



Gender Pay Gap Review Panel

Witness: The Minister for Social Security

Monday, 4th March 2019

Panel:

Deputy L.M.C. Doublet of St. Saviour (Chairman)

Deputy K.F. Morel of St. Lawrence

Deputy J.H. Perchard of St. Saviour

Witnesses:

The Minister for Social Security

Deputy J.M. Maçon of St. Saviour (The Assistant Minister for Social Security 1)

Deputy G.P. Southern of St. Helier (The Assistant Minister for Social Security 2)

Director, Policy and Strategy

Policy Principal

[09:34]

Deputy L.M.C. Doublet of St. Saviour (Chairman):

All right, is everyone comfortable, have water and things? Yes. I will let you get settled. Okay, let us begin, shall we? Good morning, everybody. We are the Gender Pay Gap Review Panel. I am chair of the panel, Deputy Louise Doublet. I will let my panel introduce themselves.

Deputy K.F. Morel of St. Lawrence:

Deputy Kirsten Morel, Vice Chairman.

Deputy J.H. Perchard of St. Saviour:

Deputy Jess Perchard, member of the panel.

Scrutiny Officer:

Kellie Boydens, Scrutiny Officer.

Deputy L.M.C. Doublet:

Lovely, and, Minister, could you introduce yourself and your team?

The Minister for Social Security:

Judy Martin, Deputy for St. Helier and the Minister for Social Security.

The Assistant Minister for Social Security 1:

Good morning, everyone, Deputy Jeremy Maçon of St. Saviour and Assistant Minister for Social Security.

The Assistant Minister for Social Security 2:

Geoff Southern, Assistant Minister for Social Security.

Policy Principal:

Kate Morel, Policy Principal.

Director, Policy and Strategy:

Sue Duhamel, policy lead.

Deputy L.M.C. Doublet:

Brilliant. Welcome, everybody, and welcome to media and members of the public, I am not sure which category you fit into. If you could make sure that your phones are turned off, please, and everybody could clear the room promptly at the end of the hearing as well. We are aiming for a 10.30 finish. We should be well within that. Okay, Minister, have you read and understood the statement that is in front of you.

The Minister for Social Security:

Yes.

Deputy L.M.C. Doublet:

You have probably read that a million times. Okay, we are mainly going to be asking questions about the family friendly legislation. I am going to open with some general questions and we are looking into whether there is a gender pay gap in Jersey and, if there is one, what the causes might be and the impacts of it, and any possible solutions. Minister, can you just go over what your understanding of the gender pay gap is?

The Minister for Social Security:

Well, it is average earnings across the board but not necessarily for the same job. I have not got much proof, only from reading on the questions and answers in 2014 that many men and women see that that is ... men on average earn more than women and that is what it is.

Deputy L.M.C. Doublet:

That is the perception, is it not?

The Minister for Social Security:

It is a perception, yes. That was the question in ...

Deputy L.M.C. Doublet:

Okay, so the definition that the panel has been working to is the one with the U.K. (United Kingdom) legislation, which is the difference between, as you said, the average pay of men and the average pay of women in a certain sector or company. Do you think there is a gender pay gap in Jersey?

The Minister for Social Security:

Do I think? Again, I have ... it is a perception, I have to go back to that answer. Over my 19 years in the Assembly it is not one of the top priorities that people have come to me and said. Again, I think, obviously in the higher paid jobs, very experienced, educated, qualified people, I would be very doubtful if there is because, you know, you're very good at your job and you are very strong on putting yourself forward. Lower paid, I think again it is probably very similar, lower paid carers or cleaners are probably on the same wage. I look across the board and the wages offered are the same for the same job.

Deputy L.M.C. Doublet:

Have you seen any data to back it up? Your Assistant Ministers feel free, if you want to come in.

The Minister for Social Security:

Yes, absolutely.

The Assistant Minister for Social Security 2:

I think there is an issue around the very bottom, zero-hour contracts and the minimum wage jobs whereby they disproportionately contain more young people and more females. Part of that, in terms of differentials in pay is part-time work or insecure work, which is worse still. So I think there are problems there which include the pay gap.

The Assistant Minister for Social Security 1:

Just to add, as the Minister, there is a problem in that there is a lack of evidence, obviously, the department does not have access, for example, to contracts so it is difficult to know one way or another. It is problematic because of course we have things like that the manpower social security return, so that is obviously an indication but, again, there are other factor, are there not, when it comes to employment about your length of service, your qualifications, that type of stuff. What I suspect in some sectors, in some cases, there probably will be the ability ... the severity and how we are able to prove it with not having necessarily all the informational data to proof it will be difficult from our point of view. Is that fair?

The Minister for Social Security:

Yes, that is absolutely fair.

Deputy L.M.C. Doublet:

In terms of employment policies then, you have just touched on contracts. Do you think that employers should be able to say to their employees: "You are not allowed to discuss your salary" or do you think we should have a policy of transparency, or even legislation of wage transparency?

The Minister for Social Security:

I am not sure how much that would work and different sized companies are different as well. Not to discuss. I think to make that legislation is not a great idea, people will and that is how people will find out if someone is being paid more than them. I have always been very forthright if I am doing a job in finding out who is being paid the same as me or more. Sometimes it has not even been on gender, it has been on age. So we do have a discrimination law, which says that if you are doing the same - which is a different issue, a different definition - work, a same day's work, same day's pay.

Deputy L.M.C. Doublet:

Equal pay.

The Minister for Social Security:

Yes.

Deputy L.M.C. Doublet:

Some companies do have a policy where it is a disciplinary matter. I understand that you yourself might have the confidence to find that information out but some of the evidence that we are getting is that people do not know what their colleagues are earning and women especially, there is a

confidence gap where they do not feel that they are able to find that information out and that is a possible contributor to the problem. So would you ...

The Minister for Social Security:

Is that internally discipline ... different companies, this is what you are finding out?

Deputy L.M.C. Doublet:

Yes, companies that take disciplinary action against some ...

The Minister for Social Security:

I do not know about that.

The Assistant Minister for Social Security 1:

All I can say anecdotally is when I worked in the finance industry, yes, it was kind of one of those unwritten rules that you do not discuss. Some companies are very forthcoming that you do not discuss your pay with your colleagues.

Deputy L.M.C. Doublet:

Would it be more helpful to you when you are forming policy if you were able to access that information?

