

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 28th NOVEMBER 2023

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[9:30]

The Roll was called and the Dean led the Assembly in Prayer.

COMMUNICATIONS BY THE PRESIDING OFFICER

The Bailiff:

1.1 Welcome to His Excellency the Lieutenant Governor

I am sure Members would like to join me in welcoming His Excellency the Lieutenant Governor to the Chamber this morning. **[Approbation]**

1.2 Anniversary of Royal Mace arriving

Members may wish to note that today marks a very special anniversary. It is 360 years ago today that the Royal Mace arrived in the Island. A gift from Charles II to reflect his appreciation of the loyalty and support that the Bailiff at the time had shown, along with the people of Jersey, to the King during the English Civil War. As you may be aware, the King had also taken sanctuary in Jersey for several months staying at Elizabeth Castle. We had declared him as King in 1649, some 11 years before his restoration to the throne. The Royal Mace remains a symbol of the Island's loyalty to the Crown. It was a gift to precede the Bailiffs of the day, and I am honoured to be its present custodian. **[Approbation]**

QUESTIONS

2. Written Questions

2.1 Deputy M.B. Andrews to the President of the Scrutiny Liaison Committee regarding the amendment of Standing Orders in relation to scrutiny panel membership (WQ.441/2023)

Question

Will the President advise if the Scrutiny Liaison Committee supports amending Standing Orders in relation to scrutiny panel membership, requiring a minimum number of three elected members on each panel, and if not, why not?

Answer

The Committee notes the lodging of P.94.2023 Scrutiny panel constitution: Minimum size by Deputy M.B. Andrews on 7th November. It will endeavour to give proper consideration to this, in line with its responsibility for the oversight of the scrutiny function, ahead of the debate (scheduled for the States meeting commencing on 28th November) and outline its position in Comments presented to the Assembly. The most appropriate opportunity for the necessary consideration is at the Committee's next scheduled meeting on 21st November.

For additional context, it might be noted that the Committee is, co-incidentally, already set to discuss its approach to all of the scrutiny relevant recommendations made by the Democratic Accountability and Governance Sub-Committee in the previous Assembly, as contained in its final report R.23/2022. This holistic piece of work includes the issue of minimum and maximum sizes of scrutiny panels.

2.2 Deputy M.R. Scott of the Minister for the Environment regarding the Minister's power to protect trees (WQ.442/2023)

Question

Further to [Written Question 429/2023](#), and in relation to the Minister's power to protect trees through listing in accordance with Article 58 of the [Planning and Building \(Jersey\) Law 2002](#), will the Minister advise, for the period since he took office –

- (a) the minimum, maximum and average time taken by officers to respond to requests to list trees;
- (b) how many requests for listing trees have yet to receive a response from officers;
- (c) how many requests for listing trees have led to listing orders; and
- (d) the number of planning permits issued that protect one or more specific trees through a condition in the planning permit?

Answer

Powers to protect trees are vested in the Chief Officer, under the auspices of Article 58 of the [Planning and Building \(Jersey\) Law 2002](#), not the Minister. The Minister’s powers to add trees to the list of protected trees is limited to the determination of appeals made in relation to Article 108 (2)(1).

- (a) As stated in response to WQ429/2023 (b), there is currently no formal application process to request the listing of a tree, and this information is not held. Most proposals to consider the formal listing of a tree arise from the planning process within the context of development proposals.
- (b) There are not considered to be any outstanding responses to requests to list trees. There are, however, a number of cases where the listing process is still live and remains to be concluded.
- (c) None: there is no such thing as a listing order
 - a. As stated in response to WQ429/2023 (b), however, there is currently no formal application process to request the addition of a tree to the list of protected trees. Most proposals to consider the formal listing of a tree arise from referrals arising through the planning process within the context of development proposals.
 - b. The number of trees listed since September 2022 was set out in answer to WQ429/2023 (a). There were no trees added to the list between the election of the Minister to office on 11 July and September 2022.
- (d) We are unable to extract data from our existing computer system on the number of conditions which protect trees via a planning permit.

2.3 Deputy R.J. Ward of the Minister for Justice and Home Affairs regarding tracking software used in police investigations (WQ.443/2023)

Question

Will the Minister advise whether mobile phone inbuilt tracking software (such as Find My iPhone) is used by the police in investigations of theft in Jersey; and will she further advise whether data obtained from victims of crime is used to assist in the recovery of stolen goods?

Answer

All recorded thefts of mobile phones are investigated by the police and inbuilt tracking software, when available, is used with a view of facilitating the recovery of the stolen property and also to assist in any subsequent criminal investigation, should one be instigated depending on the facts.

Of note that not all mobile phone devices will have a ‘tracking’ facility, such as Apple ‘Find my Phone’, enabled. This will depend on the settings set up by the user, enabling or not this facility, and the capabilities of the mobile phone device. Also, access to the data provided by this facility will be

dependent on the complainant providing it to the officer dealing with the recorded theft as the Police do not have access to user accounts without their consent.

In this respect the data obtained from the victim could prove crucial in assisting in the recovery of the mobile phone. In a broader sense any data obtained from a victim of crime could be useful in the identification and recovery of stolen goods, especially in the absence of 'tracking' data. In the case of mobile phones, as an example, should a victim be able to provide details such as IMEI

(International Mobile Equipment Identity) number(s), description of mobile phone or details of SIM card/telephone number these can also prove crucial in the identification and recovery of stolen goods.

2.4 Deputy S.Y. Mézec of St. Helier South the Chief Minister regarding the Register of Names and Addresses Commissioner (WQ.444/2023)

Question

Will the Minister confirm who she has appointed as the Register of Names and Addresses Commissioner, as required under Article 7 of the [Register of Names and Addresses \(Jersey\) Law 2012](#), and if a Commissioner has not been appointed, why not; and advise what reports she has received under Article 7(6) of this legislation?

Answer

There is currently no office holder in the role of Register of Names and Addresses Commissioner and accordingly, I have received no reports.

I understand that the position has been vacant since the Law was introduced.

The Register of Names and Addresses (Jersey) Law 2012 deals with the collection and sharing of information between departments. Departments must comply with their obligations under the Data Protection (Jersey) Law 2018 including in relation to the sharing of data, with recourse to the Office of the Information Commissioner.

I have asked for the implications of the role of Commissioner under the Register of Names and Addresses (Jersey) Law 2012 being vacant to be rapidly assessed as part of determining how to proceed.

2.5 Deputy M.B. Andrews of St. Helier North of the Minister for Children and Education regarding the funding of all Jersey schools (WQ.445/2023)

Question

Regarding the funding of all Jersey schools, will the Minister –

- (a) detail the percentage breakdown between private and Government funding at each school; and
- (b) provide her assessment of the extent to which private investment in education could affect educational equality and outcomes?

Answer

- (a) The table below shows the percentage breakdown by school between government funding and the schools' other income sources, split between school fees and all other sources. School fees are a type of fee for service. Government schools are not structured as businesses with private investors.

Please go to [wq.445-2023.pdf \(gov.je\)](#) to view this table.

Grant payments through Service Level Agreements have also been made to private schools in 2023. These total £4,459,837 and relate to De La Salle £1,857,798, Beaulieu £2,341,460 and FCJ £260,579.

- (b) The contribution of private monies to the costs of education, as it relates to Government fee-paying and grant funded schools, is principally through the payment of fees by parents. It results in a higher total budget than would be afforded the school if it were a fully provided school. Whilst increased funding levels and improved educational outcomes are not considered causative, there is a correlation between these two variables. It is also important to note many other variables affect outcomes e.g. academic selection, selection by gender and so on.

Circa 32% of children attend government provided and non-provided fee-paying schools in Jersey. Increased fees could potentially increase income, but there is a risk that they become unaffordable for some parents which would create transfers to non-fee-paying schools where government costs per child are higher.

2.6 Deputy M.B. Andrews of St. Helier North of the Minister for Children and Education regarding the amount of Government expenditure across education (WQ.446/2023)

Question

Will the Minister state the amount of Government expenditure across the following areas of education for each year between 2018 and 2022 –

- (a) primary schools;
- (b) secondary schools; and
- (c) university and tertiary education?

Answer

Click here to view the answer: [wq.446-2023.pdf \(gov.je\)](#)

2.7 Deputy M.B. Andrews of St. Helier North of the Minister for Economic Development, Tourism, Sport and Culture regarding requiring Estate Agents operating in the Island to undertake exams (WQ.447/2023)

Question

Will the Minister advise whether any consideration either has been, or is being, given to requiring Estate Agents operating in the Island to undertake exams to ensure a sufficient understanding of Jersey's legislation; and, if not, why not?

Answer

No consideration has been given to requiring Estate Agents to undertake exams to ensure they possess a sufficient understanding of Jersey's legislation;

To the best of my knowledge there is no specific training on Jersey's legislation relating to Estate Agency activity and property sales. There are Property Mark Qualifications that can be gained in UK property law but these are not compulsory to have to engage in estate agency work.

Property agent qualifications | Propertymark Qualifications | Propertymark

2.8 Deputy A. Howell of St. John, St. Lawrence and Trinity of the Minister for Health and Social Services regarding the breakdown of the 2024 staff funding allocated to Covid-119 (WQ.448/2023)

Question

Further to her [Ministerial comments on P.86/2023](#), will the Minister provide a breakdown of the 2024 staff funding allocated to Covid-19, including –

- (a) how many full-time equivalent (FTE) posts are included in the funding;
- (b) where any such staff are located; and
- (c) what work they are undertaking;

and if 2024 funding figures are not available, will she provide this information for 2023?

Answer

For HCS, the only Covid-19 funding for 2024 is around PPE provision, and the warehousing & logistics costs around this initiative.

- a) This includes 1.5 FTE of staffing, with a business case funding value of £73,000 for 2024:
 - 1 FTE PPE Administrator; and
 - 0.5 FTE Pandemic Stock Lead.
- b) Five Oaks Medical Supplies Department.
- c) Management of the Island's pandemic stock including monitoring lifespan, liaising with Public Health and IPAC colleagues to ensure pandemic stock is fit for purpose, procurement of PPE and other infection prevention equipment/consumables in support of IPAC, and circulating stock through use to avoid write off and disposal where possible.

2.9 Deputy A. Howell of St. John, St. Lawrence and Trinity of the Minister for Health and Social Services regarding the Jersey Care Model (WQ.449/2023)

Question

Regarding the Jersey Care Model, will the Minister detail –

- (a) how the original budget has been utilised, including key projects and spend areas;
- (b) if any work on the Jersey Care Model is ongoing; and
- (c) what funding remains available, if any?

Answer

Please go to [wq.449-2023.pdf \(gov.je\)](#) for a copy of the answer.

2.10 Deputy A. Howell of St. John, St. Lawrence and Trinity of the Minister for Health and Social Services regarding an updated version of Table 1: Costs and Headcount included in the proposed Government Plan 2024-2027 (WQ.450/2023)

Question

Further to the response to [Written Question 404/2023](#), will the Minister provide an updated version of Table 1: Costs and Headcount, to include the anticipated 2024 costs and additional 25 full-time equivalent (FTE) posts, as included in the draft Government Plan 2024-2027?

Answer

There is no underlying growth in public health FTE proposed for 2024. In the department there are 51.5 FTE. 9.5 FTE posts also fall under Public Health to cover the major incidents (which are not included in the table nor were they included in the previous answer) which brings the total to 61 as identified in the Government Plan.

The 2024 Government Plan business case proposed replacing funds that were previously made available to fund Public Health. Previously, Public Health was funded via the Jersey Care Model (JCM), Building a Safer Society (BASS) and COVID-19 pandemic funding.

As detailed in the 2024 Government Plan, the total Public Health proposed budget is £7,374,000 for 2024, this comprises:

- 1) £3,768,000 existing as previously funded (details of these costs are provided in updated table 2 for 2024):
 - £1,026,000 core public health budget.
 - £1,380,000 reducing preventable diseases budget.
 - £1,056,000 for childhood immunisations (previously in HCS).
 - £306,000 for health promotion (previously in HCS).
- 2) £2,273,000 as replacement expenditure (GP24-004 see Table 1 for details on how this is allocated), which covers functions previously funded by the JCM and the BASS budgets alongside some COVID monies, to ensure the capacity for population health improvement programmes and a Health Protection Function for our community (as recommended from various reviews, see [Written Question 404/2023](#))
- 3) £899,000 (GP24-005) is to support the major incidents recovery programme. The programme is administered by Public Health, but the funding will be used by a range of public bodies to establish a Major Incident Support Team (MIST) and to deliver psychological support, health checks and long-term health and wellbeing monitoring in response to the ongoing health and wellbeing needs of Islanders impacted by major incidents.
- 4) £434,000 (£400,000 for GP24-007 and £34,000 service transfer) for elements of vaccination infrastructure costs, such as IT.

Costs 2019-2023, Budget 2024 & FTE [Please go to [wq.450-2023.pdf \(gov.je\)](#) for a copy of these tables.]

2.11 Deputy S.Y. Mézec of St. Helier South of the Chief Minister regarding the “Jersey Unity Statement” (WQ.451/2023)

Question

Further to the publication of the “[Jersey Unity Statement](#)”, in which the Chief Minister called for a “pause in hostilities” in Gaza, in alignment with the UK Government’s position, will she provide details of all communications either she has had, or which Government officials have had, with the UK Government regarding this policy position, and will she state whether any consideration has been given to adopting the position of the United Nations General Assembly, in support of a ceasefire, rather than that of the UK?

Answer

I am proud that Jersey has demonstrated its unwavering support for peace, humanity and restraint through our Unity Statement, which was signed by the Chief Minister on behalf of the Council of Ministers, the Chair of the Privileges and Procedures Committee, the Dean, the Roman Catholic Dean, the Chair of the Methodist Channel Islands District, the President of the Jersey Jewish Congregation and the Leader of Jersey's Muslim community. The Unity Statement was also endorsed by the Bailiff.

Whilst it is important for Jersey to continue acting in line with UK foreign policy, it is equally vital that the Island can express with our own voice the profound impact that such events have in a local context, and our shared desire for an urgent resolution to the violence and suffering occurring in the Middle East.

Recognising this, the Unity Statement has been shared with the UK Government for its awareness, and I look forward to further opportunities to engage with Ministerial counterparts to emphasise our support for a swift and lasting solution in line with UK policy. No communications beyond the position expressed in the Unity Statement have taken place.

Regarding the position of the United Nations General Assembly, it should be noted Jersey is represented at the United Nations by the UK, as the sovereign party under international law, and it would therefore be inappropriate for the Government of Jersey to comment upon resolutions made in that forum.

However, the publication of Jersey's Unity Statement clearly ensures that the UK is aware of the Island's support for peace, humanity and restraint in the Middle East, and our determination that the aggression and division seen in recent weeks will not spread to our own community.

2.12 Deputy S.Y. Mézec of St. Helier South of H.M Attorney General regarding potential risks Jersey is exposed to regarding potential war crimes in Gaza (WQ.452/2023)

Question

In light of a recent warning by Tory MP Crispin Blunt, that "[the UK could be complicit in war crimes in Gaza and could face legal action if it does not do more to 'restrain' Israel](#)", will H.M. Attorney General clarify what risks, if any, does this potentially expose Jersey to, considering that the UK is responsible for our foreign policy and security?

Answer

The article, from which the quote in the question is taken, reports that, "the International Centre of Justice for Palestinians (ICJP) - of which Mr Blunt is co-director - announced it has written a notice of intention to prosecute UK government officials for "aiding and abetting war crimes in Gaza".

The actions of the ICJP and the views of Crispin Blunt MP set out in the article are clearly directed at the UK Government and not Jersey. It is not clear from the article who in the UK Government has, or how they have, committed the crimes alleged. It is also not clear from the article whether the ICJP is seeking a prosecution of UK government officials in the UK Courts (possibly by way of a private prosecution) or before the International Criminal Court.

The actions of the UK Government since the 7 October 2023 have been summarised in a [Research Briefing](#) from the House of Commons Library published on the 10 November 2023¹. It reports that the UK Government's actions include:

- Diplomacy with jurisdictions in the region focused on de-escalation of the conflict, facilitating humanitarian aid and the release of hostages;
- Deployment of military assets to patrol against the potential transfer of weapons to terrorist groups and to support any potential humanitarian efforts; and

- Humanitarian aid including £30 million in aid for the Occupied Palestinian Territories, in addition to earlier commitments totalling £27 million in aid during 2023/24.

Jersey has a developing international identity in accordance with the 2007 Framework for developing the international identity of Jersey. It is for the Government of Jersey to conduct external relations in accordance with the 2007 Framework and the States of Jersey Law 2005, albeit that Jersey follows UK foreign policy and security on the international stage.

Jersey has enacted the International Criminal Court (Jersey) Law 2014 (“ICC Law”) which, *inter alia*, makes it an offence against the law of Jersey for a person to commit a war crime² in Jersey or for a Jersey resident, a United Kingdom national or a person subject to UK service jurisdiction (Article 45) to commit a war crime outside of Jersey, including ancillary offences.

¹ House of Commons Library, Research Briefing, *2023 Israel-Hamas conflict: UK and international response*, 10 November 2023, Number 9874.

² A war crime is defined in accordance with Article 8 of the Rome Statute of the International Criminal Court

Based on the above summary of UK Government actions, it is not immediately apparent that Jersey is exposed to any risks in domestic or international law by virtue of the UK’s decisions in respect of the war in Gaza.

Based on the above summary of UK Government actions, it is not immediately apparent that Jersey is exposed to any risks in domestic or international law by virtue of the UK’s decisions in respect of the war in Gaza.

2.13 Deputy S.Y. Mézec of St. Helier South of the Chief Minister regarding government expenditure on adverts, articles and supplements in the Jersey Evening Post (WQ.453/2023)

Question

Further to the response to [Written Question 330/2023](#), will the Chief Minister provide an update on how much was spent by Government on adverts, articles and supplements in the Jersey Evening Post in Quarter 3 of this year?

Answer

In Quarter 3 of 2023 (between July and September), the Government of Jersey spent £28,368 on adverts, articles and supplements in the Jersey Evening Post.

2.14 Deputy T.A. Coles of St. Helier South of the Minister for Treasury and Resources regarding the money spent by the States of Jersey Development Company on the South Hill project (WQ.454/2023)

Question

Will the Minister provide a breakdown of the money spent by the States of Jersey Development Company on the South Hill project to date?

Answer

Costs for the project, up to 30th September 2023, total £3.28 million

The breakdown is as follows:

- Professional costs associated with the first planning application - £1.88m
- Professional costs associated with the second planning application - £482k
- Planning Appeal costs - £37k
- Planning application fees - £228k
- Costs associated with the land acquisition, including stamp duty - £229k
- Costs associated with all site and ground investigations - £416k
- Sundry costs - £7k

2.15 Deputy T.A. Coles of St. Helier South of the Minister for the Environment regarding planning application appeals (WQ.455/2023)

Question

Will the Minister advise how a planning application decision made following an independent planning inspector review can be appealed, and how the planning process allows for revised proposals and plans to be considered?

Answer

Following an independent planning inspector review of an appeal made under Article 108, 109, 110 or 111 of the Planning and Building (Jersey) Law 2002, the inspector makes a recommendation to the Minister.

Under Article 116(1) and (2) of the Law, the Minister shall determine the appeal, and may

- (a) allow the appeal in full or in part;
- (b) refer the appeal back to the inspector for further consideration of such issues as the Minister shall specify;
- (c) dismiss the appeal; and
- (d) reverse or vary any part of the decision-maker's decision.

Under Article 116(5), no further appeal shall lie from the Minister's determination except to the Royal Court on a point of law. Such an appeal must be made within 28 days beginning with the date of the determination. On hearing the appeal, the Royal Court may –

- (a) confirm the determination of the Minister wholly or in part;
- (b) quash the determination of the Minister wholly or in part;
- (c) remit the determination, wholly or in part, to the Minister to be retaken.

A person aggrieved by a decision may appeal against that decision, thus an appeal is a review of the decision, and not an opportunity to revise or amend the proposal.

Revisions and amendments to applications can occur for a variety of reasons and are explained on a published webpage [gov.je Revised planning applications and minor amendments \(gov.je\)](http://gov.je/Revised_planning_applications_and_minor_amendments)

Very minor amendments to approved schemes that are insubstantial and do not materially change the terms of the permission may be agreed in writing on behalf of the Chief Officer. Revisions to approved schemes that are more substantial may require a new planning application, referred to as

a revised plans application. Applications which have been previously refused cannot be revised or amended, and thus new proposals which address the reasons for refusal would require a new planning application.

2.16 Deputy C. S. Alves of St. Helier Central of the Chair of the States Employment Board regarding employees leaving government employment (WQ.456/2023)

Question

Further to [Written Question 275/2023](#), will the Chair provide a breakdown by department of the number of people leaving Government employment over the last three years and how many of them completed an exit interview; and will she provide the top 5 reasons that were stated for leaving?

Answer

Please see the table, below, which provides the number of people leaving Government employment over the last three years, by department, and how many of them completed an exit interview:

For Data tables please see link –

<https://statesassembly.gov.je/assemblyquestions/2023/wq.456-2023.pdf>

Please note that, as the question requests information from the three previous years, the Chief Operating Office; Office of the Chief Executive; and the Department for Strategic Policy, Planning and Performance are listed separately. These three former departments are now part of the Cabinet Office.

More detail on turnover has been published in the States Employment Board's evidence submission to the Corporate Service Scrutiny Panel: [Government of Jersey Presentation Template with image](#) (Page 39 onwards).

Percentages alongside the top 5 reasons for leaving can be provided for 2020, 2021 and 2022. They have not been included at this stage in order to not delay the submission of the response.

2.17 Deputy C. S. Alves of St. Helier Central of the Chair of the States Employment Board regarding the living wage and contracts with third parties (WQ.457/2023)

Question

Further to [Oral Question 92/2023](#), will the Chair state the total number of contracts the Government has with third parties where the requirement to pay the living wage is not included; will she indicate the areas to which these contracts relate; and will she advise when these contracts are due for renewal?

Answer

Since 2019, the Government of Jersey's standard terms and conditions for contracts with third parties contain a clause requiring that the Jersey Living Wage is paid to relevant staff.

The task of identifying the total number of contracts that the Government has with third parties, where the requirement to pay the living wage is not included and by area, is not a simple nor straightforward exercise. This information is not held centrally by Government.

It should be noted that contracts before 2019 may not include the requirement for Jersey-based suppliers to pay the Jersey Living Wage. Based on the normal renewal cycle for contracts, however, it is expected that all contracts that the Government of Jersey is party to, will be due for renewal before the end of 2024.

If helpful, officials from Commercial Services would be pleased to meet with the Deputy, in person, to discuss and further explain the difficulties of extracting the information requested.

2.18 Deputy C. S. Alves of St. Helier Central of the Minister for Treasury and Resources regarding personal Income Tax returns (WQ.458/2023)

Question

In relation to personal income tax returns, will the Minister state, for the last 3 years –

- (a) the number of people claiming mortgage interest tax relief;
- (b) the number of people declaring income from renting a room in their home; and
- (c) the total income raised by those declaring income from renting a room in their homes?

Answer

All responses refer to years of assessment 2019-2021. Data for year of assessment 2022 will not be available until 2024.

The total number of taxpayers receiving mortgage interest tax relief (MITR) for their main residence is provided. Taxpayers may either be an individual or a married couple. Relief is only available at the marginal rate.

- **Year of assessment – Taxpayers receiving MITR**
 - 2019 – 9,570
 - 2020 – 9,800
 - 2021 – 9,880

The number of taxpayers declaring income from renting a room in their home and the total taxable income declared by these taxpayers is provided.

- **Year of Assessment -- No. of taxpayers -- Taxable income (£m)**
 - 2019 -- 840 -- £4.5m
 - 2020 -- 690 -- £3.9m
 - 2021 -- 660 -- £4.2m

Counts of taxpayers are rounded to the nearest 10. The taxable income is rounded to the nearest £0.1m.

2.19 Connétable of St. Mary of the Chief Minister regarding the Data Protection Tribunal (WQ.459/2023)

Question

Will the Chief Minister provide the annual budget, and the actual expenditure broken down into staff and ancillary costs, for the Data Protection Tribunal; and, where Tribunal members are voluntary, will she also provide an estimate of unpaid time worked by such members?

Answer

The Data Protection Tribunal was replaced by the Data Protection Authority in 2018.

The information that the Connétable has requested is publicly available in the 2022 annual report of the Jersey Office of the Information Commissioner: [joic-2022-annualreport.pdf \(jerseyoic.org\)](https://www.jerseyoic.org/2022-annual-report).

Details on remuneration of staff can be found on p.78 and p.95. The Authority does not rely on volunteers.

2.20 Connétable of St. Mary of the Minister for Health and Social Services regarding the mental health Review tribunal (WQ.460/2023)

Question

Will the Minister provide the annual budget, and the actual expenditure broken down into staff and ancillary costs, for the Mental Health Review Tribunal; and where Tribunal members are voluntary, will she also provide an estimate of unpaid time worked by them?

Answer

The Judicial Greffe (JG) has provided the following information.

The budget for the Tribunal Service covers the employment of a full-time manager and two staff along with the cost of their offices and hearing rooms including the necessary IT infrastructure. The Tribunal Service covers, and its budget is applied to the following different services:

1. *The Employment and Discrimination Tribunal*
2. *The Mental Health Review Tribunal (MHRT)*
3. *The Social Security Tribunal*
4. *The Planning Tribunal*
5. *The Charity Tribunal*
6. *The Health & Safety Tribunal*
7. *The JG also hold and maintain The Register of Trade Unions and Employers*

Associations which includes registering applications to the register.

The JG do not hold a separate annual budget for the MHRT.

To the extent that the MHRT uses the staff and facilities provided for the Tribunal Service as a whole, the JG do not separate out the staff and ancillary costs associated with that particular Tribunal. There are costs specific to the MHRT which are summarised for 2022 below:

JUDICIAL GREFFE

MENTAL HEALTH TRIBUNAL SPECIFIC COSTS INCLUDED IN THE JUDICIAL GREFFE LEDGERS FOR 2022

- Panel Member Fees - £33,239.00
- Legal Fees - £72,360.00
- Specific costs covered in respect of the Medical Panel Member - £408.00
- General Medical Council Registration Fee (Medical Panel Member) - £482.00
- Professional Indemnity Insurance (Medical Panel Member) - £703.00
- Appraisal Fee (Medical Panel Member) - £1,593.00

The rates on which these specific costs are calculated are as follows:

1. Chair/Deputy Chair is paid £296.00 per session up to 4 hours; above 4 hours double payment.
2. Medical Member is paid £497.76 per session up to 4 hours; above 4 hours double payment. This was in line with the UK but has not been updated in line with recent increases there.
3. Medical Member is paid to write/give oral report at start of hearing £186.66.
4. Lay Member is paid £95.50 per session up to 4 hours; above 4 hours double payment.
5. No payment is made for additional administration carried out by Chair/Deputy Chair.

It should be noted that the Panel are generally only paid if a hearing takes place, and there are many mental health cases where the orders are discharged prior to the hearing.

The Judicial Greffier, who was until recently the Chair of the MHRT, states that the following time commitments are typical:

- Preparation 1 hour (this applies to all Panel members).
- Hearing 1 to 4 hours.
- Writing Judgment 1-3 hours (Chair/Deputy Chair).
- Administration time provided by the Chair/Deputy Chair but depending on the case can take approximately 1 hour per case.
- Members review and approve each judgment.

In addition to the Tribunal Service costs each Tribunal which hears appeals against the decision of a particular Department will cause costs to be incurred within that Department. For the MHRT the HCS Department has to provide factual information, reports, and evidence to the Tribunal, provide a venue for hearings which must be held in an approved establishment, and ensure, when required, that the patient is able to attend the hearing safely.

There are no voluntary members of the MHRT as such, although it should be noted that the rates paid to the Chair/Deputy Chair and the Lay member are relatively low.

2.21 Connétable of St. Mary of the Minister for Social Security regarding the cost of multiple tribunals (WQ.462/2023)

Question

Will the Minister provide the annual budget, and the actual expenditure broken down into staff and ancillary costs, for each of the following tribunals –

- (a) Social Security Tribunal;
- (b) Social Security Medical Tribunal;
- (c) Income Support Medical Appeal Tribunal; and
- (d) Health and Safety Appeal Tribunal;

And, where Tribunal members are voluntary, will she also provide an estimate of unpaid time worked for each Tribunal?

Answer

The Minister cannot provide the annual budget and the actual expenditure broken down into staff and ancillary costs for the above tribunals. The Tribunal Service is run by the Judicial Greffe, and the Judicial Greffe are unable to provide this information in the form requested.

The budget for the Tribunal Service covers the employment of a full-time manager and two staff along with the cost of their offices and hearing rooms including the necessary IT infrastructure. The Tribunal Service covers, and its budget is applied to the following different services:

1. The Employment and Discrimination Tribunal
2. The Mental Health Review Tribunal
3. The Social Security Tribunal (SST), which covers (a), (b) and (c) in the question.
4. The Planning Tribunal

5. The Charity Tribunal
6. The Health & Safety Tribunal (HST)

It also holds and maintains The Register of Trade Unions and Employers Associations which includes registering applications to the register.

The Judicial Greffe does not hold a separate annual budget for the SST or the HST.

To the extent that the SST and the HST use the staff and facilities provided for the Tribunal Service as a whole, the Tribunal Service does not separate out the staff and ancillary costs associated with those particular Tribunals.

In addition to the Tribunal Service's costs, each Tribunal which hears appeals against the decision of a particular Department will cause costs to be incurred within that Department. For both the SST and HST, CLS pays the expenses and fees of the Tribunal members. There have been no HST cases in recent years.

There are no voluntary members of the SST or HST and all members of the relevant Tribunals are paid for their work.

For SST and SSMAT the payments for 2023 to date are as follows:

Social Security Tribunal - £2,050

Social Security Medical Appeal Tribunal - £2,090

These amounts reflect fees paid to tribunal members and include payments to the Chair of the relevant tribunal for writing a report. They do not include any staff or ancillary costs.

2.22 Deputy M.R. Scott of St. Brelade of the Minister for Social Security regarding the free period products scheme (WQ.462/2023)

Question

With regard to the free period products scheme, will the Minister advise whether consideration has been given, or is to be given, to targeting distribution by either –

- (a) offering support to those with identified period poverty rather than supplying products in schools and public toilets; or
- (b) the provision of vouchers for the purchase of period products, or tokens providing access to dispensing machines in public toilets, to those with identified period poverty?

Answer

a) Yes, consideration has been given to targeting distribution to those with identified period poverty. The main objective of the pilot, however, was to have products available to islanders on the basis of need, and therefore a decision was taken not to restrict provision or add in barriers such as means testing. Seeking to identify period poverty would also not have met our objectives of ensuring dignity and reducing stigma relating to periods. As well as making period products available to collect in a wide range of locations, our pilot has included engagement with organisations and charities (such as foodbanks) who work with people who may encounter period poverty.

Yes, consideration was given to the provision of vouchers and tokens as part of the initial scoping of the project, but we chose not to proceed with that model. Vouchers/tokens add an unnecessary further step to obtaining products when our aim was to make it as easy as possible.

2.23 Deputy M.R. Scott of St. Brelade of the Chief Minister regarding the Public Services Ombudsman (WQ.463/2023)

Question

Will the Chief Minister explain the delay in the introduction of a Public Services Ombudsperson, in accordance with the Council of Ministers 100-Day Plan; and will she advise what progress, if any, is being made in developing this matter and when the States Assembly should expect to debate the relevant draft legislation?

Answer

Within the first 100 days of this Government, on 18 October 2022, I published instructions to the Legislative Drafting Office for a new Law to establish the Jersey Public Services Ombudsperson (see [Jersey Public Services Ombudsperson: Law drafting instructions \(gov.je\)](#)). This project is included in my published Legislative Programme for 2023 ([R.139/2022](#)). The project has progressed well, and the draft Jersey Public Services Ombudsperson Law will be considered by the Council of Ministers at our meeting on 21 November.

As this is a lengthy and complex piece of legislation, it is important that the usual final quality assurance processes are carried out in full. Subject to the completion of this process, the draft Law remains on course to be lodged in time for the States Assembly to debate it in early 2024.

2.24 Deputy M.R. Scott of St. Brelade of the Chief Minister regarding the powers of the proposed Public Services Ombudsman (WQ.464/2023)

Question

Will the Chief Minister explain what powers, if any, are likely to be introduced to support the role of the Public Services Ombudsperson in holding public service departments to account, such as a duty on departments to provide written reasons for administrative decisions?

Answer

The proposed functions and powers of the Jersey Public Services Ombudsperson (JPSO) are set out in law drafting instructions which I published on 18 October 2022 (see [Jersey Public Services Ombudsperson: Law drafting instructions \(gov.je\)](#)).

The proposed powers of the JPSO to enforce compliance with its investigation processes, including possible offences for public services that fail to provide information which the JPSO requires to investigate possible maladministration or service failure, are set out at paragraphs 111 to 115 of the drafting instructions. In summary, subject to usual safeguards protecting information which is subject to legal professional privilege, the JPSO will have wide-ranging powers to obtain any relevant information to an investigation from public services. The JPSO would be able to make such inquiries as they think appropriate in each case.

The powers of the JPSO to ensure that the public services under its jurisdiction are held to account for acting on the JPSO's findings and recommendations are set out at paragraphs 164 to 171 of the drafting instructions.

In summary, it is proposed that, where maladministration or service failure is found and included in a report following a JPSO investigation, the public services concerned must consider and within three months notify the JPSO of the action they have taken or propose to take to address those findings and any recommendations made. If the JPSO is not satisfied with the response it receives from the public service concerned or believes that the public service is failing to act on its findings or recommendations, the JPSO may issue a further “compliance” report. All JPSO reports, including the responses to JPSO reports by public services must be published, following an anonymisation process.

In cases when the JPSO issues a compliance report, the draft Law will provide that the Chief Minister must either nominate an appropriate Minister or must personally make a statement to the States Assembly to explain why the public service concerned has failed to act or has rejected the JPSO’s findings.

2.25 Deputy L.V. Feltham of St. Helier Central of the Minister for Treasury and Resources regarding letters of comfort (WQ.465/2023)

Question

Will the Minister advise how many ‘letters of comfort’ he has issued to accountable officers during this term of office, stating the purpose of each letter, the Government project or programme to which it related, and the sum of funding involved?

Answer

As part of our policy design process, Revenue Jersey considered and took careful steps to minimise risks and unintended consequences surrounding fiscal cost, administrative complexity, and compliance/enforcement. The measure is also being introduced as a pilot project and will be reviewed after two years.

Critical to this risk mitigation has been careful thought and consultation about the scope and definitions that are contained in the draft law. Draft Finance (2024 Budget) (Jersey) Law 202- includes strict eligibility criteria that were developed in consultation with the Jersey Financial Services Commission about the regulated nature of companies (only) that can access the relief. Together with the categories of technological investment for which relief will be permitted.

To limit operational costs and administrative complexity, the Super-Deduction is also designed to be processed using existing tax forms and procedures, resulting in minimal changes being required to government systems.

To counteract tax motivated channelling of investment between subsidiaries of groups structures, the draft law includes specific restrictions to ensure:

1. An eligible entity cannot claim capital allowances of 150% on expenditure where it relates to hardware or software that was owned by a connected party before 1 January 2024. This prevents ‘old’ hardware or software being recycled between group companies.
2. The claimant company is required to hold software or hardware for at least three financial years to obtain the full benefit of enhanced capital allowances. If they do not, they are subject to a 150% balancing charge that recovers the value of the deduction. This should discourage Jersey financial services businesses from being a conduit company for hardware and software costs.
3. If an eligible entity transfers hardware or software claimed as capital expenditure under the Super-Deduction to a connected party the value is deemed to be at the price it would fetch if

sold on the open market. This ensures the recovery balancing charge is not artificially reduced.

In addition to these specific measures, eligible companies must still meet economic substance requirements in Jersey under the Taxation (Companies- Economic Substance) (Jersey) Law 2019.

The Income Tax (Jersey) Law 1961 also contains a General Provision Against Legal Avoidance (Part 20A) that grants the Comptroller powers to counteract behaviours for which the main purpose is avoiding or reducing liability to income tax.

Revenue Jersey is drafting guidance concerning the new provisions that will be published online. This guidance will explain how Revenue Jersey will deal with pricing between connected parties that results in eligible expenditure claims being higher than an arms-length price. In these cases, the tax advantage being sought will be challenged.

2.26 Deputy L.V, Feltham of St Helier Central of the Minister for Treasury and Resources regarding risk assessments in relation to the Regulatory Technology (Reg Tech) Super Deduction (WQ.466/2023)

Question

“Will the Minister provide details of any risk assessments that his department has undertaken in relation to the Regulatory Technology (Reg Tech) Super Deduction detailed within the Proposed Government Plan 2024-2027, and further detail how he reached his own assessment in Oral Question 213/2023 that there is no risk that international companies will channel Reg Tech Funding via Jersey to avoid paying tax?”

