, in that tenant living in it at the same time and, therefore, is legally bound by a specific interest? Is that what the Attorney General was saying? He may have well have answered that, apologies if he has.

The Attorney General:

Yes, I thought I had answered that. The original supplementary question was where there was a fixed-term tenancy of, say, one or 2 years and the property is sold, then the landlord would need to respect that tenancy agreement and they have a number of options. The basic one would be to sell the property subject to the tenancy and the terms of the contract of sale would need to reflect or be subject to that tenancy agreement.

The Bailiff:

Final supplementary, Senator Mézec.

Senator S.Y. Mézec:

Not at this point, Sir; the Attorney General has been helpful. Thank you.

4.8 Deputy J.M. Maçon of St. Saviour of the Minister for Infrastructure regarding his Department's policy in respect of boulevards in the urban development area (OQ.198/2021):

Will the Minister explain his department's policy with regards to the inclusion of boulevards in urban development areas and how, if this policy exists, it is in line with the States Assembly's acknowledgement of a climate emergency?

Deputy J.M. Maçon:

The Minister is muted, Sir.

Deputy K.C. Lewis:

Sorry, Sir, I am having technical problems. Okay, can you hear me now, Sir?

The Bailiff:

Yes. I think the technical problem is solved by pressing unmute, Minister.

Deputy K.C. Lewis:

Not in my case, Sir. There was somebody trying to get in, which I did not accept.

The Bailiff:

Very well.

Deputy K.C. Lewis (The Minister for Infrastructure):

Sorry, I will start again, Sir. Planning considerations for the new urban development areas are a matter for the Minister for the Environment, although my officers will provide specialist transport planning advice when required. In terms of my remit and the maintenance of the existing States main roads, my department seeks to increase urban greening where possible. Within the evidence base for the proposed bridging Island Plan is a St. Helier public realm and movement strategy which considers green infrastructure in the context of climate emergency and will be used to inform the design of future public realm improvement projects. Due to the geometric constraints there is generally not the space to widen existing roads to create boulevards.

4.8.1 Deputy J.M. Maçon:

I wonder if the Minister is aware that the Planning Committee had a recent application whereby the site had 2 roads, one which was governed by the Parish of St. Helier which permitted the boulevards and one which was governed by his department and the advice from his department was not to support the boulevards. Given the Minister's answer that he has given to the Assembly in that the department seeks to increase the greenery within the urban area, I wonder if the Minister could explain the current position of the department and its advice which it gave to the Planning Committee.

Deputy K.C. Lewis:

As I say, the department approves of boulevards where appropriate and I would cite the Route du Port Elizabeth as a classic example of where boulevards would work but it must be appropriate to the area. I would also cite several areas where there have been problems that the Trading Estate Rue des Pres, the trees had to be removed because they were interfering with the substructure of the roads and also drainage, et cetera. They had to be removed and appropriate trees put in their place. This has to be taken road by road in its context. I do like green areas where appropriate.

4.9 Deputy G.P. Southern of the Chief Minister regarding the efficiencies and other rebalancing measures proposed in the Draft Government Plan 2022-2025 (OQ.209/2021):

With reference to the Rebalancing Government Finances section of the draft Government Plan 2022-2025, will the Chief Minister provide Members with a breakdown of how the efficiencies and other rebalancing measures under Delivery Plans A to D will be implemented without a reduction in the public services previously provided and will he state how any fees and charges received will be used?

Senator J.A.N. Le Fondré (The Chief Minister):

As far as I am aware we already have done and if the Deputy wants to look at, I think it is page 134 of the annexe, that gives a huge amount of information of the breakdowns of the proposals on the rebalancing. Obviously if he has got any further queries I am sure he will come back to me.

4.9.1 Deputy G.P. Southern:

I thank the Chief Minister for that information, would that all Ministers were as plainly speaking. But I refer to page 16 of the mid-year review on section 2 Rebalancing Programme, where it refers to 2 bullet points: "Increasing the Government's revenue through further recovery of existing costs moving towards full cost recovery of services where appropriate; the extension and increase of existing charges or the introduction of new charges as revenue-raising measures." This sounds to me like saving for money's sake and that services will be cut. Can he indicate, what are appropriate services that require charging for?

Senator J.A.N. Le Fondré:

I am sorry, I cannot give a specific example. I am just flicking through to the relevant page, which I cannot find at the moment in the annexe, which I do know gives some indications. For example, I did see the Judicial Greffe, I think it is, is increasing charges by, I think, approximately £50 for a particular service they provide. I shall find that in a second but that is in the page references that I referred to. The general framework that Ministers approved quite some time ago around costs is recognising that we do need to look at the generic principle, is that full-cost recovery should be down on the same costs and that might, for example, be where we are competing directly with the private sector. If we are not recognising the full costs there then we are subsidising that competition against the private sector and that would be unfair. I hope that gives a kind of flavour on the income side. On the overall principle of reduction in services, I would again point out, which I have said on a number of occasions, that what was efficiencies and then was rebalancing, and will continue to be rebalancing proposals, the Deputy will recall that we were originally setting out a target, I think it was for 2020, of £40 million. In that first time we achieved, again from memory, around £25 million and the £15 million was carried forward and is achieved as well, and then the point was that the departments would have to go away and find that recurring saving again. Where we are now, which is what we have said to Members, as an additional £20 million target, so it is an overall target of £60 million, and, as we have said, we are aiming to achieve roughly - keeping the numbers as simple as I can - £55 million of that £60 million as recurring. To me that is really clear, so it has demonstrated that we have achieved that quantity that everybody was quite challenging around, it has taken slightly longer. We have achieved on a recurring basis but we have not cut services, so there have not been, certainly from the Deputy's party shall we say, wild outpourings of anger from services that have been cut. But it is, therefore, a demonstration that we can make efficiencies and obviously that the money that goes through is being reinvested into the areas that are identified in the Government Plan, and I will stop there.

4.9.2 Deputy R.J. Ward:

It is quite difficult to know what to ask now because I am not entirely sure I got most of that answer. Can I ask the Chief Minister to commit that any cost recovery will not be targeted towards services for children, such as, for example, the school music service? Charges will not go up that give access to music to children from low-income families, so that it does not become a cost-recovery service, for example.

Senator J.A.N. Le Fondré:

I do not have the level of detail in front of me to say ... because obviously it is being done very much down at a departmental level. It will be a matter for all relevant Ministers I am sure, as and when that comes through. If there are issues, that the Deputy will take those up with the individual Minister.

4.9.3 Deputy R.J. Ward:

Can I ask the Chief Minister if it was brought to his attention a cost-recovery service from a department had been introduced that directly affects children, given that we are putting children first, would the Chief Minister commit to stepping in and stopping such a service charge that may be detrimental to the well-being of children in the long term?

Senator J.A.N. Le Fondré:

I think we have always got to be very careful about absolutes there because it will always depend on the circumstances. As I said, depending on what the service is and if it is in direct competition with the private sector and we were subsidising it against that private sector, then one would always have to consider the circumstances that we are looking at. The point being is that it is a framework, it is not going to happen immediately, it is a principle there that is saying we have not been particularly good at recognising what full costs are and providing certain services, and that is the framework we

are operating in. I know the Deputy has obviously views about whether services should be free or not and where they should lie. Sometimes, not always, I have slightly different views to that.

4.9.4 Deputy G.P. Southern:

Would the Chief Minister agree to circulate a list of services for 2020 and 2021 where fees have been charged for the first time after being initiated or have increased over that time period?

Senator J.A.N. Le Fondré:

I am really looking slightly puzzled, I am not entirely sure I quite understand the question. As I said, I think the Deputy needs to look at the annexe and see if the information, as I said, in the annexe is sufficient to answer those questions.

4.10 Deputy K.F. Morel of the Minister for Health and Social Services regarding the availability of medical records to clinicians at the General Hospital (OQ.204/2021):

Will the Minister advise whether any staff shortages at the General Hospital have led to full medical records being unavailable to clinicians at any time during the past month and, if so, what action has been or will be taken to rectify this?

The Deputy of St. Ouen (The Minister for Health and Social Services):

There were 5 instances recorded in August of missing clinic files. Those cases are reported on Datex, which is the H.C.S. electronic incident reporting system. In part this was due to the fact that extra clinics were run in August in an effort to clear waiting lists and that placed additional pressure on the medical records team, but of course that is a good thing but creating pressure to other parts of the system. But, in part, also a review of all administrative functions within H.C.S. and across government led to greater use of bank staff with associated higher staff turnover. During August this combined with some staff sickness and annual leave being popular in August; this created those instances. The review is now complete and recruitment of permanent staff is underway.

4.10.1 Deputy K.F. Morel:

How long does the Minister believe it will take for the recruitment of permanent staff to be fully processed?

The Deputy of St. Ouen:

We are hoping to have these posts filled by the end of the year. It is library and clinic clerks that we are seeking.

4.10.2 Deputy R.E. Huelin of St. Peter:

On the subject of medical records, I was wondering if the Minister could give us an update on when the project to have all medical records digitised will come to fulfilment and be operable.

The Deputy of St. Ouen:

Yes, I can do and it will largely be repeating a supplemental asked by Deputy Morel to an earlier question. But the paper records are going to be scanned into a dedicated platform, which will be integrated with the new electronic patient record system. The outline business case for this is complete and approved. A full business case needs to be drafted but this cannot be completed until the procurement exercise is complete. We will have the procurement completed before the end of this year and we expect a full business case to be completed in the first quarter of next year. Thereafter, we anticipate it will take 18 months to scan all the historic hospital records, meaning that the scanning and an electronic solution will be in place for the opening of the new hospital. I have got a little more detail but perhaps I will stop there.

The Bailiff:

Supplementary, the Deputy of St. Peter? Could you turn your microphone on?

The Deputy of St. Peter:

Sorry, Sir. Would you like me to start again?

The Bailiff:

I think we heard most of that but you were asking a supplemental question.

4.10.3 The Deputy of St. Peter:

I would just like an observation from the Minister for Health and Social Services as to how much further pressure he can put on to ensure this is delivered, not just in time for the hospital but for the benefit of all patients who need to know and have the assurance that they have up-to-date details, accurate records in a timely fashion when they are having any consultation with the various medical staff that need to help them with their particular ailment?

The Deputy of St. Ouen:

It is absolutely recognised that this is a priority, not just for the new hospital where we absolutely cannot be carrying up cartloads of paper files to put in a basement. But this is a priority for the team working in the digital services. Money has been voted through the previous Government Plan - significant amounts of money - to make this happen. Government does recognise that it needs to happen and is doing it.

4.10.4 The Connétable of St. John:

The Minister referred to August whereas the question refers to the last month. Can the Minister confirm if there were any issues last week with records at the hospital, please?

The Deputy of St. Ouen:

I think August was given because the question was received in September, I think. Last week I do not know and I have not heard of any issues.

4.10.5 The Connétable of St. John:

Earlier today the Minister spoke about a business case being brought together for the records. He has just spoken about money being in the Government Plan. Can he confirm that funds are in place for this project?

The Deputy of St. Ouen:

That is my understanding, this Assembly has approved that Government Plan.

4.10.6 Deputy K.F. Morel:

Indeed my request was that he did have September in mind. Would the Minister, please, be able to confirm that on 29th September or thereabouts clinicians were not able to gain full access to medical records and medical records were only being processed with the front sheet and, to quote, lined paper inside for the consultant to write? Can the Minister confirm that that did happen towards the end of September, quite possibly 29th September, and has he had any complaints with clinicians about the lack of records and have any patients been put in harm's way as a result of this lack of records?

[11:45]

The Deputy of St. Ouen:

I have not been made aware of that. Clearly, the Deputy has heard something about it, so if he wishes to give me details of what he has heard I will look into it.

4.11 Deputy G.P. Southern of the Minister for Social Security regarding measures to alleviate any hardship caused by the rise in gas tariffs (OQ.210/2021):

Will the Minister give Members a detailed breakdown of how she proposes to alleviate any hardship caused to households by the rise in tariffs proposed by Jersey Gas over the winter period?

Deputy J.A. Martin of St. Helier (The Minister for Social Security):

We do not know how many low-income households use gas for their heating but my officers have been in contact with all the social housing landlords to submit how many social housing properties use gas and what they use it for. Across all the portfolios there are only 158 homes that still have gas. I have asked my officers to explore a method to make an appropriate extra payment to any of these households who depend on gas to keep their homes warm. Although I cannot give the Deputy details of these extra payments, we will make sure that people know how they can expect to receive this extra help so they will not have to worry about using their heating this winter.

4.11.1 Deputy G.P. Southern:

The Minister's response applied only to social housing. What, if any, action can she take on rentals in the private sector because they will have to stay as warm and will have similar bills surely?

Deputy J.A. Martin:

Absolutely. As I say, this research started last Friday as soon as we heard about the gas. We could easily contact the trusts and Andium, et cetera, and we got the figures. Absolutely, if you are in the private sector, you are on low income, I want to help them as much if they are heating their homes with gas. It is going to take a little bit of time to find out but it will be the same payment.

4.11.2 The Connétable of St. Martin:

As the Government will be profiting from the rise of either 5 per cent G.S.T. (goods and services tax) on the higher price of gas, is the Minister planning to pass 5 per cent on to people who need it, such as families who are struggling and members of Age Concern, et cetera?

Deputy J.A. Minister:

I have not thought about that one; it is something I could think about. But I was asked, literally, how am I going to help households who will struggle to pay their gas bills? But I can look into that for the Constable.

4.11.3 Deputy R.J. Ward:

In an answer today to Written Question 385 to the Minister for the Environment, and it is relevant, which asks about conversion of homes to electricity as part of our commitment to carbon neutrality, it suggested that there is a carbon-neutral roadmap, policies will come forward in the carbon-neutral roadmap for consultation by Christmas? Can I ask the Minister, will she be involved in that consultation? Does she support the transition from gas to electric systems for those facing hardship? Would she prioritise those people to give support so that they are not reliant upon what is becoming an increasingly uncertain supply of energy?

Deputy J.A. Martin:

I do absolutely support. I think it started when it was the Housing Department and then went to Andium, and to me seemed like to be ripping out some very good heating systems and replacing them with electric. It was the right thing to do and we absolutely know it is the right thing to do and we need much more. As I say, there is only 5 per cent of the whole population that use gas, I think that is domestic. I am not sure if that is commercial as well. We are getting there but gas heating is a thing of the past or should be.

4.11.4 Senator S.Y. Mézec:

Does the Minister accept that increased financial payments for those on low incomes to assist with their gas bills, while it would provide a neutral effect for those people, it would ultimately be a shift of taxpayers' money into the pockets of U.K.-based private equity investors? Would she, as the Minister who would have to be responsible for these financial payments, agree that it would be helpful for other Ministers to put pressure on to Jersey Gas or other energy providers to look to a more long-term solution so that we do not simply have to increase financial support for those on low incomes every time that these private equity investors decide to raise prices?

Deputy J.A. Martin:

I absolutely agree with the sentiment of the Senator. There is supposed to be a shortage of this, that and the other worldwide and it has ended up making gas that goes into people's homes more expensive. But the sentiment I absolutely agree with. I can work with other Ministers. But this is going to happen quick and it is going to happen fast, it is going to start coming in in the middle of October. I need a solution that will help people not be scared to put their heating on because it is gas heating and we will find a way to make sure they get a payment.

4.11.5 Senator S.Y. Mézec:

I welcome that and providing extra support to those people is absolutely the right thing to do in this circumstance. But I just wonder if the Minister could overtly agree with the point that I have made, which is that, ultimately, this is money that will end up in the pockets of private equity investors from the U.K. who have nothing to do with Jersey and no real interest in the sustainability of the energy provision in the Island. I ask her to state if she agrees with that point because I think it helps with the context in the wider debate on moving to carbon-neutrality to understand where this money is going and who it really benefits.

Deputy J.A. Martin:

That is a very big question. The money that I am putting in will go to the families that need it and the Senator is asking me if I think it is wrong that it will end up in some very rich and powerful companies, and obviously I do not think that is right either. I would have to know a bit more to absolutely 100 per cent agree with him.

4.11.6 Deputy G.P. Southern:

I suppose the final supplementary is very often the when question. When will the Minister come to this Assembly with her scheme detailed?

Deputy J.A. Martin:

As I say, it will be a one-off to get through the winter. I probably will not need to come to the Assembly but I will inform States Members. Obviously any help, if there is any sort of things that I could not think of or our officers have not thought of, I am always willing to talk to people. But it will be soon. The bills are going up, the gas prices go up on the middle of October, so we are not that far away. If you either get a monthly bill, and that will be at the end of October, or if they are 3-monthly you will be getting a bill by December. I want it well in by then and I have notified people of the help that they will get by then. As I say, we do not want people, if it is really cold, not feeling comfortable putting their gas heating on.

The Bailiff:

Deputy Tadier, you have indicated a desire to ask a question. That was the final supplementary, I am afraid.

Deputy M. Tadier:

Sorry, Sir. Thank you.

4.12 Deputy R.J. Ward of the Minister for Children and Education regarding class sizes in Jersey's schools (OQ.203/2021):

Is any increase in the class size currently being experienced, both in respect of primary and secondary schools; and what future increases, if any, are being planned for?

Deputy S.M. Wickenden of St. Helier (The Minister for Children and Education):

I thank the Deputy for his question. Overall across primary and secondary schools we are experiencing a slight increase in class sizes for this academic year. Primary school average class sizes have increased from 25.1 to 25.7 pupils since September 2020. In the same period secondary school class sizes in years 7 to 9 have increased from 24.0 to 24.6. The average class sizes in years 10 to 11, while lower than years 7 to 9 due to the number of pupils gaining entry to Hautlieu, has also slightly increased from 23.4 to 23.5 pupils per class. My officers constantly monitor demographic trends and plan ahead to ensure we flex our capacity with more classrooms brought online to avoid excessive class sizes and growth. For example, when we were aware of high birth rates in 2014 plans were implemented to open 14 additional classrooms in 2016 to cope with that increase. Also in September 2020 we opened 3 additional primary classrooms to cope with unexpected demand in government-provided school places. These are examples of the planning and flexibility capacity we have in place to ensure class sizes remain in accordance with our policies. Due to the lower than average birth rate in recent years, I am not currently planning for future increases in class sizes.

4.12.1 Deputy R.J. Ward:

I would like to know, first of all, whether those figures were across the entire school population, including States-assisted schools, or whether they were entirely public schools; but we do not have a mechanism for doing that. Then to add to that, I would like to ask whether specific circumstances, for example, in secondary schools where teachers may have to be allocated, for example, to provide support for J.T.T. (Jersey Talking Therapies) students and, therefore, their class is allocated elsewhere, which puts temporary increases in class sizes, whether the Minister is aware of those and whether he has a mechanism for highlighting such circumstance so that classes do not go way beyond the average; in secondary you mentioned 23.5.

Deputy S.M. Wickenden:

I am not aware of what the Deputy has said about J.T.T. We do have policies around class sizes to make sure that we are not having large increase in class sizes which will reduce educational outcomes for children. We are under those policies in most instances. There are some occasions with special educational needs schools or certain catchment areas where we go slightly above but we never exceed our policy.

4.12.2 Deputy M. Tadier:

Is the Minister able to provide us with a comparison between average class sizes in non-fee-paying schools and in the fee-paying schools?

Deputy S.M. Wickenden:

No, I am not.

4.12.3 Deputy M. Tadier:

Could the Minister go back and let us know what that comparison is and circulate it? Would he be able to do that, please?

Deputy S.M. Wickenden:

I can go back for 2 things. I can go and find out what the policy is in the fee paying and non-fee-paying schools and then come back with some figures on that, which I think will be helpful because their policies could be different to our policies within public schools.

Deputy M. Tadier:

Can I just get clarification? I was asking for the figures, I do not want the policy. I just want to know what the figures are in those schools for average class sizes. Certainly the ones that are state schools but fee paying.

The Bailiff:

Is that information that can be provided, Minister?

Deputy S.M. Wickenden:

Of course it can; I was trying to be extra helpful, Sir.

4.12.4 Deputy I. Gardiner:

Would the Minister have figures, if there is a difference, between town schools and country schools?

Deputy S.M. Wickenden:

Yes, I could put a breakdown together for classroom sizes in town and non-town schools and get them to Members.