The Minister for Social Security:

The only wage we control is minimum wage so I do not know how helpful that would be. We do not control anything else.

Director, Policy and Strategy:

In terms of the sort of things you are talking about there, one is employees knowing their colleagues pay scales and there is evidence in the U.K. that that is a good effective action. I think it was C.I.P.D. (Chartered Institute of Personnel and Development) ... yes, the joint thing with the C.I.P.D.

Policy Principal:

The one to do with flexible working? Yes.

Director, Policy and Strategy:

Yes, so the way that you advertise jobs can be changed and this can be ... it does not need to be something you legislate for, just a voluntary thing, where you encourage employers to use different words in their adverts to make it more obvious what the pay scale or the range of pay scales is. You do not have to be completely specific about the money but within a pay scale and then obviously

within the company itself to be more transparent there is evidence that that does help. As you say, there is perhaps a lack of confidence sometimes for females meaning they do not feel as competent in negotiating pay rises. But then you also talked about this Government knowing how much people earned and that is a different matter. Obviously we do know how much people earn because people put in income tax returns, they put in social security returns, there is manpower returns for zero-hour contracts, so there is quite a lot of information available in terms of what individual people earn. At the minute it is quite hard to use that information to derive hourly rates because income tax you do not care how many hours you just put down a total, social security ... each one is being collected for a different purpose and putting them all together today is not particularly easy to work out hourly rates from that, from those figures, but we are looking to see whether we can collect data in a slightly more comprehensive way. So we might be able to do it in the future. That would give you much better statistics. The States of Jersey obviously as an employer does provide those statistics already around gender pay gap. That has already been published, yes. I think it is a commitment to publish that, that does not come from this department but comes from the States H.R. (human resources).

The Assistant Minister for Social Security 1:

Even in that information we would not have ... if you have a female trust officer who has been working at a place for 10 years compared to someone that has just joined, we will not know their job description, will we, we will just know maybe the sector they are working in.

Director, Policy and Strategy:

That is a massive ... the gender pay gap is all about looking at the averages across the board, that is the whole point. You are looking to see whether it is a fair ... an individual person today, as the Minister says, should be paid the same amount of money for the same experience doing the same job. That is what the discrimination law is all about, yes? That would be a person who was being paid less could take a case to the tribunal on that, so that would be a good strong case, yes? It is everybody all together that you are trying to work out. That is what the gender pay gap does. It compares everybody across the board.

The Assistant Minister for Social Security 1:

But what I am saying is, like you say, there are different factors within that and so just simply looking at the raw figures you would not be able to know the experience difference, the qualification difference.

Deputy J.H. Perchard:

It does not matter when we are talking about the gender pay gap.

Director, Policy and Strategy:

But if you did people with blue eyes against people with brown eyes if there was a gender pay gap you would assume it would be nothing, yes? But if you look at men and women you see a gap. So why do you see the gap? You see the gap because over time and society women have interacted differently with the labour market and there is a move now to try and stop those differences being so obvious. It is about children, it is about education, all sorts of things.

Deputy L.M.C. Doublet:

We are examining, within our report, some of the causes - thank you for that, that was an extremely helpful intervention, thank you - potential causes that are so complex and broad it covers the whole of our society so hopefully the report will shed some light on this. Do you have any insight into what you think the causes might be of a potential gender pay gap, in your understanding?

The Minister for Social Security:

Again, I mean, there is, I think, some evidence that women will tend to go to public sector and third sector jobs, even if they have the same qualifications as a man ... I think it is one in 2 women and one in 3 men. Why do they do that? Is a woman more caring? I do not know if it is in their biology. I have no idea. These are the facts.

[09:45]

Are we doing enough from birth and in education about what jobs ... so obviously you can get higher paid or even like choices. We know, we were up at Highlands and we saw every electrician doing an apprenticeship, 16 a day on a day release, 5 days a week, were men. We went to the care and it was all women ... young girls, sorry. Where are we going wrong? We were in Guernsey looking at this. Maybe you should not put boys in blue and girls in pink. I mean, this is a societal thing as well. Do we instil this at school? When I was at school I could not have done some of the things that the boys did. I used to do cooking, they did woodwork. Now that is completely different, I absolutely agree.

Deputy K.F. Morel:

The latest research is suggesting that there is no difference between brains as such, it is entirely societal difference that are built in.

The Minister for Social Security:

Yes, I would never suggest that it is.

Deputy K.F. Morel:

No, no, but it is interesting.

The Minister for Social Security:

It is just you are a girl, you are a boy.

Deputy L.M.C. Doublet:

It is a valid question.

The Minister for Social Security:

Yes, absolutely. I do not know the answer and when do you kick that in is right ... generational and we are still not getting it right. We are still not getting it right.

Deputy L.M.C. Doublet:

As Deputy Morel said, the research that we have seen is quite definitive that there are not significant biological differences between say a new born baby boy and a new born baby girl that would result in these differences that we see in our society. So we are trying to look at what societal factors are from birth onwards through the life span. You have mentioned many of them there which I think we will probably ...

The Minister for Social Security:

Well, educational attainment on leaving, we just have better results for young girls. I hear it every year. Then you say 5,10 years down the line it seems they are not achieving the same pay.

The Assistant Minister for Social Security 1:

I think, to answer your question, partly it is about education, partly it is about aspiration, where do you see yourself and instilling those kind of values. That is not just women, that is also a class thing as well, it is also - which is important to look at - a race thing as well. Where do you see yourself if you have all these other things? Also I think the burden of childcare is an issue which affects women professionally, or affects the primary caregiver - not necessarily it has to be a woman - or anyone that has to take time out of the workplace for whatever reason it will affect their earning potential, I suppose. That will be part of it.

Deputy L.M.C. Doublet:

Aspiration is a tricky one. We touched on this somewhat with Vicky Milner, that was it, because she obviously has experience within that one profession, the legal profession, and we did ask her about the levels of aspiration and ambition between the male and female. She said it was the same. That is just her anecdotal evidence. So that is on the aspiration. We will come back to the childcare, I think ...

The Assistant Minister for Social Security 1:

Just one final thing, I think going forward it is also looking at the uptake of university courses. At the moment we are seeing more females going and doing university courses and so I think you have also got an age demographic playing into this as well, in that I know ... that younger women are overtaking men when it comes to earning potential. Does that get readdressed when it gets to about birth and all of those aspects that play into it? I do not know but there is also an age demographic to it as well which changes it.