Answer

As part of our policy design process, Revenue Jersey considered and took careful steps to minimise risks and unintended consequences surrounding fiscal cost, administrative complexity, and compliance/enforcement. The measure is also being introduced as a pilot project and will be reviewed after two years.

Critical to this risk mitigation has been careful thought and consultation about the scope and definitions that are contained in the draft law. Draft Finance (2024 Budget) (Jersey) Law 202- includes strict eligibility criteria that were developed in consultation with the Jersey Financial Services Commission about the regulated nature of companies (only) that can access the relief. Together with the categories of technological investment for which relief will be permitted.

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3. If an eligible entity transfers hardware or software claimed as capital expenditure under the Super-Deduction to a connected party the value is deemed to be at the price it would fetch if

sold on the open market. This ensures the recovery balancing charge is not artificially reduced.

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Revenue Jersey is drafting guidance concerning the new provisions that will be published online. This guidance will explain how Revenue Jersey will deal with pricing between connected parties that results in eligible expenditure claims being higher than an arms-length price. In these cases, the tax advantage being sought will be challenged.

2.27 Deputy R.J. Ward of St. Helier Central of the Minister for the Environment regarding Active Travel in the Carbon Neutral Roadmap (WQ.467/2023)

Question

Further to the amended allocation of £1.7 million for Active Travel with Section TR10 of the [Carbon Neutral Roadmap](#), will the Minister advise –

- (a) how much of this allocation has been spent to date;
- (b) which projects has it been used to fund;
- (c) whether all or any of the funded projects have had an impact; and, if so, how this has been assessed;
- (d) how the application of the funding has been evaluated; and
- (e) what plans, if any, are in progress for any unspent monies?

Answer

- (a) how much of this allocation has been spent to date;
- (b) which projects has it been used to fund;

All figures are from project inception to October 2023.

Year-Project-(Value)

- **2022**
 - Project: Misc Capital infrastructure Projects for example, St. Lukes School and St. Aubin Prom Widening -(£236K)
- **2023**
 - Project: Misc Capital infrastructure Projects for example St. Lukes School, La Haule Cycling and Walking improvements - (£98K)
 - Project: Engagement officer running Active Travel Community engagement projects like Love to Ride and WOW (a walk to school programme for primary schools) – (£43K)
 - Project: Draft St Helier Mobility Plan – (£26K)
- **TOTAL - £403K**

- (c) whether all or any of the funded projects have had an impact; and, if so, how this has been assessed;

The school street implemented at St Luke's Primary School was evaluated throughout the project. Surveys gathered input from Elizabeth Street residents, school staff, and parents/guardians. Results showed that 81% (70% strongly agree, 11% agree) support making the School Street pilot permanent.

Within behavioural change programmes we can gather various data depending on the initiative being undertaken. For example, the Love to Ride programme has shown that up to the end of September 2023 more than 1,800 islanders engaged with the programme. Over 1,300 of those have actively logged at least one ride. 42% of the active riders classed themselves as new or occasional riders. Over 72,000 total biking trips have been logged (a total of over 610,000 miles) and almost 30,000 of these rides were marked as commuting and shopping travel as opposed to leisure rides. It can be assumed that some of these trips would have been undertaken by car had this programme not been delivered, raising awareness of the benefits of cycling as an alternative to commuting by car.

Other behavioural change projects which have been delivered in 2023 since the engagement officer has been in post include:

- **World Car Free Day (September 2023)** - Complete
- **Love to Ride 2023** - In progress
 - March: Ride into Spring - Complete
 - May: Bike Month Challenge - Complete
 - September: Cycle September - Complete
 - December: Winter Wheelers - In progress – planning stage for delivery in December 2023
- **Secondary school multi-mode journeys** - In progress – research stage currently being undertaken
- **“Try-a-bike” events** - Complete (successful events held August & September 2023, with more to be planned)
- **Helmet Hair public engagement** - Complete
- **Alternative Transport Week public engagement – May 2023** - Complete
- **Try a bike & public engagement WellFest – October 2023** - Complete
- **Love to Ride champions engagement event – September 2023** - Complete
- **Cycle-friendly workplace guide** - In progress – delivery Autumn 2023
- **Bicycle maintenance workshops** - Complete (with courses continuing to be delivered as Business as Usual)
- **Living Streets WOW – the Walk to School Challenge for primary schools** - Ongoing – launched in 5 primary schools September 2023, with option to expand to more in 2024

The mobility plan was drafted ensuring the recommendations for improving mobility around the ring road and within the town centre aligned with both the aims of the sustainable transport policy as well as the expectation to reduce carbon emissions to support the active travel policy within the CNR to increase cycling and walking. The recommendations will be used to inform an island-wide cycling and walking infrastructure programme which looks to develop cycling and walking opportunities for Islanders over the next ten years. Individual schemes which are developed as a result of this draft mobility plan will be evaluated as per good practice for capital project evaluation.

(d) how the application of the funding has been evaluated; and

The allocation will be evaluated across the programme by utilising the annual traffic count surveys, where we are looking to increase by 2030 the figure of 19% of people cycling and walking within these counts to 29%.

(e) what plans, if any, are in progress for any unspent monies?

- Whilst there remains unallocated budget within the policy currently, discussions are already underway with the delivery arms of government transport projects and behavioural change engagement to understand their forward programme of work for years 2024/2025.
- Future projects identified for the behavioural change programme to deliver include (but not exhaustive):
 - Multi-modal journeys – secondary schools' awareness campaign
 - Try a bike programme
 - Love to ride 2024
 - Multi-modal journeys – Island-wide public awareness campaign
 - Bike maintenance / repair café events
 - WOW – the Walk to School Challenge for primary schools
 - Walk to school month
 - Walkable neighbourhoods (concentrating on key walking zones identified as part of the active travel workstream)
 - Workplace walking challenge
- Future projects identified for cycling and walking infrastructure are currently being assessed as a wider piece of work looking to accelerate development of the eastern cycle network and implementation of the strategic corridors identified for cycling from the active travel workstream. A draft programme of delivery is currently being developed which will identify initial funding requirements.

As these projects are resourced and developed, costings will be identified and go through normal governance to allocate funding from the remaining budget.

2.28 Deputy R.J. Ward of the Minister for the Environment regarding the Carbon Neutral Roadmap (WQ. 468/2023)

Question

In relation to the [Carbon Neutral Roadmap](#), will the Minister state the amount of Government expenditure for each of the following policies –

- (a) Speeding up adoption of electric vehicles (TR1);
- (b) Supporting transition fuels (TR3);
- (c) Create a Carbon Neutral Network (EN2);
- (d) Delivering the COP26 education pledge (EN4);
- (e) Blue carbon, biodiversity and sequestration (EN5); and
- (f) Carbon offset purchasing strategy (EN6)?

Answer

All figures are from project inception to October 2023.

- (a) Speeding up adoption of electric vehicles (TR1);

The Electric Vehicle and Charger incentive schemes were launched at the end of August 2023 and **£511K** has been spent to date. Based on the current forecast, it is expected that the full budget will be spent by the end of 2025.

- (b) Supporting transition fuels (TR3);

Due to fluctuating energy prices in 2022, it was decided to put this policy on hold and there has not been any spend on biofuel subsidies to date. However, **£145K** has been spent to date to fund the

SGRD cost premium within the GOJ's fleet. A total of £440K has been set aside for this purpose across 2023 and 2024 with ministerial agreement.

(c) Create a Carbon Neutral Network (EN2);

£15K has been spent to date primarily on engagement activities like supporting a business network focused on making businesses carbon neutral and Carbon Literacy Training. A fund which will govern the grants process for incentives issued to public grass roots projects designed to tackle climate change is in development and is planned to be launched in 2024. Grants are the primary expenditure of this policy.

(d) Delivering the COP26 education pledge (EN4);

£26K has been spent to date. This is due to a delay in getting the Education officer in place during the year which has resulted in a delay in this workstream. The officer is now in post and it is expected that when this workstream picks up the full expenditure will be utilised.

(e) Blue carbon, biodiversity and sequestration (EN5);

£1.1m has been spent to date - biodiversity projects are on target to spend the full allocation as set out in the Carbon Neutral Roadmap, by the end of 2024.

(f) Carbon offset purchasing strategy (EN6);

No budget was allocated from the Climate Emergency Fund for this policy. The work has not been planned to start yet, as the policy is set to be delivered in 2028.

2.29 Deputy R.J. Ward of St. Helier Central of the Minister for Social Security regarding the provision of carpets in Andium Home properties (WQ.469/2023)

Question

Further to the adoption of [P.34/2023 \(Provision of carpets in Andium Homes properties\), as amended](#), will the Minister advise –

- (a) how many tenants, if any, have received funding for carpets since the adoption of P.34/2023; and
- (b) what work has been undertaken and/or what meetings, if any, have been held with all social housing providers to review their policies relating to both the provision of flooring as standard in all properties and the reuse of carpets after cleaning?

Answer

- (a) 72 Andium tenants have received grants (that is, non-repayable funding) to support the cost of carpets since the adoption of P.34/2023.
- (b) Officers have met with or spoken to all social housing providers to inform the ongoing review of flooring in social housing properties. Further discussions are currently taking place with the providers prior to the finalisation of the review.

2.30 Deputy M.B. Andrews of St. Helier North of the Minister for Housing and Communities regarding tax on property sales (WQ.470/2023)

Question

Will the Minister advise whether he has considered, or will consider, the introduction of a tax on any profits made from the sale of a property that is not the taxpayer's main residence, and if not, why not?

Answer

As the Deputy will know, the introduction of tax measures in light of the financial requirements of the Island falls under the remit of the Minister for Treasury and Resources. I will, of course, support any potential tax measures that further my objectives as Minister for Housing and Communities.

An additional tax measure has already been applied following a Scrutiny amendment to the 2022-2025 Government Plan to properties that are not a person's main residence. This higher rate of Stamp Duty is applied at the point of acquisition, rather than a sale.

The tax described by the Deputy would constitute a capital gains tax, which would be a fundamental shift in Jersey's tax policy. It is not clear from the question how a shift of this kind would address the housing concerns facing the Island.

As Minister for Housing and Communities, I keep an open mind about any measures if evidence is presented to indicate a positive impact on housing affordability and availability in Jersey, and I will continue to work in partnership with the Minister for Treasury and Resources.

2.31 Deputy M.R. Le Hegarat of St. Helier North of the Minister for Treasury and Resources regarding prosecutions for non-payment of employees' IT IS deductions by employers (WQ.471/2023)

Question

Will the Minister advise how many prosecutions there have been, in the last 12 months, for non-payment of employees' I.T.I.S. deductions by employers, how many of these prosecutions relate to Work Permit Holders, and what impact this has on the affected employees' tax liability?

Answer

All employers submit a Combined Employer Return (CER) which covers their Social Security, ITIS and Manpower submissions. Administration and compliance for these returns is conducted by Revenue Jersey.

Employers who do not submit their Combined Employer Returns can be subject to financial penalties as well as surcharges for any late payments. Outstanding employer debts are routinely pursued through summons to the Petty Debts court whereby the employer doesn't cooperate. It would only be in very particular circumstances that the expense of a criminal prosecution for non-payment would be appropriate. In the last 12 months there have been no prosecutions of employers solely for non-payment of tax by an employer.

In respect of the potential impact on employees' tax records, where an employer has filed their CER, the employee will receive a credit for the tax deducted from their wages even if the employer has not paid these contributions over. This ensures there is no impact on the employee's tax liability.

Failure to submit to the CER by the employer means that employees do not receive a credit, as no evidence is provided as to the tax deducted. If the employee has no evidence of the deductions, it can directly impact the calculations of their tax liability.

The Deputy may be aware that one business was prosecuted primarily for not filing Combined Employer Returns recently; I understand that cases against other businesses are in the process of being reported to the Attorney General to consider prosecution.

Whilst the prosecution above did not specifically relate to Work Permit Holders, the same approaches would be adopted.

2.32 Deputy M.R. Le Hegarat of St. Helier North of the Minister for Social Security regarding prosecutions for non- payment of employees' Social Security contributions by employers (WQ.472/2023)

Question

Will the Minister advise how many prosecutions there have been, in the last 12 months, for non-payment of employees' Social Security contributions by employers, how many of these prosecutions relate to Work Permit Holders, and what impact this has on the affected employees' Social Security record?

Answer

All employers submit a Combined Employer Return (CER) which covers their Social Security, ITIS and Manpower submissions. The work to ensure compliance in this area is conducted by Revenue Jersey.

Employers who do not submit their Combined Employer Returns can be subject to civil financial penalties and surcharges if they make late payment. Outstanding employer debts are routinely pursued through summons to the Petty Debts court, in any cases where the employer doesn't cooperate. It would only be in very particular circumstances that the expense of a criminal prosecution for non-payment would be appropriate. In the last 12 months there have been no prosecutions of employers solely for non- payment of social security.

In respect of the potential impact on employees' social security records, where an employer has filed their CER, we do credit contributions deducted from employees' wages in the employee's record, even if the employer has not paid these contributions over. There is, therefore, no impact on their record. The failure to submit records of what contributions have been deducted, via the CER, is arguably more serious. As we have no information, and if the employee also has no evidence of the deductions, this can directly impact both the entitlement to benefits in the near term but also pension entitlement in the future.

The Deputy may be aware that one business was prosecuted primarily for not filing Combined Employer Returns recently and I understand that cases against other businesses are in the process of being reported to the Attorney General to consider prosecution.

Whilst the prosecution above did not specifically relate to Work Permit Holders, the same approaches would be adopted.

2.33 Deputy G.P. Southern of St. Helier Central of the Minister for Social Security regarding Income support sanctions (WQ.473/2023)

Question

Will the Minister advise the extent to which Income Support sanctions aimed at increasing workforce participation are required to mirror the proposals of the UK Government?

Answer

Not at all.

Income Support sanctions are not required to mirror the proposals of the UK government in any way. Jersey's system is established under Jersey legislation and is quite different from the UK approach and does not follow or attempt to replicate UK proposals to any extent.

Jersey has its own policies to increase workforce participation and these are very successful. The Island is currently enjoying record low levels of unemployment. This year we have introduced new policies to help keep people in work, such as the introduction of an optional service to help people who receive Short- Term Incapacity Allowance and who want help in returning to work on some basis rather than being "signed off" for a lengthy period of time.

Deputy P.M. Bailhache of St. Clement:

Might this be the appropriate moment to ask whether the Assembly is willing to debate today projet 90, of which I have given notice.

The Bailiff:

Sorry, I am looking now through ... project 90 is your ...

Deputy P.M. Bailhache:

Projet 92 is the Draft Planning and Building (Amendment No. 8) (Repeal) (Jersey) Law.

The Bailiff:

When you mean "take today", do you mean at this sitting or today?

Deputy P.M. Bailhache:

At this sitting.

The Bailiff:

At this sitting. Because we have not quite reached the point ... it is normally at the beginning of Public Business that we deal with the advancement of propositions that have not yet been lodged for the requisite period, and I think that yours falls within that, does it not? You began your question, Deputy, with "is this the correct time". It is obviously an application that you are perfectly entitled to make but the time we would normally make it would be at the commencement of Public Business.

Deputy P.M. Bailhache:

Very well, Sir.

The Bailiff:

I am sorry, I was not clear.

Deputy J. Renouf of St. Brelade:

If I could let the Assembly know that I have a hospital appointment this morning. I have 2 oral questions, which may fall while I am out of the Assembly. Deputy Coles has agreed to await my return to answer the question. I should be back within the period of oral questions, and Deputy Tadier has agreed that Deputy Jeune will answer if I am not here at that time. I hope that is satisfactory.

The Bailiff:

Right. We will move all of your questions to the end of the question list if you are not in the Assembly, Deputy, and that if you are not back in time to take those questions, then Deputy Jeune will answer them on your behalf, is that correct?

Deputy J. Renouf:

Not quite, Sir. Deputy Coles' question can be answered at the end. Deputy Tadier would like Deputy Jeune to answer on my behalf wherever it occurs.

The Bailiff:

Where it falls, very well. Thank you. I will try and remember that as we go but I am sure those will remind you, if not.

Connétable M.K. Jackson of St. Brelade:

Before we proceed, if I may. I have had advice from the Connétable of St. Mary that she is having to attend the hospital with a close family member. I wonder if she could be marked excuse.

The Bailiff:

Do Members agree? That sounds appropriate to me; défaut excuse.

3. Oral Questions

3.1 Deputy A. Howell of St. John, St. Lawrence and Trinity of the chair of the Privileges and Procedures Committee regarding the cessation of live streaming of States meetings by the BBC (OQ.227/2023)

Will the chair advise what consultation took place, if any, with the BBC, before they ceased their live streaming of States meetings; and will she commit to liaising with them to try to restore this service?

Connétable K. Shenton-Stone of St. Martin (Chair, Privileges and Procedures Committee):

I thank the Deputy for her question, and I can confirm that there was no consultation before the BBC took its decision to cease the live streaming of the States meetings, and, yes, of course, I would be happy to liaise with them. I will say that the States Greffe became aware of the service not being available via online queries in September 2023, at which point the BBC was contacted. The BBC informed the Greffe that given the very few people using the service it could not justify its continuation. The BBC also said that it was a duplication of the service provided by the States Assembly, and it felt it better to use journalists' time on covering States stories across TV, radio and digital instead. I will be happy though to liaise with the Deputy.

[9:45]

Deputy A. Howell:

Just to say thank you and if she would be kind enough because it is impacting on elderly people especially, who do not have wi-fi and who just have radios and they would like ... thank you.

The Bailiff:

You have thanked her, that is fine.

3.1.1 Deputy S.Y. Mézec of St. Helier South:

Can I ask the chair if this has provoked her to give consideration to the general provision of live streaming of States meetings? If there is to be an absence of radio broadcast from the BBC, if she is giving any consideration to improvements to the online broadcasting, such as the quality of the picture, which I do not think it appears to be as good as we were necessarily promised when we first introduced live streaming, and an improvement which would help other media outlets be able to use it for their broadcasts?

The Connétable of St. Martin:

I thank the Deputy for his question and I had not given it consideration so far about the quality of the live broadcast and the picture quality. But, as he has brought it up, I am happy to take that forward.

3.1.2 Deputy M. Tadier of St. Brelade:

Does the chair of P.P.C. (Privileges and Procedures Committee) agree that in order for a radio livestream broadcast to happen, it is not necessary for the BBC to do that? Has she looked into the States reopening the radio streaming perhaps on the same frequency, perhaps on a different frequency, so that whoever at home, whatever age they are, can listen on a radio rather than necessarily needing to use the internet?

The Connétable of St. Martin:

I thank Deputy Tadier for his question and I had not given any consideration to the States own radio service. That is something that we will discuss at P.P.C.

3.1.3 Deputy M. Tadier:

I think it relates, sufficiently overlapping, is that we do recall that the 2 boxes up here were used once for the BBC who did stream, but also for a media presence. Does the chair believe that she could contact the media because although they may have access to audiovisual streaming, by not being present in the Assembly they are potentially missing out on a lot of the untold stories, the body language, the facial expressions of Members that are not put on camera that we choose to disseminate, and therefore it might be worth ...

The Bailiff:

I am wondering if you could be slightly more succinct in your supplementary question.

Deputy M. Tadier:

I am, Sir.

The Bailiff:

It is not sounding very much like the word “succinct” as I understand it, Deputy.

Deputy M. Tadier:

I was going to say it has been a long day, but it is ... I am pre-empting it being a long week. Given the fact that they are the fourth estate and they play an important role to the public, would she extend that invite for the public galleries and the boxes to be used if they are available?

The Connétable of St. Martin:

Yes, I will bring this to P.P.C. and we will look at this. I do agree that it was much better when we did have the live broadcast and you could see the nuances of the faces and listen. I know that a huge amount of people used to listen to the States on the radio so it is something that I must admit I had not given that much thought to but now I realise that, yes, I will bring it to P.P.C., and we will discuss it. Thank you.

3.1.4 Connétable K.C. Lewis of St. Saviour:

I too have had residents complain to me that they did like to listen to the States. Many people listen while at their desk, doing their daily jobs. In the interests of openness and democracy, I think we need to pursue this as much as we can. I myself listened to it before I had the honour of being elected to the States, to show there are unintended consequences. But I think the problem being that there are no announcements as to whom is speaking if it is on the radio, if there is not a presenter locally. So maybe the Greffe Department fill that gap, but I think it is essential that this service is maintained. Does the chair not agree?

The Connétable of St. Martin:

Yes, I think I have said to previous speakers that I do agree, and I would like to say that the Deputy Bailiff has suggested exploring the charter between the Government and the BBC, which is the agreement with the British Broadcasting Corporation for the provision of broadcasting, and a member of the Greffe is pursuing this. We are looking at the charter, and we will look at trying to reinvigorate radio broadcast from the Chamber.

3.1.5 Deputy C.S. Alves of St. Helier Central:

Can the chair of P.P.C. just confirm that the digital engagement team are currently looking at widening the offering for streaming across platforms like YouTube and Facebook, when we are sitting in the Assembly live, and that this is being currently overseen by the P.P.C. subcommittee that I chair; the Political Awareness and Education Committee?

The Connétable of St. Martin:

I thank Deputy Alves for her prompt on that and, yes, I can confirm that that is correct.

3.2 Deputy R.J. Ward of St. Helier Central of the chair of the States Employment Board regarding the teachers' pay dispute (OQ.229/2023)

Will the chair advise what additional offer, if any, has been made to teachers to resolve the current pay dispute?

Deputy K.L. Moore of St. Mary, St. Ouen and St. Peter (Chair, States Employment Board):

To seek an end to the dispute for 2023 and reach a resolution, an offer of an additional £1,000 as a non-consolidated payment for teachers employed on 31st December of this year was made to the unions. This offer was on condition of the acceptance of an essential service agreement. However, as Members will have seen, the unions have rejected this offer.

3.2.1 Deputy R.J. Ward:

Can the chair confirm whether the same £1,000 unconsolidated offers was offered to and rejected by headteachers previously?

Deputy K.L. Moore:

As our Members will know, discussions were had with the N.A.H.T. (National Association of Head Teachers) representing the headteachers, with the Minister for Children and Education and, in a separate agreement, that that decision was taken to offer a payment to headteachers, which is called the Education Reform Allowance. That is subject to a separate agreement, and it is a special payment under the Public Finances Manual.

Deputy R.J. Ward:

My question was really quite clear as to whether the same £1,000 offer was offered to teachers previously. I am quite aware of what they accepted but the question was, I think, very clear, Sir: was that same offer offered?

The Bailiff:

The question was had it been offered to headteachers previously?

Deputy R.J. Ward:

Was it previously offered, the same offer they have now offered to teachers and then rejected by headteachers?

The Bailiff:

I am afraid I heard your question as headteachers, Deputy Ward. That you had asked if it had previously been offered to headteachers.

Deputy R.J. Ward:

Yes, that is what I meant, sorry, Sir. So the answer is yes or no, I think.

The Bailiff:

Are you able to provide clarification on that, Chief Minister?

Deputy K.L. Moore:

I do not recall. There have been so many discussions and various negotiations with unions. I can seek to confirm that for sure later this morning, and I will circulate that information to States Members. I am happy also to share that publicly. But I would not want to give an inaccurate answer and, therefore, I hope that the Deputy will allow me to double check.

3.2.2 Deputy S.Y. Mézec:

When the offer of a £1,000 non-consolidated, was made, where was it intended ... what budget was it intended that that would come from?

Deputy K.L. Moore:

That is a matter for the Education Department.

3.2.3 Deputy S.Y. Mézec:

Does the Chief Minister believe that the Education Department has the funding that it needs to be able to offer a decent pay offer to teachers so that they can suspend their industrial action and end the disruption that the education service is facing?

Deputy K.L. Moore:

As I said in my previous answer, that is a matter for the Education Department. What we have to do, as the States Employment Board, is be fair to all members of the public service. We were criticised, if Members recall, when we made an offer to the public service of 7.9 per cent. We have to ensure that we are properly remunerating the people who dedicate their work to public service, and we are grateful to them all for doing that. Therefore, we have to treat everybody fairly. But we also are very mindful of the issue of inflation, something that we have to get under control as an Island and for Islanders who are currently struggling with the cost of living.

3.2.4 Deputy M. Tadier:

I am tempted to say that rents are also inflationary but the Government does not seem to want to do anything about controlling those, of course.

The Bailiff:

Deputy, you know you cannot make a political point which is not related to the question.

Deputy M. Tadier:

That is why I will not do that. The question is: did the Chief Minister and S.E.B. (States Employment Board) not have any consideration about the wider impact that taking these funds for the increased pay for headteachers out of Education's budget might have on the wider education programme and, more importantly, the outcome for pupils, not just those Pupil Premium but pupils more widely?

Deputy K.L. Moore:

If the Deputy wants focus on outcomes, the fact that children are missing out on their education and failing to receive a breakfast club at the moment due to action short of strike action is also hugely damaging for the provision of education to children. There is always a balance to strike, and I believe that this Government have sought to achieve the best balance to look after our staff and people who dedicate their lives to public service, but equally to look after children and offer them the best possible education that we can.

3.2.5 Deputy M. Tadier:

I do accept that the strike action is damaging our children. I blame the Government for not having resolved the strike earlier, as I am sure most of the public do. But the Chief Minister has not answered the question about why she has not ... she has taken the political choice rather than providing central funding for an uplift in all teachers to end the strike, to come to a compromise, and give them a compromised position like they have for the headteachers. But they have limited the hands of the Minister for Children and Education by saying: "You have to take this out of your own budget rather than making money available for you." Why did she make that choice?

Deputy K.L. Moore:

I think I gave my answer in the previous answer. Fairness is the name of the game here. We have offered 7.9 per cent, which was a generous offer to people working in our public service. It recognises their dedication and their hard work in these difficult times. But also has a balanced view with regards to not fuelling inflation. That is what we have to do in Government. We have to take balanced decisions and therefore we have done that.

3.2.6 Deputy L.V. Feltham of St. Helier Central:

Given the Chief Minister's answer or the chair of the S.E.B.'s answer to the previous questions, can she confirm whether or not it is the intention to take the additional money out of schools' budgets?

Deputy K.L. Moore:

That is a matter for the Minister for Children and Education. What we have to do is find a way forward. We have offered teachers a binding arbitration process that has been on the table since June and something that they have consistently failed to agree to. We have very much tried our best. We have also for some months now been engaging in terms and conditions discussions with teachers. That was something that arose out of our regular meetings with union members and something that the previous Government failed to deliver upon and something that we have taken extremely seriously, and we are making good progress. Our commitment to looking after our staff and meeting their needs could not be clearer.

3.2.7 Deputy L.V. Feltham:

Given that we could not get assurance about threat to schools' budgets, could the chair of the States Employment Board tell the Assembly whether the States Employment Board learned lessons from the last attempt at gain-sharing, and if so, what advice she has given the Minister for Children and Education in relation to that?

Deputy K.L. Moore:

Everybody works with the best intentions and, therefore, I believe that teachers also work with the best of intentions. Gain-sharing is a process. It is a useful process sometimes, and I believe that the Minister for Children and Education works closely with her team to deliver the best possible education, the best value for money, for the best outcomes. I fully support her in that work.

3.2.8 Deputy G.P. Southern of St. Helier Central:

Does the Chief Minister not accept that this is indeed a revival of gain share, whereby teachers are asked to take, if they wish, a pay rise? It comes out of the budgets for these children in whose charge they are.

Deputy K.L. Moore:

I was having to consider what the question was there. This is a matter for those who manage education budgets. There is always a process to balance budgets. There is always a process of prioritisation, but I think that the Minister for Children and Education's focus has been clear throughout.

[10:00]

She is a Minister for Children and Education who has made investments in service, who has boosted inclusion, and she will continue to do so and take decisions in the best interests of the children whose education we are delivering.

3.2.9 Deputy G.P. Southern:

Does the Chief Minister not accept that this change is affecting the quality of education that our students can receive?

Deputy K.L. Moore:

I do not.

3.2.10 Deputy C.S. Alves:

I have heard the Chief Minister talk about fairness and valuing education. Given that teachers are some of the most highly-educated people in our workforce, does the Chief Minister not agree that it is important that they are therefore remunerated accordingly and competitively and not continue to have real-term pay cuts? That that is a way to encourage our students to further their own education if they are to know that they will be remunerated accordingly and appropriately.

Deputy K.L. Moore:

Let us not forget that teaching assistants are part of the group that have accepted the 7.9 per cent pay offer. Teaching assistants have also been increased. The number of teaching assistants that we employ as part of our commitment to improving recruitment and retention and supporting teachers in the workplace, we have to find a balance, a fair way of not fuelling inflation but supporting everyone who works in the public service.

Deputy C.S. Alves:

I am sorry, Sir. My question was not answered. I asked if she could confirm what whether she agreed with what I was saying, and she did not. She went on to talk about teaching assistants.

The Bailiff:

I assumed the reference to teaching assistants was an example of why the Chief Minister did not agree with you. But if I have misunderstood that answer, Chief Minister, please clarify.

Deputy K.L. Moore:

I think my answers have sought to express the balance that we are trying to achieve.

3.2.11 Deputy R.J. Ward:

Can I say to the chair of S.E.B., it is not simply the fact that what has happened here is that the headteachers have been paid off with an additional payment, having rejected £1,000? But that has then been offered to teachers. In refusing that, as headteachers would have done, they are now being demonised by this Government for their actions in standing up for their own rights in the sort of comments that were made today about the way in which they are damaging children's education.

The Bailiff:

I am not sure there was a question there, was there, Deputy?

Deputy R.J. Ward:

Is it not the case that what has happened is that headteachers have been paid off?

The Bailiff:

I must have missed that part. I apologise. In which case, is that not the case then, Chief Minister?

Deputy K.L. Moore:

I made it clear earlier that the deal for headteachers is part of an education reform agreement. That is about changing their terms and conditions and it is a separate agreement with the Education Department. The negotiations with unions on pay are a separate matter. We have made our best attempts to find a way forward with teaching unions and it is a matter of great disappointment that we are in this situation today where the education of children is being impacted.

3.3 Connétable A.S. Crowcroft of St. Helier of the Minister for Housing and Communities regarding a new primary school in the vicinity of Millenium Park (OQ.237/2023)

Given the number of new housing units being built or planned in the vicinity of the Millennium Town Park, will the Minister advise whether the Government's plan to build a new primary school in the area, rather than an extension to the park, is being reconsidered; and if not, why not?"

Deputy D. Warr of St. Helier South (The Minister for Housing and Communities):

I thank the Constable for his question. I have a huge amount of empathy for the Constable. Indeed, before I was elected, one of my commitments, as he well knows, was that the Millennium Town Park should be extended all the way through to St. Saviour's Road. If I am being honest, that is still my preference today. I still believe that town residents need green space but I also now recognise that the issues are significantly more complex. The good news is what this Government is proposing will deliver more green space and a new school, albeit not quite in the way I had originally envisaged. Current plans for the former Gas Place site comprise a 2-form entry primary school, including a new nursery and a special educational needs facility and community facilities. The scheme will also provide new green spaces, improve the network of cycle and walking access across town, and improve the quality of town.

3.3.1 The Connétable of St. Helier:

Would the Minister for Housing and Communities not agree with me that there is an important problem of timing here? Andium would have been delivering the extended town park as we stand here today. The extra facilities being offered by the Government are distant. They are distant geographically, and so we will not get the marriage value of doubling the size of the town park. But, more important, they are distant temporally. They are far in the future, these new parks that we have been promised will be created. The needs of people in town now are surely worth accommodating.

Deputy D. Warr:

Again, I do agree with you but I have to say we have a process to go through, and obviously through our future places project, of which I know the Constable is a member. We will work our way through this. As I say, I appreciate his frustration. I am frustrated as well, but we have to accept there is a process to follow.

3.3.2 Deputy S.Y. Mézec:

It took hours for the disunity in the newly reshuffled Government to appear like that. It is incredible, is it not? The Minister referred to his broken manifesto pledge to extend the Millennium Town Park. No ifs, no buts were the words that he used for his voters in St. Helier, and it turned out there were plenty of ifs and plenty of buts. Will the Minister confirm whether or not this supposed Future Places Group will consider the options that have previously been brought and rejected, unfortunately, by this Assembly when Deputy Coles brought a proposition to look at the available sites in that region so the best of both worlds can be delivered: a good school for the children who deserve it in that part of town and an extended town park when he knows there are plenty of options available to deliver that?

Deputy D. Warr:

I thank the Deputy for his question. Clearly, if there were lots of options we would already be trying to find those solutions. As the Deputy is aware, we are already currently building on the northern quarter, which is going to provide much needed homes for residents of St. Helier. But I come back to my point is that the new option on the table will increase the amount of green space in town, and I think it is a good compromise. We have to tolerate compromise in town when we are having to densify town versus keeping green fields in the countryside.

3.3.3 Deputy S.Y. Mézec:

The Minister referred to the northern quarter development, planning permission which was varied to increase the density of homes there when Andium proposed extending the town park, something which no longer counts because of the reversal of that decision. Will the Minister be reviewing the density of the developments that are proposed in that very small part of town to ensure that it has the right number of people accommodated in there so they can have a decent quality of life with plenty of open green spaces they deserve and places in schools for their children?

Deputy D. Warr:

I thank the Deputy for his question. The reality is, the Minister for Planning is in charge of density and size of buildings. We will be meeting all of those requirements and, obviously, what is really good news is that those spaces have been increased to make living more - I am trying to find the right term - a better quality of life for residents of St Helier. As I say, that is within the remit of the Minister for Planning, and clearly all homes now are built to these new standards.

3.3.4 Deputy R.J. Ward:

Given the new Assistant Chief Minister seems to be against building the school that the Minister did have in his manifesto but then changed his mind on, is the Minister worried about being outgunned around the Council of Minister's table?

Deputy D. Warr:

I thank the Deputy for his question. The reality is that we need a new school in the centre of St. Helier and Deputy Ward brought forward that proposition, which we have to acknowledge is in there and is in the bridging Island Plan. So there is that choice. As I said before, we have a choice. We either build the full extension of the Millennium Park and where do we put the school after that? Do we put it somewhere which is not accessible and easily accessible for those new residents in the

centre of town? The whole point of, I am sure, the Deputy's proposition was to ensure that we had good quality education in the centre of town; that was the point. We are fighting over semantics here. We are trying, as I say, to deliver the best of both worlds and the best for everybody that we can.

3.3.5 Deputy R.J. Ward:

I thank the Minister for his acknowledgement, even though it may have been through slightly gritted teeth. Can I ask the Minister, just to reassure the parents and, most importantly, the children at Springfield School in that area, that they will be getting a new school? They will be getting extra green spaces elsewhere and a slight extension to the park and that this will not be reneged upon because of a current change in personnel.

Deputy D. Warr:

I thank the Deputy for his question. Absolutely. It is in the current Government Plan, and I will be supporting that Government Plan.

3.3.6 The Connétable of St. Saviour:

Surely, wherever the new primary school is built, the absolute number one priority should be child safety. We have many, many very busy roads in town. Does the Minister not agree?

Deputy D. Warr:

I thank the Constable for his question. I absolutely do agree. Clearly siting a school in the centre of town is probably the most safe place for a town school to be, particularly as the networks are developed around there for access by walking and cycling.

3.3.7 The Connétable of St. Helier:

Does the Minister not agree with me that the children of St. Helier, their parents and their grandparents have far more to gain from the Government doubling the size of the town park than they do from building a school on the site?

Deputy D. Warr:

Thank you, Constable, for your question. Have they got more benefit? Absolutely. I am sure in an ideal world they have. Sadly, we have to make compromises. But as already said, we are increasing the overall amount of green space in the proposed project.

3.4 Deputy M.B. Andrews of St. Helier North of the Minister for Infrastructure regarding the Jersey Development Company and oversight of Government stocks (OQ.224/2023)

Will the Minister advise whether consideration has been, or is to be, given for the Jersey Development Company to be appointed the property manager for all government-owned dwellings, to allow complete oversight of all government stocks, and whether this change could provide additional accommodation for key workers?"

Deputy T. Binet of St. Saviour (The Minister for Infrastructure):

I think the simple answer to that is no and probably no again. I am not quite sure how it is that appointing J.D.C. (Jersey Development Company) to take over the accommodation stock of Property Holdings would deliver more accommodation for workers but I am sure there will be a supplementary which might make matters a little clearer for me.

3.4.1 Deputy M.B. Andrews:

Does the Minister not believe that Jersey Development Company using private capital is better placed compared to Jersey Property Holdings, who has a rather diminutive budget of £8 million per annum to maintain all of the government stock?

Deputy T. Binet:

I am not sure how that would work. Perhaps if Deputy Andrews would want to meet me afterwards and explain quite what he has in mind, I would be happy to talk to him. But I do not quite see how that would function.

The Bailiff:

We come to question 4 that Deputy Coles will ask of the Minister for the Environment.