4.12.5 Deputy I. Gardiner:

Would the Minister give an update on the review into public education, which was ongoing? Sorry, the Minister mentioned demographics and the capacity and there was an ongoing review into the primary schools specifically in urban areas as to what the needs of the catchment area demographics were? Where is the review now?

Deputy S.M. Wickenden:

I believe the Deputy is talking about the review into schools within the town area that we are doing and, although I think it falls outside the question, I will organise for an update to be given to Members.

4.12.6 Senator T.A. Vallois:

Can the Minister advise what his policy is on classroom sizes and whether that is based on actual numbers or average?

Deputy S.M. Wickenden:

I thank the Senator for her question. The policy has not changed since the Senator's time as Minister for Education. The non-fee-paying primary schools, we aim for a class size that averages not to exceed 26 pupils. In secondary schools the forms are set at 25 pupils. Both sectors do have policies on when and how class sizes can go above the respective figure; for example, in primary school classes can go up to 28 places for pupils who live in the catchment area and 29 or 30 pupils via a formal appeal. In secondary schools 26 places can be offered for a pupil living in the catchment area.

[12:00]

4.12.7 Senator T.A. Vallois:

Could the Minister advise whether he has the number of class sizes in actual numbers that are above 26 and, if he does not have that to hand at the present time, whether he would share that with us as States Members?

Deputy S.M. Wickenden:

In secondary school classes that are above 25, the majority of them are at Les Quennevais School, which has seen an increase in demand due to its new school status. The primary schools that have class sizes over 28: there is one class in D'Auvergne, 2 in St. Lawrence, one in Springfield, 2 in St. Martin, one in Plat Douet, one in Samarès, 2 in La Moye and 3 in Mont Nicolle.

4.12.8 Senator S.Y. Mézec:

It follows on from Senator Vallois's question. I wonder if the Minister could tell us what he is aware is the maximum class size in a school in Jersey?

Deputy S.M. Wickenden:

The maximum class size is 30.

4.12.9 Senator S.Y. Mézec:

Could the Minister indicate where that is and is that just one example in the Island or are there multiple that are at 30?

Deputy S.M. Wickenden:

I do not have that information in front of me right now but I can disseminate it when I disseminate the rest of the information to Members.

4.12.10 Deputy R.J. Ward:

How significant does the Minister believe the class size is in the delivery of education? Could he give an example of what he sees should be the maximum number in a class, for example in a year 2 class and in a G.C.S.E. (General Certificate of Secondary Education) science class in year 10?

Deputy S.M. Wickenden:

I am led by my department on advice on what a class size is. I believe that it gets reviewed constantly so I believe we have the class sizes right. To go above and have too many children reduces, as I said earlier, the educational outcomes for all children within that classroom, which is why it is important to make sure that class sizes are appropriate so all children get a fair and equal education and get equal time with the teacher for the level of education that they require.

4.13 Senator S.Y. Mézec of the Chief Minister regarding the prospect of a public inquiry into the Government's response to the Covid-19 pandemic (OQ.201/2021):

What plans, if any, does the Chief Minister have to initiate a public inquiry into the Government's response to the COVID pandemic, in order that an independent assessment is undertaken and recommendations produced on how Jersey's Government should prepare itself for any future crises?

Senator J.A.N. Le Fondré (The Chief Minister):

Can I refer the Senator to a response identified earlier in the Order Paper that I gave to the Connétable of St. Brelade? He asked a very similar question in Written Question 366/2021.

The Bailiff:

So effectively you are referring the Senator to that answer as providing the answer to this question?

Senator J.A.N. Le Fondré:

I believe so, Sir, yes.

Senator S.Y. Mézec:

Rather than me ask a supplementary, could he refer himself to it and outline what it is for the benefit of people listening?

Senator J.A.N. Le Fondré:

Yes, I have no problem with that but I would have thought the Senator would have been aware of the written question, given his interest on the subject. The response, which is obviously available online and circulated to Members previously or through the normal links, I will give the response: “The Chief Minister and the Minister for Health and Social Services are committed to regular and transparent States Members’ briefings on COVID-19 matters. States Members’ briefings are held on a regular basis and encompass both the decisions reached and the supporting evidence for those decisions. In addition, a range of Scrutiny Panels are briefed regularly but also carry out research on key topics which encompass public hearings and public reports.” There is a bit more but bear in mind this is a written question and not designed for a 90-second response. “Provided the Island remains in a good position and comes through the winter period, we would of course arrange a debrief for States Members probably in March/April. However, at this time the Government of Jersey continues to treat COVID-19 as a pandemic emergency. It is therefore important, especially in a community of our limited size, that scarce resources of the Government are devoted largely to the ongoing threat posed by COVID-19, which is considerable.” I think I can probably pause that there.

The Bailiff:

That was quite difficult to follow, Chief Minister. I appreciate you were reading it quickly. Do you have a supplementary arising out of that, Senator?

4.13.1 Senator S.Y. Mézec:

Yes, I am glad I did not refer myself to that question initially because it was complete gibberish. I would like to know from the Chief Minister whether he believes that a public inquiry exercise of some sort, as is being done in other jurisdictions and in other places in the British Isles, to find an independent and objective analysis of the Government’s response to the COVID pandemic so that they can produce recommendations and know what we can do in future ... it is not a Scrutiny review, it is not some sort of politically partisan attack, it is an objective public inquiry as other jurisdictions are doing. Does the Chief Minister believe that that process would be worthwhile for the Island of Jersey so we can make sure we are well-prepared in the future? Is that something he would be prepared to support?

Senator J.A.N. Le Fondré:

I do take issue with the complete gibberish. I actually said that I rather felt that in order to avoid duplication the Senator could have looked at the response that we had given to the Connétable of St. Brelade who, I think rightly, asked the question in written format and therefore it gives a bit of detail to that. The problem with all these calls for public inquiries at the present time is that we are still in a pandemic and therefore the point I was making, which is the bit I did read out, is that we do have scarce resources, we do not have the capacity to both run a response against the pandemic and review that response at the same time. If that means that at some future date there should be a public inquiry then I think that is a matter for discussion at that time. I would also make the point that I absolutely agree that there will be lessons to be learned going forward and, indeed, as we have evolved our response to the pandemic over the last year we have adapted our response. Indeed, even with the new hospital, which we will be debating later, there have been changes to take account of our experiences as a result of COVID. Do not underestimate the cost of running a COVID inquiry and particularly at what point in time it should be. If one is going to assess the economic impact, the overall health impact - for example what has been the impact of delay for cancer operations because of COVID - then that is going to be quite a long-term project. I do make the point that to talk about that now would have serious issues for our capacity to continue to deal with the pandemic in the way that we have been.

4.13.2 Deputy R.J. Ward:

Would the Chief Minister not agree that some form of inquiry - a short, sharp inquiry - is necessary? Particularly, for example, that later in this sitting we are going to be asked to extend, in P.83, emergency powers but we have no idea and no independent view of how successful they have been so far?

Senator J.A.N. Le Fondré:

I would argue that the measure of success has been, I would suggest, that the Island is in about as good a place as it possibly could be. The measures that the Deputy has referred to have been part of our armoury to allow us to combat the pandemic. What I am saying is that one needs to be exceptionally cautious before one commits to a public inquiry. For the sake of argument, given the potentially very wide range of inquiry that might take place, I would rather assume that legal representation might be required from any witnesses appearing in front of it, especially if they were not a politician for example, and everything that goes with that. On that basis, I would point out that that cost would be quite significant. We are not talking a few hundred thousand pounds and we are not talking quick and dirty. So if you are going to do a public inquiry you do it well but you have to pick your time as to when to do it and that, I think, is a matter for another day. Let us get out of the pandemic first, make sure we are clear of it before we put further demands on what has been a very, very good team but they are limited in number.

Deputy R.J. Ward:

No supplementary but perhaps I could suggest to the Minister that if he is suggesting that written questions are going to answer oral question they could be emailed to Members because they are not as accessible as they used to be.

4.13.3 Deputy I. Gardiner:

Can the Chief Minister advise if he looked at Scotland, Northern Ireland, England and other Commonwealth jurisdictions that are launching public inquiries? What is most important is that it is independent, it is not Scrutiny, it is not political and it is the health response, and the importance of this is related to the health response for future possible pandemics that come our way and our readiness for this?

Senator J.A.N. Le Fondré:

I really do apologise, and I understand why Senator Farnham is having a problem, from my angle the Deputy is breaking up quite a lot and I really could not hear the question. Could she possibly repeat it?

Deputy I. Gardiner:

Yes, would the Chief Minister advise if he looked at Scotland, Northern Ireland, England and other Commonwealth jurisdictions that are about to launch public inquiries? Would the Chief Minister advise if he has sought the difference between independent public inquiry and the Scrutiny review as it would be a health response and our readiness for future pandemics?

Senator J.A.N. Le Fondré:

I absolutely recognise the difference in scope between a public inquiry, which is covered under law and has quite wide-ranging legal powers, and a Scrutiny review. There are 2 points I am making is, number one - and I am plucking a figure out of the air, I have no idea if this is remotely accurate - we are potentially talking about spending £5 million, shall we say. It will be that sort of number. It will not be £500,000. Secondly, the fundamental point at this stage is around not actually putting too much pressure, in my view, on the team that has worked to such a level and to such an extent for the last 12 to 18 months, they can continue to handle the response to the pandemic but to then, while they are doing that response to the pandemic, talk about doing a public inquiry is a huge extra commitment and would put a significant strain, I think, on the response to the pandemic. To an extent, talks about

public inquiries certainly this side of Christmas, for example, to me would be premature. Just as an aside, Deputy Ward made some remark about written questions; that is very much a matter for the P.P.C. (Privileges and Procedures Committee) and the Greffe.

4.13.4 Senator S.Y. Mézec:

The Chief Minister's answer is full of contradictions. If it is the case that the Government has done such a fantastic job at this so far then you expect that there would now be more resources free to dedicate to engaging with some sort of inquiry in a way that, of course, would have been impossible in March and April last year. The fact that the pandemic is over is, of course, a very good reason for having an inquiry to make sure that we exit it appropriately. What is it about our situation here in Jersey that is so different to those that Deputy Gardiner referenced that are looking to hold public inquiries sooner rather than later, in recognising that there is still more to do before the end of the pandemic and an independent and objective assessment can be helpful here? Why does he think that Jersey would not benefit from that sort of insight at this point? Would he, if he is not prepared to commit to that, be prepared to commit to holding an official public inquiry at the end of the pandemic?

Senator J.A.N. Le Fondré:

I am going to push back on the Senator. He said there are a lot of contradictions. He has just stated the pandemic is over. Unless he has access to information that I do not, I am not aware that the World Health Organization have declared the pandemic to be finished. Then he says that the pandemic is not over. So which is it? I think his question is indicating a fundamental lack of understanding as to how we have been dealing with the pandemic and how much resource has been tied within the existing organisation to handle the pandemic and handle our response to it. The point I have said all the way through is not about not having a public inquiry, it is about saying: "Be very careful and just be very clear what one is asking for, what the timing is and what the cost is likely to be."

[12:15]

We do do learning as we are going through. An independent review, I have absolutely no problem with but be aware, firstly, of cost and, secondly, of capacity while we are still in a pandemic. To suggest we are not still in a pandemic is dangerous.

The Bailiff:

I think the question was twofold. There was why you would not wish that investigation but, if so, would you think now that there should be a smaller inquiry into those things that can help us going forward. I think you answered the first question from your perspective, Chief Minister, but I am not sure you answered the second.

Senator J.A.N. Le Fondré:

The second point I think still relates to capacity. It is making the point that oddly enough the U.K. has a population of 60 million people and a civil service to match that size of service. Although I said we have a good civil service, the pandemic has put capacity issues on normal activity; we accept that. We have lost months and months and months on a whole range of areas. The Deputy himself has challenged us on things like housing responses. Well, if he wishes further delays to take place on those type of responses and that policy development, then, yes, let us go for a full independent public inquiry and we start it before Christmas. Frankly, I would not be supporting that because it would put significant strain on capacity within the organisation. Now, when we come out of the pandemic, whenever that is, that is a different story and I think that will be a matter for Members to consider at that time. Let us get through this winter first. Let us make sure we are clear of the pandemic and that our response continues to remain robust. That is my focus.

4.14 Deputy I. Gardiner of the Minister for Health and Social Services regarding the prospect of treating Covid-19 as an endemic, rather than pandemic (OQ.207/2021):

Will the Minister advise what consideration, if any, has been given to a move towards treating COVID as endemic as opposed to pandemic in Jersey; and if so, will he explain how this will be determined?

The Deputy of St. Ouen (The Minister for Health and Social Services):

I thank the Deputy for this interesting question. A pandemic is an outbreak of a disease affecting many populations over a wide geographical area. At present, of course, the COVID-19 pandemic has a vast global reach. Endemic refers to the normal circulation of a virus in a specified location over time. An endemic virus is relatively constant in a population with largely predictable patterns. For example, influenza is an endemic virus which is monitored globally for its epidemic and pandemic potential. Once we see a stable level of COVID transmission indicating a new baseline of COVID we might say the pandemic has ended and the virus is endemic. This will likely include minor seasonal trends, as we usually see with flu, but we are not yet in a position to treat COVID-19 as endemic in Jersey. We have not reached that stage of constancy and predictability. Furthermore, it would be unwise to treat COVID-19 as endemic in Jersey while there is ongoing epidemic or pandemic activity within neighbouring jurisdictions and common travel destinations. Our connectivity makes us vulnerable to further outbreaks.

4.14.1 Deputy I. Gardiner:

I am grateful to the Minister because it is exactly the explanation that I have personally seen for pandemic and endemic. Countries will not enter an endemic phase at the same time because of variable host environment virus factors, including vaccination rates. As our vaccination rate is higher than anywhere else, has the Minister considered what number of cases of COVID is acceptable as a level of endemic stability for Jersey? If so, what would the number be and is it hospital or community?

The Deputy of St. Ouen:

Thinking has not developed to that extent. I would be very cautious about fixing numbers, especially at this stage where we are certainly not in a position to start saying the pandemic is over. Because the issue perhaps will not be the number of infections, which might be capable of being treated within the community, but issues of concern might be the numbers being hospitalised or even, unfortunately, any numbers dying. I think this work will be carried out in due course and, as the Deputy says, it may be that around the world different countries will think they are in the endemic stage while others are in pandemic stage. I think we have to link ourselves with the U.K. and the Continent and see what is going on there. We cannot exist as an Island and pretend that we can manage entirely our own activity in this area.

4.14.2 Deputy R.J. Ward:

Can the Minister perhaps identify some of the features that would mean we are moving towards viewing it as endemic? For example, the removal of certain mitigations, the removal of testing at borders, the removal of any isolation requirements. Are they the sort of features we would see as we move towards treating this as an endemic disease rather than an epidemic?

The Deputy of St. Ouen:

The examples the Deputy gave may well be the case. Testing at borders for an infectious disease is an extraordinary step and one that we do not take lightly. So if we were in a position to remove that requirement that might be a sign we are moving towards an endemic situation. I think also when we have delivered a vaccination programme and been able to vaccinate all the eligible cohorts to the extent that is advised, then we will know that through vaccination we have delivered that to all those

persons eligible and we know that vaccination provides significant protection, although not complete. That is another step, I think, we could look to.

4.14.3 Deputy R.J. Ward:

Is it not important that a clear message is given so that people understand precisely how this Government is viewing where we are with COVID? For example, if we are to remove testing at borders, which has been rumoured and proposed by the Assistant Chief Minister, would that not give the message to the population that we are now in an endemic phase. It may change people's behaviour? Is the message going to be clear is the question?

The Deputy of St. Ouen:

Yes, there will be a clear message and we are working at this time on a winter strategy, which will soon be released. We can expect that we will see different measures being applied from time to time, either relaxed or enhanced, depending on the degree of risk in the Island. The fact that we may do one thing does not mean that people should think we will suddenly be moving from pandemic to endemic. It is a case of managing over time and, as we move forward, I just do not know yet whether we would have a formal declaration of an end of the pandemic or whether we would just move into a different stage.

4.14.4 Deputy M.R. Higgins:

Could I ask the Minister, before we can even consider going into an endemic phase we need to be aware of what is happening in the rest of the world and the level of vaccination there, and also the number of variants that are coming out through unvaccinated people? Until the rest of the world is dealt with we cannot very well declare we have an endemic in this Island when travel around the world goes on all the time.

The Bailiff:

Is there a question there, Deputy?

Deputy M.R. Higgins:

Yes, the question was how can we declare that we have an endemic if the rest of the world has not sorted out the problem with vaccination or these other variants? Does the Minister not accept that it would be rather premature to declare an endemic in the Island when there is still a pandemic elsewhere in the world?

The Deputy of St. Ouen:

I accept at this stage, today, I would entirely agree with that, that what is happening around the world presents risks to the Island. I said in my first answer that we have to look to neighbouring jurisdictions and where there is pandemic activity there we are not in a position to declare ourselves endemic.

4.14.5 Deputy I. Gardiner:

As the word "endemic" is now regularly mentioned, especially among public health leaders and experts who are discussing how exactly COVID will be defined as an endemic, would the Minister advise if the public health officials in Jersey have started to consider this or, if not, when they will look into this?

The Deputy of St. Ouen:

My own feeling is that it is still too early to put a lot of resource into deciding whether, if and when we might declare an end to a pandemic. As Members will know, we have relied very greatly on advice coming through Public Health England, the J.C.V.I. (Joint Committee on Vaccination and Immunisation), the medical officers of health in the U.K., where they have substantial research and

resource abilities. We will continue to draw on those. I know Dr. Muscat is in regular contact with the medical officers of health in those jurisdictions. I think as they begin to talk about these things we will also in Jersey. We are part of the conversation, I am pleased to say, and that time will come. I do not think we are planning this in any great deal at all very soon.

4.15 Deputy L.M.C. Doublet of the Minister for Economic Development, Tourism, Sport and Culture regarding the ability of children in the Island to access swimming pools and swimming lessons (OQ.212/2021):

What is being done to ensure that all children have convenient and affordable access to a swimming pool and equal access to funded swimming lessons, as per the pre-Covid policy?

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

Thank you, Deputy Raymond as the Assistant Minister with responsibility for this area will take the questions.

Deputy H.C. Raymond of Trinity (Assistant Minister for Economic Development, Tourism, Sport and Culture - *rapporteur*):

May I thank the Deputy for the question. If I may take the opportunity of prefacing the direct question with it is great that we have the ability. We seem to be coming out of COVID, as we have heard this morning, and it is essential that we make sure that our youngsters move forward with regards to whatever activity they are doing. It is great to see that they are out doing other things like running. We have to encourage our children back into the sports and the bodies that they were doing prior to COVID. That leads me into the most important activity, which I feel is swimming. I am totally behind the Deputy and having done a lot of research over the last couple of weeks with the team I am hoping that everything is in place. I can confirm that all States of Jersey primary schools are now offered free use of the sports division pools to undertake swimming lessons as part of their curriculum learning. The States of Jersey non-fee-paying secondary schools are also offered free access to the sports division pools where their timetable allows. Fee-paying schools are offered access to the sports division pools charged at a 50 per cent normal hire rate. Schools are timetabled prior to the end of each academic year and each school can request access for whatever they require. For argument's sake, that is P.E. (physical education) lessons, learn to swim, G.C.S.E. moderation, scuba, galas and water polo. The major thing here is to make sure that as an Island one of most important activities that all our children should be doing, and dare I say it across the board, the earlier you catch the children swimming the better it is for their mentality and living on an Island. I totally agree that we have to make sure that we provide these facilities and hopefully that is what we are doing at the present time.

4.15.1 Deputy L.M.C. Doublet:

The Minister will be aware of 2 specific issues, because I have raised these over email. One of issues is the AquaSplash due to staff shortages is closing - not the adult pool but the family pool - apart from 2 or 3 days a week. I would like to know what is being done to support the AquaSplash in providing access, which of course will be particularly convenient for families who live in town, possibly lower income families who do not have a car or the ability to utilise public transport to get to Les Quennevais. I would like to know what the Government are doing to address that.

[12:30]

Also another issue that has been raised is the reception to funded swimming lessons which pre-COVID every child had a course of 10 swimming lessons on their reception year and I have been informed that not all children are currently able to access those. Could the Minister address those 2 specific issues, please?