Deputy L.M.C. Doublet:

Yes, the data that we have seen from different jurisdictions shows that it does kind of fall off a cliff edge, the pay gap gets a lot bigger, around that age of early 30s, childbearing age for women. But there is already a small gap even from the earlier levels. It is not just the practical ... the evidence that we have seen is it is not just the actual practicalities of the women giving birth. Perhaps we should come on to your policy now.

Deputy K.F. Morel:

Before I go on, Minister, much earlier you mentioned at the higher levels that there is no discrimination from a pay perspective, I think that is what you said, I was wondering, if we accept that to be correct - I am not sure it is - what we have found in our evidence is a lack of women compared to the number of men at the higher levels in organisations, particularly in the board room. I was just wondering what you thought about the cause of this and why do you think this may be the case that, as we have just heard, women are better at university, more going to university, they achieve more at school yet when it comes to those high levels ...

The Minister for Social Security:

The point that the Chair made, firstly it was said just before they may be leaving to have a child. Is that because the company already knows or they already know, am I going to take that next step because I am going to take a year out, so are they already on lower pay or standing still in the ages of 30, 31, I want to have a baby at 32. Yes, in the boardroom, again, but when anybody ... there were certain things here when the higher you get ... I think it was we were looking at the succession of the Bailiff, you have to have so many years ... and it is a break that a woman was taking and so we have never had. We had one woman solicitor general and never gone any further than that. So I think it is all about there is no choice in the law at the moment. The woman would automatically, whatever point of her career she is in, have to take that break or is allowed to take that break.

Deputy L.M.C. Doublet:

When we look at the data around the pay gap it is interesting to note that the pay gap applies to women who are not mothers as well as women who have taken time off.

Deputy K.F. Morel:

Yes, even if they have not taken time off.

Deputy L.M.C. Doublet:

Yes.

Deputy K.F. Morel:

While thinking about women who did take time out, Minister, when you were developing proposals for the new shared parental leave policy, did you come across ...

The Minister for Social Security:

It is not shared, it is either or.

Deputy K.F. Morel:

It is my fault for reading a script without checking. When developing proposals for the new parental leave policy, did you come across any research about women and the issues they may face once they have been out of the workplace particularly for child bearing?

The Minister for Social Security:

Well, again, we have not had a great law in until 2015. Yes, your job was not protected, your status was not protected even if you could go back to the same company. You could be certain so far up the ladder and have to take 4 or 5 rungs back. So this is all about bringing in the family, the father has as much to do with it, I have always maintained, as the mother. It gives the mother and father meaningful conversations about who and when they are going to take the leave. Again, if you are in your ... we all plan when to have a baby, sometimes it takes 5 minutes, a day, it might take 3 years and by that time you might be in a pivotal place in your career where you literally can probably take a few weeks off, a month, 6 weeks after the birth, but if you want to carry on where you are going then father can take over for a few months. We have never had it, we have not been able to sit down as parents and have that meaningful conversation.

Deputy K.F. Morel:

Did you include any research in the development of this latest parental leave policy since 2015? Since the new law has been brought in, have you had any research done to see any effects of the law being brought in?

The Minister for Social Security:

From 2015? It is such a short amount of time from 2015. Before that there was a code ...

Deputy K.F. Morel:

So, no, would be your answer, is that correct? No, you have not included any research.

The Minister for Social Security:

No, that would not be fair to say. I do not understand the question. What do you mean “research”?

Deputy K.F. Morel:

Okay, I will reread it. When developing proposals for the new parental leave policy, did you come across or use any research about women and the issues they may face once they have been out of the workplace? That is the actual question. You then mentioned the 2015 and I was saying: “Okay, since 2015 then.”

The Minister for Social Security:

Obviously only the consultation that has been had with employers and employees who are saying even as what we have done now is not flexible enough for them.

Deputy L.M.C. Doublet:

Not flexible.

The Minister for Social Security:

It is not flexible.

Deputy K.F. Morel:

But you have not learnt about what happens to them about going back? Do they have obstacles to going back into the workplace or not?

The Minister for Social Security:

I do not think that would necessarily ...

Director, Policy and Strategy:

Maybe the wording in question is slightly out of kilter with the process in Jersey. The way in which employment law gets developed is through the Employment Forum. The Employment Forum is an independent body that is made up of employee representatives, employer representatives and some independent representatives. So the Minister will commission the forum to do some work in a particular area. The previous Minister asked for the work on family friendly and they then take that and the way that they do their ... you are calling it research, we just call it consultation, is through ... the Employment Forum is well-known in Jersey, the employers know it is going to happen, the

trade unions know about it and employees write in, so people - employers, employees - will give their own experiences. There is an enormous amount of qualitative research, yes.

Deputy K.F. Morel:

That is what I am talking about.

Director, Policy and Strategy:

To be couched in those terms, yes, there has been significant qualitative research in Jersey recently in 2017.

Deputy L.M.C. Doublet:

Could you tell us some more about that, please?

Director, Policy and Strategy:

That is the Employment Forum Report. It is a very detailed report. It is available on the internet, which gives you all the findings from that research, which is by people making written submissions and having meeting with various interest groups so that the forum then get a rounded view of the whole thing. Jersey is a very small place. Some types of quantitative research were quite hard to do in Jersey because of the small number of people, small number of employers involved. There has been significant research, it that is what you are going to call it, into this topic which lead the forum to come to their recommendations. This Minister obviously took over halfway through a big project, yes, but has been very happy to press on with the recommendations of the forum from the end of 2017.

The Minister for Social Security:

It is the same recommendations as the forum said. They have not changed. If some of them cannot be implemented in 2018, do the whole lot in September 2019. Luckily they were split. Some could be done by regulation. I think we have already had this conversation. Some are completely new laws as breastfeeding breaks needed to come under law. So the things that could be done were done, and the rest has been all the time in law drafting stage.

Deputy K.F. Morel:

In general, do you think it is more likely that women or men would ask for part-time or flexible working time?

The Minister for Social Security:

In general I think it would depend on the family circumstances, who has more earning capacity, whose job ... I can only speak for the family. Somebody who is in the construction industry can be

much more flexible than the woman whose probably 9 to 5 but then can ask for slightly flexible hours or can work from home. We know technology can do loads now. Again, I would only be making it up really if I said who would it be.