Deputy T.A. Coles of St. Helier South:

Sir, the Minister is currently at his hospital appointment.

The Bailiff:

We will put that to *barré de la liste*, as we say in another place.

3.5 Deputy G.P. Southern of the Chief Minister regarding certain figures in the Proposed Government Plan 2024-2027 (OQ.235/2023)

Will the Chief Minister advise whether the figures included in the Proposed Government Plan 2024-2027 under the references “deep-dive reviews”, “value-for-money targets”, “financial recovery programmes”, and “efficiency savings” are related to last year’s public service cuts that were not delivered; and will she provide more detail on these areas to ensure some success in 2024?

Deputy K.L. Moore (The Chief Minister):

The Council of Ministers is committed to continuing to drive value for money in public services and delivering improved value per pound of taxpayers’ money. This is an ongoing process and programme of work. It is important that targets are deliverable, and that is why the Council of Ministers are aiming for £10 million of savings in 2023. That is 1 per cent out of an overall budget of £1 billion. It is proposed to set a further target for 2024, which equates to another £10 million, reflecting our commitment to ensure services embed a culture of continuing efficiency and improvement. This is a figure that we believe is achievable and is in addition to both the value-for-money programme, which we all agree general savings targets across all departments as part of our focus on continuous improvement in services and separate initiatives, such as the Health and Community Services financial recovery plan, which seeks to make further savings.

[10:15]

3.5.1 Deputy G.P. Southern:

Would the Chief Minister accept that what we ended up with last time was salami slicing, random cuts here and there and everywhere just to save money? Is it not the risk that that is likely to happen again this year?

Deputy K.L. Moore:

Last year the programme was successful, saving £7 million out of the £10 million target. Every department, every public servant, has a duty to ensure that they are continually offering the most efficient public services. It is normal in every area of business to continue to seek value for money. A 1 per cent target is perfectly reasonable and achievable.

3.5.2 Deputy S.Y. Mézec:

We are almost towards the end of 2023 so can the Chief Minister confirm whether it is the projection that she has been given that by the end of this year the Government will have achieved every penny of the £10 million value for money savings that were authorised in the 2023 Government Plan. If not, why not?

Deputy K.L. Moore:

By the end of the year I have committed to giving departments time to plan and prepare their savings initiatives ready for mobilisation and operation in future years. We have highlighted work that will be ongoing in the Government Plan and we will endeavour to make sure that those ... well, we will deliver balanced books at the end of this year.

Deputy S.Y. Mézec:

A point of order. That was not close to an answer to my question. The Chief Minister specifically referred to future years, my question was about 2023.

Deputy K.L. Moore:

My answer was about 2023 too.

Deputy S.Y. Mézec:

It was not, not even close but I will take a supplementary if ..

The Bailiff:

If you move on to a supplementary, I think that would be helpful in the context of that.

3.5.3 Deputy S.Y. Mézec:

Thank you. If the Chief Minister is not able to give a very straightforward answer as to whether the £10 million of savings that were allocated for this year have been made or will be made by the end of next month, how can we have any confidence that the £10 million allocated for next year will be achievable?

Deputy K.L. Moore:

With determination, clarity and focus everything is achievable. It is important that we prioritise. With the new leadership of our interim chief executive, I believe that a considerable amount of positive work is being done with chief officers and through departments that will deliver that.

3.5.4 Deputy L.V. Feltham:

Given the pressure on departments to make these savings, has the Council of Ministers identified services that are either over-resourced or non-essential in order to aid the departments make the savings?

Deputy K.L. Moore:

I think we said last year that we cannot continue to be what the interim chief executive has termed in a Scrutiny hearing “an additive organisation”, constantly growing budgets rather than looking at where we can stop, where we can prioritise and where we can do things differently. This is in the 21st century. There are opportunities to harness technology. As the Minister for Sustainable Economy has identified, by cutting through red tape, removing those barriers, such as barriers to business that have been identified, we can find cohesive and coherent savings that can be of a benefit to the public purse.

3.5.5 Deputy L.V. Feltham:

I do not think that was an answer to my first question but I will ask this as a supplementary. Has the Council of Ministers given departments - and this could be a yes or no answer - a list of services that it would like prioritised for either a reduction of resources or that it considers non-essential and should be cut or reduced?

Deputy K.L. Moore:

Our focus now is delivering efficient services. Nobody wants to cut services. What we want to do is ensure that we are delivering value for money, efficient services for the public benefit.

Deputy S.Y. Mézec:

Sir, can I raise a point of order because that was not even close to an answer.

The Bailiff:

I was about to say that I think the answer was directed to have indications been given by Government to various departments as to the areas where those savings are anticipated? If it has, it has, if it has not, it has not, it seems to me.

Deputy K.L. Moore:

Sir, I think I have been very clear that our emphasis and focus is on prioritisation and efficiency. There is no list of services to be cut because that is not our intention to cut services. It is our intention to deliver efficient, cost-effective value-for-money services.

3.5.6 Deputy M. Tadier:

I am thinking of an analogy, which is if one were to go to a bank and say: “Could I have some money, please? Can I borrow some money?” and they say you cannot afford it but then you say: “Do not worry, I am going to be making efficiencies”, I do not think they would lend you the money. Can I ask the Chief Minister: is it reasonable to balance off current spending and growth projections that they have in the Government Plan against future, what I would call, imaginary money that has not achieved yet? Given the fact that if we as Back-Benchers want to put amendments into the Government Plan, we have to be very specific about where that money is coming from and we cannot simply say it is coming from the magic efficiency tree.

Deputy K.L. Moore:

I think that is a slightly distasteful tone of the question given that every single household in the Island is tightening its belt. Whatever the circumstances of people in the Island, we are all faced with increasing costs due to inflation. Therefore, we all have to keep focused on doing that very thing. As a Government, I think it is important that we look to the next year with that commitment to delivering efficiency and delivering consistent and high-quality services, which is our commitment to the public.

3.5.7 Deputy M. Tadier:

I will put it another way in the supplementary. I do not think it is distasteful at all to ask that question, I think it is the opposite. Why is the Chief Minister effectively spending money in this Government Plan that she does not yet have? She is just hoping that, magically, some efficiencies might happen, which we know historically, throughout various Government Plans, departments have been unable to deliver because actually when push comes to shove they are working more or less very efficiently.

Deputy K.L. Moore:

The Deputy knows full well that as a Government and under our Public Finances Manual, it is absolutely essential that we deliver a balanced budget. Therefore, work has been done very carefully to ensure that the Government Plan projects a balanced budget for next year and the ongoing years. It is not an easy task when there is a continuous pressure to increase services and to add new things. The growth bids every year are excessive and somebody somewhere has to decide which of those growth bids to accept and which to reject. In order to be able to accept some of them we have to be more efficient about the way we deliver the services that we are already offering to Islanders. We

are doing that in consistent and clear ways such as the Financial Recovery Plan in Health and Community Services.

3.5.8 Deputy M.R. Scott of St. Brelade:

While sharing Deputy Tadier's concerns that historically efficiencies often have impacted on front line staff, could the Chief Minister please explain whether the value-for-money review extends, in terms of finding efficiencies, to modernising management techniques, bringing remuneration award schemes more in line with the private sector, reducing the size of golden handshakes and increasing performance related pay structures?

Deputy K.L. Moore:

There is a performance management review that has been embedded across the services through the new I.T. (information technology) project. I think that is exactly an example of the request that the Deputy has made there. Performance management payments are, of course, a difficult thing in a public sector so I would suggest that following private practices would be slightly difficult. But what we are focused on doing is improving the performance management of everybody across the public sector using the new system and ensuring that that is driving people's focus on efficiency and effectiveness.

3.5.9 Deputy M.R. Scott:

Can the Chief Minister seriously look at businesses in the private sector in the eye who are actually having to tighten their own belts to manage their businesses efficiently, who have not being able to award pay of the size that we have seen in the public sector and not been able to grow in the way, at taxpayers' expense, that the public sector has? Is she pursuing a more advanced structure in terms of remuneration, pay grades that reflect the realities of the economy of this Island?

Deputy K.L. Moore:

There is always work to be done. However, obviously public sector pay has moved at a different rate to private sector pay and I think, as I have outlined in previous answers, we are absolutely mindful of the impact on budgets in private households, in private business and in the public service. It is part of a team effort across the Island to combat inflation, to do our bit to tighten our belts and ensure that we are being as effective and as efficient as we can be.

3.5.10 Deputy G.P. Southern:

Does the Chief Minister not accept that her own advisers have warned against the inclusion of speculative savings in their projections and yet on page 56 of the plan here we see: "The programme will deliver recurring savings of £25 million by 2025 with £10 million delivered in 2024." Totally speculative, best guess, cross your fingers; is it not the case?

Deputy K.L. Moore:

I do not believe that is the case. I believe that we have a team of people who are focused and determined on delivering effective and efficient spending within the public service. It is a commitment and if we did not put it in the budget then it would be a dereliction of duty, because we would be failing to demonstrate that we had a commitment to tightening belts just like everyone else in the Island.

3.6 Deputy L.V. Feltham of the Minister for Treasury and Resources regarding the error rate on tax assessments (OQ.231/2023)

Will the Minister advise whether he has reviewed, or will review, the causes for the error rate on tax assessments and, if not, why not?

Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter (The Minister for Treasury and Resources):

I meet with the Comptroller of Revenue regularly to discuss the operational performance of Revenue Jersey and I will continue to do so. We do review levels of error arising in the tax system every year and I, of course, support Revenue Jersey's compliance programme, which is also published annually.

3.6.1 Deputy L.V. Feltham:

Given that answer, is the Minister content with the current operational performance of Revenue Jersey?

Deputy I.J. Gorst:

It is easy in this Assembly to criticise officials. I was quite clear when I stood for this position that one of the jobs that needed undertaking was support for Revenue Jersey to improve their customer service and how they were providing that service to Islanders. We are in the middle of that programme. They are making good progress. Members will see from the F.O.I. (Freedom of Information) information that the level of errors in that particular part of the process is reducing, and we continue to make progress to ensure that they are. But, more importantly, that we modernise our processes through things like online filing so that errors are manufactured out of the system before it even gets to the individual taxpayers. It is a work in progress but progress is being made.

3.6.2 Deputy R.J. Ward:

It is good to hear the Minister supporting the staff in the Tax Department. Can I ask the Minister: is he seeing a pattern in a decreasing number of errors? What type of error rate do we have as a percentage, if he has that, or has it levelled off?

Deputy I.J. Gorst:

As the Deputy will know from the F.O.I., of which there was great publicity recently in the *J.E.P. (Jersey Evening Post)* ... and I understand that other media outlets are also trying to dig up stories in in the same area. We will see from the F.O.I. that it is reducing but I do not take that for granted. I continue to work with Revenue Jersey to ensure that they do have the support, that they are modernising their processes but, most importantly, as I say, that we are trying to engineer out the possibility of error, whether that is on individual taxpayers filling in their form ... and Members will know that is not as straightforward as we would yet like it to be. So that is reducing error levels but also communication with Islanders to help them understand what allowances they are eligible for and what information they need to provide.

[10:30]

3.6.3 Deputy R.J. Ward:

Can I ask the Minister to reassure members of the tax paying public that they should not expect to see any major changes as the year comes to the end because the Tax Department is on top of it and that they can be reassured that if they fill in their forms correctly errors will not be made?

Deputy I.J. Gorst:

It is a nice little trap that the Deputy would like me to fall into. Of course he knows there are 2 elements to errors. There could be a missed completion of a tax return and there also can be internal errors within the department of transposition of numbers and all sorts things, as you would have in any organisation that was dealing with numbers. My priority is 2-fold. One is, as I have said, trying to engineer out the ability for errors when tax returns are being made. Secondly, there is a stream of education and training within the department to make sure that there are not those type of transposition errors or departmental errors as well, which leads to an undermining in the public's

mind of Revenue Jersey. They are making progress, they are doing a good job but there is more to do.

3.6.4 Deputy C.S. Alves:

I am extremely supportive of the staff in the department who have always been extremely helpful whenever I have contacted them with constituency issues. Can the Minister outline exactly what tangible things have been put in place since his election to Minister, apart from online filing, which he has mentioned, to facilitate things for the public?

Deputy I.J. Gorst:

I do not like to be boring in question time because I know there is a great element of theatre, but the reality is that this is quite a boring subject. One of the things that we have done is greying out elements of the return so that Islanders do not put in the pence. What we cannot then do, of course, is account for Islanders who put the pence in the pound boxes, that obviously leads to all sorts of errors. We have done that. We have also done more publicity. I have got some here but we have had complaints about the quality of the television, so I will not hold them up for Islanders to see. But it is an ongoing programme of communication and trying to engineer out in the system. I understand for some Islanders, they are concerned about the E.I.D. (electronic identification) for online filing. That is also something that we have been trying to work across Government on, ironing out that, because once that is done then the online filing is by far and best the way to avoid errors within the system.

3.6.5 Deputy C.S. Alves:

Can the Minister outline if there has been anything done through a more diversity and inclusion lens, for example, making the actual form more accessible, more readable or even changes in language? Has there been any work done around that?

Deputy I.J. Gorst:

That is a good question to which I do not have the answer. I do know that I have individuals in the department whose job it is to be mindful of those issues and to think about language. Certainly language is thought of when it comes to communication, whether it is actually thought of because the return is based on the legislation and therefore the language is really driven by the legislation, but it is something that I will take back and see if changes can be made also to the language in the return.

3.6.6 Deputy L.V. Feltham:

Given the effect on the individuals involved, through whichever means the assessment may be incorrect and also the possible effect on public finances of incorrect assessments on the anticipated revenue, could the Minister give us assurance that he feels that the department is adequately resourced in order to provide the types of services and the expected level of service that the Assembly and the public might expect. If he does not feel it is adequately resourced, what is he doing to remedy that?

Deputy I.J. Gorst:

I always work with my officials to ensure that we are seeking to deliver best value for money in the way that the Chief Minister just indicated in her answer some moments ago. Members will be aware that there is a part of the Government Plan to further support Revenue Jersey in providing customer service and compliance work. I hope that Members will support that. We should not draw from this fact - if we take the F.O.I. question - that government revenues are less than forecast because of this process. That is not the case, that is not how we forecast income into the department and, therefore, it does not affect that forecast. That is driven by other things.

3.7 Deputy M. Tadier of the Minister for the Environment regarding maintenance of listed buildings in public places (OQ.232/2023)

Will the Minister advise whether there is any requirement for Government to ensure that listed buildings located in prominent public areas are maintained? If there is, how is this enforced?

Deputy H. Jeune of St. John, St. Lawrence and Trinity (Assistant Minister for the Environment - rapporteur):

I thank the Deputy for his question. The listing of a building or place does not impose any requirement on the Government or the owner of the land or the building to maintain it. Listing simply recognises that a building or place has some public importance by reason of its special archaeological, architectural, artistic, cultural or historical interest and provides greater control over operations which might affect the special interest of that site.

3.7.1 Deputy M. Tadier:

I think the Minister has given a strictly legal answer but, of course, if we think about it, it does not make any sense logically. Why would we ask people to list their buildings if actually we do not want to protect those buildings as sites of special interest? I can think of many, the Odeon Cinema is the one that sticks out in my mind. Does the Minister agree that although there may not be a legal requirement, there are levers in the 2002 Planning Law? Article 56, which says that the Minister may make a grant or a loan to make funds available to the owner of an occupied property or of a listed building to make sure that it is preserved in the public interest. But also Article 84 gives the chief officer permission or power for any building that he or she considers to be in a ruinous or dilapidated condition that the department can serve a notice requiring that building to be demolished, repaired, decorated or otherwise improved. Does the Minister acknowledge that?

Deputy H. Jeune:

As the Deputy has outlined, there are powers in the Planning and Building Law, especially under chapter 6 to compel the repair of dilapidated or ruinous buildings. This includes listed buildings but the threshold for such action is very high and the powers are draconian. The start of the work that the officers do is persuasive compliance, it is always the first port of call and it does not go straight to legal action.

3.7.2 Deputy S.Y. Mézec:

The Assistant Minister referred to persuasive compliance and the less persuasive requirements being draconian. Could she give any examples of any times in recent years where either of those methods has been adopted to improve the state of a listed building in Jersey?

Deputy H. Jeune:

Thank you, Deputy, for the question. I am afraid I would be unable to give you exact examples but will be able to come back to you, of course, with examples. But the work that is carrying on at the moment, for example, there is work on a Heritage at Risk Register and this is underway and it may lead to laws that can provide greater protection with a more nuanced approach than the current Planning and Building Law, which has this draconian law.

3.7.3 Deputy S.Y. Mézec:

From what the Assistant Minister has just said, could she provide more detail of precisely what they would be looking at?

Deputy H. Jeune:

We would be happy to have a meeting to discuss these issues in more detail and, as the register is developed, to share that with the Assembly.

3.7.4 Deputy M.R. Scott:

Given the Assistant Minister's reply, perhaps she could explain why P.85/2003, the Draft Planning and Building Conservation Areas (Jersey) Regulations that are to be debated by the States Assembly today are considered necessary given the fact that funds can be given towards the conservation of buildings?

Deputy H. Jeune:

I thank the Deputy for the question. Under Article 56 of the Planning and Building Law a fund could be made available for sites of special interest. This includes listed buildings and this allows the Minister to be able to provide grants or loans towards necessary costs around protect, repair or restore listed buildings in place. This is a discretionary power but it is something that was ... a grant scheme was there and operated between 1995 until 2010 but this fund has not been replenished since 2010. At the moment in the Historic Environment Team there is not the level of resources able to operate such a scheme at present.

3.7.5 The Connétable of St. Martin:

I would like to ask the Assistant Minister, if there is a special fund for the preservation of listed buildings, whether that could please include the iconic and historic listed buildings of the 12 Parish churches, which is a huge drain on resources of Parishes?

Deputy H. Jeune:

I thank the Connétable for her question. There is, of course, a special article in the Planning and Building Law for a fund. As I mentioned, since 2010 this fund has not had any funding in it and so it has not been able to do this further. But, of course, as part of the discussion around the Heritage at Risk Register, this kind of discussion can add further into that as well, including the churches.

3.7.6 Deputy S.G. Luce of Grouville and St. Martin:

Would the Minister agree with me that without a properly constituted fund, without a significant amount of money, the many important and listed buildings on the Island will continue to fall into disrepair because the owners simply do not have the cash to invest in them?

Deputy H. Jeune:

I thank the Deputy for his question. As the work is undergoing around the Heritage at Risk Register, this kind of work will be able to identify where the most at risk are and then, of course, work can then be discussed about the appropriate approach to that. Whether that is to develop further laws to compel landowners to do such maintenance or for a fund to be replenished in such a way, but at the moment that work is ongoing. As I said, we will be very happy to share that with the Assembly when there are further plans to be able to share.

3.7.7 Deputy S.G. Luce:

If I heard the Assistant Minister correctly, she is going to compel people to do work on their property when they have no money so to do. Can she explain how that works, please?

Deputy H. Jeune:

As I said before, the Planning and Building Law has a number of articles under chapter 6 which would compel landowners to repair dilapidated or ruinous buildings. Of course, as I mentioned before in another answer, these are draconian ways to do that. Officers and the Minister are very keen to have persuasive compliance first. Of course, within the discussions around the Heritage at Risk Register and focusing in on where the areas are most at risk, whether that is building or land areas, that will, of course, discuss how to do that with landowners. That could include, of course, a

replenishment of such a fund that is already available under the law but has not been replenished for a number of years.

3.7.8 Deputy M. Tadier:

I do not accept that the laws are draconian and I would be interested to find out what other methods - the less persuasive methods - have been used up until now. I have been in the Odeon building, for example, as part of the Festival of Words and it has to be said that the owners of that building do have enough money to do the inside of the building up to a very high standard. It is a beautiful building, beautifully restored inside, but it seems that unless they get a tap on the shoulder from the Minister referring them to the Article 84 or indeed Article 56 and saying: "Would you consider please doing the outside of the building up?" because it is a public building in the centre of town next to a new hotel and next to the town park.

[10:45]

The Bailiff:

Could you reach the question, please?

Deputy M. Tadier:

That is the question.

The Bailiff:

I am sorry, I have not heard a question yet, Deputy. We do have to get there.

Deputy M. Tadier:

I am sure we will still be within the 2-hour limit for questions ...

The Bailiff:

I know but I am not intending to allow you the full 2 hours.

Deputy M. Tadier:

Notwithstanding that I think this interaction has probably taken more time than my question and I may have lost my train of thought ...

The Bailiff:

Well, I am not sure that that is a helpful assumption. Please do ask the question.

Deputy M. Tadier:

I am minded I am also supposed to sit down when you are talking to me.

The Bailiff:

No, that is perfectly all right.

Deputy M. Tadier:

Given the fact that buildings like the Odeon Cinema, which are severely dilapidated on the outside and they are in such prominent physical positions in St. Helier, would the Assistant Minister consider using some of the powers - the carrot of Article 56 and the stick of Article 84 of the law - to approach the owners of such buildings to see if they might possibly please do up their buildings?

Deputy H. Jeune:

I thank the Deputy for his question there. I believe the question was why has more not been done. The point is that the law ... why I say it is draconian is because the bar is extremely high and it is only being able to intervene on extreme circumstances and there are limited resources to pursue also,

of course, the work of persuasive compliance. There has to be a balance there. The work that we are doing on the Heritage at Risk Register, and we are supporting the vacant homes work as well because many of those sites identified are also listed in historic buildings, those works will be to try to persuade landowners to make those changes. I have answered the other questions in that question.

3.8 The Connétable of St. Martin of the Minister for Sustainable Economic Development regarding online safety (OQ.225/2023)

I believe the Assistant Minister is answering this question. In relation to the U.K. (United Kingdom) Online Safety Act, and in light of the Government's decisions to decline a permissive extent clause, will the Minister advise what discussions, if any, are taking place between the Government and the U.K. Government to provide similar protection to Islanders, including the online regulation of the largest and highest risk services and offences?

Deputy A. Curtis of St. Clement (Assistant Minister for Sustainable Economic Development - rapporteur):

Discussions with the U.K. have been limited to the original decision as to whether or not to include a P.E.C. or permissive extent clause in the Online Safety Bill. We are working closely with Justice and Home Affairs to ensure new and relevant criminal offences such as those contained in the U.K. bill in our legislation, and we will do so with such amendments alongside any recommendations being adopted and followed from the Violence Against Women and Girls Task Force report.

3.8.1 The Connétable of St. Martin.

I think the Assistant Minister has answered me quite well. The permissive extent clause would enable the relevant provisions of the Bill to be extended to Jersey should the States decide this is desirable in future. I am pleased to hear what the Assistant Minister said but I would just like him to assure the Assembly that Jersey does not fall behind Guernsey, the U.K. or the E.U. (European Union)?

Deputy A. Curtis:

I thank the Connétable for her question and for highlighting that the U.K. is not the only place that is legislating and regulating in this area. I can confirm that the team is looking into the area of regulation as well as criminal offence. This is an area that is rapidly evolving and at the time of the offering of a permissive extent clause, both the Minister and I, on advice and consultation with law officers, felt the correct decision was not to include one. That is not to say we are not actively pursuing investigations into both the criminal and regulatory side, looking at what the U.K. is implementing, the E.U. and further afield to make sure we have the right regulation for Island citizens.

3.9 Deputy S.Y. Mézec of the Minister for Infrastructure regarding the temporary closure of the abattoir (OQ.233/2023)

Will the Minister advise what action, if any, is being taken to support Jersey's farmers while the abattoir remains closed.

Deputy T. Binet (The Minister for Infrastructure):

This is a slightly more tricky question than it may seem. What action has been taken to support Jersey farmers while the abattoir is closed? Well, while it is closed the only support that can be given, I would suggest, would be of a financial nature by way of subsidising feedstuffs for the continued weeks that animals have to be maintained before the abattoir is open. Strictly speaking, that sort of support would need to ... that question would then need to be addressed to the Minister for Sustainable Economic Development because that is where the rural economy team sits. But if Deputy Mézec would like to know more about the physical things that we are doing to try and reopen the abattoir, I would be quite happy to take supplementary questions on that basis.

3.9.1 Deputy S.Y. Mézec:

I thank the Minister for his answer. Of course, these issues are interconnected and in determining how much financial support would have to be provided they would have to know what the timescale is for getting an abattoir up and running again. Can I ask the Minister, therefore, if he has involved himself in any of those conversations so that both of these aspects are taken care of adequately to ensure that Jersey's farmers are supported?

Deputy T. Binet:

Yes, I can confirm that I have been quite actively involved in this. A lot of effort has been made to reopen the abattoir as quickly as possible. We have to bear in mind that the roof of the abattoir is asbestos; 25 per cent of it needs to be replaced. Some holes were torn in the roof. The slaughtering area, which is a food safe area, was badly affected by asbestos and all the electrics were affected by water. The first thing to do is get a new roof on it or replace the sheets that have been broken, then attend to the asbestos through having a deep cleaning process, then attending to the electric. Contrary to what has been said on social media, a huge amount of effort has been made to co-ordinate that and that all takes time. Other difficulties that relate to that are a shortage of scaffolding, because, given the events of last month, scaffolding is being used everywhere. So all of those things are now in place. In the meantime, we tried to organise to import a mobile unit and, without going into too much detail, that would not have arrived until after the abattoir could be reopened. We have also investigated sending live animals to Guernsey and that is complicated too. They can only take some types of animal and that could not be until after the intended reopening date of the abattoir. We are hoping to get everything done by 10th December, we are doing all we can to bring that forward. We believe there are about 60 animals that will be requiring slaughter at that time. The staff have agreed to work overtime and we think that will take about a week's work. In closing, I would just say we have a great deal of sympathy for people that have been affected but I would just remind the Deputy that meat suppliers are commercial businesses. I was involved in that line of work for quite some time and we always tried our best to have business interruption insurance. I think that is quite an important point to make.

3.9.2 The Connétable of St. Brelade:

Would the Minister be able to tell Members what the implications on the abattoir staff might be with the disruption? Are they employed directly? Are they contractor staff? Perhaps he could clear that up.

Deputy T. Binet:

That is a slightly awkward question. I am not entirely sure how they are employed. I believe that they are employed directly and they have agreed to work consistently. They normally only slaughter one day a week but I think they are going to work consecutive days in order to clear the backlog.

3.9.3 The Connétable of St. Brelade:

My concern was whether they are being affected in a detrimental way by the closure of the abattoir. Perhaps the Minister would confirm that is not the case?

Deputy T. Binet:

I do not believe that to be the case. I do not think they are affected in any way of that sort.

3.10 Deputy G.P. Southern of the Minister for Social Security regarding sanctions in the welfare system and helping claimants returning to work (OQ.236/2023)

Will the Minister advise what evidence she has used to support the use of sanctions in the welfare system to help get claimants back to work; and will she detail the training that her department's support workers receive to help return claimants to work?

Deputy E. Millar of St. John, St. Lawrence and Trinity (The Minister for Social Security):

I thank Deputy Southern for his question. The question has 2 parts, so I will deal with the first one. The evidence I have is that the current system is working well. Jersey enjoys a very low level of unemployment with those job seekers who claim income support being actively supported by the Back to Work teams. It is a condition of claiming income support that people who are able to work are either in work already or that they will be expected to look for work. Work conditions do not apply to people with caring responsibilities or significant health conditions. The requirement to look for work is a feature of most tax-funded benefit systems and has strong public support. As well as providing incentives for those who do find work, there are a range of sanctions in the Jersey system for those who claim benefits but do not take reasonable steps to find work. As regards to training, on joining Back to Work, new advisers are allocated an experienced officer to partner with and they work through a comprehensive checklist of all the role entails. There is classroom training on the relevant legislation and decision making. Advisers also undertake safeguarding training, customer service training and mental health first aid training. After this training period, they continue to work alongside their appointed experienced officer on a mentoring basis before they undertake the role unaccompanied.

3.10.1 Deputy G.P. Southern:

Does the Minister consider that there is scope in her system for increased sanctions to operate as has been taken in the U.K. by the U.K. Government?

Deputy E. Millar:

I have not followed closely the proposed changes in the U.K. The Jersey system is completely different and I have no plans to change our system in the same way.

3.10.2 Deputy R.J. Ward:

Does the Minister track sanctions that are made for people who are working and leave a job for reasons of health, which may not be evidenced at the time?

Deputy E. Millar:

I believe if someone leaves a job for health reasons, they will not be subject to sanctions. I think when someone just throws in the towel on a job, then they may be subject to a period of sanctions. I am afraid that is a very technical, detailed question. If someone becomes ill afterwards, I am not quite sure, but I am sure that will be dealt with by officers.

3.10.3 Deputy R.J. Ward:

Given that the increased awareness of mental health conditions, thankfully, in our society, could the Minister accept that people may leave a job and not really be in a position to explain why? Therefore, can I ask the Minister whether she would be happy to look back on such cases and review the reasons why sanctions were applied and perhaps then change those payments that have been made?

Deputy E. Millar:

I think that is quite difficult. I think to look at things retrospectively is also going to be challenging. I am not sure if the Deputy is suggesting we look at every single case where someone has been sanctioned for giving up work to check whether there is a mental health aspect. I would imagine if we did we would need some kind of medical evidence that there was a mental health issue to support that and that we would not just simply take someone's word for it, because anybody could say they were leaving work because it was impacting their mental health, whether that was true or not. I think that is a very difficult area.

3.10.4 Deputy R.J. Ward:

Sorry, that was not quite the question. I was saying in a situation where people are not in that situation at that time and then, retrospectively, if they can say that that was the reason, will they be looked back on? That was the question. I think it was a slightly ... dare I say, the answer was put to a question that was not set, again. It seems to be happening a lot.

The Bailiff:

Are you able to answer?

Deputy E. Millar:

Sorry, I am struggling to understand the question. If the question is that someone leaves a job, they are given sanctions and 6 months later they decide that they left the job because they were having a mental health crisis, that is a very difficult thing for us to assess. That person would have to come forward and explain that to us but I am not sure that I can do any kind of proactive review without people coming forward.

Deputy R.J. Ward:

The question was whether the Minister would be willing to look back on such cases or whether the department looks back on such cases given the nature of mental health issues.

The Bailiff:

Well, I think the Minister's answer was that - correct me if I am wrong, Minister - yes, it is something that can be looked if an individual comes back and raises this issue. Is that correct?

Deputy E. Millar:

Yes, Sir, exactly. That is what I said, if someone comes and ask us I am sure we will look at it.

3.10.4 Deputy S.Y. Mézec:

Could the Minister indicate for the Assembly how many income support payments are currently subjected to a sanction?

Deputy E. Millar:

I do not have a number as at today but I do know that in this year 75 financial penalties have been applied, 47 have seen some removal of the adult component only in 14 days and only 6 have resulted in the closure of an income support claim. There are over 600 people, income support claimants, currently registered as actively seeking work and there will be many more than 600 that will have engaged with Back to Work over the course of the year. There are small numbers of people who are subject to sanctions and those sanctions are only applied in appropriate circumstances.

[11:00]

3.10.5 Deputy S.Y. Mézec:

Can the Minister tell us of those who have been sanctioned, how many of those attributable to that sanction ended up finding work as a result of it?

Deputy E. Millar:

I do not know. The whole point of actively seeking work is that people are supported to return to work where they can. If someone has had a sanction, it is because they are not actively seeking work, they are not turning up to interviews or they are not attending work on a reasonable basis but the team have a very high success rate in finding people work and there are numerous methods they use to do that.

3.10.6 Deputy G.P. Southern:

What attention will the Minister pay to recommendation 22 of the review of income support benefits overpayments: “The Minister for Social Security must look to introduce mandatory training on learning difficulties for all staff who are directly involved in income support processes” and expanding further: “The Minister for Social Security should ensure that unconscious bias training is introduced and delivered to all customer facing staff within Customer and Local Services”?

Deputy E. Millar:

I am not sure that is entirely supplemental because the review panel was looking at overpayments and not sanctions. Our response to that is all our staff are given extensive training and we constantly monitor the need for training. If the department feel that the type of training the Deputy mentioned is required for the actively seeking work team, then I am sure they will be included in all new training initiatives.

3.11 Deputy R.J. Ward of the Minister for Children and Education regarding the Educational Reform Allowance (OQ.230/2023)

Will the Minister advise how the educational reform allowance included in the offer accepted by headteachers will affect the educational reform programme?

Deputy I. Gardiner of St. Helier North (The Minister for Children and Education):

I thank the Deputy for his question. The educational reform allowance will support and enable the progress of the education reform programme through additional time and input from school leaders. I am confident that this allowance and the increased commitment of school leaders will have a positive impact on the education reform programme.

3.11.1 Deputy R.J. Ward:

Can I just check with the Minister? The money put aside for the 2.4 per cent pay increase given to headteachers after their rejection of the £1,000 is from the education reform programme, so does that mean that the education reform programme would now have less money to implement what you have talked about or not?

Deputy I. Gardiner:

First of all, I would like to correct 2 statements that are incorrect. It was never percentage in the agreement; second, that payment connected to the size of the school and the leadership scale and the input of the extra days outside of the term time. So outside of the term time the deputy head teachers and head teachers would do between 10 to 15 extra days outside of the term time and this is how the reward would be calculated. Outside of the term time, head teachers and deputy head teachers would need to develop several things to make sure that education reform would go forward.

3.11.2 Deputy S.Y. Mézec:

Could the Minister explain how an increase in remuneration to attempt to do something to catch up for the degradation in pay for this profession has faced in recent years meets the definition of a reform?

Deputy I. Gardiner:

What is really important to understand is that the demands from the education changed over the years. We are working, and I started to work last year together with the headteachers, to allow more autonomy of schools which obviously will require more time and input from the headteachers. I have been proposed and accepted the Professional Education and Advisory Oversight Forum, the forum that should constitute formal alignment to the Curriculum Council, and it will be the environment that will ensure that oversight and assurance to deliver the ministerial delivery plan. So we do need

this forum and it will require input from the headteachers. I need that the school leaders will support development of the strategic plan for education which clearly outlines demand and capacity, demographic requirements, future catchment arrangements, selective education review, inclusion and standard development. We are on the inclusion journey and it is not an easy journey, it is new for everyone, and headteachers need to create a working environment within the school which will deliver inclusive education to resolve challenges that we are facing. Headteachers will increase their non-term working time from 15 up to 30 days, which would depend on the school environment which recognises the variation in the scale and size of the school. This memorandum of understanding we are not talking about 30 days, it was very clear between 10 to 15 days, but this is an agreement only for a year once we have reviewed the terms and conditions. Once the review of the terms and conditions has finished, this will be included in an updated pay for the teachers but it is not through the S.E.B., it is through the department and S.E.B. together. It depends on the requirements that we have.

3.11.3 Deputy S.Y. Mézec:

I will give it a go; I do not think the initial question was answered. I am asking the Minister if she can explain how an increase in remuneration meets the definition of reform because if we are talking about an educational reform programme that sounds to me like it is meant to be about the way education is delivered and not the remuneration package of the people who deliver that education, that that is a matter to be considered alongside the cost-of-living implications, not the model of education that is delivered to children, so why would those 2 things be connected if remuneration is not part of that definition?

Deputy I. Gardiner:

I think I answered to the previous States Assembly there are 2 parts to the negotiations. One part it is to pay at 7.9 per cent and it has gone through S.E.B. The second part is the delivery of education reform when headteachers and the deputy headteachers are held accountable for performance, quality and standards, revised course standards, revised frameworks, changes that need to be done in school followed by the policies from the department. What headteachers will be paid from the department, from the education reform, will meet what we require them to do outside of the previous scope of their definition. So this is why we have a terms and conditions review that will update what headteachers are required to do in 2023 and in the future.

3.11.4 Deputy L.V. Feltham:

I just wanted to place a bit of context around this and I wondered if the Minister could advise the Assembly and just refresh our memories about what the purpose of the education reform programme is and the anticipated outcomes will be at the end of the programme.

Deputy I. Gardiner:

There are several parts for the education reform and the education reform is, at present we are faced with an increasing complexity in demand, particularly in secondary education, against reducing demographics, demand for low base. We have complexity around various needs and diversity that we are having at schools. We believe there is a clear opportunity to redesign the education system so we can offer excellence in education while recognising choice and ensuring that the standards are reflective of the Island needs.

3.11.5 Deputy L.V. Feltham:

I thank the Minister for her answer there; I think it is useful for us to have that context. I am aware that the education reform programme has been ongoing for several years, so could the Minister just update us on where she is at with that particular programme and what the overall budget for that programme is?

Deputy I. Gardiner:

In the previous Government Plan of 2023 and for the next 3 years, I do have £6.1 million at least for this year and I have just about £6 million for the next year when we are concentrating on inclusion. So once we redesign the school system and delivery to meet the needs of the children that previously would not go to school, they would go to a specialist school, but we are trying to make sure that the children and young people are included in the mainstream education which requires extra support and a different curriculum and a different system working within the school. This is how the £6 million will be spent: 80 per cent of the £6.1 million spent in the school budget and 20 per cent is around recruitment, training, professional development and central team which are doing outreach work.