The Deputy of Trinity:

I will take the second question first. As far as I am aware, I thought everything was in place. It has just slightly concerned me with what the Deputy has just said. I will certainly look into that but I am given to believe, after having our discussions with Education, that that was in place. If I may, I will come back to the Assembly and let the Deputy know. With regards to the first question, yes, we are having difficulties. It would be silly for me to not say so. The biggest issue is they are coming back with regards to the ability to get staffing and, as you know, with swimming we have to make sure that we have the right people in the pool at the right time and it is essential they are there. Purely for risk reasons as well. Again, I am very keen to push this very much forward, bearing in mind the amount of money that, dare I say it, we put into the swimming pool via Serco so it is important that we look after it. As the Deputy rightly says, if we take the 35,000-odd population that are in and around the pool it is essential that we try and make sure that that limited availability of the small pool becomes much greater for people in St. Helier to use, especially because it is very much in walking distance to a lot of people that do need that requirement. Again, it is not a definitive answer but I can assure both the Assembly and the Deputy that we are moving forward on those discussions, and I am very much involved with them.

Deputy L.M.C. Doublet:

Sorry, the Minister did not answer the first part of my question about the reception for swimming.

The Bailiff:

Are you able to provide a more elaborate answer than that?

The Deputy of Trinity:

As far as I am concerned I thought that it was 10 free lessons for reception children. I believe that is still in place and I was given to believe ... but I will check that with Education. If the Deputy could give me a particular school where that has happened, I am more than happy to look into it.

The Bailiff:

Very well, that brings the period for questions with notice to an end. We now come to questions without notice. The first period for the Minister for International Development.

5. Questions to Ministers without notice - The Minister for International Development

5.1 Deputy S.M. Ahier:

Will the Minister advise the Assembly of what Jersey's response to the unfolding humanitarian disaster in Afghanistan has been and if any assistance has been given to those affected by the Taliban takeover?

Deputy C.F. Labey of Grouville (The Minister for International Development):

Over the last 40 years Afghanistan has experienced a succession of conflict, invasion and natural disaster impacting the potential for education, investment, livelihoods and infrastructure. As a result, Afghanistan is one of the poorest countries in the world. It rates 169 out of 189 on the Humanitarian Development Index. Following the fall of Kabul in August, we have assigned 375,000 to 3 organisations to provide lifesaving support to those most in need. 150,000 is going to U.N.H.C.R. (United Nations High Commissioner for Refugees), 125,000 to the British Red Cross and 100,000 to the N.G.O. (non-governmental organisation) Street Child. Jersey's contribution to the U.N.H.C.R. will assist the organisation in delivering an emergency response that meets the immediate needs of 600,000 newly displaced people. Street Child will use Jersey's funding to help provide emergency support for 15,000 vulnerable children in 2 Afghan provinces with the highest proportion of displaced persons caused by the ongoing conflict. Notably Jersey's aid will help to protect and educate around 7,500 girls who are at extreme risk of violence, exploitation and early marriage. Finally, recognised for its neutrality and independence, the Red Cross and Red Crescent movement has a vast network

of local volunteers and over 30 years of experience navigating the complexities of working in Afghanistan. Jersey's support will enable the Red Cross to provide healthcare, food and other lifesaving aid in even more remote areas of the country. Next week I have been invited to discuss the issues further with the head of U.N.H.C.R. in Geneva.

5.1.1 Deputy S.M. Ahier:

Were there any ongoing projects being funded by the Minister's department in Afghanistan and, if so, have they been forced to cease activity?

The Deputy of Grouville:

In a place such as Afghanistan, Jersey Overseas Aid does not engage in sustainable development projects. Instead we offer humanitarian aid, which we are currently doing to the total of £375,000, which I have just explained. Therefore there are currently no ongoing projects as such, other than the emergency relief. Over the 11 years up to 2016 Jersey did support the Afghan people by allocating nearly £1.3 million in response to their urgent needs.

5.2 The Connétable of St. Martin:

Has Jersey Overseas Aid played a part or had any involvement in Jersey's response to the global pandemic?

The Deputy of Grouville:

Yes, indeed. Jersey has donated £1.85 million in 12 donations to tackle COVID in developing countries. Some noteworthy support might include £450,000 to the Red Cross to support essential healthcare in vulnerable communities and the delivery of £2 million worth of medicine by international health partners at a cost to Jersey of £185,000. This pandemic, as well as posing a significant risk in itself, has undermined the livelihoods and disrupted essential supply chains, increasing the threat of hunger and resulting in a rise in death from treatable diseases.

5.2.1 The Connétable of St. Martin:

With the aid that the Minister has mentioned, has Jersey Overseas Aid supported the COVAX programme?

The Deputy of Grouville:

We have supported COVAX with a donation of £20,000 to U.N.I.C.E.F. (United Nations International Children's Emergency Fund) and £100,000 to the Red Cross on a similar related effort. However, while COVAX is fairly successful in getting vaccines to developing countries, it is facing many challenges with getting vaccines into people's arms. Take up is low and in many cases the doses go to waste. This is partly because of difficulties in the logistics and cold chains, poor public health capacity and widespread distrust in certain countries. Jersey Overseas Aid looked closely at supporting COVAX directly but we decided its resources were most effectively spent on support work, which is a vital element to the success of the unprecedented vaccination programme. Therefore we are helping U.N.I.C.E.F. with the logistics and the roll out and the Red Cross with the vital public information campaign. From a risk and due diligence point of view, we are also restricting our support to agencies whose effectiveness is known to us rather than opening new relationships, for example with the World Health Organization or Gavi.

Deputy K.F. Morel:

Sir, if I may quickly, we are already over halfway through this question session and we have only had questions from 2 people. May I suggest that we do not allow supplementaries?

The Bailiff:

I am certainly open to not allowing supplementaries as we have only got to 2 and we only have a few minutes left. We will finish this question period at 12.47. Perhaps Members will only seek to ask supplementaries if they believe them to be essential and I will take a view in a moment or 2 as to whether that is working.

5.3 Senator K.L. Moore:

Given the skills crisis we are facing in many sectors in this Island where businesses are struggling to operate due to staff shortages, is the Minister considering how the Island could assist developing nations where people are struggling to find work due to either a weak economy or conflict?

The Deputy of Grouville:

I am not entirely sure what the Senator is getting at. Is she suggesting that we look to other countries to bring people in for work or we assist them in upskilling?

The Bailiff:

I am not sure this can be a question exchange, Minister. Without a supplemental then are you able to clarify your question, Senator?

Senator K.L. Moore:

I think the Minister has shown her understanding of my question as it was intended. Thank you.

The Deputy of Grouville:

Yes, well we have through local charities some educational programmes, through various charities and N.G.O.s. Education is not one of our focus areas so we do not have expertise in that area. I am still unsure what the Senator was getting at. If she is looking to Jersey Overseas Aid for sourcing labour for Jersey.

The Bailiff:

I am afraid I have to draw a line at that particular question.

5.4 Senator S.Y. Mézec:

Could I ask the Minister for a relatively succinct answer on whether or not the Overseas Aid Commission is providing any support to help alleviate the drastic humanitarian crisis in Yemen?

The Deputy of Grouville:

Yes, indeed. We have provided over £2.5 million in assistance in Yemen. We do not only assist them with direct humanitarian support but also through our pooled funds with the U.N. (United Nations). They are out there on the ground and they can assist in that way. We have consistently supported them over the last 5 years.

5.4.1 Senator S.Y. Mézec:

That is excellent to hear and I am fully supportive of that. Would the Minister acknowledge though that the humanitarian crisis in Yemen is drastically exacerbated by the, frankly, morally abhorrent interventions made by the Saudi dictatorship and would she therefore agree that if there were to be a country with whom we would change our diplomatic relationship with, Saudi Arabia ought to be much higher up on the list than the Faroe Islands?

The Deputy of Grouville:

Jersey Overseas Aid goes out of its way to not enter the political fray, which is exactly why the Commission has been set up as it is so we can be impartial and independent and give aid where it is due.

The Bailiff:

There are 5 more individuals indicating a desire to ask questions, there is approximately 5 minutes, allowing for a slight slippage for injury time. I will allow no supplementaries at this point simply to enable everyone to at least have a chance to ask one question, if that is possible.

5.5 Deputy J.M. Maçon:

Since the launch of the Island Identity Project earlier this year, could the Minister outline what progress has been made?

The Deputy of Grouville:

Yes, thank you. As the Deputy knows, the project was launched on 5th May this year and since that time we have been consulting and the consultation period ends on 12th October. We have been promoting it through various channels and translated the documents in Portuguese, Polish and Romanian. I will try and do it succinctly. We have commissioned the writing of materials which once we have checked it we intend to put it up on our website and that can be used in schools, the civil service, for newcomers to the Island and forums such as that. We have been conducting a number of meetings across government and with A.L.O.s (arm's length organisations) who we hope will be delivering a lot of the aims in the Island Identity Project.

[12:45]

We have engaged with the Parishes on a roadshow, making presentations at Parish Assemblies. We have a series of essays being written in particular themes and, as I said, we have ...

The Bailiff:

I am afraid that is 90 seconds for the answer, Minister, I shall ask you to bring that to a close.

5.6 The Connétable of Grouville:

In the Jersey Overseas Aid annual report the amount dedicated to Jersey charities increased. Can the Minister explain what this was spent on and would the Minister agree with me that supporting overseas aid projects through supporting local charities is a win/win situation?

The Deputy of Grouville:

Yes, indeed. Our contribution to local charities has gone up by 500 per cent since 2016. In 2020 we were giving £2 million to local charities through grants. These charities range in size from kitchen table top to larger entities such as Durrell and the R.J.A. and H.S. (Royal Jersey Agricultural and Horticultural Society). I will give you some examples of that work. Hands Around The World, for example, have an education project in Rwanda. The Gurkha Welfare Trust is implementing water sanitation and hygiene in rural parts of Nepal, which had an impact on tens of thousands of individuals in need. Supporting local charities is indeed a win/win, not only because we are supporting them but because in a lot of cases, like the R.J.A. and H.S. with our diary projects and Durrell with our conservation livelihood, and indeed financial inclusion coming from Jersey we can draw on Jersey's expertise. Yes, it is a win/win. Thank you.

The Bailiff:

I am afraid even with an allowance for injury time that brings the time available for questions to this Minister to an end. Does someone propose the adjournment?

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Very well, the Assembly stands adjourned until 2.15 p.m.

[12:47]

LUNCHEON ADJOURNMENT

[14:16]

6. Questions to Ministers without notice - The Minister for Treasury and Resources

The Bailiff:

The second question period is for the Minister for Treasury and Resources.

6.1 The Connétable of Grouville:

The Le Catillon II coin hoard was uncovered in 2012, which is 9 years ago. My understanding is that finally the payment to the finders has been agreed by the Council of Ministers and all other parties involved. Why has the payment not been made and when will it be paid?

Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):

It is a very good question and I thank the Connétable. This has been going on, in my opinion, for far too long with the people being denied their rightful payment for their findings. Already £750,000 has been paid for the restoration, for want of a better word, of the hoard and the price of £3,000,512 is due to be paid. It has been agreed with the Crown and we should have this payment agreed by the end of this week. I will let the Connétable know first when it has been agreed, but it has been too long and I know one of the people involved has already passed away so it should not carry on any longer.

The Bailiff:

A supplementary, Connétable?

The Connétable of Grouville:

No, Sir, but I do thank the Minister for her answer and I look forward to hearing the news later in the week.

6.2 The Connétable of St. John:

Can the Minister advise the Assembly of the forecast impact on returns, both dividend and tax, from J.T. (Jersey Telecom) for the next 5 years following the sale of the Internet of Things?

Deputy S.J. Pinel:

The dividend, being the ... I just want to be quite sure I am answering the question correctly, from the £40 million, is that ...?

The Connétable of St. John:

No, the dividend that we will receive as a shareholder of Jersey Telecom.

Deputy S.J. Pinel:

Right, so not the I.o.T. (Internet of Things) ... sorry, I am not quite sure which one the ...

The Connétable of St. John:

I am asking what is going to be the impact on the Government's revenue from J.T. both as a tax and a dividend following the sale of the I.o.T.

Deputy S.J. Pinel:

Following the sale of the I.o.T. the £40 million will be transferred into the coffers, for want of a better word, but will be reconstructed towards J.T. for investment in their infrastructure.

The Connétable of St. John:

The question is what the impact is on the revenue in terms of dividends and tax from J.T. following the sale. It is not about the special dividend.

Deputy S.J. Pinel:

Okay, thank you very much for that clarity. We do not know what the future situation will be on the dividend impact at all, so we will continue to review it. We are in constant talks with J.T. and we will come up with some answers, but it is quite a recent sale so we do not know at this stage.

6.2.1 The Connétable of St. John:

Is the Minister for Treasury and Resources telling us that she does not know the impact on the annual revenue from J.T. following the sale of Internet of Things and, therefore, how does she come to the value of the sale?

Deputy S.J. Pinel:

Because the £40 million from the sale of the Internet of Things is going to be reinvested; we do not know what the impact is going to be.

6.3 Deputy S.M. Ahier:

In a recent public hearing the Minister mentioned that the 1 per cent of government expenditure allocated to culture and heritage might have to be increased. How much does the Minister expect this funding to be increased by?

Deputy S.J. Pinel:

Again, that is a question that is speculative. It was agreed - I think it was a proposition by Deputy Tadier - that 1 per cent of funding would be given to heritage. I am a very keen supporter of heritage, but as yet in the Government Plan it is not being pursued as to how much more would be ... or what the percentage would be.

6.3.1 Deputy S.M. Ahier:

Will the Minister bring forward a proposition before the end of this term to propose an increase to arts funding? Will she bring forward a proposition before the next election to increase arts funding?

Deputy S.J. Pinel:

I will certainly work on that because I am a very big supporter of heritage and older buildings and feel that they should be supported. So, I will not promise to do that but I would like to do that.

6.4 Senator K.L. Moore:

The Chancellor of the Exchequer in the United Kingdom has told the Conservative Party conference that he thinks excessive borrowing is immoral. Would the Minister agree and what is her opinion of borrowing exceeding a small nation's annual expenditure?

Deputy S.J. Pinel:

I certainly do not think borrowing is immoral because of the reason it has to be done, which is in order to build a hospital, which we desperately need, which the Senator is very aware of. The U.K. are in a completely different situation from Jersey. We have huge reserves and borrowing against those reserves which keep our credit ratings is a well-known phrase of mine, and I think that we are in a very, very different situation, not comparable whatsoever with the U.K.

6.4.1 Senator K.L. Moore:

The question actually referred to excessive borrowing, which was the quote from the Chancellor, and also if the Minister could respond to the part of the question that referred to would she consider that excessive borrowing was borrowing that matched or exceeded a small nation's annual expenditure.

Deputy S.J. Pinel:

“Excessive” is relative and no, I do not think it is excessive at all to borrow for the reasons that we are doing, with everything in place to repay that borrowing. So no, I do not think it is excessive.

6.5 Deputy R.J. Ward:

May I ask the Minister how far the Minister has got with the implementation of the Classifications of Functions of Government proposition, P.94/2019, which was accepted as amended by the Minister and states that this classification would be in place for the Government Plan 2022?

Deputy S.J. Pinel:

May the Deputy remind me what P.94/2019 was, please?

Deputy R.J. Ward:

I can. I can actually read it out if ...

Deputy S.J. Pinel:

Well, for the public as well.

Deputy R.J. Ward:

“To request the Minister for Treasury and Resources, working with Statistics Jersey, to require all States expenditure to be classified in accordance with the United Nations Classifications of Functions of a Government System so that the annual accounts of the States of Jersey and all subsequent government documents presenting financial information, including in the Government Plan 2022, classify public spending in accordance with international best practice.”

Deputy S.J. Pinel:

Thank you very much for that clarification, Deputy. Yes, we have just issued the 6-monthly reports and accounts and, of course, will do so again at the end of the year, all in accordance with what the Deputy has just described.

Deputy R.J. Ward:

It is not a supplementary, but I believe that is not actually accurate because it is not ...

The Bailiff:

Well, it is the answer. It cannot be challenged as to its accuracy, Deputy. Would you like a supplemental question?

6.5.1 Deputy R.J. Ward:

Yes, please. So, may I ask when the actual classification system as passed by this Assembly in 2019 will be implemented? That gives classification of our spend against international spend so we have a much clearer picture of how we spend on health, on education, against international markers. It will be very, very useful in particular before the next general election on this Island, where people would get a true picture of what we actually spend.

Deputy S.J. Pinel:

I will get back to the Deputy as to when that can be released to the Assembly.

6.6 Deputy M. Tadier:

Has the Minister heard the argument put forward that when it comes to the social security pension that pensioners receive they are effectively double taxed because they pay tax on their social security contributions and then they have been taxed on the actual state pension itself? What does she think of that?

Deputy S.J. Pinel:

That has been a long-held question, Deputy, from when I was in Social Security as Minister there. There is not a situation of double taxation inasmuch as the social security pension paid by Social Security is not taxable. It is the entire income that is subject to tax if the income is above the £16,000 tax threshold.

6.6.1 Deputy M. Tadier:

There is a supplemental because at best that answer, I think, was using sophistry which the Minister might accept, but does she accept that the whole point is that ... does she agree you are taxed on your social security contributions, so on your gross income, and there is no allowance, there is no ... the state pension is not tax deductible so it contributes to the overall income on which you may be taxed if you go over the threshold?

Deputy S.J. Pinel:

Yes, if your income goes over the threshold, then, of course, as I said in my previous answer ... of £16,000, there is a tax applicable, but it is not ... I would not term it as double taxation. It is just your entire income.

6.7 Deputy K.F. Morel:

I apologise to the Minister. I said I had no questions but then I have thought of one. In the event that the Strategic Reserve does not provide a return in any given year, certainly a return that is insufficient to pay back interest on bonds, what will Treasury do to ensure that interest payments are made?

Deputy S.J. Pinel:

I think probably the Deputy knows the answer to this question, but the Strategic Reserve, along with the Social Security Reserve, have produced excellent results; the Strategic Reserve of 8.1 per cent return, despite a drop at the start of COVID of 30 per cent, has recovered. Of course, the Income Forecasting Group have said this will continue but until we know exactly what is going to happen over the next few years ... but the positive attitude that we have to the interest return on the Strategic Reserve and the Social Security Reserve is very good.

6.7.1 Deputy K.F. Morel:

If I may reiterate my question because the Income Forecasting Group are not fortune tellers. In the event that the Strategic Reserve does not provide a return sufficient to pay interest on bonds taken to finance the hospital, what will Treasury do to pay that interest?

Deputy S.J. Pinel:

Having had all the advice that we have, and of course this is going to be part of the hospital debate in the forthcoming day or so, all the huge advice that we have had on bonds for the hospital and the borrowing, which I know is part of the future debate, is that the Strategic Reserve will continue to fund the borrowing by putting bonds into the reserve, and the revenue from that interest will easily fund the hospital. If there is another downturn or a 2008 crisis, then we have to deal with that when we have to deal with it.

6.8 Deputy G.P. Southern:

If I could return to the Constable of St. John's question. Every year in the past we have received revenue in terms of tax on profits and, secondly, a dividend on our shareholding in Jersey Telecom. What were those in the year 2020 or 2021? What is the ongoing dividend and tax we are receiving from J.T.?

[14:30]

Deputy S.J. Pinel:

We do not have the figures as to what ... I think it was in answer to an earlier question of what the results of the revenue from the dividends are as yet. We just do not have it. There is a very big difference, which I think has got quite a few people confused, in the shareholding of which Treasury and the Exchequer are the shareholders of Jersey Telecom and what is the sale of the I.o.T. So, it is just a bit confusing as to what the public may see as 2 confusing things, which they are not; they are very separate.

6.8.1 Deputy G.P. Southern:

What is the latest figure or figures that the Minister for Treasury and Resources has for the dividend return and the revenue produced from taxation on J.T.? What is the latest figure? What year?

Deputy S.J. Pinel:

As I said before, we do not have that yet.

The Bailiff:

Very well, second question, Connétable of St. John.

6.9 The Connétable of St. John:

I am not confused at all. Could the Minister tell us what the plan is to replace the income from both tax and shareholder dividends going forward from J.T.?

Deputy S.J. Pinel:

There are a lot of questions on Jersey Telecom here. I am not on the board of Jersey Telecom and when I get the information I can bring it to the Assembly.

The Bailiff:

You may have time for a very quick supplementary.