The Assistant Minister for Social Security 1:

I think you have 2 points in the question. When you say “can ask”, there is an issue about applying for a job initially that might be term time only, that might be part-time, as opposed to “can ask” that means when you are in employment and then you might ask for a reduction for whatever reasons. So I think you are asking 2 things there.

Deputy K.F. Morel:

In this case, in my head, I was asking about people with the employer that they are already with, I do not know if you would have any stats on how many people are looking for part-time work, but I was thinking from within the employer.

The Assistant Minister for Social Security 1:

I would suggest that more women probably look for term time only jobs, although I have no evidence of that, but again I think that is back to childcare issues. As for: “Can I change my contract, can I ask for more hours, can it be more flexible?” I know the rights are there but do we have any stats about how it is done? I do not think we do.

The Minister for Social Security:

They came in September 2018, if you are already in employment then you can negotiate a new flexible hours or different ways of working.

Deputy K.F. Morel:

That is it and so with that legislation do we have any research about the effectiveness of that so far?

The Assistant Minister for Social Security 2:

The Stats Department may have something possibly on part-time employment.

Director, Policy and Strategy:

Yes, you could have ... yes, obviously we can ... there will be some statistics about part-time work but to a certain extent your panel is the Gender Pay Gap Panel so you are trying to make an even playing field for men and women in the ...

Deputy K.F. Morel:

We are not trying to do anything. We are just trying to understand the situation.

Director, Policy and Strategy:

Well, you are investigating. The recent changes in employment law are to facilitate that fair access to work, yes, both part-time and full-time work. The law has been changed a couple of times recently to make it now every employee from day one has a right to request a change to working hours. So they can ask for flexible working, term time working only, shorter hours, longer hours, a compressed week, any of those things can be asked for. Then as the Minister said before, the rights under the employment law are now individual to the person, to the mother and father or the 2 parents, whoever they are, with a child have that right as well. So it would take years for that to work its way through all employers even in Jersey because there are many established practices and people's ways of thinking about thing and what they think it is appropriate for them to do, what they think is appropriate for a man to do and, you know, you cannot ... it is quite hard to legislate for what people think about things. What the legislation has done is provide a completely fair level playing field for men and women in their access to work.

[10:00]

Deputy K.F. Morel:

Can I just ask, what you are saying is since that came in we have no research about how many people are requesting part-time work or flexible working since the legislation came in to enable them to do that?

Director, Policy and Strategy:

Since September 2018, it would be a very small amount of time.

Deputy K.F. Morel:

So you would say not enough time?

Director, Policy and Strategy:

But also you are trying to make a changing culture through creating a legislative framework. Getting that change of culture right would mean that people ... there will be very few statistics to gather because it would just have happened in the workplace, just naturally. So what is it the Government would measure? How do you find that information ...

Deputy K.F. Morel:

Would it be fair to say at this stage it is too early for the Government to know or to understand?

Director, Policy and Strategy:

Yes.

Deputy K.F. Morel:

Thank you.

The Assistant Minister for Social Security 2:

That would also link to economic effects. If the woman happens to be the larger earner then that issue becomes one economically that makes sense.

Deputy K.F. Morel:

Do we have any information about the economic effects?

The Assistant Minister for Social Security 2:

I do not think so.

Deputy K.F. Morel:

No, we do not. Can I also ask the Assistant Minister as well, just whether we have any information about whether there are more males or females that take zero-hour contracts? Do we have any information on that, on zero-hour contracts?

The Assistant Minister for Social Security 2:

The evidence is, as far as I know it, that it is dominated by young people and it is also females on zero-hour contracts and on minimum wage.

The Assistant Minister for Social Security 1:

Does the department record any type of stats like that?

Director, Policy and Strategy:

I think there are government statistics on zero-hour contracts.

The Assistant Minister for Social Security 2:

Yes, there are numbers.

Director, Policy and Strategy:

We can take that away. We are not quite sure, there are some there about zero-hour contracts, we are not quite sure we can ...

Deputy K.F. Morel:

But you do not know if it is gender ...

The Minister for Social Security:

We do not know about age or gender, yes. Age and gender.

Deputy K.F. Morel:

We would appreciate that.

The Assistant Minister for Social Security 2:

But bear in mind that the Stats Department now has increased powers to dive into any departmental evidence as it sees fit. We are likely to see in the near future a whole new spread of information about how the economy works and how it functions.

Deputy K.F. Morel:

Absolutely. How long do you think women can take out of the workplace before it starts to hit their future progression? Their career chances? Do you think there is a particular length of time? If a woman takes, perhaps, 2 months out of the workplace due to birth or ...

The Minister for Social Security:

Again, I think it depends on their type of work, where they are in their career, how much they are still keeping themselves apprised of what is going on in the company. You are asking me a question that I could sit here all day and wax lyrical about but I do not know ...

Deputy K.F. Morel:

But, again, no research has been done into that area to see if there is a time aspect of when women become affected as far as their future career chances are concerned?

The Assistant Minister for Social Security 2:

Can I just separate that from how their future job chances are concerned? The immediate economic effect is one where you have 2 people working in order to pay a mortgage or to pay rent because we have such a high rent, high cost society that the immediate question is how long can I afford to take off before I need to be earning. The evidence is that we have - compared to the U.K. - a fairly short period that most ... an average figure for women returning to work after childbirth.

Deputy K.F. Morel:

That is correct but, with due respect, while it is a very valid question it is not a question that necessarily feeds directly into the gender pay gap in the way that my question is, which is about

future progression, because the average earnings of women are affected by how far the numbers of them progress through careers.

The Minister for Social Security:

Surely the future progression under the family friendly we would have to, if we can, collect research on them, because if a man wants to take a year out or a couple of breaks for 6 months would that affect his career? We would have to know that after we bring the legislation in, because this is about the gender pay gap and levelling the playing field. That is the way I look at it.

Deputy K.F. Morel:

Can I just say we do not know that in advance of bringing in the legislation and it is just something you will find out afterwards?

The Minister for Social Security:

Well, I think we know anecdotally. We are here in the gender pay gap and why do we have a gender pay gap, for years, and only women have taken time to have children, and it has been the law, so if that is not a feature your panel will find that out, I suppose.