3.11.6 Deputy R.J. Ward:

Let me word this really carefully. The headteachers accepted an additional 2.5 per cent as a pay rise backdated to January, that came from the education reform programme, why is that money not available for all teachers or have the reports of that basically been wrong and that is not what teachers are saying? Can the Minister confirm headteachers have not received that extra pay rise?

Deputy I. Gardiner:

Headteachers received between £2,000 to £3,000 depending on the size of the school, depending on the day that they need to give outside of the term time and depending on their pay scale. We never, ever talked about 2.5 per cent. I have no idea where this number came from. On top of this, teachers were offered £1,000, which I am really disappointed that this offer has never been put to ballot to the teachers for them to decide if they would like to accept this offer or not.

3.12 Deputy M.B. Andrews of the Minister for Justice and Home Affairs regarding assaults on female police officers (OQ.226/2023)

Will the Minister state the number of cases since 2018 of female police officers who have been assaulted while on duty, broken down by incidents of verbal, physical, and sexual assault?

Deputy H. Miles of St. Brelade (The Minister for Justice and Home Affairs):

During this time period there have been 43 incidents of female officers being subject to assaults. Nearly all of these relate to the offences of assaulting a police officer in the lawful execution of their duty. Since 2018 there have been 14 recorded incidents of female officers being sexually assaulted and these are all nearly in relation to sexual touching offences.

The Bailiff:

No supplementary then?

3.13 Deputy S.Y. Mézec of the Minister for Justice and Home Affairs regarding the recommendations from the report by the Violence Against Women and Girls taskforce (OQ.234/2023)

Will the Minister state whether she accepts all of the recommendations from the report by the taskforce on Violence Against Women and Girls and, if she does, will she advise when the Government intends to publish a timetable for the implementation of those recommendations?

Deputy H. Miles (The Minister for Justice and Home Affairs):

I thank the Deputy for his question. I would like to start by commending the work of the Violence Against Women and Girls taskforce who have worked with energy and dedication to deliver the report. I am sure Members would wish to join me in expressing this Assembly's gratitude for that work which will not always have been easy and I urge those Members who may not have done so to read the full report. As the Deputy will be aware, the report is an incredibly detailed piece of work

comprising over 300 pages and many references which makes 77 recommendations on action to address violence against women and girls on the Island. I have therefore committed to giving each recommendation very careful consideration before responding. Thirty-nine of the recommendations pertain to Government and will require action across a number of Ministerial portfolios. The remaining recommendations will require action from external stakeholders, including the Attorney General, the courts and other specialist support services. Work is already underway to establish which of the recommendations could be implemented in the short term and to establish who has ownership of each recommendation. I expect to provide a substantive reply early in the new year and this response will make clear which recommendations will be taken forward and a timetable for their implementation.

[11:15]

3.13.1 Deputy S.Y. Mézec:

I share the Minister's view on the work that was conducted in this extremely important piece of work and I hope the momentum is kept up after its publication. Of the recommendations made in this report, some get at much deep-rooted issues that will take a long time to deal with but there are some in there that may well be able to be dealt with in the short term, things like improving lighting in parts of town or providing training for people who work closely with victims and survivors. Could I ask the Minister if anything has been done thus far to analyse which of those recommendations could be proceeded with in a relatively short-term basis?

Deputy H. Miles:

I thank the Deputy for his question. When it comes to infrastructure issues, those will be timetabled for discussion with the Minister for Infrastructure. Again, a lot of these recommendations require really careful consideration. A lot of them involve multiple partners and it is very important that we take the time to understand the roles and responsibilities of each of these agencies and how they intersect with each other to deliver the best possible outcomes for women in Jersey.

3.13.2 Deputy R.S. Kovacs of St. Saviour:

I will also start by commending the work done under the taskforce for Violence Against Women and Girls. What I want to ask is: the funding allocated for the work of the taskforce, was it intended just for the research, report and recommendations or for working on any actions of the findings as well?

Deputy H. Miles:

I thank the Deputy for her question. The money was allocated initially following Connétable Shenton-Stone's proposition for the actual composition and report of the taskforce. I am very happy to confirm that money has been found and sufficient funding to take forward the recommendations.

3.13.3 Deputy R.S. Kovacs:

As the £200,000 budget allocated that the Minister mentioned was based on the amendment brought by Constable Shenton-Stone, also stating that it is meant to develop and propose changes in policy, strategy and culture in this area, have any of these policies already been implemented within that budget?

Deputy H. Miles:

The focus of the budget was to bring the taskforce together and to fund the development around the taskforce. Pieces of action that have come out of the taskforce have been already fed into policy officers and there is a general understanding of the importance of focusing on V.A.W.G. (Violence Against Women and Girls) in all the work that we do. So, for example, I lodged last week the Public Order Law which has elements in there that will directly affect V.A.W.G. So the money that Connétable Shenton-Stone secured was for the formulation of the taskforce.

3.13.4 Deputy S.Y. Mézec:

Appreciating that the Minister will be coming back in the new year with a full response to the report and to that timetable for implementation, based on what analysis she has done at this point, is she able to indicate if there are any recommendations in there which she thinks may transpire to be particularly difficult to implement and would she want to take the opportunity now to highlight what those may be to help brief States Members on the work that may be needed to be done to overcome that difficulty?

Deputy H. Miles:

I thank the Deputy for his question. As I said originally, a report of this nature and depth requires proper and thoughtful consideration. It extends across every agency and every institution of our Island and I think when people take the time to read the full report and understand, I do not envisage that there will be too much challenge to implementing some of the recommendations.

3.14 Deputy T.A. Coles of the Minister for the Environment regarding minimum standards in proposed new building developments (OQ.228/2023)

Will the Minister advise if all proposed new building developments will only receive planning and building permission if all toilets and bathrooms meet the minimum requirements set out in Building Bye-laws (Jersey) 2007, Technical Guidance Document: Part 8, and if not, why not?

Deputy J. Renouf (The Minister for the Environment):

I thank the Deputy for his indulgence in waiting for me to return. The requirements for planning permission and building permission are different. From a planning perspective there are no technical minimum requirements for toilets and bathrooms. This is just a building bye-laws regulation outlined, as Deputy Coles said, in the Technical Guidance Document: Part 8. The law states that reasonable provision must be made, and what is considered reasonable is assessed on a case-by-case basis. Technical guidance documents provide guidance on a number of the most common situations found in terms of toilets and bathrooms but there may be more than one solution that may be acceptable. There is the opportunity, for instance, to submit an access statement setting out the approach to inclusive design that will allow the building standards team to advise regarding the acceptability of a specific solution and whether it complies with the building bye-laws in instances where the technical guidance has not been followed.

3.14.1 Deputy T.A. Coles:

The new supplementary planning guidance allows for the smaller units of one-bedroom, one-person apartments to have a shower room which can be 2 square metres smaller than the required bathroom size. How does this work in relation to accessibility for those who might have mobility issues?

Deputy J. Renouf:

The supplemental planning guidance is the planning guidance for applications, it is not the building bye-laws. The aim with the supplementary planning guidance was to ensure that we had a full range of accommodation types available in the Island. The guidance in terms of bathrooms and shower rooms are minimum standards and can be varied according to what the developer feels is necessary for that accommodation that he is building.

The Bailiff:

Very well, that brings questions to an end. We now move to questions without notice and the first period of questions is for the Minister for Social Security.

4. Questions to Ministers without notice - The Minister for Social Security

4.1 Deputy S.Y. Mézec:

The Health and Social Security Scrutiny Panel in their recent report on overpayments recommended that in situations where home visits have to be conducted with claimants who are potentially vulnerable and are female that the officer that conducts the home visit should be a woman, if at all possible. The Minister has outlined that she has rejected this recommendation, could she explain why?

Deputy E. Millar (The Minister for Social Security):

I think it is difficult to do any recruitment on the basis of gender; however, we will take into account when home visits are conducted that the appropriate gender and nature of officers are being sent to the visit.

4.1.1 Deputy S.Y. Mézec:

Is this already being done? Is it the case that potentially vulnerable women who may have faced some of the issues before that we have just been discussing in response to the taskforce on Violence Against Women and Girls report, are there instances now where those people are being faced for a home visit where they are by themselves with their circumstances not being taken into account?

Deputy E. Millar:

I think home visits are relatively rare, I do not believe they happen very often. We will sometimes have home visits at the request of a claimant where that suits them. The idea that officers are routinely turning up on people's doorsteps unannounced I think is over-emphasised but we certainly will take into account the nature of a claimant's needs when we allocate officers to do the visit.

4.2 Deputy L.V. Feltham:

In the Minister's answer to my Written Question 357/2023 she listed areas that were identified for high-level review by her department and one of those was the home carer's allowance rules for parents with more than one child with a long-term health condition. Please could she provide an update as to any actions that have arisen from that?

Deputy E. Millar:

I can assure the Deputy no one is more frustrated than I am about this. We have discussed this again relatively recently. That position will be introduced immediately on a basis of Ministerial discretion pending regulation or the appropriate orders being put into place early next year.

4.2.1 Deputy L.V. Feltham:

If that is the case, could the Minister enlighten the Assembly as to what the new rules will be?

Deputy E. Millar:

As previously discussed, we are still working through detail but the rationale is that a family with one child with level 3 currently receives home carer's allowance. There may be circumstances where a family has 2 children who are level 1 and/or level 2. We recognise that the work of caring for 2 children with health needs may be as significant as caring for one child and we will be bringing forward legislation to clarify that. But in the meantime where those situations exist we are certainly very open to ensuring that a family will receive home carer's allowance if there are 2 children with health conditions that require sufficient duties of care.

4.3 The Connétable of St. Brelade:

The Minister will be aware that the method of paying quarterly social security returns has changed to a monthly arrangement. Is she satisfied that that rollout is working as planned?

Deputy E. Millar:

Yes, I thank the Constable for his question. I believe that is working well. There is now a combined return. Employers now, I believe, do a monthly combined return which covers I.T.I.S. (income tax instalment system) contributions, social security contributions and the general manpower return. It is easier for employees. If there is no change they can simply press a button saying: "Same as last time". So I think the collection of returns when it is done properly is working well. I think there will always be issues where people simply do not submit returns but that is something that is receiving attention.

4.3.1 The Connétable of St. Brelade:

I am advised that while I.T.I.S. returns, which is the Deputy's responsibility with a different hat, can be collected by direct debit, social security ones cannot at the moment. Is that the case and will the Minister address that particular issue?

Deputy E. Millar:

I do not believe that to be the case, that has not been drawn to my attention previously. I know that I personally have paid social security contributions by direct debit in the past so I am sure that facility does exist. If there is a specific issue, if he would like to raise it with me separately.

4.4 Deputy S.Y. Mézec:

On multiple occasions, as a constituency representative, I have worked with constituents when we have been able to prove that an overpayment that they were given was not their fault but in fact the fault of the department and, after challenging the decision to claim money back from them, managed to get it overturned because it was not their fault and they had acted in good faith. Given the Minister's response to the Health and Social Security Scrutiny Panel's review on overpayments and their recommendation that overpayments which are the fault of the department rather than the claimant should be written off, is it now the case that she has changed the policy in the department so even those who do successfully challenge with the help of a States Member will not get those overpayments written off?

Deputy E. Millar:

No, I do not believe there has been any change. I think it has always been open to either me as Minister or officers to write off overpayments in suitable and appropriate circumstances; that was discussed with the panel. There has been no change. I think in appropriate cases whether or not someone is represented we can make decisions to write off an overpayment. Those are considered on a case-by-case basis and I think to create a blanket policy, as the panel has suggested, of writing off all overpayments caused by mistake is not acceptable.

4.4.1 Deputy S.Y. Mézec:

How are we meant to understand that complete inconsistency that if an overpayment is discovered that was not the claimant's fault, and where they had acted in good faith and tried to do the right thing, that in some cases they will get it written off and in some cases they will not because it is not appropriate to apply a blanket approach? Does she not consider that to be completely inconsistent and leaves it at the risk that claimants will give up as they try and complain even if they are in the right because they will be faced with the obstacle of having to go through quite a bureaucratic system, sometimes alone, without the support of people to help them manoeuvre through it?

[11:30]

Deputy E. Millar:

No, I do not think it is inconsistent. As I said, these decisions are made on a strictly case-by-case basis. There may be extreme circumstances where it is appropriate to write off and there will be

other cases where it simply is not but we cannot have a ... the blanket provision under Income Support Law is that if someone receives money to which they are not entitled they will be asked to pay that money back regardless of the circumstances. That is the basic position and writing off of overpayments will be made on case-by-case circumstances where it is entirely appropriate to do so, depending on the circumstances of the claimant and all the circumstances of the overpayment. People do have the ability to raise appeals with the department against the elements of the decision-making and they are also advised of their ability to do that.

The Bailiff:

Nobody else has asked, so a third question, Deputy Mézec?

4.4.2 Deputy S.Y. Mézec:

I am happy to take the rest of the time on this in the hope that we might get a consistent answer from the Minister on this. If it is the case that claimants who are paid money that they are not entitled to should not be able to keep it and should be required to pay it back, but they will deal with it on a case-by-case basis dependent on the circumstances, how is that anything if not an inconsistent position that will depend entirely on a claimant's will to challenge something given the circumstances they may face?

Deputy E. Millar:

The Deputy's question overlooks the fact that there are times that decisions are made on the basis of compassion and the needs of the person involved, and there will be cases where it is appropriate to do so and there will be cases that it is not. In any event, where someone has had money to which they are not entitled, it is fair, for example, let us say I lend Deputy Ferey £10 and he says he will return the money to my bank account. When he is doing so, he is distracted and he pays me £100 by mistake. I do not realise, I look at my bank balance and think: "Oh, I am better off this month, I will go and buy new shoes." If Deputy Ferey then comes to me and says: "Can I have my £90 back?" would anybody consider it to be fair for me to say: "Well, no, you cannot because you spent it and it was your mistake; therefore I am keeping it"? That is exactly the principle that applies. I have had a benefit to which I am not entitled by virtue of Deputy Ferey's mistake and it is entirely appropriate that I would repay him the money he has given to me in error.

4.4.3 Deputy S.Y. Mézec:

What an atrocious and distasteful comparison there when we are talking about people who act in good faith and who take the advice of the department when they receive what they honestly believe they are entitled to through no mistake of their own. So would the Minister agree that a more compassionate approach is required, not one that is inconsistent, and where people who have acted in good faith and who accepted the greater expertise of the people who run the system rather than themselves, that it is not fair to then seek to punish them to the point where we might even be pushing them into poverty to do so to claim that money back, and that rather than force people to have to muster up the will, sometimes in extremely adverse circumstances, to fight against unfair rulings that she should say that when the department makes a mistake it should say: "Sorry" and try to fix it?

Deputy E. Millar:

There is quite a lot in that. I think that was again going beyond a question; in fact, I have slightly lost the thread there was so much in it. I am not quite sure what the Deputy is saying. People have a duty to keep us advised of changes in their circumstances. I am not suggesting that mistakes do not happen. We support 5,000 households at present and we pay out over £75 million a year in benefits; of course mistakes will be made. But it is fair, it is fair on other benefit claimants, and it is fair on the taxpayer who fund income support, that when someone has received money to which they are not entitled they are asked to pay it back. That is done on a very controlled basis. Our guidelines, which have not been reviewed since the introduction of income support, suggests that we can start for

payment of £3 a day. I accept for some people that may be difficult, so we will discuss with people if anybody is struggling. I can only emphasise this, as I have done throughout, if someone is struggling to repay an overpayment they should come into the department and talk to us. We will listen to them and we will adjust their payment schedule to meet their needs.

4.5 Deputy R.J. Ward:

In between 2016 and 2019 in Australia there was something called a “Robodebt scandal” where overpayments were wrongly attributed by errors from the department which led to the suicide of members of Australian society. Can I ask the Minister for reassurance that she is certain nobody in this Island has been put in the situation where they may have considered such actions because of large overpayments that they have been sent from the department?

Deputy E. Millar:

The Deputy is asking me to confirm something that I cannot possibly confirm but if anybody is struggling with overpayments, if they come to the department we will discuss it with them.

4.5.1 Deputy R.J. Ward:

So can I confirm that the Minister cannot confirm that the department is not leading people into that way and therefore the safeguarding procedures in place do not adequately address that issue?

Deputy E. Millar:

We have very clear safeguarding procedures in place and if my team have any concerns about a person’s mental health we will alert safeguarding, we will signpost them to people for support and we will take that into account in planning their repayment schedule.

4.6 Deputy R.S. Kovacs:

Besides errors and delays in processing, we know that the overpayments occur as well because people are having multiple benefits within C.L.S. (Customer and Local Services). Because already in some circumstances this happens, does she consider reviewing to accumulate for the people that have these multiple benefits in one payment to avoid having more overpayments because of different timings of processing and such?

Deputy E. Millar:

I am not sure I understand the question. People may have income support, people may also receive short-term incapacity; I imagine that is what the Deputy is talking about. Those are different types of benefits and they are awarded differently and we will try to deal with any issues arising as best we can.

4.6.1 Deputy R.S. Kovacs:

Just to explain my question, when people have multiple benefits they cannot have more than 100 per cent of the accumulation of it. There are circumstances when they are asking this to be paid all at once especially to avoid being deducted from one benefit after being paid on one and that is when overpayment occurs. On some circumstances, these are required ...

The Bailiff:

I am sorry, Deputy, we have reached the point where the time for questions to the Minister has now expired, so I am afraid you cannot complete your question.

Deputy R.S. Kovacs:

If the Minister is looking to consider that?

The Bailiff:

Well, the next question period is to the Minister for Treasury and Resources.

5. Questions to Ministers without notice - The Minister for Treasury and Resources**5.1 Connétable A.N. Jehan of St. John:**

Will the Minister confirm when he first became aware of a £900,000 loan due to Jersey Reds 2022 and the seriousness of Jersey Reds' financial difficulties? If the Minister was not aware, was he given any assurances that they had no additional debt other than to the Government?

Deputy I.J. Gorst (The Minister for Treasury and Resources):

There are 2 different questions. My officials became aware of the loan between the 2 companies at the creditors meeting. Was I aware, together with the Minister for Sustainable Economic Development, of the perilous state of Jersey Reds? That was a couple of months before which is why we together made the decision to support the salary payments of the operational department. I think there was a third part but I have just forgotten it.

5.1.1 The Connétable of St. John:

Given the amount of public money currently at risk, has the Minister reported any concerns he may have either to the J.F.C.U. (Joint Financial Crime Unit) and/or the J.F.S.C. (Jersey Financial Services Commission) and, if not, why not?

Deputy I.J. Gorst:

I know that officials have been in contact throughout this period and the time that we paid the salaries with the U.K. official rugby body. I am not aware of any contact with the J.F.S.C.

5.2 The Connétable of St. Martin:

Could the Minister for Treasury and Resources please provide details of the expected letter of comfort that the Minister is understood to be developing on the funding allocations of the Government of Jersey to respond to the recommendations of the Violence Against Women and Girls taskforce, including the expected date of the letter's publication, the source of funding, and whether the outlined funds will be directly connected to particular recommendations within the Violence Against Women and Girls taskforce report to allow for improve scrutiny?

Deputy I.J. Gorst:

I have not had such a letter presented to me by officials. It works whereby the department doing the work has got either pressures or priorities and one would expect from hearing the Minister for Justice and Home Affairs' answers to questions in this Assembly today that I would not expect to be requested during this financial period to provide a letter of comfort. The department does its work, it looks at what is absolutely an emergency and it cannot deliver from within its budget as currently forecast, and then they come to me to see if I will provide a letter of comfort, whereby providing monies normally from reserves in order for them to do the work. I am not aware of such an approach yet having been made but it sounds to me as though it may be in the process of being made, and I will consider it very carefully.

5.2.1 The Connétable of St. Martin:

I was led to believe that there was a letter of comfort forthcoming as I have stalled my amendments on funding for the recommendation to be implemented on the understanding that funding would be assured and secured through a letter of comfort. I still, I think, have a few minutes left to lodge my amendments, so if the Minister cannot guarantee the letter of comfort will be forthcoming, shall I quickly rush downstairs and lodge my amendments to secure funding?

Deputy I.J. Gorst:

If, as I heard the Minister correctly, the £200,000 to set up the taskforce is either delivered from within her budget or I will provide a letter of comfort. That is a separate issue to dealing with the recommendations and the Minister has now set in train a process to deal with the recommendations. I think until she has brought forward the recommendations and financial implications neither the Constable nor myself would be in a position to be able to say how much was required from the budget and how much might need to be covered by a letter of comfort.

5.3 Deputy R.J. Ward:

Sorry, I got stuck on the notion of a letter of comfort which is a sort of guaranteed payment; I think it is called being a parent. Anyway. Can I congratulate the Minister on the publication of the Classification of the Functions of Government report which, I must say, came from a rather splendid proposition brought to this Assembly and just ask him what highlights and which features of that report made the most impact to the Minister?

Deputy I.J. Gorst:

Can I congratulate the questioner on his question following up his proposition for Jersey to carry out this work? I was surprised to learn that there are very few countries around the globe that do this C.O.F.O.G. (Classification of the Functions of Government) work to allow for comparison across O.E.C.D. (Organisation for Economic Co-operation and Development) countries. The thing that strikes me the most that the Deputy may not like is that we, for a low-tax jurisdiction, provide pretty good public services that compare reasonably favourably with high-tax jurisdictions.

5.3.1 Deputy R.J. Ward:

I am pleased that that is his take-away because it reinforces rather ... anyway. Can I ask the Minister whether there are any other features, for example, of the comparison on a small jurisdiction that he thinks might be influential in developing future policy?

Deputy I.J. Gorst:

I think the biggest difficulty is that there are not really other small comparison jurisdictions that have done this work which would be more informative to us. But it does show that we do compare and it is helpful for policy-makers when they are taking the broad strategic sweep of the balance between tax and spend and where, when we compare with other jurisdictions, we might need to think about the appropriate prioritisation of our spending.

[11:45]

5.4 Deputy L.V. Feltham:

Given the Chief Minister's answers to questions around the value-for-money programme earlier seemed to suggest that there was somewhat a lack of leadership in terms of Ministers setting priorities for that programme, can the Minister give the Assembly assurance that the governance process that has been put in place by his department ensures that Ministerial input and agreement is obtained?

Deputy I.J. Gorst:

It struck me during that period of question there was some confusion on behalf of the questioners and I thought the Chief Minister did an excellent job in trying to untangle that. The reality is that the budgeting process for 2023 and again for 2024 has taken a 1 per cent efficiency and removed it from departmental budgets, so departments spend within the total overall allocation of their budget and that is how it is being delivered. There is additional work which has got a very robust governance process around it happening in the Health Department. They are rightly pointing out and going back to almost a base budget and saying: "This service has not been appropriately funded from day one. This service we have got extended pressures around waiting lists and number of patients requiring it

but equally here are areas where we are behaving very inefficiently and we can make savings.” The outcome of that is the Government Plan that we see for 2024 we will be giving I think the department something like an additional £16 million. We will also be funding from underspends to deal with their overspend for 2023, although they are still on track to make that £3 million saving, and they will throughout this process have additional money to spend in those service pressure areas but they will, by the end of the 3-year period, have also driven out £25 million worth of efficiencies and that will be reoccurring.

5.4.1 Deputy L.V. Feltham:

I think I heard somewhere within that rather long answer that the Minister was saying that the value-for-money programme was the budgeting process. I understood that they were 2 different things and the outcomes of the value-for-money programme would lead to further savings that are in the Government Plan. So, can he undertake to tell the Assembly what the difference is between the budgeting process and the value-for-money programme?

Deputy I.J. Gorst:

I think I just did but perhaps I was too fulsome in my answer and therefore hid the answer. The reality is that efficiency savings have been taken out of departments to 1 per cent worth, so that is £10 million in 2023, £10 million in 2024. Value-for-money programme throughout 2023 has focused on the financial turnaround team and supporting them across health. That programme is now making good progress. I am on record as saying I will have full confidence in it when I see the £3 million saving that they are proposing to make in 2023. I am in good contact with those officials. They tell me they are on track to do that and maybe slightly more, and then they will turn to other departments and support them in delivering value for money right across government.

5.5 Deputy A. Howell:

As a follow-on from the question by the Constable of St. John. I just wondered when the Government was asked to provide money to the Jersey Reds in July and August this year, can the Minister explain why the club finances were not investigated at that time?

Deputy I.J. Gorst:

This I think is really at the heart of the Constable of St. John’s question as well that there were 2 companies: one was raising funds, which it now transpires since the creditors meeting was raising funds and making loans to the operational company, which is where we got to that just less than £1 million. It is our understanding now that that could have been converted ultimately into equity but my officials, together with the Minister for Sustainable Economic Development’s officials, did, together with a local high street bank, review the actual trading company and that is what ultimately led us to the decision that we could support no more.

5.5.1 Deputy A. Howell:

I just wondered what usually happens in all these circumstances; how do you look? Because there was obviously a problem which was not picked up and I just wonder if the Minister would be kind enough to explain.

Deputy I.J. Gorst:

I hope that I have been very clear, and I was very clear during the debate, there was a problem that was picked up. The 2 grants made in, I do not know if it was July and August or August and September, those 2 grants were made to pay the salaries because if they had not been made the club at that point would have ceased trading, so we were very aware of the problem. You can criticise us for saying that we should not have made those 2 grants because there was a problem but we made those 2 grants as both the - I am struggling to remember his new name - the Minister for Sustainable Economic Development and myself, in order to allow the club to work with their major shareholders

and to seek third-party investment, it became apparent after we had made that second payment, after the Minister had sought to meet with the shareholders, that that was not going to happen, and we knew that looking at the accounts that we could not just keep bailing them out, and therefore we made the decision not to.

5.6 Deputy M.R. Scott:

Following on from Deputy Howell's question, in addition to the grants to the Jersey Reds, the public learnt of the deferral, the permission to defer paying money on behalf of employees to their respective social security and I.T.I.S. accounts. My question is: exactly what is the government policy for this and what are the ethical implications of doing this and what has been the impact on the employees of Jersey Reds insofar as the company has stopped trading?

Deputy I.J. Gorst:

I welcome the Deputy's questions because there has been some publicity about how the department handles these debtors. The reality of course is that during COVID and, to a large extent, to post-COVID, the department has been extremely lenient in chasing up these debts. I have been quite clear with the department that we will need to change that. We have seen some publicity of companies being prosecuted for non-return of the joint return but we have also seen companies pursued, and are often pursued for tax debt during petty debts. But we are needing to move to, in a post-COVID world, working with every business that has these debts and getting in place a payment plan because what we, I think, will find that if we do not put payment plans in place the debt will continue to hang over that company and when they get into a precarious position it will not help them, it will tip them over the edge. With regard to the employees, which I know that the Deputy was also asking in her question, where we have the information from the return of the employer, which we do in this case, then those employees get credits against their tax rate and credits against their social security contribution history.

The Bailiff:

I am afraid that brings the period for questions to this Minister to an end and we now have questions for the Chief Minister.

6. Questions to Ministers without notice - The Chief Minister

6.1 Deputy A. Howell:

Please can the Chief Minister confirm whether or not Professor Mascie-Taylor has had his contract as chair of the Health Advisory Board extended and for how long?

Deputy K.L. Moore (The Chief Minister):

I think it was made clear earlier in the week that the Professor has had his contract extended for one further month only simply to enable a great amount of time for the appointment of a full-time chair to be put in place for this board, which is widely recognised as being a great improvement in improving the transparency within Health and Community Services, and also improving in terms of holding officials to account on the delivery of this essential service to Islanders.

6.1.1 Deputy A. Howell:

Please can the Chief Minister confirm whether the chair's remuneration will be at the rate of his current contract, I think some £21,000 per month, or at the rate of the substantive chair which would be £6,000 per annum and where, if it is the former, will the additional money come from?

Deputy K.L. Moore:

I think the Deputy will appreciate that questions of a technical nature as such are not political questions; therefore, I would have to seek some guidance. My understanding is that that post holder

is paid on a day-work basis at a rate that is widely considered to be a normal rate for a person of those skills and competencies.

6.2 The Connétable of St. Saviour:

When the Harbours and Airports were set up as an autonomous entity, obviously the harbour and the airport were transferred to them along with other lands and buildings. Does the Chief Minister not believe that certain parts, namely the La Folie Inn, and the car parks to the right or west of the La Folie, should be transferred back to the Government so that the La Folie could be redeveloped into a nice restaurant, and to the west that area would make an excellent base and parade ground for the long-suffering Jersey Sea Cadets since their forced relocation to Fort Regent?

Deputy K.L. Moore:

I thank the Connétable for the interesting question. I think what the Connétable is seeking is something that falls under the oversight of the Minister for Sustainable Economic Development; however, I can assure the Connétable that I am aware that there appears to be some interest in the development finally of this site which has lain empty for far too many years. One of the reasons for creating arm's-length organisations is to see a more businesslike agile approach to the use of public assets and I am really pleased to hear that this is finally making some progress. With regards to the sea cadets, they are always at the forefront of people's minds when considering different sites, and it is my understanding that discussions continue to be had as to where would be the appropriate full-time place for that excellent service to be housed.

6.2.1 The Connétable of St. Saviour:

The original Jersey Sea Cadets unit up at TS Undaunted at Fort Regent is even more derelict than the La Folie Inn. Will the Chief Minister assure the Assembly that the new home for the Jersey Sea Cadets will be a priority in her Government?

Deputy K.L. Moore:

As I think I said in my previous answer, Constable, a full-time home for the sea cadets is a priority. It is something that is discussed and Ministers are very aware of the need to provide an adequate home for them. I am aware that they are currently quite happy and comfortable in their current accommodation but discussions about prioritisation and use of our many assets and facilities, they always take a good part of those considerations and they certainly will not be forgotten.

6.3 Deputy M.R. Scott:

In the recently-published letter of the Chief Minister accepting Constable Jehan's resignation from the Council of Ministers, the Chief Minister mentioned that she shared some of the concerns the Constable expressed in his resignation letter. Could she please explain to the States Assembly the specific concerns she shares with the Constable and how specifically she intends to address them?

Deputy K.L. Moore:

I thank the Deputy for the question. My concerns about our Health Department are those of I think most Islanders. We want to ensure that the best possible services are delivered within this most essential of services. If we cannot treat our sick and teach our kids, then we might as well pack up and go home. It is vitally important that we deliver efficient, effective, quality services for health and it is my concern that we get their budgets under control.

[12:00]

What we inherited was, and I quote, a situation where that department was suffering from "uncontrolled spending". I think that is clear now that we have made and shared with the public through the financial recovery programme the position that the department is in. It is a serious piece of work and a matter of considerable focus to get the department back under control and recruiting

essential workers to our service. In the past month we have ... sorry, not in the past month, but it has recently been confirmed that we have been able to recruit an additional 23 nurses and that focus on recruitment and retention continues. We said at the beginning of this term of Government that that would be one of our areas of relentless focus, and through the consistent and focused work that has been going on creating an accommodation service, we are delivering upon that commitment.

6.3.1 Deputy M.R. Scott:

The letter seemed to have concerns regarding the pace and cost of change. Could the Chief Minister please explain the extent to which the States Employment Board procedures contribute to this?

Deputy K.L. Moore:

We are all impatient to deliver change. I think, as States Members, we are all committed to seeing that through and supporting each other in achieving it because ultimately that is what Islanders told us when we all stood for election. With regards the procedures of the States Employment Board, it is a fact that for recruitment of a cost of over £100,000 every role has to come to the States Employment Board, but I think the Deputy would be one of the first people to agree that it is absolutely vital that the States Employment Board is assured by the proposals that are put forward to it before they sign them off. So if any delay has happened or occurred as a result of that process then, I am afraid, so be it. It is vitally important that we are assured on behalf of the public that public money is being spent wisely.

6.4 The Connétable of St. Brelade:

We heard over the past few days that a former chief officer had been appointed to the hospital board. Without wishing to cast aspersions on the integrity of the individual, does the Chief Minister consider an appointment of a former chief officer is going to be well viewed by the public, and how does she intend addressing that situation?

Deputy K.L. Moore:

The Constable will appreciate that this is an arm's length process of appointment and it is being conducted by the Appointments Commission. My understanding is that they were keen to see that there was a local appointment to this Health Advisory Board and this was the appointment that was put forward. I prefer not to deal in personalities but in policies and delivery, and I think this person brings with them a wealth of experience and a knowledge of our health system.

6.4.1 The Connétable of St. Brelade:

Really I am trying to understand will the Chief Minister be making a statement to satisfy the public that this is a good appointment?

Deputy K.L. Moore:

I have confidence in the Jersey Appointments Commission. It is their job to consider and oversee that process and I have confidence in them doing so. I have worked closely with them on other appointments that have related to my portfolio - that in the interim chief executive appointment - it was an excellent appointment and the process that I took part in alongside them I thought was excellent also.

6.5 Deputy S.Y. Mézec:

Given the events of the last few days, could the Chief Minister confirm whether or not any of her Ministerial team have expressed a loss of confidence either in herself or her Minister for Health and Social Services?

Deputy K.L. Moore:

There has been no such expression.

6.5.1 Deputy S.Y. Mézec:

Following the reshuffle that the Minister has undertaken, is she able to elaborate further on the delegations that will be made to her new Assistant Chief Minister following the departure of his predecessor?

Deputy K.L. Moore:

That is a matter that will be worked up in the coming days. What I think is important is that we have worked already with the Constable of St. Helier on the Future Places Group and he shares with us a determination to regenerate our urban areas. The Constable's suggestion was that he should be the Minister for St. Helier but there are many other areas of the Island where regeneration is needed to improve the lives of our community. This Government is focused on delivering and creating a community where everyone can thrive and so this is an important area that can cut across on my behalf some of our other Ministerial portfolios and work with Ministers to ensure that we do deliver on the regeneration, the development and increase of supply of homes, but also other amenities that create open spaces and sustainable travel pathways for Islanders to benefit from.

6.6 Deputy R.J. Ward:

I and my colleagues were pleased to attend the launch of the Violence Against Women and Girls report and give our support to that. Can I ask the Minister where she is in terms of accepting and promoting the recommendations of that report?

Deputy K.L. Moore:

I too attended that launch event and was very impressed by the number of people that were showing their interest in this important topic; something that I took a great interest in when I was Minister for Home Affairs and was the first to introduce the white ribbon, even which I am pleased to see Reform party members wearing their white ribbons today. It is an important symbol. Along with the Minister for Home Affairs, I believe that it is important that we take time to consider the recommendations; they are many and we will provide a considered response when we are ready to do so.

6.6.1 Deputy R.J. Ward:

In my drop-in constituency last night I had a constituent, a man, arrive and talk to about this very event and asked me what can men be doing to support this. So I would ask the same question to the Chief Minister. Given that, let us be honest, the vast, vast majority of episodes of violence against women and girls is perpetrated by men. So what would the Minister say to my constituent in terms of how he can be involved?

Deputy K.L. Moore:

I thank the Deputy for the question. If I consider some of the recommendations about people's behaviour in the wider community, I think it is incumbent upon us all as members of our community to show respect to each other. That would be the simplest piece of advice and that I think would meet some of the recommendations about displaying unnecessary behaviour in the wider community. Of course when we see people who do not meet the respectful behaviour that we would expect of each other then we should rightly call it out.

The Bailiff:

That brings the time available for questions to the Chief Minister to an end and that closes question time. There is nothing under J so we move on to L, Public Business.

PUBLIC BUSINESS

7. Reduction of lodging periods

The Bailiff:

Before we start there are a number of decisions to in fact be made about whether to reduce the lodging period in respect of matters listed on the Order Paper. Firstly, the Minister for the Environment has lodged the eleventh amendment to the Draft Public Health and Safety (Rented Dwellers) (Licensing) (Jersey) Regulations. There is a need that the lodging period be reduced in accordance with Standing Order 26(7) to allow this matter to be debated at this meeting. Minister, do you make that proposition?

7.1 Deputy J. Renouf:

Yes, Sir, if I may. Just to explain to the Assembly, Members will be aware that amendment 11 has been brought forward to resolve issues that arose from a series of Scrutiny amendments that ended up having inadvertent complications that would have made it difficult to have the debate. That led to the Assembly agreeing that we should defer debate until this meeting of the Assembly in the hope that we could sort out the complications that had arisen. I am pleased to say that we were able to resolve the issues and I thank both the Scrutiny Panel and the Greffe for their help, as well as officers in regulation. We were able to resolve the issues via what you might call a super amendment, amendment 11, which wraps up as many of the issues as we possibly could where we could agree with Scrutiny and left 2 outstanding issues for debate to come. Unfortunately we missed the lodging deadline by a little under 2 days. This was a reflection of the complexity of the work and the desire to ensure that we got the amendment right. I think we did get it right but the consequence was that we were a little late. I hope that Members will feel that they have had enough time in the 12 days since we did lodge the amendment to consider it, and I also hope that they will agree that in the circumstances it is in the public interest to consider the amendment in this setting.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? Those in favour of adopting the proposition kindly show. Those against? Very well, we will take the eleventh amendment at this sitting. Next Deputy Bailhache has lodged the Draft Planning and Building (Amendment No. 8) (Repeal) (Jersey) Law and again that lodging period needs to be reduced in accordance with Standing Order 26(7) to allow the matter to be debated at this meeting. Do you make that proposition, Deputy?