6.9.1 The Connétable of St. John:

We have just sold an asset and the Minister is telling us she does not know the value or the revenue of that asset. Can she tell us how she came to her decision, please?

Deputy S.J. Pinel:

It was not my decision at all, it was the board's decision to sell I.o.T., and I think again this is where there is a bit of a lack of knowledge inasmuch as it was a board decision, not mine, because it was a separate business from the shareholder business with which, of course, I am involved, but the Internet of Things was a separate business completely that was sold. So it was a board decision. I was informed but only a week or 2 weeks before the sale because of the commercial confidentiality of it.

The Bailiff:

The question time for questions to this Minister has come to an end. The final period of questions is directed to the Chief Minister.

7. Questions to Ministers without notice - The Chief Minister

7.1 Deputy M.R. Higgins:

As chairman of the States Employment Board, will the Chief Minister issue instructions to all civil servants that they must follow the letter of the General Data Protection Law, not only in meeting the 28-day response time but also the need to provide all information held? One person I have been helping has had 7 attempts, got 250 documents on the first attempt and 7 more to get 1,500 pages, and the Department of Social Security is still holding out. Is that acceptable?

Senator J.A.N. Le Fondré (The Chief Minister):

I do not know the exact details that the Deputy is referring to. As ever, I am very happy if he wants to know any specifics we can go into it. I will certainly ensure that the issues around G.D.P.R. (General Data Protection Regulation) in responses are raised with the relevant parties through S.E.B. (States Employment Board). I am not entirely sure that that is a direct employment matter for the S.E.B., but as a principle I am very happy to raise the matter. I will accept that there are sometimes quite legitimate and practical issues that do arise, but I think we have to understand what the Deputy is alluding to and hopefully at some point we can sit down and talk it through.

7.1.1 Deputy M.R. Higgins:

I hope we can also talk about the fact, if people speak with the Information Commissioner's office, where States departments are deliberately withholding information and even the Information Commissioner's office is having to spend a great deal of time and effort trying to get them to follow the law.

The Bailiff:

What was the question?

Deputy M.R. Higgins:

Will the Minister discuss that with me as well?

Senator J.A.N. Le Fondré:

I will discuss anything which the Deputy would like to discuss. So I think the best thing is we make sure that we get a space in the diary.

7.2 Connétable D.W. Mezbourian of St. Lawrence:

What have the Chief Minister and the Minister for Home Affairs done to assure themselves, and thereby to reassure the public, that the vetting checks undertaken on States of Jersey Police officers are rigorous and to the highest standard?

Senator J.A.N. Le Fondré:

I will have to go back to the ... if the item is being raised in relation to the very tragic ... that is not the right word, but the incident that has happened in the United Kingdom and even more recently a further ... I cannot remember if it was an allegation or a charge against another member of the police, then that will be something specifically for the Minister for Home Affairs. I am absolutely in agreement with making sure that our tests are as rigorous as they possibly can be.

7.2.1 The Connétable of St. Lawrence:

I was going to ask the Chief Minister what the vetting checks are, but clearly he cannot tell the Assembly or the public and it is very disappointing that following the tragedy in the U.K., when we know that vetting is being closely scrutinised, that he has not yet had the opportunity to meet and discuss this with the Minister for Home Affairs. My question to the Chief Minister then is: will he guarantee that he will have such a meeting with the Minister for Home Affairs and with the police chief and then come back to the States to reassure us and the public that the vetting procedures are to the highest standards?

Senator J.A.N. Le Fondré:

Firstly, I would expect them to be of the highest standards, but I will absolutely ensure that meeting takes place. As well I will also make sure that the Council of Ministers receives a full and appropriate briefing.

7.3 Deputy L.M.C. Doublet:

Beyond any work being carried out by the Home Affairs Department, what is our Chief Minister doing or planning on doing to challenge rape culture and eradicate the specific issue of male violence against women and girls?

Senator J.A.N. Le Fondré:

I am slightly more than somewhat concerned if the Deputy feels that she has evidence of such a culture in our Jersey workforce, in terms of within the public organisation. If that is the case, then I would very much welcome evidence and her information. Otherwise, as she is I believe aware, or has been briefed at various times by the Connétable of St. Ouen in his capacity as vice-chairman of the S.E.B. on the various pieces of work that are taking place in terms of diversity training, encouraging the “I will” campaign and things like that.

7.3.1 Deputy L.M.C. Doublet:

I would be happy to have a discussion with the Chief Minister about the definition of rape culture because it is not confined to the workforce, it is a societal issue which is across all societies. As a man in one of the ultimate positions of leadership on our Island, what message does the Chief Minister have for the men of Jersey on how they can be effective allies for women, please?

Senator J.A.N. Le Fondré:

I think fundamentally is that one should show respect; in the context that the Deputy is referring to that men should be showing respect for women.

7.4 Senator S.Y. Mézec:

Could the Chief Minister indicate what the plans are for the long-term future of the child development and therapy centre, given that it is one of those services that will have to be relocated because of the building of the hospital at Overdale? If there is currently no long-term plan to find a site for it to operate from, when will such a plan be clear?

Senator J.A.N. Le Fondré:

The last part, obviously it is being moved, as far as I am aware, up to Les Quennevais as part of the move away from Overdale and my understanding is that there have been some discussions with C.Y.P.E.S. (Children, Young People, Education and Skills), who I believe operate that particular service ... sorry, either operate or are very heavily involved in that particular service. So there are some alternatives being suggested. As far as I am aware, it is the operational side that are, as has been suggested to me, not in favour of going back to the Overdale site in general. So, in other words, there are options being looked at, but I am very happy to provide some information to the Senator and to Members by way of a short briefing note, which I shall arrange.

7.4.1 Senator S.Y. Mézec:

Of course, it is one of the tragedies that that service has to relocate because it is one of those that is operating from a very good building up at that site and doing fantastic work up there, but it will be inevitable because of the hospital project. Will the Chief Minister endeavour to give to States Members as soon as is possible some sort of indication of when a plan will be in place for their long-term future so that those families where the children benefit from the services that are provided there can have some certainty that the services there will be found the best possible home and that will be considered a matter of priority?

Senator J.A.N. Le Fondré:

Firstly, for the community, there will be certainty in the next few years as part of the move up to Les Quennevais, but absolutely as part of that, in terms of the long term, there is no problem; I will make sure that is included in that note.

7.5 Deputy K.F. Morel:

Does the Chief Minister believe as a matter of principle that children should be able to undergo medical procedures without the consent of their parents?

Senator J.A.N. Le Fondré:

I think it depends on the age and the circumstances. Is the Deputy alluding, for example, to vaccinations or another area?

The Bailiff:

Well, I think it is a question of general application, Chief Minister. It is not normally a process of getting the questioner to drill down and specify exactly what they are getting to. So, are you able to answer it on the terms that it is posed?

Senator J.A.N. Le Fondré:

I think that is getting fairly well out of my remit, but as a principle I do think that parents should have an understanding of medical issues involving ... and by children I do mean children.

7.5.1 Deputy K.F. Morel:

The Chief Minister is correct, I am alluding to vaccinations. Is the Chief Minister comfortable that it is the case right now that 12 year-olds can present themselves to the vaccination centre without their parents and gain a vaccination without the consent of their parents?

Senator J.A.N. Le Fondré:

The short answer to that is the Deputy is wrong. As I understand it, and certainly that is what I have been briefed, and I believe it is what also has been put out in the public domain, is that, for example, a 12 year-old could not present themselves to the vaccination centre without having parental consent.

Deputy K.F. Morel:

I believe the Chief Minister may want to check the facts on that.

The Bailiff:

Well, that is a matter for the Chief Minister, Deputy, of course.

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

Would the Chief Minister be able to update the Assembly on my amendment to last year's Government Plan which, for his and the public's knowledge, was funding for Statistics Jersey for additional work and surveys on the issue of poverty and relative poverty to contribute towards this year's Government Plan and the work on the strategy?

Senator J.A.N. Le Fondré:

From my recollection, and I cannot lay my hands on a page reference but I shall do my best to, is that there is funding in the plan which then is to allow that project to be developed. So, an action point has arisen from the Deputy's proposition.

7.6.1 Deputy K.G. Pamplin:

Would the Chief Minister be able to give at some stage to myself, and I am sure other States Members, a presentation of the work that came out of my amendment, which included ... and we can see those additional surveys, and when will they be available? Because I am sure it would be very useful for a lot of things coming down the pipeline this year.

Senator J.A.N. Le Fondré:

I will obviously again refer back to the exact wording of the amendment to the proposition, to my understanding. My recollection, but I am happy to be corrected, is that it was very much about getting funding into the Government Plan, which is certainly what has been done, but I will find out in terms of where we are in terms of the work towards developing a poverty strategy.

7.7 Deputy M. Tadier:

The question relates to the discussions that are being had in wider society about assisted dying. Does the Chief Minister accept that it is for each individual to choose how and when they die?

[14:45]

Senator J.A.N. Le Fondré:

The assisted dying topic is, when we get to that debate, going to be a very difficult and very emotional debate. Without commenting on it from a personal perspective in any shape or form, and so this should not be interpreted one way or the other, it will be the individual versus the wider societal consequences, and I think that is probably all I need to say at this stage.

7.7.1 Deputy M. Tadier:

I think, of course, whatever legislation is brought about anything will depend on detail, but as a principle I think it would be helpful to know what the Chief Minister, the leader of the Government, thinks on the issue and whether he accepts that it is acceptable, it is right, that an individual can choose to take his or her life if and when he or she wants to.

Senator J.A.N. Le Fondré:

Just to be very, very clear, any individual views about assisted dying are ... the debate is not going to come from a Government position, as far as I am concerned. It is going to be very much every individual coming to their particular view on this matter. Therefore, what I was trying to allude to, which I think is one of the considerations, is that from an individual's perspective any control over their own personal circumstances is obviously one side of the argument. The other side of the argument from a societal perspective is making sure, particularly in the elderly, that elderly people are not suddenly felt unwanted and, therefore, influenced; individuals that could be influenced into making, if you like, an individual decision mainly from pressure from society rather than because of their own individual circumstances. But I will just say it is absolutely going to be a matter of conscience, if that is the right expression, a matter of an individual vote for all Members when that debate comes.

The Bailiff:

Time for a final question, Senator Moore.

7.8 Senator K.L. Moore:

Could the Chief Minister describe the reasons for an appointments commissioner to resign during the appointment process for the new chief executive and then could the Chief Minister further explain to the Assembly why he thought it appropriate to extend the tenure of the current chair of the Appointments Commission?

Senator J.A.N. Le Fondré:

The latter was laid out in the report that has been circulated to ... has been laid before the Assembly in terms of the extension to that particular term, and obviously the Appointments Commission is independent so I am not aware of the circumstances surrounding the resignation.

The Bailiff:

In fact, that does bring the time available for questions to the Chief Minister to an end and that formally closes the question period.

PUBLIC BUSINESS

8. Reduction of lodging period

The Bailiff:

We now move on to Public Business. The first item of public business ... well, before we deal with the first item of Public Business, a decision needs to be made about whether or not the Assembly is prepared to reduce the minimum lodging period in respect of one of the items listed on the Order Paper. The item is the amendment of the Minister for Infrastructure of the Draft Road Traffic (No. 68) (Jersey) Regulations, P.39. Minister, do you wish to make the proposition under Standing Order 26(7) that the lodging period be reduced to allow this matter to be debated at this sitting?

8.1 Deputy K.C. Lewis (The Minister for Infrastructure):

Indeed, Sir. Obviously, this has gone through in the First Reading and the amendment was suggested and with comments from Scrutiny, and I would be obliged if Members would accept it.

The Bailiff:

The proposition is seconded. **[Seconded]** Does any Member wish to speak on the proposition to reduce the lodging period? If no Member wishes to speak, then I will take this on a standing vote unless anyone indicates in the chat they would wish the appel. Sorry, Deputy Tadier, is that a request for the appel or just a request for ... recorded vote, yes, very well. The appel is called for. I ask the Greffier to place a voting link into the chat. The vote is on whether or not to reduce the lodging period to enable the amendment to Draft Road Traffic (No. 68) (Jersey) Regulations to be debated at this sitting.

Connétable S.A. Le Sueur-Rennard of St. Saviour:

Sir, sorry to be a nuisance, I was late for the roll call so Mr. Dunn tells me that I am absent and I will not be allowed to vote on anything.

The Bailiff:

I think you might have been excuse. If you are excuse then you can come back in without any further murmur, but let me just double check that. Yes, you were excuse, you can vote.

The Connétable of St. Saviour:

Thank you very much, Sir.

The Bailiff:

Very well, the link is in the chat. I ask the Greffier to open the voting and I ask Members to vote in the normal way.

The Connétable of St. Saviour:

I am going to be a pain again, Sir. I do not have the equipment. **[Laughter]**

The Bailiff:

I will give that the most liberal interpretation, Connétable, **[Laughter]** and if you would like to indicate your vote?

The Connétable of St. Saviour:

Pour, please. Thank you very much.

The Bailiff:

If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The proposition has been adopted.

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator S.C Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				

Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The proposition is adopted. We will deal with that matter at the time that we deal with the next item of Public Business.

9. Draft Road Traffic (No. 68) (Jersey) Regulations 202- (P.39/2021) - as amended (P.39/2021 Amd.)

The Bailiff:

The first item is the Draft Road Traffic (No. 68) (Jersey) Regulations, lodged by the Minister for Infrastructure. For the purpose of the debate, the main respondent will be the chair of the Environment, Housing and Infrastructure Scrutiny Panel. This debate resumes, as Members will recall, following the adoption of the principles on 9th June and the referral then to the Scrutiny Panel. Minister, you have lodged an amendment, which the Assembly has agreed to take today. Do you wish to propose the regulations in Second Reading as amended?

Deputy K.C. Lewis:

I do, Sir.

The Bailiff:

Do you wish to propose them now or do you simply wish to ... in other words, do you wish to speak to them?

9.1 Deputy K.C. Lewis (The Minister for Infrastructure):

Yes, I think I should speak to them. Some of them are quite wordy and I may need the assistance of the Attorney General. Draft Road Traffic Regulation No. 68: “52 Duty of driver of vehicle in case of accident.” “(1) A driver of a vehicle must comply with paragraph (2), if owing to the presence of the vehicle on a road, an accident occurs involving any of the following – (a) personal injury to any person; (b) damage to – (i) another vehicle, or (ii) any other property (moveable or immovable) including land and anything constructed on, fixed to or growing on land; or (c) injury is caused to any horse, cattle, ass, mule, sheep, pig, goat or dog” and, of course, now including a cat. “(2) The driver of the vehicle must stop and, if required by any person having reasonable grounds for doing so, must give the following information – (a) the driver’s name and address and, if different, the name and address of the owner of the vehicle; (b) the registration mark of the vehicle; and (c) whether, and the extent to which, there is in force in relation to the user of the vehicle a policy of insurance in respect of third-party risks. (3) If, for any reason (including not being required by any person), the driver of the vehicle does not give the information referred to in paragraph (2)(a), the driver – (a) must immediately inform a police officer of the occurrence of the accident; and (b) must not move the vehicle without the consent of a police officer. (4) If a driver of a motor vehicle reasonably believes that a cat has been struck owing to the presence of the vehicle on a road, the driver must – (a) stop the vehicle as soon as it is safe or reasonably practicable to do so; and (b) notify a person or body described in paragraph (5) of – (i) when the cat was struck, and (ii) the location where the cat was last seen by the driver. (5) A person or body for the purpose of paragraph (4) is – (a) a person who is responsible for care of the cat; or (b) a person or body specified for the purpose of paragraph (4) in a code issued under Article 85. (6) If a person fails to comply with paragraph (1) or (3), that person commits an offence and is liable to a fine and imprisonment for 6 months. (7) If a person fails to comply with paragraph (4) that person commits an offence and is liable to a fine of level 3 on the standard scale. (8) A person or body referred in paragraph (5)(b) who is notified of information under paragraph (4) must – (a) keep a record of when the cat was struck and when the cat was last seen; and (b) make that information available to any person who seems to have reasonable grounds for

requiring the information. (9) For the avoidance of doubt, in respect of an accident involving injury to an animal, this Article is without prejudice to any other action a person may take to avoid liability under Article 4 (cruelty and unnecessary suffering) and Article 5 (neglect and abandonment) of the Animal Welfare (Jersey) Law 2004.” So, just for information, a fine at one would be a £200 fine, level 2 is £1,000 and level 3 is £10,000. I would respectfully suggest to members of the public that if this goes through, then they should log into their mobile phone the J.S.P.C.A. (Jersey Society for the Prevention of Cruelty to Animals) telephone number, which is 724331, so that could be rung in the event of an animal being hit. I will just make reference to the addendum just to refresh Members’ minds. Page 9, Article 2: (a) in paragraph (4) – (i) for “If a driver of a motor vehicle reasonably believes that a cat has been struck owing to the presence of the vehicle on a road, the driver must” substitute “Subject to paragraph (5), if a cat is hit by a motor vehicle while that vehicle is being driven on a road, the driver of the vehicle must”, and (ii), in sub-paragraph (b)(i) for “struck” substitute “hit”; (b) after paragraph (4) insert – “(5) A driver is not guilty of an offence of failing to comply with paragraph (4) if the driver of the motor vehicle did not know and had no reason to suspect that a cat was hit by the motor vehicle” and obviously renumbering of subsequent paragraphs. I am more than happy to answer questions by Members.

The Bailiff:

Are the regulations seconded as amended in Second Reading? [**Seconded**] Does any Member wish to speak?

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

I am grateful to the Minister for his amendment which he has submitted in response to my panel’s concerns over the detail of the process of potentially bringing a charge against a miscreant. It is never easy for a lay person to understand the language of the law but if this Assembly accepts the proposition, I would urge the Minister to insert simple language into the Highway Code and driving test syllabus to make the message clear for all to understand. While I am aware that the principles have been adopted, I have to mention my concern that the threat of a £10,000 fine and imprisonment for 6 months could be counterproductive and in effect discourage the reporting of cats being hit. The counterargument could be that it will act as an encouragement to report. That of course is for Members to consider when voting.

9.1.2 Deputy J.M. Maçon:

First of all, I would like to begin as I did when we were debating the principles of the law to put on record and thank the organisers of the petition that received over 5,000 signatures in order to bring this to the Assembly, who we are very lucky and fortunate that they have managed to be able to join us in the public gallery today. [**Approbation**]

[15:00]

Members have expressed their gratitude for them being able to join us today. I am grateful to the remarks of the Scrutiny panel. Looking through their comments, they are largely supportive of this change to the law. They do raise some very important themes which the Minister will consider in due course, no doubt. I would like to thank the Scrutiny panel for allowing the Equal Rights 4 Cats group to be able to give them evidence as well as the further evidence that they managed to gather from the J.S.P.C.A. which chimes with the views of the Equal Rights 4 Cats group. I would just like to quote from the comments of the Scrutiny Panel from the J.S.P.C.A. where they say: “Sometimes owners can be searching for days before a body of a cat is discovered. Not knowing is extremely stressful for the cat owner and we believe that if accidents are reported we can recover the body and give the family closure. Unfortunately, not everyone is passionate about animals and would not consider the impact on the animal or the owner who would consider their pet as part of their family. If the requirement to report a road traffic accident of a cat is made in law with subsequent

consequences should they not, more accidents will be reported at the time of the incident, and we believe that this could in fact save a cat's life." I think from the very inception of this whole debate, it has been about matters of animal welfare which has motivated the group and the petitioners in this aspect, while accepting that sometimes an animal will die but if they are caught in time there is much more that could be done in order to save the life of that animal and bring closure to the family if that is the case. Again, on behalf of that group, another theme which they brought to the Scrutiny Panel was saying how Jersey can be very proud about the changes to this law because they know that this particular law is being watched by other jurisdictions about how it can be implemented elsewhere in the world because we know that this is not just a problem that is unique to Jersey, it is something much wider afield, so I believe that that is something that Jersey can be very proud of. In response to the proposition that I brought on behalf of the Equal Rights 4 Cat group which simply asked for a consultation, I would again like to thank the Minister, officers and the law draftsmen who have gone even further than the request that was made of them. They grasped the nettle, they brought these legislative changes forward. While I think we all accept no law is ever going to be perfect, I think this is a huge step forward and something which the community will embrace thoroughly. I would just respond to the comments of the Minister and the Scrutiny chair. The fine, I think it should be remembered, is up to £10,000; it is not necessarily automatically going to be that. Of course, it will be for the appropriate people to look at the facts of the case and determine what is appropriate at the time. I am grateful to the Minister for the work that he has done, I am grateful to the Scrutiny Panel and I am very grateful to the work of the Equal Rights 4 Cat group, the petitioners, to show that engaging in democracy, engaging in the process that we have, embracing the e-petition service can make real change, not only for the public of this Island but for some of our furrier friends as well. With that, I would just like to conclude there.