Deputy L.M.C. Doublet:

I think with these questions we understand that it is written down in your brief and for the record we are trying to just briefly establish the rationale behind bringing in the new legislation and perhaps it is difficult because it is a slightly different way to the way that other departments would do it, where you have got the Employment Forum and I think we have found it difficult to understand some of the deeper rationale behind the policies, so that is what we were trying to establish. We can move on. You mentioned the impact of the laws. How do you plan to assess the impact of the new legislation going forward?

The Minister for Social Security:

Again, I think Sue has answered that one. We will need to collect how this is working and could it be changed to be a bit better, would it be better if we do this? Listen to the workforce, look at the outcomes, make sure. I think what we put in place today might not feed through in the next year or 2, but it is something we are putting in place for people to have that choice and then it will start affecting generations in the future. I do not want it to be that far down the line. I want people to start having that conversation as early as possible.

Deputy L.M.C. Doublet:

Is there a plan for questions in the social survey, for example, or consultation further down the line? Is there an action plan for how you will be doing that?

Director, Policy and Strategy:

There is not an action plan today, but you are quite right that there are ways in which Jersey collects information about pressures to do with policy and the social surveys are a good example of that. I think it is something within a small community, where there are pressures on the community, those pressures become quite well known to Ministers and to politicians and pressure can be brought to bear from either side. Again I come back to the size of Jersey and the difficulty of what would we measure, when I get this amount of stuff, then I need to do this policy. It does not really work that well, I do not think, over here. Employment law is across the world; we keep abreast of other countries, so we are very careful to make sure that we understand what the new ideas are from other countries and at the same time we keep trying to keep the employment law in Jersey quite simple and easy to understand. We have a very small team of people developing it and a very small team of people at J.A.C.S. (Jersey Advisory and Conciliatory Service) who support employers and employees with the implementation of it. It needs to be doable in Jersey. I think so far we have done well in keeping the key bits of employment legislation in place. This is another key step. It is something we have been a bit behind on. The point about it is not shared leave, it is individual leave, is something that we are being quite bold and imaginative about. The forum has come up with some recommendations that are not, like just do what the U.K. does and to think about it in a bigger and better way that is a new thing and will take time for that to settle down and to see. I am not quite sure how we could work out in advance if it was going to work. We just have to try it and see and as the Minister for Social Security said we will make adjustments as time goes forward. Sometimes we do things that do not work out so well and they have no impact or we ...

Deputy K.F. Morel:

If things do not go so well, what do you think would be potential effects? What would be the consequence of things not going so well, if that was the case, with this new ...

The Assistant Minister for Social Security 2:

What do you mean by “not going well”?

Director, Policy and Strategy:

It would not have any effect. It would not work, would it?

Deputy L.M.C. Doublet:

Kirsten was asking you to define the phrase in more detail.

Deputy K.F. Morel:

Yes. Sue Duhamel said: "If things do not go so well we will have to have a look", and I am just asking what you think?

Deputy L.M.C. Doublet:

What does that look like?

Deputy K.F. Morel:

What do you think? Do you have any sense of what: "things not going well" might look like?

Deputy L.M.C. Doublet:

Do you have criteria for ...

The Minister for Social Security:

As I say, the consultation has been out there. This is what we have been told by the employers and employees that they think would help in Jersey for them and if it is completely wrong I have got no idea what it will look like. We can only go by what we have been told and this has been coming. We are so far behind, as I say 2015, with basically nothing.

Director, Policy and Strategy:

As an example, going back to the aspiration, this makes it easier for men and women to take time off to do child care. So what "not going so well" would mean, for example, is that it does not have much effect and that women carry on doing all the child care. We cannot make people do things. We can facilitate people doing things but if it does not work then you go back to the Government with: "Do I need to do more bits of law to make it work better?"

Deputy K.F. Morel:

Would it be fair to say that from your perspective "things not going well" is very much from a social perspective, that the change in society has not been achieved as you would expect?

The Assistant Minister for Social Security 2:

Yes, and that change would be making a more equal society. I think that is what comes in the Chief Minister's Strategic Plan.

Deputy L.M.C. Doublet:

Right, so that is the area with this policy.

The Assistant Minister for Social Security 1:

On the other extreme, I suppose if you say: “not going so well” it is 2 things. It could cause economic collapse in the Island, I do not think that is going to happen, but that is something that people say: “What could go wrong?” That could go wrong. I suppose the other point is greater discrimination for employment of that age bracket when it comes to employing people in interviews, for example, anecdotally are women not employed because they reach around child-bearing age? Does this legislation quash that, or does it then spread it out to men as well? I suppose one of our feedback mechanisms from the department is J.A.C.S., we get reports from J.A.C.S. about the number of enquiries that they have, so the type of areas that both employers and employees have concerns about legislation and usually for us that is a guide to say: “Right, these are areas that we need to look at because these are the areas that people are making the most enquiries about” so it is something out there in society that people have concerns about.

The Minister for Social Security:

To add to that, it is a concern that you have 2 fantastic people for a job who are in their 30s and one is a man and one is a woman. Can you say now that that woman has not been offered the job because she may take a year off? This levels it. Would you? Would you then have any doubt in your mind to absolutely give that job to the right person? Again, women do have a child-bearing age. You do not know what man is sitting there and he can have children to any age with a younger partner and that is great, that now dad can take the time off. He may have been practically at the end of his career, if he is a bit older, but it does, to me, on an interview panel, make that a completely level playing field.

Deputy L.M.C. Doublet:

Thank you. That really gets to the core of the rationale, that equality.

The Minister for Social Security:

Exactly. That is what we are trying to achieve. I know Deputy Perchard wanted to jump in.

Deputy J.H. Perchard:

Yes. I would like to go back to, and I am sorry to jump around but a question occurred to me while I was thinking about it, do employers need to provide criteria or the rationale for not granting flexible, part-time hours if they deny someone a request? Say someone has returned from maternity leave and would like to go down to part-time, do employers have to give a reason for saying no?

Director, Policy and Strategy:

Yes.

Deputy J.H. Perchard:

It is just that in evidence that we have received it seems that there has been an inconsistent approach, particularly within the education profession, so I should tread carefully because it is anonymous information, but we have heard examples of employees being denied without reason a request for part-time within education and I wonder firstly if the department has been made aware of that and secondly how you think that kind of situation should be rectified or approached?

The Minister for Social Security:

Is this from September last year?

Deputy J.H. Perchard:

Yes, the one within our review.