7.2 Deputy P.M. Bailhache:

If I may just say a few words about it. The proposition is currently set down for debate on 12th December and the P.P.C. has asked me whether it can be moved from that date because obviously the Government Plan debate is going to take some time. This is a short law; the issue is pretty straightforward and the uncertainty as to whether trees are to be regulated has been going on for some considerable time. I believe that country people would appreciate if that uncertainty were to be removed and ended before Christmas. I think, therefore, that it is in the public interest that the debate take place today and I move the proposition.

The Bailiff:

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

7.2.1 Deputy K.L. Moore:

It is rather unusual for a Back-Bencher to propose draft legislation before the Assembly and I do really think that some time should be required for Members to consider this important debate. Now that the Minister for the Environment has withdrawn P.71 I think there is no hurry to debate this

proposition and I would suggest - as I have done personally to the Deputy - that the appropriate time to debate this would be in January.

7.2.2 Deputy S.G. Luce:

I beg to differ with that view in as much as I think Members have had plenty of time to consider the issues at hand here. The notion that we are going to have tree legislation has been around for a certain number of months and we have all had a lot of time to think about it. I think Deputy Bailhache is right in bringing this forward today and I think the month between now and the beginning of January when we might have the debate we could have some fantastic opportunities to plant some trees, trees that will not get planted while this debate has yet to be determined.

7.2.3 Deputy R.J. Ward:

I think there is a problem if this Assembly rejects the reduction of lodging periods for certain individuals and not others. If it was about timing then we have done that, we brought something forward, it could have been done last time when loads of things were withdrawn. I would also say that the implications of this are really quite significant and I think people need to make sure that before they say: "Yes, let us debate this now" they really do understand the entire implications of this change to the law because it removes entirely, in my belief ... and I will be honest, I need to go and look at it again and think this through really carefully as to what the actual implications of this are to make the correct decision. We are employed to make decisions that we can back up in public and say: "Yes, I made this decision for this reason." So I hope people are certain. As for this notion of: "Well, we can just plant more trees" that is not what this is about. These emotive arguments about those in the country and planting trees, that is not what this is about. This is about changing the law to stop something else happening. A debate that is coming through that can be debated over the tree law coming from the Environment Department and the way that is working which, okay, yes, there has been opposition to. Let us debate that then. But this I believe would stop that happening if it was passed now and we are being asked to make that decision now. There is no rush for this. We have time to go away, consider in exactly the same way ... and one of the criticisms of the other law that this would prevent is there has not been the time to understand it fully and its implications.

[12:15]

But what we are about to do as an Assembly is to reduce the lodging period for a proposition that changes the law and the legislation that will stop something else happening without really understanding the implications of it. What I want to see is the application of logic here as to how we are going to make a decision and the knock-on consequence of that decision later on. It is for that reason I cannot say reduce the lodging period. Indeed I would suggest that this is taken in January to give us time away from the Government Plan, because if it is at the end of the Government Plan - and I do not want to cast aspersions on any of us - when we are tired, sometimes perhaps we do not make the best decisions in this Assembly. So let us move it further on, put it in January, give us all time to really consider what this means. You never know, I might support. I do not know. I have not really seen the real knock-on implications of this for the other tree laws and what this will mean. I just think it is a bad idea to reduce this today and indeed I would say move it to January because there is not an emergency to do this right now.

7.2.4 Deputy J. Renouf:

Having asked for a shortened lodging period for P.40 I am now going to argue against a shortened lodging period for P.90 in a way which I can ensure Members is entirely consistent. It is because lodging periods should only be shortened when necessary. Prior to the weekend perhaps there was a case that could be made in that P.90 would have turned up on the Order Paper for the 12th December sitting, which is also the Government Plan sitting, and it was also the case that P.71 - the Commencement Act that I was planning to bring forward - would have been scheduled shortly

afterwards for debate. However, there is now no need for urgency. I have withdrawn P.71 and said that I will not be bringing back any further proposals or any new proposals for at least 6 months and I have committed to further consultation within that period. Now, I know that Deputy Bailhache will argue that he has a fundamental objection, a principled objection, to bring you trees within the meaning of development and he wants to clarify this. Fair enough. It is a debate worth having. But it is not necessary to have it now which is the test we should be applying. It will make absolutely no difference whether we have the debate in December or in January next year for that matter, as several people have suggested. Absolutely nothing is going to happen to give effect to amendment number 8 to the Planning Law. One of the reasons I gave for withdrawing P.71 is one that several people opposed to the proposition had given; namely that in the aftermath of Storm Ciarán it is not the right time to be pushing forward with a debate about the details of tree protection. I have accepted that argument, but I would make the same argument with regard to P.90. Rescinding that part of amendment 8 that brought trees within the planning system would be a very big step. It is a debate I am very happy to have and I think it is appropriate, given the response that we have seen to the proposals that I have brought forward, that we should have that debate to see whether this Assembly is of the same view as the previous Assembly on this matter. But we should give that matter our full consideration, as Deputy Ward has said. It took well over a year to bring amendment number 8 forward and to bring it through this Assembly. There was consultation; it was referred to Scrutiny. Fair enough if this Assembly does not want to carry on down that road. I will accept that verdict. But I respectfully request that we have the debate in full, having had time for all Members to prepare and not rushing to it right now.

7.2.5 Deputy K.F. Morel of St. John, St. Lawrence and Trinity:

I think this highlights what I believe to be a hole in the Scrutiny function, which is that when a non-executive Member of the States brings forward legislation Scrutiny does not scrutinise it. For me that is a really dangerous place. I remember when I was in Scrutiny I raised this issue, but still I think this really shows us what an issue there is because here we have a Member of the Assembly bringing forward an amendment which if passed would repeal an entire law and we have had no actual formal scrutiny of that. I feel that is the wrong place for us to be. I think it shows a very dangerous area of the way the States can operate and I would ask the Environment, Infrastructure and Housing Scrutiny Panel to undertake scrutiny of this in a proper and formulaic way in the way that they would if a Minister was bringing exactly the same piece of legislation forward. As a result of my thinking in these terms there is no way that I would vote for a shortened lodging period because if the Environment Scrutiny Panel is not going to do what I believe it should do, which is scrutinise this, then it is down to us as individual Members of the States to do that scrutiny ourselves. As this is about legislation I believe we need all the time available to us to undertake that scrutiny. So, yes, I do not support the shortening of this lodging period.

7.2.6 Deputy M.R. Scott:

The last speaker mentioned holes in Scrutiny. The trouble is I do not really think that anything is going to be quite resolved in that respect, and with respect to what the Minister for the Environment said, I believe that there are just fundamental issues about the mechanism in which the Minister is proposing to advance trees, which remain some sort of constitutional concern to the States Assembly. It is simply this, that the amendment of the law itself appears draconian. It can be softened and qualified by Ministerial Order but if the States Assembly does not accept that Ministerial Order, if it annuls it as it is entitled to do, we are left with a draconian change to the law. That is not an issue that is easily resolved and will not be resolved overnight. I still am contemplating where I am in this but it is just something I thought was worth mentioning. One other thing; when I said that it is one thing that is being advanced by the Minister, this is an advance without regard to a tree strategy that has been crafted and which sought that the Minister would consult with a sounding board. I hope to remedy that by lodging a proposition in that respect.

7.2.7 Deputy M. Tadier:

I am just approaching this from a slightly different position. First of all, irrespective of what we might think about the tree law or the amendment that is in front of us, clearly it is not in time to be debated at this sitting without this proposition to change that. I just wonder whether Deputy Bailhache had considered insisting on what is his right to have it listed at the next sitting. It does not matter that we have got a Government Plan being debated at that sitting. I am sure that if he was to insist that it be debated either at the beginning of that sitting, which I think is logical, or indeed at the end - I think we might all be a bit tired by the end of a Government Plan - that given the fact he has said in his opening remarks that it is a fairly straightforward matter and that it should not take too much time, I do not see why we would not, as an alternative to this, list it as the first item of business at the next sitting. It would be on the table for the requisite amount of time and it would do everything that the Deputy wishes it to do ahead of the big tree law which we could then know the outcome of the Deputy's proposition, and it would be in order. But certainly as things stand, given the fact that option is still on the table, it is what I would be doing if I was the mover of the proposition. But I do not think that we need to shorten the lodging period for it to be debated in this sitting.

7.2.8 The Connétable of St. Brelade:

As mover of the 21st amendment to the Government Plan last year which principally requested funding for tree protection broadly, I am keen that we do not lose the ability to protect trees. I think, to be fair, I was sceptical about the Minister's latest proposals but I think we need to have further debate on how we achieve tree protection in the Island. It is clear that there is a public want to do that. By the same token, we have to respect landowners who are the principal owner of trees and the planter of trees, and also the agricultural business trade, if you like, who have vested interest in trees, not only looking after them but of course maintaining them. So while I understand where Deputy Bailhache is coming from, I do not think I can support his proposition at present and I would like to see further development towards a methodology of how we can deal with protection of trees, and would support the Minister in what proposals he may come up with next and contribute to discussions.

7.2.9 Deputy T. Binet:

I think this is really a practical matter. We have just experienced a storm where we have lost between 20,000 and 30,000 trees. There has been talk about the implementation of this tree law. It has caused deep offence to virtually all of the people that are responsible for the fine countryside that we have. We would be looking to those people to replace those trees this coming winter and I think we need to send a very clear signal to them that Government is not going to start interfering with them. I would like to urge people to accept this debate. We can clear this down and get on with the business of tidying up the countryside and having a vote of trust in the people that we are relying on to not only do the work but to pay for it.

7.2.10 Deputy L.J. Farnham of St. Mary, St. Ouen and St. Peter:

Deputy Morel raised an interesting question; it is the role of Scrutiny of course to scrutinise Ministerial process I believe. Perhaps some advice from the Chair; is there anything to stop a Scrutiny chair asking to scrutinise this legislation, subject to it being approved?

The Bailiff:

If you will bear with me a moment I will seek to answer that question. The Greffier confirms what my instinctive view of Standing Orders was likely to be. Yes, any proposed legislation after the principles have been adopted can be called in by the Scrutiny Panel. Does any other Member wish to speak on the proposition?

Deputy R.J. Ward:

Sir, may I ask a quick question on what you have just said?

The Bailiff:

Yes.

Deputy R.J. Ward:

I had better get this question right. A piece of legislation is brought in after the principles have been adopted in the Second Reading. Because this is an amendment to original legislation that principle was adopted when the original legislation so, therefore, we would not have to go through that process and this would be - if it was to be scrutinised - pulled in as effectively a Second Reading?

The Bailiff:

No, it has not been adopted. This is a standalone law, as I understand the position. Just let me turn to the appropriate ... yes, it is a standalone law. It is a repeal law. If it is a standalone law you have to first propose the principles of the standalone law, the repeal law, and if you do that then if the principles are adopted then it can be called in for scrutiny.

Deputy R.J. Ward:

My confusion is because this is an amendment to one piece, I believe, of an already existing law. I am not quite sure, I wonder if others are in the same position.

The Bailiff:

Well, I am not sure I can say anything more than I have done. The amendment is to be brought about - if is adopted by the Assembly - by the adoption of a law repealing that particular section. The law itself has a passage which is principles followed by the possibility of scrutiny, then Second Reading, then Third Reading. That is true of any law that comes before the Assembly as opposed to any other kind of proposition. So there will be the opportunity to call the matter in for scrutiny if the principles are adopted. Deputy Scott, is it a question?

Deputy M.R. Scott:

Just following up on Deputy Ward's question. If the States Assembly adopted the law in principle and Scrutiny called it in, essentially they would be reviewing what seems to be a sentence that the law will be repealed. But if I understand that the States Assembly would have agreed in principle that the law would be repealed, so does that not, therefore, suggest that what Deputy Farnham suggested in terms of the role of Scrutiny is more or less made redundant in that instance because the States would have to approve the appeal of the law in order to have that?

The Bailiff:

No, the Assembly approves the principle of the appeal. The actual operative appeal is contained in the operative provisions at Second Reading. So the States can say: "In principle we think this is a good idea" but Scrutiny could in theory come back and say: "For the following reasons it is highly problematic." Then the States would not need to adopt in Second Reading and the law would fall away. If that assists you. Does any other Member wish to speak on the proposition? If no other Member wishes to speak I close the debate and call upon Deputy Bailhache to respond.

[12:30]

7.2.11 Deputy P.M. Bailhache:

This is a matter for the Assembly. I bring forward the proposition at the request of the P.P.C. I will only say that I do not think that the Minister for the Environment fully understands the anxiety that his different proposals in relation to trees have brought upon the country community. That is the

urgency, to get rid of that anxiety, and that is why I believe it is in the public interest to debate it today. I maintain the proposition and I ask for the appel.

Deputy K.F. Morel:

May I ask the Deputy if he would give way for a very genuine point of clarification please?

The Bailiff:

From him? Yes, well, would you give way for a point of clarification from you, Deputy? It is a matter for you.

Deputy P.M. Bailhache:

A point of clarification; yes, of course.

Deputy K.F. Morel:

It was just to ask, I understood the Deputy to say that he brought it forward at the request of P.P.C. I may have misheard that and I just wanted to clarify if that was correct.

The Bailiff:

No, the Deputy said that both in his closing speech and in his opening remarks. I do not think you need to clarify that ...

Deputy K.F. Morel:

Can he clarify what that means? Why would P.P.C. request this?

Deputy P.M. Bailhache:

The matter was down for debate on 12th December. The P.P.C., as I understand it, was not happy with the amount of business which is laid down for debate on that day and asked me first of all whether I would consider bringing the matter forward for today. I agreed to do so and I subsequently received a message from the P.P.C. to the effect that they thought that perhaps a date in January would be preferable. I maintained my position that there is, as I have said, an anxiety in the community and I think that anxiety ought to be brought to a close. That is why I have proposed the proposition that I have proposed.

The Bailiff:

Connétable of St. Martin, you can ask the Deputy if he gives way for a point of clarification but you have not spoken so you cannot clarify anything you said, otherwise the debate is over. Very well, the appel is called for. I invite Members to return to their seats. The vote is on whether or not Deputy Bailhache's proposition can be taken at this sitting. I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The proposition has been defeated, 20 votes pour, 26 votes contre, no abstention.

| POUR: 20 | | CONTRE: 26 | | ABSTAIN: 0 |
|---------------------------|--|---------------------------|--|-------------------|
| | | | | |
| Connétable of Trinity | | Connétable of St. Helier | | |
| Connétable of St. Peter | | Connétable of St. Brelade | | |
| Connétable of St. Martin | | Connétable of St. Mary | | |
| Connétable of St. John | | Deputy G.P. Southern | | |
| Connétable of St. Clement | | Deputy M. Tadier | | |
| Connétable of Grouville | | Deputy L.M.C. Doublet | | |
| Connétable of St. Ouen | | Deputy K.F. Morel | | |
| Connétable of St. Saviour | | Deputy R.J. Ward | | |

| | | | | |
|---------------------------|--|----------------------------|--|--|
| Deputy C.F. Labey | | Deputy C.S. Alves | | |
| Deputy S.G. Luce | | Deputy I. Gardiner | | |
| Deputy M.R. Le Hegarat | | Deputy I.J. Gorst | | |
| Deputy S.M. Ahier | | Deputy K.L. Moore | | |
| Deputy L.J. Farnham | | Deputy S.Y. Mézec | | |
| Deputy Sir P.M. Bailhache | | Deputy T.A. Coles | | |
| Deputy M.R. Scott | | Deputy B.B.de S.V.M. Porée | | |
| Deputy R.E. Binet | | Deputy D.J. Warr | | |
| Deputy A. Howell | | Deputy H.M. Miles | | |
| Deputy T.J.A. Binet | | Deputy J. Renouf | | |
| Deputy M.R. Ferey | | Deputy C.D. Curtis | | |
| Deputy B. Ward | | Deputy L.V. Feltham | | |
| | | Deputy H.L. Jeune | | |
| | | Deputy M.E. Millar | | |
| | | Deputy R.S. Kovacs | | |
| | | Deputy A.F. Curtis | | |
| | | Deputy L.K.F. Stephenson | | |
| | | Deputy M.B. Andrews | | |

The Deputy Greffier of the States:

Those Members voting pour: the Connétables of Trinity, St. Peter, St. Martin, St. John, St. Clement, Grouville, St. Ouen and St. Saviour; and Deputies Labey, Luce, Le Hegarat, Ahier, Farnham, Bailhache, Scott, Rose Binet, Howell, Tom Binet, Ferey and Barbara Ward.

LUNCHEON ADJOURNMENT PROPOSED

Deputy L.J. Farnham:

Can I just test the mood of the Assembly ...

The Bailiff:

Whether we adjourn now and carry on after lunch?

Deputy L.J. Farnham:

Yes, Sir. [Laughter]

The Bailiff:

It did occur to me that as we have 11 minutes left before I am required to call upon the adjournment whether Members, given that we are starting now major legislation, would prefer to start after luncheon. The only matter that I think falls to be considered, if Members do agree with that, is what time; whether we go on to 2.15 p.m. or whether we go to 2.00 p.m.

Deputy L.J. Farnham:

Would it help if I proposed it to start at 2.15 p.m. to allow Members to conduct their lunchtime commitments, thank you.

The Bailiff:

Very well, there is a proposition then that we adjourn immediately and resume at 2.15 p.m. Is that seconded? [Seconded] Does any Member wish to speak?

Deputy R.J. Ward:

All I want to say is I agree with that. I just wanted, if I may, to point out that there is some opportunity in the side rooms to donate to myself and the wonderful Constable of Grouville's Movember appeal in order to raise money and to raise awareness around men's health, which I think is a great event. Please dig deep. Thank you very much.

The Bailiff:

I am looking forward to seeing how you tie that speech to the proposition that is immediately before me. **[Laughter]**

Deputy R.J. Ward:

I apologise, Sir.

The Bailiff:

There will be more time available in order to do that, I suspect.

Deputy R.J. Ward:

I think it is a great proposition to adjourn; it will give people time to do that.

The Bailiff:

Yes, very well. Does any other Member wish to speak; perhaps not on the matter of moustaches?

Connétable M. Labey of Grouville:

I would, if I may - not part of the proposition - but I would like to thank the Lieutenant Governor for bringing in those lovely petit fours for the Members' room.

The Bailiff:

Does anyone have anything else to say that is not at all related to the proposition before the Assembly? **[Laughter]**

Deputy M. Tadier:

I would like the appel. **[Laughter]**

The Bailiff:

Does any other Member wish to speak? If no other Member wishes to speak ... I am going to rule those last 2 speeches as not at all touching upon and, therefore, I am not going to give Deputy Farnham the opportunity to respond. **[Laughter]** In those circumstances, those in favour of adopting the proposition ...

Deputy M. Tadier:

I do want the appel please.

The Bailiff:

You would like the appel. Very well, the appel is called for.

Deputy L.J. Farnham:

Do I not get a right of reply, Sir?

The Bailiff:

No, you do not get a right of reply because nobody spoke about anything you said. **[Laughter]** I invite Members to return to their seat. The vote is on whether or not we adjourn now and resume at 2.15 p.m. I ask the Greffier to open the voting. If Members have had the opportunity of casting their

votes then I ask the Greffier to close the voting. The proposition has been adopted: 40 votes pour, 3 votes contre, no abstention.

| POUR: 40 | | CONTRE: 3 | | ABSTAIN: 0 |
|---------------------------|--|--------------------|--|-------------------|
| Connétable of St. Brelade | | Deputy M. Tadier | | |
| Connétable of Trinity | | Deputy R.E. Binet | | |
| Connétable of St. Peter | | Deputy A.F. Curtis | | |
| Connétable of St. Martin | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Clement | | | | |
| Connétable of Grouville | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Mary | | | | |
| Connétable of St. Saviour | | | | |
| Deputy G..P. Southern | | | | |
| Deputy C.F. Labey | | | | |
| Deputy L.M.C. Doublet | | | | |
| Deputy K.F. Morel | | | | |
| Deputy M.R. Le Hegarat | | | | |
| Deputy S.M. Ahier | | | | |
| Deputy R.J. Ward | | | | |
| Deputy C.S. Alves | | | | |
| Deputy I.J. Gorst | | | | |
| Deputy L.J Farnham | | | | |
| Deputy K.L. Moore | | | | |
| Deputy S.Y. Mézec | | | | |
| Deputy P.M. Bailhache | | | | |
| Deputy T.A. Coles | | | | |
| Deputy B.B.S.V.M. Porée | | | | |
| Deputy D.J. Warr | | | | |
| Deputy H.M. Miles | | | | |
| Deputy M.R. Scott | | | | |
| Deputy J. Renouf | | | | |
| Deputy C.D. Curtis | | | | |
| Deputy L.V. Feltham | | | | |
| Deputy H.L. Jeune | | | | |
| Deputy M.E. Millar | | | | |
| Deputy A. Howell | | | | |
| Deputy T.J.A. Binet | | | | |
| Deputy M.R. Ferey | | | | |
| Deputy R.S. Kovacs | | | | |
| Deputy B. Ward | | | | |
| Deputy L.K.F Stephenson | | | | |
| Deputy M.B. Andrews | | | | |

The Assembly stands adjourned until 2.15 p.m.

[12:37]

LUNCHEON ADJOURNMENT

[14:15]

8. Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 202-(P.40/2023)

The Bailiff:

We now continue with Public Business proper. The first item is the Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations. The main responder will be the chair of the Environment, Housing and Infrastructure Scrutiny Panel. The Assembly will remember the principles were adopted on 18th July and the debate, therefore, continues in second reading dealing with the regulations themselves. Minister, you have lodged an amendment, the eleventh amendment; do you wish to propose the regulations as amended by the eleventh amendment?

8.1 Deputy J. Renouf:

I do.

The Bailiff:

Are Members content that we deal with the matter as amended by the eleventh amendment? Yes, very well.

8.2 Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 202-(P.40/2023) Reference Back

The Connétable of St. Brelade:

I would like at this juncture to propose a reference back. The reasoning being that there is insufficient information regarding the codes of practice which are not likely to be produced until March 2024. I would, therefore, suggest that the matter is redebated once those codes of practice are published and Members will have something to vote on. At this present moment they do not know what they are voting on.

The Bailiff:

Technically that proposition is marginally too soon, Connétable, because I have to have opened the debate on the regulations first. But the reality of it is that all that will happen is the Minister will propose the first regulation and then you can make your motion for a reference back. So it might be, if Members agree not to be too technical about it and permit the matter to be discussed at this juncture. I am assuming that there is no con in that so we will deal with the reference back. Is the reference back seconded? **[Seconded]** In which case would you like, in proposing it - and I probably should have asked this first, Connétable - indicate what further information that you are seeing or what ambiguity or inconsistency and information you are seeking to be clarified?

8.2.1 The Connétable of St. Brelade:

We seem to have adopted the practice of late in passing laws with guidelines or codes of practice to follow, which tends to mean that we end up in this Chamber voting for things that we do not know what we are voting for. My concern is principally that; and that is also the concern which has been ventilated by those who have interests in rented dwellings, either as tenants or as landlords. So to repeat what I said earlier, I suggest that the proposition be redebated or concluded in its Second and Third Reading once those codes of practice have been issued in March 2024, if not sooner if so done.

The Bailiff:

So effectively the further information you are requiring is the draft of the codes of practice having been prepared and capable of being looked at?

The Connétable of St. Brelade:

That is correct, Sir.

The Bailiff:

Sorry, I should now ask formally, is that proposition seconded? **[Seconded]** Does any Member wish to speak? The debate now must be limited to the merits or otherwise of the reference back.

8.2.2 Deputy B. Ward of St. Clement:

I am not sure but it is following on from what the Connétable has said. I can understand why the Minister wishes to bring more legislation regarding this topic to raise standards and weed out accommodation that falls short to what is expected in today's market, especially due to the unofficial stories from tenants who are reluctant to speak out about their unacceptable housing conditions in the fear that they may be evicted and put out on to the streets. Time passed. The States were bringing codes of practice before enacting legal changes and I cannot understand why the Minister does not do this. In my view the Minister is putting the cart before the horse. I understand that the uprated codes of practice will not be completed - as the Connétable has said - until the first quarter of 2024, or even later. Therefore, in the absence of these codes then the proposition needs to be put back until we have these new codes ready for introduction, gain more information and assess the situation and then make any necessary legal changes. The uprated codes of practice, in my view, will sort out the wheat from the chaff and raise standards by default and improve people's living conditions. It is my understanding that we already have the checks and balances in place under the existing 2018 law, and I believe the staff are in place already to investigate premises and can apply the law. By introducing more legislation at this time without the uprated codes of practice in my view - and I repeat - is putting the cart before the horse and all parties are working blind. May I ask the Minister to reflect on my and my Connétable's suggestion to defer this proposition until we have the requisite codes of practice up and running so that everyone will understand what is expected and especially the landlords and the tenants. We need to encourage people with some assurance and protection to speak out about their poor living conditions. If the premises are not up to acceptable standards so these premises can be investigated and the Minister will be more aware of the extent of the problem. If I may quote a famous phrase, the Minister may think he is playing all the right notes but clearly they are not in the right order. Thank you.

8.2.3 Deputy J. Renouf:

I have to say that this is the most giant red herring. The codes of practice are a significant aid that can help in assisting tenants and landlords to bring their properties to the required standard. However, they are not essential and they have not been essential for the last 4 years. The law has been in place on minimum rented standards for 4 years. During that time landlords have been required to meet those standards. They have been required to meet those standards without a code of practice because there are so many other avenues by which they can seek the information they need to bring their properties up to standard. They can talk to officers; they can refer - as we have suggested in many previous instances - to the U.K. guidelines which give a good first approximation of the kind of standards they should be aiming for. We have as a department put on events to help. There has been a breakfast bites session with some special training offered to J.L.A. (Jersey Landlord Association) members, there has also been a particular document produced with advice on mould. So there have been documents produced to help. But this is all part of a process; it is not something that begins and ends with a code of practice. The laws are in place. The ability of a landlord to meet the standards in those laws is not impeded by the lack of a code of practice. The code of practice is certainly going

to be helpful when it comes out and I have guaranteed that it will come out by the end of March, and in all likelihood well before then, to help assist. But it is not true to say that it is necessary for the functioning of these regulations in the same way as it is not true to say it has been necessary for the last 4 years for the functioning of the primary law. The other point I would make is this seems to hinge on the idea that the regulations will come into place, licensing will come into place, and landlords will be under immediate threat of their licence being withdrawn and then they will be unable to run their business. That is not the case. The point of licensing is almost the exact opposite. It is to put in place a flexible system of dealing with poor rented standards. It is to replace the current system which offers just one option in the case of non-compliance with minimum standards. One option currently available which is criminal prosecution. That is a sledgehammer to crack a nut in many cases. Criminal prosecution sets a very high bar. The point of licensing is not that should a landlord fail to meet one of the minimum standards that the licence should be withdrawn. The point is - as specifically outlined, and we will get on to this I hope when we start talking about the regulations in detail - for landlords to be given a condition on the licence which asks them to take action in order to rectify the problem. It is a graduated response; a flexible response. That is the reality of what we are proposing. So it is not the case that the code of practice is necessary before this comes into place because the standards have already been in place without that code for a good many years. It is also not the case that the great fear that has hung around this that without clarity around that code of practice landlords will face having their licence withdrawn and being unable to operate; that is also not the case because that is not how licensing is designed to operate. You only have to look at the regulations to see that. Licences can be made conditional upon rectifying faults. Obviously some of those faults will be more serious than others. Only in the case of complete uninhabitable properties would a licence be withdrawn. That is very rare and in those circumstances I suggest to Members that it would be fairly evident without a code of practice that those conditions had been met to withdraw the licence. So, no, I think this is an attempt to stall the aircraft on the runway. It is totally unnecessary and we should get on and debate the merits of these regulations, bring in the code of practice in good time, well in advance of the regulations coming into force, and let us have the debate now. Thank you.

8.2.4 Connétable D. Johnson of St. Mary:

Perhaps I could begin by saying I speak as a private Member, not as a Member of the Scrutiny Panel. I am pleased to hear the words of reassurance from the Minister but it does beg the question as to why - as we are dealing with the codes of practice for a 2018 law - there has been so much reluctance to produce them. That is the problem. That is what the landlords essentially, who are probably laymen in these matters, fail to understand. There was reference at a public hearing to codes of practice being brought in beforehand; that was certainly interpreted by some landlords as meaning before the main debate took place. I accept that it is open to interpretation; the Minister clearly meant before the licensing regulations came into place. But I do go back and emphasise the fact that the codes of practice we are talking about are not the codes of practice solely relating to the regulations we are about to debate. Yes, there are some forms to be determined and it would be useful to have these, but these are the codes of practice in the 2018 law. If I may just quote the beginning of Article 4: “The Minister may [and I appreciate it is ‘may’] after consultation with such persons or bodies as appear to the Minister to be representative of the interests concerned, (a) prepare and issue codes of practice for the purpose of providing practical guidance ... and revise it.” Then it goes on: “(3) A failure on the part of any person to follow any guidance contained in a code issued under this Article shall not of itself render that person liable to proceedings of any kind, but (a) any such code shall be admissible in evidence in criminal proceedings; and (b) if any provision of the code appears to the court conducting any proceedings to be relevant to any question ... it shall be taken into account ...”

[14:30]

The point I am making is that it was felt sufficiently important to emphasise in the law that, yes, it could be relevant to criminal prosecutions. In that context I suggest it is hardly surprising that landlords are concerned to see some codes of practice. I do go back to the point; in Scrutiny we did ask when these were going to be made available and whether it is March or beforehand. I do not understand why these have not been made available before now. Given that it need not affect a delayed start to the licence requirements I do not see the principal objection to delaying the implementation until those codes of practice have been produced. It is not a Scrutiny matter but I do support the proposer in agreeing that we should defer until the codes of practice are in print.

8.2.5 Deputy M.R. Scott:

The Minister has just spoken about a red herring and I am not sure who is doling out the red herring. I feel that maybe there is an inconsistency in his approach here because earlier we heard the Minister say: "We do not need to be debating this proposition of Deputy Bailhache's; what is the rush?" Now we are being told, well, the Minister wants to rush this through despite there not being codes of conduct in place. So what is the rush? When I think about this I have seen descriptions of some really quite not pleasant sounding rental properties; we know that they are out there, we know that they need to be addressed. I believe that the original argument was that we would like to do something about this but we cannot do random inspections, but we then had advice that the department could random inspections. Then we were told that, well, the problem is the officers did not know where the properties were. Yet I am thinking, heavens, if these officers were anything like the I.R.S. (Inland Revenue Service) they would probably be going around looking at posts on Facebook and things like I might do and think: "There is probably an enquiry to follow up here." Then there is this concern people might think that the landlord might be punitive against the tenant because they will think it is the tenant who has complained to the department. That could happen in any circumstances. So I do find the thinking all around this as being incredibly confusing. Then we come back down to but could there be revenge evictions and does this really solve this? If we could just strip it away and look at that, that could be useful. I share Constable Johnson's discomfort about penalising people without being clear about definitions. How long does it take to produce a code of conduct? So, yes, I am sympathetic towards this proposition. I do believe that there are just these questions that I find I cannot comfortably go forward at this point.

8.2.6 Deputy S.G. Luce:

I hope Members will bear with me; I am a little bit surprised that this has come forward. We discussed it and Members will know that we are not happy about the situation, but certainly my panel are going to refer this back immediately. But I would just say to Members that the feedback that my panel received explained that there is a significant uncertainty with how the licensing scheme is going to be operated and enforced in practice, and that it is not ideal that this Assembly is debating potentially adopting the draft regulations without any published guidance. Our advisers that we engaged from the U.K., a company called Justice for Tenants U.K., pointed out that under the draft regulations a standard licence condition, information to occupiers, could lead to a vast difference in the content and quality of the information provided from landlords to occupiers. They went on to say how they thought that could be improved. The panel - and I know we are not talking about the toolkit here particularly - but there will also be alongside the code of conduct a toolkit of proforma wording and templates that were going to need to be provided by Government to landlords. Again, we asked that this could be brought forward. There should be a clear process for officers to follow to ensure equal treatment of offenders, along with standardised templates in respect to warning letters and formal letters relating to legal proceedings. Now, as you might have expected, the Scrutiny Panel did question the Minister at length about the code of practice and we pressed the Minister on when this code of practice would be published, and we were advised that it was being worked on. The Minister said: "I asked for it to come in time for when the legislation was originally going to come in, which would have been in the new year, so the code of practice would have been ready in November. I

think we had it scheduled for the end of November.” I think that is interesting because the fact that this debate was delayed by Scrutiny calling it in means the Minister immediately must have put this work on to the backburner. It was scheduled to be finished for the end of November and it is now scheduled not to be finished until the end of March, and that is curious. In our comments, the panel have made some recommendations where we were not able to bring forward amendments because we consider it would have been beneficial for a code of practice to have been published prior to the lodging and the draft regulations so that private landlords, social landlords and industries with worker accommodation could better understand how the law will be applied to them. Our recommendation, one of a number of recommendations in our comments paper presented on 26th October, was that the Minister should publish the code of practice containing guidelines of how the law and proposed regulations will be applied in practice. In addition, a landlord toolkit should accompany the code of practice containing proforma templates of relevant documentation that landlords will be expected to provide to occupiers before the end of February. So the proposition has been made for a reference back; certainly Scrutiny would be very interested in looking at the code and how we could improve it further, if that is at all possible. But I say to Members we were not happy about this; it was not part of an amendment but certainly it is something which has been highlighted to us on a number of occasions.

8.2.7 Deputy T.A. Coles:

Just following on from Deputy Luce’s comments there obviously about the work maybe being put on to the backburner. The first thing that came to my mind was would we waste officer’s time for something that if it gets rejected might not be required, so maybe that is the reason for that being delayed further and further down the road. I wonder how many Members here have had to write a code of practice themselves, because I have. When G.D.P.R. (General Data Protection Regulations) became law we had to change the process by which we worked for my previous employer, which meant that I had to write a rulebook for how my staff carried out their duties to make sure that we complied not only with G.D.P.R. but with client audits. Clients had to provide us with their requirements first, so in this instance I can describe that as almost the regulations which this Assembly passed in 2018. You then have to start putting these into practice and finding out who your customers are, which might be in the case of how you would look at the licensing. But when you start writing codes of practice, guidelines, or however you want to call them, you do about 4,000 iterations before you get to something that you are comfortable with. You have to find what is working, what does not work, you want not only examples of things which are good practice because you want to demonstrate those, you have to find the things which are bad practice; you have to gain your evidence. So by having the debate now about bringing in the licence allows the department more data to find some examples of bad practice that they could put into their guidelines, as well as the good practice that everybody should be out there trying to follow and emulate. So I think kicking this into the long grass again delays everything and we do not get all the data that we need to produce a decent set of guidelines that our landlords can follow as well as the tenants know where their position is. So I say let us get this debate on with and go from there.