The Bailiff:

Firstly, Deputy Wickenden, thank you very much for your contribution to the Greffier's fund by way of a fine. Deputy of St. Mary, you have a question, please. Is that a question of the last speaker, a point of clarification or is that ... you would like to speak? Yes, I call on you then, Deputy of St. Mary.

9.1.3 Deputy D. Johnson of St. Mary:

First, like everyone else, I endorse the principles behind this. I recall that it was, I think, Deputy Maçon introduced something some 4 years ago and I am pleased it is now reaching its final stage. The one question I have, and I mentioned it at the time of the earlier debate, was that my son was involved in an accident involving a cat. He was very distraught. He hit a cat in the early hours of the morning on the way to rowing training. He did not know who the cat belonged to and who should he report it to. I see that paragraph (5)(b) refers to reporting to a person or body specified in a code issued under Article 85. In his reply, could the Minister perhaps remind me as to who that person might be in the absence of any obvious owner?

The Bailiff:

Deputy Ward, you have a question of the Attorney General?

9.1.4 Deputy R.J. Ward:

Well, I may do or I may not. I have lost the part of the Article that was read out. Article 6: "If a person fails to comply with paragraph (1) or (3), that person commits an offence and is liable to a fine and imprisonment for 6 months." There is a question coming here, I promise, I just have to give it some context or it will not make any sense at all. Paragraph (1) is about a driver must comply if there is an accident, a cat is added to the list of animals there, and paragraph (3): "Must immediately inform a police officer and must not move the vehicle without the consent of a police officer." What I wanted to ask the A.G. (Attorney General), it says: "Liable for a fine and imprisonment for 6

months.” Am I missing something in the amendment? It says “and imprisonment for 6 months” if failure to comply with (1) and (3). Is that the general law of road traffic accidents or is the accident with a cat involved added to that road traffic accident? Therefore, I am trying to check that we are not agreeing something by implication which is very draconian. I do agree, I will be voting for this, but I just want to absolutely understand what the implications are. I think sometimes we do not do that and we should.

The Bailiff:

What I can say in terms of interpreting is that a fine and imprisonment does not mean it has to be a fine and imprisonment; it means that those sentencing options are available to a court but it does not mean that they have to be read conjunctively, they can be read disjunctively, if that assists you. But perhaps in terms of the other part of your question, if I have understood it, is a matter for the Attorney or was that what you wanted to know?

Deputy R.J. Ward:

I think you have answered it. I think we are back to the point made by the Constable there about clear language when we put this out to people; it is very important. Because I think it is important to clarify that before we move forward.

The Bailiff:

Mr. Attorney General, do you have anything that you wish to add to the information for the assistance of the Assembly?

The Attorney General:

Yes, and it is a comment both in relation to the last speaker and also in relation to the Constable of St. Brelade’s speech. The offence which relates to failing to report hitting a cat is not the offence that is in the proposed new Article 2(6). It is in fact a separate offence which is in Article 2(7) and that offence provides that the maximum penalty is a fine of level 3, which is a £10,000 fine, and that relates to the specific offence where the driver of a motor vehicle fails to notify the J.S.P.C.A. that they suspect there has been a collision with a cat. The other offence which is in Article 2(6) that relates to the wider set of circumstances, which are set out in proposed new Article 52(1) and (3), and that involves a wider set of circumstances in that there is a driver of a vehicle, it is not just a motor vehicle, and that is where there is personal injury to a person or damage to another vehicle or other property or there are injuries to any of those other animals such as horses, cattle and so on but not cats. I thought I would make that distinction clear for Members. I hope that is helpful.

The Bailiff:

Does any other Member wish to speak on the regulations as amended in Second Reading? If no other Member wishes to speak, then I close the debate and call upon the Minister to respond.

9.1.5 Deputy K.C. Lewis:

Firstly, may I thank Deputy Maçon for bringing the original proposition, the Constable of St. Brelade and the Scrutiny Panel for scrutinising both this and helping with the amendment. The Deputy of St. Mary, I will just make a point that the responsible person could be the J.S.P.C.A. if the owner is not in the vicinity. Just ring 724331 and they will send out, when available, an animal ambulance to locate the cat; otherwise with a phone call from the person driving the vehicle or even a passenger just to state where you were when the cat was hit and an approximate location. Sometimes the animal can be saved, sometimes it is too late, but at the very least it does give certainty to the animal owners and the animal can be rescued if at all possible, if the injuries are not fatal. I am not suggesting for one moment that anybody deliberately would hit a cat but some people do have a laissez-fair attitude but they are in an extreme minority. Deputy Ward mentioned road traffic collisions. Clear language: I do agree with the clear language sentiment but this is a legal document presented so it must be in a

legal language. But with regards the Highway Code, absolutely we can make that as clear and simple as we possibly can. Again, I am obliged to the Attorney General for his assistance. In doing so, I propose the proposition as amended in Third Reading.

The Bailiff:

The appel is called for. I ask the Greffier to place a voting link into the box. I ask the Greffier to open the voting and Members to cast their votes in the usual way. **[Laughter]** The laughter, I can say, for those who are not reading it, is that one of the Members has voted pour as in P-A-W. **[Laughter]** If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The regulations as adopted have been passed in Second Reading.

POUR: 43		CONTRE: 0		ABSTAIN: 1
Senator S.C Ferguson				Deputy of St. Martin
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				

Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Greffier of the States:

The abstention was the Deputy of St. Martin.

The Bailiff:

Do you wish to deal with the matter in Third Reading, Minister?

9.2 Deputy K.C. Lewis:

Yes, please.

The Bailiff:

Are the regulations seconded for Third Reading? [**Seconded**] Does any Member wish to speak in Third Reading?

9.2.1 The Connétable of St. Brelade:

I, like Deputy Maçon, would like to take this opportunity to thank the Equal Rights 4 Cats group for their very professional presentation to the panel and for the Centeniers who highlighted the issues over charging and the process of getting to that point. We have produced a comprehensive comment paper which highlights the issues in this far-from-straightforward proposition and I thank the Greffe officers for their assiduity in putting that together.

9.2.2 The Deputy of St. Martin:

Can I start off by apologising to Members for my vote in the last vote. I got so used to pushing the abstain button for the test vote I must have got carried away. But I just wanted to say my thanks also to Deputy Maçon, the Minister and the other fellow members of my Scrutiny Panel. I would just remind Members this has given me particular difficulties. I am a great animal lover, a great cat lover, but I do wonder about the “reasonably believes” part of these laws. It will become very, very difficult to get a prosecution and I do wonder sometimes about the time, effort and cost of trying to prosecute people when the law is so vague. But I will leave it there, I will be supporting it correctly in the Third Reading.

[15:15]

The Bailiff:

Does any other Member wish to speak in Third Reading? If no other Member wishes to speak in Third Reading, then I close the debate and call upon the Minister to respond.

9.2.3 Deputy K.C. Lewis:

Thank you to everyone who has spoken. Thank you to Deputy Maçon, Constable of St. Brelade, the Scrutiny Panel and the Law Officers’ Department who tried with all their might to simplify this as much as possible. It has been quite a long process and everyone has done some very sterling work. At the end of the day, I work to the will of the Assembly and, with that, I propose the proposition in Third Reading.

The Bailiff:

The appel is called for and I ask the Greffier to place a voting link into the chat. I ask the Greffier to open the voting and Members to cast their votes. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The proposition has been adopted in Third Reading.

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				

Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Accordingly, the Regulations are adopted.

10. Draft Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202- (P.51/2021) - as amended

The Bailiff:

The next item is the Draft Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law, P.51, lodged by the Minister for Treasury and Resources. For the purposes of this debate, the main respondent will be the chair of the Corporate Services Scrutiny Panel and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202-. A law to amend the Income Tax (Jersey) Law 1961, the Goods and Services Tax (Jersey) Law 2007 and the Revenue Administration (Jersey) Law 2019. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

10.1 Deputy S.J. Pinel (The Minister for Treasury and Resources):

This draft law continues our work to modernise the way in which we administer Jersey’s tax system. At its core are several measures which I first lodged in the Draft Finance Law for 2020 back in October 2019. The Corporate Services Scrutiny Panel at that time asked me not to propose these administrative measures because of the weight of work facing them in scrutinising the first Government Plan. I agreed not to propose them and subsequently agreed to a further deferral. Then COVID-19 intervened. I had planned to present this draft law in the sitting prior to our summer recess but decided to defer it once again following a last-minute request from Jersey Finance Limited to engage them in further consultation. I am delighted at last to bring these measures back before the Assembly. The most significant measures in this draft law were scrutinised by the panel earlier in 2019 and taking feedback provided by some of their witnesses from the tax agent community, substantive additions and changes were made to them. I am grateful for the work of the panel in formulating this draft law. I have accepted the 2 amendments proposed by the Scrutiny Panel and therefore I will be proposing the draft law as amended by the Scrutiny Panel. Following further discussion with Jersey Finance, I myself have lodged a third amendment that I believe provides the further clarity that was sought by them. I would also like to use this opportunity to commit to a review of the current tax appeals provisions. The existing processes and laws are outdated and do not reflect the reality that most appeals can be settled by agreement when the relevant information is available. Revenue Jersey has established an Appeals Working Group with industry better to understand the current problems and to present solutions with appropriate taxpayer safeguards. In view of that, I will not be proposing Articles 13 to 15 in the Second Reading. These Articles made some changes to the appeals process which can now be rolled into the wider review. The key substantive measures in this draft law achieve the following. Articles 11 and 12 largely limit the power of the Comptroller of Revenue to amend a tax assessment from 5 years to 2 years in most cases. Article 28 for the first time empowers the Commissioners of Appeal to publish their determinations where they deem that useful. As a safeguard, such publications will be anonymised to protect taxpayer confidentiality. Articles 31 to 34 extend the charging of interest to payments made late by employers under the income tax instalment system. Members will recall that I have not so far introduced the interest charging provisions for late payment of taxes and will only do so when I am satisfied that the timing is right, vis-à-vis, the current economic situation. Article 37 provides a new civil power to the Comptroller to oblige taxpayers and related third parties to provide information to the Comptroller. This can be used in preference to criminal approaches in the minority of cases where taxpayers refuse to answer enquiries from Revenue Jersey voluntarily or where a third

party needs the legal cover to provide relevant information. This measure received a good degree of attention from some members of our tax agent community and, at the request of the Scrutiny Panel, I have provided routes of appeal against both the notice requiring taxpayers and tax agents to produce information and also against the financial penalty for failing to comply with that notice. This effectively gives the taxpayer who does not want to provide information over 250 days to prevaricate. I have asked the Comptroller to keep this new civil power under review and to let me know if further adaptation may be necessary in the light of experience. Where appropriate, the Comptroller will continue to use criminal powers to secure information more quickly or use criminal powers where taxpayers fail to respond to this civil approach. Various minor amendments to the interpretation and scope of the Revenue Administration Law remain unchanged from the Draft 2020 Finance Law. Having accepted a recommendation of the C.S.S.P. (Corporate Services Scrutiny Panel) report in respect to the prior-year basis regulations, which we debated and passed in March, Article 20 ensures that the Assembly can in future amend those regulations. We are also taking the opportunity to make a number of corrections to the criminal provisions about tax laws and, in particular, the 1961 Income Tax Law to make those laws more effective than they are at present, or seemingly, have been for quite some time. I will not mention them all here. Articles 2 to 9 remedy defects in the 1961 law clearly to stipulate obligations to do things, for example, to file a return by a set date, to stipulate offences where obligations are not met and/or to stipulate the sanction for commission of the offence. These changes replace Article 136 of the Income Tax Law which relates to the penalties for failure to deliver returns and which we have concluded is simply not effective. It has rendered both the Comptroller and the Law Officers' Department powerless to tackle several serious cases of non-compliance in recent years. These are therefore important changes to ensure that everyone in Jersey pays their fair share of taxes under the law. Article 24 clarifies the existing law to stipulate that the Comptroller must register a business for G.S.T. where the business has not requested it but where the Comptroller is satisfied that the business has exceeded the statutory turnover threshold. Article 35 allows regulations to specify a period for records to be kept other than the period required by the Revenue Administration Law. Consequently, Article 38 reinstates a 6-year period for retaining documents which was inadvertently removed when the Revenue Administration Law was first made in 2019. There is much yet to do to modernise Jersey's tax laws and its tax administration. This is the next modest step, hot on the heels of the conversion of all Jersey taxpayers to the current year basis of paying tax and the work we began in this Assembly on 15th September to introduce independent taxation. I ask all Members to support these changes. I move the principles and call for the appel, please.

The Bailiff:

The appel will follow the debate, of course, Minister. But are the principles seconded? **[Seconded]**

10.1.1 Senator K.L. Moore:

The Minister informed the panel of her intention to lodge this proposition earlier this year following a review of the Income Tax (Jersey) Law 1961, the Goods and Services Tax (Jersey) Law 2007 and the Revenue Administration (Jersey) Law 2019 which was carried out by the Treasury and Exchequer. As this proposition is considered to be a key issue for the public and linked to government strategic objectives, the Corporate Services Scrutiny Panel agreed to undertake a review. The panel was aided by an expert adviser due to the technical nature of the proposition. The panel received evidence primarily from the Fiscal Strategy Group, a public hearing was held with the Minister, and culminated in the comments paper and 2 amendments which have been presented to the Assembly. We are grateful to the Minister for her acceptance of them. In all, the panel found that the Minister is proposing generally sensible changes to a number of the Island's tax laws and the proposition goes some way in aiding progress and modernising tax legislation. I will not outline the full findings of the panel's review; those can be found in our extensive comments paper which I hope Members have had an opportunity to review and hope they find them helpful. However, the panel would like to

highlight the following key points. The panel held concern that introducing the power to include individuals that are connected with an organisation such as a body corporate in prosecutions may lead to a conviction of the person as an individual, as well as due to their role within the organisation, risking situations of double jeopardy. This is a point somewhat missed by the Minister; however, upon reflection the panel has chosen not to amend the proposition in this regard as it is understood that the fairness of conviction and penalties imposed lies in the powers of the Attorney General. The panel and the Fiscal Strategy Group highlighted concerns specifically around taxpayers' right of appeal to the Minister which will be fundamentally altered by the enactment of Articles 13 to 15 of the proposition. The panel were concerned that the intentions of Articles 13 to 15 could set a dangerous precedent of the future that the Jersey Law Commission's 2017 report on improving administrative redress has not been dealt with. Therefore, following several interactions by the panel and the Fiscal Strategy Group with the Minister, the panel is pleased to observe that the Minister has taken note of the concerns and will not be proposing draft Articles 13 to 15 in the Second Reading. This debate, however, has commissioned a full review of the tax appeals process by Revenue Jersey and we look forward to learning the conclusions of the Appeals Working Group. The panel also considered bringing forward an amendment to allow some discretion by the Comptroller in the registration for goods and services tax.

[15:30]

This would be particularly important if a business exceeded the registration limit temporarily or without realising it and this was subsequently discovered by the Comptroller at a point when the business had ceased to be required to be registered, as the wording of the proposition suggests that he will be required to register all those in that situation. However, the panel has received advice from law drafters that this was not needed as there is a suitable route to enable the Comptroller to help businesses inadvertently in this position and for which registration for a historic period would be hardship. Once a person no longer meets the requirement to be registered, they can apply to deregister and here the Comptroller has some discretion on the application of the power to cancel the registration which can be backdated if the Comptroller considers that it is an appropriate step to take. The panel noted that the proposition makes some changes in regards to tax interest and penalty interest although these are yet to be introduced by the Minister. The panel is pleased that the proposition will introduce the right to appeal penalty interest and asks that the Minister progresses the matter of interest, both paid and received, in a timely manner. The panel has identified 2 amendments needed to allow a fair implementation of information notices introduced by the proposition and aid in their future potentially digital practice. The panel is pleased to note that both of the amendments have been proposed by the Minister and Members will be able to accept them in the Second Reading. Referring back to our comments paper, the panel has also outlined a number of areas in which the Minister must consider further in the future. Firstly, there is a need to clarify the difference between the legal requirement for individuals to keep records for 2 years and the ability of the Comptroller to raise assessments in the event of careless action by a taxpayer for up to 4 years. The Minister must ensure the Comptroller provides guidance to taxpayers on this point. Secondly, the Minister must update guidance on the distinction between careless and deliberate behaviour in relation to civil penalties for incorrect returns to make the new implications of careless behaviour clear to taxpayers. That was a point that we raised last time this law was before the Assembly. Thirdly, the panel believes the Minister must contemplate the inclusion of shadow directives in future legislation. Finally, the panel concludes that the Minister must provide the Assembly with clarity on the timetable for the review of taxpayers' appeals process by Revenue Jersey and the Minister should ensure that the panel is kept informed of the outcome of the workshops with the Fiscal Strategy Group. The panel would like to thank its adviser and members of the Fiscal Strategy Group for the evidence which it has provided to the panel to inform its review. The panel would also like to thank the Revenue Jersey team and the Minister for providing additional information to inform its review. The panel finally wishes to highlight that tax law must continue to be low, broad, simple and fair overall. This proposition does

achieve a balance between the needs of the Government and the taxpayer. However, as highlighted in our comments paper, there are some areas where suitable discretion is required and the fairness of appeals will be a deciding factor. The panel will continue to scrutinise the impact of this legislation if it is adopted.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles, then I close the debate and call upon the Minister to respond.

10.1.2 Deputy S.J. Pinel:

I thank the chair of the Corporate Services Scrutiny Panel for her remarks. There has been a lot of consultation and a lot of briefings over the past couple of years and, on the concerns that the panel advised us about, we have removed the Articles as discussed. Just in answer to a couple of questions that the chair has just mentioned, the criminal sanction; Revenue Jersey are working very, very hard to support taxpayers who comply with their tax obligations but there still remains a small number of quite alarming cases of persistent non-compliance. Some involve many years of flouting the rules and, despite the civil sanctions, those few citizens steadfastly fail to meet their obligations. The Attorney General has always been willing to prosecute in these circumstances but has found he is unable to do so because of the flaws in the legislation, so hopefully that will be changed. The other major question was the charging of interest. When the interest provisions were originally drafted, they omitted to include employers who are required to deduct tax from their employees and send the money to Revenue Jersey. It is only right that employers should pay interest on late payments in the same way other taxpayers are required to do. Most employers pay on time and have nothing to worry about. On that, I hope I have answered the 2 major questions of the chair, I propose the principles, and call for the appel for the second time.

The Bailiff:

I ask the Greffier to add a voting link to the chat. I ask the Greffier to open the voting and Members to cast their votes in the normal way. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The principles have been adopted.

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator S.C Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				

Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

I assume your Scrutiny Panel does not wish to call the matter in Senator?

Senator K.L. Moore (Chair, Corporate Services Scrutiny Panel):

No, thank you.

The Bailiff:

Minister, there have been 3 amendments lodged: one by you to Articles 12 and 34 and 2 by the Corporate Services Scrutiny Panel, both to Article 34. I understood you to say you were accepting the amendments of the Scrutiny Panel.

Deputy S.J. Pinel:

Yes, thank you.

The Bailiff:

How do you wish to deal with the Articles in Second Reading then?

10.2 Deputy S.J. Pinel:

As I mentioned in my speech, I do not intend to propose Articles 13 to 15; therefore, I wish to propose the Articles *en bloc* other than Articles 13, 14 and 15.

The Bailiff:

Are those Articles seconded? **[Seconded]** Does any Member wish to speak on any of the Articles other than 13 to 15 which are not being proposed?

10.2.1 Deputy R.J. Ward:

It is a very quick question. In the removal of 13 to 15, does that mean it removes the ability for the Comptroller and Auditor General to refuse an appeal or just in some circumstances?

The Bailiff:

Does any other Member wish to speak in Second Reading? If no other Member wishes to speak in Second Reading, then I close the debate and call upon the Minister to respond.