Policy Principal:

I can tell you the reasons that the law allows the employers to give, so it would create a burden of additional cost, it would have a detrimental effect on the employer's ability to meet customer demand, the employer would be unable to re-organise work among existing staff, so there are a number of reasons and they are all business-related that the employer can give. I was not aware of anything specific in education.

Deputy J.H. Perchard:

It has certainly come to our attention as being a problem area, and it has happened on more than one occasion.

Deputy L.M.C. Doublet:

It is not limited to education, though?

Deputy J.H. Perchard:

It is not limited to education but it has been highlighted.

Deputy K.F. Morel:

We have heard evidence.

Deputy J.H. Perchard:

We have had evidence to suggest that it is a particular problem for teachers.

The Assistant Minister for Social Security 1:

Can I just add, with my education hat on, it is not something we have been made aware of, although that would be a human resources policy, so that might be more with the States Employment Board than necessarily what we do here.

Deputy L.M.C. Doublet:

We have got an S.E.B. (States Employment Board) hearing coming up, so we will be following up on that. Deputy Perchard has raised the issue. If employers are giving a reason and the employee does not think that reason is a legitimate reason where would they then go? Do they go to J.A.C.S.?

Policy Principal:

Yes, the employee can appeal the decision directly to the employer in the first instance, but they do have the right to go to tribunal. They can obviously turn to J.A.C.S. as well in the first instance.

[10:15]

Deputy J.H. Perchard:

Do employees have any protection against employers saying to them: "Do not apply for part-time or flexible working because we will not give it to you"? Is there any buffer in the legislation or in policy that prevents employers from treating employees in that manner? Say an employee might not be aware that they have a legal right to formally apply for part-time and they are told by their employer: "Do not bother, because you will not get it" is there any support?

Deputy L.M.C. Doublet:

What recourse would that individual have?

Director, Policy and Strategy:

That is what we are saying, that the law today applies to everybody from the day they start working, so again it is the right to ask for that.

Deputy J.H. Perchard:

I understand that.

Director, Policy and Strategy:

It is the right to ask for that, and as Kate has read out the reasons, the employer has to give a proper reason for saying no. They can do that, but they have to be one of the reasons on the list. If the employer does not give a reason or will not even accept the request then all of those things are outside what the law says you must do and therefore the employee can go to J.A.C.S. or can go to the tribunal and require the employer to look at it properly.

The Assistant Minister for Social Security 1:

Your question is what happens if the employee is pre-emptive, so before all of that, and says: "You cannot do that" I suppose the argument is that it falls outside the law and therefore that person has a right to go to J.A.C.S.

The Minister for Social Security:

Absolutely.

Deputy J.H. Perchard:

I suppose you could imagine a situation where if someone were to do that while pregnant they might see that it is more difficult and it is a time issue, so that they might feel that going to J.A.C.S. and a process of a complaint like that is probably more hassle than it is worth in that situation and leave the profession or leave their job.

The Minister for Social Security:

Again it comes back to it is an employees' market at the moment in most cases, and good employers, we hear it all the time, are trying to make it a much more friendly workplace. If somebody has that attitude and they say: "That is not right. They are not interpreting the law right" basically: "Do not ask because you will not get" is not an answer, so as Kate says in the law there is ... I understand you are saying if you are pregnant but now if this goes through you have got a year off.

The Assistant Minister for Social Security 1:

I think part of the whole rationale for the family friendly legislation is if you have got an employee you have trained up, you have invested in, and they know your business it is expensive to go and recruit and find someone new who perhaps you do not know, so the point of having family friendly legislation is again to try to encourage people to come back to an employer so you do not have that situation where you go: "Oh well, maybe I have got to hand in my notice and I am gone" so part of the rationale is it is business friendly as well.

Deputy J.H. Perchard:

I appreciate that. I think part of my concern is what your Policy Principal raised before as an issue, that culture change is difficult and that we have seen anecdotal evidence of things that represent cultural attitudes that the legislation perhaps will not change, so it would be good to know what actions are being taken to also encourage that culture shift alongside legislative change.

The Minister for Social Security:

Again, it is about what Deputy Morel was asking earlier, starting with a light touch and if it does not work do we want to legislate for everything? Jersey we always say has too much red tape here and again we had a maternity code for years, which did not work. It was great, if people really read the code, but we had to make it a law because people were losing out and they were leaving their jobs because of it, because they could not have more than X amount of weeks, or if you did you would go back to that company as I said earlier completely not where you were before, basically.

Deputy L.M.C. Doublet:

I will maybe come back briefly, we have only got just over 10 minutes left, so can I ask you a couple of technical things? Given that the leave can be taken over a number of years, I think it is 3 years.

The Minister for Social Security:

Up to 3, in 4 breaks, so if you take 3 at 2 weeks, you would have to take the rest at the last break, yes.

Deputy L.M.C. Doublet:

So when the law comes into force, I am trying to understand, does it only apply to babies that are born after the law comes into force, or if, say, a family has an 8 month-old, can they then take the leave ...

The Minister for Social Security:

It starts on 1st September this year and that is a Sunday, it got quite technical and then ...

Policy Principal:

It is the expected week of childbirth, so where the expected week of childbirth is 1st September, the Sunday, the beginning of that week is any births or adoptions in that week.

Deputy L.M.C. Doublet:

So it is on when the child is born?

Policy Principal:

Yes.

Deputy L.M.C. Doublet:

So there might be some inconsistencies then, because over the 3 years you might have an instance where, within one employer, you have a father who has a baby that is 2 weeks old and was born after the law was in place and a father that has a baby that is 2 months old but was born before the law was in place, and they are going to have different rights.

Policy Principal:

You are always going to have winners and losers. There has to be a start date.

The Minister for Social Security:

He would not have the right. If the baby was a 3 month-old baby born before the Sunday the father would not have the rights. He would have the same paternity leave that he has now. As you say it is one of those, it is the 4 months' notice that the father must give to the employer and the mother, I think, mother and father so, yes, we are making it more generous but we are trying to make sure that you sit down with your partner and the employee, or whichever way you have that conversation, employer, and say: "Ideally this is what I would like and then my partner is going to take the leave" or vice versa. So, yes, there is a cut-off date.

Deputy L.M.C. Doublet:

Can you just explain in a bit more detail why there was that cut-off date given it was not allowed for any child up to the age of 3?