8.2.8 Deputy R.J. Ward:

So many iterations of this have come forward and we have had the principles accepted before and then regulations rejected, and I was going to make some comment about I thought we were back in the fishing debate because of the number of red herrings flying around, but that was taken away. What has happened here is a classic strawman argument. We are going to create a huge issue from something that was not a huge issue before that was identified, a set of non-statutory codes of practice which are codes of practice that relate to the legislation as it comes forward and the law that already exists about the standard of homes. We are going to take that small issue and we are going to turn it into something so big that it prevents this happening. It is a simple tactic to prevent this happening. That is what is happening. It is happening because of the pressure that has been put on individuals

to bring this forward. We have to make decisions in this Assembly, it is about time we made a decision on this piece of work. We have been here too long. Talk about rushing it? It is not rushed; we have been here for years. But why does it need to be rushed? Because there may well be and there are children living in inappropriate accommodation on this Island whose health is being affected. There are people in inadequate accommodation and this licensing is the softest touch you can possibly have to address those issues. I think that point that was made by the Minister - and I do not frequently agree with the Minister - but there was an issue made around why this legislation is needed in terms of it is simpler way, a more accessible way to deal with inadequate accommodation, i.e. it does not go immediately to the criminal law. Let us think about that because that is where we are at the moment and that is why this is so necessary. The code of conduct has no real impact on that. I think some of the things that were said about: "Well, if you look back to a 2018 code of conduct it was quite important as to giving evidence and so on and so forth." Of course it is. Anything around a law which is going to be implemented to say: "We will ensure that in Jersey the homes that people live in reach a standard and you will be licensed to do that because it is important for the well-being of the people living in those homes, and good landlords who provide decent homes no longer have to compete with those who do not and there is nothing to stop them doing that apart from this draconian way of going to the criminal court to do something about it." That is the issue that we have got here. What we have introduced here is just another way to delay, another way to kick this into the long grass and get nowhere. I plead with Members, do not accept this. The code of conduct will come; if the code of conduct is inappropriate it can be changed and, let us be honest about it, any code of conduct can be changed. It is a code of conduct; we can change our own code of conduct if we want to. The argument that is being used here I believe is misplaced and misdirected for the wrong reasons. So let us have the debate. I say to Members, if you do not want this to happen vote on that when we debate it. Put your vote into the pad when you vote to say: "No, I do not believe that we should license landlords in this way because I do not think they need to be" and stick by that. But stop putting obstacles in the way simply to delay and let us have this debate in place now. There were 11 amendments from the Scrutiny Panel; not one of them was the amendment around the code of conduct. Suddenly this has appeared and become a huge issue and blown up and blown up and blown up, and now all of a sudden at the last moment - although there seem to be a lot of prepared speeches to talk about this - there is suddenly a reference back. We cannot continue to have that cynical approach in this Assembly to pass in legislation and debate. Let us get on with the debate. Let us get on with talking about it and decide once and for all because we have been here so many times that we cannot kick it into the long grass any longer. There will be a problem with the code of conduct when it comes back, it will be delayed again, there will always be a reason to delay it because we are not willing to stand up and make the decision here and now. So let us not delay this, let us get on with the debate and let us get it out of the way and let us make a decision. I hope we will, therefore, improve the standards for people, approve the assurances for people who are living ... good landlords have nothing to worry about. Those landlords who are not meeting standards have got an opportunity to meet those standards with the support of the department and we improve housing on this Island. Let us not kick it into the long grass.

[14:45]

8.2.9 Deputy H. Jeune:

The code of practice needs to be relevant and first of all the Minister told us about the fact that the code of practice for the U.K. is being used as the baseline for code of practice that is happening now with a law that has been running for the last 4 years. The U.K. is revising their code of practice at the moment so it is important that we develop our code of practice as the U.K. is revising, and so we need to have it as up to date and relevant for the moment. That comes to the second point, as Deputy Ward just mentioned, we are about to debate quite a substantial amount of potential changes to this regulation and to the schedule, and the schedule details those kind of things that will need to be in the code of practice. Therefore, we should probably have the debate first to understand what this

Assembly wants to have as details within the schedule, within the regulation, and then be able to develop a code of practice accordingly. To have a code of practice first is putting the cart before the horse because it would have to be changed depending on how the Assembly decides on what the regulations and details within the regulations would be.

8.2.10 Deputy P.M. Bailhache:

The Assembly will be aware of my position on this but I will say that if the regulations are to be passed we ought to ensure that the rules and regulations are in as good a state as they can possibly be, given that we are interfering substantially in the freedom of an individual to rent out his or her own property. It is true, as the Minister says, that the law has operated without any standards being in place for 4 years but the difference is that now we are to have a system whereby the owners of property can be refused permission to rent out their property for any of a number of reasons. The Minister should want to enable landlords to be absolutely clear as to what their duties are. Deputy Ward reminds us that people are living in inadequate conditions and I am sure that that is so, but he is wrong to state - and the Minister is wrong to state - that the only remedy is through the criminal courts. There are civil powers available to compel bad landlords to put their premises in good order, and it is incomprehensible to me as to why the authorities decline to use these powers. I think that the standards should be put into the public domain so that Members can look at them before we take the final step of interfering with people's liberty in the way in which it is proposed. Indeed I would go further; I would like to see the Minister put the application form which is to be completed by landlords applying to rent out property into the public domain so that people can see what it is that they are going to have to fill in. Why can we not see it? The Minister should be more transparent. It is part of his Government's policy and if he were more transparent I think he would find that many of these obstacles would simply melt away.

8.2.11 Deputy S.Y. Mézec:

If he were to be more transparent I am pretty sure some more obstacles would be found in the place of these ones because we have been here before and it is exactly what has happened every time these proposals are brought to the States. One set of objections are raised, whoever the Minister is at the time addresses those objections and lo and behold a new set of objections arise, and this of course is the most recent one. It was interesting when Deputy Bailhache said early on in his speech about needing to know what the rules and regulations were before going ahead with this. It is the regulations that we are debating today. They are published, they are in front of us and that is what we are debating. There is no reference in the draft regulations to a code of practice. It is not a statutory item; it is supplementary to that and itself as a document will not hold any legal standing. It is the regulations themselves that provide the legal basis for this scheme. What that theoretically means is a code of practice can be produced in advance of debating these regulations if that is what the Assembly decided it wanted the Minister to do, but because that code of practice has no legal standing the Minister could amend it the day after. He could do something totally different with it. As a document it does not have the standing that the 2018 law and these proposed regulations have. If you wanted an abridged code of practice it would say: "Obey the law." We have the law in place on minimum standards since 2018. There is no excuse at this point for people who run the business of renting out property not knowing what those standards are, and we have an Environmental Health Department who on a matter of principle since those minimum standards were introduced have had an approach that is soft to landlords if a problem is discovered. It is not one of handcuffing them right away and taking them to court and prosecuting them; it is one of sitting down with them, working out what the issue is, and trying to work through it. That is one of the reasons why I believe there have been no prosecutions since that was introduced, and the Minister is nodding to confirm that. That is the approach that has been adopted and there is no excuse 5 years later for not understanding all of that. What the code of practice is, which the Minister has said he will produce, is to provide a little bit more clarity on the practicals. Those practicals will be however the

department and the Minister choose to implement in practice these regulations, but they do not at all change the minimum standards that are required for landlords to maintain their properties. That will remain exactly the same. If there is an issue with the code of practice itself there will be no legal route of appeal on those because it is a purely voluntary document that the Minister is offering to try to be helpful. I would say he is bending over backwards to accommodate what has already been the law for 5 years. This is a red herring, it is not normally the case that when regulations are proposed in this Assembly and an external reference is made to some other document, that the Assembly is required to give its approval to that document at the same time as the regulations. That is not a requirement and there is nothing in the regulations themselves saying that there is to be a code of practice that will have any kind of legal standing outside of it. It is purely voluntary, the basis upon which that is being done. If Members are against the principle of these regulations to require a licensing regime which is proactive and which means that landlords will not be able to rent out properties until they have those licences and can demonstrate that they meet the minimum standards that have already been law for 5 years, then Members are perfectly within their rights to vote against it. We have been there before, that is why we do not currently have a licensing regime. It was brought several times previously and voted against and if that is the will of the Assembly then so be it, that will be how we will have to proceed and that will be the democratic outcome. But there is nothing that can be revealed in a code of practice publication that will change anyone's mind on that principle. I think Members have probably worked out where they stand on that principle. So rather than waste further time on this we should just decide today whether or not we want this regime. A code of practice has no standing and will not inform that debate at all.

The Bailiff:

Does any other Member wish to speak on the proposition for a reference back? If no other Member wishes to speak then I close the debate and call upon the Connétable to respond.

8.2.12 The Connétable of St. Brelade:

Thank you. I would, first of all, assure Members that this is no red herring but the intention is to make the law a good law, which at present we do not believe it is. I have been involved with the Scrutiny Panel, which has arrived at the point of submitting 11 amendments and I do not believe that indicates that the original proposition was good in the first place. Time and time again - and I refer to the last speaker - I have sat through, I think this is the third debate on this particular law, which keeps coming back in various guises but still does not seem to be satisfactory. For my part, the last thing I want to do is condone poor standards of accommodation, and I do not think anybody does, but we have to get this right. We cannot put landlords in a position whereby they risk criminal prosecution without being aware of the reasons why that might be levied; that is completely unfair and unreasonable. That is the point of my reference back, just to ensure that those involved are completely 100 per cent clear as to what regulations they have to comply with and do that with the ability to sleep at night without the risk of a sword of Damocles hanging over them. I make the proposition.

The Bailiff:

Do you call for the appel?

The Connétable of St. Brelade:

Yes, Sir.

The Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on whether or not there should be a reference back in connection with this proposition. The reference back is so that when the matter comes back it will come with the codes of practice or the conduct, as the case may be. If Members have returned to their seats I ask the Greffier to open the voting and Members to vote in

the usual way. If Members have had the opportunity of casting their votes, I will ask the Greffier to close the voting. The proposition has been defeated; 18 votes pour, 26 votes contre, no abstentions.

| POUR: 18 | | CONTRE: 26 | | ABSTAIN: 0 |
|---------------------------|--|----------------------------|--|-------------------|
| Connétable of St. Brelade | | Connétable of St. Helier | | |
| Connétable of Trinity | | Deputy G.P. Southern | | |
| Connétable of St. Peter | | Deputy C.F. Labey | | |
| Connétable of St. Martin | | Deputy M. Tadier | | |
| Connétable of St. John | | Deputy L.M.C. Doublet | | |
| Connétable of St. Clement | | Deputy S.M. Ahier | | |
| Connétable of Grouville | | Deputy R.J. Ward | | |
| Connétable of St. Ouen | | Deputy C.S. Alves | | |
| Connétable of St. Mary | | Deputy I. Gardiner | | |
| Connétable of St. Saviour | | Deputy L.J. Farnham | | |
| Deputy S.G. Luce | | Deputy K.L. Moore | | |
| Deputy M.R. Le Hegarat | | Deputy S.Y. Mézec | | |
| Deputy Sir P.M. Bailhache | | Deputy T.A. Coles | | |
| Deputy M.R. Scott | | Deputy B.B.de S.V.M. Porée | | |
| Deputy R.E. Binet | | Deputy D.J. Warr | | |
| Deputy A. Howell | | Deputy H.M. Miles | | |
| Deputy T.J.A. Binet | | Deputy J. Renouf | | |
| Deputy B. Ward | | Deputy C.D. Curtis | | |
| | | Deputy L.V. Feltham | | |
| | | Deputy H.L. Jeune | | |
| | | Deputy M.E. Millar | | |
| | | Deputy M.R. Ferey | | |
| | | Deputy R.S. Kovacs | | |
| | | Deputy A.F. Curtis | | |
| | | Deputy L.K.F. Stephenson | | |
| | | Deputy M.B. Andrews | | |

The Greffier of the States:

Those voting pour: the Connétables of St. Brelade, Trinity, St. Peter, St. Martin, St. John, St. Clement, Grouville, St. Ouen, St. Mary and St. Saviour; Deputies Luce, Le Hegarat, Bailhache, Scott, Rose Binet, Howell, Tom Binet and Barbara Ward.

8.3 Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 202-(P.40/2023): eleventh amendment (P.40/2023 Amd.(11))

The Bailiff:

We then proceed with the debate and, Minister, there are 2 amendments to the eleventh amendment, both lodged by the Environment, Housing and Infrastructure Scrutiny Panel. They both relate to Regulation 2, so we will need to address them at the point that we reach Regulation 2. Do you, therefore, wish to propose Regulation 1?

8.3.1 Deputy J. Renouf:

Yes, Sir, I do. Regulation 1, as amended by amendment 11, is a relatively simple regulation that sets out the definitions of what constitutes a licence and defines the process for making an application. It has been amended by amendment 11 to be more specific about the definition of a licence and, in particular, to make clear that the licence remains in force, even if it is modified as a result of a condition that has been imposed following an inspection. It has also been amended to provide much greater precision about what defines a valid application. I believe these changes respond to Scrutiny's desire to provide greater clarity within the regulations about when a valid application has been submitted. I have been happy to accept the amendments that were suggested by Scrutiny, incorporate them into amendment 11 and as such I am happy to propose Regulation 1 for the Assembly's approval.

The Bailiff:

Is Regulation 1 seconded? [**Seconded**] Does any Member wish to speak on Regulation 1? Those in favour of adopting Regulation 1, kindly show. Those against? Regulation 1 has been adopted. We now move to Regulation 2. Do you wish to propose Regulation 2?

[15:00]

8.3.2 Deputy J. Renouf:

Yes, Sir, as amended by amendment 11.

The Bailiff:

Is that seconded? [**Seconded**]

8.4 Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 202- (P.40/2023): eleventh amendment (P.40/2023 Amd.(11)) - amendment (P.40/2023 Amd.(11).Amd.)

The Bailiff:

We then come to the first of the amendments from the Environment, Housing and Infrastructure Scrutiny Panel and I ask the Greffier to read the amendment.

The Greffier of the States:

Page 2, substituted Regulation 2 - delete substituted Regulation 2(2)(a) and renumber the subsequent subparagraphs accordingly.

8.4.1 Deputy S.G. Luce (Chair, Environment, Housing and Infrastructure Scrutiny Panel):

I am not going to go on at length to Members about the history of the last few months but certainly my panel called this in to have a look and realised there were quite a few things we needed to do and culminated in 9 amendments coming forward. I am grateful for the Minister for working with us to get the vast majority of those into the eleventh amendment that we now have. But there are still 2 outstanding issues; they are quite simple and straightforward. The first one is an amendment and the aim of this proposed amendment is to bring lodging houses within the scope of the proposed licensing scheme that we are talking about today. The Minister has rejected our amendment on the basis that he considers it would be a duplication that is already covered under a separate regime. But the panel challenged this and we are asking the Minister, and I would ask the Minister to outline in his speech to this why he considers it satisfactory to have 2 separate schemes and why a repeal of the Lodging Houses (Registration) (Jersey) Law 1962 could not have been proposed to the Assembly in tandem with this legislation, so that lodging houses could have been brought under the same licensing regime right from the start. I would stress to Members today that the work that my panel have done on the amendments is at all times tried to make things better, tried to make things simpler and tried where

we can to get everything in one place. This proposed amendment would bring lodging houses into that same place as everything else. The aim of this proposal then is just, as I said, to bring lodging houses into the scope. Several stakeholders independently expressed their views to the panel that lodging houses should be included under the proposed licensing regulations, particularly as these properties are viewed to be at the higher end of risk for health and safety and more likely to house vulnerable people. The Public Health and Safety (Rented Dwellings) Law 2018 includes provision for lodging houses to be included, however, as currently proposed Regulation 2(4) of the draft regulations excludes them. If Regulation 4(2)(a) were deleted, as proposed by this amendment that I bring now, they would come within the scope of the proposed licensing regime. My panel understands that lodging houses are regulated under the Lodging Houses (Registration) (Jersey) Law 1962 and are registered on an annual basis with fees charged at £15 per person. Furthermore, inspections, we understand, are risk-based, meaning that inspections are targeted where there are suspected to be problems or if a complaint is made to the Environmental Health Department. This is important, I want Members to be quite aware not every individual lodging house is inspected on an annual basis. In a written submission Justice for Tenants, as I have mentioned them before, they were our U.K. advisers, they commented as following: “Lodging houses do not need currently to have a licence. This is curious, as they constitute some of the cheapest rental accommodation and are likely to be at higher risk of substandard conditions than average rental properties. Indeed, the first set of private rented sector properties to require a mandatory licensing scheme in England were large houses of multiple occupancy, predominantly in a way to decrease the instances of fire caused by poor maintenance and management, including unsafe gas and electrics.” It is hard to see why a high-risk property should be exempt from the licensing requirements that we are debating today. In the absence of a strong argument for why lodging house dwellings should be dealt with under separate legislation, my panel very clearly takes the view that they should be brought under the same legislation as other rented dwellings and, therefore, we propose this amendment to the draft regulations.

The Bailiff:

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

Deputy J. Renouf:

Sir, I am not sure if there should be declarations of interest now under the regulations but I wonder if ...

The Bailiff:

I think the declarations of interest were already dealt with, were they not, when the principles were dealt with and I am assuming that the same declarations appertain here?

Deputy J. Renouf:

Okay, Sir. I thought so, I just thought I would mention it in case there were any others.

Deputy M. Tadier:

Can I just say on that front, Sir, I have got one less interest than I had before, Sir? Not the same, I am losing interest by the day, Sir. I was in my own capacity a quarter landlord of the family home and that is no longer the case; it is not rented out. But my wife is still a landlord, so it is a slight change from the last time, Sir, probably worth putting on the record.

The Bailiff:

But presumably you were not disqualified on the last occasion when you voted. It seems your right to vote is even more enhanced at the moment.

Deputy M. Tadier:

Thank you, Sir. I will be supporting the legislation.

8.4.2 Deputy J. Renouf:

I hope I can clarify this because it is a strange one because it seems so obvious and yet it is not the case that I can support this. I do want to ask Members to reject this amendment and that is for the simple reason that it is not necessary. Passing it would, effectively, create a form of double regulation for lodging houses that I think would be wrong in principle and would place an undesirable additional burden on the lodging house sector. The stated intent of this amendment is to bring lodging houses within the scope of the licensing regulations proposed in P.40. It does that by removing the specific exclusion for lodging houses that is found in part 2, section 2(a) of the regulations. It sounds sensible on the surface because of course, as Deputy Luce has said, residents of lodging houses should not be excluded from the protections that tenants in other rented dwellings will enjoy. However, the reason I would urge Members to reject this amendment is that lodging houses are already covered by a scheme that has the same practical effect as these regulations would have. Therefore, making lodging houses subject to the licensing requirements would duplicate an already existing legal framework. I will come to the point of whether we should abandon that lodging house law in a moment because I do not think that is the answer either. If I set out the legal position, first of all, it is absolutely clear that lodging houses are within the scope of the 2018 Safety of Rented Dwellings Law. That is the primary law under which the regulations in P.40 have been lodged. They are rented dwellings, therefore they must reach or exceed the safety standards established in the 2018 law. If they are within the scope of the primary law, why should they not be covered by the regulations in P.40? The answer is found in the 1962 Lodging House Law. This law creates a scheme that in many respects is virtually identical to the proposed regulations within P.40. The Lodging House Law creates a requirement on lodging house operators to register, makes it an offence to operate a lodging house without registering and, crucially, gives the Minister, which in this case is the Minister for Housing and Communities because it is his law, the ability to withdraw their registration if they are found to be in breach of relevant requirements. Although they call it a registration scheme, it is, essentially, a licensing scheme because it is not just telling you something, which is what a registration scheme does; a licensing scheme is requesting permission. That registration scheme functions, even though it is called a registration scheme, exactly the same as a licensing scheme. There are other similarities between the 1962 lodging house rules and the regulations under debate today. Just as in the regulations I am proposing, lodging house owners or operators can have their registration subject to conditions, for example, to improve their property. Lodging houses can be inspected, as Deputy Luce pointed out, just as rented dwellings can be inspected under the regulations in P.40 and just as we will be doing under P.40; that would be a risk-based assessment inspection. Lodging house certificates must be displayed in the lodging house, in the same way that the regulations proposed in P.40 will require a landlord to make available the licence for a property for inspection by a tenant. In extreme circumstances, as already noted, registration of a lodging house can be withdrawn, just as it would be possible in the most extreme circumstances, to withdraw the licence of a rented dwelling. There is one further point to make. If a lodging house ceases to function as a lodging house and becomes a rented dwelling, it will automatically fall within the scope of the regulations I am proposing. The landlord will then require a licence to operate a rented dwelling, just as every other landlord does. There is no way around the licensing requirement if a property had previously been a lodging house. Deputy Luce has raised the possibility of why if we have 2 laws, why do we not get rid of the Lodging House Law and simplify everything? The answer is that that may well be a medium-term possibility but in the short term it would create very considerable difficulties. Because in repealing the 1962 law we would lose a whole series of things which are not covered by these regulations and, therefore, we would then put the lodging houses into a position where there were several things which were no longer regulated that we would want to regulate. Those are additional clauses in the lodging house laws that are not replicated in these regulations and, therefore, we would

lose those extra and important controls over lodging houses if the 1962 law were repealed. These would include the loss of the definition of a lodging house, the loss of the power to refuse a registration, for example, if the applicant is not fit and proper. That is a rule within lodging houses that does not apply to rented dwellings because rented dwellings are judged on a different category and the right and proper test is not necessary. The other reasons why a registration might be refused for a lodging house include if the use of the premises is causing neighbourhood annoyance or the loss of the requirement to keep a register of occupants. These are things which are specific to lodging houses and, therefore, there is a Lodging House Law. As I say, in the medium term we might want to think about how those could be brought together but for the time being simply repealing the 1962 law is not an option. All these things are not covered in the regulations for rented dwellings and would, therefore, be lost if we were to repeal the Lodging House Law. To summarise, my position is this, lodging houses are already within the scope of the 2018 law and must meet the standards contained therein. However, the purpose of these regulations is to provide a flexible and efficient means of enforcing those standards and lodging houses already have such a scheme in place. Enforcement tools already exist in the 1962 law. Therefore, it would be unfair and wrong for lodging house owners to have to apply for a registration certificate by the 1962 law and a licence via the regulations in P.40. It would impose an additional unnecessary bureaucratic load, duplicating to a very large extent information and actions that are already required. I do understand where this amendment is coming from and I do think in the medium term we should look at how we could bring these things together. But I urge Members to reject it as unnecessary and unfair, given the situation we are in now.

8.4.3 Deputy M.R. Scott:

The Minister said that what Scrutiny suggested sounded sensible and then went on to suggest it was not, but it does sound sensible that there is a whole approach I can see towards policy-making and legislation-making, which is absolutely ... how can I say? The impact on the people who have to apply and go through what is basically a lack of joined-up thinking, a shying away of just simply grabbing the bull by the horns and saying we cannot have all these different laws and this, this, this, why do we not overhaul the lot of it and just have something that is simple, easy to administer? The landlords are providing a service, they are a business and, like so many businesses in the Island, they are just getting more and more red tape. I think this is a sensible suggestion by Scrutiny but, frankly, if the Minister is not going to repeal the lodgings law, how can I say, yes, let us have lodging houses subject to 2 separate laws? At this point I feel that my hands are sort of tied.

[15:15]

But I am totally disgusted by the way we continue in this fashion, just making things more and more complicated and muddled, rather than just giving people a break just to clear the fog and the smoke a bit, so that they can operate efficiently for the good of the whole community. I just say, Minister, please stop barging into these things, rather than taking us down roads which are not particularly well thought out and basically tie our hands, when what we are really doing is suffocating our community with more and more red tape.

8.4.4 Deputy S.Y. Mézec:

The Minister is advocating keeping things safe for lodging houses, so that means less confusion and less disruption for them. Those previous comments made no sense whatsoever. The reason that I oppose this amendment, even though on the face of it it does sound logical, of course it does, to have one law instead of 2 and in an ideal world that would make perfect sense and perhaps that is a long-term option; perhaps it is. But in the short term it does not strike me as worth supporting because if the rest of these regulations are adopted we are about to introduce a new regime affecting the other types of rental accommodation, rather than lodging houses. That would be a new system, that will need to be put into place and everybody gets ready for it. You then want to throw lodging houses

into it at the same time to solve what problem exactly? The status quo is okay. Okay, maybe there are improvements that could be made at some point in the future but to take them out of a regime which currently exists and which everybody knows how it works and which has been going for a while and to put them in a new regime, which has not yet been established, does not fix any problem. It does not help improve how those are regulated. Perhaps it is an option in the long term but right at this moment in time I would suggest Members vote against it. If it needs to be revisited in the future that is the time to do it.

8.4.5 The Connétable of St. Brelade:

The motivation behind this amendment was to simplify what is a complex situation hidebound in red tape. I would suggest that given the Minister now has time to review his guidelines, which will be produced in March 2024; maybe that is the time to incorporate any changes which may appertain to lodging houses and cover that off at the same time. This is purely an amendment, as I say, to simplify the present situation and make it more easily understandable by those members of society who are involved with lodging houses.

8.4.6 Deputy R.J. Ward:

Just very briefly, the thing that has interested me, convinced me, is part 6 of the Lodging House Law that says: "If the Minister is of the opinion that the applicant is not a fit person to keep a lodging house." I stood up when we talked about rent-a-room in this Assembly and I still raise that concern. There is a huge lack of safeguarding in that rent-a-room scheme. I think it was a very, very bad idea. But we have a rule, we have a law here that exists and seems to be working to say you have got to be a fit and proper person because of the nature of the accommodation, which I think is intrinsically quite different from the landlord licensing scheme as will go forward on accommodation of that form. Therefore, at this stage I see no reason to incorporate the 2 because we could be losing something that is useful. In the long term I do feel that it would be appropriate to do that but you are going to have to look at that section of that law in section 6(2)(a), that I think it will be important to see how you do not lose that. Because it is a protection in a lodging house, which is a different form of accommodation. Also, maybe people perhaps with less right to living here temporarily or have just arrived and so there needs to be some protections there and I would not want to lose that. That is the specific reason why I will not be voting for this amendment and I hope Members can consider that.

The Bailiff:

Does any other Member wish to speak on this amendment? If no other Member wishes to speak, then I close the debate and call on Deputy Luce to respond.

8.4.7 Deputy S.G. Luce:

I will not take long. As my vice-chairman has already said, the intention of this amendment was to keep things simple and to get everything into one place so that it was straightforward and much easier for both landlords and tenants to see exactly where they were. The Minister was at pains to tell us for quite some time how everything is exactly the same. He did point out right at the end of his speech the few things that are different that he would like to keep. If different, extra standards and requirements could be imposed on these new regulations at a later date. There is no reason why it could not be included in legislative amendments. The licences and the fees would be the same, there would just be a few tweaks needed to bring these lodging houses in. I cannot really say more. The Scrutiny Panel have made a really big effort to try to keep things simple, to get everything in one place so it is easy to see where we are. We accept that we will only need to make a few more tweaks to get lodging houses into this but we think it is really important to have all rental accommodation in the same place here. I propose this amendment.

The Bailiff:

Is the appel called for?

Deputy S.G. Luce:

Yes, please, Sir.

The Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on the first amendment to the eleventh amendment and I ask the Greffier to open the voting. If Members have had the opportunity of casting their vote, then I ask the Greffier to close the voting. The amendment has been defeated: 12 votes pour, 35 votes contre, no abstentions.

| POUR: 12 | | CONTRE: 35 | | ABSTAIN: 0 |
|---------------------------|--|---------------------------|--|-------------------|
| Connétable of St. Brelade | | Connétable of St. Helier | | |
| Connétable of Trinity | | Connétable of St. Peter | | |
| Connétable of St. Martin | | Connétable of St. Clement | | |
| Connétable of St. John | | Connétable of Grouville | | |
| Connétable of St. Ouen | | Deputy G.P. Southern | | |
| Connétable of St. Mary | | Deputy M. Tadier | | |
| Connétable of St. Saviour | | Deputy L.M.C. Doublet | | |
| Deputy C.F. Labey | | Deputy K.F. Morel | | |
| Deputy S.G. Luce | | Deputy S.M. Ahier | | |
| Deputy M.R. Le Hegarat | | Deputy R.J. Ward | | |
| Deputy R.E. Binet | | Deputy C.S. Alves | | |
| Deputy B. Ward | | Deputy I. Gardiner | | |
| | | Deputy I.J. Gorst | | |
| | | Deputy L.J. Farnham | | |
| | | Deputy K.L. Moore | | |
| | | Deputy S.Y. Mézec | | |
| | | Deputy P.M. Bailhache | | |
| | | Deputy T.A. Coles | | |
| | | Deputy B.B.S.V.M. Porée | | |
| | | Deputy D.J. Warr | | |
| | | Deputy H.M. Miles | | |
| | | Deputy M.R. Scott | | |
| | | Deputy J. Renouf | | |
| | | Deputy C.D. Curtis | | |
| | | Deputy L.V. Feltham | | |
| | | Deputy H.L. Jeune | | |
| | | Deputy M.E. Millar | | |
| | | Deputy A. Howell | | |
| | | Deputy T.J.A. Binet | | |
| | | Deputy M.R. Ferey | | |
| | | Deputy R.S. Kovacs | | |
| | | Deputy A.F. Curtis | | |
| | | Deputy K.M. Wilson | | |
| | | Deputy L.K.F. Stephenson | | |

| | | |
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| | Deputy M.B. Andrews | |
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The Greffier of the States:

Those voting pour: the Connétables of St. Brelade, Trinity, St. Martin, St. John, St. Ouen, St. Mary and St. Saviour; Deputies Labey, Luce, Le Hegarat, Rose Binet and Barbara Ward.

8.5 Draft Public Health and Safety (Rented Dwellings (Licensing) (Jersey) Regulations 202-(P.40/2023): eleventh amendment (P.40./2023 Amd.(11)) - second amendment (P.40/2023 Amd.(11).Amd.(2))

The Bailiff:

We come to the second of the amendments from the Environment, Housing and Infrastructure Scrutiny Panel and I ask the Greffier to read that second amendment.

The Greffier of the States:

Page 2, substituted Regulation 2 - after substituted Regulation 2(4), insert (5) the Minister must not impose fees if the dwelling to which the application relates is owned by (a) Andium Homes, (b) Christians Together in Jersey Housing Trust, (c) Clos de Paradis Housing Trust, (d) F.B. Cottages Housing Trust, (e) Jersey Homes Trust or (f) Les Vaux Housing Trust.

8.5.1 Deputy S.G. Luce (Chair, Environment, Housing and Infrastructure Scrutiny Panel):

Again, this is quite a simple and straightforward amendment. The aim of it is to amend the draft regulations to require social housing providers to obtain a licence under the proposed licensing regime but the important part of the amendment is this, to exempt them from the associated licensing fee. In views expressed to the panel - this is the Scrutiny Panel - social housing providers questioned the necessity for their inclusion in the proposed licensing regime altogether. They have also shared their concerns with the panel around the potential impact of a licence fee and the costs. A very brief summary of the concerns they had might go as follows, the social landlord said that the Government already know where social housing properties are. They know the social housing providers keep their homes up to U.K. decent homes standards and carry out regular inspections. They know that if there is an issue with the condition of a social housing property, that provisions are already in place within the Public Health (Rented Dwellings) (Jersey) Law for tenants to complain. They know that for the introduction of a licensing scheme it is to prevent revenge evictions from occurring by enabling Government to know where rental properties are, so that random inspections can be made on the property, while the tenant has been left concerned that a complaint made to Environmental Health will result in a revenge eviction. They know that exempting social housing providers from the licensing scheme does not mean that they will be exempt from having to comply with minimum standards. While the Minister’s argument that the currently proposed cost of a licence fee is sufficiently small at £60 every 2 years, it will not impact negatively by being included in rent. There is a risk that this fee could rise disproportionately in the future should operating costs increase. Furthermore, Andium Homes, who Members will know have a rental increase policy which caps at 4 per cent, regardless of where R.P.I. (retail price index) is, therefore, that may leave them with little additional scope to add the cost of the licence fee to rents. This is quite straightforward, it is about asking whether we want our social housing providers to also pay a charge for their licence. We agree that they should be licensed but having reviewed cases put forward from both the Minister and the providers themselves, the panel is of the view that social housing providers should be required to obtain a licence. However, considering their status as non-profit organisations, the panel believes the case has been satisfactorily made that they should be exempt from a licence fee and, therefore, proposes this amendment.

The Bailiff:

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

8.5.2 Deputy M. Tadier:

This might sound tempting on the face of it but I really do not understand the logic. I think there are at least a couple of compelling reasons why we should not exempt the listed landlords when we are imposing a regime which has to be paid for by other landlords. I think the 2 most compelling reasons that I have thought of, and I did think about this quite long and hard, and I know, as a party, we have discussed it and I will be interested to see what the Minister has to say. But the first thing is to say, should I make a song and dance of this? But I have been a States Member now 15 years, it was my anniversary on Sunday. **[Approbation]** Strangely enough I am the only Member left from the class of 2008. There is nobody who was elected for the first time in that year; they have either left or there are lots who were here before me. The reason I mention that is not just out of self-indulgence or gratuitousness but because from day one in the Assembly I started to get phone calls, emails and correspondence to do with housing. The housing conditions where people have been inadequately housed are not limited to the private sector. Those phone calls come in from all areas. In fact only in the last few months I have taken case work from the private sector, which I have had to refer to Environmental Health and I have had to stand by metaphorically and hold the hand of tenants when they say to me: "Do you think I should raise this case with Environmental Health or do you think I should proceed in another way?" I have advised them as I thought best. But I have also had to do that with at least one of the named housing providers on this list just in the last few months, who is still awaiting to be rehoused, even though she lives in a substandard property and that she would like, ideally, to be rehoused in a similar area. But we know that there are ongoing issues there. I think the other point is that the social ... can we call it a social housing provider nowadays? I am not sure, given the fact of costs, which are still very expensive, even in what used to be social housing in Jersey. The other reason is that we, as far as Andium Homes is concerned, need to lead by example and I think the social housing sector need to lead by example. To exempt them, I think, would send the very wrong message out to the many landlords in the private sector, some of whom, I would hope most of whom, take their responsibilities as landlord very seriously and want to do right by the tenants that they provide housing for because they know it is in their interests and it is in the tenants' interests to do so. I think to send that message out that we are going to be exempt from that because that is how it will come across, whereby we want you to provide the cost for that service. Because the cost is exactly the same, is it not? If there is a complaint that gets referred and it needs to have an inspection from someone at the Environment Department to go round maybe once or twice, check that the certificates have all been issued, check that it is wind and watertight and the compliance is there; the cost is exactly the same as if that happens to a private sector landlord. I think for me I think those 2 reasons in themselves bring me to the point where if we are going to have a fee, and remember of course that previous Assemblies had the option to pass legislation where there was no fee at all, That boat has now sailed I am afraid, we could have had a system which was completely paid for by the taxpayer, if you like. It is now we have got a model which is, I guess, partly user pays and that is where we are at. It would make no sense to favour one group above another. I think in terms of equity, fairness, I think we need to reject this, I am sure, well-researched and well-intentioned amendment.

[15:30]

8.5.3 Deputy J. Renouf:

I respectfully ask Members to reject this amendment for 2 reasons. First, there is an important principle at stake in this amendment that I do not believe should be conceded. Second, there are also some practical issues that are raised that would create inequalities and confusions were it to be adopted. Let me start with the principles. The central principle at issue is that all those who are

subject to regulation should be treated the same. If 2 landlords are subject to the same regulatory framework, then they should be treated by the law in the same way. It would be quite a significant precedent, I think, if we went against that principle. I will return to that point of principle in a moment. But before that let me address some of the practical issues that are raised. If we go back to basics the amendment specifically excludes a number of social housing providers from the requirement to pay fees, however, several of those grounds could apply to other landlords. Why, for example, does the amendment not recognise the work of other housing providers that might also make a good case to be treated differently? What about housing providers set up by registered charities? What about Parish accommodation? What about staff accommodation which does not achieve any profit? Throwing the net a little wider still, what about the many landlords who refrain from applying above inflation rent increases? What about large landlords with an impeccable record of high standard accommodation? Where do you draw the line? What precedent does it set to exclude one worthy category but deny others? Once you open up this possibility of excluding one category from fees you start negotiating about them all. I guess some might say: "Why charge at all?" That was a debate that, as was referenced, has already been had in the past. I would say that from my point of view it is a principle of regulation that where possible those who are regulated should pay towards the cost of regulation. One of the reasons for that, although it may not be fully accepted by all, is that those who regulate benefit from effective regulation. Good landlords are no longer undercut by unscrupulous landlords, for example. It is the same in planning, much as I am sure that planning fees are resented, they are an acknowledgement that the applicant will ultimately benefit from the application and so it is fair that they pay towards the cost. The alternative is that the general taxpayer should pay and I do not think that is desirable. It is quite interesting that this question has come up now because it is worth remembering that this was looked at by a previous Scrutiny Panel when a previous version of these regulations came to the Assembly. The Scrutiny Panel report published in February 2020, recommendation R.7 of that Scrutiny report aimed: "To ensure a level playing field across all housing providers", thereby suggesting: "The Minister should ensure that all rental dwellings under the scheme are not exempt from the licence fee." The quotes from that Scrutiny report goes like this: "The fairness of exempting social housing providers and Parishes from the licence fee, while private landlords pay fees, is also highly questionable. Surely if fees are to be paid then these should be apportioned fairly across the private and social housing sectors so that there is a level playing field. This is especially important, given that one hears so much anecdotal evidence of poor housing stock in the social housing sector too." I believe that is also the view of the Jersey Landlords Association, that social housing should not be excluded. On this occasion I find myself, that is unusual Members may think, in complete agreement with them. I would also draw Members' attention made at the end of the quote I have just given, mentioning that: "There is anecdotal evidence that there is poor housing in the social housing sector as well." This has been referenced as well by Deputy Tadier. It does go beyond anecdotal. There are evidenced cases of poor safety standards in the social housing sector. In the past 6 months the housing and nuisance team dealt with complaints and enquires regarding social housing rented dwellings related to insufficient heat, inhabitable rooms, water ingress and damp and the safety of electrical appliances. This does not mean that social housing providers concerned are poor landlords any more than it means that private landlords who have these issues reported are poor landlords. These issues can arise for many reasons, and particularly in the case of landlords dealing with some of those issues depends on when issues are raised by tenants, extreme weather events can cause issues and so on. The fact that issues are raised is not a criticism, it is just a fact and that regulation, therefore, has to apply across the board. It cannot be argued that social housing providers should not be covered by fees on the grounds that they do not need regulating. They are within scope of the regulations and that is necessary and justified because they occasionally fall foul of minimum safety standards, as do other landlords. The ultimate answer though as to why social housing providers, just like other landlords, need to pay a fee is that the alternative is the taxpayer should pay and I just do not think that is right. We have a longstanding principle that those who are regulated should help pay the cost of regulation and I do not think a

strong enough case has been made in this case to exclude social housing providers, although they may seem worthy and, as I say, I think it would create all sorts of ambiguities and open up all sorts of other questions about who should and should not pay fees. I would urge Members to please reject this amendment and stay with the principle of a uniform fee.