10.2.2 Deputy S.J. Pinel:

Thank you to the Deputy. I think that completely depends on the circumstances of the appeal because you have the Commissioners of Appeal for tax rather than the Comptroller and Auditor General and then of course the A.G. if required.

The Bailiff:

In which case I ask the Greffier to place a voting link into the chat. The vote is on the Articles in Second Reading with the exception of Articles 13, 14 and 15, which are not being moved. I ask the Greffier to open the voting and Members to vote in the normal way. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The Articles have been adopted in Second Reading.

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator S.C Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				

Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Do you wish to propose the law in Third Reading, Minister?

10.3 Deputy S.J. Pinel:

Yes, please. I would also like to take the opportunity to thank Members today for their support in uplifting our tax situation, particularly the team at Revenue Jersey who have had a lot of work on the tax, and of course the Corporate Services Scrutiny Panel for their input and advice. I propose it in the Third Reading, thank you.

The Bailiff:

Is it seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading, then I close the debate and I ask the Greffier to place a vote into the link. I ask the Greffier to open the voting and Members to vote in the normal way. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The law has been adopted in Third Reading.

POUR: 45	CONTRE: 0	ABSTAIN: 0
Senator S.C Ferguson		
Senator J.A.N. Le Fondré		
Senator T.A. Vallois		
Senator K.L. Moore		
Senator S.W. Pallett		
Senator S.Y. Mézec		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Saviour		
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		

Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

11. Draft Planning and Building (Amendment No. 8) (Jersey) Law 202- (P.76/2021)

The Bailiff:

The next item is the Draft Planning and Building (Amendment No. 8) (Jersey) Law, P.76, lodged by the Minister for the Environment. For the purposes of this debate the main respondent is the chair of the Environment, Housing and Infrastructure Scrutiny Panel and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Planning and Building (Amendment No. 8) (Jersey) Law 202-. A law to amend further the Planning and Building (Jersey) Law 2002. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

[15:45]

11.1 Deputy J.H. Young (The Minister for the Environment):

The Planning and Building Law 2002 is, I believe, one of the most important laws that affects just about everybody in the community. It was introduced in 2002 and I am proposing today what will be, if Members agree it, the eighth amendment to that primary law. A huge amount of transactions and business is conducted on that law every day and I believe that this law and its predecessor, which was the Island Planning (Jersey) Law 1964, has largely been responsible for the Island remaining

relatively unspoilt and we manage what is a finite land area. Of course, this law does interfere with the private rights of people in their land and property and in fact we have the benefit of - which I am grateful for - the Law Office, the Attorney General and the report on the human rights issues, and therefore judgments have to be made of how far one goes in the law. This today is an updating; an updating with some significant changes in it, which I am going to focus on. Why do we have this law? It is to regulate change in the built and natural environment and it provides the means of protecting, enhancing, conserving and wise use of our natural resources and the biodiversity of Jersey, and also to improve its amenities. One of the key phrases that I often recall, the law is there to ensure that land is used in the best interests of the community of Jersey and that is a really important principle. Today there are 20 individual amendments. This is something that myself and Deputy Guida have worked on with the officers throughout our term and I am very pleased that we have been able to bring it through. It is complex and that is why it has taken a lot of time. Ten of the changes are minor changes and what they basically seek to do is to reflect what is the current practice in the way we work because obviously a lot of things have changed, systems and processes and so on, and in fact the world has changed since that law was enacted. In 2006 the law commenced, came into being. Seven are minor changes that have arisen from case law, appeals, very significant applications or other situations from which learning has taken place. Then where I get to the real issue is that, in my view, 3 of the amendments are very significant and I think - I would be surprised if they are not - will be the focus of today's debate. I am happy to of course deal with Members' queries about those 17 other amendments. They are in the proposition, they are explained very clearly, and I am very pleased that the report sets out, if you like, groups the explanations in the nature and purpose of the law changes. But the 3 main amendments: the first one is the introduction of a power in the law to have areas of the Island designated conservation areas and this will be where there are special characteristics. It says: "Conservation area. Any area of Jersey to which there attaches a special architectural or historical interest, for the purpose of protecting and improving the character or appearance of that area." I think we all know where those places might be if this is passed into law. It is not a new concept; it has in fact been in successive Island Plans for decades. We would have a power to declare or agree conservation areas, but that has not been possible because there has been no power in the law. Of course it requires a primary law change to do that. I think it is true to say that Jersey is behind other places. We are signed up to international conventions and those conventions require us to recognise, respect and look after our heritage, and I think very much that is a theme of the times. That commitment is still strongly in the draft Island Plan that is out in its final stages before it comes to this Assembly early next year and that gives some guidance of where those areas might be. But of course there is a huge amount of detail that would have to follow here to put that into practice and what the draft law requires is detailed regulations. It is an enabling power in the draft law which, if you approve, then at a later date at some stage, will come back with detailed regulations which will set out the way the conservation areas will be identified, defined and the processes that take place and what the likely implications would be for landowners and property owners in that area. As long as I have been involved with land use matters, I am aware that there are communities in Jersey which strongly, strongly favour that. I think it is an open secret that one of those is St. Aubin. Obviously where those boundaries are would be discussed, consulted on and worked on once we know we have the regulations. Drawing those boundaries is not easy but I have heard it said that we have to do this because otherwise the nature of some of these special areas will change for ever and the special character will be lost. So that is an enabling power. The second one is about the procedure for determining what is called a call-in planning application. As Members will of course know, planning applications, the majority are decided by the Planning Committee and also planning officers. There are delegations in place, those are the principal deciders, first decision-makers, if you like, of planning applications making quasi-judicial decisions. But there are some applications where the Minister has power to what is called "call it in" for a public inquiry where there are a number of circumstances where the Minister considers that this is a matter where there is a large amount of public interest and that the application raises issues which affect potentially a large

proportion of our community and/or indeed oppose things that are not in line with policy or maybe guidance and so on. Those are legal powers that exist. I and my predecessors in those roles have used those powers. I think they have been used wisely. I have used, myself, powers on a number of occasions. It is something that one does not do routinely because it is expensive but nonetheless it allows for a proper public hearing. But the issue has always been with such a process: who makes the decision? The law, as it was introduced back in 2006, puts that responsibility solely on the Minister. It says the decision can only be made by the Minister; that is the current law. Of course, there has been lots of debate about: is it right that you have a political decision on a planning application after it goes to an inquiry? Successive processes of review by legal experts and this Assembly have determined it needs to be a democratically-elected person who makes that decision. Personally I form the view that I think there is merit to having given the person who is in that position - this is a change for the future - the person who ends up in that role to have the option of either determining the application themselves or invoking a panel, a panel of the Minister, an Assistant Minister for the Environment, and the chair of the Planning Committee. I think there are potential significant advantages in that. Over my years working in this type of area, I think there is, I believe, always merit in having really difficult decisions where there are a lot of complexities shared by a group of individuals, not by a large group. Obviously we have this Assembly. I have never thought this Assembly is the right body to determine planning applications but a small number, a group of 3, I think is pretty well ideal. So that is quite a significant change and it really is up to Members whether they think I am right to bring that change. The third and final amendment is a very significant one, important to many people in the Island, which is about introducing powers for the planning system to manage how we look after our trees in the Island. Trees play a huge part in our lives, they are hugely important in biodiversity. Biodiversity, again we are committed by international conventions to exercise good stewardship and look after our natural environment, but also of course climate change. Climate change, trees, we all know affects carbon, really important in ecosystems, and of course I believe that they also add to well-being and they enhance the quality of people's lives. I think anybody who had doubt about that would have noticed during a lockdown when we had exercise what a joy it was to get out into the fresh air and enjoy those trees. Of course, what do our young people tell us? I noticed today in the *Jersey Evening Post* there was a school group from St. Lawrence, and it was music to my ears where the young people say we must do better. But of course the issue is how are we going to do that? Again the approach being taken here is to put in place an enabling power in the primary law so that in the future we can have this subordinate legislation that tells us how we do that. Of course that work is in progress now through a tree strategy which was set in place - I think Members had a briefing of that recently from the team doing that work - and that was work which principally the Environment Scrutiny Panel enabled us to do, and I am very, very grateful of their support and the funding they gave us for that. Obviously one of the things that one wants to do is to have a way in which we can recognise that tree cover and landscaping is as equal part of development as anything else and we need to be able to ensure that we get that co-operating again; a symbiotic and respectful relationship with our buildings. This is not about protecting every tree; choices are going to be necessary. What type of trees are important? Where are they? At the moment the system we have in the planning law is completely inadequate, and all of the evidence that we have been able to look at shows that it has not been successful in protecting the very best of our trees.

[16:00]

So I think I just wanted to introduce that, and I expect there will be strong opinions from Members perhaps either way, but I do ask for Members' support on that. I am trying to find my lost page. I think I have lost a page here which is a shame. Never mind, I will have to cope with that. So I think that is what I would like to say to start with but I will respond to Members' questions on the other matters as well and I, therefore, make the proposition.

The Bailiff:

Is the proposition seconded? [**Seconded**]

The Connétable of St. Brelade:

I would ask the Connétable of Grouville to act as *rapporteur* for the panel.

The Connétable of Grouville:

Sir, before I speak I would like to refer this matter back under Article 83 of Standing Orders. Do I make the proposition and give the reasons why I would like to do that?

The Bailiff:

Yes, the Standing Order provides that once the debate is open - and it is now open because it has been proposed and seconded - any Member may propose without notice on a proposition the proposition be referred back in order that further information relating to the proposition can be provided, or any ambiguity or inconsistency in information relating to a proposition which has already been provided to the States be clarified. So it is open to you, Connétable, to move the proposition for a reference back but to explain precisely what it is under those 2 headings, either the ambiguity or inconsistency or the further information you require before the matter can be dealt with. That will be part of your proposition. There then follows, if that is seconded, a debate purely on the question of the reference back before, if it is successful, it is referred back. If it is not successful then we proceed with the debate and you will be asked to continue with your speech at that point. Does that assist?

11.2 Draft Planning and Building (Amendment No. 8) (Jersey) Law 202- (P.76/2021) - reference back

11.2.1 The Connétable of Grouville:

Indeed. I must say this Minister usually over the last 3½ years has always taken our Scrutiny Panel with him, as has his officers, they have always engaged with us early over matters, but this particular item somehow or other got under the radar. It was lodged the beginning of August, which I am sure there was no intent on his part but it is not a good time for something to be lodged because people are on holiday, whether it is Scrutiny Panel members or members of the public who have taken an interest in these things. We do not think proper consultation has taken place over this matter, but of course consultation is not necessarily a reason why we should not debate it. There is a list of information which I think is missing and our panel agrees with me. There is no detailed provided within the proposition as to what the likely impact on resources the introduction of the tree control change might have for Government in terms of the planning application permissions and appeals process. There is also no detail provided in relation to how the administration and enforcement of the proposed conservation area change will be resourced. It is widely known that the I.H.E. (Infrastructure, Housing and Environment) Department is under-resourced in many areas, particularly within environment and planning. The Minister has acknowledged this himself, however, there is no mention in P.76 of the impact the proposed changes are likely to have on the departmental budget and the manpower resources in general. There is no detail on how the 3 major changes proposed will be implemented, including governance procedures clearly setting out roles and responsibility for Government in implementing the proposed changes. The outcome of the tree strategy and associated consultation is unknown and, therefore, the detail is missing from P.76, which may or may not strengthen the rationale for the proposition. Similarly, the designation of conservation areas is to be addressed in the proposed bridging Island Plan. The outcome of this policy process is still unknown until the States agree this in the final plan early next year. There is no detail provided around the governance there will be around the proposed determining panel and how this will aid and not hinder the planning consent process and what additional resources the administration of this may entail. I, therefore, suggest to Members that we should refer this back to give members of the public and our panel more time to consider these proposals.

The Bailiff:

Is the proposition for a reference back seconded? [**Seconded**] Does any Member wish to speak on the question of a reference back?

11.2.1 Deputy J.M. Maçon:

It is just more an opportunity to hear from the Minister or the Ministerial team just to explain what engagement was had with the Scrutiny Panel over this particular matter in order for us to make a decision on this matter, because I am sure they would have been briefed along the way. Of course they do have call-in powers afterwards as well.

11.2.2 Deputy G.C. Guida of St. Lawrence:

I just want to note that there is quite a hurry to get this legislation voted on, and also that the main amendments that we have talked about are mostly enabling an amendment. So the one that says that you can have a panel of people deciding an inquiry is optional; it is something that the Minister can do. It is the same with the special areas; it is also something that is completely optional and of course that can only be developed with consultation from everybody involved. The last one, and that is quite important, the tree law again is just making work on trees development that is subject to planning application, and this is, as we said, until we have an order determining exactly what sort of work and what sort of trees. This is quite urgent because as of today this is now public knowledge, it is known that we will introduce tree protection and there will be a race to cut down all the trees that are even vaguely annoying to anybody, so if we want to protect trees in Jersey it is something that we have to do quite in a hurry. The order is being readied through consultation with the public, so it is something that will have had the agreement of everybody involved, of a very, very wide range of people, but it is important that it is done as a matter of urgency now that we have started the process.

11.2.3 Deputy L.M.C. Doublet:

I wonder if it is possible to elaborate on the information that the panel are asking because there is specific consultation I would like to see so I just wanted to add, and it is about the Articles that are relevant for tree protection. Obviously I can understand the wording but I think as Assembly Members we need to understand the implications in a bit more detail than is contained in the report. So I personally would like to see that consultation has been carried out with Jersey Trees for Life, in particular, and I would like to see their views, preferably from the Minister but via the Scrutiny Panel if they have more time to do that and issue comments, because I think it is important that we understand whether the proposed protections go far enough. It is an important issue, tree protection, and one that several Members - myself included - in the Assembly are really passionate about and we want to get it right. I do not accept the previous speaker's argument because my understanding is the tree protection would be attached to an order anyway, which is going to come after this legislation, so people who are going to carry out such actions, as the previous speaker is alluding to, will have a chance to do that anyway. So I do not accept that argument and I will be voting in favour of the reference back.

11.2.4 Deputy S.M. Wickenden:

I agree tree protection is something that we have been waiting for properly to be coming in and I look forward to that happening. On the reference back, obviously the Scrutiny Panel themselves have called for the reference back; if it fails they still have the power to call it in as Scrutiny can and nobody can stop a Scrutiny Panel from calling in legislation to be looked at. My concern is that we do have a need to start doing protection on trees; we have seen too many developments in the past taking down trees that have had a real detriment to this Island. I want the proposer of the reference back to give some confidence that if they work with the Minister on this reference back if it is passed that then after we come back again that it will not suddenly be called in by Scrutiny on Second

Reading, and I would like some kind of confirmation that we are not just going to go further and further down the line on this because it is too important a matter for this Island.

11.2.5 Connétable J. Le Bailly of St. Mary:

I do not like the wording of the Article when it says the introduction of control over any felling, lopping, pruning and any alteration of any tree. Lopping and pruning is essential in order to protect trees, regardless of a preservation order. A felling order is totally different. The words “any alteration of any tree” leaves this open to challenge. Jersey has more trees at the moment than at any time in recent history. People realise that trees are important and have made great efforts to address this by numerous planting right throughout the Island. Lots of land is now used for orchards. People do respect trees but they do have to be kept, regardless of a preservation order or not. This law could seriously jeopardise a lot of gardeners and tree fellers and tree surgeons and could make their life really difficult. I think a reference back is vital.

11.2.6 Deputy R. Labey:

At least the Constable of St. Mary has put his objections out there in terms of the implications to the legislation on gardeners and anyone with a tree. That is fair enough but I think, picking up on Deputy Wickenden’s point, I think to reference back this on issues of resourcing is slightly weird when the panel has the ability to call it in after the principles have been agreed. The principles here are very simple and I applaud Deputy Young, with all he and his officers have got with the workload for the bridging Island Plan, to have brought this in and brought this in speedily because we are way behind on a lot of these issues. We have always been in Jersey way behind on the protection of the historic built environment, we have got better, but surely the principle of keeping areas of Jersey characterful and unspoilt and protections for those areas of character is a principle that we could all agree on. Similarly - and the public feel this way too - we can all agree that we want to do something to protect big, mature, majestic trees from indiscriminate felling. Surely we also want to see the continuation ... our planning system has got so much better than it was. Do you remember the days we used to open the *Evening Post* in the 1970s, 1980s, even the 1990s alas and read about another planning disaster, an eyesore, something being demolished? Planning has got so much better and one of the architects of that was Deputy Young with the planning system we have now. All he is trying to do with it is to make it even more fair to both sides and transparent and open, and when it gets to the stage where it goes to the Minister - it having been open, transparent and fair to both sides from the moment the application goes live to the end of an appeal - that section then suddenly goes back behind closed doors because we do not see the Minister in his deliberation, we do not see who he takes advice from on it in either side. He is trying to correct that too. Those are 3 principles I think the Assembly can all agree on.

[16:15]

I respect enormously the Scrutiny Panel who I enjoy working with as a Minister in my panel too. I think the thing to do is let us agree these principles and then by all means call it in.

11.2.7 Senator S.C. Ferguson:

I am terribly concerned about the tree side and the rather dictatorial approach that has been taken. If you have got 2 neighbours and there is a covenant on the height of hedges between the neighbours are you going to just say they cannot lop the trees that comprise the hedges? A lot of the trees that people get terribly emotional about ... I mean, I am all in favour of trees and so on and proper looking after them, but there are a lot of things like holm oaks in the Island which are weeds, sycamores, they are weeds. If you let sycamores just carry on growing they will just get so crowded that they will kill each other off. I think we do need to look very carefully at this. The other thing is, you talk about it is unnecessary to look at resources, well I do not think Planning have got the resources to

review landscape plans, let alone follow up every little tree argument. So, no, I think we ought to refer it back so that the panel can look at the things that bother the public.

11.2.8 The Deputy of St. Martin:

I would like to just take Members back to the debate we are having here, which is a reference back; it is not on the principles of the Minister's proposals. One thing I would just like to focus on is the financial statement which comes at the end of the Minister's report which says there are no new financial manpower implications for the States arising from the adoption of this draft law. I sit on the Scrutiny Panel but I cannot remember where or when it was but I have heard the Minister say that he is hoping very much to have 5 new employees in an office dealing with applications to deal with the tree legislation as proposed here. I find it very difficult to see how he can give me a statement that says there are no new financial manpower implications but on the other hand he is saying he is going to employ more people to deal with the applications to fell trees, so I think that alone is a good enough reason to refer this back.