The Minister for Social Security:

Because it works on when the baby is born. Obviously you have got to have a start date. It was the same as when it came in on 1st September.

Deputy L.M.C. Doublet:

I do not understand why, though. What is the rationale behind why it is being done?

The Minister for Social Security:

I think I just said, it is being fair, fairer, to employers so that you can have that discussion and they have got that notice.

Policy Principal:

The law cannot apply retrospectively so you have to have a date where you say from that point it is effective.

The Assistant Minister for Social Security 2:

These are the new rules under which employer and employee are now playing.

Policy Principal:

Yes, and so the employee has to give notice.

The Assistant Minister for Social Security 2:

Whereas previously the employer employed somebody on a different basis, because the basic support was not there to ...

Policy Principal:

So the employee was given no notice of the current rights, so that was the discussion the employee and the employer had. Now it is based on the rights in force now, so they have given their 4 months' notice and so from 1st September it will be the new rights.

Deputy L.M.C. Doublet:

So somebody who starts a new contract with the new rights, who happens to have a 3 month-old at home, it is going by the ...

Policy Principal:

Expected week of childbirth or adoption.

Deputy L.M.C. Doublet:

Was that within the recommendations from the Employment Forum or did they not go into that much detail?

Policy Principal:

It is really just how the law works. It cannot apply retrospectively.

Deputy L.M.C. Doublet:

It is not retrospectively, because the child still exists, does it not?

The Minister for Social Security:

Yes, but I think what the Deputy is asking is the 4 months' notice ...

Deputy L.M.C. Doublet:

No, so if the leave can be taken over 3 years, just because the child was born before the law that child still exists and the parent may still want to take leave before the child's 3rd birthday. I am just trying to understand why that has not been ... you mentioned it was because it might be too much for employers.

The Minister for Social Security:

No, I think it is down to you cannot make a law retrospective.

Deputy L.M.C. Doublet:

It would not be retrospective.

Policy Principal:

You would have to give notice at the 15th week before the expected week of childbirth or adoption.

You would not have been able to do that with a child that has already been born or adopted.

Deputy L.M.C. Doublet:

That does not tally with the 4-month notice period.

Policy Principal:

The 15th week gives you basically 4 months' notice.

Deputy L.M.C. Doublet:

Okay, but for the later periods of leave parents only need to give 4 months, do they not?

Policy Principal:

No, so the notice of your intention is to take all of your blocks of leave in the 3-year period.

Deputy L.M.C. Doublet:

So you have to plan that in advance before the child is born?

Policy Principal:

Yes.

Deputy L.M.C. Doublet:

All right. I did not understand that.

Policy Principal:

There is provision for you to change that with notice, however your intentions have to be laid out at that 15th week.

Deputy L.M.C. Doublet:

All right. Okay, that is interesting. Do you think families are going to use that? Is that practical to plan 3 years ahead?

The Minister for Social Security:

Well, I think it is a fantastic tool for parents, because you know where you are in your career, you know who is earning what, you know who you have got for childcare and then you can start looking at nurseries, who would fill in. I mean, on the basis of the first 2 years of a baby's life, if mum could take a year and then dad could take a year would that not be a fantastic world?

Deputy L.M.C. Doublet:

Yes, I mean this legislation obviously we are looking at the details.

The Minister for Social Security:

Yes, it is all down to who can afford it.

Deputy L.M.C. Doublet:

It is a vast improvement, in my opinion.

Deputy K.F. Morel:

Have you thought at all about what some of the challenges, if any, there might be about the 3 years, 52 weeks, 4 chunks, aspect of the law?

The Minister for Social Security:

I have not thought about it. I will not talk about what we discussed, but I watched your interview with Chamber and they said that there would be some small businesses that may find it hard to backfill. We had a meeting with them on Friday and all I will say is that we tried to reassure them. There were things that they did not understand that could happen, tools they could use, but they are going to write to us and put this in, because we need to know a lot more what they were asking.

Deputy K.F. Morel:

From what you say it would be fair to say you did not know or had not thought about the challenges in advance?

The Minister for Social Security:

You are calling them challenges. Some people, if you have only a few employees, would you prefer them to take a couple of blocks of leave rather than one whole year? I think there is a fair balance for challenges and opportunities.

Deputy L.M.C. Doublet:

Can I ask another technical question? As the law is, it is only the parents that can take the leave, so the mother can take leave in her own right and the father can take leave in his own right. If for

example you have a single parent are they able to nominate another family member to take leave in lieu of the second parent?

The Minister for Social Security:

Not in this law, because it is not shared. It is if you are one person you can take it. I only found this out the other day, it can be the father or mother who might not be living together but if they have a great relationship they can take it. It is their leave.

The Assistant Minister for Social Security 1:

I am presuming that would protect same sex couples in the case of adoption as well?

The Minister for Social Security:

Yes.

Policy Principal:

The other parent has to expect to have the main responsibility for the upbringing of the child aside from the mother.

Deputy L.M.C. Doublet:

So if you have got a single parent who is sharing the main responsibility with their own parent ...

The Minister for Social Security:

Not their parent; the father, though. What you class as a single mum, mum bringing up the child without the father living there, but if the father is very willing to take the leave, as long as he is going to take responsibility for the child ...

Deputy L.M.C. Doublet:

Say for example it is a single father whose partner is deceased and they are living in their parental home and the grandparents are the primary caregivers but the grandparent is also working, is there any facility within the law ...

The Minister for Social Security:

No, not in this new law, no.

Deputy L.M.C. Doublet:

Do you envisage in the future, because at the moment it is funded by businesses, I understand that there is a Social Security Maternity Allowance but do you envisage that we would work towards this parental leave being funded through taxation from the States of Jersey?

The Minister for Social Security:

Not taxation, because again you would have to look at if you want to give more out, what do you collect in? I am not saying it cannot happen. I am saying it is a big conversation we need to have.

Deputy K.F. Morel:

How much do you think it would cost if the Government did pay for it?

The Minister for Social Security:

I have no idea.

The Assistant Minister for Social Security 1:

The Government would not pay for it, it would make a contribution to pay for it.

The Assistant Minister for Social Security 2:

We go for 18 weeks now. To 26 weeks it costs around ...

Deputy K.F. Morel:

Okay, yes. If it was to come out of the public purse as stuff pooled by the public of the Island how much would it cost the Government?