8.5.4 Deputy M.R. Scott:

Just to follow up on the point made by Deputy Tadier about the differences between the bodies that were identified in the amendment and private landlords. The simple difference that I could see was that what seemed to be identified were trusts and organisations that invest in housing mainly, the charitable ones are not exactly for profit, whereas private landlords generally are. That, I guess, technically I am sure that the fees that otherwise would be going out of these trusts and things to support housing are not really doing that work. I appreciate what the Minister was saying about if they do not pay the taxpayer will have to, but I can also see that we need housing and there needs to be a way of supporting this, although he might argue that this is relatively small beer, but then if it is then why be taxing these actual organisations that are doing the work that they are doing with that particular focus? I am still listening to the arguments.

8.5.5 The Connétable of St. Brelade:

The licensing scheme, as proposed, aims to provide Government with an effective mechanism to identify rental homes and to proactively manage and improve the quality of homes. However, the appropriate approach to achieving this objective seems to me is considered to be different in relation to the private sector and the social housing sector, given they have a very different oversight and financial model, ownership arrangements and of course social purpose. If you take Andium, for example, it is wholly Government-owned, it is registered with the Rent Safe Scheme and this confirms that the Government already know where those social housing properties are and officers have the opportunity to inspect properties in order to register them with that Rent Safe Scheme. Government has complete transparency about the homes owned and operated by Andium, in particular, and operation oversight model in accordance with a memorandum of understanding. Andium is also governed by an independent board, including housing experts. In addition, it operates a clear complaints process if tenants have concerns about their properties or the service they receive, and that will also be subject to independent reviews if necessary. They operate a form of rent control following the Government's social housing rents policy and this has seen reduced rent rises over the years to 75 per cent of private market; 100 per cent of their homes meet local social housing standards which mirrors the U.K. decent homes standard and consistent investment and maintenance to maintain this. Therefore, there is no doubt that Government has already sufficient oversight over Andium particularly, and I mention Andium because bear in mind that Andium manage some 4,500 properties in the Island; the biggest landlord, in effect. Tenants benefit from good quality homes at below market rents and so the licensing scheme is not considered to add material value to their tenants. Despite this the cost of the scheme would most significantly fall to Andium, licences will cost £60 for 2 years and although this has been indicated for those registered with Rent Safe, the first period will be free, there will be a requirement to the landlord, which is to register, which will generate £350,000 for Government every 2 years. The cost to Andium will be £150,000 annually. We are dealing with a non-profit organisation, so the additional costs will ultimately be borne by the social housing tenants to, effectively, fund a scheme which will benefit private sector tenants. One rather feels that this is a bit of a circumlocutory situation which will give the tenants no benefit but it will simply fatten up the Minister's department for providing a scheme which they do not need. On that basis, I think this proposition, this amendment, should be supported in the interests of States social housing rented tenants and others who fall into that category.

The Bailiff:

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

8.5.6 Deputy S.G. Luce:

I will just start by pointing out that there are 6,367 individual dwellings that are classed as social rented housing and on that number, as the Constable of St. Brelade has just said, the actual number is just over 4,800. The cost to Andium on an annual basis is going to be nearly £145,000 annually. Some Members have argued that their constituents need to move, they are in poor quality accommodation and that charging the social landlords a fee is going to make that better. The Minister spoke about the cost of inspection being the same but I cannot understand how Members cannot see that allowing Andium to keep £145,000 a year is better for their tenants, is better for their properties, gives them more ability to build more or to maintain more and to improve more. The Minister said: "Where do you draw the line?" He makes a point. The Scrutiny Panel have drawn the line on social housing providers. The Minister used the situation where planning application fees are the same across the board for everybody but the Minister usually when he is the Minister for the Environment, Minister for Planning, makes exceptions for charities and other good causes and allows a reduced fee. I will just close with this, poor housing stock in social housing. I am not denying that there will not be some poor housing stock in the social housing providers but they are going to be governed, they are going to have to get a licence. What we are debating here is whether we allow in Andium's case for them to keep £145,000 a year to do a better job of providing social housing for those tenants that need it or whether we are going to impose a charge on them. That is all I have to say and I think in Scrutiny's views very clearly we want social housing providers to keep that money and invest it for the benefit of those people or their tenants.

The Bailiff:

Do you call for the appel, Deputy Luce?

Deputy S.G. Luce:

I do, Sir, thank you.

The Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on the second amendment to the eleventh amendment, therefore, Regulation 2. I will ask the Greffier to open the voting in just a moment. I am afraid an errant mouse has delayed the matter for a short period. The Greffier has opened the voting and I ask Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The amendment has been defeated: 7 votes pour, 33 votes contre and one abstention.

| POUR: 7 | | CONTRE: 33 | | ABSTAIN: 1 |
|---------------------------|--|---------------------------|--|--------------------|
| Connétable of St. Brelade | | Connétable of St. Helier | | Deputy R.S. Kovacs |
| Connétable of St. Peter | | Connétable of St. Martin | | |
| Connétable of St. Mary | | Connétable of St. John | | |
| Deputy S.G. Luce | | Connétable of St. Clement | | |
| Deputy M.R. Le Hagarat | | Connétable of Grouville | | |
| Deputy S.M. Ahier | | Connétable of St. Ouen | | |
| Deputy M.R. Scott | | Deputy G.P. Southern | | |
| | | Deputy C.F. Labey | | |
| | | Deputy L.M.C. Doublet | | |

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|--|-------------------------|--|--|
| | Deputy K.F. Morel | | |
| | Deputy R.J. Ward | | |
| | Deputy C.S. Alves | | |
| | Deputy I. Gardiner | | |
| | Deputy I.J. Gorst | | |
| | Deputy L.J Farnham | | |
| | Deputy K.L. Moore | | |
| | Deputy S.Y. Mézec | | |
| | Deputy P.M. Bailhache | | |
| | Deputy T.A. Coles | | |
| | Deputy B.B.S.V.M. Porée | | |
| | Deputy H.M. Miles | | |
| | Deputy J. Renouf | | |
| | Deputy C.D. Curtis | | |
| | Deputy L.V. Feltham | | |
| | Deputy R.E. Binet | | |
| | Deputy H.L. Jeune | | |
| | Deputy M.E. Millar | | |
| | Deputy M.R. Ferey | | |
| | Deputy A.F. Curtis | | |
| | Deputy B. Ward | | |
| | Deputy K.M. Wilson | | |
| | Deputy L.K.F Stephenson | | |
| | Deputy M.B. Andrews | | |

[15:45]

8.6 Draft Public Health and Safety (Rented Dwellings (Licensing) (Jersey) Regulations 202-(P.40/2023)

The Bailiff:

We now return to the debate on Regulation 2, the regulation now proceeds unamended and does any other Member wish to speak on Regulation 2 in its current form? If no Member wishes to speak, then I call upon the Minister to respond.

8.6.1 Deputy J. Renouf:

I feel that we have debated the main issues around this, which were around the exclusions and around the fees. The rest of the regulation is, I think, reasonably uncontroversial. It covers issues such as information the Minister must provide prior to the scheme going live and that is listed in clause 3, for example. But I hope Members have had a chance to have a look and I just recommend that we vote for that regulation now.

The Bailiff:

Those in favour of adopting Regulation 2, kindly show. The appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting. The voting is on Regulation 2. If Members have had the opportunity of casting their vote, then I ask the Greffier to close the voting. The regulation has been adopted: 31 votes pour, 4 votes contre and no abstentions.

| POUR: 35 | | CONTRE: 4 | | ABSTAIN: 0 |
|---------------------------|--|---------------------------|--|-------------------|
| Connétable of St. Helier | | Connétable of St. Brelade | | |
| Connétable of St. Peter | | Deputy M.R. Le Hegarat | | |
| Connétable of St. Martin | | Deputy P.M. Bailhache | | |
| Connétable of St. John | | Deputy M.R. Scott | | |
| Connétable of St. Clement | | | | |
| Connétable of Grouville | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Mary | | | | |
| Deputy G.P. Southern | | | | |
| Deputy C.F. Labey | | | | |
| Deputy S.G. Luce | | | | |
| Deputy L.M.C. Doublet | | | | |
| Deputy K.F. Morel | | | | |
| Deputy S.M. Ahier | | | | |
| Deputy R.J. Ward | | | | |
| Deputy C.S. Alves | | | | |
| Deputy I. Gardiner | | | | |
| Deputy I.J. Gorst | | | | |
| Deputy K.L. Moore | | | | |
| Deputy S.Y. Mézec | | | | |
| Deputy T.A. Coles | | | | |
| Deputy B.B.S.V.M. Porée | | | | |
| Deputy H.M. Miles | | | | |
| Deputy J. Renouf | | | | |
| Deputy C.D. Curtis | | | | |
| Deputy L.V. Feltham | | | | |
| Deputy R.E. Binet | | | | |
| Deputy H.L. Jeune | | | | |
| Deputy M.R. Ferey | | | | |
| Deputy R.S. Kovacs | | | | |
| Deputy A.F. Curtis | | | | |
| Deputy B. Ward | | | | |
| Deputy K.M. Wilson | | | | |
| Deputy L.K.F Stephenson | | | | |
| Deputy M.B. Andrews | | | | |

Minister, do you propose Regulations 3 to 6?

8.7 Deputy J. Renouf:

Sir, can I propose them *en bloc*?

The Bailiff:

You can indeed. Are Regulations 3 to 6 seconded? **[Seconded]** Does any Member wish to speak on Regulations 3 to 6 or any of them?

8.7.1 The Connétable of St. Mary:

I would like to speak in relation to Regulation 5 in particular. This, effectively, is a replacement of the corresponding provision in the original proposition where the right of appeal was confined to 5(d): “A right of appeal to the Minister if the licence is refused or withdrawn.” End of. Members will note that the review we now have, it is a review and an appeal. I think in recognition - and the Minister recognises this - he wishes to adopt a softer touch and rather than throw anyone into the melee of applying to the Royal Court we now have a 2-tier situation where there is a review in the first instance, not an appeal, where perhaps formal agreement can be reached and, if not, then there is a right of appeal to the Royal Court. I also distinguish the fact that in the original proposition any approach to the Royal Court will come by way of judicial review, which I am told is an appeal of last resort - you might have your own views on that, Sir - whereas we do now have in this legislation an appeal process which sets out the parameters and, in fact, is closely aligned to the appeal provision of the 2018 law, which makes sense. I mention that because, as I have said in another debate, the Law Commission in a report, I think 2018, did point out and focused on the fact that it cannot be right that an appeal against a particular provision should lie to the Minister of that very department who has created the law. I like to think that this may indeed serve as a template for any future legislation and that across the whole Ministerial profile Ministers will avoid this, including provisions, where appeal lies to them and they will insert and provide for appeals to the Royal Court setting out the grounds for appeal and the timetable, et cetera. I wish to make that distinction because I think it is important for the benefit of all future legislation as well. I very much support this particular provision.

The Bailiff:

Thank you very much, Connétable. Does any other Member wish to speak on those?

8.7.2 Deputy A. Curtis:

I do want to highlight, I know the discussion of fees came up and Regulation 3, paragraph 5 highlights that. No, sorry, it was a later paragraph in the licence, it was paragraph 6, there we are. I got a little ahead of myself: “The Minister may impose charges for the issue of a licence and if charges are imposed they must be published.” I would argue that the Minister has provided provision within these regulations to charge. He has not said he must, as a debate around regulations existed earlier. I remain concerned about the flexibility within the wording of that regulation, notwithstanding assurances that this will not be above inflation or 2.5 per cent without Treasury approval. I do highlight that in the report alongside these regulations that it says that at paragraph review: “The intention would be for officers to review the scheme after a year of operation. This would help inform the level of fees that would apply for the next renewal period.” I say I am struggling to marry the 2 of those up. I, like many of my parishioners, have great concern about the creep of user pays and the feeling that it provides no restraint on departments for thinking prudently. I urge the Minister to exercise his powers as, if this is approved, he may impose charges but he does not have to. I would prefer that he find alternative funding and for the first year at least provides a scheme with no charging whatsoever.

8.7.3 Deputy M.R. Scott:

I just notice with a bit of a discomfort Article 3(5): “A licence subject to the extended licence conditions set out in the schedule and may contain additional requirements if the Minister thinks fit.” I would have preferred and just regret not having brought some sort of amendment or discussed this

at Scrutiny, something that perhaps gave more in a way of guidelines about reasonableness or the basis. I just am not keen on what can perhaps just be a carte blanche in terms of discretion.

The Bailiff:

Does any other Member wish to speak on the Regulations 3 to 6? If no other Member wishes to speak, I close the debate and call upon the Minister to respond.

8.7.4 Deputy J. Renouf:

To respond to those 2 points, the Constable of St. Mary’s points are well made. I am happy to accept the reform, if you like, to the appeals system. I think a 2-tier system with a second appeal to the Royal Court is a good option. The option is in the first instance to appeal to me, as the Minister. Some people may have said that that is too much marking my own homework. The officers in my department will confirm that I am quite capable of holding them to account if necessary and disagreeing with them. But we do have now the backstop of a legal fall back as well. But I would emphasise again that the intention is for these provisions to be applied flexibly and in a way that is ... persuasive compliance is the phrase that is used. It is intended to be persuasive. We should not be getting to the point where people feel they need that kind of a draconian response and I would hope we do not. But there we are, the provisions do exist. In terms of fees, I will stand by the points I made. I cannot say to Deputy Curtis that we will not charge in the first year. What I have said is I very clearly laid out the fees. I have explained where those figures came from and I have said that they will increase by no more than inflation on any given year. That is of course in any case there is also another restriction, if you like, in that any fee rise above 2.5 per cent requires the permission of the Minister for Treasury and Resources. There are further restraints in place. Obviously Members will be aware that Ministers come and go and my guarantees cannot be held for all time. But I am very sincere - very sincere - in my desire to keep those fees low and to get them to reflect the costs that we have, not some future costs that might arise out of the expansion of the system. We have enough officers to do the job if we pass these regulations, so that they can do the job properly. Those fees should not need to increase further. With that I will close and call for the vote, please. I think we will have the appel.

The Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on Regulations 3 to 6 in Second Reading. I ask the Greffier to open the voting. If Members have had the opportunity of casting their vote, then I ask the Greffier to close the voting. The Regulations 3 to 6 have been adopted: 37 votes pour, 4 votes contre, 2 abstentions.

| POUR: 37 | | CONTRE: 4 | | ABSTAIN: 2 |
|---------------------------|--|---------------------------|--|-------------------|
| Connétable of St. Helier | | Connétable of St. Brelade | | Deputy M.R. Scott |
| Connétable of St. Peter | | Deputy M.R. Le Hegarat | | Deputy A. Howell |
| Connétable of St. Martin | | Deputy S.M. Ahier | | |
| Connétable of St. John | | Deputy P.M. Bailhache | | |
| Connétable of St. Clement | | | | |
| Connétable of Grouville | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Mary | | | | |
| Connétable of St. Saviour | | | | |
| Deputy G.P. Southern | | | | |
| Deputy M. Tadier | | | | |
| Deputy S.G. Luce | | | | |

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|-------------------------|--|--|--|--|
| Deputy L.M.C. Doublet | | | | |
| Deputy K.F. Morel | | | | |
| Deputy R.J. Ward | | | | |
| Deputy C.S. Alves | | | | |
| Deputy I. Gardiner | | | | |
| Deputy I.J. Gorst | | | | |
| Deputy L.J Farnham | | | | |
| Deputy K.L. Moore | | | | |
| Deputy S.Y. Mézec | | | | |
| Deputy T.A. Coles | | | | |
| Deputy B.B.S.V.M. Porée | | | | |
| Deputy H.M. Miles | | | | |
| Deputy J. Renouf | | | | |
| Deputy C.D. Curtis | | | | |
| Deputy L.V. Feltham | | | | |
| Deputy R.E. Binet | | | | |
| Deputy H.L. Jeune | | | | |
| Deputy T.J.A. Binet | | | | |
| Deputy M.R. Ferey | | | | |
| Deputy R.S. Kovacs | | | | |
| Deputy A.F. Curtis | | | | |
| Deputy B. Ward | | | | |
| Deputy K.M. Wilson | | | | |
| Deputy L.K.F Stephenson | | | | |
| Deputy M.B. Andrews | | | | |

Do you propose the regulations in the Third Reading, Minister?

8.8 Deputy J. Renouf:

Yes, I beg your pardon.

The Bailiff:

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

8.8.1 Deputy S.G. Luce:

This may be a little bit unusual, but I would just like a few votes of thanks, that when my Scrutiny Panel called this in we had not quite realised what we were taking on, but I am extremely grateful to Justice for Tenants U.K., who have been hugely of assistance to us in coming up with our recommendations and our amendments. I am grateful to Members for agreeing with us in many of those cases and I would like to thank my Scrutiny Panel and our officers in particular for the huge amount of work that has gone on here. Members may not appreciate quite how much. Obviously there were 9 amendments; the Minister accepted 7. We had the eleventh amendment. There has been a huge amount of backwards and forwards in agreeing with law drafters, with law officers, with the Minister. It has been a big piece of work. I would just say in conclusion that in our comments paper, the Scrutiny Panel have also made some recommendations, which I very much hope the

Minister is going to take on board. We have spoken about a code of practice, so I will not go on about that, but we have also recommended that the Minister explores other inspection regimes that already exist to avoid duplication. We would like the Minister to implement a government helpline for landlords and tenants regarding licensing queries. We would like him to undertake an economic impact assessment, which he does not seem very keen to do, but anyway. We would like data to be collated and provided in an annual report so we can see the value and effectiveness of this licensing regime and we would also like to publish the names of those who are in breach of law. Finally, one that I think is quite important, that we certainly were very keen to put on as a recommendation, is the potential for the Minister to consider introducing fixed-penalty notices for breaches of this law. Now, I know that goes away from many of the things we do in Jersey, but we were hugely impressed by the work that has been done in the U.K., where a prosecution normally may take 18 months to 2 years and costs hundreds of thousands of pounds, where a fixed-penalty notice could get the person who has broken the law into a situation where they pay a fine in a very few months and cost the department a very small amount of money. We think that that could well be investigated as some way forward. There is a little question in the panel's mind, that poor conditions in rental properties do exist and this should be addressed. The question we have sought to answer is whether the licensing regulations are going to achieve their intended aims and without an adverse effect or unintended consequences for the private rental sector. We do not feel we have been able to answer all the questions with a huge amount of certainty. While we understand a code of practice is currently being drafted and we have discussed that, it is unfortunate that it was not prioritised to be published in time for this debate and the absence of it we feel makes it difficult for Members to ascertain how the law will be applied in practice. Notwithstanding that, 7 of our proposed amendments have been adopted, our uncertainty remains as to whether the proposed licensing scheme will achieve its intended aims of making rental dwellings safer. However, if adopted, we hope that both our proposed amendments and the recommendations will assist in some degree of ensuring that suitable mechanisms are in place to ensure that regulation is both light touch, but also has the best chance of achieving intended aims. My panel went into this work knowing that the principles had been adopted and we only seek to improve the regulations where we did. I finish by thanking the Minister, his officers and all stakeholders who have contributed their views and evidence to all the work that Scrutiny have done.

[Approbation]

The Bailiff:

Does any other Member wish to speak in the Third Reading?

[16:00]

8.8.2 Deputy P.M. Bailhache:

The Scrutiny Panel - and I am happy to follow Deputy Luce - has indeed done a very good job in improving the regulations in different ways, but if I may say so, it has failed to identify the fundamental flaw in this licensing scheme. That flaw is that the regulations do nothing to achieve the purpose which the Minister claims for them. That purpose is dealing with poor quality housing, helping people desperate for someone to do something about their living conditions. The Minister spoke very eloquently and persuasively in the first debate about the need to do something for tenants who suffer from dampness or mould or unsafe electrical or gas systems or vermin in their homes, and I sense that many Members felt unable to resist that avalanche of emotion. The real tragedy of this long debate, in my view, is that a landlords' licensing scheme will change nothing. I fear that Caritas and the Citizens Advice Bureau and hundreds of tenants who have been told that licensing landlords will make things better are going to be very disappointed. Nothing will change because only the naive can believe that bad landlords are going to reveal the dampness, mould and unsafe systems in their properties when they apply to be registered. The only way in which the authorities are going to learn of rental properties where living conditions are inadequate is through direct complaints from the tenants or information passed through Caritas and C.A.B. (Citizens Advice Bureau) and other

such organisations, in other words, exactly the system that we have today. What is even more upsetting to me is that the means of dealing with the problems of inadequate rental properties exist already and have nothing whatever to do with a landlords' licensing system. The Minister has said that: "The only means to enforce against a landlord who refuses to make improvements is a criminal prosecution" and I am quoting from Hansard, but he also said exactly the same thing this afternoon. That is just not true. Failure to comply with statutory standards can be a criminal offence, but there are also civil remedies available to the Minister and it is incomprehensible to me that they are not being used or not being used sufficiently. Let me give a very simple example. The department learns of a tenant with a kitchen wall covered in black mould. It is a prescribed hazard and it is said that children in the flat or a child suffers from asthma and is being affected by the mould. An inspector goes out and during that inspection he decides that the remedy is some mechanical ventilation. The landlord is reluctant to spend the money to do that work. The inspector goes back to his office and drafts an improvement notice under Article 9 of the law, requiring the owner to reduce the risks posed by the mould by installing mechanical ventilation within, shall we say, 8 weeks. Hopefully the owner will comply, but if he does not comply, the inspector has power under Article 12 of the law to have the work done himself and later to recover the cost of doing so from the owner. What could be simpler than that? Problem solved; tenant satisfied. So much better than a criminal prosecution where the owner may be fined in court, but the mould is still there on the kitchen wall. Conditions placed on a licence are irrelevant to the issue of how to get rid of the mould because the only remedy under these regulations against a failure to comply with those conditions is a criminal prosecution. I have gone on long enough. I am going to vote against these regulations in Third Reading because they create a worthless set of controls which will do nothing to improve the quality of rented dwellings in Jersey.

8.8.3 Deputy M. Tadier:

We are in an unusual position, that we have got a piece of legislation before us that has been very well scrutinised in the First, Second and Third Readings, and not just on one occasion, but on many occasions, and that is how legislation is developed in most places around the Commonwealth and around the world. I think we have found ourselves in a position hopefully now where we have got a much better law for that and I think we do need to acknowledge the work that this Scrutiny Panel has done, but also that many others have done in previous Assemblies who may not be here with us and who have not been able to necessarily achieve what the good Deputy and Minister for Planning and Environment have today, hopefully, in the Third Reading. Now, I disagree with the pessimism of the leader of the Jersey Liberal Conservatives when he says that this law will change nothing because I am much more hopeful that this does give a very necessary string to the bow of enforcement in housing and in environment. The reason I say that is I think a couple of false analogies have been made and also some conflation by the previous speaker, as well as Deputy Luce. The way I see this is that you could have an analogy where we are not talking about accommodation and housing, but you are talking about driving and cars or mopeds, and you might say: "Why do we need a licensing scheme for drivers? Why do we not wait until there is an issue? If there is a complaint about how they are driving, then just wait for that complaint to happen and if somebody sees a driver who is being discourteous or more dangerous and has done something wrong, then we wait for them to be reported and then the police can deal with them, and perhaps they can be dealt with in a light-touch way, but also with an on-the-spot fine and also their names can be published" which was, interestingly, the suggestion from the leader of Scrutiny. Now, is it just me or was that quite incoherent and not joined up, to say on the one hand we want to have light-touch regulations, which is a great Jersey way, but is it going to be effective? What I want to see is effective regulation and of course I want to see that done in the most sensible way, but it seems to be contradictory to, on the one hand, say we want to have light touch but we want the names published of any landlord who has made a breach. I mean, we do not do that for other laws and it does not seem compliant with data protection or with the natural laws of justice that we enforce in other areas, so I think that is a slightly

strange suggestion. It is much better to have an ability ... and I will give you a tangible example of something that has happened recently, and Deputy Bailhache will know this person. So I have come across a case of a landlord who, for example, knew his or her rights when it came to increasing the rent by the cost of inflation, so the tenants had a letter through the door saying: "The current rate of R.P.I. is 12 per cent, therefore your rent is going up by 12 per cent" but then a few months later the tenant realised ... or it came to the attention that the landlord had not done an electrical check, so even though it is in law that you have to have an electrical check, that had not been done, the gas check had not been done. Therefore the tenants, who are now paying quite a lot of rent for that home that they are living in, have had no way of knowing that they have been safe for the last 18 months of that tenancy. So that is already in the law and of course if you do not know who the landlords are in the first place, how can you possibly make sure that they have got all the right paperwork in place? The Government - no government - is able to do that, so simply this is not about having black mould on a wall in a bedroom or a kitchen - I mean, that is quite a separate issue - but what it does, it makes sure that you set up a system in the first place. It is that if you want to be a landlord in the social or private sector, you can be as ethical as you like, but everyone is going to be on a level playing field, and we need to make sure that you fully understand the obligations that you have legally under the various laws that we have - it could be the Residential Tenancy Law; it could be the minimum standards for rental dwellings; it could be the Lodging Houses Law - and that you know exactly what your legal obligations are, and then of course we accept the fact that things can happen out of the blue. If you have got tenants who have not told you about an issue for the last 18 months, 2 years and they only decide to tell you a few months before they want to move out, of course you are not going to have known about that, but at least you have known about what your legal obligations are. You have paid in your deposit to the deposit scheme. There is no reason that a landlord who takes a deposit will not do that, and that is an offence in its own right. You have the relevant electrical checks every so often, as you need them, otherwise you will be in dereliction of your duty, but like I said, you cannot expect Government to enforce that if they do not know who those landlords are, so I think it is very much 2 different issues. The last issue that I would also raise is that, yes, we should not expect this to be a silver bullet. I think that the Minister for Planning and Environment as well as the Minister for Housing and Communities, especially following Storm Ciarán, should be doing a lot more about alerting landlords to their duties and obligations and tenants to their rights because the Residential Tenancy Law, for example, says very clearly that if part of your property becomes uninhabitable and you are a tenant, you do not have to pay the rent for that part of your property. If you have got a window that is blown out and you cannot use your bedroom, then you need to be going to your landlord and saying: "I cannot use this bedroom. I accept the fact you may not be able to fix it straight away, but I will be expecting a rent reduction." Do we ever hear those kind of things promoted anywhere in our communications? No, we do not, because I think it is sometimes too difficult. So I hope that we are now, in the Third Reading, at the point where we can come together on this. It has been a very relevant issue. We know it touches on the rights of children as well; we know it touches on the rights of outcomes for the most vulnerable in our community. I hope it is now something, with the scrutiny that has been done, that we could all get behind and vote for unanimously and move on to say that we expect better housing standards right across the board.

8.8.4 Deputy M.R. Scott:

I think that my overall concern about approving laws that give people powers is: do I know that they work? The concern I have here is the experience I have had in different areas of the Minister's department regarding the proactivism with which they enforced powers in the past. I think that is not necessarily to say that it was just because they were not bothered, but sometimes there are the consequences of enforcement that may well mean that that light touch becomes no touch. I have been somebody ... I mean, Deputy Bailhache mentioned living in a flat with mould in it. I have lived in a flat with mould in it. Did I complain to the landlord? No, I did not want him to put up the rent. This is the issue: it is are you going to change a regulatory culture with this law or are you going to

basically be saying: “We passed this law. Are we not great? We have done so much for the community” and yet if you have not really dug down into why certain laws, certain powers have not worked so far, then maybe you are looking at the wrong thing. Therefore when I push that button, I have to think: “Is this going to produce the right result?”

[16:15]

Is this going to improve things for the people that we do care about or is it going to create more of a convoluted red tape business matter? I am sceptical whether every landlord is going to down tools in response to this. I am just aware that the compliance with regulations, the cost to businesses of doing that is costing millions to this community, tens of millions. I do not really feel able to say: “Yes, okay. That is a good job done” by pushing that button.

8.8.5 Deputy A. Howell:

I would just like to make one point, that no one wants anyone to live in substandard accommodation, but my worry is with this licensing, what will happen to families who are living in substandard accommodation for whom the Minister says that they are unable to live there anymore? Where are they going to go? I do not think we have thought about that part, what we are doing, sufficiently enough. If a lot of people are living in poor accommodation, where are they going to be rehoused? It is a quandary, but I stood for less bureaucracy and less red tape and this Government seems to be bringing more and more and more. Quite frankly, I have had enough.

8.8.6 Deputy K.F. Morel:

I am pleased to pick up from Deputy Howell, because I do worry about bringing in more and more regulations across the board, anywhere. It is becoming a big drain on our economy, I can tell you now. I was speaking to various people just over lunchtime on that exact subject, but I just particularly wanted to pick up on something that Deputy Howell said, which I do hope the Minister will put in the code of conduct when we see it, and that is what will happen to people if it is said that they cannot stay in this accommodation any longer because it is substandard. I raised this when I was in Scrutiny and I said to the then Minister that it was a serious concern. I was concerned at the time that the response kind of said: “Well, you know, this is not really ... this is regulations about licensing, it is not what we do with it” and I agree, the regulations themselves are dry and they are matters of law, but the code of conduct is not, so I ask - I implore - the Minister that when he brings out that code of conduct it does say very clearly how ... people who have to leave their accommodation because it is found to be unsafe, what will the Government do to house them.

Deputy I.J. Gorst:

You are being very generous in Third Reading.

The Bailiff:

I am.

Deputy I.J. Gorst:

I appreciate ...

The Bailiff:

I was reaching a point of reminding Members that a debate on Third Reading should be whether or not one adopts or does not adopt the regulations and clearly people have felt that they wanted to make more general points, but I take that reminder on board, Deputy, but you have the floor.

8.8.7 Deputy I.J. Gorst:

The reason I just mention that is that I, for one, have been - and I hate this term - on a journey, because I probably, all those years ago, started with a similar mindset to Deputy Bailhache, and as he was

speaking what he said resonated with me. We have just heard Deputy Howell say that she has had enough of regulation and I am pleased to hear that and hope that when other bureaucracy comes forward she will take the same view. I have been contacted by a number of parishioners, as I know all Members have, and I started off with that view, that it was a bureaucracy that would not deliver to deal with substandard accommodation. I talk about the accommodation rather than the landlord, because every landlord that has contacted me or I have spoken to has no problem with the standards required in the underlying legislation. Their concern is that they want to be or continue to be good landlords and therefore want to be able to comply with the underlying legislation. I know that the Minister is committed to providing - whether we call it - guidance or codes of practice and that will be a critically important part. I hope that as he responds to this somewhat broad Third Reading debate, he will reassure all those good landlords out there, some sitting in the gallery, who believe that this particular nut could have been cracked a different way. I do not disagree with them. I think there could have been a different approach to gathering information and names and address registers and all of that, but we are now where we are. The reason I have changed from being really concerned about the licensing system to thinking good landlords have nothing to fear is because in the terms of conflicts I think we have this idea of a relevant connected person. I have a relevant connected person and that relevant connected person has - I am not sure if "transitioned" is the correct word, I have got to be careful with that word these days - moved a building which was registered under one piece of States legislation to the lodging house regulation. It can appear, I think, on the surface that that legislation itself is bureaucratic, but I have got to say, while there are some annoying things about whether a Victorian banister is suitable for current health and safety - and we could argue that all day and I know that the Minister would enjoy that argument - the reality is that the officials involved in supporting that legislation are reasonable, they are understanding, they give appropriate time and I think that the product at the end is a quality product. Now, you can argue that that is one of the reasons that some people have gone out of lodging houses, but I think I would argue that what it has done is raise the standards of lodging houses in a positive way. Rather than us thinking there is a lot of fear from this licensing system, I think it will level the standards right across for all landlords and all those who are providing a very necessary public service. We know that there are many Islanders who rely on accommodation that others own and it is an important contract, not just the written contract, but the contract of owning a property and wanting your tenant to remain and enjoy that property safely and to feel that that property is their home. I have gone on that journey and think that this can help in that provision. My message really is those landlords who are fearful and who are concerned what it means to them, that they will see the guidance and they will see that to a very large part they are probably more compliant than the law is going to require or the licensing system is going to require, but what this system will allow is those properties which are not up to standard ... which has always been the point of argument. Some have argued that: "Well, the officers have already got the powers to deal with these issues". Officers have argued back that in practice they have not really got anything suitable that allows them to do it on a non-tipping off basis and that has led to other intended consequences. So this will allow them, I think, to deal with those properties which are not up to standard and which no one I know, whichever side of the debate today, is supporting and proposing are acceptable. So I have arrived today accepting this as a solution at this point in time, but the code of practice and the guidance will be extremely important to reassure good landlords that they are already doing the right thing. I hope the Minister will say that as far as he is concerned, they do not have anything to fear. I know the Jersey Landlords Association are up in the loft and I understand the concerns that they have raised, but I do not think their members really have anything to fear. I think that there is an issue about costs. The Minister has commented on that cost. I believe that if their members or any landlord - well, he will deal with the costs - are struggling with officials and are finding that they are not reasonable, then I know that his door or his desk is always open, while piled with paperwork and numbers, mine is too, and I know that the Chief Minister is always prepared and happy to listen where things are not working well in the service that Government is providing. That is why after a number of years of not being happy with it, and bearing in mind

that in a different iteration, in a different Government Plan, what seems like many years ago, the Minister was given money and given officials to carry out this work, so he is not growing a bureaucracy in bringing forward this legislation in the traditional sense of the word. What he is trying to do is ensure that his officials have the appropriate tools in their toolset to deal with those properties which are not up to standard. Therefore I hope that Members might - even those who do not like bureaucracy, and I count myself as one of those - today think that this is, if there is such a thing, good bureaucracy and it will deliver a good social policy outcome.

The Bailiff:

Deputy Ward, you wish to speak, I think. Without singling you out, if I could just remind Members of what I said before, that the debate in Third Reading should be whether or not to enact these provisions in Third Reading. I have allowed a lot of leniency in terms of where people have gone with their speeches, but I am conscious of the amount of work that has to be got through for the rest of the week.

8.8.8 Deputy R.J. Ward:

Just briefly, because I have been involved in this before and I have been through my own journey, often of despair, with this. I would so welcome ... I cannot resist it. I welcome Deputy Gorst on his journey and I will say to him do not stop believing because we will finally get there. I could quote the entire ... we will finally get there with this and I welcome this and I urge Members to do so. I will certainly be voting for it because it does give a structure to one of the most important things that we have, which is the homes that people live in. I congratulate this Assembly should it vote in the Third Reading on passing this and us moving forward.

8.8.9 Deputy T. Binet:

It probably will not be wise for me to speak at length, so I will be extremely brief. I always find it interesting to listen to what people have got to say and I have to say this whole business has troubled me for a very long time, and the business of introducing unnecessary bureaucracy, as mentioned by Deputy Howell, but I have to say I found Deputy Bailhache's speech extremely compelling and I hope Members took note of the detail of what he had to say.

8.8.10 The Connétable of St. Brelade:

Talking of the Third Reading particularly, there are a couple of areas which do concern me, which have not been addressed and I would urge the Minister to look to these in due course. The economic impact was mentioned and I do not believe work has been done. I believe that we will see landlords getting out, they will be selling their stock and the question is will it be picked up by others or will it be sold into the private sector? Because there is a point at which people will tip. The returns on property investments will vary. Some will say they are only getting 3 per cent at the moment, some will be getting more. It depends on what it has cost them in the first place. But I think that is always a point which needs to be considered by the Minister because we do need to encourage private landlords at the same time as imposing regulations. Finally, the Scrutiny Panel, despite best efforts, had quite a lot of difficulty in getting feedback from tenants towards these regulations. We were really trying to understand what the position was.

[16:30]

Yes, there is a lot of anecdotal evidence by political colleagues, but my own research has brought out a couple of points which the Minister may like to consider in due course as to why people, tenants, were dissatisfied with their position. One was via an arranged eviction, which you heard about, another was lack of choice, another was "moving fatigue", which I thought was quite interesting, and of course: cannot afford better; they do not know the rights; language problems. Finally, the interesting one I thought from my point of view was the: "slow, clunky and impersonal nature of the

Environmental Health complaints procedure.” I would ask the Minister to seriously consider that point.