11.2.9 Deputy J.H. Young:

I am a bit surprised to say the least. For me this law contains 3 significant changes and the rest of it are important changes which are uncontroversial in my view, really important and necessary changes. What a shame to propose: "Well there are some questions here we want answered. Kick it out. Let us just shut our minds to the lot." The way to deal with this, frankly, I think there is the opportunity for amendment and there is the call-in procedure which was available. What I have heard today, I thought ... I did not expect this. I am surprised and disappointed because - contrary to what has been said - I have certainly arranged for briefing notes. Just stick to the big picture for a minute before I pick the particular points about trees. The routine amendments here are about procedure changes for people's appeals that the Judicial Greffe, the planning officers, those that administer it have asked for, corrections in processes. So are we going to lose those? Where is that going to go? There is a time issue there. You do not get the chance to change primary law very frequently. There are measures in here to allow us to deal with things that people are crying out for like electric vehicle charging points and so on and that kind of infrastructure at the moment we do not have the rules for. So we are going to treat that in the same way, are we? We have got processes here. Of course the big thing is that I spoke about the safeguards all over this. First of all there is regulation; nothing can happen until regulations are brought. Regulations would have to be lodged, they would have to go through the panel, there would have to be consultation - more consultation, because it is not true to say there has been none. This is our changes in principle and they would not come into effect until after those regulations have been approved by this Assembly, including the detailed content, answering all those questions on conservation areas. Also I insisted on this, there would be an Appointed Day Act provision. That means this law change would not come into legal effect until the States specifically pass an Appointed Day Act. That is not often the case. It is done here because it is recognised that there are significant things that need to be done. I am disappointed. The reason why we have concentrated on trees is not just for the reasons that Deputy Guida and myself spoke of, but of course the Scrutiny Panel have always been very, very keen on this, and in fact the Scrutiny Panel brought an amendment to the Government Plan to enable this tree strategy work. That is happening now. The panel have had a briefing. We have engaged people to work with who do this consultation work, and frankly I am trying to find the presentation. It has been circulated around. I cannot remember how many Members turned up to it but they have had that presentation, and that involves all these people, the tree surgeons, the groups, Trees for Life, all those groups. The feedback I have had from those workshops they have been holding - they have held several - is that they agree with the principle but there is detail to be discussed. Look, we are not going to protect every tree; that is ridiculous. Absolute nonsense. We are not going to stop around lopping and so on like that. We have a thing called permitted development. The way the law works is you put the power in the law and then you pass a subordinate legislation to be able to say what can be done without having to

make application, and I would say 99 per cent would be dealt with in that way. It would be madness to do anything else. So, Members, please; what people fear is a big brother here. Why does it say there are no resources? Because there are no resources until it is implemented. I think there is so much work to do here that I think it is going to take quite a time. My officers tell me they think they could get this work done before the end of the term of office of this Council of Ministers. I am not so sure personally; there is a lot of work here. A lot of work here. At that time they are resourcing it but of course one of the strengths we have had ... and I have been a critic of the target operating model and the chief executive changes but I am told by the officers that those changes have freed up, and the reshaping of responsibilities between different parts of the I.H.E structure will allow us to do what is a reasonable level without excessive manpower costs within the resources we have. Yes, I would like more. Yes, there is a very modest amount in the Government Plan; we can do that. But what one does have to do is to set the direction of travel and this is what this law does. So I think the proper thing to have been done was either bring an amendment or call it in and then we can have a discussion about the detail on those particular points. But to lose the whole lot on some kind of blanket situation I think frankly is not the way this Assembly should do it. I mean, there are all sorts of options of what we can do about trees. The last thing I have got in my head is applications. We had the same situation when Planning took over control, or at least the planning control, on electrical work. What you do is you have systems of notification. You work with electricians and the bodies and you work up standards, standards that mean you do not need applications but you are regulating it. You are providing a measure of control, because what we do not want to do is to lose the very, very best trees, and there have been situations where trees that are many times my lifetime are then ... people get really upset when we lose those. The law is not enough at the moment so this is an enabling power. So I ask Members, please, do not support this. Yes, when we get to the Articles, yes, then if the Scrutiny Panel want to call it in I am not going to be objecting to that because we can do that. By then the questions that are being proposed by the Connétable of Grouville and shared by his colleagues, we can answer them in detail. But, please, allow us to make progress. Conservation areas particularly; are we going to repeat the situation on conservation areas where the last 3 Island Plans have had a planning policy on heritage that we have not been able to do anything about and ignore? Are we going to do that, really? No. Put it in the law. Please do not support this reference back.

The Bailiff:

Will you give way for a point of clarification from the Connétable of St. John?

Deputy J.H. Young:

Yes, of course I will.

The Connétable of St. John:

I am just slightly confused. The Assistant Minister has said it was urgent and the Minister has told us that nothing will happen in a hurry. Can we clarify which is correct?

Deputy J.H. Young:

Well we have got our own opinions on that. I think that there is no question that looking after trees and biodiversity is an urgent commitment. It is an urgent commitment; we are losing biodiversity. We are going out on climate change with a new set of policies, carbon fixing is really important. I was being realistic about how I can implement what is a very, very big challenge in planning law in a short timetable. Now, my officers have said - and I did qualify it for the Constable's benefit - we can probably get the draft regulations done by the end of the year so they could come forward. I will be honest, I do not want to promise that if I cannot deliver it. I want to make sure that those are robust and they are practical. I want to make sure of that so that is why I am being a little bit more reserved and saying I think the best one can achieve is by the end of this term. For me Members will

probably know - this is a personal thing for me about the future - this is to make sure that whoever ends up in the Ministerial jobs has got the ability to do things that this community cries out for.

The Bailiff:

I think this has gone a bit further than a clarification of your speech. Does any other Member wish to speak?

11.2.10 Deputy R.J. Ward:

It is a difficult one this ...

The Bailiff:

I beg your pardon ... sorry, I was confusing myself, no need to trouble you with why.

Deputy R.J. Ward:

I have confused myself now. This is a difficult one, because a reference back is not something I am familiar with and I sort of understand the point of that. However, I will talk about the reference back, not the main proposition, because this is about the reference back. I think sometimes we do lurch into other areas when we have a reference back and we need to really focus on what we are saying. I suppose the most important thing I would like to know is what will be achieved referencing this back, because there is obviously an urgency. I am very pro legislation and regulation to protect areas of our environment on this small Island. It is really necessary. We are living in a changing world and there are changing pressures, particularly with population and housing and we need to be very careful about our environmental impact, so I see in these regulations some very positive things. So therefore I ask what will be achieved by referencing back that will improve these regulations? One of the things that was mentioned was the notion of resourcing. By referencing back, and I asked the Constable who wants a reference back ... these are genuine questions. This is about debate. Are you suggesting that one of the issues is resourcing of the Environment Department, so therefore what we need to do is increase that resourcing so we can get things done? Because I think it is a great idea.

[16:30]

On a personal note, we may have a landlord licensing law, if that was the case, because that was one of the arguments used against it. So if we are saying about resourcing, then great, but that needs to be made clear. Is there something else behind this? Is this a general principle of not wanting regulations to be enforced by Government over environment? Because if it is, I do not think that is the place for a reference back, that is a place just for voting against this full stop. When we reference this back, we will take it away and nothing will happen necessarily unless we are very, very clear as to what the reference back wants. I have got to explain this carefully. It will come back to the Assembly in an undetermined time and we may be back to square one of simply having wasted a long time. If that is the case, I do not know where we are going to get. We are coming towards the end of this Assembly; we are coming towards the end of this year. We will have the Government Plan. We will be so busy nothing else is going to get done. By next March, if things are not lodged, nothing will happen. The reality is the elephant in the room is if something is not lodged by Christmas it is not going to happen in this term of this Assembly, and that is the reality of where we are. So I do not want to reference anything back, just simply to kick it down the road, because I do not think that is the right thing to do. However, if you want to call this as a Scrutiny Panel and then analyse the detail of whether or not these things will work and how they will work and bring amendments, I absolutely agree with that. That is what Scrutiny is about. So at this moment in time I am not sure that I can support a reference back, and do not get me wrong, supporting a reference back to annoy Government a little is not ... you know, it is okay with me, but we need to think very, very carefully about what we are achieving with this. If we can have some detail on what the actual aims of this are in taking it away again, when it will come back and the timescale for getting an outcome from this, then I think perhaps I may be more open to this debate, but at the moment I do not understand

that and this is a confusing one for me as to why we reference things back in the first place. I hope that was clear. It was not as clear as normal, I do not think, but there we go.

The Bailiff:

Thank you very much, Deputy. Does any other Member wish to speak on the question of the reference back? If no other Member wishes to speak, then I close the debate and call upon the Connétable of Grouville to respond. Connétable, it might be helpful if you were to specify the information that you are seeking once again as you respond so Members know what they are voting for.

11.2.11 The Connétable of Grouville:

I will do that, yes. With regard to consultation, we had our first briefing a fortnight ago. We had been approached prior to that by the Construction Council, who had sent in a written submission highlighting their concerns. We met them later in the same week. At the briefing that we had from the Minister and his department, it was admitted that there was no consultation on the conservation area proposals, they were taken as what the States want, and therefore there was no need for consultation. That surprised us somewhat and I do not think that is adequate. It is interesting that the tree strategy group I think does have representation from the farming community on it. Interesting that when the Minister mentioned that body, he did not mention the farming community and of course they manage most of the land in the Island. People may or may not be aware that the amount of trees being planted by them is phenomenal and so the danger of losing trees in the countryside is not an urgent matter, so there is no rush for this. The reason why we would like to reference it back rather than call it in, I will first of all read out the information I think we are missing first and then I will finish on the final point. There are no details provided with the proposition as to what the likely impact on resources the introduction of the tree control change might have for Government in terms of the planning application permissions and appeals process; no details provided in relation to how the administration and enforcement of the proposed conservation area change will be resourced. It is widely known the Planning Department is short of resources and there is no mention of what impact this will have on their budgets, no detail on how the 3 major changes proposed will be implemented, including governance, procedures clearly set out, roles and responsibilities for Government in implementing the proposed changes. An example of this is the chair of the planning panel is meant to be on the appeal panel. He is almost certainly going to be conflicted because he will have deliberated on the original application. The outcome of the tree strategy and associated consultation is unknown; that is still ongoing. Similarly, the designation of conservation areas is to be addressed in the bridging Island Plan, again something we are waiting for, so we have no detail on that. We have no detail provided around what governance there will be around the proposed determining panel, how this will aid and not hinder the planning consent process, and what additional resources the administration of this may entail. I will finish on the point which many Members raised, which is why refer it back and not call it in. It is simply because we want to fit it into our work programme. This came pretty much out of the blue. It is not on our work programme as it is. We appreciate we have to fit it in, but we want to do that in our time. I know that all Members on all Scrutiny Panels and P.A.C. (Public Accounts Committee), the work programme for all of these things is programmed in advance. Everything is tight. We will get this work done, but we want to fit it in in our time and I do not think we were given enough warning to put it in our programme early enough and that is why a reference back is preferable to calling it in.

The Bailiff:

I ask the Greffier to place a vote into the link. The vote will be on whether or not to refer the matter back to seek the further information as outlined by the Connétable of Grouville. I ask the Greffier to open the voting and Members to vote in the normal way. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The proposition has been rejected.

POUR: 19		CONTRE: 25		ABSTAIN: 0
Senator T.A. Vallois		Senator L.J. Farnham		
Senator K.L. Moore		Senator J.A.N. Le Fondré		
Senator S.W. Pallett		Senator S.Y. Mézec		
Connétable of St. Lawrence		Connétable of St. Helier		
Connétable of St. Saviour		Connétable of St. Clement		
Connétable of St. Brelade		Connétable of Trinity		
Connétable of Grouville		Connétable of St. Ouen		
Connétable of St. Peter		Connétable of St. Martin		
Connétable of St. Mary		Deputy J.A. Martin (H)		
Connétable of St. John		Deputy G.P. Southern (H)		
Deputy M.R. Higgins (H)		Deputy M. Tadier (B)		
Deputy of St. Martin		Deputy J.M. Maçon (S)		
Deputy L.M.C. Doublet (S)		Deputy S.J. Pinel (C)		
Deputy of St. Mary		Deputy of St. Ouen		
Deputy G.J. Truscott (B)		Deputy R. Labey (H)		
Deputy M.R. Le Hegarat (H)		Deputy S.M. Wickenden (H)		
Deputy S.M. Ahier (H)		Deputy J.H. Young (B)		
Deputy K.G. Pamplin (S)		Deputy L.B.E. Ash (C)		
Deputy I. Gardiner (H)		Deputy K.F. Morel (L)		
		Deputy G.C.U. Guida (L)		
		Deputy of St. Peter		
		Deputy of Trinity		
		Deputy of St. John		
		Deputy R.J. Ward (H)		
		Deputy C.S. Alves (H)		

11.3 Draft Planning and Building (Amendment No. 8) (Jersey) Law 202- (P.76/2021) - resumption

The Bailiff:

Connétable of Grouville, do you wish to continue with your speech?

11.3.1 The Connétable of Grouville:

I do not have a great deal to add and I am not going to repeat what I have said, but for my part I do not have the information to support this proposition so I will have to vote against it, despite being totally in favour of what is trying to be achieved here. I want to protect trees. I am an ex-farmer; I have got land. I have planted far more trees than I will ever fell in my lifetime. I only take down trees if they are dangerous or trim them when necessary, and that goes for just about every farmer. The amount of trees that have been planted around fields is unbelievable in my farming career. Every year more and more trees are being planted. I appreciate there are some unscrupulous developers that demolish trees prior to putting a planning application in, and I can see why that is something which we must really do something about. There no real urgency for this because that happens rarely. The whole idea is uncosted and we need to fund it. Deputy Ward mentioned that earlier. Of course if we are going to pass the law, we must be able to fund it to make sure that people are compliant with it. There is currently some protection. You cannot remove a hedge without permission, which includes a tree in a hedge. The makeup of the determining panel is of concern to me, so I very reluctantly will have to vote against this legislation.

Deputy J.M. Maçon:

I have been in the chat.

The Bailiff:

I do not have you in the chat, Deputy Maçon, but I do have Deputy Higgins. No, sorry, if you could wait, please, Deputy Higgins. I am not sure ... yes, I am sorry, Deputy Maçon sneaked in between the results and vote and he is entitled to speak first, so Deputy Maçon.

11.3.2 Deputy J.M. Maçon:

It will be brief. It is just a question for the Minister and it surrounds - let us hope I can get this right - part 6, Article 12, new section (2A), which is about the determining panel. I understand where the Minister wants it to be in the case of the Minister and the Assistant Minister of the relevant department and chair of the Planning Committee. My question for the Minister is in a situation whereby ... whether it is a constituency matter or perhaps a planning application has been through the Planning Committee, the issue surrounding potential conflicts for the chair of the Planning Committee under law to have to sit on this committee or the determining body, is the Minister comfortable that there is enough wiggle room in those situations? For example, we know Members will inevitably lobby for a particular development or against a particular development but, if under the law they have to be on the committee, how is that conflict of interest going to be managed if the law determines that the chair of the Planning Committee has to be on this? If the Minister could just explain that, I would be most appreciative.

11.3.3 Deputy M.R. Higgins:

I am just hoping that the Constable who proposed the reference back, the Constable of Grouville, instead of voting against this proposition, despite much of its merit, will as part of the Scrutiny Panel just call it in and review it and any comments I have I will make at that point. So I think rather than throw the whole thing out - it has got much to speak in its favour - we should just refer it to the Scrutiny panel.

11.3.4 Deputy K.F. Morel:

Yes, similarly to Deputy Maçon, it is more concern perhaps about bringing in a panel to decide on large projects. Given we have had conflicting information about when this law would come into force, would the Minister please in his response advise whether this is likely to come into force before the need to determine the planning application for the hospital? Because I find interesting, because obviously he did the last hospital application on his own, and it is just with regard to the trees element of it. My main concern - I fully support the Minister's kind of intentions in this - is just about the order-making power. Not so much the order that he himself may make, but it is future Ministers who may decide to use order-making powers to withdraw protection for trees in one way, shape or form. It is the reality, whether we like it or not, that orders often get missed, they are not publicised very well, often Scrutiny Panels do not always know that they have been made and so it is just more ... I mean, in my case it is because I would not like to see tree protection weakened, but it could be the other way. You could have developers or other people who are concerned about an increase in tree protection, so it is just how does he intend to make sure that those orders are seen and known about into the future?

[16:45]

11.3.5 The Connétable of Trinity:

I would just say that I absolutely support the idea of the conservation areas and the need to provide some protection for trees, which I see the difficulty in policing that, but certainly as a principle I am entirely happy with that. My concern follows the comments by Deputy Maçon, which is the situation where - and I talk as being the chairman of the Planning Committee - I am conflicted. I can think of

2 current examples, one where I am on the political oversight group for our hospital and the second one would be the current one, which has just been called in by the Minister for an inquiry, being the Water's Edge Hotel. I am slightly mystified about the criteria which requires these applications to be decided by the Minister who is going to call it in being the public benefit or the general impact on all Islanders, whereas I have seen other applications go through where I think there has been significant implications for all the Islanders and yet they quite happily go through the committee. To a certain degree, I find that pulling something out before the committee have had an opportunity to consider a planning application rather undermines the credibility and authority of the Planning Committee in the first place. I certainly would like to have seen a lot more work being done around this particular area.

11.3.6 The Connétable of St. Ouen:

My concern is slightly different about this. It is more in that, as the Minister for the Environment well knows, I am having a bit of an issue with the Planning Department about some trees which are already protected. I know his officers are doing their best to sort them out, but we currently have a situation where the tree is protected and has been certified as being dangerous and needs to come down, and also planning consent forbids branchage from being carried out, so I would just ask that the Minister for the Environment makes absolutely clear that there are at least 2 exceptions in the law. I do not think Members should take this the wrong way, I am entirely in favour of preserving our natural environment, including trees, which are an incredibly valuable asset to the Island. I think you only have to look at pictures of the Island after the war, where the trees were stripped for firewood, to see the difference that allowing those trees to grow back has made to the beauty of Jersey. But going back to the point I was trying to make, I think there are 2 exceptions. Firstly, where the branchage law is contravened by trees, I think there needs to be an exception that the owner of the land or the owner of the trees should be able to comply with the branchage law and make whatever adjustments are required by that law, and secondly, where the tree has been condemned by a qualified tree surgeon as being unsafe, both in terms of being near a public road or indeed anywhere where it could endanger people, that there should be an automatic right to take that tree down, provided the certification of a tree surgeon is produced and can be produced after the event. So I am genuinely supportive, but I would like to see those 2 exceptions clarified and crystal clear in the legislation.

11.3.7 Deputy R. Labey:

I just want to elaborate a little bit further on my point about the appeals process. Those of us that have worked on the Planning Committee feel very passionate about the planning process in the Island. I served on the Planning Committee for 6½ years and the process, I know it is slightly ... some developers are slightly unhappy with it, but that is maybe not a bad thing. If they were all happy with it, you might be a little bit worried, with the greatest respect to them. In the 6½ years I was on it, absolutely scrupulous in our conduct on the Planning Committee. It is a difficult job because most applications sail through and are approved or not by officers under delegated powers. The majority of them, that will be what happens, a garage, an extension to a house, what have you. Where there are objections from neighbours or there is any controversy or it is very large or there is a challenge, it comes to the Planning Committee, or it is very finely balanced, it comes to the Planning Committee and that process starts. You will have seen the application process online with all those objectors' letters and supporters' letters and we visit every single site and we make sure that we do not hear representations from one side onsite out of earshot of the other side. It is difficult to explain that sometimes to people, and then of course we have our hearing in public and we determine in public there and then, and it is sometimes really high pressure and really difficult. I think in my early days on the Planning Committee we would sometimes want to chat with one other, so we would go into a side room and talk and then when we came back there was a lot of disgruntled faces, as you can imagine, because they were wanting to know what we were talking about. We very soon stopped

that and decided, although it is more difficult for us, we will have our discussions, if we need to, in open forum so that the public can understand our thought process. As I say, we have to make our determination and we have to give reasons in the planning law that we are either going with the officer recommendation or not. It is not just: "Oh, I do not like it. I think that house is ugly, I am not going to approve it." Everything has to be based within the law, but we can apply a different amount of weight to different arguments and we have that leeway, so it is a great process. Then if the applicant or those who are trying to stop the development wish to, they do not like the decision, they can take it to a third-party appeal, which was brought in about 10 years ago. Then the situation continues to be in an open forum most of the time. Sometimes the smaller ones are done just by written exchange, but again, the fors and againsts have their chance to have a say and we all know what the other party is saying. It is a U.K. planning inspector. It is not administered by the Planning Department, it is administered by the Judicial Greffe, which is really important, so there is no suggestion that the Planning Department is finding a U.K. inspector that they think might go with this application or not; so that was a very, very clever move too. It does take time, of course, which is a problem. Then what was built in as a third layer or fourth layer in this was for the ultimate decision, so once it has gone to a third-party appeal, the U.K. inspector has made the decision, for reasons that ... the prevailing thought at the time was that nothing should be sovereign or trump the elected representatives, so basically, in common parlance, we should not have a U.K. inspector telling the States what to do. For that reason, it went back to the Minister for the Environment to make the final decision. That is slightly weird, because that means the Minister for the Environment cannot be involved in a lot of the detail of planning, which I have always found rather odd. When it goes back to the Minister for the Environment - and this has worried me since my time on the thing, on the Planning Committee - that process is behind closed doors and the Minister for the Environment can consult who he wants or she wants, I guess it is officers, all of whom are absolutely brilliant. I am not casting aspersions, I have really enjoyed working with the Planning Department and the planning officers are fantastic. But you can see that is not ideal, is it, because the whole thing has been transparent until then. What I would worry about, especially when we have David and Goliath battles on planning ... and there was one recently, I will not refer to it in detail, but it worried me especially. It was a big development and one neighbour was objecting. However, it was approved by the Planning Committee. It was recommended for approval by the department; it was approved by the Planning Committee. This one neighbour took it to appeal, paid her money - whatever, X hundred pounds it is now - took it to appeal, the full process and put her case to the U.K. planning inspector. This was a big development, one little old lady, and she wins. She wins the planning appeal and then it was overturned by the Minister. Now, that strikes me as difficult because if the Minister for the Environment was never going to side with her, why go through the whole process? In that situation, would it not be better if the Minister for the Environment said: "Look, there is no chance. I am going to not allow this application"? So that has worried me about the whole process, the fact that it is behind closed doors and the fact that I think at the very least the lady should have got her money back for the appeal, is my feeling. I am troubled by that. I know that this does not specifically address all of my concerns that Deputy Young has brought in here. I will be supporting it in full. I am so pleased that the Assembly has agreed to vote on this. I hope it goes through because I fear that it would have been kicked into the long grass and these are really important things for Jersey, protecting our trees, making sure our planning process is open, fair and transparent. People do leave the planning hearings often saying to us: "Well, it went against me, but thank you for hearing me out" and that is what we try to do; give everybody their chance to have their say and we like them to leave feeling satisfied that they have. But I think the last area of the planning process, for me, even I would scrap it and just say let us go with what the planning inspector says, let us agree as an Assembly to go with that. It is not ceding a great deal of power, but I think that is where the process should finish, once it has gone to an open and transparent independent hearing by a U.K. inspector who is an expert. I do not agree with all their decisions, it is like any planning decision, but I think that should be the end of the process myself. I just say that in open forum so people know where I

am. I see that the Minister for the Environment is writing that down, so I am pleased about that, but I congratulate him for bringing this. It is 3 really important steps to bring us up-to-date and in line. Thank you so much.