The Assistant Minister for Social Security 2:

I will try again. If we were to extend maternity leave from 18 weeks, which it currently is, to 26, it would cost approximately £1.5 million of additional spend.

The Minister for Social Security:

Of the people who are taking it now, and that is not out of our realm. We can do that. We are looking at doing that. That is one of the things that we are looking at, but that is not what you are asking. You are asking how much to pay for the year, are you?

Deputy L.M.C. Doublet:

Is that with the Maternity Allowance?

The Minister for Social Security:

Yes. It is completely different.

Deputy L.M.C. Doublet:

So paying people's salaries, their current salaries, is there any work being done on that?

The Minister for Social Security:

Nobody pays ...

Deputy L.M.C. Doublet:

Not currently, no. It is the employers.

The Minister for Social Security:

Sweden, I think, do.

Female Speaker:

Other countries do.

The Minister for Social Security:

Yes, other countries.

Deputy K.F. Morel:

I meant just for the 6-week part at the beginning, just the maternity part.

The Minister for Social Security:

The maternity amount, all employees can take that, the £216.

Deputy K.F. Morel:

The £211 or £216. Many wages are higher than that, so if the Government were to fully fund that, do you know how much that would cost?

The Minister for Social Security:

I am sure we could do it. I could not give you an answer now. Again you are asking ... if I look back to last year and see how many people took their 6 weeks, funded that, but then if everybody was then guaranteed their employer's wage you could double and treble that overnight, because people would take it. I think you are asking me something that is not impossible to work out, but you could only work out what happened last year and then again ...

Deputy K.F. Morel:

That is how we make forecasts.

The Minister for Social Security:

No, no.

Deputy K.F. Morel:

We look at the past.

The Minister for Social Security:

You are presuming that every figure would stay the same. If you make it that everybody is going to get their full pay for the 18 weeks or however many weeks ...

Deputy K.F. Morel:

I was talking about just the 6 weeks.

The Minister for Social Security:

Yes, well, they already get their full pay.

The Assistant Minister for Social Security 1:

It is 6 weeks at the rate that is currently available.

Deputy K.F. Morel:

Yes. No, I meant because the employer pays the rest; £216 comes back from the Government. The employer pays the rest. If the Government was to pay the whole lot I am asking how much that would cost.

[10:30]

The Minister for Social Security:

We could work that out from last year's figures.

Deputy K.F. Morel:

Yes, I was thinking you might.

Director, Policy and Strategy:

I wanted to make a point about how the Social Security Fund works. The fund pays out benefits at standard rates, so just over £200 a week is the standard rate. It collects that money, as people have pointed out, by collecting money from employees all across the market. If the Social Security Fund started paying earnings-related benefits to people that is a very different system to what we have got today. We would have to think very hard about what that means in terms of people paying in, paid really quite low wages, and subsidising very high wages for people collecting their wage amounts. At the minute we have a fair compromise, which is that the fund pays the £200 plus a

week to everybody, employers pay the balance of that up to whatever that wage might be, whether that employer has got a high earning person or a low earning person. As I say it would be a significant change in the philosophy of the Social Security Fund to start paying earnings-related benefits to people, and you would have also to think what you would do about pensions. We pay a flat rate pension at the minute and so pensions would get into a very different system.

The Minister for Social Security:

If someone was sick for 6 weeks, it is exactly the same amount, if you are sick, £216, as if you are on maternity leave. It is a completely different look at the ... I am not saying it cannot be done.

Director, Policy and Strategy:

Exactly, but these are big political decisions.

The Minister for Social Security:

Massive, yes.

Deputy L.M.C. Doublet:

It is something you might keep under review going forward?

The Minister for Social Security:

Yes, I would definitely take it to the Assembly and the Council of Ministers, because it would be completely different.

Deputy L.M.C. Doublet:

Thank you. I have one final question. What are your thoughts on introducing statutory measures in a similar way to what the U.K. has done for companies locally to publish their gender pay gap information?

The Minister for Social Security:

I have read up on this, what you have said, and it is something like 250 employees and above, is it not?

Deputy L.M.C. Doublet:

Yes.

The Minister for Social Security:

It is only, again, pretty new in the U.K. and I am not sure it has worked. It is published, but what are they doing with it? There might be different ways and I think Kate brought us some really interesting information from Iceland, which you have probably read.

Deputy L.M.C. Doublet:

Given that we are near the end, perhaps you could pass that to us, because I would be really interested.

The Minister for Social Security:

Yes, but is that how far you want to go in Jersey? The employer has got to publish ...

The Assistant Minister for Social Security 1:

All I would say is there was a problem in their methodology in that how was all of that validated or checked against what they published, all that type of stuff? The mechanism behind it I do not think is necessarily as robust as it could be.

The Assistant Minister for Social Security 2:

The companies were not exactly honest.

The Assistant Minister for Social Security 1:

There is that as well.

The Minister for Social Security:

That was it.

The Assistant Minister for Social Security 1:

The answer would be how useful is that information if you cannot validate it?

Deputy L.M.C. Doublet:

So keep it as a possibility but maybe learn from it.

The Minister for Social Security:

Learn from what all countries are doing and looking at some jurisdictions of our size, there are countries obviously making their own laws, and then it is always best sometimes, it sounds sad, but to be a few years behind and then you have found out what does not work or what really does work when you know the problem you are trying to solve.

Deputy L.M.C. Doublet:

Thank you and we would love to see that research, if you have it. Would you like to add anything, Minister for Social Security or Assistant Ministers, before we close?

The Minister for Social Security:

No, fine. Have you got an end date to this? I am looking forward to ...

Deputy L.M.C. Doublet:

It has gone on a bit, because we have had so many submissions.

The Assistant Minister for Social Security 1:

On that last point about companies and company size, I think it would be useful to have that conversation with the Statistics Department to decide what size of company, because if it is too small then the data might look like it is producing quite a difference but for a small company size it might not be, so it is what is represented in value to the statistical sample.

Deputy L.M.C. Doublet:

Yes, we will communicate with the ...

The Minister for Social Security:

Yes, and the managing director might be a man and you have got 15 women working for him, and so you have got to know what you want to collect so that you can make sure that it is really good data and if there is a problem, which it looks like there is, we can get it solved.

Deputy L.M.C. Doublet:

Brilliant. Okay, thank you for your time today.

[10:34]