The Bailiff:

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

8.8.11 Deputy J. Renouf:

The proposition we have before us has been well tested. It has been improved by the stress-testing that comes from a searching examination from Scrutiny and I would add my thanks to Scrutiny, to Scrutiny’s officers and the panel for the work they have put in. I know they put in a lot of work and I appreciate it. It has also been improved by the criticism of those who I know would rather it was not coming forward at all, but I would say that this proposition has been on the runway for some time. Several previous attempts to get it in the air have ended up with take-off aborted, sometimes at the very last moment, and I think now it is time to get airborne. We now have an amended proposition that I am happy to support and recommend to the Assembly and I would say, just to recap, we approved the principles in June, recognising the need for a licensing scheme, and the regulations gave a proportionate and flexible way to ensure that rental properties are safe. It is fundamentally about the safety of rental properties. Since 2018 we have had a law that sets minimum standards, but in practice it has been difficult to enforce. These regulations, this licensing scheme, will give us the tools we need. To respond to Deputy Bailhache’s point, do we have the tools already, he mentioned conditions can be imposed. Yes, and in fact I checked with officers. We have imposed 189 of those in the last 5 years. They are a useful tool. They will be a more useful tool when we have the additional ability to make the condition being that if work is not completed, then a licence can be withdrawn. That is a more powerful and a more flexible way of using those conditions in the future. Other questions that came up: Deputy Howell asked: “Where will be people be rehoused?” Well, that is the same situation as we have now when people need rehousing in extreme circumstances. I cannot emphasise enough that these regulations, this licensing system, is not going to lead to mass numbers of people suddenly having to leave their homes. The whole point of the scheme is to allow for conditions to be attached to licences to encourage and to mandate improvements and that that is done sensibly and proportionately by persuasive compliance so that, for example, it reflects the fact if we all know there has been a big storm and you cannot get contractors in, then obviously there is a longer time period to comply. That is the commonsense method of applying these kind of conditions. The question of what will happen to people who need to be rehoused, it will be the same as now where somebody is rehoused. Government agencies are in place to help with that, but the only circumstances in which licence withdrawal would happen would be if a house was so dangerous that to stay in it would be potentially a serious injury or a death. There are so many other ways that these tools can be used, so many other conditions that can be used to keep people in their houses. That is the point, to keep people in their houses while improvements are made. For example, it might be that a room that is ruled out of bounds until a hazard in it has been fixed. There are ways of dealing with this that come with this scheme, with this licensing scheme, that will mean that there is less likelihood of that draconian step being taken. Just to reiterate on the code of practice, it will be forthcoming. I have always said it will be forthcoming before the regulations come into force and it will be forthcoming and it will be amendable. As many Members have pointed out, it is not a statutory instrument. It can be amended as we go along and as we get feedback, depending on how it is operating. I would add to that that we have promised to review the scheme in a year and see how it is working and report back. If there are problems that have arisen then we will deal with those as we go along. That might be through a code of conduct ... sorry, the code of practice, it might be through other amendments to the scheme that are necessary, but I would reiterate, let us get the thing airborne. Other questions were raised around economic analysis. My view is that this licensing scheme is around irreducible minimum safety standards. They are not

tradeable. There is not a kind of: “Let us see whether the cost is justifiable or not.” These are minimum safety standards. When we get other things, things like energy performance certificates, which I know landlords have raised as issues, we have already listened on that and pushed them back. These are things that are different to ... these are things which are not related to the fact that we need these minimum safety standards and therefore an economic analysis is not, in my view, the appropriate way to go. The point about this scheme is that it is a twin scheme. It gives us 2 things. It gives us a scheme which encourages tenants to complain, to be able to bring forward their complaints in a more secure way, because they are more likely to be anonymous or for the landlords not to know that they have made a complaint, and it gives us a flexible enforcement. It has been improved by Scrutiny by making the regulations more tightly drawn, so there is less discretion for the Minister. As I say, I have accepted almost all those amendments and we have been through the other 2 where we did not. I urge Members to support these regulations. It will help us improve conditions, it will allow us to enforce minimum standards and therefore it will help those people who keep coming to us and telling us that terrible conditions exist for some of the most vulnerable people in our society. There are plenty of good landlords. I am happy to reiterate the points that have been made by several other speakers. Good landlords have nothing to fear from this. They will already be well in excess of the minimum standards and they will simply be required to fill in a form once every 2 years. These regulations address that minority of circumstances where we have had a persistent and longstanding problem that affects some of the most vulnerable people in the Island and my belief is that, once these licensing regulations are in flight, I think it will prove to be a far less bumpy road than it was feared. I urge Members to support this proposition.

The Bailiff:

Do you call for the appel? The appel is called for. I invite Members to return to their seats. The vote is on the adoption of the regulations in the Third Reading. If Members are ready to vote, I ask the Greffier to open the voting and Members to vote. If Members have had the opportunity of casting their vote, then I ask the Greffier to close the voting. The regulations have been adopted in the Third Reading: 37 votes pour, 9 votes contre and one abstention. **[Approbation]**

| POUR: 37 | | CONTRE: 9 | | ABSTAIN: 1 |
|---------------------------|--|---------------------------|--|-------------------|
| Connétable of St. Helier | | Connétable of St. Brelade | | Deputy S.G. Luce |
| Connétable of St. Peter | | Connétable of Trinity | | |
| Connétable of St. Martin | | Connétable of St. Ouen | | |
| Connétable of St. John | | Deputy M.R. Le Hegarat | | |
| Connétable of St. Clement | | Deputy P.M. Bailhache | | |
| Connétable of Grouville | | Deputy M.R. Scott | | |
| Connétable of St. Mary | | Deputy R.E. Binet | | |
| Connétable of St. Saviour | | Deputy A. Howell | | |
| Deputy G.P. Southern | | Deputy T.J.A. Binet | | |
| Deputy C.F. Labey | | | | |
| Deputy M. Tadier | | | | |
| Deputy L.M.C. Doublet | | | | |
| Deputy K.F. Morel | | | | |
| Deputy S.M. Ahier | | | | |
| Deputy R.J. Ward | | | | |
| Deputy C.S. Alves | | | | |
| Deputy I. Gardiner | | | | |
| Deputy I.J. Gorst | | | | |

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|-------------------------|--|--|--|--|
| Deputy L.J Farnham | | | | |
| Deputy K.L. Moore | | | | |
| Deputy S.Y. Mézec | | | | |
| Deputy T.A. Coles | | | | |
| Deputy B.B.S.V.M. Porée | | | | |
| Deputy D.J. Warr | | | | |
| Deputy H.M. Miles | | | | |
| Deputy J. Renouf | | | | |
| Deputy C.D. Curtis | | | | |
| Deputy L.V. Feltham | | | | |
| Deputy H.L. Jeune | | | | |
| Deputy M.E. Millar | | | | |
| Deputy M.R. Ferey | | | | |
| Deputy R.S. Kovacs | | | | |
| Deputy A.F. Curtis | | | | |
| Deputy B. Ward | | | | |
| Deputy K.M. Wilson | | | | |
| Deputy L.K.F Stephenson | | | | |
| Deputy M.B. Andrews | | | | |

The Greffier of the States:

Those voting contre: the Connétables of St. Brelade, Trinity and St. Ouen and Deputies Le Hegarat, Bailhache, Scott, Rose Binet, Howell and Tom Binet, and Deputy Luce abstained.

9. Reform of the composition of the States Assembly (P.76/2023)

The Bailiff:

The next item is Reform of the composition of the States Assembly, lodged by Deputy Scott. The main responder will be the chair of P.P.C. There is an amendment lodged by Deputy Farnham. Do you accept the amendment, Deputy Scott?

Deputy M.R. Scott:

I do not.

The Bailiff:

You do not. Very well. Then do we need to read the proposition and then put the amendment? Read the proposition. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion - “(a) to agree that the number of Deputies in the States Assembly should be reduced, and that the office of Senator, elected on an Island-wide basis, should be reinstated in time for the General Election in 2026; (b) to request the Privileges and Procedures Committee to develop proposals that will determine the number of Deputies to form part of the re-constituted States Assembly in 2026 in accordance with the following principles: (i) There should be no increase in the total number of States Members from the current 49; (ii) the 12 Connétables should remain as voting Members in the Assembly; and (iii) there should be at least one Deputy for each existing constituency; and (c) that all of the consequential amending legislation

should be brought for debate by the Assembly before July 2025 to ensure implementation for the 2026 elections.

Deputy M.R. Scott:

Sir, I am confused. Is Deputy Farnham not going to put his amendment forward?

The Bailiff:

You need to make your proposition. It needs to be seconded. Only once it is seconded do we read the amendment and debate the amendment.

9.1 Deputy M.R. Scott:

Okay, so I make the speech for the proposition now? Thank you. The reason why I did not adopt Deputy Farnham's amendment is simply because it is one way of doing things and I am interested to ... I believe I need to explain a bit more about the background, which I hope I have put forward in the addendum. This proposition seeks to progress common goals that all States Members share, the goals of improved democratic representation, improved governance and value for money. The States Assembly have a role in both representation and governance. The electorate who elected us sought change, but they also sought improvements in government. It is no coincidence that I brought this proposition close to the time that States Members are to debate the Government Plan. This is a time that invites all States Members to consider public spending and whether we are making the best use of resources. So many States Members have roles and political agendas that promote inclusivity and prudent public spending. We urge the public sector to eliminate inefficiencies and to organise itself effectively. We have supported a degree of policy reversal when we believe it achieves those aims. We cannot show true political leadership unless we are prepared to do the same in the way that we organise our own recruitment and work towards promoting both inclusivity and efficiency. Before I explain why the States Assembly support, in my proposition, would deliver these things, I wish to acknowledge the work of the former Privileges and Procedures Committee towards positive democratic change. It was a difficult challenge that I described in the addendum to this proposition. Pressures were created by the limited time for the former States Assembly to consider successive proposals after they had considered much of the content of the first proposals crafted by the former Privileges and Procedures Committee. These sought to remove Constables as voting Members, which was rejected by the States Assembly. The Commonwealth election observers who recommended changes to the composition of the States Assembly valued democratic fairness too. Their report in 2018 expressly recommended that 3 things be taken into account to optimise the democratic voice of Jersey's electorate. They were: the requirement under international law to make voting populations reasonably even; the results of the consultative referendum which supported the retention of Constables in the States Assembly as voting Members; and the findings of the Electoral Commission. The former P.P.C.'s work led to the creation of the current constituencies to compensate for the disparity in Parish voting population in response to the electorate's desire to retain the Constables as voting Members of the States Assembly.

[16:45]

Although the former P.P.C. might have proposed smaller, single member constituencies to eliminate duplication of constituency roles they avoided such division or maybe divisiveness. Creating constituencies was a positive step forward in meeting the electoral observers' recommendation, yet a key finding of the Electoral Commission that Jersey's public strongly supported the retention of office of Senator was not taken on board. This was despite 58 per cent of submissions to the Electoral Commission supporting the continuance of Senators with most of those submissions seeking the retention of between 8 and 12 Senators. In this respect, I acknowledge that my proposition may have seemed somewhat open-ended and a potential cull, but really I had those numbers in mind. The perceived democratic unfairness of the new system has led to continued division in our community.

It cannot be satisfactorily explained away by saying: “This simplifies matters for you” or: “Your problem is you do not like change” because what the former States Assembly did was to close a door to the Chamber and in doing so reduced the Chamber’s own flexibility and its own inclusivity. I am not saying that this result was intentional. Sometimes the best intentions do not go to plan or important considerations are overlooked, despite the best efforts of States Members. Some have unforeseen and unfortunate consequences and when that happens we need to support the electorate in addressing the matter swiftly, rather than become blind to the problem or allow it to become embedded. A true democracy seeks to include people regardless of background, rather than seek to exclude them. The door that has been closed is a resource that facilitates the representation of particular communities in the Island. So in what way did Island-wide representation offer inclusivity? Let me refer to 2 categories of people whose circumstances were accommodated by having the Senatorial role. Often, those categories are one and the same and I am referring to the extremely hardworking and to the immigrant population. Often the 2 are combined. These are the people who some may criticise for not actively integrating within certain communities, notably districts or Parishes but that does not mean that they are not serving the community Island-wide. Often they are working extremely hard to support the Island-wide community and the Island’s economy. Whether they are care workers, delivery drivers, or finance workers the Islanders they serve and associate with often are spread Island-wide. Often the hours these Islanders work do not give them adequate time to attend Parish Assemblies or participate in activities closer to their homes. Should they choose to stand in an election their work commitments may not support a campaign predominantly based on door knocking either. Which one of us is to say that electoral campaigning should be conducted through door knocking rather than social media when that is Government’s preferred way of engaging with the public? What about the candidate who has a disability and is best known through work for a charity? Why should he or she be expected to conduct a campaign through door knocking? Conversely, some voters do not welcome door knocking and prefer to select candidates based on their work backgrounds or other characteristics advertised through social media posts or the Greffe’s booklet. There is no right or wrong here. This is about choice, as all good democracies are, so why have we closed a door, when we should be opening doors to candidates, candidates who could well have useful skills for the role of governance and challenging governance adequately, including in the realm of public spending. Even if they do not, they can represent communities that stretch across the whole Island. Are we concerned that door provides an unfair advantage to wealthier candidates? Then let us address rules that give unfair advantage without seeking to exclude those who have contributed to the Island’s economy through hard work and who have particular skill sets that would support good governance as a result. Let us support candidates’ choices between being independent or joining a political party, without forcing them to join a party or become beholden to a private donor owing to financial barriers. That way leads to divisiveness rather than diversity. Nothing in my proposition suggests that Senators should automatically qualify for Ministerial roles or the role of the Chief Minister. Indeed, I believe one positive outcome of the current arrangements is the electorate now can see a Deputy, if the Deputy were here, in the role of Chief Minister. The Island and the economy have not collapsed as a result, or not yet at least. The title of Senator is just a title that reflects the bicameral parliamentary systems found in larger jurisdictions, and there is a reason why we have a single Chamber in smaller jurisdictions, because we do need to right-size, while performing lots of different roles. It is for the States Assembly to decide which of its Members are fit to govern by whatever title they are called. The Assembly needs a decent pool of skill sets in this respect and should avoid creating barriers to inclusion. Ma’am, this is so important in terms of where we are going, in terms of our culture, our economy. Sorry, Sir.

The Bailiff:

I thought for one puzzling moment you said “Ma’am” then.

Deputy M.R. Scott:

There was some ... a change of personality in the seat, Sir. Sorry.

The Bailiff:

Yes, I must have sneaked back in when you were not looking.

Deputy M.R. Scott:

As for the States Assembly, we need to overcome prejudice in all its forms. Some may think of bad examples of Senators, while overlooking bad examples of Constables or Deputies. If States Members choose to define a whole category of Member by reference to the performance of an individual within that category how can we ever hope to have an inclusive society? Some may suggest those who seek the office of Senator are doing so in pursuit of ego or status. Some might equally say the same of anyone seeking a Ministerial role or Scrutiny Chair. Should we not simply be valuing those who wish to be of service to the public? We also have reached a pivotal point in Government's economic and financial management. The Fiscal Policy Panel has sounded warning bells and we need States Assembly Members with the skillsets that will assist improvements in these areas rather than be overly reliant on unelected officers. We need balance. We need to accept what the Electoral Commission was saying, that much of our role is in the area of Island-wide representation and Island-wide duties and that constituency representation is not the predominant role. A small jurisdiction like Jersey with a relatively small economy needs to attract human resources for its States Assembly with consideration of its accessibility and to organise those resources effectively with minimal duplication of activities. This is not to say that I do not believe there is a case for providing more support to Members, including in constituency roles. If I could have a personal secretary so that I could respond to constituents quicker I certainly could be more productive on that score perhaps. As States Members, most of us have a role in seeking the efficient and productive use of public funds. Some of us love constituency work, as do I, but we do not all need to be constituency representatives and to have the related support. We do not all need to do each other's jobs in any particular constituency. So despite what anybody might say or be tempted to say this proposition in seeking the reinstatement of the Senators while retaining the constituencies and Deputies is far from being regressive. If States Members choose to support this proposition they can deliver positive progression in the areas of democratic representation, inclusivity and resource management. I hope States Members will exercise their democratic choice accordingly and support this proposition.

The Bailiff:

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

9.2 Reform of the Composition of the States Assembly (P.76/2023): amendment (P.76/2023 Amd.)

The Bailiff:

There is an amendment to the proposition and I ask the Greffier to read the amendment.

The Greffier of the States:

Page 2, paragraph (b), substitute the words "that will determine the number of Deputies to form part of the" with the words "for a" and substitute sub-paragraph (iii) with the following – "(iii) there should be 9 Senators, reducing the number of Deputies in each existing constituency by one; and;"

9.2.1 Deputy L.J. Farnham:

Having endured a number of debates on such matters in the past I know that Members will understand that this is an important and serious matter for our democracy. It will impact upon how Islanders are represented in this Assembly in the future and should reflect how Islanders want to be represented in this Assembly in the future. This amendment, if adopted, would establish a States Assembly of 49

Members consisting of 9 Senators elected by Island-wide mandate, 28 Deputies elected under the existing constituencies and of course 12 Parish Constables. By way of some background I wanted to remind Members of the history behind the removal of the Island-wide mandate and I will be as brief and as light as I can with it, because it has been a long and hard day. It is not really a great story. On 20th January 2011 the Assembly voted to reduce the number of Senators. There were 12 Senators at that time, of whom 6 were elected every 3 years. The Assembly voted to reduce the number of Senators to be elected at the next election later that year, in October 2011, from 6 to 4, which with the existing Senators made 10. So after the 2011 elections we had 10 Senators. At that time the Assembly also voted in favour of a further reduction from 10 to 8 Senators for the elections in 2014. The process that led to this package of reform was instigated largely by a States decision in 2010 to introduce a single election day. We put the cart before the horse at that time. The Assembly in its wisdom decided we would elect everybody on the same day, not a bad idea, but perhaps we should have agreed the composition of the States Assembly first before deciding how they were to be elected. Not long after that decision and after some head scratching it was contended by some that it would be difficult, if not impossible, to elect all of the States Assembly as then constituted on one day, so the States agreed to reduce the number of Senators again from 12 to 8 for the 2014 election, because it was felt this was the maximum number of Senators that could be elected on one day. I think, if we look back, at best we can say that was a naive decision as other jurisdictions have shown us, not least in our sister Island across the water in Guernsey, who managed to elect all of their States Assembly by Island-wide mandate, and I am not commenting further than that at this stage, because they are having I think even more challenges than we are.

[17:00]

It was the previous Assembly to this who agreed to remove Senators altogether, meaning that by the time we reached the 2022 General Election the electorate had lost the right to elect Members to this Assembly by Island-wide mandate. As Members can see the removal of the Island-wide mandate was a protracted and, in my opinion, rather arbitrary affair, taking more than a decade to achieve, an example of removal by stealth because in the initial stages after the reaction to a single election date it was never said at that time that Senators would go altogether, but of course we have seen that happen as we so often see stealth at work in the Assembly. It was not properly thought through. It was not properly consulted upon with the people of Jersey by referendum or any other meaningful way, and I know we did have a referendum where we were asked to consider 3 choices, option A, B and C. Despite asking for an amendment to us as an Assembly to put a “none of the above” option in that was rejected and therefore we had 3 options that a considerable number of members of the public did not like. I campaigned at the time with a number of other Members for option C, which was to retain Senators but it was for change but not this change and I think option B eventually won but option A and option C had more votes than option B. It just was not really appropriate. When previous Assemblies, previous Members, previous Privileges and Procedures Committees, did attempt to consult with the public there was very little support. I remember having campaigned to retain the office of Senator. For many years I have attended many Parish Hall meetings and in the last round of meetings in 2018 or probably 2019 when the previous P.P.C. were trying to get this over the line I attended a number of Parish Hall committees, packed Parish Halls in many instances, who were totally against the removal of the Island-wide mandate. There were some who were not, but I would say 90 per cent of the meetings I attended the parishioners wanted to retain it. That was not listened to. Therefore all Islanders who were entitled to vote have been significantly disenfranchised without their consent or their endorsement. When we tried to get a view it was ignored. In addition, there is no evidence from any debate that the Assembly at any time through the process of reforming of the composition of the Assembly has satisfied itself or even considered that the actions that were taken were not possibly contrary to the States of Jersey Law whose remit speaks of enhancing democracy: “And whereas Jersey wishes to enhance and promote democratic, accountable and responsive governance in the Island and implement fair, effective and efficient

policies, in accordance with the international principles of human rights.” So I maintain that the States have taken a number of major constitutional decisions without due consideration, without appropriate public consultation and against the will of the majority. It is clear from public reaction during and post the last election that Islanders wish to retain the Island-wide mandate and, as Deputy Scott alluded to, it was indeed a key finding of the Electoral Commission that Islanders did want to retain that. This resulted in a number of Islanders choosing not to vote, leading to one of the poorest election turnouts in recent history. This is particularly poignant as a new electoral system was predicated upon the objective of increasing voter participation and turnout. That failed. The office of Senator was the most democratic of all the elected officers of States Members and offered the greatest level of voter equity and accountability in that Senators are elected by and answerable to every voter and indeed every individual in the Island. The Senatorial elections provided Islanders with an opportunity to discuss collectively and consider the key issues of interest to every person in Jersey, not just matters relevant to one Parish or one district. As Members will remember, this was commented upon by very many voters and households at the time as we were all doing the rounds. There is a reason why we have 3 types of States Member and that is, again as Deputy Scott alluded to, dating back to the reformation of this Assembly by the Royal Commission in 1947, which led to the introduction of the Senators. In Jersey we are a unicameral system. We have the States Assembly. We do not have an upper House. We do not have devolved Assemblies, we do not have county councils, city councils, town councils. We have the States Assembly. We do everything here, and we do a number of roles, which affect and manage the whole of our Island life. We have 3 types of States Members. We have our Constables because they represent our form of local government and the very fact that they sit in this Assembly, quite rightly in my opinion, is to give them input into the whole aspect of the political process. We have the Deputies who represent the constituencies and can be more focused on general political issues and then of course to provide balance we have Senators who, as Members will know, the holders of a Senatorial office were extremely well-placed to take unprejudiced and impartial views on issues affecting the whole Island without being conflicted by Parish or constituency pressures, thus providing an essential balance to this Assembly. I know a number of Members that I have spoken to are having challenges and difficulties in balancing sometimes Island-wide issues against what they may consider to be right for their particular district. The districts are relatively small. Even though they are larger they can be construed now in previous terms as super-constituencies, somewhere between what we had in the 6 constituencies that were proposed some time ago, and there are some very powerful lobby groups in those constituencies. I know that some Members find it difficult to deal with that and act in the best interests of the Island. It is a difficult balance and I think that is why we need an element of Island-wide representation, because they can work in an unprejudiced way without fear of retribution or looking over their shoulder every 5 minutes because they want to keep their seat. The reinstatement of Senators as proposed and the removal of one Deputy from each district would have little impact on the greater voter equality when compared to the current electoral system. It would however give the electorate far greater voter choice and influence by increasing the number of representatives that each voter can elect by 8 Members. That is one less Deputy but 9 new Senators, the loss of one vote being replaced with 9 new votes. The Island-wide mandate gives us all a shared, direct, and equal influence over the makeup of the Assembly, and albeit more indirectly in the makeup of the Government and I concur with Deputy Scott. Although many Members have commented that they would like to see the Chief Minister and some other senior Ministers elected by Island-wide mandate I think that is not always necessary, although I would think it is far easier for the Chief Minister to be impartial again when not representing a district. There are a lot more occasions where Ministers and Members have to declare interest or excuse themselves from decision-making because it affects their constituency. I think the reintroduction of the Island-wide mandate is an important and necessary step to help rebuild engagement and to help rebuild flagging confidence in our political system and our political structures and as historic turnout figures have shown us the changes have not done anything to improve that engagement. It is the opinion of many Islanders, and even in the relatively short period

of time since the last election, that our democracy has been poorer without the Island-wide mandate. The main proposition brought by Deputy Scott while bringing greater flexibility would, if approved, require significant further work to be undertaken by the Privileges and Procedures Committee, which would be challenging to complete in the absence of any consensus among Members. We know, and we have discussed this at P.P.C. and discussed it among ourselves, that there is a wide range of views and when there is a wide range of views we never usually end up with the right compromise and we have, I think, now a compromise that is not working in the best interests of representing Islanders, because we now have an imbalance here without the Island-wide mandate, given and I am sorry to repeat it that we are a unicameral system. Also in discussion with a number of colleagues about this, while supportive of the principle of Senator, many Members wanted to have some detail around what was being voted for, and that is why I brought the amendment to this so we knew what we were going to be voting for and what we were going to be getting, rather than putting it back into the hands of the Privileges and Procedures Committee, which I am not saying it would be impossible but it would be very challenging to come up with a position that we could all agree upon. With that firmly in mind, this amendment provides the specific solution with ample time to achieve implementation in line with the wording in the proposition, which is to get the legislation ready by mid-2025 ready for the 2026 elections. I am pleased to make this proposition and present it for debate.

The Bailiff:

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

9.2.2 The Connétable of St. John:

This feels like déjà vu. I have not been in the Assembly very long but I have debated this a number of times and listened to many more debates on the radio. Before the scheduled date of the debate I spoke to 3 people who I trust and value their views. I asked them for their views. The first one's view was that the new system was working much better than they had expected. The second view was it does not matter what you call people, it does not matter how you elect them. What really matters is what they or, shall I say, we do. The third person thought we should have 37 Island-wide Members and 12 Constables. If I had asked 50 people I could have got as many as 50 answers. As I mentioned in the last debate on this subject, yes, in St. John, the topic of Island-wide representation was raised many times on the doors. While it was a topic raised by many it paled into insignificance compared to other subjects such as the hospital, health service, road safety especially speeding vehicles, and housing for both young and old, to name just a few. Of the many people who said they would not vote because there were not Senators, how many of those would have normally voted? How many voted? Let us look at the numbers. In 2018 43.3 per cent of people voted, 26,947 out of an eligible 62,153. In 2022 41.6 per cent of people voted, 25,200 of the electorate with 60,678 people registered to vote. What is more concerning to me is the decline in the amount of people registered to vote. Was that COVID? Was it a reduction in the population? Was it the loss of Senators or was it a combination of all 3 and/or other things? What impact do our antiquated polling stations have? How many more people will vote if we make it easier for people to vote anywhere and if we made polling stations easier to access, the obvious choice being the Good Companions Club in St. Clement? I have written on this subject before. There are many more convenient places and why do we not try to hold elections on a Sunday if we want to increase voter turnout?

[17:15]

Before people say: "We will not get the volunteers necessary" look around you and see how many countries do this. Those people working Monday to Friday who cannot volunteer would love to volunteer and get involved. It may also help with the very workers who Deputy Scott referred to in her opening, and I will come back to that. I would like to remind Members that Islanders were given an option to retain Senators in the referendum 10 years ago, and they roundly rejected that opportunity. It took 9 years and importantly 2 election cycles to implement the result of that

referendum. New Members may ask themselves why. Well, it took 9 years due to very well-intended propositions and amendments similar to today's that kept blocking the change. While I am sure colleagues opposite me will not agree with me about the outcome of that referendum, I am sure that they will agree with me that the wishes of the public, whatever they were, should have been implemented much sooner. Have we really given this system time to bed in? Are the people who are not happy not happy with the fact that we do not have Senators or are they not happy with Ministerial Government? To be clear, despite recent events, I am not suggesting we return to the committee system. Back in January I suggested that we needed to give the new system time to settle in and my position has not changed. Why not look at some of the positives? I remind Members that following the last election we have our most diverse Assembly to date, something that we should all celebrate. **[Approbation]** The chair of P.P.C. told us in the last debate on this subject that we need to do more to engage at grass roots. I could not agree more. I think there has been some progress in this, albeit we have all got some way to go. The feedback from parishioners and others who have attended the Deputy surgeries at St. John are generally very appreciate of having the opportunity to speak to up to 4 representatives rather than just the one they had in the past. The Council of Ministers have invested time in meeting the public as they travel around the Island, so at St. John almost 50 parishioners. They were queuing out the door because we are engaged. They turned up to speak to Members about a whole range of subjects. More recently the Comité des Connétables had a meeting at St. Mary where around 40 Islanders turned up to listen to the Minister for the Environment speak to the Comité des Connétables. Those are examples of good public engagement and we have to do more. Deputy Scott spoke about everyone having roles. Well, I have been looking at where I may offer my services during today's sitting and I am shocked at how many people are on just one or no Scrutiny Panels currently. Deputy Scott spoke about the migrant community. Well, I can tell her that in 1994 I had manifestoes translated and I held a husting meeting for my candidate in a farm shed one evening with a translator. That candidate won a very close election and it was those farm workers who turned out to vote that made the difference. There is nothing new. Deputy Scott spoke about affordability. Again, in my experience, which is fairly extensive, it is much more expensive to get elected on an Island-wide mandate albeit people like the former Senator Syvret and others have proved to be exceptions to the rule. In fact, in the Guernsey election I helped somebody get elected all-Island for less than £500.

The Bailiff:

Can I just interject a moment, Connétable? The debate is a case of whether or not to accept the amendment. It is not on the main subject.

The Connétable of St. John:

It is about Senators, Sir.

The Bailiff:

Well, no. It is about whether we accept Deputy Farnham's amendment to Deputy Scott's proposition. It is not the main debate about Senators or not. It is about whether the amendment should be accepted.

The Connétable of St. John:

Okay, Sir. Well, I shall speed on then. As I did in January I would remind Members that under 20 per cent of people voted to retain Senators in the 2013 referendum, yet it was this Assembly that rejected the views of 80 per cent of the people that took part. I will take people back to those elections in 2014 and 2018. I worked on campaigns in both those elections and I can tell you there was lots more disappointment than this time around. The public were angry. They were angry and disappointed because their voice had simply been ignored. I cannot help but think that Deputy Farnham will take us back to Jurats and Rectors if he had his way. The P.P.C. tell us again in their comments about allowing time to bed things in. I would respectfully suggest that we should allow

at least one term, if not 2. If we do not move forward let us stand still, but please do not move backwards.

9.2.3 Deputy M. Tadier:

I will speak to the amendment insofar as I want to save my comments for Senators and whether we should bring them back or not for the main debate, and notwithstanding the previous comments, because I think they were well made, and it is good to hear the Constable of St. John who speaks so much sense. I am sure that many Members agree with that and his talents I am sure will be appreciated on the Scrutiny benches, and I am sure even perhaps on Deputy Scott's panel. I think she is still looking. I know the value of Scrutiny, having taken part in the one on immigrant workers and work permit holders, so there is lots of work to be done on Scrutiny as well as in Government, I am sure. I look at this amendment in a very clear way. Is the proposition better with the amendment or better without it? I think it is better without it for a couple of compelling reasons, which we do not need to get into, whether you are for or against Senators. The way Deputy Scott has crafted this with, I think, some very well-made arguments in her opening speech and the fact that it leaves still some work for P.P.C. to come back with. They can look at different options, they can consult with the public and find out what is the best way to reintroduce Senators, and it may not be simply to introduce 9 Senators, because that simply seems like a convenient number. It is nonetheless an arbitrary number. It is one thing to say take one Deputy from each district, but of course that will have, I think, definite mathematical consequences for the populations of the Island. I would call them unintended consequences but I also think they may be the intended consequences. For example, if we look at St. Saviour and I know we have currently 6 representatives of St. Saviour in the Assembly - we have got one Constable and 5 Deputies - and according to the 2021 census there were just under 14,000 people living in St. Saviour. That may have gone up slightly, they are a couple of years old now, and they have got 6 representatives. But if we look at the constituency of St. John, St. Lawrence and Trinity including their Constables, they have got 7 representatives in the Assembly. They have 3 Constables, and they have 4 Deputies. Now, the issue we have got there of course is that St. John, St. Lawrence and Trinity have a smaller population than St. Saviour, so that geographical area, all those voters collectively, already have superior voting power in this current reformed Assembly than St. Saviour has. Is it acceptable to take already an unfair system and make it even less fair with this amendment? What would happen is that by removing a Deputy from each district to create this new role of 9 Senators ... and we have never had 9 Senators before incidentally. We have had 12, we have had 8 and we have had 4, and we have had elections where you can vote for 6 and then you can vote for another 6, but we have never done 9. Is that a good enough reason to create an exacerbated unfairness between potentially town and country that we have tried to resolve? What would the scenario be for St. Saviour? St. Saviour loses a Deputy so that you can have a new Senatorial position? Why? I do not know, but that is an argument for the future. So St. Saviour now has 4 plus one, which is 5 - 4 Deputies and one Constable - but of course St. John, St. Lawrence and Trinity only have to give up one Deputy, so they still get 3 Deputies and 3 Constables, so the unfairness is now 6 to 5 and St. Saviour has still got the bigger population, but they have got fewer representatives proportionately in the Assembly to make way for an Island-wide mandate, which in my opinion solves nothing. Now, I do not think that necessarily ... for me that is a great concern, because I think we have made great steps towards increased fairness. Nobody currently is looking across the Chamber and saying: "What are you Constables doing in here?" You represent some very big Parishes and some of you represent very small Parishes. I think that what we have seen is a compromise position where we have taken on board the importance of tradition of the Parish voice and of fairness and we have seen an increase in there. At the moment we have got a very fine balance of acceptability between traditionalism and between what some might call mathematical exactitude, but others just call voting rights; fair voting rights. I would be loath to throw that out, given the fact that we have spent so much time getting to that very finely balanced position which I think is certainly a good position to be in. The other point is that if you are going to have Senators, and let us entertain

the idea that maybe Senators should be brought back, should they not be brought back perhaps like in the olden days when you used to have 6 and 6, and that you have 6 Senators that you elect for, let us say, a 6-year period, it could be 5 or it could be 7, whatever, and that those people ... because the point that Deputy Farnham made is that you do not want a group of individuals looking to the next election therefore being scared to make tough decisions. Now, that argument does not follow if Senators also have the same election cycles as Deputies and Constables, because they will be looking to the electorate. They just have a bigger constituency, right? So if it is important for us to keep in touch with our constituents, which I hope it is, whether you are a Constable or a Deputy for a Parish or a super-constituency, it is really important that you have that interaction with parishioners to make sure if nothing else that you are grounded. Personally I think that is why I think it is important to have a constituency you are attached to. But if you are a Senator you do not stop having the constituency work. You do not stop having the constituents that you need to please for the next election. There is a risk that it might make you more populist on an Island-wide basis if you face the same election with everyone else. Surely those of you who support Senators being back in the Assembly might want to make the point and say to P.P.C.: "We want Senators but we do not want 9 of them. We want 6 and 6 like in the old days when the system used to work well" and then you can have an interregnum, if I can call it, that during the election when you can have stability and that continuity if that is your thing, if that is what Members think. It may well be that you think we should have one Senator. That would be a great idea, would it not? Just have one Senator, elect them at the same time as everyone else. The stakes become really high then because there is an implication. You need to become Senator to become Chief Minister. It is not going to be a given thing, but if you have got that Island-wide mandate and you have seen off 5 or 6 other Chief Minister candidates, when you get to the Assembly you will assuredly have a great Island-wide mandate behind you to put yourself forward for Chief Minister, or maybe you will be happy just being the chair of the Scrutiny Liaison Committee, who knows. So I think purely speaking to the amendment, I think I would not want to tie the hands of P.P.C. going forward and say that if this Assembly is going to undo all that work that we have done and impose Senators back on the new Assembly we at least want to make sure that we have explored all of the options to make sure it works. I go back to the point of fairness. If we do adopt this amendment it becomes inherently less fair in terms of the mathematics. Fairness is important not just purely for the democratic exercise and the mathematics to stack up. If we look at what the corollary of fairness is, it is that it has produced a more diverse Assembly. Now, I caveat that with the fact that we should not always link correlation and causation, but I firmly believe that if you look at the statistics throughout the history of elections what is the maximum number of female Senators that we have ever had in the Assembly? It has always been a minority. I can remember maybe 2 or 3 maximum and I do not think that they have all served at the same time. I can remember having 3 female Constables at one time in this Assembly, and that was considered a fairly good batting average, but we have gone from a point where it is much easier when you have large constituencies where you get the best marriage between ... and I know I am veering into the next debate, but it is important to show why adopting an unfair amendment could also potentially undo that great work that we have had, where you get a much more diverse Assembly. It is not just women, incidentally. Look at the languages that are represented in this Assembly. We have never had that before either, where we get people speaking in their second or third languages very fluently and very coherently making great propositions and contributing to the political debate. By all means, I hope that this speech is not lost overnight, reserve your position on whether you want Senators back.

[17:30]

We can make the arguments for and against that tomorrow, but please do not accept this amendment, because I think it does unnecessarily tie our hands to a flawed and unfair amendment that we do not need to accept.

The Bailiff:

I can tell people I have at least 3 other people who wish to speak. That time has come. The adjournment is proposed. Very well. The Assembly stands adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:31]