The Bailiff:

Thank you very much. You have a point of order, Deputy Tadier.

Deputy M. Tadier:

Yes. It is just to ask whether or not the Scrutiny Panel are able to allow us to call this in, given that it is an amendment to a law and not a law itself, so I am not sure in my mind whether they have the ability to do that, and that would influence whether I spoke and how I would speak.

The Bailiff:

Yes, I think the Scrutiny Panel does have an absolute right to call in any matter such as this and they are entitled to do it if the principles are adopted by the Assembly.

11.3.8 The Connétable of St. Brelade:

With regard to trees, no one can question my eagerness to protect trees in the Island and that is evidenced by the 21st amendment of the last Government Plan, which was happily accepted by Members. I, like the Minister and others, am determined to push that through as quickly as possible, but with regard to the rest of this proposition there are other elements in which we need to flesh out the detail is probably best to describe it as. One particular which surfaces, in my opinion, is Article 17 regarding caravans, which could be quite controversial. I am not aware whether we have had much input from those involved on both sides of that argument. It boils down to the devil being in the detail. I look forward, with the panel, to progressing that in due course as quickly as possible, in conjunction with the Minister, when the time comes.

11.3.9 Deputy G.C. Guida:

I am sorry to hear from the Constable of St. Brelade that the panel is going to call this in. There are 22 parts in this amendment, many of which are quite important. They are fixes for things that have not worked well in the planning law, so they are quite important and it would be a shame for us to wait more for them to happen. In terms of the 3 big ones, I think we have not had much problem with powers of special interest. If a conflict arises in the determining panel, we have to remember that this is just an additional option.

[17:00]

Basically the Minister can still determine something on his own, but he has the additional option of asking for help and if that help is conflicted in any way, then he does not, so it is just an option and really there is no problem. There should not be any problem with that. But the last one, again I would like to remind everybody that this is just a mechanical part enabling the protection of trees. First of all, all it does is say doing work to a tree is going to be development, it is going to be considered development and that is all it does. That is what it does with this. Also, it does not do it now, it does it after an Appointed Day Act. The idea behind that is to be quite open and to say: "Do not worry, we are not going to bring in an order by stealth. There will be an Appointed Day Act in this Assembly. This Assembly is going to see what we are going to put in the regulations and they are going to decide on the regulations." There is not going to be a very, very discrete order preventing everybody from ever touching a tree again, so this question is quite ridiculous. This is mechanical. We need this to exist before we do the regulations, so I am really, really sorry that Scrutiny thinks that we need to delay this for no reason. That is all.

11.3.10 Deputy M. Tadier:

First of all on that point, Government should always know that Scrutiny can call anything in for whatever reason they feel they have a want and a desire to do that, so it is incumbent on Government to leave enough time when presenting any legislation so that Scrutiny does not get blamed for the delay. So if anyone is to blame for the delay, it is the department, not Scrutiny, and that is just a general point that applies to all government legislation. They should not take Scrutiny for granted and presume that they will not call something in, because obviously Scrutiny is independent. On this, I am glad that Scrutiny look like they are calling it in. I want to raise a couple of issues, which may not be central to the proposal today, but it is something that I have noticed just in reading through what is on page 19, for example, in new Article 56A. There are some parts where the law talks about empowering the chief officer to do something, so 56A says: "The chief officer may designate as a conservation area any area of Jersey to which there attaches special architectural or historical interest" and it continues. My question to the panel would be - and I suppose to the Assembly - there seems to be some kind of dilution of what the chief officer is able to do in his or her own right under this law and what the Minister then can do, because if we go down to the third part of that same Article, it talks about the Minister making orders for such further provision as is necessary for the purpose of this Article, whether in relation to a particular conservation area, and it goes on to say that he may do that even if the chief officer, so 3(a): "specifying any activity which may be undertaken within a conservation area without the chief officer's permission." So I would certainly need clarification, and it may well be that the Minister will do this in his summing-up anyway, about what responsibility and accountability the chief officer has in this law and in what this law will become. This is an enabling law, as we know, and it is what responsibility and accountability the Minister has. My point of view is that I know of course that in every department it is possible to have delegated responsibility for either an Assistant Minister or even an officer, but of course officers do not have the same level of political accountability that politicians do, who are elected. That is pretty obvious. I am concerned that in this law, as in other laws that we have in the Environment Department, that powers have either been given or shifted to the chief officer when they should be lying with the Minister. I will give one parallel example. That is the derelict buildings law, and so if a building, for example ... or it could apply to glasshouses or it could even apply to walls of buildings which have fallen into disrepair, the power has been given to the chief officer to make a determination as to whether or not he or she would issue a compliance order on that, whereas it used to be the Minister, I understand. I find that trend - I think we are seeing it in this law - is worrying because really it should be for the Minister to be making those kind of decisions where he can be accountable to the Assembly. I am not saying this is a shift in the law, but it is a new amendment here and I would like the Scrutiny Panel to look into that area, if they are minded to, and I would certainly like to make those points. Of course generally speaking on the principles of the law, I should also add my tree-loving credentials and say that many of my best friends are trees and I would not see anything done to them that would harm them.

11.3.11 The Deputy of St. Martin:

I will not speak for long, but I would just like to follow on from Deputy Tadier, if I may, and talk first about the makeup of a potential panel that might make decisions instead of the Minister. As has already been pointed out, those of us on the Planning Committee have already discussed this and I suggested that the chairman of the committee is going to be conflicted almost entirely because most cases that go to appeal and are then determined by the Minister after the inspector has advised or suggested the chairman of the committee will almost certainly have determined. So I do not think that is a particularly well thought-out idea, but what I would say - and it follows, as I said, from Deputy Tadier - the Minister has the ability to take advice from anybody he chooses before he makes a decision. I would certainly hope that he would want to speak to his Assistant Minister and his senior planning officers. The point I would make is if the Minister wants to be responsible, he should be responsible for taking decisions, so if he wants to be the Minister, he is the man who should make that final decision. I agree with Deputy Tadier, I think this needs to be looked at more because with

a decision, the Minister takes advice from others and then lets that advice influence his decision or not, and surely the Minister is the man or the woman to take that decision. On conservation areas, I am very much in favour of conservation areas. I was when I was Minister and I still am now, and I do not think that is particularly controversial. I think when officers of the department explain that to States Members and members of the public, they will understand the concept of conservation areas, which is important and could be a great asset to the Island moving forward. Then finally trees, and I have said it before and I will say it again, I think this is a sledgehammer to crack a nut. What is proposed here; the first question that comes to my mind is what exactly is the Minister trying to achieve? Is he trying to reduce carbon emissions ... sorry, to affect climate change by allowing all trees to exist on the Island? If he does, then maybe we should concentrate on trying to protect trees that are smaller and have maybe 100 years left of their life rather than large trees, which may be coming towards the end of their life. Maybe he should be concentrating on protecting trees in the built-up areas so that they have a much more beneficial effect on those people who are living there, providing shade and taking some of the pollution out of the air. But if he is not looking to those things, the Assistant Minister for the Environment mentioned development in the short speech he gave, and if the Minister is only protecting trees on development sites, I think he should come out and say that. That is where I get the feeling that it is a sledgehammer to crack a nut because if he is only interested in trees on development sites there must surely be a problem of coming forward with legislation which only affects those sites and it does not affect the whole Island. Because it is my view that if we pass laws which mean we have to apply every time we want to take a branch or a limb off an oak tree or an ash tree or a chestnut tree, that people in the countryside, those who are responsible and keep it beautiful for all of us to enjoy, will come up against a huge amount of administration and paperwork. Not only will it be time-consuming, but it will cost money if every time you want to fell a tree or take a branch off a tree you have to pay a professional expert to come to advise you and it will affect, in my view, greatly the way the countryside is looked after and farmers and landowners of property to keep it looking beautiful and safe for the general public. I will leave it there. I will be voting in favour, but there are an awful lot of things, especially in the tree section, of this proposition which need to be looked at more closely.

The Bailiff:

Thank you very much, Deputy. Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles then I close the debate and call upon the Minister to respond.

11.3.12 Deputy J.H. Young:

I thank Members for allowing the debate to proceed. I think there have been some good points made in those speeches, which I certainly have tried to take note of. I think really I am making the assumption that the panel will be calling this in. I do not think I am wrong in that, but certainly I think we have the way of addressing some of those points of detail under such a call-in arrangement. Just an example, for example, the starting speech from the Constable of Grouville highlighted a particular point in the draft law change about, at the moment, hedges. Of course removing boundary hedges and so on is development under the law. Of course what we are proposing to do is to substitute for that because obviously that would over-complicate to leave both provisions in, so that is one example where I think a particular point has been anticipated, which I do not want it to be the case. Deputy Maçon does raise a very good point about the issue of the chair of the Planning Committee and I think I want to make a couple of points clear about this. Firstly, that a call-in application, anything that is called in by the Minister does not go to the Planning Committee, so there is a clear difference between the conflict of the chair of the Planning Committee, where there should not be in normal circumstances. I do not believe there would routinely be a conflict on the call-in applications because they will not have ever considered that application. It will have bypassed the committee, it will have gone straight. I suppose the logic, my thinking was if we are to have a body to share that

arrangement, then the point that Deputy Labey, Russell Labey, made was absolutely right, that the Planning Committee members do a fantastic job. They really do know their planning, they are very experienced and I think if you have to have an extra plug, if you like, into a determining body, I think it is having a chairman. I think if time would have allowed, I would have changed the word “and” because at the moment, the law that we have got in front of us says it is the Minister and the Assistant Ministers and the chair of the Planning Committee. I would, in hindsight, have preferred that to be “or” to allow for that, but that, I am hoping, is an issue that if they go ahead and call it in, we can deal with that. There are issues, but yes, I listened to what the Connétable of Trinity said carefully, and of course at the time this was drafted we had a different chair of the Planning Committee, and I did not personally know that the chair of the Planning Committee had agreed to take a lead in the hospital project. I did not know that, so I think this is where I could go straight to Deputy Morel’s point on this: what does that mean? I think if - and it is an “if” in my mind - the timing of the planning application for the hospital and if the timing of the planning inquiry into the application means that a decision needs to be made before the conclusions of ...

[17:15]

Let us get this right, before the conclusion, yes, of my term of office, if I remain, if nothing else happens in the meantime, I think you are right, that I could not invoke because of that conflict, which I am now aware of. It would have to be on that occasion I believe the Minister, whoever is the Minister, deciding on their own because I think that unless ... if it stays as “and” that would be the case. If it goes to “or” then there may be other possibilities, we will have to see, but at the moment on the basis it would be the Minister only. I think that that provision is there, as Deputy Labey told us, for the future. It is for the future, but there is no question in my mind that the chairman of the Planning Committee and Planning Committee members ... and there are 9 so conflicts do arise. You cannot remove any possibility of a conflict in planning issues and I am going to come back to that in a moment, if I may. Deputy Morel, you have asked about the hospital and then this issue about rescinding orders. Orders can be absolutely rescinded. There is an order, a procedure, for us to ... and in my understanding of that, if a Member brings a rescindment motion on an order, then that order is not put into operation, there is a debate, and if it is flung out, it is flung out. It will not go into effect. Now, I agree there are problems about finding out about orders being made. I am constantly concerned about that. I have expressed concerns about that and it is something I would like to see in future and make it easier for Members to know what orders are being made in time to be able to invoke those provisions, but the draft is there on the basis of an order-making power. It is suggested as an order because that is the way we deal with all permitted development. It is the way in which we allow extensions and windows and doors to be changed and all sorts of landscaping on people’s properties. We set limits to say you can do that without consent and of course absolutely the intention, what is in my mind, we would do that for trees and we certainly would not be controlling everything. That is just absolutely ... it would be unrealistic. Now, I think the Connétable of Trinity also raised the question of criteria. The criteria for a call-in application are in the law and I think there is this issue. I know the Connétable of Trinity did speak to me - I hope you will not mind me mentioning this - about whether or not I should have called in the Cyril Le Marquand House planning application. I decided not to do that and I do not know if the application is currently before us, so I probably ought not to say any more, but I did have my reasons, which I think it is a question of the criteria that we have in the law for a call-in application. I was applying that. The Constable of St. Ouen, absolutely, of course we automatically ... dead, diseased, dying, dangerous trees, trees that prejudice people’s properties, I also think trees that block people’s light to their living space. I had a lady phone me up today. Of course there are going to be exemptions, there will be lots, and that is why we are doing the tree strategy work to try to find those boundaries. Of course it would not be sensible. On branchage, yes, of course branchage needs to go on. It is a really valuable, important provision and of course I was very grateful to the Connétables and Deputy Guida, who worked so well in getting the new guidelines on that, which was very, very good. Now, I think Deputy Russell

Labey gave us a really good explanation of the planning appeals process, the whole business of planning applications; root and branch. Of course it has changed lots of times over the years. I can remember when 7 members of the Planning Committee used to sit there in private and rip apart people's planning applications and nobody was allowed anywhere near the committee. We have gone from that, then we went to sub-committees, then we went to meetings in public, then we had the Minister deciding on his own and then we had the Royal Court on appeals. We have tried every permutation. It is not possible to find a perfect solution. In the long run, my personal view, I think the planning law has done extremely well and has served this Island fantastically, one of the most important laws, as I said. There will come a time when there will need to be a new law, I believe. That is not now. That is the time for these appeal processes. Deputy Russell Labey reminded us the Judicial Greffe run the rules and I do remember this decision to set it up that way was done in 2014. Ironically, I recall I voted against it. I had in my mind we would have a proper tribunal, a planning appeal tribunal with full jurisdiction, and that means they can make the final decision, but that is not now. I think that is an issue, those sort of big issues, and they are even bigger than what we have got on the table here, will be for a future Assembly. I put that there for Members to think about. There is no perfection answer there, but I can promise you this: communities have to run their own planning processes. We own this, this is us and there are controversies, there are arguments, transparency, so it was an attempt to improve that, but I think it is going to suffer as it is currently drafted from, if you like, those restrictions. Caravans: the Constable of St. Brelade. There are 2 views on this. The current law is well out of date. It goes back to the 1960s. The 2002 law copied what was in the 1964 law, which was: "We do not want caravans in Jersey" and yet we have got different attitudes now. Is it right to hard code into the planning law all laws about caravans? No. It is better to have a separate process and do them through subordinate legislation, and that is all that is proposed here. Again, because it has got an Appointed Day, nothing is going to happen without that detail being decided and of course the Constables will be involved. Deputy Guida is absolutely right, it is the Appointed Day. There will be no order by itself. Deputy Tadier. Yes, Deputy Tadier, a really good point. I am grateful for what you said. I personally queried myself with the officers and with legal advice: "Why are we giving powers to the chief officer to designate conservation areas?" I was told that: "You are conflicted. If you are dealing with appeals, you are going to affect ... once you set a conservation area, obviously you are going to have conflicts so it has to be the chief officer" but of course we have got a situation under the target operating model that the chief officer ... there are discussions about which post should it be, so I think what we have got is the best we can achieve at the moment, but I am pleased. I think it is right that the rules within that conservation area will be decided by the Minister through what is put in here, but it has reminded me, one of the arguments that came to me: "Why was it the chief officer?" and what was said to me was the chief officer would be required to act only on the evidence coming to them from the expert advisers, that it would not be a question of the chief officer saying: "Oh, I like this. I will do that." There has got to be an evidence-based process and there has obviously got to be consultation and engagement and obviously the chief officer there would be acting in an administrative capacity. Deputy of St. Martin: yes, I think just to pick up the point about conflict again, please, I am sure the Deputy perhaps has overlooked that in his speech, that there is a difference between a call-in application where the Planning Committee has not been involved, has not considered it, and I do not think that argument applies about conflict in a call-in application, but of course they take advice, of course we take advice. I cannot tell you how much advice I got when I had the difficult job to decide the last planning application for the hospital. I was besieged by advice. I ruthlessly listened to it all, I read every word of evidence, I listened to every piece of advice, but in the end I thought at that time I did my best to fulfil my legal duty and behave absolutely responsibly and objectively, and so I think it would have been helpful to have an alternative process in the way that Deputy Labey spoke of. Sledgehammer to crack a nut, it is not what I want to have. I do not want to have a sledgehammer to crack a nut and I absolutely go with the idea of concentrating on trees in built-up areas; absolutely, they are so, so important. Look, people might just say: "Why have you included it as development?" Because that is the way the law

works. The planning law only controls development. If it is not development, you have got no control over it, simple as that, and that is why it was done. No control in the law, and so you have to put it in the law and then you make the rules to accept it and it is set down. I make the proposition in principle, if I may.

The Bailiff:

Would you give way for a point of clarification from Deputy Morel, please?

Deputy J.H. Young:

Yes, of course.

Deputy K.F. Morel:

It was just the Minister talked about call-in applications and said that they do not go to the Planning Committee, but of course some applications are called in by the Minister after having gone to the Planning Committee. There was one in Grouville last week or recently that was called in by the Minister. At least it was seen by planning inspectors after the Planning Committee, and indeed there was another. It has just gone out of my head suddenly, but there are other ... the second Gas Place application.

The Bailiff:

Is this a point of clarification you are seeking?

Deputy K.F. Morel:

Could the Minister clarify that not all planning applications that are called in by the Minister do not go via the Planning Committee? Because some indeed do.

Deputy J.H. Young:

I do not recall that, while I am a Minister, I have ever ... once the matter has gone before the Planning Committee, I thought it would be irresponsible to interfere with that process and so I have not done so. I cannot recall it. I do not recall I have knowingly done that. But an application, it does not mean to say that that site has never been considered by a Planning Committee. I view it as separate; each application has got its own identity. It is not uncommon for major schemes, major developments, to have 7, 8, 9, a dozen applications and each has to be judged on its merits. What one should not be doing is saying: "Oh, here is a scheme. I will decide it on its own, but I will have a look at what went on in the last one and the last one." Sorry, Sir.

The Bailiff:

I think we might have gone beyond a point of clarification again. The vote then is on the principles. I ask the Greffier to put a link into the chat and I ask the Greffier to open the voting and Members to vote in the usual way. Are you not able to vote in the normal way, Connétable? If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The principles have been adopted.

POUR: 43		CONTRE: 1		ABSTAIN: 0
Senator S.C Ferguson		Connétable of St. Mary		
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				

Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy I. Gardiner (H)				

The Greffier of the States:

The vote contre was the Constable of St. Mary.

The Bailiff:

I take it that the Environment, Housing and Infrastructure Scrutiny Panel wishes to scrutinise the matter?

The Connétable of St. Brelade (Chair, Environment, Housing and Infrastructure Scrutiny Panel):

Yes, we do, with the concept of coming back on 19th January.

The Bailiff:

19th January. So that is in to Scrutiny, returning on 19th January. The adjournment is proposed. Very well, the Assembly stands adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:33]